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SENATE—*Monday, July 28, 2003*

(Legislative day of Monday, July 21, 2003)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who speaks to hearts, attuned to hear, forgive us for closing our insights with the attitude that we have already arrived at the truth. Open our minds that we may weigh the evidence and trust Your wisdom to guide us. Use us as Your instruments in the struggle of good against evil, of truth against falsehood. Help us to avoid the proud spirit that causes us to feel self-made. Draw back the curtain behind where we, in a false security, congratulate ourselves. Instead, may we seek to know if we are doing Your will. Lord, help us to walk the road of wisdom, until the dayspring breaks and the shadows flee away.

Lord, we close this prayer by thanking You for the life and legacy of Bob Hope. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations."

Durbin amendment No. 1384, to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Bond amendment No. 1386, to impose additional requirements for improving automobile fuel economy and reducing vehicle emissions.

The PRESIDENT pro tempore. The acting leader.

Mr. THOMAS. Mr. President, this morning the Senate has resumed consideration of S. 14, the Energy bill. The chairman and ranking member will continue to consider amendments during today's session.

SCHEDULE

On behalf of the leader, I encourage Members who want to offer amendments to do so as early as possible this week. Those Members should contact the bill managers for an orderly consideration of those amendments.

Under a previous agreement, at 5:20 p.m. the Senate shall proceed to executive session to consider the nomination of Earl Yeakel to be U.S. District Judge for the Western District of Texas. The Senate will vote on the Yeakel nomination at 5:30. That will be the first rollcall vote of the day. Members should anticipate additional votes in relation to Energy amendments or any other items that can be cleared for action.

In addition, the Senate will consider the trade amendments with Chile and Singapore. If all debate can be completed on those bills, the votes will also occur during today's session of the Senate.

Today begins the final week prior to the August recess. Senators can, therefore, expect busy sessions with rollcall votes throughout each day and Members should schedule themselves accordingly.

The PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, I just received a phone call from a Senator, and the Senator is on an airplane. Therefore, I will have to protect her rights. She has indicated she does not wish us to move off the amendment that is now before the Senate, so there will be no way to offer other amendments until we have this matter resolved. I am not able to speak to her at this stage, but I will attempt to do so.

She simply will not allow anything to be set aside until we dispose of the amendment that is before us.

The other thing I want to say is, if the distinguished acting majority leader would be generous, the Senator from Florida is here and wishes to speak for up to 3 minutes as in morning business prior to our getting on to the legislation. I would ask if that would be OK with the acting majority leader.

Mr. THOMAS. Mr. President, I have no objection to the 3 minutes. I would like to ask unanimous consent that we be able to go ahead and speak on the electricity amendment even though we will not be able to offer it.

Mr. REID. We would not need unanimous consent to do that anyway, so that would be fine.

Mr. THOMAS. Very well. I have no objection.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Florida be recognized to speak for up to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under "Morning Business.")

The PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, in keeping with the agreement with the minority leader, I will not introduce the amendment at this time, but I would like to talk about the amendment.

Mr. President, what we are going to deal with today is an amendment,

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

which will be a second-degree amendment and substitute for the electric title in the Energy bill. As you know, we have talked about the Energy bill for a good long time on the Senate floor. We have talked about it in committee, and we talked about it last year. So what has happened is the chairman of the committee has done a great job of seeking to take the information that came forward in our discussions in the past about the electric title of the Energy bill and make it more compatible with the issues that have arisen during the previous discussions, and to put it together into an amendment. That is what we will be dealing with.

I am very pleased we have come together on the committee with an amendment that deals with most of the concerns about people, with a recognition that there is a changing world in terms of electrical supply and the way it is distributed throughout the country. If we are, in fact, to develop an Energy policy that is designed to give guidance to what happens regarding energy over the next several years, then this is a very important amendment and very important portion of the Energy bill.

As we look at ourselves and our families and businesses and our economy, there is probably nothing that impacts us more than electricity. It is in everything we do—whether it is lights, heat, businesses, whatever, we are involved with electricity. Each of us wants to have it for ourselves and our families. So we need to make some changes and some policy that moves us in that direction. The challenges facing the electric industry affect our economy and our environment, and developing a policy on this electric component is one of the most challenging aspects of the entire energy debate.

Chairman DOMENICI's efforts and his leadership on this issue have been tremendous. He has worked with all the interested parties to develop a very carefully crafted and balanced product. I will comment a little later on the whole package of letters of support we have received from various associations and users. These letters of support come from the National Rural Electric Cooperative Association, American Public Power Association, the Large Public Power Council, each advocating passage of the electric substitute amendment without modification.

We have talked about the number of amendments that are out there. Here is one we have already gone through, seeking to talk about and having opportunity for input from all the various interests. We believe this section is ready for adoption without modification. There are letters of support from the electric industry itself. The administration has also expressed its support for the electricity amendment.

In a letter dated July 25, the Secretary of Energy wrote that the Domenici amendment "will effectively modernize our Nation's antiquated electricity laws." Secretary Abraham stated that the amendment "protects consumers, ensures the development of wholesale markets that are transparent and free of manipulation, facilitates open access to the transmission system, increases electric supply, promotes energy efficiency, improves reliability, encourages demand response, and appropriately balances Federal and State responsibilities."

These supporters in the administration are right. The proposed electricity title is much needed and will accomplish some of the following: It establishes mandatory reliability rules. What is more important to us in electricity than reliability? It expands the transmission system efficiently on a regional basis. It will promote more open access to the transmission grid. The way things have changed, more and more electricity is developed in market generators and has to be moved to the market in order to make it work. You have to have a transmission grid.

It ensures priority on transmission lines for native load customers. This is so that where transmission lines serve certain areas, they are the first priority, and later you can add to the transmission grid.

It will allocate the costs of expanding the transmission system fairly, so that the cost doesn't have to be shared excessively by those already on the line with new users.

It repeals the PUHCA to allow for more investment. This law was passed some time ago. It limits who can be involved in the ownership and investment of electric utilities and transmissions. It changes that so that there still are restrictions to be enforced by the enforcement agencies, but it allows for more investment.

It reforms PURPA. That is the law that required the purchase of various kinds of alternative energies at a lower price than the market might demand. It still allows for that purchase, and it will require it in some instances, but it takes away that mandatory aspect and allows competitive markets to work. It strengthens consumer protection also with increased transparency and oversight.

In the last several years, on the west coast we have seen the need for oversight and transparency. This provides for that. These are important issues that need to be addressed as part of a comprehensive, integrated, strategic energy policy.

Let me remind us that this is a policy we are talking about. So we need to have some foresight into it. It is not daily detail, it is a policy for where we go in the future to provide the kind of result that we would like to see.

Our action now on this amendment will help reduce regulatory uncertainty. It will provide much needed direction in an industry that is at a crossroads. That is where we are. The Domenici electricity amendment is the best solution available, and it deserves all of our support. It also deserves it soon, so that we can complete this job and get it out on the ground in the country.

Let me take some time to describe the electricity amendment in a fairly broad sense. The first part of the electricity amendment proposes modifications and additions to the Federal Power Act's definitions. These proposed changes are needed to accommodate conforming changes and defining terms of art used by the industry. Specifically, the terms affected are: electric utility; transmitting utility; regional transmission organizations, RTOs; independent transmission organizations, or ITOs.

Subtitle A has to do with reliability. The reliability subtitle sets forth a new framework to ensure greater reliability in the transmission grid. Today, transmission grid stability is maintained through voluntary compliance with reliability rules promulgated by the North American Electric Reliability Council.

This subtitle directs FERC, the Federal Energy Regulatory Commission, to implement a final rule to certify an electric reliability organization that will set and enforce mandatory reliability rules for the safe operation of the transmission grid.

Mandatory reliability rules are needed due to the increased number and the complexity of transmission on the grid and more extensive wholesale competitive markets. This reliability subtitle is based on consensus language developed by the North American Electric Reliability Council and the Western Governors Association.

I will point out here that there are substantial differences in different parts of the country with respect particularly to the movement of energy. In the West where there is more generated, sometimes the movement is out of the generation market into the consumptive market, where in the Northeast, for example, there is less generation and more movement there. So you need to make these changes and that is what the reliability subtitle seeks to do.

The provision is supported by a number of other groups and associations because they know greater reliability means greater opportunity—greater opportunity for investment.

In addition to NERC and the Western Governors Association, supporters of the reliability section include the Edison Electric Institute, the Institute of Electrical and Electronics Engineers, the Canadian Electricity Association, the National Association of Regulatory

Utility Commissioners, the National Association of State Utility Consumer Advocates, the American Public Power Association, the National Electrical Manufacturers Association, the National Rural Electric Cooperative Association, American Electric Power, Pepco Holdings, Inc., the Transmission Access Policy Study Group, TXU Corporation, and the Western Electricity Coordinating Council.

That is a broad representation of the whole Nation in terms of what we need to be doing with reliability.

As to subtitle B, regional markets, here again the subtitle recognizes the regional differences and seeks to promote the regional market in a careful and fair manner.

The first section of this subtitle delays the finalization of the Federal Energy Regulatory Commission's standard market design proposed rulemaking until July 1, 2005. This was a rule that came out from FERC some time ago that, in the view of most people, took too much authority to the national level and did not leave enough with the local and regional level. This is designed to change that situation. FERC seems agreeable to that change. This delays any order of that kind until July 1, 2005.

Given the controversy surrounding SMD and FERC's willingness to revisit and revise its approach in the white paper, a delay until July 1, 2005, preceded by a notice of proposed rulemaking and opportunity for public comment is, we believe, a balanced solution. The timeframe allows FERC to develop a rulemaking true to the principles and terms outlined in the white paper regarding deference to the States—that is very important, deference to the States—and permits those regions that are working on their own unique marketing designs to continue to do so.

This is a recognition of the fact there needs to be some Federal oversight. We are going to have a national movement of electricity and, at the same time, recognize those unique aspects of various regions, and this is designed to balance that situation.

This subtitle includes a sense of Congress that RTO formation be voluntary. The subtitle also provides that nothing in the Energy bill authorizes FERC to mandate the formation of RTOs. We will hear more about that point, I am sure. The fact is it does not mandate; it allows the States and regions to make these decisions, which I think is very important.

This subtitle emphasizes RTO formation, which is very important, and it promotes fair and open access to electric transmission service; benefits retail consumers; facilitates wholesale competition; improves efficiencies in the transmission grid management; promotes grid reliability; removes opportunities for unduly discriminatory or preferential transmission practices; and provides for efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale markets.

There has been a great change in how electricity is generated and distributed. A number of years ago, a company had the job of being a distribution unit, to go to the retail, to go to your house, my house, and businesses in a community. They generated their own electricity, and it was a confined package right there. Over the last number of years, more than 30 percent of wholesale power is generated by what we call market generators that do not make retail distribution. Therefore, to be competitive and to give us a better price, that electricity has to move about to the companies that do the distribution, and that is what this whole issue is about.

This subtitle authorizes Federal power marketing agencies, such as the Bonneville Power Administration and Western Area Power Administration, to join RTOs. They are a very important part of the generation and distribution in these areas, and they, too, can come along with the States to put together these regional organizations.

This subtitle includes a regional consideration section which encourages discussion between States and FERC on how to improve transmission and wholesale markets. Issues to be considered include elimination of pancake rates, that is, multiple cumulative charges for transmission service across successive locations in a single region, and the resolution of seams issues, to improve transmission exchanges between regions. These are very important to a uniform statewide average rate of transmission pricing.

Subtitle C, which involves transmission access and protecting service obligations, is very important. The first section of this subtitle is designed to ensure load-serving entities are a priority on the transmission grid to fulfill their service obligation to the native load end users. This section balances the service obligation needs of both transmission owners and transmission-dependent entities, such as municipals and co-ops. The section allows this priority only to the extent required to provide the load-serving entities' native load obligation. This means if you have powerplants, retail merchants, and customers, and you want to use that line to go on to new customers, the first priority is to those being served, the native load, and that is important to our part of the country.

FERC-lite is just what it says: The ideas that were put forth by the Federal agency now are toned down with more emphasis given to the opportunity for States and regions to have input.

The open access, or FERC-lite section, promotes principles of fair access to the transmission system by requiring that all transmitting utilities, regulated or unregulated, have rates, terms, and conditions for transmission service that are not discriminatory or preferential.

The FERC-lite provision will not diminish the local control benefits upon which many unregulated transmitting utilities depend. Small unregulated transmitting utilities, such as distribution co-ops, as well as unregulated transmitting utilities that do not own or operate significant transmission facilities, are exempt from the FERC-lite.

The section on participant funding directs FERC to issue regulations about the allocation of costs associated with transmission expansion. This section clarifies who has to pay for what in transmission expansion. This clarification will promote certainty and investment in our energy infrastructure. It really defines benefits. Those who benefit from the expansion will be expected to pay for the expansion.

Under this section, a regional transmission organization, an RTO, or an independent system operator may submit a plan regarding transmission costs to FERC, and FERC will give substantial deference to the comments filed by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO regarding such a plan.

With regard to subtitle D, amendments to the Public Utility Regulatory Policies Act of 1978, the most challenging part of the PURPA reform addressed in this section has to do with mandatory purchase and sale requirements affecting qualified facilities, or QF. Many have argued that PURPA has resulted in above-market electricity prices because it forces utilities to buy power they may not need. Thanks to the hard work of Senators NICKLES, LANDRIEU, and ALEXANDER, a compromise was reached which will ensure that qualifying facilities are legitimate and not just generation facilities masquerading as QFs and abusing QF benefits.

The compromise prospectively terminates the mandatory purchase and sale requirements affecting QFs when a competitive wholesale market exists and sets forth new criteria for future QFs to ensure they are fundamentally designed to support commercial or industrial processes.

The stakeholders, which include the American Chemistry Council, International Paper, and the Alliance for Competitive Energy, worked together to help craft this language with the Senators and strongly support the principles of ensuring fair and legitimate practices.

This subtitle also includes provisions on net metering, smart metering, and demand response that require States to consider the benefits of these policies.

What this really means is instead of being forced to buy the energy that is excessive to some manufacturing group, it will have to be in a competitive market. They will be legitimate qualifying facilities and will not be forced, as it was in the past, but yet will still be able to include these producers as available energy.

Subtitle E is provisions regarding the Public Utility Holding Company Act of 1935. This is an outdated statute that imposes barriers to competition and discourages investment in generation and transmission. PUHCA limits that are now in place limit geographic and product diversification and impose many burdensome filing requirements.

PUHCA is also a barrier to the formation of regional energy markets because it would apply to regional transmission organizations.

Repealing PUHCA does not preclude State and Federal regulators from protecting ratepayers. They can still take a look at who is doing the investing and whether the returns generated go back to the right group and create a good price for users, and they will be able to invest, not divert, the money, but they will continue to be overseen by existing regulators. The Department of Justice and the Federal Trade Commission will continue to protect against antitrust violations.

The Securities and Exchange Commission, which currently oversees PUHCA, has recommended on a number of occasions that PUHCA be repealed and certain consumer protections transferred to FERC. That is what we seek to do here.

Market transparency and antimanipulation enforcement, of course, are very important subjects, now more than ever because of what happened in California and elsewhere on the west coast.

This subtitle directs FERC to issue rules to establish an electronic information system to provide information about the availability and the price of wholesale market and transmission services to ensure that such information will be treated with confidentiality, when necessary, and used to protect consumers in competitive markets.

Here again the allegation—and I am sure to some extent it is true—was these are the kinds of manipulations that happened in California and on the west coast, and this is designed to prohibit the filing of false information regarding the price of wholesale electricity and the availability of transmission capacity. It prohibits roundtrip trading, where there were apparently some funny tricks played on the west coast. This will prohibit those kinds of things. It expands those who can file complaints and who will be subject to FERC investigation; increases the penalty under the Federal Power Act and the National Gas Act; amends the Federal Power Act refund effective date to the date of filing. It makes it work so the purpose for which it was designed can be carried out.

Subtitle G is consumer protections. Of course, all of us are interested in that. A number of consumer protections are included in the amendment. The first one includes a revised section 203 of the Federal Power Act which will offer FERC limited expansion of its merger review authority. Justification for this expansion review is needed to balance the repeal of PUHCA, which we just talked about, and the potential effects on holding company structures. So we are making some of the changes that need to be made because of outdated laws and we are replacing the oversight that needs to be there so it will still be transparent and visible.

The new section would apply to transactions only that are in excess of $10 million. So this is designed to deal with major transactions.

In addition, 203 would highlight factors such as consumer protection financial integrity, evaluating whether a transaction is consistent with the public interest. These are things that all of us recognize need to be there. That is why utility commissions have been in effect in States to sort of have an oversight. Even though we want the private market to be stronger and more effective, there still needs to be protection for consumers because there are not lots of choices always in terms of energy.

A new section requires FERC to adopt rules for consideration of applicants. It also directs the Federal Trade Commission to issue rules regarding information disclosures.

So overall, the Domenici electricity amendment is balanced. It is a fair package that creates a more efficient electricity grid, increases investment in utility infrastructure, and enhances consumer protections. These are basically the issues we will be faced with again in the future. We want electricity available. We want it at a reasonable price. We know the market can have something to do with that if there is competition, but if there is competition there has to be oversight.

If we are going to be able to move electricity, there has to be a grid. If there is going to be a grid, there has to be agreement among States in regions. These are the kinds of things we deal with. It is fairly complicated. On the other hand, there are pretty basic things that need to be done and have not been done for a very long time.

Of course, we must keep in mind, as we do all of these things, some of the basic fundamentals we want to protect, and that is there are State opportunities to make a decision for local power; that we can show the difference between regional needs by having RTOs that have the authority to do this. If we are going to have a nationwide grid to be able to move power to make it more efficiently used, there has to be some Federal authority as well. This seeks to develop that balance.

This amendment is balanced. It is a fair package. It creates a more efficient grid, increases investment, and enhances consumer protections. The amendment is supported by the administration as well as a number of stakeholders' groups such as the National Rural Electric Cooperative.

I have a number of letters in support of the amendment and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide the Administration's views on your proposed electricity substitute amendment to the Energy Policy Act of 2003. The Administration applauds your efforts and leadership to ensure that a balanced electricity title is included in the energy bill under consideration by the Senate.

We support your substitute electricity amendment and believe it will effectively modernize our Nation's antiquated electricity laws. Your amendment promotes transmission expansion, facilitates open access to the transmission system, increases electricity supply, promotes energy efficiency, improves reliability, encourages demand response, and appropriately balances Federal and State responsibilities.

Furthermore, we believe your amendment will protect consumers and ensure that developing wholesale markets are transparent and free of manipulation. Repealing the Public Utility Holding Company Act (PUHCA) and reforming the Public Utility Regulatory Policies Act (PURPA) will eliminate outdated laws on the books and infuse much needed capital into this sector.

The Administration applauds your commitment to passing comprehensive energy legislation and looks forward to working with you in conference to ensure the final bill reflects the President's priorities as set forth in the National Energy Policy and promotes energy and economic security for America.

Sincerely,

SPENCER ABRAHAM.

U.S. SENATE,
Washington, DC, July 24, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN DOMENICI: I am writing to express my support for your efforts to develop comprehensive energy legislation and to share my views on some issues which I believe to be critical to the establishment of a competitive electricity market that will benefit our nation's consumers.

The Senate Committee on Energy and Natural Resources with your leadership has grappled with a number of complex and contentious issues with respect to electricity. From my perspective, the central issues at stake in the debate surrounding the energy bill's electricity title involve the Federal

Energy Regulatory Commission's ("FERC") authority over regional transmission organizations ("RTO"), its proposed rules for the implementation of standard market design ("SMD"), and the repeal of the Public Utility Holding Company Act of 1935 ("PUHCA").

As you know, in an effort to bring greater order to the currently balkanized national grid, the Federal Energy Regulatory Commission issued FERC Order No. 2000, which directed utilities with transmission assets within their jurisdiction to join RTOs on a voluntary basis. Although FERC Order No. 2000 contained permissive language with respect to participation in an RTO, FERC maintains authority under the Federal Power Act to mandate participation. While most utilities have joined an RTO, some still have not, and the FERC, in the interests of promoting open and competitive interstate markets for electricity, may deem it necessary to compel a utility's participation in an RTO. Further, FERC's ability to mandate participation in an RTO serves as an important remedy where a utility is found to have abused market power. I am concerned that legislation might be adopted to eviscerate this agency's existing authority and thwart its efforts at promoting competition and a level playing field. I encourage you to preserve the FERC's authority with respect to RTOs.

I am also concerned about efforts to curtail the FERC's SMD rules. As you are aware, the rulemaking that is presently underway at the FERC seeks to establish a single cohesive set of rules governing the procedures and pricing of the transmission of electricity. SMD represents an important step toward a truly seamless and competitive national grid. Any delay in this effort would only slow our nation's progress toward this important goal. I urge you to omit language delaying the implementation of this rule from comprehensive energy legislation.

I would also like to express my support for the repeal of the Public Utility Holding Company Act of 1935 ("PUHCA"). PUHCA was enacted to eliminate unfair practices and other abuses by electricity and gas holding companies by requiring federal control ad regulation of interstate public utility holding companies. However, in the decades following the passage of this Depression-era law, the proliferation of federal, state, and local regulators and changes in market conditions have led to questions regarding the relevance of PUHCA in today's marketplace. As electricity markets have grown more competitive, PUHCA has hampered investment in new transmission lines, rendering our already taxed transmission assets more burdened than they need be. PUHCA repeal, in conjunction with reasonable safeguards for consumers, is an essential ingredient in moving towards a competitive national marketplace for electricity.

As you work to complete comprehensive energy legislation, I urge you to resist efforts to curtail FERC efforts to promote competition and support the repeal of PUHCA. Thank you for your attention to this matter.

Very truly yours,

PETER G. FITZGERALD.

U.S. SENATE,
Washington, DC, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: We are writing to urge you to continue our nation's efforts to move toward competitive wholesale electricity markets that will benefit consumers and businesses. National competitive markets, where multiple buyers and sellers can negotiate bargains and pass cost savings along to consumers, are the best approach to the challenges facing the electricity industry.

We would like to bring to your attention a number of issues addressed in the electricity title of the Senate Energy Bill (S. 14) that have implications for residents and businesses in the Northeast-Midwest region.

Delay of Standard Market Design—S. 14 and the proposed substitute amendment delays the implementation of the Federal Energy Regulatory Commission's (FERC) standard market design until July 2005. Electricity markets have outgrown state boundaries. We are writing to express our concern with the proposed delay of standard market design and the provision to make participation in regional transmission organizations voluntary. The delay has serious implications for residents and businesses in the Northeast-Midwest region and throughout the nation.

A standard market design would streamline the wholesale electricity industry, encourage transmission investments and move the lower 48 states toward a more competitive electricity market. Congested power lines, which are the result of the current electricity system, cost customers and businesses throughout the United States billions of dollars each year, whereas competitive wholesale power markets could deliver billions of dollars in economic benefits.

Schwab Capital Markets detailed the importance of standardized markets to increasing investment in our nation's transmission grid and electricity generation. Testifying before the House Subcommittee on Energy and Air Quality, Christine Tezak with Schwab stated: "We believe that capital will be less expensive for all market participants if FERC continues (and is permitted to continue) its efforts to provide reasonably clear and consistent rules for this business . . . Schwab WRG continues to view continued efforts to move forward with the restructuring of the electricity industry to be the best investment environment for the widest variety of participants in the electricity marketplace—whether they provide generation, transmission, distribution or a combination of these services—and most importantly, the most likely to provide sustained long-term benefits to consumers." Further, Ms. Tezak stated: "Congress needs to decide whether or not it still believes in the 1992 Energy Policy Act. Today, Congress is becoming an increasing part of the reason capital is hard to attract to this business. Congress is calling for FERC to slow down, Wall Street is frustrated FERC won't move faster."

S. 14 makes participation of Federal utilities in Regional Transmission Organizations voluntary. Federal taxpayer dollars were used to develop and maintain Federal power marketing agencies such as the Tennessee Valley Authority and Bonneville Power. The energy generated by these facilities should benefit all Americans. TVA and Bonneville should be required to participate in RTOs so communities throughout the United States have access to the power generated at these Federal facilities.

The Energy Bill must put national interest above the interest of a few vertically-integrated utilities that want to maintain regional monopolies. We encourage you to support standardizing electricity markets and prevent further delay of these efforts.

Participant Funding—S. 14 and the proposed substitute amendment directs FERC to establish rules to "ensure that the costs of any transmission expansion or interconnection be allocated in such a way that all users of the affected transmission system bear the appropriate share of costs." The language requires FERC to fairly align the costs and benefits of transmission upgrades, a judgment that can include a consideration of relevant local factors. This is not only the most equitable approach but also the one most likely to ensure that transmission development will keep pace with growing electricity demand.

Combined Heat and Power—S. 14 currently contains the "Carper-Collins" language which keeps in place incentives to operate combined heat and power facilities until true competition exists in electricity markets. This language retains, for a limited time, the provisions of the Public Utility Regulatory Policy Act (PURPA) which requires utilities to provide back-up power and buy electricity from qualifying combined heat and power facilities. As soon as competitive electricity markets are established, these requirements are repealed. Since combined heat and power saves energy, reduces greenhouse gas emissions, increases energy independence, and is good for the competitiveness of American manufacturing, we urge you to retain such provisions.

We urge you to complete the work Congress started with the Energy Policy Act of 1992 to provide reliable, low-cost electricity to customers. Please stand strong against pressure to reverse course on Congress' efforts to establish better working, competitive markets, and to continue working towards competitive electricity markets.

Sincerely,

JACK REED.
OLYMPIA J. SNOWE.
EDWARD M. KENNEDY.
ARLEN SPECTER.
SUSAN COLLINS.
DEBBIE STABENOW.
FRANK R. LAUTENBERG.
CARL LEVIN.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, DC, July 24, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the American Public Power Association (APPA), I want to express our strong support for your substitute amendment for the electricity title of S. 14, the Energy Policy Act of 2003.

The substitute represents a balanced approach that makes several improvements to the electricity title as it was reported out of your Committee. In particular, APPA appreciates your inclusion of additional consumer protections by providing the Federal Energy Regulatory Commission (FERC) with additional authority to review mergers while not including inflexible time constraints upon FERC review of merger applications. In addition, your substitute provides clear direction to FERC to establish a policy on market-based rates that assures rates will be just and reasonable. While we remain concerned over the repeal of the Public Utility Holding Company Act, the inclusion of these additional consumer protections helps to mitigate those concerns.

We also commend you for your efforts in drafting service obligation/native load language that preserves the existing firm transmission rights of load-serving entities. APPA strongly supports the service obligation/native load language in your substitute as it equally protects the rights of transmission owners and transmission dependent utilities.

Your substitute is a very carefully crafted package. While we do not necessarily support each individual provision, we do strongly support the compromise in its totality without modification. In addition, we will ask APPA members to urge their Senators to support your substitute. We anticipate that you will resist changes to your substitute during floor consideration and that you will support all aspects of the substitute in the House-Senate conference.

We appreciate your efforts to improve the electricity title and look forward to working further with you and your staff to preserve the language in your substitute through conference committee.

Sincerely,

Alan H. Richardson,
President & CEO.

The Large Public Power Council,
Washington, DC, July 24, 2003.

Hon. Pete V. Domenici,
Chairman, Senate Energy and Natural Resources Committee, Senate Dirksen Office Building, Washington, DC.

Dear Chairman Domenici: On behalf of the Large Power Public Council (LPPC) I am writing to let you know that we support the electricity substitute, without modification, which you plan to offer during Senate consideration of the Energy legislation.

We are grateful for your attention to our concerns and your willingness to craft solutions to the problems of large public power systems. It has been a pleasure working with you and with your staff.

LPPC is comprised of 24 of the largest locally owned and operated electric systems in the nation. LPPC members have long supported a truly competitive electricity market that is designed to benefit consumers. Your tireless efforts toward that end deserve our endorsement.

As a separate matter, we would urge you to consider favorably efforts to modernize TVA's organic statute.

Thank you again for your hard work. We look forward to helping you pass this substitute next week on the Senate floor.

Sincerely,

Jan Schori,
Chair.

National Rural Electric
Cooperative Association,
Arlington, VA, July 25, 2003.

Re Domenici amendment to the Electricity Title of S. 14.

Hon. Pete V. Domenici,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Senator Domenici: The National Rural Electric Cooperative Association (NRECA) supports passage of the carefully crafted Domenici amendment without modification.

NRECA represents over nine hundred consumer-owned electric cooperatives that serve more than 36,000,000 electric consumers. Our priority in the national energy policy debate is consumers. NRECA believes that S. 14, as modified by the Domenici amendment, protects consumers while providing the opportunity for growth and stability in competitive wholesale electric markets.

The language in the Domenici amendment will protect electric cooperatives from unnecessary costs and regulations. Your amendment closely parallels the small utility provisions included in last year's electricity title (HR 4).

The merger review language in your amendment establishes a framework ensuring that utility mergers adequately protect the public interest. This consumer protection package is vitally important to offset the potential consequences of the repeal of the Public Utility Holding Company Act.

We commend you for your work in the difficult drafting of the service obligation and native load language that preserves the existing firm transmission rights of load-serving entities. NRECA supports the equal protection for the rights of transmission owners and transmission dependent utilities.

On behalf of electric consumers, NRECA urges adoption of the Domenici amendment to S. 14 and applauds you for your leadership.

Sincerely,

Glenn English,
Chief Executive Officer.

July 18, 2003.

Hon. Pete Domenici,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Domenici: Over the past several years, Congress and the Federal Energy Regulatory Commission have struggled to create a definitive set of rules with respect to establishing restructured wholesale electricity markets. As state regulators from diverse regions of the country, we are concerned that continued and prolonged uncertainty at the federal level could ultimately impede our efforts to provide reliable and affordable power to our states' homes and businesses.

Positive steps in recent months taken by the Federal Energy Regulatory Commission have begun to establish clear rules and defined roles for market participants and stakeholder organizations, opening the door for increased benefits in our states for consumers and industries. FERC has been working closely with state regulators, and in regional technical conferences, to cooperatively develop the flexible tools needed to strengthen our electric markets.

The U.S. Congress is positioned to empower the FERC to move forward with necessary reforms by adopting language in S. 14. The National Energy Policy Act that would promote the development of wholesale markets and electricity grids. Supporting the creation of dynamic wholesale power markets could be one of the most significant legacies of this Act.

That said, as Congress considers the electricity title of the National Energy Policy Act, we are concerned with two specific points that are being raised in the debate on this legislation:

1. There should be no language that would delay FERC's efforts to develop rules governing the wholesale electricity market, as these rules are essential to ensuring the creation of robust wholesale markets that benefit consumers. Delay may seem like a safe or appealing compromise, however, this will undoubtedly lead to lengthy and costly regulatory and judicial challenges that could impact pending docket items and cost consumers millions of dollars. Congress should not create further roadblocks to the regulatory process of creating RTOs. States and regions, working with FERC, must begin the formation of RTOs without delay.

2. We oppose any Congressional action that would make RTO participation voluntary, as this would be harmful to existing and emerging RTOs. FERC should be permitted to oversee the process of RTO formation and serve as regional traffic cop to ensure that consumers benefit from competition in terms of competitive prices, increased choices, and improved services and reliability.

America's electricity network is at a crossroads. Individual states are moving forward, but the FERC must be empowered to take the necessary steps to ensure our nation has the electricity and transmission grid to meet the needs of our states' consumers and industries. Wholesale markets are putting downward pressure on prices and leading to greater investment in infrastructure and supply, resulting in greater reliability. We encourage Congress to adopt national energy legislation that would advance the nation's electric systems and the development of RTOs.

Thank you for your consideration of our thoughts and concerns. Please do not hesitate to contact us if you have any questions regarding this issue or the perspective and views of our states.

Sincerely,

Thomas L. Welch, Chairman, Maine Public Utilities Commission.

Laura Chappelle, Chairman, Michigan Public Service Commission.

Roy Hemmingway, Chairman, Oregon Public Utility Commission.

Rebecca A. Klein, Chairman, Texas Public Utility Commission.

Kevin Wright, Commissioner, Illinois Commerce Commission.

Carol M. Murphy, Commissioner, New Jersey Board of Public Utilities.

Glen R. Thomas, Commissioner, Pennsylvania Public Utility Commission.

Jay O. Stovall, Commissioner, Montana Public Service Commission.

MidAmerican Energy Holdings Co.,
Omaha, NE, July 25, 2003.

Hon. Pete V. Domenici,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Chairman Domenici: I am writing to express MidAmerican Energy Holding Company's unqualified support for the substitute electricity title you have developed for the comprehensive energy bill. MidAmerican is a diversified energy company operating in twenty-five states, with electric and gas utility, interstate natural gas pipeline, renewable energy, and independent generation operations.

These electricity modernization provisions will create a more efficient electricity grid, increase investment in utility infrastructure, and enhance our nation's consumer protection laws. The United States' electricity system desperately needs new infrastructure to support the competitive wholesale electricity markets that the Energy Policy Act of 1992 created. By eliminating existing barriers to investment and clarifying the regulatory landscape, the provisions of this title will help open the doors to new capital entering the industry.

We strongly support your efforts and oppose any amendments that would upset this carefully balanced proposal. Having spent much of the last ten years working to help build consensus on the need to modernize our electricity laws, I hope the Senate will move quickly to approve the substitute electricity title and the comprehensive energy bill.

Sincerely,

DAVID L. SOKOL,
Chairman and CEO.

NORTH AMERICAN
ELECTRIC RELIABILITY COUNCIL,
Princeton, NJ, July 25, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: As the Senate resumes consideration of the energy legislation, we are writing to reaffirm our continuing support for the reliability language contained in section 1111 of S. 14 and in the amendment in the nature of a substitute for the electricity title of S. 14 that you released on July 24, 2003. Joining NERC in support of the reliability language are the following: American Electric Power, American Public Power Association, Canadian Electricity Association, Edison Electric Institute, Institute of Electrical and Electronics Engineers—USA, National Association of Regulatory Utility Commissioners, National Association of State Utility Consumer Advocates, National Electrical Manufacturers Association, National Rural Electric Cooperative Association, Pepco Holdings, Inc., Transmission Access Policy Study Group, TXU Corporation, Western Electricity Coordinating Council, and the Western Governors Association.

These provisions meet the fundamental need for establishment of a system of mandatory and enforceable reliability rules applicable to all users, owners, and operators of the North American bulk power grid. The provisions build on the existing voluntary reliability system by authorizing an independent, industry-led organization to set and enforce such mandatory reliability rules, subject to Federal Energy Regulatory Commission oversight in the United States.

The legislative provisions are carefully crafted to bring the expertise of industry to bear in the formulation, implementation, and ultimately enforcement of the reliability rules. The amendment in the nature of a substitute adds a savings clause to the reliability language clarifying that the Electric Reliability Organization provided for in the legislation will not be considered an agency of the United States Government. We support that addition. That clarification is fully consistent with the determinations already made regarding the functions to be exercised by the Electric Reliability Organization in the new mandatory reliability system.

We commend you for your commitment to passage of this vital legislation before the upcoming Congressional recess, and look forward to working with you to support enactment of the reliability language as soon as possible.

Sincerely,

MICHEHL R. GENT,
President and CEO.

INTERSTATE NATURAL GAS
ASSOCIATION OF AMERICA,
Washington, DC, July 25, 2003.

Hon. PETE DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Interstate Natural Gas Association of America (INGAA) wants to thank you for your tenacious efforts to move comprehensive energy legislation through the Senate. We believe that the Energy Policy Act of 2003 (S. 14) strikes a fair balance between energy efficiency, environmental protection, and the need for increased energy resources. This legislation will also play an important role in addressing the nation's tight natural gas supply situation, and INGAA urges its swift adoption.

As you know, North America is blessed with abundant natural gas supplies. Unfortunately, conflicting government policy has both encouraged the increased use of natural gas, while hindering the further development of natural gas supplies and infrastructure. As Federal Reserve Chairman Alan Greenspan has observed, the conflict between increasing demand and decreasing supply has to be resolved in some way, and it is currently being resolved through higher natural gas prices.

INGAA strongly supports your efforts to increase natural gas exploration and production on federal lands. We also support your provisions regarding natural gas market transparency and prohibitions on fraudulent and/or manipulative trading practices, which will help to restore stability and confidence to the market. With respect to natural gas infrastructure, INGAA supports provisions encouraging the construction of an Alaska natural gas pipeline and the development of new LNG importation facilities.

We appreciate the comprehensive approach you have taken in addressing natural gas supply and infrastructure needs. INGAA will continue supporting your efforts to enact balanced energy policy legislation during the current session of Congress. Please let us know if we assist in your efforts.

Respectfully,

DONALD F. SANTA, Jr.,
Executive Vice President.

JULY 25, 2003.

Hon. PETE DOMENICI,
Senate Energy and Natural Resource Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Natural Gas Supply Association (NGSA) and the Independent Petroleum Association of America (IPAA) representing the majority of natural gas producers in the United States want to take this opportunity to comment on your legislative proposal to ban fraud and manipulative behavior during the reporting of natural gas transactions to energy price indices.

As you know from our previous communications, we have been working hard to find workable solutions for greater market transparency, which should enhance the confidence of stakeholders in the natural gas markets. In fact, the industry has been successful in crafting an industry consensus document (also referred to as the "Kennesaw agreement") supported by many stakeholders in the natural gas market. Attached is a copy of that document.

We fully support your desire to bring greater transparency to the energy markets, prevent manipulative behavior in those markets, and punish those that knowingly and willfully report false information. Consequently, we support your proposal and look forward to working with you to ensure that the energy marketplace reflects these objectives.

Sincerely,

Independent Petroleum Association of America.

Natural Gas Supply Association.

Mr. THOMAS. There is a letter from the Secretary of Energy:

> We support your substitute electricity amendment and believe it will effectively modernize our Nation's antiquated electricity laws.

There is also a letter from Senator FITZGERALD of Illinois. There is another letter that talks about the amendment. It is signed by eight Senators who are looking more for the effects of a competitive wholesale electric system, and a standard market design. They are supporting what is done with respect to the standard market design.

Another letter is from the American Public Power Association. It says:

> . . . I want to express our strong support for your substitute amendment . . .

They are a very important player, of course, in this.

The Large Public Power Council also says:

> . . . we support the electricity substitute, without modification . . .

According to this group, we do not get into trying to make a number of changes now.

The National Rural Electric Cooperative Association, which, of course, serves more than 36 million electric consumers, particularly for those of us who live in rural States, supports the passage of the carefully drafted Domenici amendment without modification.

We also have a letter from the Interstate Natural Gas Association of America. Remember that natural gas people have a real interest in this as well in terms of the generation of electric power. They say:

> We believe that the Energy Policy Act of 2003 strikes a fair balance between energy efficiency, environmental protection, and the need for increased energy resources.

America's Oil and Gas Producers Independent Petroleum Association, the American Gas Association, all of these groups are in complete support of moving ahead with the amendment without modification. I think it is pretty impressive that all of these groups are in support, such as the North American Electric Reliability Council, which is the one that has to do with reliability. So these are some of the areas that are covered and are supported on this particular amendment.

I know this is detailed and lengthy, but this is a very important aspect and a very important element. It is something that has been worked on for a couple of years, by both the committee and on the floor. This whole title having to do with the electricity part of energy has been redrafted and this institution will bring it together so that hopefully we can move forward with very few, if any, amendments, to this section.

I yield the floor and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

IRAQ

Mr. NELSON of Florida. Mr. President, I thank the distinguished presiding Senator, the great Senator from the State of Alaska. I had the privilege of visiting his State en route to China with the majority leader a couple months ago. We used, as a convenient place for refueling, the Air Force base in Anchorage. That is a wonderful land the Presiding Officer comes from. It was a great privilege to visit, especially with our troops that are providing for the defense of our country.

Speaking of that, I continue to be amazed at the courage and the ability of our men and women in uniform in service to this country and those not in uniform in places such as Iraq, where I visited 2 weeks ago. In talking with those soldiers, anyone could see how dedicated they are. At the same time, we recognize those soldiers are uncomfortable. It is hot, 120 degrees, and it is dangerous.

As a matter of fact, we see the effects of premeditated assassination, the so-called resistance. It is taking form in three different ways. It is extremely lethal. Indeed, over the past week, on the average, two of our American soldiers per day have been murdered, some of them by RPGs, rocket-propelled grenades, often fired into armored convoys; some of them by landmines detonated by remote control device placed usually where the road narrows; and some of them purely by assassination with a small handgun, as in the case of the Florida soldier killed the night before I arrived. The Florida soldier was pulling guard duty. A delegation had gone into the university and they were protecting them, looking out for their interests. In the midst of the melee, someone in the crowd comes up behind him and taps him on the shoulder. He turns around and they shoot him in that unprotected area above the body armor and below the helmet.

This is the kind of premeditated assassination we see. It is clearly my hope, and the hope of everyone, that we would have some diminution of this killing as the Saddam Hussein regime is brought to account now with the demise of the two sons and along with what I think will be the capture—whether alive or not, I don't know—of Saddam Hussein himself.

Iraq has become a place, as reports in the press have indicated, where others are coming into Iraq to try to do damage to American interests. So it is going to cause us to be all the more vigilant. Clearly, the stakes have never been higher for the United States to stabilize Iraq, both politically and economically, just as we need to do so in Afghanistan in our war against terror.

I came here today to speak on the Energy bill which is before us. I want to discuss this issue that not only affects the lives of every American but also impacts the Nation's security. That is what we are debating, energy policy. These energy issues we are going to be debating this week affect everyone. They affect the air we breathe. The policy affects the cars we drive, the lights that illuminate our lives, and the electricity bills we pay.

I would like to be able to go home this August, after we recess, and tell people in my home State of Florida that the Senate made a difference, that we have changed some of the energy policy so that we are going to, hopefully, have more efficient homes and more efficient cars and cleaner air and, most importantly, more peace of mind. It is my hope what this Senate will do is decrease our dependence on foreign oil.

I served in the House of Representatives years ago. I had come into the Congress in 1978. We were in an energy shortage. A bunch of nations on the other side of planet Earth had joined a cartel and decided to reduce production. That had caused panic buying, it caused the price of energy—the price of oil—to go way up. The United States, as it was trying to enact an energy policy at the time, looking for alternative fuels, looking toward encouraging renewable sources of energy such as wind and Sun, also did something else. We have salt domes underneath the ground, down in Louisiana. We started filling those salt domes with a strategic petroleum reserve so we would be able to tap into an instantly ready source of oil if the spigot in those foreign lands was shut off. What is the likelihood of that in the future?

A study of military history will teach us about certain chokepoints, geographical chokepoints. For example, the Straits of Gibraltar are considered a military chokepoint. Let me tell you about one of the most dramatic chokepoints I ever saw, and I saw it from the window of a spacecraft, 203 miles above the Earth as our ground track on the orbit came right down the Persian Gulf, looking straight down at the Strait of Hormuz, a 19-mile-wide area, a chokepoint, a military chokepoint of the Persian Gulf, that 19-mile-wide strait through which most of the supertankers of the world have to pass.

Talk about a target for a terrorist. Indeed, the Strait of Hormuz—if the terrorists were ever to be successful in sinking a couple of supertankers there, you can imagine what would happen to the flow of the oil to the industrialized world. We would immediately be in crisis.

Are we going to continue to rely on foreign oil for our daily consumption?

Remember back a while, we made a commitment that we would stabilize our greenhouse gas emissions. That was done over 10 years ago. I hope now the Senate has decided to make good on that promise and put in place a climate change policy and a modest cap and trade system that is going to help us stop our ever increasing emission of harmful pollutants into our fragile atmosphere.

I am somewhat amused and perplexed that there continues this debate over whether or not global warming is real. About 98 percent of the scientists say it is real. If you come from a State such as mine, Florida, with its hundreds and hundreds of miles of coastline, you had better be prepared for it being real. Yet almost all of those affected—the business industry, the insurance industry—are ignoring the fact the climate on planet Earth is warming.

Let me tell you what that will do for a place such as Florida. As the seas rise, as the temperature rises, the coastal areas are threatened. They are threatened not only by the rise of the level of the sea but by the rise of the level in temperature which brings about much more violent storms and much greater plague and pestilence.

So often we do not confront a problem until it is upon us. Yet the fact is, global warming is upon us. So what should we do? We should be concerned about that outer layer of the atmosphere, of it having the appropriate environmental ability to deflect the ultraviolet rays that come into the atmosphere and eat up the atmosphere. Emissions from fossil fuel burning go into the atmosphere, and they start to diminish that ozone layer which protects against the ultraviolet rays, the result of which is that it has this greenhouse effect on planet Earth, starting to warm up the planet.

Sooner or later, we are going to have to face the music. That is what is happening to our planet. Yet are we enacting governmental policies that will protect us? That is what I am hoping, that we will have a Senate that will stand up, before the heat of this August recess, and say we are going to do something about it.

I would also like to go home this August and say to my constituents that, although we have been talking about diversifying our fuel sources for years, we are now starting to make progress; we have tax credits; we have tax incentives; we have loan guarantees; we have renewable portfolio standards in place to spur production and use of clean and renewable fuels. I hope this is possible because we are living in historic times and the policies we enact should reflect the gravity of the issues we face.

I am intrigued that all across this land, particularly in areas of high wind velocity, now we are building wind farms. To farmers, a wind farm can now be a profitable venture, leasing their land for the erection of high-technology windmills that will generate electricity.

Sooner or later, we are going to figure out how to harness another major source of energy, the energy of the tides of the ocean.

We already know how to harness the energy of the sun. Everything here is a question of economics. Is it economical to do so? It is, the more the price of oil goes up. As the cost of oil goes up because of diminishing supply—be that just by virtue of time or be that by virtue of interdiction of that supply such as a terrorist sinking a supertanker or whatever the reason is—we ought to be looking to these alternative and renewable fuels.

Over and over again, Members of the Senate and Members of the House have decried the fact that our Nation's energy consumption is held hostage by the oil production of these other nations, some of which we don't get along with too well. That should bother us. It should make us want to enact policies we know will lessen our consumption of foreign oil.

(Mrs. DOLE assumed the Chair.)

I would like to go home this August and tell our constituents we are enacting changes in those policies, and we are going to protect ourselves.

I see our new Presiding Officer, the great Senator from the State of North Carolina. I will never forget when I was in the House and one of the first wind energy systems was built in Boone, NC. This is going back 20 years. I will never forget it. Everybody was upset because the more the windmill turned, the more it disrupted the television coverage in Boone, NC. But today we have the benefit of propeller technology in the placing of these wind energy systems, which are these tall windmills with propellers which are as sophisticated in their design as those for airplanes. So we don't have to have all of that outcry that occurred in Boone two decades ago. Boone, NC was a pioneer. It was part of a NASA research project. We were looking for opportunities other than the consumption of foreign oil then. We are doing a lot better in our technology today. But we have to enact policies that will wean us from our dependence on that foreign oil.

One policy that has a proven track record for decreasing our consumption of oil is increasing the miles per gallon on our automobiles. It has a fancy name. It is called Corporate Average Fuel Economy, otherwise known as CAFE. From 1975 to 1985, when CAFE or the mileage-per-gallon increases were mandated, we dramatically lowered our consumption of foreign oil.

According to the National Academy of Sciences, the increase in fuel economy standards in that decade, 1975–1985, saved—get this—43 billion gallons of gasoline, which is the equivalent of 2.8 million barrels of oil per day. But since 1985, our Nation's fuel economy has stagnated, and our consumption of foreign oil has skyrocketed. Indeed, between 1990 and 1999, oil consumption in the United States rose 15 percent and, unfortunately, American oil imports from foreign lands rose 40 percent. Why? Because we stopped requiring increases in fuel economy standards.

In our last few attempts to restart the program, we were stopped by a combination of very powerful lobbying groups. One of them—the automobile makers—said they could not do it. They said it was going to cost jobs. They said it was going to decrease consumer choice and that it was going to hurt vehicle safety. But that is exactly what they said in the 1970s. The auto makers successfully rose to the challenge then, and they can successfully rise to that challenge now. In fact, the increase in the fuel economy standards helped the auto makers stay competitive with their Japanese competitors in the 1970s and the 1980s. Smaller vehicles did not take over their fleets as they predicted. Eighty-five percent of the historical fuel economy gains came from technology with no impact on the vehicle weight or the vehicle size.

I encourage this Senate on the eve of us going home to be forward thinking and not backward looking. This is the 21st century. We know that American auto manufacturers have the technological capability to increase CAFE standards and to maintain safety without denying the American public any choices in the type of vehicle they drive. It can be done. We just have to have the will to do it.

The American people, after this traumatic experience of losing over 3,000 people on September 11 of 2001, clearly have a renewed desire to see their Members of Congress act in the best interests of national security. Is weaning ourselves from our dependence on oil from foreign lands in the interest of national security? Can you imagine what our Middle East policy would be if we didn't have to import oil from the Persian Gulf region? Our foreign policy would be a lot easier to conduct.

Senator DURBIN is going to have an amendment that will require cars and SUVs and minivans and cross-over utility vehicles to achieve CAFE standards of 40 miles per gallon by when, by next year? No. By 2015. That would be 11 or 12 years from now. It would require by the same year of 2015 trucks and vans to have a mile-per-gallon standard of 27.5 miles per gallon. It can be done. I certainly urge our colleagues here to support Senator DURBIN's amendment.

I guess one of the bigger disappointments I have had legislatively in the 2½ years I have been in the Senate is that we can't come together and recognize something that has so much common sense. We already have hybrid vehicles driving around getting 50-plus miles per gallon, and they get it not only on the open road but they get it in city driving. That is because the technology has developed to the point where a computer will switch that engine from a gasoline engine over to an electric engine and back and forth.

When we are using the gasoline engine we are powering the battery so the electric engine can be used, and it goes back and forth without any notice to the driver or the passenger and with no diminution on the electrical needs of the automobile and no diminution on any sane driver who doesn't want to squeal their wheels at every stoplight. The technology is there.

I urge the Senate to go beyond with technology.

On board every space shuttle is a machine that makes electricity. It makes electricity from a combination of two fuels: hydrogen and oxygen. And it has as a byproduct—water. As a matter of fact, so much water is produced that at the end of every flight day, the crews will have to dump excess water. It is amazing, when you dump that water out into the cold vacuum of space, you see that dumped water spray out, and all of a sudden those water particles crystallize. In the glint of the sunlight, it is a beautiful view.

But what started this process was that we were making electricity on board for the space shuttle with the fuel of hydrogen. We can do the same to power our vehicles. We know most of our consumption of energy is done in the transportation sector—airplanes, trains, buses, cars, ships. We know most of the consumption of that energy is automobiles and trucks. So can you imagine, if we would put our minds to it—just like we put our minds to it when President Kennedy said: We are going to the moon and back within the decade of the 1960s—and we did it—can you imagine, if we would put our minds to it, in an Apollo-like program, if we developed a hydrogen engine that was cheap enough that could power our automobiles, the new ones, and the trucks? The technology is there. The capability is there. The application of the new technologies can bring the cost down. The only thing we are lacking is the will.

Can you imagine if, suddenly, we did not have this dependence on foreign, imported oil how much freer the United States would be in our conduct around the world, in our military policy, in our foreign policy, in our ability to be self-sustaining in our own energy needs, and not giving up any of the creature comforts that we Americans are so blessed to have to our advantage? Yet when we get to a vote on some of these items on this Energy bill, we may get beat. I just simply do not understand that.

So I am pleading with our colleagues in the Senate, as we debate this Energy bill, let's think about America in the future, over the course of the next decade, over the course of the next 25 years. Let's think about the decisionmakers on this floor in future decades and what we are shackling them with as a matter of military and foreign policy if we do not break our habit of depending on foreign oil. We can do it. We just have to have the will.

Madam President, I thank you for this opportunity to share these ideas. Unless the manager of the bill wants otherwise, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Madam President, I am pleased that we are able to go ahead and talk about energy. I must say, I am not as pleased by the fact that we seem to be holding things up a bit. We have been on this issue now for 2 years. We have also, this year, already been on the Senate floor for 10 or 12 days on this issue.

Last year, we were not able to complete the Energy bill because it was pulled out of committee. We did not go through the committee. This year, we went through the whole process in committee. We brought forth a bill that was approved by the committee. Now we find ourselves, however, held up because somebody objects to moving forward.

Really, we have a week to do a job that deals with one of the most important bills we have before us. Frankly, it is discouraging when we find obstacles to moving forward simply because somebody has to wait until they get here on the Senate floor before an amendment can be offered. In any event, that is where we are. I object to the obstacles that are being put forward to the idea that we ought to move forward with this bill.

In any event, let me talk just generally about the bill. The Senator from Florida has talked about some of the needs that are required. There is nothing more important to our economy, to employment, and to our families in this country than energy. We have an opportunity to deal with some of the problems that obstruct us from moving forward with energy. We seem to become all wrapped up in little regional political issues that keep us from accomplishing the goal of moving forward, and it is frustrating. But there is a need to have a policy that moves us forward.

One of the things, of course, we hear about more than anything else, in terms of energy, is natural gas. We had our Federal Reserve Chairman here to talk about the need for gas supply and the potential shortage of gas we anticipate, partly because of the need for air-conditioning in the heat of summer and, certainly, the need for heat in the cold of winter. So natural gas is one of the things we have talked about the most.

Quite frankly, there are some opportunities for increased domestic production of gas. The idea of importing gas is not, in my view, the best solution. We have an opportunity to have domestic production. We can do that. That is partly what this bill is about. We have provisions in the finance section of this bill that are incentives for production.

We also find that we have a substantial amount of natural gas resources in the West. Much of it is on Federal land. We find ourselves, however, inhibited by the permitting process and the time it takes to do permitting in order to get gas on to the market. That is an area of potential. We can do that and, at the same time, protect the environment. We have already shown we can do that.

There has to be a movement of gas from the source to the supplier. That requires pipelines. It is very clear that some of these things need to be done.

This bill is a comprehensive and balanced bill. It deals with conservation. The Senator from Florida was talking about CAFE standards, but we have been through CAFE standards a number of times. There will be bills on the Senate floor that have to do with CAFE standards, and we will be supporting the movement of CAFE standards.

This bill talks about alternative sources of energy, which is something we ought to be looking at, whether they be wind or sun or hydrogen. The President has in his budget proposal over $1 billion to do research on hydrogen. Well, it is great to talk about hydrogen and to talk about using those types of automobiles, but we are not ready for that. Not only do we not have the system to produce it, we do not have the distribution system. But we will have it, and it is something we ought to work on. It is already in the process; it isn't as if it is a brand-new idea. We are looking for some opportunities to use the coal supply to develop hydrogen, which would give us a fuel more easily moved about than coal. Hydrogen can be made from coal. So there is a good deal of attention in this bill for alternatives.

We talk about conservation, alternatives, and also research and cleanliness in our energy supply. Again, coal is the largest fossil fuel supply we have in this country.

We need to continue to work on clean coal. We need good air quality. There is a good deal of money in this bill for moving forward.

One of the problems with our gas supply is, over the last number of years the 30 plants that have been developed for electric generation are all gas fired. On the other hand, coal is really, for a number of reasons, probably the best source. You can see that in prices, in the supply available. But still, because of not having a policy, we have used small gas plants close to the market and have used the wrong fuel.

We need domestic production. Sixty percent of our oil is brought in from other places. We can do something about that. We can do it with domestic production and other uses.

Certainly, this bill also addresses the modernization of the system of electricity, the modernization of the system of oil and gas. That is one of the most vital issues before us, to get a policy and a plan to move forward to make sure that energy is available, to the extent possible, domestically and that we don't depend on other countries for oil.

Wyoming, of course, is a State that has a good deal of energy resources. A number of years ago, I attended a meeting. Someone was there from England saying: We have never run out of a fuel. That is interesting, isn't it? We started with wood. We moved to coal. We moved to others. But after a while, we always find some other fuel to go forward. That is part of the science and research that is in this bill, so that as we find shortages, as we find more efficiencies, we can move forward into other kinds of opportunities.

I hope we can move forward and are not held up excessively to get the job done. It is here. We have a challenge to get it done this week. We have already discussed all these issues. We should be able to come to a decision on those issues that are still controversial, or, where there are different views, everyone who has a different view should be able to express that and vote on them when we have to. But we need to move forward. The idea that we are unable to get together to move seems to me to be inconsistent with the purpose of our being here.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am a member of the Energy Committee along with my colleague from Wyoming. I happen to share his desire to get the Energy bill done. With regard to the statement by the majority leader that it is going to have to be done this week, with the number of amendments out there and the difficulty we have, it is very unlikely it will get done this week. My hope is that we can find a way to move most of the way down the road, and understand that, if necessary, when we come back we will finish it quickly.

We need to get an Energy bill to the President's desk on a timely basis. It should not be just any Energy bill. It has to be an Energy bill that works, one that advances the interests of America. We have 5 days in the workweek. We end on Friday. Today the chairman and ranking member are both out for a funeral. That is something no one can control. So at least much of today is not going to be particularly productive in advancing the bill.

Given what we are going to face this winter in natural gas prices, given the problems we have in a range of areas, it would be in the interest of the country, Republicans and Democrats, to finish an Energy bill.

Let me mention a couple things we need to do in a serious way. Simply to paste together an electricity title and say, let's get it out there and get it voted on—if you missed what happened in California and this "restructuring" notion that has been around, you missed one of the largest bilking of consumers ever to occur. A circumstance existed in California where some companies were able to control supplies and, as a result of controlling and manipulating supplies and recreating congestion, they bilked California and west coast consumers to the tune of billions of dollars.

We need some consumer protection. I need to understand what the electricity title does. This headlong rush to restructure in electricity is one that can pose some significant problems for consumers. Restructuring means you will move electricity around the country from low-cost areas to high-cost areas and replace electricity from low-cost areas with more expensive electricity. Studies I have seen tell us that rural States such as North Dakota and others are going to lose and will have to pay much higher costs for electricity. Perhaps if we are past the urge to restructure and to create the circumstance that allowed what happened on the west coast, particularly in California, we can have an electricity title that really works for energy and for consumers.

There are four steps to this bill that are necessary. One is to incentivize production. I agree with my colleague from Wyoming. Oil, natural gas, coal—all can and will play a significant role in our future. We should incentivize that in thoughtful ways. If debate on the Energy bill this year becomes a debate about ANWR and CAFE, then the American people lose. These are just two hood-ornament debates, and we will lose.

What we need to do is find a way to pole-vault over what we have been doing and do something dramatically different in the future.

I introduced the first bill this year, before the President called for it in his State of the Union Address, to move us towards a hydrogen fuel cell future. We have been putting gasoline through America's carburetors for almost a century. If our future is to find a way to keep putting gasoline through carburetors and debate how efficient they are, in my judgment we don't have much of a future with respect to energy; we will always be dependent on finding energy from off our shores.

Fifty-five percent of the oil is now found outside our borders, much of it from very troubled areas of the world. We could wake up one morning and discover that the supply of oil coming in has been interrupted by the concerted act of terrorists, and we could find our economy flat on its back, because the American economy runs on energy. The assured future supply of energy is essential to jobs and economic opportunity. Fifty-five percent of our oil now comes from offshore. That is set to go to 68 percent. It is an unforgivable dereliction of duty if we policymakers don't decide that that has to change. That is dangerous to our future, and we must change it.

How do we do it? Four steps: Incentivize additional production in a thoughtful way and compatible with our environmental interests. Two, promote conservation. We waste an enormous amount of energy. Conservation should be a significant part of any Energy bill. Three, an efficiency title that provides efficiencies with respect to all those appliances we use every single day. And four, the development of incentives for limitless and renewable sources of energy.

Let me talk for a moment about that because that is one of the reasons I believe so strongly this bill must move. I am a big believer in wind energy. My State is ranked No. 1 by the Department of Energy in wind energy potential. We understand that the new turbines with which you can take energy from the wind and turn it into electricity are much more effective and much more efficient than they have ever been in the past. The ability to put up a 1-megawatt turbine and take energy from the air and turn it into electricity and put it on the line and use it to extend the energy supply makes great sense. It is nonpolluting. It is available wherever the wind blows. That makes great sense.

The problem is, we have a lot of interests and a lot of projects on wind energy on the drawing boards ready to go, and we have this production tax credit that starts and stops and starts and stops, that is available for a year, 2 years, 3 years—maybe 1 year, and by the time it is implemented, if you put a new 3-year provision in, you may only get a year and a half or 2 years out of it because by the time the bill is implemented, you have already wasted part of that.

For those who are interested in developing these new sources of energy, renewable and limitless sources of energy, this Congress ought to pass an Energy bill, and that Energy bill should have a 5-year extension on the production tax credit. This one only has 3. Nonetheless, whether it is 3 or 5, you need to get a bill passed in order for that to be part of the calculation of those who have projects on the boards and want to build these projects.

Speaking for me, although I regret I don't think we will be able to finish the Energy bill this week, I want an Energy bill. I want one that works. I want a good bill, one that goes to the White House for signature. I don't know what we are going to get done this week. I know today, as I said, the chairman and ranking member are necessarily absent for a funeral. Tomorrow there is a meeting at the White House that, I suppose, will take an hour and a half or 2 hours out of the day for Energy Committee members. There are a series of things going on. I feel strongly we need to send some signals to our country, to the American people, that we are putting together policies for the future.

I mentioned a moment ago that a hydrogen fuel cell future is very important for our country. This Congress passed my amendment—frankly, I was surprised by it—that said let's set targets and timetables for this. We all say use hydrogen, which is ubiquitous—use it to power fuel cells and then to power our vehicles. It is twice as efficient in getting power to the wheel as putting gasoline through a carburetor. So let's do that, we say. In order to do that, you cannot decide tomorrow that is going to happen because we are still in the development stage of fuel cells. There are fuel cells that are commercially available and operating. I have ridden on a fuel cell bus, driven a fuel cell car run by hydrogen. They exist, but they still literally are in the developmental stage.

Then, in addition to deciding here is our future, you have to do a number of other things. You have to deal with the issues of the production of hydrogen, exactly how to produce it and from what. There are a series of opportunities. You can produce it from natural gas or from coal. You can take electricity from the wind and use the electricity in electrolysis and separate hydrogen from oxygen and water and pull the hydrogen out of the water.

In addition to production, you have storage, transportation, and infrastructure. Who will build the service stations where you can fill up with hydrogen? These are things I think will last some while in terms of their early stages to solve and to create an infrastructure that leads us to a new energy day. The President spoke about it in the State of the Union Address. Prior to that, I offered legislation in the Congress calling for a fuel cell hydrogen future. So I embrace the President's goals. In fact, I significantly enhanced them with my colleagues on the Energy Committee, nearly tripling the amount of money the President suggested. I got the full Senate to set targets and timetables—150,000 vehicles by 2010, 2 million vehicles by 2020—saying let's set targets and timetables, instead of saying 20 years from now, where are we, and saying that is where we are. We need to set up a road map and say, here is what we as a country aspire to do, here is what we aspire to achieve for our country's energy future.

The reason using a hydrogen fuel cell economy to solve this country's energy future is important is these significant increases in energy use in the country are, through transportation—particularly vehicles, but transportation. That is where the line is. That is the line that is going up. With CAFE standards, which we will debate on the floor of the Senate, people will say, let's solve that line that goes up with more efficient carburetors or engines. Look, I am for more efficient carburetors and engines, but that will not solve the problem, as long as we have gasoline that costs less than bottled water. By the way, you can do that with an SUV. You may have four kids in the back and you drive up to the gas station and buy gas and then buy bottled water for the occupants in the car. Per gallon, it will cost you more for the water. As long as gasoline costs more than water, people are going to want to drive 5,000-pound vehicles.

The fact is, they are going to want to drive the big vehicles. That is a fact. That is what is happening in this country. The conversion has been quite extraordinary. Although I think CAFE standards are useful, and it is a provocative debate, and to the extent we can encourage additional efficiencies with internal combustion engines and carburetors through which all of the gasoline flows, that is fine, but that is not going to solve the problem of the increasing transportation line of energy usage. As long as we import most of our oil, with much of it coming from troubled parts of the world, this country is held hostage. How do you resolve that? You pole-vault to a different ground, it seems to me.

After three-quarters to one whole century of putting gasoline through carburetors, I agree with the President; let's decide to have a different energy future and use hydrogen and fuel cells that are twice as efficient as now exist in getting power to the wheel from an internal combustion engine. Let's use the fuel cells and hydrogen as a fuel source and have our children and grandchildren be able to escape being held hostage from foreign supplies of oil.

Now, let me say again, I want to end where I started. I want this bill to pass. I want a bill to pass and I want it to be a good bill. That means the bill can be improved with amendments. You have to have debate on issues on which Senators have a right to offer amendments. I would like to see a bill pass the Senate and the House. If we can get to conference in September, perhaps we can get a bill to the President and have it signed in late September or October.

I would like to be able to say—especially in my State, where we have these promising wind energy projects—that the production tax credit has been extended, it is certain, and it is done, and you can count on it. As a result of that, we are going to produce more energy.

As I conclude, I will say, incidentally, we have had a rewrite of the electricity title. I believe that was made available Thursday night. There were rumors the majority party was rewriting an electricity title, but I was not aware of how it was being written or by whom. Someone just pushed aside all these issues that have been raised about restructuring.

As you know, for 4 or 5 years, we have had this urge for restructuring. Where does that come from? From some of the biggest users of electricity who want to pay lower costs for electricity. They want there to be retail competition for electricity. That retail economy situation—called restructuring—would embrace wholesale and retail competition for electricity and would give the opportunity in this country for electricity to flow to various marketplaces unimpeded. There has been a study by the U.S. Department of Agriculture about the ultimate impact of restructuring. I can tell you what it says about my State. It says consumers of North Dakota would end up paying a substantial additional price for electricity under so-called restructuring. Aside from the dislocations of it all, if you want to wonder about what restructuring might mean, especially when you have very big interests controlling energy—and that is not like a phone call, by the way, when you make a phone call and you may get a busy signal. Energy is different. When you need energy and energy isn't there, you are cold or hot. They are both universal in nature in terms of need, but energy is different.

We need a supply of energy in this country that moves to the areas of need in a way where you don't have large interests in supply and manipulating the marketplace. The FERC has just released a study with respect to the west coast. We all know what happened there. We know people colluded with—Enron had plans and they were named and we uncovered them—Fat Boy, Get Shorty, Death Star. Sounds like comic books, doesn't it? Those are not comic books; they are internal memos from one corporation that was using strategies to cheat and to steal. That cheating and stealing from west coast consumers amounted to billions and billions and billions of dollars.

Now, is it important to have in an energy bill protections for consumers to make sure that doesn't ever happen again? Some would push it away and say let's put some soft words in here. We will get a thesaurus and find out what seems appealing, and we will put all these soft words and say we have done it. Well, take a hard look at the energy title and make sure that even as we have done what is necessary to make sure we have a supply of energy, we have also done what is necessary to protect the American consumer against the manipulation of that supply and the overpricing of that supply to the detriment of the American consumers.

There is a lot to do. I followed my colleague from Wyoming in his presentation, and I must say to Senator THOMAS, we don't disagree that we should do this bill. Speaking for myself, I will do everything I can this week to try to cooperate.

I hope we can offer amendments, have the debate, dispose of amendments, and move on to the next subject. I hope at the end of the day we have passed an Energy bill of which we are proud, one that really does advance this country's energy interests because as we head into this fall, we understand, more than ever, what is going to happen to natural gas prices. They are going to spike dramatically. But even more than that immediate natural gas price spike, we understand, with the mosaic of what we see in the Middle East and elsewhere around the world, this country will be enormously foolish if it does not pay substantial attention to the fact that we are held hostage to foreign supplies of oil in a way that is very detrimental to our long-term economic outlook.

I hope we can work together. Speaking for myself, I want us to move and get our work done, get a bill to the President's desk, and when his signature is put on that bill, we can all say: We really did advance this country's energy future in a significant way.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I thank my friend from North Dakota for joining in wanting to get our work done and pointing out the importance of doing that work. Certainly that is what we are here to do, and I hope we can continue to do our work.

I agree with the point of view of the Senator from North Dakota in terms of transparency, antimanipulation, and enforcement. Actually, this subtitle deals with that issue. Certainly, there is no reason why we should not deal with it. It directs FERC to issue rules to establish an electronic information system to provide information on the availability and the price of wholesale energy and transmission services, to ensure such information is treated confidentially, and prohibit the filing of false information regarding the price of wholesale electricity and availability of capacity. These are some of the items that were used in the California/west coast experience.

It prohibits round-trip trading, which was one of the issues Enron was most involved with apparently—at least that is what they were accused of doing. This subtitle expands who can file complaints in a case which is the subject of a FERC investigation. It deals with this whole question of what happened in California. It amends the Power Act to refund effective dates of filing. Many of these items in this chapter were designed to deal with the issue in California.

I think it would be a mistake to seek to blame the California crisis solely on manipulation. There were a number of issues involved in the California case. California designed their own market rules, if we recall, when they insisted there be a limit on the price for retail but did not do so on wholesale. Those are issues that cannot continue. It was flawed. They also had a shortage of supply. They did not want to work on supply at all. They expected somebody else to bring in the supply, and it did not happen.

Mr. DORGAN. Will the Senator yield?

Mr. THOMAS. Certainly.

Mr. DORGAN. The Senator makes two important points. On the supply side, we have evidence that the supply was manipulated. That has been a great concern to FERC. While supply is important in terms of price, when there are large participants in the marketplace that take plants offline for the purpose of reducing supply and jacking up the price they receive, that is manipulation. We want to have an electricity title which deals with all of these issues, all forms of manipulation.

The Senator mentioned supply, and I wanted to make the point, that especially in California substantial criminal behavior existed. As we know, FERC has already prevented some companies now from trading. Enron, of course, is essentially bankrupt and cannot trade there. There was substantial wrongdoing and criminal activity, much of which is still under active investigation by the Department of Justice. That is why having an electricity title that is good and well done is very important.

I thank the Senator for yielding.

Mr. THOMAS. Madam President, I certainly agree with the Senator's point. That, of course, is one of the reasons we need to finish this bill. We talk all the time about restructuring. Frankly, the fact is, the electric industry and the suppliers have already changed, and we are behind times.

This is not so much a matter of restructuring as it is to design a set of policies and a set of restrictions and constraints that fit with what is happening in the industry. Much of that a few years ago—selling power three times and going through a number of people and different hands—did not happen. Now it is happening. Now we have to do something to catch up. That is part of what we are doing in this bill.

Mr. DORGAN. If the Senator will yield further, if, in fact, these are image trades or virtual trades to crank up a price and injure the consumer, in which a company is moving a kilowatt hour or MCF to another State, then back in, buying and selling to and from itself to jack up the price and cheat the consumer, in some cases, I am sure the Senator from Wyoming agrees, we should not conform to a new practice, but when we think the new practice is stealing from consumers, we ought to stop it and prevent it from ever happening again.

Mr. THOMAS. That is exactly what we are seeking to do, and that is what price transparency will help eliminate. I could not agree more.

Also, there has been a good deal of discussion about CAFE standards. Obviously, that has to do with conservation. It has to do with being more efficient in our use of fuel. We will be talking about CAFE standards. In fact, there will be a number of different amendments offered on CAFE standards. We look forward to those amendments. We spent a good deal of time last year discussing three amendments, and, as a consequence, we should be able to discuss and dispose of these amendments more easily this year because we have already been through the debate.

The Senate has already adopted an amendment by Senator LANDRIEU that will require the President to develop a plan to reduce domestic petroleum consumption by 1 million barrels a day by 2013. A major reduction in oil consumption most likely will be achieved through reduction in the use of transportation fuels. As a result, the Landrieu amendment probably will focus on measuring fuel economy. That amendment may take the place of other amendments that will be offered.

I think we will support an amendment offered by Senators Bond and Levin. Under that amendment, standards will be based on sound science and solid technical data. It is one thing to say, Gee, we would like to have increased mileage; we would like to make 40, 50 miles on SUVs, but the idea of using sound science and technical data is something we have to consider.

This amendment we will support mandates the experts to set new CAFE numbers considering jobs, safety, technology, and other factors because there are factors that go into what we can do, what will be available to consumers, what will be possible in the marketplace. This amendment we will support has a commonsense approach which will not adversely affect employment, safety, and consumer choice.

The Bond-Levin amendment is supported by the National Chamber of Commerce, AFL–CIO, National Manufacturers Association, and the National Farm Bureau, and 30 other organizations. It is combined with tax incentives for advanced vehicle technologies. That provision, obviously, has to be in the bill. That is in the finance package.

The amendment offers a sensible way to achieve fuel efficiency and reduce dependency on foreign oil. It does it in a way that will not hurt the economy, increase the cost of vehicles to consumers, or endanger lives by reducing the safety aspects.

By comparison, there is another amendment that will increase the cost of new cars, trucks, and SUVs by as much as $1,200, according to the Energy Information Administration. It would limit consumer choice by forcing automakers to produce smaller vehicles that do not meet the consumers' needs; it will lead to the loss of hundreds of thousands of jobs of hard-working Americans; reduce economic growth by as much as $107 billion over 20 years and have adverse impacts.

Again, we are faced with finding a goal we want to achieve and a sensible, legitimate way to reach that goal. We will continue talking about that issue.

We will be looking at new fuels, such as hydrogen. As I said before, the President has already in his budget a tremendous amount of money for that kind of research. We will be looking for the opportunity to make sure there are positive opportunities to review how sales of energy are being made so that what happened in California will not happen again.

We will be looking at ways to conserve energy, such as CAFE standards, without impeding the safety and the marketability of vehicles. So these are all things that go there. We are ready to talk about them. We have some plans to accommodate them and to achieve them, but, quite frankly, in order to do that, we have to get at it, get our amendments in, and take away some of the objections to moving forward so that we are not caught up in another sort of quiet filibuster.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent to speak in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DORGAN are printed in today's RECORD under "Morning Business.")

Mr. DORGAN. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. I think, while we are waiting, I would like to review again some of the general concepts that are in the bill. We have talked some, of course, and will continue all week, to talk about energy. That is what we are focused on. Unfortunately, we seem to be held up moving forward. However, that is not always a new thing on Mondays.

I would like to briefly comment on what we hope will be the pending amendment, the electric title, but there is much more to the bill than that, of course. I would like to comment on what I think generally are the titles and the highlights of the Energy bill.

Title I is on oil and gas. It does a lot. No. 1, it permanently authorizes this strategic petroleum reserve, the reserve held by the Government in case there are crises. This will permanently authorize that strategic reserve.

It provides for production incentives for marginal wells. We find in Wyoming, where we have had oil production for a good many years, when marginal wells get down to having low production they become uneconomic to produce. Yet the accumulation of all the production from small producing wells is substantial. This provides for incentives to encourage continued production—done mostly by taxes.

Royalty relief for deepwater production, that is exactly the same kind of thing. They can be in the gulf, for example. They are sometimes more expensive, but a great opportunity for more energy production. That is part of it as well, incentives for those kinds of wells.

Streamlining permitting is also something that is very important. We have a great opportunity, particularly in the West, to produce more oil and gas. We have people willing to do that. One of the problems right now in the Powder River Basin of Wyoming, where they are having a substantial amount of production on coal bed methane, which is a new process, it is taking an excessive amount of time to get permitting to do that. Therefore, the production has not gone on as it might. So there are efforts to streamline the permitting for critical energy corridors.

I have to also add it is not done to the detriment of the environment. The same rules are there. It is simply that it can be done by the agencies much more quickly than it has been in the past.

Another is the authorization for an Alaska natural gas pipeline. This would facilitate bringing 35 trillion cubic feet of gas to the lower States. There will be debate about how it is funded. Nevertheless, certainly over the long period of time a lot of the resources can come from there.

Title II deals with coal. I mentioned this morning, coal is our largest supply of fossil fuels. Of course, one of the difficulties has been making it a clean air proposition. We are certainly looking for more research to do that. We are looking for more clear air regulation that will allow for the production of electricity with coal without damaging the air—and there is a good deal of dollars. The bill authorizes $2 billion for the deployment of clean air technology.

There is a title on Indian energy. Many Indian reservations have substantial supplies of energy, coal, and gas and other supplies that have not been in production. Part of it is because of all the requirements they have had to go through, even more than on other Federal lands. They have to go through the BIA, as well as the Bureau of Land Management, as well as the State, and the result of that has been it has been higher cost to produce on reservations, so they have not produced. Therefore we have not had the production for all of us in the country and at the same time not had the economic assistance for the tribes, which is also very important.

Nuclear energy is involved here, the permanent reauthorization of Price-Anderson, a liability insurance system. There would not be any nuclear plants without that assistance. The fact is, there have not been new nuclear plants for a good long time, despite the fact that in Illinois, for example, I think 28 percent—a good percentage of the electricity is produced by nuclear plants. It is a clean air deal. It is the best thing you can do in order to produce electricity and take care of the air. But, of course, we are all a little skeptical of nuclear and what to do with the waste. But there should be and will be research as to how to better produce.

As we know, France, Norway, and the Scandinavian states do a great deal of nuclear production. They also have better means of taking care of nuclear wastes than we do here in the United States. So here is an opportunity to do that.

Title V involves renewable energy. Here again, we have already heard about some of it today. There is a great deal of interest in renewable energy, whether it be wind energy or Sun energy, other kinds—geothermal energy. All those things have great potential.

The fact is, production by renewables only amounts to about 3 percent of total production in the country at this time, so it is not a major element, but it has the potential to be, and therefore we need to be continuing to work to provide an opportunity to make that more efficient. We have a considerable amount of wind energy in Wyoming. We have a lot of wind. As a matter of fact, the first windmill that was put up in Medicine Bow, WY, was an experiment a number of years ago. It had a huge propeller, and it blew away before it was able to be effective. Now they have changed them. Some are even cylindrical pipes, and the wind goes in and around. Perhaps those will be better over time. We need more research on doing that.

Transportation, of course. We have already talked a great deal about CAFE standards. There will be more discussion about that. I don't think anyone is not agreeable to the idea that we ought to increase the standard of fuel consumption for automobiles, but we have to do it where the expectations of technology are such that you can do it, and it has to be in a way that does not impose excessive costs on everyone immediately. Again, that is a good one.

This bill authorizes $1.8 billion for the present hydrogen fuel cell initiative, to develop clean, renewable hydrogen power for cars. I don't think there is any doubt that we can do it. As a matter of fact, there are hydrogen cars now. But there are some basic problems that we have not yet resolved. How do you make hydrogen? From where do you get it? Someone on the floor this morning was talking about doing it in space vehicles. The cost for space vehicles is quite different from that for my Ford Explorer. I think it will have to go a long way before that analogy fits in the cars you and I want to use. The other real issue is distribution. Think how many gasoline stations there are around where we drive our cars. I suppose you are going to have to have something similar to that for hydrogen, if that is going to happen.

Will it happen? Sure. I think it is one of the things that will happen in the future. So that is here.

Research and development, of course, in general is here. There is a good deal of authorization and funding authority there. Again, it is the kind of thing we need to work on.

We have already talked this morning about the electric title, which is very important.

We have not yet considered but will consider soon the tax incentives. Here again is the effort we are making to increase domestic production. That will be a result of the incentives that we put into place through taxes. The same is true with alternative energy for vehicles and fuel incentives. This will be done by tax incentives. Conservation efficiency, clean coal, and all of those things are very important.

This is really a far-reaching bill. I think most people will agree with most aspects of it. If we can get it going and get it to the President soon, I think that is essential. I believe we are going to do some other things this afternoon, but I hope we continue moving back to energy. That is the challenge we have for this week. I hope we take full advantage of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The amazing clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

(The remarks of Mr. DORGAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1386

Mr. LEVIN. Madam President, I am speaking this afternoon in support of the pending Bond-Levin amendment relative to fuel efficiency in our automobiles and how we achieve that fuel efficiency.

Our amendment will increase fuel economy in automobiles. It will protect the environment. It will decrease our dependence on foreign oil. But it will do this in a way that will not harm the U.S. economy or put hard-working Americans out of work.

Our amendment achieves the goal of better fuel economy with greater reliance on positive incentives to advance leap-ahead technologies such as hybrids and fuel cells. That includes promoting these technologies with greater increases in joint research and development and Government purchases.

Our amendment requires the Department of Transportation to increase the CAFE standard. It is a mandate, but the key difference between our amendment and some of the alternatives is that our mandated increase will be left up to the Department of Transportation and will not be just an arbitrarily determined number on the part of the Senate.

Let me go through some of the goals and how we achieve those goals in the Bond-Levin amendment.

First, we need to improve fuel economy. We can, and we should, do it in a way that protects the environment, that diminishes our dependence on imported oil, and that allows the U.S. economy and our domestic manufacturing industry to thrive.

Those goals are not in conflict with each other. We can improve fuel economy, but we can do it in a way that does not harm domestic manufacturing and the U.S. economy if we do it right. And that is a big "if." If we do it wrong, we could have a very negative effect on jobs and the American economy. And, as a matter of fact, if we do it wrong, we not only can damage the American economy, but we could see little improvement in the environment, given the way in which the current structure of fuel economy mandates is set up.

It is a discriminatory structure that has discriminated against domestics in ways that were probably unforeseen when this structure was adopted 30 years or so ago, but nonetheless it has had that effect.

What we do is ensure that fuel economy will be improved. But we do not set an arbitrary standard. We require the agency that has the expertise and the experience to set an increased fuel economy standard for both trucks and for light vehicles.

This is not the place, on the Senate floor, to make a complex decision that should involve a whole host of factors: What is achievable technologically, what is the cost, what are the safety impacts, what are the impacts on American jobs, and a whole host of other factors that need to be considered before a new fuel economy standard is set. That should not just be seized out of the air arbitrarily and put into law on the Senate floor. That ought to be done by an agency that has the expertise and experience to do it, that looks at all of the factors that should go into the decision, and then does it in an usual, regulatory way with notice and comment.

The second part of our three-part policy is to increase funding for research, development, and demonstration of new, advanced, clean and fuel-efficient vehicles. We provide $50 million. We would authorize that in funds for the Department of Energy to develop advanced hybrid vehicles. And that would be a significant increase.

Hybrids run on both gasoline and electricity and are far more fuel efficient than conventional vehicles. We would provide an increase in funds for the Department of Energy to work collaboratively with industry to do some research and develop clean diesel technologies. It would be a significant increase in what is otherwise provided.

Because diesel engines are much more fuel efficient than gasoline engines, furthering clean diesel will help reduce gasoline consumption. And because diesel vehicles must meet very stringent emissions standards in the very near future, this will not be detrimental to the environment. Again, diesel vehicles are subject to the new clean air standards. These emissions standards must be met by diesels. If we can advance clean diesel technology, we will be saving gasoline because they are more fuel efficient than gasoline.

The third part of our policy harnesses the purchasing power of the Federal Government. In order to try to get the vehicles we are talking about—including hybrids and fuel cell vehicles—commercially adopted onto the roads, we have to use the purchasing power of the Federal Government. So we would require the Federal Government, when it is purchasing vehicles, to purchase hybrid trucks for its fleets of light trucks that are otherwise not covered by the Energy Policy Act.

Using hybrid trucks in Federal fleets will improve the fuel efficiency of the Federal fleet because hybrids are far more fuel efficient than conventional gasoline vehicles. And, at the same time, we would be creating a significant and reliable market for hybrid trucks. This is not buying vehicles that are otherwise not needed. This would be a requirement to purchase vehicles that the Federal Government is buying but to require that we buy the hybrids so we can help create the market that is so essential for the auto industry in order to have confidence that the vehicles will be purchased when they produce them.

In a related amendment, not part of the Bond-Levin amendment—I will be offering an amendment to the energy tax amendment which will come from the Finance Committee—we will be providing tax incentives to help advance the purchase of clean vehicles and clean fuel.

Our tax amendment—again, this is not part of Bond-Levin; it will be offered as an amendment to what is offered by the Finance Committee—would increase the tax credit available to consumers who purchase hybrid vehicles and provide a new tax credit for fuel-efficient lean-burn vehicles, to help push these vehicles into the marketplace. We would also extend the period of time for tax incentives for fuel cell vehicles for 3 additional years, from 2011 to 2014.

We would also provide tax credits for consumers who buy heavy-duty diesel vehicles that are significantly cleaner than what is required by law.

Finally, we would provide producers with tax credits for purchasing ultra-low-sulfur diesel fuel which the next generation of diesel vehicles would need to meet the upcoming round of extremely low emission standards.

I want to spend a few more minutes discussing the fuel economy part of our amendment. Clearly, we all want to improve fuel economy. That is a goal all of us share. But how we increase it is absolutely critical. Our amendment increases it by requiring the Department of Transportation to increase CAFE. However, rather than setting an arbitrary number for fuel economy on the floor of the Senate, we require the National Highway Traffic Safety Administration, NHTSA, to conduct a rulemaking process to increase fuel efficiency. The resulting rules will apply to both passenger cars and light trucks. Pickup trucks, minivans, and SUVs are included in the definition of light trucks.

But rather than legislating an arbitrary number, what the Bond-Levin amendment does is to tell NHTSA—the agency designed to do this—to rationally take into account a number of important considerations when setting a new standard: safety; consumer choice; the need for oil independence; the need for fuel savings; any unfair or competitive disadvantage that is created or continued by use of the CAFE system; impact on jobs; and a number of other factors. If NHTSA fails to act in the required timeframe under our amendment, Congress can consider legislation under expedited procedures to mandate an increase in fuel economy standards.

If we fail to set fuel economy standards in a deliberate manner, if we just do it arbitrarily by adopting a number in the Senate floor, we create a further competitive disadvantage to domestic manufacturers.

From its inception, CAFE has given an unfair competitive advantage to foreign manufacturers, not because they have more fuel efficient technologies; they do not. I emphasize that because there are folks who do believe that foreign cars are more fuel efficient than domestic cars. In the same category of cars, the same weight classifications, they are not. American-made cars are at least comparable in terms of fuel efficiency, and in many cases they have superior fuel efficiency to foreign-made models in that same weight class, the ones with which they compete.

It is because foreign manufacturers have historically focused more on smaller cars and smaller trucks than American manufacturers that they have that advantage. It is not because their vehicles are more technologically advanced or more fuel efficient in the same weight class. The reason this has worked this way is that the CAFE system, when it was designed, gave an advantage to manufacturers by looking at the entire fleet of cars rather than dividing the fleet into comparable size vehicles or comparable weight vehicles. Any automaker that built primarily small cars found it easy to meet the CAFE standard, while the manufacturers that built the full line of cars, including five-and six-passenger cars that American families have traditionally bought, found it much more difficult to meet the fleet average requirement of CAFE. So the fleet average does not reflect the efficiency of comparably sized vehicles.

In looking at the fleets as a whole, there is a built-in bias against domestic manufacturers although, again, domestically built vehicles are at least equally fuel efficient, pound for pound, in the same weight classification, as are the imported vehicles.

Foreign car manufacturers have been able to expand their production of larger cars and pickup trucks, minivans, and SUVs under the fleet average methodology that is called CAFE.

CAFE did not constrain them. The historic focus of those manufacturers on small vehicles gave them the headroom to sell large numbers of larger vehicles while still meeting the CAFE requirements for the fleet average; again, not because they are more fuel efficient.

So CAFE has had an unfair discriminatory impact against U.S. jobs because of how it was designed. I hope that was an inadvertent design and not an intended consequence when CAFE was designed many decades ago, but it has been the consequence. It is utterly amazing that we would tolerate the continuation, much less the expansion, of that consequence without considering the impact of all the factors that go into CAFE.

The proposals that have been supported by some in the Senate to provide an arbitrary increase in CAFE standards do not solve the problem of unfair competitive disadvantage. Instead, that arbitrary selection of a number would make it worse. Manufacturers who have traditionally produced smaller vehicles would have considerably less difficulty meeting the new standards than domestic manufacturers would.

The National Academy of Sciences recognizes this in its 2001 report. In talking about the current CAFE system, the National Academy of Sciences said the following:

> . . . one concept of equity among manufacturers requires equal treatment of equivalent vehicles made by different manufacturers. The current CAFE standards fail this test.

The National Academy went on to say the following:

> A policy decision to simply increase the standard for light-duty trucks to the same level as for passenger cars would operate in this inequitable manner. . . .those manufacturers whose production was concentrated in light-duty trucks [that is SUVs, minivans, and pickups] would be financially penalized relative to those manufacturers whose production was concentrated in cars.

Well, domestic manufacturers have a high concentration in light truck production, and they will be unfairly disadvantaged by this approach. Yet that is the approach advocated by some of our colleagues.

The competitive disadvantage of increased CAFE standards on domestic manufacturers is an important factor, but it is ignored in CAFE amendments that just set arbitrary standards. This competitive disadvantage for domestic manufacturers is not some abstract issue, this is an American jobs issue.

It is difficult to overestimate the importance of the automotive sector to the American economy. The automotive manufacturing sector alone is directly responsible for over 2 million jobs, and there are about 10 million people who are employed in fields directly related to motor vehicles.

Advocates of setting an arbitrary higher CAFE standard assert that the economic impact of CAFE will be minimal.

They claim that lost auto industry jobs will be offset by jobs created elsewhere. If they are wrong—and I believe they are—the potential negative impacts are massive.

According to the National Academy of Sciences report on the impacts of the CAFE program, union membership has fallen from 1.4 million members in 1980 to only 670,000 by the year 2000. U.S. automakers are losing jobs and market share partly due to the arbitrary CAFE program. In the last 20 years, this hemorrhaging of over 700,000 U.S. jobs was countered by the creation of only 35,000 jobs in assembly plants built in the United States by foreign-owned manufacturers. That is a National Academy of Sciences finding from their report.

Over the last 4 years alone, the big three have lost 34,000 jobs.

That is an 11-percent loss of jobs in just 4 years. There is a better way than just an arbitrary increase by the Senate in the CAFE number. We can achieve our shared goals of decreasing our dependence on foreign oil and reducing carbon dioxide emissions by developing innovative, new technologies that will, hopefully, ultimately eliminate or significantly reduce the use of fossil fuels that create those emissions.

Our approach, the Bond-Levin amendment, and a separate tax amendment that will be offered, would require an increase in fuel economy by NHTSA but require consideration of all the factors relevant to any increase and not simply derive an arbitrary figure on the floor of the Senate. We would ramp up public-private cooperative investment in research and development of advanced vehicle technologies. We will use the purchasing power of Government to speed up the commercial production of these technologies. And, again, in a separate amendment, we would use tax credits to provide powerful incentives for the purchase of advanced clean technology vehicles.

I have been a supporter for a long time of developing fuel cell vehicles. The Administration's FreedomCAR and FreedomFuel programs are a good step but they are not sufficient to move us forward quickly to a hydrogen future. So we offered an amendment in last year's Energy bill that pushed the development of hydrogen vehicles and infrastructure.

This year, provisions such as these are already incorporated in the underlying bill. The amendment that will be offered separately to the tax section of the bill would extend the fuel cell vehicle credits provided in the finance package from 2011 to 2014.

We must lay the groundwork for the development of a hydrogen future. We also need to focus on the immediate future and provide incentives for efficient hybrid vehicles and clean diesel vehicles. Hybrid vehicles, which draw power from both electric motor and an internal combustion engine, can be up to 100 percent more efficient than conventional vehicles. Clean diesel vehicles, which new regulations make just as clean vehicles running on gasoline, also provide important efficiency gains that are important, especially in light and heavy-duty trucks.

The Department of Energy has calculated that if diesel were used in only 30 percent of potential light truck applications by the year 2020, it would reduce U.S. crude oil imports by 700,000 barrels per day. Clean diesel increases fuel economy by 20 to 40 percent and decreases current engines' carbon dioxide emissions by that same percentage.

We must put the pieces in place today that will lead to revolutionary breakthroughs in automotive technology tomorrow. If we take this approach, we will do far more to make this Nation less dependent on foreign oil and far more to reduce our emissions of greenhouse gases than we will ever accomplish with increased CAFE standards. The incremental gains are so costly to achieve and but use the resources that otherwise would be used for leap-ahead technologies that would achieve so much more.

Currently, auto companies around the world are working on longer term, breakthrough technologies that will provide potentially dramatic increases in vehicle fuel economy. This research work—on projects such as fuel cells, advanced batteries, and hybrid technologies—requires substantial resources.

These resources should be invested in leap-ahead technologies. The more we spend on the very marginal increases in technology, which would be at great cost required, we are going to be misusing the resources this Nation should be placing on the leap-ahead technologies.

Technology changes require very long times to be introduced into the manufacturer's product lines. Any policy that is implemented too quickly and too aggressively has the potential to adversely affect manufacturers, their suppliers, their employees, and consumers. If the automakers are required to focus so much on dramatic near-term improvements in vehicle fuel economy, resources will have to be diverted from those promising longer term projects and from providing the amenities desired by American families.

The Bond-Levin approach preserves the appropriate balance between development of near-term technologies for fuel economy improvement and the development of promising longer term projects. We use greater incentives; we use partnerships; we rely less and less on these arbitrary mandates. Where a mandate is appropriate, the agency with expertise, the agency with experience, the agency that would use all of the relevant factors in the determination of that new mandate would be the one that would be given the responsibility to increase those fuel standards. That is our approach. It is a positive approach toward greater energy efficiency, and it does so in a way which does not cost jobs—important jobs, manufacturing jobs in this country.

AMENDMENT NO. 1386, AS MODIFIED

Mr. LEVIN. Mr. President, I send a technical modification to the Bond-Levin amendment to the desk, and I ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 1386), as modified, is as follows:

On page 264, after line 21, add the following:

SEC. 716. PROVISION NOT TO TAKE EFFECT.

Section 711 shall not take effect.

SEC. 717. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) Considerations for Decisions on Maximum Feasible Average Fuel Economy.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) Technological feasibility.

"(2) Economic practicability.

"(3) The effect of other motor vehicle standards of the Government on fuel economy.

"(4) The need of the United States to conserve energy.

"(5) The desirability of reducing United States dependence on imported oil.

"(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

"(7) The effects of increased fuel economy on air quality.

"(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

"(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

"(10) The cost and lead time necessary for the introduction of the necessary new technologies.

"(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

"(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

"(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.".

SEC. 718. INCREASED FUEL ECONOMY STANDARDS.

(a) New Regulations Required.—

(1) Non-passenger automobiles.—

(A) Requirement for new regulations.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for non-passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the non-passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section. The new regulations under this paragraph shall apply for model years after the 2007 model year, subject to subsection (b).

(B) Time for issuing regulations.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than April 1, 2006.

(2) Passenger automobiles.—

(A) Requirement for new regulations.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(B) Time for issuing regulations.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than 2½ years after the date of the enactment of this Act.

(b) Phased Increases.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) Clarification of Authority To Amend Passenger Automobile Standard.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: "or such other number as the Secretary prescribes under subsection (c)".

(d) Environmental Assessment.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008 for carrying out this section and for administering the regulations issued pursuant to this section.

SEC. 719. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) Condition for Applicability.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 718, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) Bill.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) Introduction.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) Title.—The title of the bill is as follows: "A bill to establish new average fuel economy standards for certain motor vehicles.".

(3) Text.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) Non-passenger automobiles.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

"That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

"'( ) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:

"That, section 32902(b) of title 49, United States Code, is amended to read as follows:

"'(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed under this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

Subtitle C—Advanced Clean Vehicles

SEC. 731. HYBRID VEHICLES RESEARCH AND DEVELOPMENT.

(a) RECHARGEABLE ENERGY STORAGE SYSTEMS AND OTHER TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount $50,000,000 for research and development activities under this section.

SEC. 732. DIESEL FUELED VEHICLES RESEARCH AND DEVELOPMENT.

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOALS.—The Secretary shall carry out subsection (a) with a view to achieving the following goals:

(1) COMPLIANCE WITH CERTAIN EMISSION STANDARDS BY 2010.—Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) TIER-2 EMISSION STANDARDS.—The tier 2 emission standards.

(B) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The heavy-duty emission standards of 2007.

(2) POST-2010 HIGHLY EFFICIENT TECHNOLOGIES.—Developing the next generation of low emissions, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount of $75,000,000 for research and development of advanced combustion engines and advanced fuels.

SEC. 733. PROCUREMENT OF ALTERNATIVE FUELED PASSENGER AUTOMOBILES.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only alternative fueled vehicles are procured by or for each agency fleet of passenger automobiles that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(b) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of alternative fueled vehicles in subsection (a) to—

(1) the procurement for such agency of any vehicles described in subparagraphs (A) through (F) of section 303(b)(3) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(3)); or

(2) a procurement of vehicles for such agency if the procurement of alternative fueled vehicles cannot meet the requirements of the agency for vehicles due to insufficient availability of the alternative fuel used to power such vehicles.

(c) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of alternative fueled vehicles in fiscal year 2005 and subsequent fiscal years.

SEC. 734. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 735. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" means—

(A) an alternative fueled vehicle, as defined in section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3));

(B) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) biodiesel, as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(C) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) bioderived hydrocarbons (including aliphatic compounds) produced from agricultural and animal waste.

(2) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The term "heavy-duty emission standards of 2007" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

(3) HYBRID VEHICLE.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from on board sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) MOTOR VEHICLE.—The term "motor vehicle" means any vehicle that is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and that has at least four wheels.

(5) TIER 2 EMISSION STANDARDS DEFINED.—The term "tier 2 emission standards" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under section 202 of the Clean Air Act (42 U.S.C. 7521) to apply to passenger automobiles, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

(6) TERMS DEFINED IN EPA REGULATIONS.—The terms "passenger automobile" and "light truck" have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent that following the remarks by the distinguished Senator from Idaho, I be allowed to speak as in morning business for such time as I may consume.

The PRESIDING OFFICER (Mr. SUNUNU). Is there objection?

Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for his comments on the Levin-Bond, Bond-Levin amendment, which is critical to a clarification and establishment of the CAFE standards as we understand them and that fit the industry of our country—the automobile industry—and that effectively match up with where we want to take fleet averages and all of that over the course of time. It is certainly, in my opinion, a much more responsible approach than that which is being proposed by the Senator from Illinois, Mr. DURBIN.

I do believe the Durbin amendments on CAFE standards would have a devastating impact on the automobile industry. As the Senator from Michigan has said, new technologies introduced into the automobile transportation fleets of this country not only take time but cost a tremendous amount of money and, in the course of that, oftentimes change the whole character of industries. We need to be extremely careful about that.

For example, the Durbin amendment proposal calls for passenger cars and light truck CAFE standards to be set at 40 miles per gallon and 27.5 miles per gallon, respectively, by 2015. At the same time, minivans and other SUVs are shifted from a light truck fleet to a car fleet; vehicles up to 14,000 pounds are added to the regular fleet. It is a combination and a formula that, while I have spent a good deal of time over the years trying to understand, I am not at all confident I can effectively explain it for the record or for those who are advocating it or for those who are simply listening and trying to understand the importance of this debate.

We do have an alternative in the Bond-Levin approach, which I think balances out what we have said historically in CAFE standards that cause our industry, in a progressive fashion, to drive in the right direction, to do what is appropriate and necessary within the confines of not only building safe automobiles, safe transportation, but that which is increasingly efficient for the consuming public.

We are on S. 14, a comprehensive Energy bill for this country. The Senate has been working to pass a comprehensive Energy bill for 3 years. I find it fascinating that it is so impossible to do. We passed the Department of Homeland Security bill in 1 day. In 1 day of debate, the Senate took a very huge portion of Government and over 100,000 employees and changed their direction and future. We have already been on an Energy bill this year and in this session for several weeks. Yet we are being told we cannot get it done this week, with some 300 amendments offered.

Then when we suggested we would come in and start early and work late, the minority recommended that they would offer optimum flexibility, and they have just denied us now in the last several hours the very flexibility they promised—that we could offer amendments, lay them aside, go to other amendments, debate those, lay them aside until the appropriate number were assembled, and then we could use the process of stacking and do so to bring about the votes that would expedite the time and effectively utilize the very limited time we have—the time that we think is extremely necessary and that we can, in fact, complete our work.

The Senate already this year, as I have mentioned, has considered an Energy bill for 12 days, and the bill before us is not some secret. It is not like the bill last year that was crafted in the office of then-Majority Leader DASCHLE and was brought to the floor and substituted several times in a way we did not know what it was made up of or where it was going until we saw it when it was before the Senate for consideration.

This bill was crafted in the committee. It was brought up in a normal fashion, it was voted out in a bipartisan fashion, and the only real unknown was the electrical title which was available by Friday of this past week to all who had not been involved in its crafting. My colleagues had the opportunity over the weekend to look at it.

We wanted to offer that electrical title amendment to the bill this afternoon so we could all see it, begin to understand it, debate it, and, if necessary, leave it before the Senate a day or so to be sure we could clearly deal with it in the appropriate fashion.

I hope that what happened several hours ago, denying us the ability to lay aside amendments and move to other amendments, does not become a pattern. If it does, then this Senator will come to the Chamber and talk about the good faith or the lack thereof, the desire or the lack thereof, in wanting to produce a national energy policy for our country. I wish to talk about the need of that policy now and into the future.

If one reads the St. Louis newspaper today, one will read about natural gas prices taking a Missouri farmer from $295 a ton for nitrogen fertilizer to as much as $430 a ton because of the runup in gas prices. If that is happening in Missouri, I darn well bet it is happening to my farmers in Idaho or the U.S. chemical companies closing plants and laying off workers and looking to expand their production overseas as a result of high gas prices. The Wall Street Journal said: The United States is expected to import approximately $9 billion more in chemicals this year than last year. Why? Because we are running the chemical industry out of our country because this Congress, this Senate, in 3 years has refused to produce a national energy policy for our country that, once again, not only recognizes that energy will be available but that it will be stable, that there will be a reliable supply at a predictable cost, and not one that goes from $3 a cubic thousand feet to $6, as we have seen gas spike in just the last several months, totally disallowing any industry that uses large volumes of natural gas any way of predicting or projecting costs of development, costs of refinement and, therefore, price to consumer in the market.

We cannot afford for this country to increasingly buy its chemicals overseas as we buy our crude oil from overseas. It will result in $9 billion more in the imbalance of our trade simply because Congress cannot function. The blame will lie at our feet because we have been 3 years trying to perfect a national energy policy for our country.

I oftentimes remember the first meeting I had with President-elect George W. Bush in the majority leader's office. He had been talking about a lot of issues for our country—education, Leave No Child Behind, a whole combination of issues. But that day he said: While all of these other issues are important, and we will get to them—and, of course, we all remember his high priority in the campaign about delivering tax cuts—what we have to do right now is develop a national energy policy. He said: I know of nothing more critical to our Nation and its future than doing just that.

As we know, the moment he was our President, he immediately appointed our Vice President to head up a task force to build a national energy policy strategy and, out of that strategy, to recommend to Congress changes in law and provisions we might undertake to build a strong, stable national energy base for our country.

Oh, my goodness, that was well over 2 years ago. They got their work done in less than 6 months, and yet we cannot get our work done here at a time when gas prices are spiking, at a time when the memories of the blackouts and brownouts in California are still very much alive in the minds of most citizens on the west coast who either lost their jobs or had their jobs damaged and which created less security.

I was in San Jose, CA, about a month ago talking to the high-tech community. Oh, they had a lot of priorities, but their first priority was energy, and they needed to know if there was going to be a stable supply of energy because if there was not, they knew they would have to move their production facilities to a location where that energy supply existed.

The Silicon Valley not the high-tech hub of the Western World? It is very feasible that could happen someday because the State of California and our country as a whole have not developed a national energy policy. If chemical companies move offshore because of the price of energy, high-tech can follow, and will follow, and shame on us as a people and shame on us as a Senate if we cannot produce a national energy policy and put it on the President's desk so that those fears can be laid aside and we produce a source of energy for our country that is highly stable and secure.

"Rising prices, combined with a cold winter, are adding an extra $500 to $700 per month to the gas bill of the Villa Pizza Restaurant in Hanford, CT." So speaks the Hanford newspaper.

"Eighty percent of our Nation's 35,000 laundromats have raised prices in the past year due to high natural gas prices." That is according to the Associated Press.

Mr. President, did you ever think your laundry bill was going to go up because the Congress of the United States could not act? It is happening, and that is exactly what the Associated Press is saying. Because of the gas that feeds the dryers at the laundromat, it now costs double what it cost a year ago. A couple more quarters need to go into the machine every time someone activates it.

We do not think about that at the time, but collectively, for the economy of our country, these kinds of implications in an energy policy, or absence thereof, are devastating in the broad sense.

Alan Greenspan, Chairman of the Federal Reserve, before the Energy Committee just a few weeks ago, was talking about the stability of an economy and the growth of an economy built upon the foundation of a stable supply of energy of all kinds for this Nation.

S. 14 is the most comprehensive national energy policy statement I believe the Senate has produced in my time in the Senate. It talks about production of all kinds of energy—from wind to solar, nuclear, hydro, coal, and gas. It talks about restructuring in the new electrical title to create greater uniformity and to create a national transmission system for wholesale electricity in this country, about which we ought to be talking.

It talks about conservation because while we are producing more energy for a growing economy, we ought to be using less energy per item of work, per unit of production. That is called conservation, and any one of us who has ever studied national energy policy in our country clearly recognizes the value and the importance of conserving while we produce more. We cannot conserve our way out, and we cannot conserve ourselves into a growing economy, but at the same time the balance and the greater efficiencies produced by conservation are critical as we combine them with new and increased production.

S. 14 is clearly written in the backdrop and the understanding that the American people want clean sources of energy, that our environment is critical and important, that we want to be able to work, we want to be able to produce jobs, and we want to be able to do so in a clean environment.

America's environmental ethic is profound today and S. 14 clearly reflects the importance of that. It clearly reflects the importance of producing new energy sources and old energy sources made cleaner, and all of that being strong and important as it relates to new jobs.

Let's talk about jobs for a moment. I am very pleased we passed new tax laws. I am very pleased those new tax incentives and rewards are hitting the marketplace at this moment and the consumer's and investor's pocket. I believe out of that, new jobs will be created and possibly there will be a bit more consumer spending.

That child tax credit check that is hitting America's homes, I see Home Depot has picked up on it. They are saying, come out and spend your money and build a better home, make an addition, do some remodeling, and we will help you do it. That is called the free enterprise system at work, and that will generate jobs.

If we want to talk about a jobs bill, then pass S. 14. Pass a bill that will bring natural gas out of Alaska through Canada and into the lower 48. There will be hundreds of thousands of new jobs that will be created for the construction of that pipeline—not only those who will manufacture the pipe, but those who will clear the right-of-way and build the foundation and create the connectivity that will be combined to bring that gas to the lower 48, and of course, all of the other kinds of jobs, exploration, development and the new technologies.

The Senator from Michigan was talking about fuel cells a few moments ago. I was up in his State. I was at the Ford Laboratories at Dearborn a couple of years ago and drove a new hydrogen fuel-celled car. I hope that in my senior years I can buy a hydrogen fuel-celled car; its only pollution is a drop of water being emitted out the tailpipe of the car. I hope that is a form of new transportation for the future. If it is, it will create hundreds of thousands of new jobs; not just in crafting the car but in producing the hydrogen, in supplying the hydrogen, in building the refuel stations and the combination of things that go along with building a new energy source for a transportation fleet for our country.

That is what this bill is all about. Why is there so much resistance to it? Why some 300-plus amendments? I have looked at many of them, and from what I could see there are 25 or 30 amendments within that 300 that are legitimate, that have reasonable concern. I believe there are at least 200 of them that are there for a political statement or for blocking purposes.

The other side argues that we just cannot get our work done, that we need weeks more to deal with something we have already spent 12 days on, that we have already spent 3 years on. Why do we need 3 weeks more? Why can we not begin to work at 9 tomorrow morning and work until 8 tomorrow night and everybody come to the floor and, in a timely way, debate amendments, vote them up or down, move to table them, move ourselves through this issue, and offer to the American people a comprehensive national energy policy that can make it to the President's desk, that can become law, that begins to put the kind of effort together to produce the nearly 400,000-plus jobs that are available inside this bill spread over a decade of development and growth of the kind reflective in S. 14?

How many of us got up this morning and simply walked over and flipped on the light switch and the lights came on? And how many mornings in one's life have they done that and the lights came on? Why, they come on every morning. We expect them to. We Americans have grown to believe that our energy is always there and always around us, and we take it for granted.

My wife and I flew back from Idaho yesterday. With my wife and I sitting on that jet airliner, it consumed hundreds of gallons of jet fuel just to get us from Idaho to Washington, DC. We took it for granted. Thousands of other Americans were doing the same thing yesterday. They do it every day of the week. They go to the airport. They get on an airplane. Thousands of gallons of jet fuel later, they arrive at their destination and they take it all for granted.

Somebody had to find it. Somebody had to transport it. Somebody had to refine it and somebody had to put it in the airplane. It is all energy.

Our great country is as rich as it is today, and our people are as fortunate as they are, in large part because we have always been able to look 10, 15, and 20 years down the road and build the infrastructure and do the research and do the exploration that brought on continual flows of abundant, reasonably priced energy. It has only been in the last two decades that we stopped producing, but we kept on consuming, and gas prices began to go through the roof. Brownouts and blackouts began to occur because we were not allowed to look into the future and say: Here is where we are going and here is what we are going to produce.

That is what S. 14 does. That is why it is so critical to our country at this moment in time that we become less dependent on foreign sources, more dependent on ourselves and our own production, our own initiative, our own capability, and we do so with conservation, with production, and that we are environmentally sensitive when we do it. That is all embodied in S. 14.

Why are we going to let this languish when we need to be passing it and getting it to the President's desk? One more year? Two more years? Let gas prices to the average consumer go up $200 or $300 a month and just say that is okay when we know that through increased exploration and development that does not have to happen?

So I challenge my colleagues over the course of the week that is at hand that we start tonight and we work through Tuesday, Wednesday, Thursday and, as our leader said, Friday and Saturday and beyond if necessary, and let's get our work done for the American people, let's amend, let's pass S. 14, a national energy policy, and get ourselves to conference with the House to make this issue happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I understand there is a unanimous consent that I be recognized for such time as I shall consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. I say to the Senator from the great State of Idaho how accurate he is. If there is anything he overlooked, it was in addition to our having electricity, power, and energy in the country, it is also the No. 1 national security issue.

I can remember, as can the Senator from Idaho, way back in the Reagan administration when we were about 37 percent dependent on foreign countries for our ability to fight a war, and we still did not have an energy policy. As did the Senator from Idaho, I talked to President Bush, then-Governor Bush, before he ran, and he committed himself to an energy policy. It is absolutely essential. I agree we should stay whatever time it takes to get it done.

SCIENCE OF CLIMATE CHANGE

Mr. INHOFE. Mr. President, the comments made by the Senator from Idaho are such a good prelude to work into what I am about to say. I am chairman of the Environment and Public Works Committee, and in this capacity I have a responsibility because the decisions the committee will reach impact and influence the health and security of America.

What I am about to do—and it is for this reason that I am doing something that is politically stupid—I am going to expose the most powerful, most highly financed lobby in Washington, the far left environmental extremists.

The Senator from Idaho talked about the fact that we have to have electricity. Right now, we are dependent upon fossil fuels for 52 percent of our electricity in America. There are people trying to get us to do away with that. If that should happen, I think he has articulated very well what would happen to America if all of a sudden we had to go to natural gas. Already we are seeing some companies moving to Europe and other places because they are thinking that maybe we will buy on to this hoax that will stop us from being able to have fossil fuels. That is why when I became chairman of the committee, I established three guiding principles for that committee.

No. 1, we are going to make our decisions not on a political agenda but on sound science. No. 2, we are going to have a cost-benefit analysis. At least let the American people know what types of costs are involved in some of these regulations that do not make any sense. No. 3, to change the attitude, an attitudinal change on the various bureaucracies, so they will be there not to rule the people but to serve the people. Without these principles we cannot make effective public policy decisions. They are necessary to both improve the environment and encourage economic growth and prosperity.

To the average person hearing, all you want is sound science, that sounds perfectly normal. Why would we not want sound science? Why predicate decisions on something that has nothing to do with sound science? But leftwing environmental communities insist sound science is outrageous. For them a pro-environment policy can only mean top-down command-and-control rules dictated by bureaucrats; science is irrelevant, instead for extremists. Politics and power are the motivating forces for making public policy. Sadly, that is true in the current debate over many environmental issues. Too often, emotions stoked by irresponsible rhetoric rather than facts based on objective science shape the contours of environmental policy.

A rather telling example arose during President Bush's first days in office when emotionalism overwhelmed science in the debate over arsenic standards in drinking water. Environmentalist groups, including the Sierra Club and the Natural Resources Defense Council, vilified President Bush for poisoning children because he questioned the scientific bases of the arsenic regulation implemented in the final days of the Clinton administration. The debate featured television ads financed by environmental extremist groups with children asking for another glass of arsenic-laced water. The science underlying the standard, which was flimsy, was hardly mentioned or held up to any scrutiny. In other words, millions of dollars were spent to make people think President Bush wanted to kill children. This is the kind of extremism we are facing on a daily basis.

The Senate went through a similar exercise we all remember in 1992. I was serving in the other body, but I was here during debate. That year some Members seized on data from NASA suggesting that an ozone hole was developing in the Northern Hemisphere. The Senate then rushed into panic mode, ramming through by a vote of 96–0 an accelerated ban on certain chlorofluorocarbon refrigerants. Only 2 weeks later NASA produced new data showing that their initial finding was a gross exaggeration and the ozone hole never appeared.

The issue of catastrophic global warming, which I will speak about today, fits perfectly this mode. Much of the debate over global warming is predicated on fear rather than science. Global-warming alarmists see a future plagued by catastrophic flooding, war, terrorism, economic dislocations, drought, crop failures, mosquito-borne diseases, and harsh weather, all caused by manmade greenhouse gas emissions. Hans Blix, the guy who could not find anything with both hands, chief of the U.S. weapons inspectors, sounded both ridiculous and alarmist when he said in March: I am more worried about global warming than I am of any major military conflict.

It is no wonder he could not find any weapons of mass destruction.

Science writer David Appell, who has written for such publications as the Scientist News and Scientific American, parroted Blix when he said global warming would "threaten fundamental food and water resources, it would lead to displacement of billions of people in huge waves of revenues, spawn terrorism, topple governments, spread disease across the globe."

Appell's next point deserves special emphasis because it demonstrates the sheer lunacy of the environmental extremists. He said global warming would be chaos by any measure, far greater even than the sum total of chaos of the global wars of the 20th century, and so in this sense, Blix is right to be concerned.

Sounds like a weapon of mass destruction to me. And that is what we are hearing.

No wonder the late political scientist Aaron Wildavsky called global warming alarmism the mother of all environmental scares.

Appel and Blix sound very much like those who warned us in the 1970s that the planet was headed for a catastrophic global cooling.

On April 28, 1975, Newsweek printed the article "The Cooling World" in which the magazine warned:

> There are ominous signs that the earth's weather patterns have begun to change dramatically and that these changes may portend a drastic decline in food protection—with serious political implications for just about every nation on earth.

Wait, these are the same guys who talk about global warming today.

In a similar form, Time Magazine, June 24, 1974, declared "Another Ice Age."

> However widely the weather varies from place to place and time to time, when meteorologists take an average of temperatures around the globe, they find that the atmosphere has been growing gradually cooler for the past 3 decades.

Then we had the Science News article that talks of the same thing, and an article from Science Digest titled "Earth's Cooling Climate."

> Decline in temperatures since 1940 raises question of man's role.

In 1974, the National Science Board, the governing body of the National Science Foundation, stated: During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade.

Two years earlier, the board had observed

> judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age.

That was the same timeframe that the global-warming alarmists are concerned about global warming. How quickly things change. Fear of the coming ice age is old hat, but fear that manmade greenhouse gases are causing temperatures to rise to harmful levels is in vogue now. That is popular. Go in any establishment in Washington and the liberals are talking about global warming. They do not care about what is happening with other countries and the weapons of mass destruction. They are concerned about global warming. That is the in thing to talk about.

Alarmists brazenly assert that this phenomenon is fact and the science of climate change is settled. In fact, it is far from settled. Indeed, it is seriously disputed.

I ask unanimous consent to have printed at the end of my remarks a July 8th editorial of this year by former Carter administration Energy Secretary James Schlesinger on the science of climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Dr. Schlesinger takes issue with alarmists who assert there is a scientific consensus supporting their views. He says, "There is an idea among the public that 'the science is settled.' That remains far from the truth."

Keep in mind, this is not someone from a Republican administration.

I refer to a chart demonstrating this is not really a partisan issue. There is no one more knowledgeable on energy than the former Secretary of Energy under the Carter administration. He has been saying there is scientific disagreement over global warming. It is controversial.

But anyone who pays even cursory attention to the issue understands that scientists vigorously disagree over whether human activities are responsible for global warming or whether those activities will precipitate national disasters. Only the scaremongers agree. I submit, furthermore, that not only is there a debate but the debate is shifting away from those who subscribe to global-warming alarmism.

After studying the issue over the last several years, I believe the balance of the evidence offers strong proof that natural variability, not manmade, is the overwhelming factor influencing climate, and that manmade gases are virtually irrelevant.

It is also important to question whether global warming is even a problem for human existence. Thus far, no one has seriously demonstrated any scientific proof that increased global temperatures would lead to the catastrophic predictions by alarmists. In fact, it appears just the opposite is true, that increases in global temperature have a beneficial effect on how we live our lives.

For these reasons, I will discuss an important body of scientific evidence and research that refutes the anthropogenic—which means manmade—theory of catastrophic global warmings. I believe this research offers compelling proof that human activities have little or no impact on climate. This research, well documented in scientific literature, directly challenges the environment world view of the media, so they typically do not receive proper attention and discussion.

Certainly, members of the media would rather level personal attacks on scientists who question "accepted" global warming theories than engage on the science. So you have two groups at work here: The environmental extremists doling out to you the lies and the money to politicians and the liberal media that nests with them. This is an unfortunate artifact of the debate, a relentless increase in personal attacks on certain members of the scientific community who question so-called conventional wisdom.

I believe it is extremely important for the future of this country that the facts and the science get a fair hearing. Without proper knowledge and understanding, alarmists will scare the country into enacting its ultimate goal: Making energy suppression in the form of harmful mandatory restrictions on carbon dioxide and other greenhouse emissions the official policy of the United States of America.

Such a policy would induce serious economic harm, especially for the low-income and minority populations. Energy suppression, as official Government and nonpartisan private analyses have amply confirmed, means higher prices for food, higher prices for medical care, and higher prices for electricity, as well as massive job losses and drastic reductions in gross domestic product, all the while providing virtually no environmental benefit. In other words, it is a raw deal for the American people but especially the poor.

In a minute we are going to shift to the Kyoto Treaty. The issue of global warming garnered significant international attention through the Kyoto Treaty, which requires signatories to reduce their greenhouse gas emissions by considerable amounts below the 1990 levels. The Clinton administration, led by former Vice President Al Gore, signed the Kyoto Treaty on November 12, 1998, but never submitted it to the Senate for ratification. Let's remember what our Constitution says: If we want to join a treaty, the President takes the lead and then he submits it to be ratified by the U.S. Senate. It has never been submitted to us.

The treaty explicitly acknowledges as true that manmade emissions, principally from the use of fossil fuels, are causing global temperatures to rise, eventually to catastrophic levels. Kyoto enthusiasts believe if we dramatically cut back or even eliminate the use of fossil fuels, the climate system will respond by sending global temperatures back to normal levels—whatever normal levels would be.

In 1997, the Senate sent a powerful message that Kyoto was not acceptable. In this resolution that was passed, called the Byrd-Hagel resolution, they said it is the sense of the Senate—this is very significant—that:

> The United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations framework

> convention on climate change of 1992, at negotiations in Kyoto in December of 1997, or thereafter, which would—

Would do what? No. 1:

> mandate new commitments to limit or reduce greenhouse gas emissions for the Annex 1 parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for developing country parties within the same compliance period.

What they are saying, and what we voted on here right in this room, in this body, is that we are not going to ratify anything that does not impose the same regulations on developing countries as it does developed nations.

And second:

> that it would result in serious harm to the economy of the United States.

Obviously, that is very significant at this time. The treaty would have required the United States to reduce its emissions 31 percent below the level otherwise predicted for 2010. Put another way, the United States would have had to cut 552 million metric tons of CO_2 per year by the year 2008 through 2012.

As the Business Roundtable pointed out:

> [That target is] the equivalent of having to eliminate all current emissions from either the United States transportation sector—

That is everything that is moving out there in transportation—

> or the utilities sector, [that would be] residential and commercial, or industry.

In other words, you have to eliminate everything in order to reach that.

The most widely cited and definitive study came from Wharton Econometric Forecasting Associates. According to Wharton Econometric Forecasting Associates' economists, Kyoto would cost 2.4 million U.S. jobs and reduce GDP by 3.2 percent, or about $300 billion annually, an amount greater than the total expenditure on primary and secondary education in America. Certainly that would result in the serious harm to the economy of the United States that was voted on by this body without one dissenting vote.

Because of Kyoto, American consumers would face higher food, medical, and housing costs. For food, an increase of 11 percent; for medicine, an increase of 14 percent; and for housing, an increase of 7 percent. At the same time, an average household of four would see its real income drop by $2,700 in 2010, and each year thereafter.

Under Kyoto, energy and electricity prices would nearly double and the gasoline prices would go up an additional 65 cents a gallon.

I hope somebody is listening out there.

Some of the environmental community have dismissed the Wharton report as a tainted product. I point them to the 1998 analysis of the Clinton Energy Information Administration, the statistical arm of the Department of Energy, which largely confirmed Wharton's analysis. Keep in mind, all these disastrous results of Kyoto are predicted by the Wharton Econometric Forecasting Associates, a private consulting company founded by professors from the University of Pennsylvania's Wharton Business School.

This month the Congressional Budget Office provided further proof that Kyoto-like carbon regulatory schemes are regressive and harmful to economic growth and prosperity.

As the CBO—that is, the Congressional Budget Office—found:

> The price increases resulting from a carbon cap would be regressive—that is, they would place a greater burden on lower-income households than higher-income households.

As to the broader macroeconomic effects of the carbon cap and trade schemes, the CBO said:

> A cap-and-trade program for carbon emissions could impose significant costs on the economy in the form of welfare losses. Welfare losses are real costs to the economy in that they would not be recovered anywhere else in the form of higher income. Those losses would be borne by people in their role as shareholders, consumers and workers.

Some might respond that the Government can simply redistribute the wealth, redistribute the income, in a form of welfare programs to mitigate the impact, but the CBO found otherwise. The CBO said:

> The Government could use the allowance value to partly redistribute the costs of a carbon cap-and-trade program, but it could not cover these costs entirely. [And, further,] Available research indicates that providing compensation could actually raise the cost to the economy of a carbon cap.

That is what CBO said just this month.

Despite these facts, groups such as Greenpeace blindly assert that Kyoto "will not impose significant costs" and "will not be an economic burden."

Among the many questions this provokes, one may ask: Won't be a burden on whom exactly? Greenpeace doesn't elaborate. But according to a recent study by the Center for Energy and Economic Development sponsored by the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce, if the U.S. ratifies the Kyoto or passes domestic climate policies effectively implementing the treaty, the result would be to:

> disproportionately harm America's minority communities and place the economic advancement of millions of U.S. Blacks and Hispanics at risk.

This was the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce.

Among the study's key findings—and this is one that is very significant here, too, when we talk about unemployment rates—this line would be unemployment rates without Kyoto. It goes straight across. We can see it starting at about 10.5 percent, going across from the current time to 2012.

This line down here is the line for Hispanics. This is unemployment rates.

The study concluded, if we should have to comply with Kyoto regulations, it would go up, unemployment would go up at that particular rate and, for Hispanics, at this particular rate.

It also affects the poverty rates for Blacks and Hispanics. Again, for Blacks, the poverty rate, if you take this as a baseline and take it straight across from the year 2000 to 2012, this being a little over 26 percent, then you follow with Kyoto, look at what happens to the poverty rate—the same thing happening down here for Hispanics. In other words, it is discriminatory against these particular individuals.

Among the study's key findings—again, let me remind you, this is not some organization that should be questioned; this is the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce, and among their findings: Kyoto will cost 511,000 jobs held by Hispanic workers and 864,000 jobs held by Black workers. Poverty rates for minority families will increase dramatically, and because Kyoto will bring about higher energy prices, many minority businesses will be lost.

This is not Senator JIM INHOFE talking, this is the National Black Chamber of Commerce and U.S. Hispanic Chamber of Commerce.

It is interesting to note, the environmental left purports to advocate policies based on their alleged good for humanity, especially the most vulnerable.

and Kyoto-like policies developed in this body would cause the greatest harm to the very poorest of Americans.

Environmental alarmists, as an article of faith, peddled the notion that climate change, as Green Peace put it, is "the biggest environmental threat facing . . . developing countries."

Such thinking runs totally contrary to the public declaration of the 2002 World Summit on Sustainable Development, a program sponsored by the United Nations, which found that poverty is the No. 1 one threat to developing countries.

I would like at this point to talk a little bit about John Christy. Dr. John Christy is director of the Earth System Science Center at the University of Alabama, Huntsville, who passionately reiterated the point about poverty in the May 22 letter to the House Resources Committee Chairman, RICHARD POMBO of California. As an addendum to his testimony during the committee's hearing on the Kyoto Protocol, Dr. Christy, an Alabama State climatologist, talked eloquently about his service as a missionary in Africa.

I am going to dwell a little on this because I have had a mission in west Africa for quite a number of years and

I have been there and have seen what he is about to describe as a reality. We talked about the poverty in America. We talked about what is going to happen to minorities—Blacks and Hispanics—in America.

Let us look at where the poverty is the worst. Dr. Christy said, "Poverty is the worst polluter." As he noted, bringing modern, inexpensive electricity to developing countries would raise living standards and lead to a cleaner environment. Kyoto, he said, would be counterproductive, and, as I interpret him, immoral, for Kyoto would divert precious resources away from helping those truly in need to a problem that doesn't exist and a solution that would have no environmental benefit.

The following is an excerpt of a letter worth quoting at length. This is Dr. Christy talking about his experience in Africa:

> The typical home was a mud-walled, thatched-roof structure. Smoke from the cooking fire fueled by undried wood was especially irritating to breathe as one entered the home. The fine particles and toxic emissions from these in-house, open fires assured serious lung and eye diseases for a lifetime. And, keeping such fires fueled and burning required a major amount of time, preventing the people from engaging in other less environmentally damaging pursuits.
>
> I've always believed that establishing a series of coal-fired power plants in countries such as Kenya (with simple electrification to the villages) would be the best advancement for the African people and the African environment. An electric light bulb, a microwave oven and a small heater in each home would make a dramatic difference in the overall standard of living. No longer would a major portion of time be spent on gathering inefficient and toxic fuel. The serious health problems of hauling heavy loads and lung poisoning would be much reduced. Women would be freed to engage in activities of greater productivity and advancement. Light on demand would allow for more learning to take place and other activities to be completed. Electricity would also foster a more efficient transfer of important information from radio or television. And finally, the preservation of some of the most beautiful and diverse habitats on the planet would be possible if wood were eliminated as a source of energy.
>
> Providing energy from sources other than biomass (wood and dung), such as coal-produced electricity, would bring longer and better lives to the people of the developing world and greater opportunity for the preservation of their natural ecosystems. Let me assure you, notwithstanding the views of extreme environmentalists, that Africans do indeed want a higher standard of living. They want to live longer and healthier with less burden bearing and with more opportunities to advance. New sources of affordable, accessible energy would set them down the road of achieving such aspirations.
>
> These experiences made it clear to me that affordable, accessible energy was desperately needed in African countries.
>
> As in Africa, ideas for limiting energy use, as embodied in the Kyoto protocol, create the greatest hardships for the poorest among us. As I mentioned in the Hearing, enacting any of these noble-sounding initiatives to deal with climate change through increased energy costs, might make a wealthy urbanite or politician feel good about themselves, but they would not improve the environment and would most certainly degrade the lives of those who need help now.

Some in this body have introduced Kyoto-like legislation that would seriously hurt low-income and minority populations.

Last year, Tom Mullen, president of the Cleveland Catholic Charities, testified against S. 556, the Clean Power Act of last year, which would have had a lot of Kyoto-type implications; that it would impose onerous and unrealistic restrictions, including a Kyoto cap on carbon monoxide emissions by electricity.

That was Tom Mullen before the committee which I chaired. He is the president of Catholic Charities in Cleveland. He has devoted his whole life to helping poor people.

He noted that this regime would mean higher electricity prices for the poorest citizens of Cleveland.

For those on fixed incomes, as Mr. Mullen pointed out, higher electricity prices present a choice between eating and staying warm in the winter. As Mr. Mullen said:

> The overall impact on the economy in Northeast Ohio would be overwhelming, and the needs that we address at Catholic Charities in Ohio with the elderly and poor would be well beyond our capacity and that of our current partners in government and the private sector.

That is the sworn testimony of Mr. Mullen before my committee.

I see that Senator VOINOVICH from Ohio has approached the floor. He remembers very well when Tom Mullen of Catholic Charities of Ohio was in testifying. Senator VOINOVICH made several comments as to the seriousness that he believed this would impose upon the poor people of Ohio. There is no one more concerned about the poor people in Ohio than Senator VOINOVICH.

In addition to its negative economic impacts, Kyoto still does not satisfy Byrd-Hagel's concerns about developing countries. Though such countries as China, India, Brazil, South Korea, and Mexico are all signatories to Kyoto, they are not required to reduce their emissions even though they emit nearly 30 percent of the world's greenhouse gases.

It says we have to treat the developing nations the same as these countries that have signed onto the protocol. But they don't have to do it. Within a generation, they will be the largest emitters of carbon, methane, and other such greenhouse gases.

Despite the fact that neither of Byrd-Hagel's conditions has been met, environmentalists echoed by the liberal media have bitterly criticized President Bush for abandoning Kyoto. But one wonders why. Why don't they assail the 95 Senators—both Democrats and Republicans—who, according to Byrd-Hagel, presumably oppose ratification if the treaty came up on the Senate floor?

Why don't they assail former President Clinton or Vice President Gore who signed the treaty but never submitted it for ratification?

To repeat, it was a unanimous vote saying we cannot ratify Kyoto—the Kyoto Treaty that the President had signed—unless they would take care of these needs; that is, treating developing countries the same as other countries and if it would provide for any kind of damaging economic effect.

So when you look at it, you see it was 95 to 0. You have Senators who are of the liberal persuasion—fine people but certainly a different philosophy than mine: Senators BOXER, COLLINS, FEINGOLD, DORGAN, GRAHAM, JEFFORDS, KENNEDY, KERRY, LIEBERMAN, Moseley-Braun, ROCKEFELLER, and many others—who are really sincerely talking in favor of this Kyoto Treaty, but they cast their vote against it. They said: We don't want to ratify this treaty, and we are not going to ratify this treaty unless it treats the developing countries the same as it does the developed nations and unless it doesn't perform any kind of damage to the economy.

If Byrd-Hagel would not ratify Kyoto if it caused substantial harm and if the developing countries were not required to participate in the same timetable, now it brings us to a very significant question: If the Byrd-Hagel conditions are ever satisfied, should the United States ratify Kyoto? Answering that question depends on several factors, including whether Kyoto would provide significant needed environmental benefits.

First, we should ask what Kyoto is designed to accomplish. According to the U.N.'s Intergovernmental Panel on Climate Change, Kyoto will achieve "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system."

What does this statement mean? The IPCC offers no elaboration and doesn't provide any scientific explanation about what that level would be. Why? The answer is simple: thus far no one has found a definitive scientific answer.

Recently scientists have answered that question.

Dr. Fred Singer, an atmospheric scientist at the University of Virginia, who served as the first Director of the U.S. Weather Satellite Service, which is now part of the Department of Commerce, and more recently has served as a member and vice chairman of the National Advisory Committee on Oceans and Atmosphere, said:

> No one knows what constitutes a "dangerous" concentration. There exists, as yet, no scientific basis for defining such a concentration, or even of knowing whether it is

> more or less than current levels of carbon dioxide.

One might pose the question: If we had the ability to set the global thermostat, what temperature would we pick? Would we set it colder or warmer than it is today? What would the optimal temperature be? The actual dawn of civilization occurred in a period climatologists call the "climatic optimum," when the mean surface temperature was about 1 to 2 degrees Celsius warmer than it is today. If we could choose, what would we choose? Why not go 1 degree or 2 degrees higher, or 1 degree or 2 degrees cooler, for that matter?

The Kyoto emissions reduction targets are arbitrary, lacking any real scientific basis. Kyoto, therefore, will have no impact on global temperatures. This is not just my opinion but the conclusion that is reached by the country's top climate scientists.

Dr. Tom Wigley, a senior scientist at the National Center for Atmospheric Research, found that if the Kyoto protocol were fully implemented by all signatories—now, I will note this next point assumes that the alarmist science is correct, which, of course, it is not—if the Kyoto protocol were fully implemented, it would reduce temperatures by a mere .07 degrees Celsius by 2050 and .13 degrees Celsius by 2100.

What does this mean? Such an amount is so small that ground-based thermometers cannot even measure it. If you look at this chart, this shows the difference all the way from 2000 to 2050. You can see, while we have ups and downs, it is not measurable. We do not have equipment that could measure that precisely.

Dr. Richard Lindzen, an MIT scientist and member of the National Academy of Sciences, who has specialized in climate issues for over 30 years, told the Committee on Environment and Public Works—the committee I chair—on May 2, 2001, that there is a "definitive disconnect between Kyoto and science. Should a catastrophic scenario prove correct, Kyoto would not prevent it."

Similarly, Dr. James Hansen of NASA, considered the father of global warming—he is the guy who thought of all this stuff—said the Kyoto protocol—keep in mind, he is the father of this concept—"will have little effect" on global temperature in the 21st century. In a rather stunning followup, Hansen said it would take 30 Kyotos—let me repeat that—30 Kyotos to reduce warming to an acceptable level. If 1 Kyoto devastates the American economy, what would 30 Kyotos do?

So this leads to another question: If the provisions in the protocol do little or nothing measurable to influence global temperatures, what does this tell us about the scientific basis for Kyoto?

Answering that question requires a thorough examination of the scientific work conducted by the United Nations Intergovernmental Panel on Climate Change. I am going to refer to this as the IPCC. It is the U.N.'s Intergovernmental Panel on Climate Change which provides the scientific basis for Kyoto. In other words, that is what everything is based on. So I want to talk about that for a few minutes. The international climate negotiations and substance of claims were made by alarmists.

In 1992, several nations from around the world gathered in Rio de Janeiro for the United Nations Framework Convention on Climate Change. This meeting was premised on the concern that global warming was becoming a problem. The United States, along with many other countries, signed the Framework Convention, committing them to making voluntary reductions in greenhouse gases. OK. That was 11 years ago.

Over time, it became clear that signatories were not going to reach their reduction targets as stipulated under Rio. This realization led to the Kyoto protocol of 1997, which was an amendment to the Framework Convention and which prescribed mandatory reductions only for developed nations; that is, the United States. Of course, you know that is another violation of Byrd-Hagel, that it would just affect the developed nations, not the developing nations.

The science of Kyoto is based on the assessment reports conducted by the Intergovernmental Panel on Climate Change, the IPCC. Over the last 13 years, the IPCC has published three assessments, with each one, over time, growing more and more alarmist.

The first IPCC assessment report, in 1990, found that the climate record of the past century was "broadly consistent" with the changes in the Earth's surface temperature, as calculated by climate models that incorporated the observed increase in greenhouse gases.

This conclusion is absurd, considering the climate cooled between 1940 and 1975, just as industrial activity grew rapidly after World War II. It has been difficult to reconcile this cooling with the observed increases in greenhouse gases.

Let's be sure we understand what is happening. In 1940, and then after the war, is when we had the huge increase in CO_2 and the greenhouse gases. Yet that precipitated a cooling period, not a warming period, totally contradicting the science.

After its initial publication, the IPCC's second assessment report, in 1995, attracted widespread international attention, particularly among scientists who believed that human activities were causing global warming. In their view, the report provided the proverbial smoking gun.

The most widely cited phrase from that report—which actually came from the report summary, as few in the media actually read the entire report—was that "the balance of the evidence suggests a discernible human influence on global climate." This, of course, is so vague that it is essentially meaningless.

What do they mean by "suggests"? For that matter, what do they mean by "discernible"? How much human influence is discernible? Is it a positive or negative influence? Where is the precise scientific quantification?

Unfortunately, the media created the impression that man-induced global warming was fact. On August 10, 1995, the New York Times published an article titled "Experts Confirm Human Role in Global Warming"—not just inaccurate but just an outrageous lie. According to the Times account, the IPCC showed that global warming "is unlikely to be entirely due to natural causes." That is what they said.

Of course, when parsed, this account means fairly little. Not entirely due to natural causes? Well, how much then? One percent? Twenty percent? Eighty-five percent?

The IPCC report was replete with caveats and qualifications, providing little evidence to support anthropogenic theories—and "anthropogenic" means manmade—of global warming. The preceding paragraph in which the "balance of evidence" appears makes exactly that point. It reads:

> Our ability to quantify the human influence on global climate is currently limited because the expected signal is still emerging from the noise of natural variability, and because there are uncertainties in key factors.

That is the IPCC. Those are their words which totally refute the case they are trying to make. Moreover, the IPCC report was quite explicit about the uncertainties surrounding the link between human actions and global warming.

> Although these global mean results suggest that there is some anthropogenic component in the observed temperature record, they cannot be considered compelling evidence of a clear cause-and-effect link between anthropogenic forcing and changes in the Earth's surface temperature.

Remember the IPCC provides the scientific basis for the alarmists' conclusion about global warming. But even the IPCC is saying their own science cannot be considered compelling evidence.

Dr. John Christy, professor of Atmospheric Science and director of the Earth Systems Science Center at the University of Alabama, a key contributor to the 1995 IPCC report, participated with the lead authors in drafting the sections in the detailed review of the scientific text. He wrote—this isn't the IPCC; this is Dr. John Christy—in the Montgomery Advertiser, February 22, 1998, that much of what passes for common knowledge in the press regarding climate change is "inaccurate, incomplete, or viewed out of context."

Many of the misconceptions about climate change originated from the IPCC's six-page executive summary. It was the most widely read and quoted of the three documents published by the IPCC working group but—and this point is crucial—it had the least input from scientists and the greatest input from nonscientists.

Let me go to the third assessment. Five years later, the IPCC was back again, this time with the Third Assessment Report on Climate Change. In October of 2000, the IPCC "Summary for Policymakers"—that is not what the scientists said; that is what the politicians said—was leaked to the media which, once again, accepted the IPCC's conclusions as fact. Based on the summary, the Washington Post wrote on October 30:

> The consensus on global warming keeps strengthening.

In a similar vein, the New York Times competently declared on October 28:

> The international panel of climate scientists, considered the most authoritative voice on global warming, is now concluding that mankind's contribution to the problem is greater than originally believed.

Look at how these accounts are couched. They are worded to maximize the fear factor. But upon closer inspection, it is clear that such statements have no compelling intellectual content. "Greater than originally believed," what is the baseline from which the Times makes that judgment? Is it .01 percent or 25 percent? And how much greater? Double? Triple? An order of magnitude greater?

Such reporting prompted testimony by Dr. Richard Lindzen before the Committee on Environment and Public Works, the committee I now chair. This was in May of 2001.

Dr. Lindzen said:

> Nearly all reading and coverage of the IPCC is restricted to the highly publicized Summaries for Policymakers, which are written by representatives of government, NGO's, and business; the full reports, written by participating scientists, are largely ignored.

That is what Dr. Lindzen, who is one of the contributing scientists to the IPCC, has said. As it turned out, the policymakers' summary was politicized and radically different from the earlier draft. For example, the draft concluded the following concerning the driving case for climate change:

> From the body of the evidence since IPCC (1996), we conclude there has been a discernible human influence on global climate. Studies are beginning to separate the contributions to observed climate change attributable to individual external influences, both anthropogenic and natural. This work suggests that anthropogenic greenhouse gases are a substantial contributor to the observed warming, especially over the past 30 years.

Keep in mind their conclusion:

> However, the accuracy of these estimates continues to be limited by uncertainties in estimates of internal variability, natural and anthropogenic forcing, and the climate response to external forces.

In other words, they go all the way through the IPCC, the document on which all the extremists are basing their conclusions that anthropogenic actually contributes to global warming. Yet then they have a disclaimer at the very end.

The final version looks quite different and concluded instead:

> In light of new evidence taking into account the remaining uncertainties, most of the observed warming over the last 50 years is likely to have been due to increases in greenhouse gas concentrations.

Keep in mind "warming over the last 50 years." Remember we showed you those charts going back 25 years. These same people were yelling and screaming and complaining that there is a cooling period coming. They had all these fearful statements made about what is going to happen. Now they are saying over the past 50 years, when they themselves said 25 years ago that the concern was cooling.

This kind of distortion was not unintentional, as Dr. Lindzen explained for the Environment and Public Works Committee. Dr. Lindzen said:

> I personally witnessed coauthors forced to assert their "green" credentials in defense of their statements.

This is testimony before our committee. This is from Dr. Lindzen, one of the contributors to the IPCC on which they base this premise.

In short, some parts of the IPCC process resemble a Soviet-style trial in which the facts are predetermined and ideological purity trumps technical and scientific examinations. The predictions in this summary went far beyond those in the IPCC's 1995 report.

The second assessment of the IPCC predicted that the Earth could warm by 1 to 3.5 degrees Celsius by the year 2100. The best estimate was a 2-degree Celsius warming by 2100. Both are highly questionable at best. That was the 1995 report.

In the third assessment, the IPCC dramatically increased that estimate to a range between 1.4 percent and 5.8 degrees Celsius, even though no new evidence had come to light to justify a dramatic change. In fact, the IPCC's median projected warming actually declined from 1990 to 1995. IPCC's 1990 initial estimate was 3.2 degrees Celsius. Then the IPCC revised 1992—2 years later—estimate was 2.6 degrees Celsius, followed by the IPCC revised 1995 estimate of 2.0 degrees Celsius. What changed?

As it turned out, the new prediction was based on faulty, politically charged assumptions about trends in population growth, economic growth, and fossil fuel use. The extreme case scenario of a 5.8-degree warming, for instance, rests upon an assumption that the whole world will raise its level of economic activity and per capita energy use to that in the United States. That is what it is based on. That energy use will be carbon intensive. This scenario is simply ludicrous. This essentially contradicts the experience of the industrialized world over the past 30 years. Yet the 5.8 degree figure featured prominently in news stories because it produced the biggest fear effect.

Moreover, when regional climate models of the kind relied upon by the IPCC attempt to incorporate such factors as population growth, "the details of future climate recede toward unintelligibility," according to Jerry Mahlman, Director of NOAA's Geophysical Fluid Dynamics Laboratory.

Even Dr. Stephen Schneider, an outspoken believer in catastrophic global warming, criticized the IPCC's assumptions in the journal Nature on May 3, 2001. In his article—this is the promoter of the catastrophic global warming fear mongers—Schneider asks:

> How likely is it that the world would get 6 degrees [centigrade] hotter by 2100? [That] depends on the likelihood of the assumptions underlying the projections.

Keep in mind that Schneider is on the side of the alarmists. Schneider's own calculations, which cast serious doubt on the IPCC's extreme prediction, broadly agree with an MIT study published in April of 2001.

It found that there is a "far less" than one percent chance that temperatures would rise to 5.8 degrees C or higher, while there is a 17 percent chance the temperature rise would be lower than 1.4 degrees.

That point bears repeating: even global warming alarmists think the lower number is 17 times more likely to be right than the higher number. Moreover, even if the earth's temperature increases by 1.4 degrees Celsius, does it really matter? The IPCC doesn't offer any credible science to explain what would happen.

Gerald North of Texas A&M University in College Station, agrees that the IPCC's predictions are baseless, in part because climate models are highly imperfect instruments. As he said after the IPCC report came out: "It's extremely hard to tell whether the models have improved" since the last IPCC report. "The uncertainties are large." Similarly, Peter Stone, an MIT climate modeler, said in reference to the IPCC, "The major [climate prediction] uncertainties have not been reduced at all."

Dr. David Wojick, an expert in climate science, recently wrote in Canada's National Post:

> The computer models cannot . . . decide among the variable drivers, like solar versus lunar change, or chaos versus ocean circulation versus greenhouse gas increases. Unless and until they can explain these things, the models cannot be taken seriously as a basis for public policy.

In short, these general circulation models, or GCMs as they're known, create simulations that must track over 5 million parameters. These simulations require accurate information on two natural greenhouse gas factors—water vapor and clouds—whose effects scientists still do not understand.

Because of these and other uncertainties, climate modelers from four separate climate modeling centers wrote in the October 2000 edition of Nature that, "Forecasts of climate change are inevitably uncertain." They go on to explain that, "A basic problem with all such predictions to date has been the difficulty of providing any systematic estimate of uncertainty," a problem that stems from the fact that "these [climate] models do not necessarily span the full range of known climate system behavior."

Again, to reiterate in plain English, this means the models do not account for key variables that influence the climate system.

Despite this, the alarmists continue to use these models and all the other flimsy evidence I've cited to support their theories of man-made global warming—theories they so desperately want to believe.

Before I get into another subject, I see the Senator from Ohio, Senator VOINOVICH. I have been talking a little about the committee hearing we had. I believe it was at your invitation that Tom Mullins came and testified. I ask you if I am accurately portraying the comments he made concerning the poor people of your State of Ohio.

Mr. VOINOVICH. Mr. President, the Senator portrayed Tom Mullins' comments accurately. In the statement I am going to be making, I will refer to those remarks—the indication that many of the people who are promoting capping carbon at the altar of responding to the climate change promotion are not seeking to affect the impact that capping carbon would have on natural gas questions and on those people in our country who are least able to pay their energy costs.

Mr. INHOFE. I thank the Senator. I recall that he almost had tears in his eyes when he talked about the poor people of Ohio and the fact they have to make decisions about eating and heating their homes. It is a very serious thing.

Mr. VOINOVICH. I think the main purpose of his testimony was that in decisions we make in the Senate regarding environmental legislation, we ought to take into consideration the impact it is having on those who have to pay the energy costs that are increased as a result of those initiatives. There seems to be some type of disconnect between our environmental policy and our energy policy. What we are hoping to do here is to harmonize our environmental and energy policies so we can put together a policy that will reduce emissions and at the same time not destroy our economy and impact on the least of our brethren who pay a large percentage of what they have toward the cost of energy.

Mr. INHOFE. What Tom Mullins said is totally consistent with what I talked about earlier. In the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce they talked about the unemployment rate and how it hurts poor people. I think that to be very true.

Now I want to turn to temperature trends in the 20th Century. GCMs predict that rising atmospheric CO_2 concentrations will cause temperatures in the troposphere, the layer from 5,000 to 30,000 feet, to rise faster than surface temperatures—a critical fact supporting the alarmist hypothesis.

But in fact, there is no meaningful warming trend in the troposphere, and weather satellites, widely considered the most accurate measure of global temperatures, have confirmed this.

To illustrate this point, just think about a greenhouse. The glass panes let sunlight in but prevent it from escaping. The greenhouse then warms from the top down. As is clear from the science, this simply is not happening in the atmosphere.

Satellite measurements are validated independently by measurements from NOAA balloon radiosonde instruments, with records extending back over 40 years. This is very critical. The extremists will tell you warming is occurring.

If you look at this chart of balloon data, extremists will tell you that warming is occurring, but if you look more closely you see that temperature in 1955 was higher than temperature in 2000.

A recent detailed comparison of atmospheric temperature data gathered by satellites with widely-used data gathered by weather balloons corroborates both the accuracy of the satellite data and the rate of global warming seen in that data.

To reiterate, the best data collected from satellites validated by balloons to test the hypothesis of a human-induced global warming from the release of CO_2 into the atmosphere shows no meaningful trend of increasing temperatures, even as the climate models exaggerated the warmth that ought to have occurred from a build-up in CO_2.

Some critics of satellite measurements contend that they don't square with the ground-based temperature record. But some of this difference is due to the so-called "urban heat island effect." This occurs when concrete and asphalt in cities absorb—rather than reflect—the sun's heat, causing surface temperatures and overall ambient temperatures to rise. Scientists have shown that this strongly influences the surface-based temperature record.

In a paper published in the Bulletin of the American Meteorological Society in 1989, Dr. Thomas R. Karl, senior scientist at the National Climate Data Center, corrected the U.S. surface temperatures for the urban heat-island effect and found that there has been a downward temperature trend since 1940. This suggests a strong warming bias in the surface-based temperature record.

Even the IPCC finds that the urban heat island effect is significant. According to the IPCC's calculations, the effect could account for up to 0.12 degrees Celsius of the 20th century temperature rise, one-fifth of the total observed.

When we look at the 20th century as a whole, we see some distinct phases that question anthropogenic theories of global warming. First, a strong warming trend of about 0.5 C began in the late 19th century and peaked around 1940. Next, the temperature decreased from 1940 until the late 1970s.

Why is that decrease significant? Because about 80% of the carbon dioxide from human activities was added to the air after 1940, meaning the early 20th century warming trend had to be largely natural.

Scientists from the Scripps Institution for Oceanography confirmed this phenomenon in the March 12, 1999 issue of the journal Science. They addressed the proverbial "chicken-and-egg" question of climate science, namely: when the Earth shifts from glacial to warm periods, which comes first: an increase in atmospheric carbon dioxide levels, or an increase in global temperature?

The team concluded that the temperature rise comes first followed by a carbon dioxide boost about 400 to 1,000 years later. This contradicts everything alarmists have been saying about manmade global warming in the 20th century. Repeat: The temperature precipitates the carbon dioxide increase.

We can go even further back, some 400,000 years, and see this phenomenon occurring, as the chart clearly shows. Yet the doomsayers, undeterred by these facts, will not quit. In February and March of 2002, the New York Times and the Washington Post, among others, reported on the collapse of the Larsen B ice shelf in the Antarctic Peninsula, causing quite a stir in the media, and providing alarmists with more propaganda to scare the public.

When we look at this chart, we can see this goes back 400,000 years. No one is going to refute this, but the Earth's natural 12,000-year cycle of increases and decreases in temperatures is followed by an increase and decrease in CO_2. We can see the trends going all the way back. It has not really made a major change.

Although there was no link to global warming, the Times could not help but make a suggestion in its March 20 edition:

> While it is too soon to say whether the changes there are related to a buildup of "greenhouse" gas emissions that scientists believe are warming the planet, many experts said it was getting harder to find any other explanation.

The Times, however, simply ignored a recent study in the Journal of Nature which found the Antarctic has been cooling since 1966.

Another study in Science recently found the West Antarctic ice sheet to be thickening rather than thinning. University of Illinois researchers also reported a net cooling on the Antarctic Continent between 1966 and 2000. In some regions, such as the McMurdo dry valleys, temperatures cooled between 1986 and 1999 by as much as 2 degrees during that timeframe.

In perhaps the most devastating critique of glacial alarmism, the American Geophysical Union found the Arctic was warmer in 1935 than it is today.

That bears repeating. Eighty percent of the carbon dioxide from human activities was added to the air after 1940. Yet the Arctic was warmer in 1935 than it is today.

So not only is glacial alarmism flawed, there is no evidence, as shown by measurements from satellites and weather balloons, of any meaningful warming trends in the 20th century.

I will now talk about health risks. The subject I am going to talk about is probably the most significant, so I hope people will not go away.

Even as we discuss whether temperatures will go up or down, we should ask whether global warming will actually produce the catastrophic effects the alarmists confidently predict.

What gets obscured in the global warming debate is the fact that carbon dioxide is not a pollutant. It is necessary for life. Numerous studies have shown that global warming can actually be beneficial to mankind.

Most plants, especially wheat and rice, grow considerably better when there is more CO_2 in the atmosphere. CO_2 works like a fertilizer; higher temperatures further enhance the CO_2 fertilizer effect.

In fact, the average crop, according to Dr. John Reilly of the MIT Joint Program on Science and Policy of Global Change, is 30 percent higher in a CO_2-enhanced world. I repeat that: 30 percent higher in a CO_2-enhanced world. This is not just a matter of opinion but a well-established phenomenon.

With regard to the impact of global warming on human health, it is assumed that higher temperatures will induce more deaths and massive outbreaks of deadly diseases. In particular, a frequent scare tactic by alarmists is that warmer temperatures will spark malaria outbreaks. Dr. Paul Reiter convincingly debunks this claim in a 2000 study for the Centers for Disease Control. As Reiter found:

> Until the second half of the 20th century, malaria was endemic and widespread in many temperature regions—

This next point is critical—

> with major epidemics as far north as the Arctic Circle.

Reiter also published a second study in the March 2001 issue of Environmental Health Perspectives showing that "despite spectacular cooling, malaria persisted throughout Europe."

Another myth is that warming increases morbidity rates. This is not the case, according to Dr. Mendelsohn, environmental economist from Yale University. Mendelsohn argues that heat stress deaths are caused by a temporary variability and not warming. In other words, you do not die of heat because of heat temperature; you die as a result of the variable change.

I wish to now go back to the IPCC's third assessment. In addition to trying to predict the future, the third assessment report looked into the past. The IPCC released a graph depicting global temperatures trending slightly downward over the last 10 centuries and then rather dramatically increasing beginning around 1900. The cause for such a shift, of course, is attributed to industrialization and manmade greenhouse gas emissions.

The now infamous "hockey stick" graph was enthusiastically embraced by IPCC which used it as a basis for the third assessment. Dr. Michael Mann at the University of Virginia was its principal authority. The study, which Mann and others conducted, examined climate trends over the past 1,000 years. As many scientists have pointed out since its publication, it contains many flaws.

Stay with me. First, Mann's study focuses on temperate trends only in the northern hemisphere. Mann extrapolated that data to reach the conclusion that global temperatures remained relatively stable and then dramatically increased at the beginning of the 20th century. That leads to Mann's conclusion that the 20th century has been the warmest in the last 1,000 years. As is obvious, however, such an extrapolation cannot provide a reliable global perspective of long-term climate changes.

Moreover, Mann's conclusions were drawn mainly from 12 sets of climate proxy data, of which 9 were tree rings, while the remaining 3 came from ice cores. Notably, some of the ice core data was drawn from the southern hemisphere—one from Greenland and two from Peru. What is left is a picture of the northern hemisphere based on eight sets of tree ring data—again, hardly a convincing global picture for the last 1,000 years.

Mann's hockey stick dismisses both the Medieval Warm Period—and that was roughly 800 A.D. to about 1300, 1350 A.D.—and the Little Ice Age which was from 1350 to 1850, two climatic events that are fairly widely recognized in the scientific literature to be accurate.

Mann believes that the 20th century is "nominally the warmest" of the past millennium and that the decade of the 1990s was the warmest decade on record.

The Medieval Warm Period and Little Ice Age are replaced by a largely benign and slightly cooling linear trend in climate until 1900. But as is clear from a close analysis of Mann's methods, the hockey stick is formed by crudely grafting the surface temperature record of the 20th century into a pre-1900 tree ring record.

This is a highly controversial and scientifically flawed approach. As is widely recognized in the scientific community, two data series representing radically different variables—temperature and tree rings—cannot be grafted together credibly to create a single series. In simple terms, as Dr. Patrick Michaels of the University of Virginia explained, this is like comparing apples to oranges.

Even Mann and his coauthors admit that if the tree ring data set were removed from their climate reconstruction, the calibration and verification procedures they used would undermine their conclusions.

A new study from the Harvard-Smithsonian Center for Astrophysics, which I will comment on shortly, strongly disputes Mann's methods and hypotheses. As coauthor Dr. David Legates wrote:

> Although [Mann's work] is now widely used as proof of anthropogenic global warming, we've become concerned that such an analysis is in direct contradiction to most of the research and written histories available.
>
> Our paper shows this contradiction and argues that the results of Mann . . . are out of step with the preponderance of the evidence.

The scientific evidence. That is worth repeating: Mann's theory of global warming is out of step with most scientific thinking on the subject.

What we are talking about in plain English is the science news by the environmental alarmist is not just flawed; it is just not there. But there is more.

Based in part on the data supporting the IPCC's key reports, thousands of scientists have rejected the scientific basis of Kyoto. Recently, 46 climate experts wrote an open letter to Canada's National Post on June 3 of this year claiming that the Kyoto Protocol lacks credible science. This is 46 leading climate experts.

I ask that the entire text of the letter from these 46 leading climate experts be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. INHOFE. The scientists wrote that the Canadian Prime Minister essentially ignored an earlier letter they drafted in 2001. In it, they wrote:

> Many climate science experts from Canada and around the world, while still strongly supporting environmental protection, equally strongly disagree with the scientific rationale for the Kyoto Accord.

In their June 3 letter, the group wrote to Paul Martin, a Canadian member of Parliament, urging him to consider the consequences of a Kyoto ratification. This is the country of Canada. Quoting now from that letter:

> Although ratification has already taken place, we believe that the government of Canada needs a far more comprehensive understanding of what climate science really says if environmental policy is to be developed that will truly benefit the environment while maintaining the economic prosperity so essential to social progress.

Many scientists share the same view. I mentioned several other countries' leading climate scientists earlier in this speech. In addition, over 4,000 scientists, 70 of whom are Nobel Prize winners, signed the Heidelberg Appeal, which says that no compelling evidence exists to justify controls of anthropogenic greenhouse gas emissions; that is, manmade emissions.

Let me repeat that. Over 4,000 scientists, 70 of whom are Nobel Prize winners, signed the Heidelberg Appeal which says that no compelling evidence exists to justify controls of greenhouse gas emissions, manmade greenhouse gas emissions. They agree it is a hoax.

Now, I also want to point to a 1998 survey of State climatologists, which reveals that a majority of respondents have serious doubts about whether anthropogenic emissions of greenhouse gases present a serious threat to climate stability.

Then there is Dr. Frederick Seitz, a past president of the National Academy of Sciences and a professor emeritus at Rockefeller University, who compiled the Oregon Petition, and it reads as follows:

> We urge the United States Government to reject the global warming agreement that was written in Kyoto, Japan, in December, 1997, and any other similar proposals. The proposed limits on greenhouse gases would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind.
>
> There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the earth.

That is Dr. Frederick Seitz, former president of the National Academy of Sciences.

The petition has 17,800 independently verified signatures, and for those signers who hold a Ph.D., 95 percent have now been independently verified. Environmental groups have attacked the credibility of this petition based on one false name sent in by some green pranksters. Several names are still on the list even though biased press reports have ridiculed their identity with the names of famous personalities. They are actual signers.

A guy named Perry Mason, for example, is a Ph.D. chemist. He was one of the signers.

The most significant thing that just recently came out is the Harvard Smithsonian 1,000-year climate study. Let me turn to an important new study by the researchers. The study entitled "Proxy Climatic and Environmental Changes of the Past 1,000 Years" offers a devastating critique of Mann's hypothesis calling into question the IPCC's Third Assessment, and indeed the entire intellectual foundation of the alarmists' views. It draws on extensive evidence showing that major changes in global temperatures result not from manmade emissions but from natural causes.

Smithsonian scientists, Willie Soon and Sallie Baliunas, with coauthors Craig Idso, Sherwood Idso, and David Legates, compiled and examined results from more than 240 peer-reviewed papers published by thousands of researchers over the past four decades. In contrast to Mann's flawed, limited research, the Harvard-Smithsonian study covers a multitude of geophysical and biological climate indicators. While Mann's analysis relied mostly on tree-ring data from the Northern Hemisphere, the researchers offer a detailed look at climate changes that occurred in different regions around the world over the last 1,000 years.

The range of the climate proxies—now, keep in mind, we are talking about one of them that was just primarily looking at tree rings, but these 240 studies that were analyzed in the Smithsonian-Harvard report looked at borehole data, cultural data, glacier advances or retreats, geomorphology, isotopic analysis from lake sediments or ice cores, tree or peat celluloses, corals, stalagmite or biological fossils, net ice accumulation rate, including dust or chemical counts, lake fossils and sediments, river sediments, melt layers in ice cores, phenological and paleontological fossils, pollen, seafloor sediments, luminescent analysis, everything that fit every kind of proxy that could be known to science.

Based on this proxy data drawn from the 240 peer-reviewed studies, the authors offered highly convincing evidence to support the Little Ice Age and the Medieval Warm Period. As coauthor Dr. Sallie Baliunas explained:

> For a long time, researchers have possessed anecdotal evidence supporting the existence of these climate extremes.

What happened during these periods? We remember what happened during these periods. Baliunas notes that, during the Medieval Warm Period:

> The Vikings established colonies in Greenland at the beginning of the second millennium that died out several hundred years later when the climate turned colder.

In England, she found that:

> Vineyards had flourished during the medieval warmth.

In their study, the authors accumulated reams of objective data to back up these cultural indicators.

The Medieval Warm Period, or Medieval Optimum, occurred between 800 to 1300. Among the studies surveyed by the authors, 112 contained information about the warm period. Of these, 103 showed evidence for the Medieval Warm Period; two did not; seven had equivocal answers.

Looking just at the Southern Hemisphere, the authors found 22 studies, 21 of which confirmed the warm period and only one that did not.

The authors also looked at the 20th century and examined 102 studies to determine whether it was the warmest on record. Three studies said yes, 16 had equivocal answers, and of the remaining 83, 79 showed periods of at least 50 years that were warmer than any 50-year period in the 20th century.

I must say, to any reasonable person, these ratios appear very convincing and undoubtedly rest on a solid scientific foundation. Again, remember, the conclusions of this study are based on 240 peer-reviewed studies, and this chart shows what the Harvard-Smithsonian researchers concluded.

Peer review means they were rigorously reviewed and critiqued by other scientists before they were published. This climate study, published in March of 2003, is the most comprehensive of its kind in history. According to the authors, some of the global warming during the 20th century is attributable to the climate system recovering from the Little Ice Age. Global warming alarmists, however, vehemently disagree, and pull a scientific sleight of hand by pointing to the 140-year direct temperature record as evidence of warming caused by humans. But as the authors note:

> The direct temperature measurement record is too short . . . to provide good measures of natural variability in its full dynamic range.

This research begs an obvious question: If the Earth was warmer during the Middle Ages than the age of coal-fired powerplants and SUVs, what role do manmade emissions play in influencing climate? I think any person with a modicum of common sense would say, not much and maybe none.

How did the media report on the Harvard-Smithsonian study? The big dailies, such as the New York Times and the Washington Post, basically ignored it. I was impressed by a fair and balanced piece in the Boston Globe. Unfortunately, some of the media could not resist playing politics of personal destruction.

Before I move on, I add another point about climate history. For the last several minutes, I have talked about natural climate variability over the past 1,000 years. We can go back even further in history to see dramatic changes in climate that had nothing to do with SUVs or powerplants. During the last few hundred thousand years, the Earth has seen multiple repeated periods of glaciation. Each ice age has ended because of dramatic increases in global temperatures which had nothing to do with fossil fuel emissions.

In fact, the last major glacier retreat, marking the end of the Wurm Glaciation, was only 12,000 years ago. At the end, the temperature was 14 degrees Celsius lower than today and climbed rapidly to present day temperature—and did so in as little as 50 years. Thus began our current Holocene Age of warm climates and glacier retreat.

These cycles of warming and cooling have been found so frequent and are so often so much more dramatic than the fractional degree changes measured over the last century that one wonders if the alarmists are simply ignorant of geological and meteorological history or simply ignoring it to advance their agenda.

What is the real story behind Kyoto? As I pointed out, the science underlying the Kyoto Protocol has been thoroughly discredited. But for some reason the drive to implement Kyoto continues apace in the United States and more fervently in Europe. What is going on here?

The Europeans continue to insist that the United States should honor its international responsibilities and ratify Kyoto. In June of 2001 Germany released a statement declaring the world needs Kyoto because its greenhouse gas reduction targets are indispensable.

Similarly, Swedish Prime Minister Goeran Persson, in June of 2001, said flatly and without explanation that "Kyoto is necessary." The question is, indispensable and necessary for what?

Certainly not for further reduction of greenhouse gas emissions, as Europe has proven. According to news reports earlier this year, the European Union has failed to meet its Kyoto targets. As we know, according to the best scientific evidence, Kyoto will do nothing to reduce global temperatures.

As it turns out, Kyoto's objective has nothing to do with saving the globe. In fact, it is purely political. The case in point, French President Jacques Chirac said during a speech at The Hague in November of 2002 that Kyoto represents "the first component of an authentic global governance." Keep in mind who we are talking about—Jacques Chirac of France. He wants the authentic global governance. You have to ask if we are going to let the French dictate our United States policy.

Margot Wallstrom, EU environment commissioner, takes a different view but one instructive about the real motives of Kyoto proponents. She asserts that Kyoto is about "the economy, about leveling the playing field for big businesses worldwide." In other words, we in this country should level the playing field so we are equal with the European Union. That is very significant in terms of what the real motives are.

Chirac and Wallstrom's comments mean two things: Kyoto represents an attempt by certain elements within the international community to restrain United States interests; second, Kyoto is an economic weapon designed to undermine the global competitiveness and economic superiority of the United States.

I am mystified that some in this body and in the media blithely assert that the science of global warming is settled; that is, fossil fuel emissions are the principal, driving cause of global warming.

In a letter to me concerning the next EPA administrator, two Senators wrote, "The pressing problem of global warming" is now "established scientific fact," and demanded that the new administrator commit to addressing it.

With all due respect, this statement is baseless for several reasons, as I outlined in detail above. The evidence is overwhelmingly in favor of those who do not see global warming proposing harm to the planet and who do not think human beings have an insignificant influence on the climate system.

This leads to another question: Why would this body subject the United States to Kyoto-like measures that have no environmental benefits and cause serious harm to the economy? There are several pieces of legislation, including several that have been referred to my committee, that effectively implement Kyoto without ratifying the treaty. From a cursory read of the Senate politics, it is my understanding some of these bills enjoy more than a modicum of support.

I urge my colleagues to reject them and follow the science to the facts. Reject approaches designed not to solve an environmental problem but to satisfy the ever-growing demand of environmental groups for money and for power and other extremists who simply do not like capitalism, free markets, and freedom.

Climate alarmists see an opportunity here to tax the American people. Consider the July 11 Op-ed by J.W. Anderson of the Washington Post. Anderson, a former editorial writer of the Post and now a journalist in residence with Resources for the Future, concedes that climate science still confronts uncertainties, but his solution is a field tax to prepare for a potentially catastrophic future. Based on the case I have outlined today, such a course of action fits a particularly ideological agenda but is entirely unwarranted.

It is my fervent hope Congress will reject prophets of doom who peddle propaganda masquerading as science in the name of saving the planet. I urge my colleagues to put stock in scientists who rely on the best, most objective scientific data and reject fear as a motivating basis for making public policy decisions.

Let me be very clear: Alarmists are attempting to enact an agenda of energy suppression that is inconsistent with American values, freedom, prosperity, and environmental problems.

Over the past hour and a half I have offered compelling evidence that catastrophic global warming is a hoax. That conclusion is supported by painstaking work of the Nation's top planet scientists. We have those scientists who concluded that the Kyoto protocol has no environmental benefits; natural variability, not fossil fuel emissions, is an overwhelming factor influencing climate change; satellite data, confirmed by NOAA, confirms that no meaningful warming has occurred over the last century; and climate models predicting dramatic temperature increases over the next 100 years are flawed and highly imperfect.

These scientists include Dr. Fred Singer, from the University of Virginia; Dr. Tom Wigley, senior scientist at the National Center for Atmospheric Research; Dr. Richard Lindzen from the National Academy of Science. Everyone listed is someone whose credentials cannot be questioned.

If you study that, you will come to the same conclusions. These are objective scientists, not fundraisers for some far-left environmental extremist groups.

Finally, I return to the words of Dr. Frederick Seitz, a past president of the National Academy of Sciences, a professor emeritus at Rockefeller University, who compiled the Oregon Petition. He said:

> There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gasses is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the Earth.

These are sobering words which the extremists have chosen to ignore. So what could possibly be the motivation for global warming alarmism? Since I have become the chairman of the Environment and Public Works Committee, it has become pretty clear. It is fundraising. Environmental extremists rake in millions of dollars, not to solve environmental problems but to fuel their ever-growing fundraising machines, part of which are financed by the Federal taxpayers.

So what have we learned from the scientists and economists I talked about today? Five things, briefly:

No. 1, the claim that global warming is caused by manmade emissions is simply untrue and not based on sound science.

No. 2, CO_2 does not cause catastrophic disasters. Actually, it would be beneficial to our environment and the economy.

No. 3, Kyoto would impose huge cost on Americans, especially the poor.

No. 4, the same environmentalists who are hysterical over global warming today were just as hysterical in the 1970s over global cooling.

And, No. 5, the motives for Kyoto are economic, not environmental; that is, proponents favor handicapping the American economy through carbon taxes and more regulations.

So I will just conclude by saying: Wake up, America. With all the hysteria, all the fear, all the phony science, could it be that manmade global warming is the greatest hoax ever perpetrated on the American people? I believe it is.

And if we allow these detractors of everything that has made America great, those ranging from the liberal Hollywood elitists to those who are in it for the money, if we allow them to destroy the foundation, the greatness of the most highly industrialized nation in the history of the world, then we don't deserve to live in this one nation under God. So I say to the real people: Wake up, make your voice heard. My 11 grandchildren and yours are depending on you.

EXHIBIT 1

[From the Washington Post, July 7, 2003]

CLIMATE CHANGE: THE SCIENCE ISN'T SETTLED

(By James Schlesinger)

Despite the certainty many seem to feel about the causes, effects and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science. My old professor at Harvard, the great economist Joseph Schumpeter, used to insist that a principal tool of economic science was history—which served to temper the enthusiasms of the here and now. This must be even more so in climatological science. In recent years the inclination has been to attribute the warming we have lately experienced to a single dominant cause—the increase in greenhouse gases. Yet climate has always been changing—and sometimes the swings have been rapid.

At the time the U.S. Department of Energy was created in 1977, there was widespread concern about the cooling trend that had been observed for the previous quarter-century. After 1940 the temperature, at least in the Northern Hemisphere, had dropped about one-half degree Fahrenheit—and more in the higher latitudes. In 1974 the National Science Board, the governing body of the National Science Foundation, stated: "During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade." Two years earlier, the board had observed: "Judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age." And in 1975 the National Academy of Sciences stated: "The climates of the earth have always been changing, and they will doubtless continue to do so in the future. How large these future changes will be, and where and how rapidly they will occur, we do not know."

These statements—just a quarter-century old—should provide us with a dose of humility as we look into the more distant future. A touch of that humility might help temper the current raging controversies over global warming. What has concerned me in recent years is that belief in the greenhouse effect, persuasive as it is, has been transmuted into the dominant forcing mechanism affecting climate change—more or less to the exclusion of other forcing mechanisms. The CO_2/climate-change relationship has hardened into orthodoxy—always a worrisome sign—an orthodoxy that searches out heretics and seeks to punish them.

We are in command of certain essential facts. First, since the start of the 20th century, the mean temperature at the earth's surface has risen about 1 degree Fahrenheit. Second, the level of CO_2 in the atmosphere has been increasing for more than 150 years. Third, CO_2 is a greenhouse gas—and increases in it, other things being equal, are likely to lead to further warming. Beyond these few facts, science remains unable either to attribute past climate changes to changes in CO_2 or to forecast with any degree of precision how climate will change in the future.

Of the rise in temperature during the 20th century, the bulk occurred from 1900 to 1940. It was followed by the aforementioned cooling trend from 1940 to around 1975. Yet the concentration of greenhouse gases was measurably higher in that later period than in the former. That drop in temperature came after what was described in the National Geographic as "six decades of abnormal warmth."

In recent years much attention has been paid in the press to longer growing seasons and shrinking glaciers. Yet in the earlier period up to 1975, the annual growing season in England had shrunk by some nine or 10 days, summer frosts in the upper Midwest occasionally damaged crops, the glaciers in Switzerland had begun to advance again, and sea ice had returned to Iceland's coasts after more than 40 years of its near absence.

When we look back over the past millennium, the questions that arise are even more perplexing. The so-called Climatic Optimum of the early Middle Ages, when the earth temperatures were 1 to 2 degrees warmer than today and the Vikings established their flourishing colonies in Greenland, was succeeded by the Little Ice Age, lasting down to the early 19th century. Neither can be explained by concentrations of greenhouse gases. Moreover, through much of the earth's history, increases in CO_2 have followed global warming, rather than the other way around.

We cannot tell how much of the recent warming trend can be attributed to the greenhouse effect and how much to other factors. In climate change, we have only a limited grasp of the overall forces at work. Uncertainties have continued to abound—and must be reduced. Any approach to policy formation under conditions of such uncertainty should be taken only on an exploratory and sequential basis. A premature commitment to a fixed policy can only proceed with fear and trembling.

In the Third Assessment by the International Panel on Climate Change, recent climate change is attributed primarily to human causes, with the usual caveats regarding uncertainties. The record of the past 150 years is scanned, and three forcing mechanisms are highlighted: anthropogenic (human-caused) greenhouse gases, volcanoes and the 11-year sunspot cycle. Other phenomena are represented poorly, if at all, and generally are ignored in these models. Because only the past 150 years are captured, the vast swings of the previous thousand years are not analyzed. The upshot is that any natural variations, other than volcanic eruptions, are overshadowed by anthropogenic greenhouse gases.

Most significant: The possibility of long-term cycles in solar activity is neglected because there is a scarcity of direct measurement. Nonetheless, solar irradiance and its variation seem highly likely to be a principal cause of long-term climatic change. Their role in longer-term weather cycles needs to be better understood.

There is an idea among the public that "the science is settled." Aside from the limited facts I cited earlier, that remains far from the truth. Today we have far better instruments, better measurements and better time series than we have ever had. Still, we are in danger of prematurely embracing certitudes and losing open-mindedness. We need to be more modest.

EXHIBIT 2

The Hon. PAUL MARTIN, P.C.,
Member of Parliament, House of Commons, Ottawa, Ontario.

DEAR MR. MARTIN: We understand from media reports that you believe that more consultation with the provinces should have taken place before moving forward with ratification of the Kyoto Accord. We would like to alert you to the fact that the current government neglected to conduct comprehensive science consultations as well. The statements by current Minister of the Environment David Anderson that Prime Minister Jean Chrétien's decision to ratify the Kyoto accord was based merely on a "gut feeling," not an understanding of the issue, clearly illustrates that a more thorough examination of the science should have taken place before a ratification decision was made.

If you are to lead the next government, we believe that a high priority should be placed on correcting this situation and conducting wide ranging consultations with non-governmental climate scientists as soon as possible in order to properly consider the range of informed opinion pertaining to the science of Kyoto.

Many of us made the same suggestion to the Prime Minister in an open letter on Nov. 25, 2002, in which we alerted Mr. Chrétien to the fact that Kyoto was not justified from a scientific perspective. That letter called on the government of Canada "to delay a decision on the ratification of the Kyoto Accord until after a thorough and comprehensive consultation is conducted with non-governmental climate specialists." It was explained to the Prime Minister that, "Many climate science experts from Canada and around the world, while still strongly supporting environmental protection, equally strongly disagree with the scientific rationale for the Kyoto Accord."

Unfortunately, the Prime Minister took no action on the issue and proceeded to ratify the accord without the government and the public having had the benefit of hearing a proper science debate on an issue that is sure to affect Canadians for generations to come.

We strongly believe that important environmental policy should be based on a strong foundation of environmental science. Censoring credible science out of the debate because it does not conform to a pre-determined political agenda is clearly not a responsible course of action for any government. Your openness to re-examining the recent approach to the Kyoto file encourages us to believe that you may also be open to reconsidering the way in which the scientific debate was suppressed as well. We certainly hope so. Although ratification has already taken place, we believe that the government of Canada needs a far more comprehensive understanding of what climate science really says if environmental policy is to be developed that will truly benefit the environment while maintaining the economic prosperity so essential to social progress.

In the meantime, we would be happy to provide you with more information on this important topic and, for those of us who are able, we would like to offer to meet with you personally to discuss the issue further in the near future.

Above letter signed by:

Dr. Tim Ball, Environmental Consultant, 28 years Professor of Climatology, University of Winnipeg.

Dr. Madhav Khandekar, Environmental Consultant, former Research Scientist with Environment Canada. 45-year career in the fields of climatology, meteorology and oceanography.

Dr. Tad Murty, private sector climate researcher. Previously Senior Research Scientist for Fisheries and Oceans; conducted official DFO climate change/sea level review; Former Director of the National Tidal Facility of Australia; Current editor—"Natural Hazards".

Dr. Chris de Freitas (Canadian), Climate Scientist and Professor—School of Geography and Environmental Science, The University of Auckland, NZ.

Dr. Vaclav Smil, FRSC, Distinguished Professor of Geography; specialization in climate and CO_2, University of Manitoba.

Dr. I.D. Clarke, Professor, Isotope Hydrogeology and Paleoclimatology, Department of Earth Sciences (arctic specialist), University of Ottawa.

Dr./Cdr. M. R. Morgan, FRMS, Dartmouth, Nova Scotia. Climate Consultant, Past Meteorology Advisor to the World Meteorological Organization and other scientific bodies in Marine Meteorology. Recent Research Scientist in Climatology at University of Exeter, UK.

Dr. Chris Essex, Professor of Applied Mathematics, University of Western Ontario—focuses on underlying physics/math to complex climate systems.

Dr. Keith D. Hage, climate consultant and Professor Emeritus of Meteorology, University of Alberta, specialized in micrometeorology, specifically western prairie weather patterns.

Dr. Kenneth Green, Chief Scientist, Fraser Institute, Vancouver, BC—expert reviewer for the IPCC 2001 Working Group I science report.

Dr. Petr Chylek, Professor of Physics and Atmospheric Science, Dalhousie University, Nova Scotia.

Dr. Tim Patterson, Professor, Department of Earth Sciences (Paleoclimatology), Carleton University, Ottawa, Ontario.

David Nowell, M.Sc. (Meteorology), Fellow of the Royal Meteorological Society, Canadian member and Past Chairman of the NATO Meteorological Group, Ottawa.

Dr. Fred Michel, Professor, Department of Earth Sciences (Paleoclimatology), Carleton University, arctic regions specialist, Ottawa.

Dr. Roger Pocklington, Ocean/Climate Consultant, F.C.I.C., Researcher—Bedford Institute of Oceanography, Nova Scotia.

Rob Scagel, M.Sc., Forest microclimate specialist, Principal Consultant, Pacific Phytometric Consultants, Surrey, B.C.

Dr. David Wojick, P.E., Climate specialist and President, Climatechangedebate.org, Sioux Lookout, Ontario/Star Tannery, VA.

Dr. S. Fred Singer, Distinguished Research Professor at George Mason University and Professor Emeritus of Environmental Science at the University of Virginia.

Dr. Richard S. Lindzen, Alfred P. Sloan Professor of Meteorology, Department of Earth, Atmospheric and Planetary Sciences at the Massachusetts Institute of Technology.

George Taylor, State Climatologist, Oregon Climate Service, Oregon State University, Past President—American Association of State Climatologists.

Doctorandus Hans Erren, Geophysicist/climate specialist, Sittard, The Netherlands.

Dr. Hans Jelbring—Wind/Climate specialist, Paleogeophysics & Geodynamics Unit, Stockholm University, Sweden. Currently, Manager Inventex Aqua Research Institute, Stockholm.

Dr. Theodor Landscheidt, solar/climate specialist, Schroeter Institute for Research in Cycles of Solar Activity, Waldmuenchen, Germany.

Dr. Zbigniew Jaworowski, Climate expert, Chairman of the scientific council of CLOR, Central Laboratory for Radiological Protection, Warsaw, Poland.

Dr. Art Robinson, Founder—Oregon Institute of Science and Medicine—focus on climate change and CO_2, Cave Junction, Oregon.

Dr. Craig D. Idso, Chairman, Center for the Study of Carbon Dioxide and Global Change, Tempe, Arizona.

Dr. Sherwood B. Idso, President, Center for the Study of Carbon Dioxide and Global Change, Tempe, Arizona.

Dr. Pat Michaels, Professor of Environmental Sciences, University of Virginia; past president of the American Association of State Climatologists and a contributing author and reviewer of the IPCC science reports.

Dr. Sonja Boehmer-Christiansen, Reader, Department of Geography, University of Hull, UK, Editor, Energy & Environment.

Dr. Robert C. Balling, Jr., Director—Office of Climatology, Arizona State University.

Dr. Fred Seitz, Past President, U.S. National Academy of Sciences, President Emeritus, Rockefeller University, New York, NY.

Dr. Vincent Gray, Climate specialist, expert reviewer for the IPCC and author of "The Greenhouse Delusion: a Critique of 'Climate Change 2001' ", Wellington, NZ.

Dipl.-Ing. Peter Dietze, energy and climate consultant, official scientific IPCC TAR Reviewer, Langensendelbach, Germany.

Dr. Roy W. Spencer, Principal Research Scientist, Earth System Science Center, The University of Alabama in Huntsville.

Dr. Hugh W. Ellsaesser, Atmospheric Consultant—four decades experience as a USAF weather officer and climate consultant at the Lawrence Livermore National Laboratory, CA.

Dr. Asmunn Moene, Former head of the National Forecasting Center, Meteorological Institute, Oslo, Norway.

Dr. Freeman J. Dyson, Emeritus Professor of Physics, Institute for Advanced Studies, Princeton, New Jersey.

Dr. James J. O'Brien, Professor of Meteorology and Oceanography, Center for Ocean-Atmospheric Prediction Studies, Florida State University. Co-chaired the Regional Climate Change Study for the Southeast USA.

Dr. Douglas V. Hoyt, climate consultant, previously Senior Scientist with Raytheon/ITSS; Broadly published author of "The Role of the Sun in Climate Change".

Dr. Gary D. Sharp, Scientific Director, Center for Climate/Ocean Resources Study, Salinas, California.

Prof. Dr. Kirill Ya. Kondratyev, Academician, Counsellor RAS, Research Centre for Ecological Safety, Russian Academy of Sciences and Nansen International Environmental and Remote Sensing Centre, St. Petersburg, Russia.

Dr. Paal Brekke—Solar Physicist, specialist in sun/UV radiation/Sun-Earth Connection, affiliated with the University of Oslo, Norway.

Dr. Richard S. Courtney, climate consultant, expert IPCC peer reviewer, Founding Member of the European Science and Environment Forum, UK.

William Kininmonth, Managing Director, Australasian Climate Research. Formerly head of Australia's National Climate Centre and a member of Australia's delegations to the Second World Climate Conference and the UN Intergovernmental Negotiating Committee for a Framework Convention on Climate Change.

Dr. Jarl R. Ahlbeck, Docent in environmental technology/science, Process Design Laboratory, the Swedish University of Finland, Biskopsgatan, Finland.

Dr. Lee C. Gerhard, Principal Geologist, Kansas Geological Survey; Adjunct Professor, Colorado School of Mines; Noted author and geological expert on climate history.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HARKIN are printed in today's RECORD under "Morning Business.")

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed out of order for not to exceed 12 minutes before the order to go into executive session.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that this not delay the rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may vitiate the second request that was granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

A FAST WAY AROUND THE CONSTITUTION

Mr. BYRD. Mr. President, I speak today on the subject: A fast track, a fast way around the Constitution.

Last Friday, I listened with great interest to the concerns that were raised in opposition to the free-trade agreements negotiated by the administration with Chile and Singapore.

Senators cited an abuse of Executive authority and the undermining of Congress' plenary powers. I was perplexed, to put it mildly—not at the arguments against such abuses by the Executive but at the fact that some Senators were only now waking up to the potential for such a power grab.

To those who now express concerns that the plenary powers of the Congress are under attack by this administration, I say that we have no one to blame but ourselves. The Congress inflicted this wound upon itself. We have plunged the knife into our own throats. It is our hands on the hilt of that knife.

I refer to the Congress' massively destabilizing decision to disrupt the balance of powers between the executive and legislative branches by granting fast-track trade negotiating authority to the President.

So many of the objections expressed last week in opposition to these free trade agreements have been raised before, time and time again on this Senate floor. Just last summer, they were raised by me, by our colleague Senator HOLLINGS, by our colleague Senator DORGAN; by our colleague Senator DAYTON, and others, warning of the abuse of Executive power we were inviting by handing over to the President the authority to regulate trade and international commerce.

We stood on this very floor and spoke to our colleagues, to the people in the galleries here and to the public across the land about what could be expected from the use of fast-track authority should such legislation be passed. We also spoke of the Constitutional ramifications of fast track. At the time, our expressions of concern apparently fell upon deaf ears.

Sixty-seven Senators, some of whom are now so urgently speaking in opposition to these free trade agreements pending before the Senate, voted to grant fast-track authority to the President.

I can pound my fist on my desk. I can shout with brass lungs. But, ultimately, it's not until it's too late, not until the Senate has been relegated to the sidelines, not until this Trojan horse has entered this sacred chamber that Senators begin to realize just what we have given away.

Shame on us!

This month, the administration submitted the free trade agreements it negotiated with the nations of Chile and Singapore. Included in those agreements are proposed changes to U.S. immigration and naturalization laws that would create what is effectively a permanent visa worker program for Chile and Singapore.

The trade agreements negotiated by the administration would unfairly lower the threshold for up to 1,400 Chileans and 5,400 Singaporeans to obtain American jobs. These foreign nationals could renew their worker visas indefinitely, year after year, with no limitation, while additional foreign workers enter the country to fill the annual numerical limitations for new visas.

Chilean and Singaporean nationals who enter the United States under these agreements would effectively be exempted from prevailing wage laws. Even though employers must attest that foreign workers will be paid the prevailing industry wage and not displace U.S. workers, the Labor Department would be prohibited from investigating and certifying these attestations prior to the worker entering the country.

Further, the Congress would have no recourse to remedy any injustice, either by setting numerical caps or requiring a Labor Department certification, without violating the trade accord.

With 9.4 million Americans out of work, and an economy that has stalled for America's workers, the administration's immigration proposals are perhaps the most egregious that I have seen in some time. They are a direct threat to American workers who have already been hit hard by the Bush administration's economic policies. And now, what jobs the administration has not yet destroyed are being given away to foreign labor.

It is not even clear under what authority the administration is proposing to make these immigration changes. The Trade Promotion Act provides no specific authority to the United States Trade Representative to negotiate new visa categories or other changes to our immigration laws. The Congress has not granted the administration any such authority.

To the contrary, since the September 11 attacks, the Congress has passed legislation requiring the administration to tighten our border security and visa entry system—to plug the holes that were exploited by the September 11 hijackers. And now the administration is trying to open the system all over again.

I doubt that these immigration provisions could survive outside of the expedited procedures of fast track, subjected to thorough debate and amendment by the House and Senate. But that may explain why they are in these trade agreements in the first place. After all, a free trade agreement is not subject to amendment. It is not subject to a thorough debate. Any committee action is token, at best. The Congress must approve or reject the trade agreement in 90 legislative days.

These trade agreements and their immigration provisions may only be a first step in setting a precedent where the administration can use free-trade agreements not only to propose changes to immigration laws but to isolate all kinds of controversial legislation from the Congress. Perhaps next time the trade agreement submitted will include changes involving our military defenses or our international tax laws or our foreign aid budget.

The possibilities are frightening to imagine.

The late-Senator Daniel Patrick Moynihan was fond of saying that the U.S. Constitution does not assume virtue in its rulers. It assumes self-interest. And it carefully balances the power by which one interest will offset another interest in order to protect against what James Madison called "the defect of better motives."

I am sure that many Senators who supported granting fast track authority to the President did so because of their support for this administration's free trade policies. But in pursuit of free trade, the Senate has given away its power to regulate trade and international commerce, and has flung itself into the abyss in which it now finds itself. If the Senate approves these treaties, the President, who is not the repository of all human wisdom, and is as vulnerable to "the defect of better motives" as any other mortal being, will have a free hand, without debate and without review, to dictate not only trade policy, but immigration policy as well.

The Framers of our Constitution would, I am certain, be appalled at how, time and time again, the modern-day Congress, under pressure from the White House political machine, yields its plenary powers to the executive.

We did it with fast track. We did it with the creation of the Homeland Security Department. We did it with respect to the war in Iraq.

The Senate has a duty to reject these trade agreements. Even those Senators who support the administration's trade policies must take a stand in support of something more important. The executive is, again, overreaching and the Senate must not, this time, acquiesce.

The Senate desperately needs to come to a better understanding and appreciation of our Constitution and the powers granted the Congress. It needs a better understanding of what exactly is at stake when we carelessly meddle with our system of checks and balances and the separation of powers. If we disregard the lessons learned from the colossal blunder of granting fast track authority to the President, we might just as well strike a match and hold that invaluable document to the flame.

We are entrusted with the safeguarding of the people's liberties. It is their Constitution. It is their Republic. It is their liberties that we have sworn to secure. If we continue to be careless or callous or complacent, it is their cherished freedoms that will go up in smoke.

EXECUTIVE SESSION

NOMINATION OF EARL LEROY YEAKEL III OF TEXAS TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the hour of 5:20 p.m. having arrived, the Senate will proceed to executive session for the consideration of Calendar No. 296, which the clerk will report.

The legislative clerk read the nomination of Earl Leroy Yeakel III of Texas to be United States District Judge for the Western District of Texas.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes for debate equally divided between the Senator from Texas, Mrs. Hutchinson, and the Senator from Texas, Mr. CORNYN, and 5 minutes for debate for the Senator from Vermont, Mr. LEAHY.

Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, are we going to have back-to-back votes for Judge Cardone as well as Judge Yeakel, or do we talk about each judge before their individual votes?

The PRESIDING OFFICER. There will be back-to-back votes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to speak on behalf of two Federal judge nominees for Texas. They are both for the Western District. Leroy Yeakel will sit in Austin; Kathleen Cardone will sit in El Paso, TX.

The Western District has the highest caseload of any district on the list of districts where judicial emergencies exist. It has been the No. 1 district in that regard. I am very pleased that we have two nominees to fill two benches in Austin and El Paso because we do need to be able to move these cases expeditiously. People are entitled to have their cases disposed of one way or another.

I am proud to speak for Lee Yeakel who has been nominated for the Austin vacancy. He has served as a justice of the Texas Third Court of Appeals in Austin since 1998. Prior to that, he spent 29 years in private practice in Austin, most recently as a partner with the firm of Clark, Thomas & Winters.

Lee earned his bachelor's degree from the University of Texas at Austin in 1966 and his law degree from the University of Texas in 1969. He earned a master of law degree from the University of Virginia in 2001.

He is also very active in the community. He serves on the boards of the Austin Rotary Club, the West Austin Youth Association, the Austin Choral Union, and the Committee for Wild Basin Wilderness.

I am very proud to know Lee Yeakel. I have known him for years. I have also known his wonderful wife Anne and their family. I am very pleased that the President nominated Lee Yeakel after Senator CORNYN and I recommended him. I know he will be a hard worker, and I know he will be an independent judge, one who looks at the law and decides cases based on the law and not based on his personal opinions. So I am pleased to recommend him to the Senate.

Mr. President, I also recommend Kathleen Cardone for the judgeship in the Western District of Texas. She will be sitting in El Paso. Kathy is a New York native who graduated from the State University of New York at Binghamton and St. Mary's School of Law in San Antonio.

After graduating from law school, Kathy clerked for a U.S. Magistrate for the Southern District of Texas, and then went into private practice.

She has the distinction of serving as the first judge for the 388th Judicial District Court, a new State court created in El Paso in 1999. She developed and founded the El Paso County Domestic Relations Office. This office serves as an intermediary between courts and litigants in family law matters. She also presided over the 383rd Judicial District Court in El Paso.

She has an excellent record of civic involvement. She is a member of the board of directors of the Upper Rio Grande Workforce Development Board and the El Paso Center for Family Violence. She is a past board member of the YWCA and the El Paso Holocaust Museum and Study Center. She has also been on the board of the El Paso Bar Foundation, the El Paso Mexican American Bar Association, and the Child Crisis Center of El Paso.

I think you can see that both of these nominees meet the high standards that we hold for Federal judges, both having been active in their communities and being well regarded by the bar.

I can say that both of these nominees were highly recommended by Democrats and Republicans and by their bar association membership. People who have worked with them recommend them highly, and I am very pleased with our nominations.

Thank you, Mr. President.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Justice Earl Leroy Yeakel to be a U.S. District Court Judge for the Western District of Texas.

Justice Yeakel has been a justice on the Texas Court of Appeals since 1998. For 29 years prior to his judicial service he was engaged in private practice, litigating both civil and criminal matters at the trial and appellate levels in state and federal courts.

While attending the University of Texas School of Law, he worked for the Austin law firm of Mitchell, Gilbert & McLean. Upon graduation in 1969, he remained at the firm as an associate counsel, participating in a broad range of litigation-related work. Five years later, Justice Yeakel started his own firm, where he remained until his departure in 1982. In the sixteen years that followed, he served as either an associate or partner in three prominent Austin law firms, litigating both civil and criminal matters at the trial and appellate level in state and federal courts.

Justice Yeakel has proven himself to be a distinguished legal scholar, author, practitioner and judge. He enjoys bi-partisan support and I am confident he will make an excellent federal judge. I commend President Bush for nominating Justice Yeakel and urge my colleagues to join me in supporting this nomination.

Mr. President, I am also in support of the nomination of Kathleen Cardone to be a U.S. District Court Judge for the Western District of Texas.

Since 1983, Judge Cardone has served as a state judge in El Paso County, TX, on numerous courts, including a municipal court, a family law court, and multiple state district courts. In addition to her judicial duties, she has worked as a trained mediator, as well as a teacher of an introductory law course at the El Paso Community College.

After graduating from St. Mary's School of Law in 1979, Judge Cardone worked for one year as a briefing attorney for Philip Schraub, a United States Magistrate Judge for the Southern District of Texas. Following this judicial clerkship, she entered private practice, handling an array of cases involving civil, criminal and family law matters.

Judge Cardone has proven herself to be a distinguished legal scholar, author, practitioner and judge. She enjoys bipartisan support and I am confident he will make an excellent federal judge. I commend President Bush for nominating Judge Cardone and urge my colleagues to join me in supporting this nomination.

The PRESIDING OFFICER. The Senator for Vermont.

Mr. LEAHY. Mr. President, today the Senate will confirm another two judicial nominees, bringing the total number of judicial nominees sent by President Bush to be confirmed to 140. With today's vote, the number of judicial nominees confirmed this year alone climbs to 40. That exceeds the number of judges during all of 2000, 1999, and 1997, and is more than twice as many judges as were confirmed during the entire 1996 session. It is more than the average annual confirmations for the 6½ years the Republican majority controlled the pace of confirmations from 1995 through the first half of 2001. Thus, in the first 7 months of this year, we have already exceeded the year totals for 4 of the 6 years the Republican majority controlled the pace of President

Clinton's judicial nominees and the Republican majority's yearly average.

Indeed with the confirmation of this 140th judge, the Senate has now confirmed in 2 years, from July 20, 2001 to July 28, 2003, more judges for President Bush than it was willing to consider during any 3-year period in which President Clinton's nominees were being considered by a Senate Republican majority.

A good way to see how much faster we are proceeding on judicial nominations for a Republican President than Republican Senators were willing to proceed for a Democratic President is to compare where we are on this date over the last several years. Over the last 6½ years of Republican control under President Clinton, the Republicans allowed only 20 judicial confirmations, on average, by July 28, and included only 4 circuit court nominees, on average, by this time. Today we will have doubled those benchmarks with the confirmation of the 39th and 40th judicial nominees, which have included 10 circuit court judges. The double standard that Republicans have used in their treatment of judicial nominees is evident from this chart.

On this day, in 1995, only 32 judicial nominations had been confirmed; in 1996, only 14; in 1997, only 9; in 1998 the confirmations totaled 33; in 1999, only 9; and in 2000 the confirmation total by this point of the year was 35. Today, we confirm the 40th judge so far this year. Vacancies in the courts stand at less than half of what they were during the Clinton years and we have more Federal judges serving than ever before.

We have already this year confirmed 10 judges to the Courts of Appeals. This is more than were confirmed in all of 4 of the past 6 years when the Republicans were in the majority—in 1996, 1997, 1999, and 2000. And in the 2 other years, the Tenth Circuit nominee was not confirmed until much later in the year.

Today, the Senate confirms Earl Lee Yeakel and Kathleen Cardone to the U.S. District Court for the Western District of Texas. Judge Yeakel has been serving on the Texas Court of Appeals since 1998, appointed by then-Governor Bush. Judge Cardone has served as a State court judge on different courts throughout the El Paso area since 1990. Both were just nominated on May 1, their paperwork was not complete until June, and they are being confirmed just a month later. This is another sign of how fair the Democrats have been to this President's nominees.

The Judiciary Committee has already held hearings for 6 of President Bush's nominees for the Western District of Texas alone and for 13 of President Bush's district court nominees from the State of Texas. Eight of those judges were given hearings and confirmed during the 17 months I served as chairman of the Judiciary Committee. That was nearly one judge for Texas every other month, in addition to the four United States Attorneys and three United States Marshals who were reviewed and confirmed in that period of time.

As I have noted throughout the last 3 years, the Senate is able to move expeditiously when we have consensus nominees. Unfortunately, far too many of this President's nominees have records that raise serious concerns about whether they will be fair judges to all parties on all issues.

Mr. President, I reserve the remainder of my time.

How much time do I have remaining on this side?

The PRESIDING OFFICER. Seventeen seconds.

Mr. LEAHY. How much time is available to the other side?

The PRESIDING OFFICER. Fifty-five seconds.

Mr. LEAHY. I yield back my time.

Mr. HATCH. Mr. President, I would like to briefly respond to the remarks of my democratic colleague on the state of the judicial nominations process.

We have heard a lot of statistics batted around about judicial confirmations. Some of them are accurate, some of them are dubious, but one of the more misleading ones I have heard is the claim that the score on President Bush's judicial nominees is 140 to 2. This is hardly the score.

First, there are more Federal appellate vacancies today, 18, during President Bush's third year in office, than there were at the end of former President Clinton's second year in office, 15. Almost one-third of President Bush's Federal court nominees have not been confirmed. There are 68 total vacancies on the Federal district and appellate benches, 32 of which are classified as judicial emergencies. We have worked to do, and we will continue to fill those vacancies. No raw number of confirmations means anything, in and of itself, while there are not one, but two filibusters of exemplary nominees going on now, potentially more to come, and emergency vacancies continued to exist. Are we supposed to be grateful that only a few of President Bush's nominees are being filibustered? Is there an acceptable filibuster percentage that the Democratic leadership has in mind? The mere fact that we have to ask these questions makes it crystal clear that we have a broken process. Even one filibuster of a judicial nominee is one too many.

As for the allegation that two nominees have been defeated, well, I for one would not be as quick as some of my Democratic colleagues to declare that the nominations of Miguel Estrada and Priscilla Owen have been defeated. We will continue to fight for the confirmation of these nominees and continue to file for cloture on their nominations. They are exemplary nominees who deserve to be confirmed.

And as for the implication that it is somehow acceptable to filibuster two judicial nominees in light of the others that have been confirmed, I must ask my Democratic colleagues who are leading these filibusters: Would you ever argue that it is permissible to break two criminal laws just as long as all the rest are being followed? Of course not. Nobody would make that argument any more then they would argue that it is permissible to disregard two of the constitutional amendments that comprise our Bill of Rights simply because there are eight others. The confirmation of other Bush judicial nominees in no way excuses or justifies the shabby treatment inflicted on Miguel Estrada and Priscilla Owen.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I join the senior Senator from Texas, Mrs. HUTCHISON, in commending to the Members of the body the nominations of Judge Lee Yeakel and Judge Kathleen Cardone. Both of these nominees are outstanding examples of the highly qualified nominees that President Bush has sent to this body for consideration and confirmation. They deserve these appointments. I have every confidence they will serve with distinction. I am proud of what they represent and the potential they have as well.

In the couple seconds I have remaining, I would like to respond to the ranking member's statements about how many judicial nominees this body has confirmed of those who have been sent by President Bush. I commend him and this entire body for confirming the number of judicial nominees that we have. But, frankly, two unconstitutional filibusters is two too many.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Earl Leroy Yeakel III, of Texas, to be United States District Judge for the Western District of Texas?

The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea".

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mrs. CLINTON), the Senator from North Carolina

(Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that if present and voting the Senator from Massachusetts (Mr. KERRY) and the Senator from Michigan (Ms. STABENOW) would each vote "yea".

The PRESIDING OFFICER. (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 307 Ex.]

YEAS—91

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Boxer
Breaux
Brownback
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—9

Bingaman
Bunning
Clinton
Domenici
Edwards
Kerry
Landrieu
Lieberman
Stabenow

The nomination was confirmed.

NOMINATION OF KATHLEEN CARDONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 304.

The legislative clerk read the nomination of Kathleen Cardone, of Texas, to be United States District Judge for the Western District of Texas.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The Senator from Tennessee.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1474 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. We are on the Energy bill.

Mr. DURBIN. Mr. President, I have an amendment pending on the Energy bill which addresses an issue I think should have been the first title of this Energy bill. This is an amazing bill and there is a lot of work that has gone into it.

S. 14 is entitled, "A Bill to Enhance the Energy Security of the United States," an ambitious undertaking. I think it is appropriate we are now spending this time debating this amendment and many aspects of it because we all know that energy is essential to America's future, to our economy, and to our environment.

If we do not do our best in the U.S. Congress to work with this Government and establish the right incentives for the production of energy, as well as the appropriate regulation of the use of energy, then the American economy and future generations will suffer.

The reason I offered an amendment to this bill, I was presumptuous enough to believe there is an element that has not been addressed. As I read this bill, I found there was a terrible omission. This bill does not address one of the major uses of energy in America today. Most people, most families, most businesses equate the use of energy with the electricity they use in their home but certainly with transportation. How did you get to work this morning? How are you going to pick up the kids? What are you going to use over the weekend to go shopping? How are you planning vacation? Almost without exception, each of those decisions involves the application of energy.

One would think an Energy bill that looks to America's future would not overlook this important element: Transportation and the use of energy for transportation.

Let me show a chart that indicates the amount of energy used for transportation as opposed to other sectors in America. This chart addresses U.S. oil demand by sector. The blue portion of the chart, which is the largest portion, shows over 40 percent of oil usage by the year 2000. Forty percent was for transportation, another small portion of about 15 percent was for industrial, another portion for residential-commercial, and a much smaller amount for electric generation.

If concern is about the use of energy and the use of barrels of oil, naturally one would focus on this chart and say this bill clearly must address this. S. 14 must address how we are going to reduce our demand for oil for transportation.

The honest answer is, the bill does not. How can you have a thorough analysis and a good legislative program addressing energy and ignore the fact that out of the 20 million barrels of oil we use each day, many of them from overseas, over 40 percent of them are related to the transportation sector? This bill virtually ignores it.

It is not that the words aren't in here but that the words have no teeth. The words are simply statements, little notes that we send out into space, saying: Wouldn't the world be better if we had more fuel efficiency? Wouldn't it be better if we had more conservation?

If you believe in the tooth fairy and Santa Claus, you will believe that these little notes tossed out into space are all we need to do here—just to give a speech on the floor, put an idea in a bill and hope that America finds it and, if they do, that they become inspired and show leadership and show the initiative.

I don't think that is the way it works. It has not worked that way in the time I have served on Capitol Hill, nor in our history.

Let's take a look from the beginning here at what we are dealing with. The vast majority of oil reserves, of course, are in the Middle East. This is an indication that 677 billion barrels of oil can be found in the Middle East as compared to 77 billion in North America. As a consequence, it is very clear that if we are going to have an oil-driven economy, we are going to find ourselves spending more and more time focusing on the Middle East.

People say, turn to Russia, turn to the former Soviet Union. Of course, that is not a bad idea. But the estimated reserves of oil in the Soviet Union are 65 billion barrels. It is the Middle East which has all the action, 677 billion barrels of oil.

Yet, in 1999, the United States and Canada consumed 3 gallons of oil per capita per day whereas other industrialized nations consumed 1.3 gallons per day and the world average was a half gallon a day. So when it comes to the consumption of oil, the United States, of course, leads the world, with Canada, dramatically.

If you take a look at how that oil is then used, as I mentioned earlier, from this chart you will find that cars, SUVs, pickup trucks, and minivans account for 40 percent or more of U.S. oil consumption; the transportation sector overall, about 60 percent.

When you talk about energy and America's security, how can you ignore this? How can you put together a bill as lengthy as this bill—let's see how many pages we have here. It is hard work by a lot of staff people and Senators. There are 467 pages. How can you have a 467-page bill addressing America's energy security and fundamentally ignore needs for fuel efficiency and fuel economy and conservation to reduce the consumption of oil in the United States?

I asked that question last night at a press conference in Chicago, which I am honored to represent. I said: If we are talking about dealing with energy, how can we miss this? How can we ignore the efficiency of vehicles?

This morning, I attended a funeral for former State Representative John Houlihan, of Palos Heights, IL. Before that, I dropped in for a cup of coffee at a local Dominick's supermarket, and a woman I didn't know came up to me and said: I listened to you yesterday. You are absolutely right. We have to do something about the gas guzzlers and fuel economy in the United States of America. Otherwise, we are going to need foreign oil forever.

She understands. She is a case in point. I don't know exactly what is her background. She appeared to be a suburban mom. Suburban moms have really been used a lot in this debate. Those who say we should do nothing, let the fuel economy continue to deteriorate in the United States, use women like her who are mothers with children going back and forth to school events and soccer events and basketball and baseball and all the things that consume your time, and they say: You can't take away that mother's SUV; it makes her feel safe.

The fact is there is some safety attached to SUVs. But, sadly, there are just as many studies that suggest they are dangerous because of rollover and because of the impact they have on other vehicles. They turn out to be a danger on the highway. So safety is one of the elements that is contested about these SUVs. But what is not contested is they are terrible gas hogs. They guzzle gas and give you very limited miles per gallon.

In talking to families around my State and other places, they said to us: We would like to have cars and trucks and light vehicles we can use that are going to be of service to our family, and safe, but we also want to see better fuel efficiency.

My amendment that I introduced would save a cumulative 123 billion gallons of gasoline over the next 12 years. If we allowed drilling in the Arctic National Wildlife Refuge, we would extract less than one-tenth of that in that same period of time.

The new rule handed down by NHTSA would save about 20 billion gallons of gasoline, or one-sixth of what my bill would save by 2015.

A lot of people were talking about fuel cell vehicles, hydrogen-powered cars, and the like. It is a wonderful concept. We should certainly explore it. But the President's goal for these fuel cell vehicles would achieve a savings of less than 10 billion gallons of gasoline by 2015. That is less than a tenth of what my amendment would achieve.

The annual survey by J.D. Power and Associates found fuel consumption was the second most common driver complaint industry-wide. Studies show that consumers could save as much as $2,000 over the lifetime of the car from higher fuel efficiency, even accounting for the cost of the new vehicle technology. My amendment would save $4 billion in fuel costs for consumers by 2015.

This is an indication of the fuel savings. Here are some of the options that have been brought to us in the Senate in the course of this legislation. There are those who argue if we went to 10 percent fuel cell vehicles, this could really help us have more efficient cars on the road. Look at the limited savings in billions of gallons from that.

Of course, there are those who argue if we could just drill for oil in the Arctic National Wildlife Refuge, go into an area that was set aside and supposed to be protected, take away the rules, open it for exploration, oil exploration, that would solve America's energy needs. Look at the limited amount of value that has in terms of the production that would come out of that area.

Then, of course, NHTSA, the National Highway Traffic Safety Administration, has some new rules that would also amount to some savings. But all of these are down here below 50 billion gallons of gasoline that would be saved.

Now take a look if we would go for the standard that I am asking for in this amendment. That standard would move us, by the year 2015, to cars and light trucks at 40 miles a gallon and to other vehicles at 27.5 miles a gallon. The difference in savings is just dramatic. That is why my amendment has been supported, not only by groups who are looking for energy conservation but also groups who are very concerned about the environment.

The United States produces a third of the greenhouse gases emitted from automobiles worldwide. A third of the world's production of greenhouse gases comes right out of the U.S.A.

These gases affect every aspect of our lives: Agriculture, public health, the economy, our sea levels, and our shorelines.

Do you know the No. 1 diagnosis of kids going into emergency rooms and hospitals across America today? It is asthma—asthma. Go to any classroom, you pick it, and ask the kids, as I do every time I step in the door—you pick the grade—how many of you have someone in your family with asthma? I guarantee you at least a fourth, maybe half of that class will raise their hands.

Why is this? There are a lot of reasons; it is not just one. But one of them has to do with air pollution, and air pollution has to do with the ignition and burning of fuel sources such as oil.

So if you have inefficient vehicles that burn more gasoline per 100 miles, and that is going to create more emissions, it is going to create more public health problems. That is very linear and very direct.

The greatest environmental impact is felt at the poles. And I am not talking about the election day polls; I am talking about the North Pole and the South Pole.

Scientists predict that polar bears could be extinct within 100 years if we don't address global warming. In fact, scientists say it could be 50 years. If they are right that this species of animal faces extinction within 50 years, this is what you can tell your children and grandchildren. Take a good look at a polar bear at the zoo because it may be the last one you will see on Earth.

Is this scare tactics? Is this the sort of thing we say? Why does the Senator raise that during the course of the debate?

What I am trying to suggest to you is that this isn't just about a piece of legislation. It isn't about an energy security bill. It is about rational thinking.

Rational thinking would suggest to us in the course of this debate that if America is going to be more energy secure, we should depend less on foreign oil. The biggest consumer of oil in America is transportation. If we are going to reduce the consumption and use conservation, we have to do something about the fuel efficiency of the cars and trucks that we drive. If we fail to do something about that fuel efficiency, we will need more foreign oil. We will consume more oil, and in burning it, we will create more emissions in the air polluting the environment.

I don't think there is a single thing that I just described that is a big leap of faith. I think this is linear reasoning from point A to another point B. But this bill we are considering doesn't even take this into consideration but for a very symbolic gesture exhorting future generations to really get serious about this.

Forgive me. Future generations will have their responsibilities but we have a responsibility today. We have a responsibility to make this a more secure nation from the energy viewpoint. We have a responsibility to require reasonable standards for the creation of better technology and for more fuel-efficient vehicles. Unfortunately, this bill doesn't do that.

The amendment I am offering would cut a cumulative 250 metric tons of greenhouse gas emissions by the year 2015. Otherwise, right out of the tailpipe of our cars and trucks will come these emissions leading to more greenhouse gases and leading to public health problems which we know exist.

Earlier today, one of my colleagues from Oklahoma came to the floor—and it is his right to make this argument—and argued that this isn't a problem. He argued that climate change never exists, and, if it does, it is really not that harmful. I don't know how you can reach that conclusion.

Basically, we have been talking to scientists who are studying this issue with objective attitudes. They tell us things that are true—the extinction of species, the loss of polar bears, and receding ice caps. As a result of the receding ice caps, polar bears are having fewer young. As a result, we can just plot it out. Over a period of time they will become extinct. We also know that glaciers are disappearing. In a matter of 25 or 50 years, all glaciers on Earth are threatened and could be gone. Why? Because the Earth is heating up ever so slowly but in a way that is tipping the balance of Mother Nature against us. Why? Because we can't accept our responsibility on the floor of the Senate to say to the automobile and truck manufacturers around the world that if you want to sell in the biggest market in America, you have to do better.

I listened to my colleagues on the other side of the aisle and they basically say you can't come up with these technologies.

DURBIN, you are dreaming. There is just no way you could reach 40 miles a gallon in our cars. Today we are barely getting a fleet average of 23 or 24 miles a gallon. There is no way that in 12 years you could reach 40 miles a gallon.

Let me tell you what we do know. In 2002, the National Academy of Sciences found that existing technology could improve the fuel efficiency of light trucks by 50 or 65 percent and the fuel efficiency of cars by 40 to 60 percent.

I am not an engineer. I used to think I could fix them. I gave up.

This chart shows some of the technologies that could be used that could literally lead to dramatic fuel savings. We are not talking about mopeds and people going around the United States on tiny little scooters. We believe that with some changes available today in technology we could have much more fuel-efficient vehicles with four-valve cylinders and variable valve timing.

Isn't it sad that when it came to these hybrid cars using gasoline and electricity, the first ones on the market were from Japan? I beg your pardon. As good as this Nation is, as smart as our people are, as many engineers as we have, why are we always running a distant second in developing technology?

There is promise that in a few years we will start seeing vehicles in America that have these type of engines. Thank goodness the Japanese did show the initiative. But we can do better.

What I hear from the other side is that it is impossible. The Durbin amendment is impossible. America is not smart enough to develop a fuel-efficient car, and don't put us to the test because if you do, we will lose; we will always lose to the foreign manufacturers.

When I hear this, it makes me angry. I do not see it that way. I look at how many foreign students want to come to the United States and learn. I know we have institutions of higher learning—some of the best in the world. Why is it that graduates of those institutions aren't going to work for the Big Three and other auto manufacturers to come up with the technologies to solve this problem?

I will tell you this. If my amendment is defeated, they won't have to. There will be no push to make these changes.

Let me show you one of the things that has happened. I think it is a positive thing. Let me give credit where it is due, having said the Big Three is a little slow to respond. Thanks to technology, many vehicles already exceed current standards.

Here is the Ford Focus station wagon—city, 27 miles per gallon; highway, 36 miles per gallon.

When I drive in Washington, DC, I drive a 1993 Saturn, a little car we bought used. It sure does run well. Two weeks ago, I took my wife down to North Carolina. It is about 350 miles in each direction. I put on the air-conditioner. It still works. I got 35 miles a gallon. It is possible. We don't feel like we are compromising for comfort. We drove that 10-year-old car and got 35 miles a gallon.

The Ford Focus has a station wagon. It is a little larger than what I drive: highway, 36 miles a gallon.

It can be done.

Hybrid technologies are already utilized in vehicles available today and point to the future. I talked about those earlier. Unfortunately, too many of those are made in Japan. The ones on the road today are the Toyota Prius, the Honda Insight, and the Honda Civic, cars that have 50 percent or greater improvement in fuel economy.

I want to give credit where it is due. A Republican colleague, Senator BOB BENNETT, drives a Toyota Prius. I have seen him in that car. If you have seen BOB BENNETT of Utah who is about 6 foot 4 or 6 foot 5, you ought to see him fold himself into that car and out again. But he does it. He said it is a great car. It is really fuel efficient. It even squeezes a little bit of his stature. Giving credit where it is due, he has one of those cars.

I believe Senator BOXER of California also has one as well.

Again, Ford, GM, Saturn, Chrysler, and others are talking about more cars like this.

It isn't as if what we are discussing is the impossible. It is attainable. Certainly over a 12-year period of time it could easily be attainable.

My amendment recognizes these technologies are real and can be put to use and can be expanded in American innovation.

I am not going to stand here and quietly let my colleagues wave the white flag of surrender saying that we could never develop the technology in America to be more fuel efficient. I don't buy it. I don't think this Senate should buy it either.

In 1975, those same voices of doom and despair came to the floor of the Senate and the House and said 14 miles a gallon is as good as it gets, and if Congress imposes a requirement to raise those to somewhere near 28 miles a gallon, it will never happen; that America can't come up with the technology; that the Japanese will beat us to the punch; that the cars won't be safe; that we will lose American jobs. The litany went on and on. Thank goodness, Congress ignored it. Congress had the courage to vote against it. Congress imposed standards to increase fuel efficiency, and they worked.

We increased over a 10-year period of time almost double the fuel efficiency of the fleet across America. And we can do it again.

My amendment would require cars, SUVs, minivans, and crossover utility vehicles to achieve a corporate average fuel economy of 40 miles per gallon by 2015 and would require pickup trucks and vans to achieve a CAFE standard of 27.5 miles per gallon by the same year.

In addition, this amendment starts to close some loopholes. It would fix the definition of passenger vehicles, so those large SUVs, such as Hummers, are no longer exempt from the CAFE law. Did you know that? Hummers are exempt from the CAFE law. They can get 2 miles a gallon and there is absolutely no requirement of the law they do better. And I think they are getting around 2 miles a gallon. It would also fix the definition of passenger vehicles so that SUVs, minivans, and CUVs are considered cars, not trucks.

I also offered a companion amendment we will debate when we get to the tax section of the bill which relates to tax incentives. My companion amendment would stimulate the market for more fuel-efficient vehicles by establishing a tax credit for the purchasers of vehicles that exceed the applicable CAFE standard by at least 5 miles per gallon.

This companion amendment also would modify the gas-guzzler tax levied on manufacturers by applying it to vehicles that are more than 5 miles per gallon below the applicable CAFE standard, including SUVs. So if you put a car on the road that is better than the standard, you get the tax benefit. If you don't, you pay a tax cost.

Now, I understand there is a controversy associated with this amendment. I have listened to some of the arguments made by critics of this amendment during the course of the day. They are certainly entitled to their point of view. I would like to address a few of the arguments.

Several of my colleagues came to the floor and said the Durbin amendment will cost consumers. The technology he wants to put in these cars will cost $1,200 or more per car on average. While this is true—I will concede the point—the Union of Concerned Scientists finds that consumers will realize a net savings of $2,000 over the lifetime of the car due to lower gasoline consumption.

So what do we get out of the deal? The consumers are ahead. It will cost $1,200 more for the vehicle, but there is $2,000 in savings. So there is a net gain of $800 per vehicle, on average, according to the Union of Concerned Scientists. There will be lesser dependence on foreign oil and fewer emissions coming out of the tailpipes as fewer gallons of gas will be consumed. So there are pluses they ignore.

They also argue the Durbin amendment will cause Americans to lose their jobs. The Union of Concerned Scientists finds that increasing fuel economy to 40 miles per gallon will actually create 180,000 new jobs. You may say, How can this amendment do that? Won't we just give up automobiles to the Japanese and others to produce them?

I certainly do not think so, nor do I believe that should be our standard of action around here.

We are going to consider a trade bill the first thing tomorrow, and one of the premises of this trade bill is that America can compete. If you don't believe America can compete, you certainly don't want to allow other countries to export to the United States.

Well, I believe we can compete, and we have proven it. So why do critics of this amendment want to throw in the towel right off the bat and say we are just going to lose all the way around? What they are ignoring is that the creation of new technologies will result in new jobs. These new technologies and new parts are going to have men and women working in good-paying jobs to create them. And the fuel efficiency that is involved is a savings to business. One of the costs of business, obviously, is fuel, as we have found when gasoline prices have spiked. If you bring down the cost of fuel by reducing consumption with more fuel-efficient vehicles, businesses can be more productive, and with that productivity have more competitive advantage and really employ more people.

The naysayers and people who want to hang the crepe in this debate just think it is all a loss—a very negative attitude.

Others argue this amendment is not necessary. There was an amendment earlier by Senator LANDRIEU of Louisiana. I voted for it. But that amendment, as I mentioned earlier—as good as it is, as well intentioned as it is—includes no new authorities to help reach the oil savings goal and no enforcement mechanisms to ensure the requirement will be fulfilled.

There is also an argument that the alternative amendment by my good friend CARL LEVIN of Michigan and CHRISTOPHER BOND of Missouri is based on sound science. Well, let me tell you, the National Academy of Sciences found that existing and emerging technologies are there to improve fuel efficiency. As I mentioned earlier, this report was written even before the hybrid technologies came to the market. So we know we can reach these goals if we just apply ourselves and set the standards.

The alternative amendment, which they are arguing for, does not require any increase in fuel efficiency. It delays it. It passes the buck to NHTSA and adds new roadblocks to the NHTSA's decisionmaking process. NHTSA has failed to make any meaningful increase in fuel economy for over 10 years. Its latest increase of 1.5 miles per gallon for light trucks is just a drop in the bucket, considering the standards were last changed for light trucks in 1985. And cars remain unchanged since then as well.

Another argument is that we are addressing fuel efficiency through the President's hydrogen fuel cell car. As I mentioned, this is several years to come and will not be as dramatic as those who argue against my amendment would have us believe.

So I say to my colleagues, when this amendment comes up for a vote tomorrow, there is a very real choice: either we are serious about energy or we are not; either we are prepared to say the three big automobile manufacturers in Detroit are going to continue to lose in competition or we are going to reach a different conclusion.

I think the men and women working for these companies are ready to rise to the challenge. I have seen them do it. I think the leaders of these companies need to be nudged because, frankly, they have a market today, a market where very few cars and vehicles are that profitable, but SUVs and light trucks are profitable. They don't want to rock the boat. They want to continue to build and put on the highways these monster cars of dubious safety that are continuing, frankly, to consume oil at rates that are not good for this country and certainly not good for our environment.

There are two ways to get more fuel-efficient vehicles—guess three. One of the ways is to rely on the hope, as some of the authors do in this bill, that someday Detroit will wake up to this need. And when they wake up to it, they will lead the American consumers into wanting more fuel-efficient vehicles. I don't think so. We have 18 years of experience to argue against that. We have seen CAFE standards and fuel economy declining over the last 18 years. Detroit showed little leadership. Cars that are innovative in this area, unfortunately, are not built in the United States.

There is a second way to do it. If you raised the price of gasoline tomorrow—doubled it tomorrow—I can guarantee you most families and businesses, by the end of the week, would be asking a question they have not asked in a long time: How many miles a gallon do we get in this car, anyway? If you started asking that question, and realized you have a gas guzzler, you might make a consumer choice next time. But raising gasoline taxes or gasoline prices comes at an additional cost to the economy.

For individuals, workers, and families, it means an added cost of getting up and going to work. I don't want to impose that cost, particularly in the midst of this recession, with so many jobs we have lost. And for small businesses, it is an additional cost of doing business to have new fuel costs. It will force them, perhaps, to lay off people. I don't want to see that happen.

But there is a third option, and that is this amendment. It has been proven. We did it in 1975. We established CAFE. That was not even a word in the law until 1975. We said we can do better. And we did better. That is what this amendment does.

I am honored this amendment has been supported by many groups, including the League of Conservation Voters, which has made it one of their key votes for this session of Congress. They understand, as well as the Sierra Club, Citizen Action, and a number of other groups across the United States that any meaningful and serious discussion of energy security for America must include the issue of fuel economy and fuel efficiency.

If we pass this bill without real language and real law that has teeth in it to improve fuel efficiency and fuel economy, we will have done a great disservice not just to the people we currently represent but to future generations and to the environment, which will be damaged because of our neglectful attitude.

I hope my colleagues will, at this point, look beyond the big, special interest groups that have come in and said: Please, stop the Durbin amendment; don't let him improve the fuel efficiency of vehicles. I hope they will listen, instead, to their own consciences and their own minds and hearts about what is at stake. We can make the right move for future generations. The adoption of this amendment will achieve it.

I hope my colleagues will join me in supporting this amendment.

Mr. HARKIN. Mr. President, I am pleased that my amendment to the Energy bill to create a demonstration program on production of hydrogen from renewable resources was adopted at the end of last week. The hydrogen title in the Energy bill contains a number of important provisions, many of which closely overlap with the Hydrogen and Fuel Cell Energy Act of 2003, which I introduced in April. Perhaps most important, it authorizes several significant demonstration programs for various applications of fuel cells. These programs are the critical next step in bringing hydrogen and fuel cells from the laboratory bench into widespread commercialization. They provide a realistic test of how the laboratory technologies work in the real world, and they provide funding for pre-commercial prototypes of the technologies, including starting to build a hydrogen fueling infrastructure.

However, there were no demonstration projects in the title on how we will obtain the hydrogen to run the fuel cells. The bill reauthorizes the Matsunaga Act to continue and improve research on a variety of hydrogen technologies, which we have been trying to enact for more than 2 years now. Elsewhere, the bill contains a massive and dubious subsidy for a nuclear plant in part to produce hydrogen, as well as support for production of hydrogen from coal, but there is nothing to demonstrate production of hydrogen from renewable resources.

Currently, most hydrogen is made by reforming natural gas. This is a relatively clean and efficient way to use natural gas. But there are still emissions of greenhouse gases and some pollutants. Equally important, use of natural gas for hydrogen continues our dependence on natural gas supplies. As the recent price runup on natural gas has shown us again, supplies of natural gas may not always meet demand, and prices can be volatile. I support use of natural gas to make hydrogen in the near future, but in the long run, hydrogen and fuel cells must help us reach an economy based on clean, domestic, renewable sources of energy.

This amendment will help us get there. It authorizes $110 million over 5 years to conduct demonstration programs on production of hydrogen from renewable resources. The resources might include biomass, such as switchgrass and ethanol, wind energy, solar power, and other sources. The program would help prepare a variety of emerging technologies for renewable hydrogen production for widespread use. These demonstration programs would be conducted using competitive merit review of funding proposals from a wide variety of companies and organizations, and they would require cost sharing from awardees.

Technologies that combine production of hydrogen with other activities show particular promise for clean, efficient production of hydrogen at this time. Two approaches are specifically included in the scope of the program. Biorefineries can make hydrogen, along with other products, from biomass. And in "electrofarming" the hydrogen is produced and used on the same farm or in nearby facilities. The hydrogen might be made by growing and reforming biomass, from wind energy, or from farm waste; it could be used in farm vehicles and equipment and for heat and electricity in farm buildings. By placing production and use together, this approach saves on transportation of the fuel or the hydrogen. It also avoids any large-scale energy facilities that might present security risks.

I am pleased this program will be in the portfolio of measures in the hydrogen title of the Energy bill that will help develop and commercialize hydrogen and fuel cell technologies, and turn into reality a vision of cars that don't pollute, of power that won't go out, and of feeling less dependent on an area of the world where we recently fought the second war in recent years.

Mr. BURNS. Mr. President, on behalf of myself and my colleague, Senator BAUCUS, I will offer an amendment to the pending Energy bill that will make it economically feasible to make improvements to and operate the Flint Creek Hydroelectric Project at Georgetown Lake in Granite County, MT. Specifically, this amendment limits the Federal Energy Regulatory Commission's, FERC, annual land use fee at the project to $25,000 for so long as Granite County, or the neighboring county, Deer Lodge County, holds the license to the project. This amendment is very similar to legislation which Senator BAUCUS and I introduced in the 104th Congress and which was reported unanimously from the Senate Energy Committee.

The Flint Creek Project does not currently generate electricity, nor will it without a limitation placed on the FERC annual land use fee. Under the status quo, FERC's annual fee for the project would be more than $83,000, an amount that simply makes the project uneconomic. The GAO recently released a report that concluded that the FERC generally sets land use fees too low for non-Federal hydroelectric projects located on Federal lands. In the case of the Flint Creek Project, the opposite is true.

The Flint Creek Project is more than 100 years old. It was operated by the Montana Power Company for many years. Since 1992, when it was transferred to Granite County, it has remained idle. In order to become operational again, it will require more than $2.3 million in investment. This includes building a new powerhouse that replicates the architectural style of the historic structure, installing new intake facilities, replacing the old woodstave line with a new low-pressure pipeline, new generation turbines, swiftgear equipment, stream flow control, data logging systems and a new substation and metering equipment to connect the project to the Northwest energy transmission grid.

All of this investment is necessary to get the Flint Creek Project up and running in an operationally efficient and environmentally responsible and safe manner. When these investments are made, the project will have an installed generation capacity of 2 megawatts. That translates into anticipated annual power sale revenues of between $300,000 and $350,000. Under the current FERC fee regime, however, the annual fee of $83,000 would amount to nearly 25 percent of the gross revenues of the project. With this kind of bureaucratic overhead, no one with an ounce of business sense would make the $2.3 million investment required to restart the project. My amendment reduces this annual fee to a level that fairly compensates the Federal Government for the use of its property, while at the same time encouraging investment in this project by assuming a modest rate of return.

As we sit here debating new mandates to diversify this Nation's energy portfolio and increase the amount of renewable electricity available for the marketplace, it strikes me that this is one small, site-specific yet beneficial way in which we can appropriately encourage new investment in clean, renewable electricity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE

Mr. DASCHLE. Mr. President, I wanted to touch on a couple of matters prior to the time we adjourn for the day. I have come to the floor now on several occasions to talk about the concern I have with regard to the schedule for the consideration of energy. We have a mere 3 or 4 days left before the August recess is supposed to begin.

As we debated the Energy bill last year, I can recall so vividly how frustrated many of us were with the length of time it took to work through the many very controversial issues.

Energy is controversial. At the end of the day, we, in spite of our frustration, passed a bill that ultimately acquired 88 votes. The vote was 88 to 11. Because we were persistent and because we stayed on the legislation, we were able to complete our work and ultimately get a strong bipartisan vote—88 votes.

That vote came after 24 days of debate, over the course of 8 weeks. We considered 144 amendments. At the end of that period of time, people felt as if they had their say. They had been able to offer their amendments. They expressed themselves and ultimately voted for the bill by an overwhelming margin.

Unfortunately, so far, we have not been able to allow the Senate to work its will in that way with the pending energy legislation. We have been on it 12 days. We have only had 12 rollcall votes. So we have averaged one rollcall vote per day. We have considered 35 amendments, but, as I say, only 12 of those actually required rollcall votes.

So we find ourselves now, at the end of the first day of the final week before the August recess, where we only saw the new electricity title on Friday—Friday night. I must say, that amendment alone—the electricity title—with all of its extraordinary geographical repercussions, poses very serious challenges to the Senate as we try to resolve the differences. So we have an electricity title that, I assume, could be laid down tomorrow. There will be amendments offered to the new electricity title because we know that, on a bipartisan basis, there is still a great deal of concern about it.

We have not dealt with global warming. That, too, is going to generate controversy and amendments. There are also the issues of the Renewable Portfolio Standard, CAFE standards, hydroelectric dam relicensing, Indian energy, nuclear subsidies, and natural gas. In my part of the country, in South Dakota, natural gas alone warrants all the attention of the Senate to absolutely assure that we somehow can acquire available supply and stabilize price. There are also energy efficiency incentives, wind energy, carbon sequestration, exploration in the Outer Continental Shelf and, of course, the energy tax package.

All of those issues have yet to be resolved. That was why on the last day prior to the July 4 recess I came to the floor to say if we are going to finish this bill, we better return to the legislation almost as soon as we come back because it will take that amount of time to accommodate the legitimate debates that must be a part of consideration of this comprehensive bill. Well, that has not happened.

Now we find ourselves in the last week before the August recess with, I am told, over 380 amendments pending. Somehow there is an expectation that we can finish. I can hear, perhaps, the charge at the end of the week that, well, the Democrats just didn't want to finish the bill. Opponents just didn't want to deal with it. So they were dragging it out.

I must again insist that there is no desire to drag this out. There are many very deeply held feelings about many of these issues because they affect the pocketbook and ultimately the very security of a vast number of people in this country whose reliance upon energy is perhaps as consequential as their reliance on food or anything else. It is a commodity that we must have. So, clearly, we want to resolve these issues. But we are not going to be jammed. We are certainly not going to treat lightly or minimize the consequences and the extraordinary importance of these issues as we continue this debate.

I told the distinguished majority leader a few hours ago that I was in favor of grinding this out, trying to find as many ways to take up these issues and deal with them as we can. But nobody should be surprised if, at the end of the week, given the complexity and importance of these issues, that we have not completed our work. One of the reasons we have not completed our work, so far, is because we have had some other issues that have been the focus of attention in the Senate. One of those was the supplemental that passed. I want to comment on that briefly as well.

On July 8, President Bush proposed a supplemental for $1.9 billion that consisted of three very critical parts: $1.55 billion for FEMA disaster assistance; $289 million for Forest Service and Bureau of Land Management to cover the costs of fighting wildfires all over this country; and $50 million for NASA's investigation of the Challenger disaster. The Appropriations Committee supported the President's request, but they added one more thing. On a bipartisan basis, and with the approval and support of the White House, they added an additional $100 million to head off a looming funding crisis that would force AmeriCorps to cut from its rolls 15,000 volunteers. The committee's decision to add AmeriCorps' funding to the package was affirmed on the floor by a vote of 77 to 21 to defeat an amendment to strip out AmeriCorps' funding, and then by a vote of 85 to 7 to support final passage of the underlying legislation.

So we went into conference with our colleagues in the House with every expectation—given the President's support, given the overwhelming bipartisan vote on AmeriCorps and these other key issues, but most importantly, given the urgency that is evident to anybody who knows the circumstances—that before the House adjourned, we would have voted on all four of those components. Instead, for reasons I can only begin to imagine, the House Republican leadership cut nearly $600 million from the President's request for FEMA disaster assistance. The result is that with that cut, we are told today that disaster assistance funds could run out before we come back in September. You are going to have States all over this country needing disaster aid, and it will not be available because those funds were eliminated.

They also eliminated all the money that we need to fight wildfires. We have a fire that has now consumed over 2,500 acres just on the Wyoming side of the South Dakota border. To my knowledge, it still burns out of control. As a result of the funding cut, we may not have adequate funding to fight the fires that we know will occur in August, and perhaps in September, as a result of the elimination of this $289 million. The money will not be there.

And then, of course, the money for AmeriCorps was eliminated as well. Hundreds of worthy programs, serving tens of thousands of Americans, are going to be terminated because the AmeriCorps volunteers will be without funding.

Mr. President, the state of affairs, and the reasons for the actions taken in the House, are simply unacceptable. We have to find a way this week to resolve these outstanding questions.

I do not know what could be more important than ensuring that as these fires burn out of control, we are going to get the necessary resources to the Federal agencies so they can get needed resources to the sites of the disaster. That is true of FEMA. It is true of AmeriCorps. And, I must say, I am troubled with the message it sends about *Challenger*. It ought to be true of our commitment to find ultimately a successful conclusion to the NASA investigation of *Challenger* as well.

Mr. President, I did not hear his remarks on the Senate floor, but the distinguished Chair of the Appropriations Committee expressed himself very clearly this afternoon, and it is my desire to work with him and others to see that we find a way to resolve this issue successfully. We cannot leave this week with the extraordinary message we would be sending to the entire country about FEMA, about forest fires, about the *Challenger* disaster, and about AmeriCorps.

We have to find a bipartisan solution, just as we did earlier this month, to address those matters prior to the time we leave. The majority leader has noted that he feels so strongly about the Energy bill that we should not leave before we finish the Energy bill. I will say, we should not leave before we have resolved this crisis in funding for these four agencies. I hope on a bipartisan basis we can say that, we could reassert ourselves, or we could assure that somehow this matter can be resolved.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Alabama is recognized.

PRISON RAPE ELIMINATION ACT OF 2003

Mr. SESSIONS. Mr. President, I wish to say a few words about legislation that just cleared the House. It is something I think is healthy and good. It is the Prison Rape Elimination Act of 2003. I worked with Senator KENNEDY to hammer out legislation that I think is important. We have different political philosophies, but we have come together on this issue. Also, in the House, Congressmen FRANK WOLF and BOBBY SCOTT worked together to move the legislation through their body. As a Federal prosecutor for 15 years and as an attorney general for Alabama, I sent many guilty criminals to prison where they belong. I believe they should be treated fairly in court, and I treated them fairly. I also believe they should be treated fairly in prison.

Most prison wardens and sheriffs are outstanding public servants. They do a fine job of supervising inmates, and I respect them and commend them for the work they do. However, knowingly subjecting a prisoner to a circumstance where they could be sexually assaulted, and raped, is cruel and unusual punishment, clearly, under the eighth amendment to the Constitution.

Some States have estimated as many as 10 percent or more convicted offenders have been subject to sexual assault in prison. One study said 13 percent and another study said 14 percent. I hope these statistics are an exaggeration and frankly, I think they may be an exaggeration. Nonetheless, it is the duty of government officials to ensure that criminals who are convicted and sentenced to prison, serve the sentence imposed by the judge, but not additional sentence of sexual assault. Rape is not a part of any lawful sentence.

I am also concerned when I see television programs, movies, and read books that constantly suggest that any young person sent to prison is going to be sexually assaulted. I have never believed that to be true, but I have not doubted some of it occurs. None of it should occur.

As a prosecutor, I had a policy that I would talk to any mother or close family member of any person who was convicted in my court. Many of them told me of their concerns about sexual assault in prison based on what they had seen on television and what they had read in books.

This bill will deal with the issue in three ways. It establishes a national commission to study prison rape at the Federal, State, and local levels and, after 2 years, to publish the results of the study and make recommendations on how to reduce prison rape.

Second, the bill directs the Attorney General to issue a rule for the reduction of prison rape in Federal prisons. That is what we have direct responsibility for in this body, Federal prisons. To avoid a reduction in certain Federal funds, each State should certify it has adopted or is in compliance with the standards set forth in the Attorney General's rules for improvement in this area. If a State is not in compliance, it can use the 5-percent money that they would otherwise lose to work on this problem. If they do that, they will not end up losing any money, but it will be a way of us saying: If you are going to continue to draw Federal money, take this issue seriously.

Third, the bill will require the Department of Justice to conduct statistical surveys on prison rape for Federal, State, and local prisons and jails. Further, the Federal Government will select officials in prisons with the highest incidence of prison rape and with the lowest incidence of sexual assaults and have them come to Washington to discuss the problem and testify.

The bill provides grants of up to $40 million to States for the prevention, investigation, and prosecution of prison rape. We find very little prosecution of these cases for prison rape. It will help the States reduce repeat offenses.

A broad and bipartisan array of organizations and institutions have added their support to this bill; for example: The American Psychological Association; Camp Fire USA; Center for Religious Freedom, Freedom House; Christian Rescue Committee; Citizens United for Rehabilitation; Focus on the Family; Good News, United Methodist Church; Human Rights Watch; Justice Policy Institute; Lutheran Office for Governmental Affairs; National Association of School Psychologists; National Association of Evangelicals; National Association for the Advancement of Colored People; National Council for La Raza; National Network for Youth; National Mental Health Association; Marvin Olasky, the author and editor; Partnership for Responsible Drug Information, Presbyterian Church USA; Religious Action Center; Prison Fellowship—that is Chuck Colson's group that has been active in working on this issue—the Salvation Army; the Southern Baptist Convention; Unitarian Universalists for Juvenile Justice; Volunteers of America; and Youth Law Center.

I also thank Linda Chavez and Mike Horowitz for the ideas that started this legislative initiative. Well-conceived and carefully crafted ideas drive many legislative and political initiatives that become law after people work together to form a bipartisan, moral position.

I commend the hard work of Bill Pryor, the attorney general of Alabama, who worked with us on this issue and testified in favor of it. He cares about the individuals who are in prison, having put a lot of them there himself, and he demands fairness in how the prisoners are treated.

I also compliment my Senate staff person, Andrea Sander, for her excellent work in this matter.

This bill will address prison rape, not through unfunded mandates but by studying the problem and figuring out how to address these needs. It is time for us to confront this issue, to deal with it, and put it behind us. Mothers should not have to worry that their children are going to be sexually assaulted in prison. That should not occur. I believe we can do better. This bill will be a major step in that direction, and I salute Senator KENNEDY for his leadership in helping us make this happen.

I thank the Chair and yield the floor.

Mr. SESSIONS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DARPA AND THE FUTURES MARKET

Mr. DORGAN. Mr. President, we are on the Energy bill, but I wish to take a moment, inasmuch as my colleague from Wyoming has finished his statement, to speak on another subject. This morning my colleague, Senator WYDEN from Oregon, and I had a press conference disclosing something that is going on in a small corner of the Department of Defense. It is pretty disconcerting.

I should say at the outset that over recent months, Senator WYDEN and I have tried to put together a little project dealing with Government waste. Both of us believe very strongly Government does a lot of things to improve people's lives. It funds education and highways and provides for this country's protection and defense. There are a lot of things the Government does that are important to our daily lives, but when there is waste of money in Government, it is appalling.

We have discovered in a small corner of the Pentagon something that is going on that ought to be stopped immediately: In three days, a program sponsored by an agency in the Pentagon called DARPA will begin to allow sign-ups for the creation of a futures program for people to buy and sell futures contracts. It is an approach to try to use the market system to predict future events in the Middle East, they say.

I encourage people to go to their Web page and take a look at it. They say, for example, they will create a futures market in which buyers and sellers will make judgments and price futures contracts on predictive events such as: Will Mr. Arafat be assassinated? Will the King of Jordan be overthrown? Will there be a bioterrorist attack against the country of Israel?

I told someone about discovering that this was going on at the Pentagon. They said I am clearly wrong about that; there is not any way the Pentagon can be setting up a futures contract system in which people will make bets on the Internet about whether some leader will be assassinated or whether there will be a bioterrorist attack.

The answer is, they are wrong. That is exactly what is happening. I say to anybody who wonders about it, go to the Internet. It is unbelievably stupid as a public policy, in my judgment, to think that real intelligence can be replaced by a betting system involving people connected to the Internet around the world; that you can replace real intelligence with a so-called market-based system in which presumably informed buyers and sellers would make bets, wagers—they call it futures contracts, but in fact it would be wagers—on whether a foreign leader would be assassinated, on whether there would be a bioterrorist attack, on whether North Korea would launch missiles.

I am using all of these examples because they are on the Internet site sponsored by the Department of Defense. This is real. I thought immediately, this clearly must be someone who went to The Onion and it is a spoof.

No, it is not. One does not find this on The Onion. They find it on an Internet site sponsored by DARPA at the Department of Defense, saying they are going to create this system and the sign-up starts August 1. The trading on futures contracts on these kinds of questions trying to be predictive about future events in the Middle East will begin on October 1, and they hope to ultimately have 10,000 traders. It is the most Byzantine, harebrained scheme I think I have ever heard coming from Government.

I say to DARPA, and to Admiral Poindexter, who I understand is running this program: Stop it. End it.

If not, we will try to end it in the appropriations process.

The Department of Defense does a lot of wonderful things. I have great admiration for them, and I serve on the Defense Appropriations Subcommittee. But putting together a program for trading of futures contracts on the kinds of propositions I have just mentioned—assassinating leaders, bioterrorist attacks—is not a project that warrants any credibility at all. It is a tragic waste of the taxpayers' money. It is offensive and, in my judgment, it will have no value to anyone.

My hope is that Senator WYDEN and I will have convinced the Pentagon today that enough is enough. Stop this kind of nonsense.

REPATRIATION OF CUBANS INTERDICTED ON THE HIGH SEAS

Mr. NELSON of Florida. Mr. President, I call to the attention of the Senate, and specifically to the Foreign Relations Committee, the question of whether or not longstanding policy has been changed by the administration with regard to the repatriation of Cubans interdicted on the high seas.

As we know, since 1995 we have had an understanding with the Castro Cuban Government that when Cubans are interdicted on the high seas, they will be returned to Cuba and they will not be imprisoned.

Clearly, we saw a change with the hijacking of a ferry boat a couple months ago. They were returned to Cuba, and without a trial they were summarily executed.

Naturally, this has made us much more sensitive to the question about these very brave citizens of Cuba who are trying to flee the Castro regime. So it brings up the instance of 2 weeks ago.

Three dock security guards were overpowered. A boat was stolen by some dozen Cuban citizens. On their way across the Straits of Florida, they were interdicted by the U.S. Coast Guard. In returning them, it appears there was a negotiation by our Government with the Castro government that they would receive prison sentences of up to 10 years at the discretion of the Cuban Government.

This appears to be a subtle change in policy. Was it a hijacking? It was the stealing of a boat. But the long and the short of it is, the U.S. Government was negotiating directly to send these Cubans going back to Cuba into a prison sentence that could be as much as 10 years. I do not think this is right.

Under these circumstances, it seems to me that at least the U.S. Government, this administration, should have considered the alternative of a third country for these people. Having been sent back, to go back into Castro's prisons, you know their fate.

I am asking Senator LUGAR and Senator BIDEN of the Foreign Relations Committee to investigate this matter. Let us determine if this is really in the best interest of what we are trying to achieve when people are leaving a repressive dictatorship, seeking freedom, and then it appears that the U.S. Government is negotiating their own prison sentence. I do not think that should be the policy of the U.S. Government.

THE BILL SCHERLE POST OFFICE

Mr. HARKIN. Mr. President, I am very pleased that the Senate and the House of Representatives have passed S. 1399, legislation that names the Glenwood, IA Post Office for former Iowa Congressman William J. Scherle. I understand that the President will soon sign that measure—I hope this week.

Congressman Bill Scherle—or Bill, as his friends call him—and his wife Jane live on their family farm just outside of Henderson, IA, in Mills County. Glenwood is the county seat of Mills County. Bill served 4 terms in the U.S. House of Representatives, beginning with 3 terms in 1967 in what was then Iowa's 7th Congressional District, and a term in the redistricted 5th Congressional District. I think it is appropriate that Glenwood's Post Office will soon permanently bear Congressman Scherle's name.

Bill long served this Nation. He started with military service in the navy and Coast Guard during World War II, then afterward served in the Naval Reserve. He chaired the Mills County Republican Party for almost a decade starting in 1956. He served in the Iowa legislature from 1960 through 1966. He then was elected to the U.S. Congress and served through 1974, including service on the Education and Labor Committee as well as on the Appropriations Committee. His public service continued in 1975 and 1976, when he was appointed to a senior position at the Department of Agriculture.

In January 1968, North Korea seized the USS *Pueblo*, imprisoning and torturing the crew. Congressman Scherle led the effort in Congress to free the crew of the *Pueblo*. I have always admired Bill's tenacity in never letting the *Pueblo* crew be forgotten. Bill was the only member of Congress invited to attend *Pueblo* reunions, and, as their health has allowed, Bill and Jane always have attended.

Bill and I are at different places on the political spectrum, and I ran against him for Congress twice. He won the first time, and I won the rematch. We disagreed on many issues, but I always understood that he acted on the basis of strongly held views about what he considered were the best interests of those he represented and of the Nation.

Long after we ran as opponents, I got to know Bill and visited on his farm. He is a good person who cares deeply about his community and rural America. Politics has always had a certain amount of rough and tumble.

But while Bill was certainly a good Republican who wanted to see consistent victories for the GOP, he also could see the good in all people.

One area of our mutual interest was the Iowa School for the Deaf in Council Bluffs. Bill always did what he could for the school my brother attended years ago, and for deaf people in general.

Congressman Scherle always cared about children and their welfare. He wrote a children's book, "The Happy Barn." He gave away thousands of copies to schools, hospitals and individual families in Southwest Iowa and the Omaha area, reading to young children time after time. He had lots of fun reading to children, and I believe that there are few more valuable things we can do as adults than to read to children and get them started on that most important activity.

Bill was a businessman and farmer, proud of both professions. He received the Alegent Health Mercy Hospital Heritage Award for his contributions to business in Southwest Iowa.

Bill Scherle remains a good father to his two sons, and a good husband to his wife of 55 years, Jane. He is blessed with six grandchildren—five girls and a boy. Bill has lived a dedicated life, full of patriotism, family and public service. I am please that my colleague, Senator GRASSLEY, joins me in sponsoring this legislation. Congressman KING introduced the companion legislation in the House of Representatives, which was cosponsored by the entire Iowa delegation.

I thank my colleagues for helping us all to honor Congressman Bill Scherle, and I look forward to hearing that the President has signed this bill—hopefully this week.

Mr. DORGAN. Mr. President, the Senate will be asked to approve two free-trade agreements with respect to Singapore and Chile. I expect the Senate will approve both trade agreements by very wide margins. I intend to oppose both and wanted to explain why. It is not the case that I believe a free-trade agreement with Singapore is inappropriate. It is not the case that I believe a free-trade agreement with Chile is inappropriate. It is the case, however, that this country has a trade regime that is in total chaos and it is a significant mess.

For 20 years, under Republican and Democratic administrations, we have seen our trade deficit ratchet way up. We now have the largest trade deficit in human history that has occurred anywhere on the globe. It has been rising very rapidly. Instead of fixing the problems that exist in international trade and demanding fair trade and demanding from our allies fair trade treatment and doing something to prevent the erosion of American jobs which, incidentally, are now moving overseas at a rapid pace, we have trade negotiators rushing across the world trying to do new agreements.

I say fix the old agreements before we start running around doing new agreements. The reason we are going to consider new agreements today under something called fast track is that Congress decided to handcuff itself and agree to a procedure by which no amendments will be able to be offered to either free-trade agreement.

Singapore is a tiny nation of 3 million people a half a world away. We already have a very favorable trade relationship with Singapore. It has little manufacturing and little agriculture. It is wide open to imported goods. Singapore is not an example of a trade problem for us. So it does not matter much to me whether we have a free-trade agreement with Singapore.

The trade ambassador has brought us an 800-page free-trade agreement with Singapore. But demonstrative of the problem we have created for ourselves is a small provision in the free-trade agreement with Singapore that provides an authorization for the opportunity for Singapore to send to our country 5,400 people under a visa program to take jobs in this country.

Normally that would be a circumstance that would be dealt with by other committees in Congress, in which we evaluate how many people do we want to come in under a visa to work in this country, but instead this has been negotiated in a foreign-trade agreement negotiation somewhere, perhaps most of it overseas, certainly behind closed doors, inevitably in secret, and they put an immigration provision in this proposal. The immigration provision would allow 5,400 immigrants to come from Singapore to the United States to take jobs in the United States.

Think of this for a second. We have 8 to 10 million people out of work, desperate for jobs, needing to go to work, who cannot find a job in this country. We read a story every day in the major newspapers about someone who has hundreds of resumes out, they spend all day desperately trying to find a job because we have lost 2½ million jobs in the last couple of years.

It is not as if our economy is growing by creating new jobs. To the extent there is any growth at all, it is jobless growth in this country. Some have made the point that, no, there are jobs attached to this growth, it is just that jobs do not exist in the United States. The growth occurs here in terms of profits and economic expansion of sales and profits, but the jobs attached to that growth are in Bangladesh, Indonesia, China, and elsewhere.

So if we have a jobless expansion, which we have, having lost 2½ million jobs in the last couple of years, and we have people desperately searching for jobs, and then we get a free-trade agreement brought to the Senate floor our trade ambassador negotiated with Singapore, and deep in the bowels of that agreement is a provision that says 5,400 people from Singapore will come to this country to take jobs in this country and we ask the question: Why? Why would we do that?

So then the immediate instinct is, if there is a provision in this free-trade agreement with Singapore that is that odious, then let's get rid of it by offering an amendment. Dump it. The problem is, fast track means trade agreements brought to the Senate floor prevent any Member of the Senate from offering any amendment under any circumstance.

This Congress foolishly decided that it would straitjacket itself and whatever is negotiated anywhere by our trade ambassador and brought back in the form of a trade agreement, we will agree that we will be prevented from offering an amendment.

So we will vote on this. The majority of the Senate will vote yes to free trade with Singapore, and yes to 5,400 immigrants from Singapore to come to this country to take American jobs. I am not going to vote for that. Once again, the lesson is, those who believe fast-track trade procedures make sense ought to think again.

Also, this trade agreement with Singapore provides for transshipment. It provides for transshipment of high-tech products from anywhere, China, Burma, Indonesia, if they are transshipped through Singapore to the United States to get the full benefit of the Singapore free-trade agreement.

Singapore is already one of the largest transshipping points in the world. Should we be negotiating trade agreements that encourage transshipment so we do not know the origin of shipments to this country of high-tech products or others? I do not think so.

I understand, interestingly enough, that a bipartisan group of my colleagues will offer a resolution on the immigration piece that is in the free-trade agreement. The resolution is going to be a sense-of-the-Senate amendment. I think I was asked if I put my name on it. I am happy to put my name on it, but it does not mean anything. It is beating someone over the head with a feather.

It is a sense-of-the-Senate resolution that says: You better watch it; you should not have done this. But it cannot be more than a sense of the Senate because we cannot take out this provision. This provision is stuck in the trade bill and we cannot get it out. This Senate has already agreed we will not allow amendments.

I didn't vote for that; I voted against it. But the majority of this Senate says: Let us line up so we can be subservient to the trade ambassador—whoever it is, Republican or Democrat—and agree whatever they negotiate in secret overseas that affects American jobs, count us out. We will not be able to offer amendments. That is just fine with us.

Apparently, these are colleagues who have forgotten what is written in the Constitution of the United States. The Constitution clearly says that trade is the Senate's responsibility, not anyone else's; not the President but the Senate.

Fast track trade agreements have been disastrous for this country. This chart shows the runaway deficits we have experienced.

It does not matter which administration is in office. A person could be blindfolded and listen and cannot tell if it is a Republican or Democratic administration. They all say the same thing: all we care about is getting another trade agreement. Meanwhile, we had $470 billion in the year 2002 in merchandise trade deficits. Is that alarming to some? One cannot detect it in the Senate. No one seems to care much about it. There are only two or three Members who talk about this, and we are considered the xenophobic isolationist stooges that do not get it.

What I get is this country fought for a century for a series of things that make life better in our country. There are people who died in the streets of America for the right to organize in labor unions. We fought about child labor laws, saying you should not work 12-year-old kids 12 hours a day in a coal mine or manufacturing plant. We fought about prohibiting companies from dumping chemicals into the air and the water. We fought about safe workplaces, believing the American workers have a right to work in safe workplaces. We fought about all those issues for a century.

Now some have decided you can pole-vault over all of that by producing what you want to produce elsewhere, where you do not have to worry about hiring children, where you do not have to worry about clean air and clean water. You do not have to worry about safe workplaces. You could prohibit all workers from organizing any bargaining unit. We have decided that is OK, let companies do that. They pole-vault to China or Indonesia or Bangladesh, produce there but sell here.

The problem is, in the long term, it does not work because the very people who earned the income in the manufacturing plants in this country are the people who were able to purchase the products off the store shelves. Without the incomes from those jobs—and our manufacturing sector is shrinking badly—from that manufacturing sector, who will buy these products?

This morning in the Wall Street Journal an article reads, "U.S.-Chinese Trade Becomes a Delicate Issue of Turf." It is talking about the debate within the National Association of Manufacturers between the big manufacturers that are international in scope that want to move their manufacturing to other countries where they can pay pennies on the dollar for labor, and the other businesses, medium and small businesses, that rely on the business from the larger companies to spill over to them. It is a fascinating article. I commend the reading to people who are interested in the subject.

Jim Schollaert, a lobbyist with the American Manufacturing Trade Action Coalition, says simply: The big companies are following a new business model—pay Chinese wages but charge U.S. prices.

That is the question these days for us. Is there a price of admission to the American marketplace? We understand we have a globalization of the international economy, and it will not stop. But have the rules for this new global economy kept pace with globalization itself? The answer, clearly, is no. If a large international company has a choice to decide where it wants to produce, and it flies its jet around the world and looks down at the landscape and sees different kinds of governance, different philosophies, different local politics, and different labor forces and decides to choose where to produce, does it not all too often these days decide to produce where it can hire a 12-year-old, work them 12 hours a day and pay them 12 cents an hour?

You think it does not happen? Of course it does. We can describe it and use names in the Senate, names of workers and names of companies. Not only can they settle on a site in the world where they can put a manufacturing plant, hire kids and adults and pay them pennies on the dollar and pollute the air and water and decide they shall not be allowed to organize as a bargaining unit and they do not have to have safe workplaces in which the workers conduct their daily activities, and then produce there, but they also ship it back to Toledo, Anchorage, Fargo, or Los Angeles and sell it on the store shelves in this country. That is the global marketplace.

Let me talk about a series of specific countries. First, I will talk about China. China has the largest trade deficit with us. It is $103 billion a year. They ship us their trinkets, trousers, shirts, shoes. We are a huge sponge for Chinese production.

One reason we have a very large trade deficit with China, which hurts us and strengthens them, is because the Chinese do not want certain things from us. They are not buying our grain in any significant way. They do not want our wheat. They do not want to buy airplanes. They need airplanes, but do not want to buy our airplanes off the shelf where we manufacture them and send our airplanes to China. They say they want some of our technology, but they want us to build our airplane plant in China and hire Chinese workers. That is the way they would like to buy American airplanes.

The problem is, it does not work that way. That is not what international trade is about. We buy that which we can best use from China, they ought to buy what they can best use from us. That is the doctrine of comparative advantage. It is as old as the study of economics itself.

Our negotiators, our U.S. official negotiators negotiate with other countries and typically underserve American interests.

About 2½ years ago we had a bilateral trade agreement done with China. It was a prelude to China joining the WTO. At the end of the agreement, there was once again celebration by negotiators because negotiators judge their success by whether or not they got a negotiated agreement. It is a terrible agreement, I might say. They decided, for example, that if there is automobile trade between the United States and China in the future, after a long phase-in, the following will exist: China will be allowed a 25-percent tariff on United States automobiles sold in China, and we would have a 2.5-percent tariff on any Chinese automobiles sold in the United States.

Our negotiators went to China and said: All right, we agree if there is automobile trade, vehicle trade between the United States and China. We will agree that you shall have a tariff that is 10 times higher than what we will impose on your products. Who negotiated this on our behalf? Did they forget who they were working for?

Do you know how many movies we get into China? Before the trade agreement, only 10 imported movies could be shipped to China in a year. Just 10. So after the agreement, we get to ship 20 movies. People say, Look at that; what a great thing that is, to double it to 20. Our expectations on fair trade are pathetic.

The Chinese, by and large, keep their market reasonably closed to us, prevent us from accessing opportunities in their marketplace but expect our marketplace to be wide open to Chinese goods.

We have become a cash cow for the hard currency needs for China, and it is hurting our country. The imbalance in the trade relationship that exists between the United States and China is almost unforgivable. Is anybody doing anything about it? Not a thing. Nothing. Just nothing. All you get, when you talk to the trade ambassador's office, again under Democratic and Republican administrations—all you get from them are a few grunts and groans about we would like to do better and then they rush off and do a new agreement with some other country.

This is what we have with Korea. I mentioned the absurd situation with automobile trade with China. Well, in 2001, 618,000 cars were shipped from Korea to the United States. I believe last year it was 680,000 but use this as a working number; 618,000 cars were shipped from Korea to the United States to U.S. consumers—Hyundais, Daewoos. Probably they are wonderful automobiles. I have not driven one but I am sure they are fine automobiles.

They sent us 618,000 into our marketplace. Can anyone guess how many U.S. automobiles were sold in Korea? It was 2,800; 618,000 coming into our marketplace; we got 2,800 into the Korean market. Korea ships us as many cars as they can get into our marketplace and the Korean Government will keep out as many U.S. cars as they can.

A recent example of that is the Dodge Dakota pickup, which showed great promise in the Korean marketplace. The Dodge Dakota pickup, after 2 months, started penetrating the Korean marketplace. The Korean Government cracked down on it, big headlines in the newspapers, and immediately most of the orders were canceled.

My State produces potatoes in the Red River Valley, great potato country. We produce potatoes and we ship potato flakes to Korea for use in confection food—potato flakes. Do you know what the tariff on potato flakes is to Korea? It is 300 percent. Why do we allow that? I don't know. Our country doesn't seem to be interested in standing up for its economic interests.

Perhaps we should say to the Koreans, these great cars you are shipping into the marketplace, if you don't allow our cars into your marketplace and fair access to your consumers, then you ought to take your cars and sell them in Zaire. Try to sell them in Zaire. If you don't like it, then open your marketplace. Until your marketplace is open, we are not going to absorb more than a half a million of your vehicles. That is simple enough.

But we will not do that because our country is unwilling to stand up for its economic interests. In fact, that which I am presenting today on the floor of the Senate, I can't even present in an op-ed piece in the Washington Post. The Washington Post wouldn't run an op-ed piece in a million years talking about this because they are for one thing: free trade, free trade, free trade. It is as if they were wearing a robe, standing on a street corner chanting, and they only want one view expressed in their op-ed pages. Those of us who raise questions about the requirement for fair trade to stand up for the interests of American jobs are called protectionists.

My goal is not to put a wall around this country. I want to expand trade. I think expanded trade will be good for everyone, provided the rules are fair. When the rules are not fair, it is time for this country to stand up for itself and stand up for its jobs and stand up for its businesses.

I will give some other examples. I have mentioned Korea and I mentioned China. Now let me discuss Europe. I am using some agricultural examples simply because I come from a farm State. There are so many other examples.

If you take a look at what is happening in beef with Europe, the Europeans do not want U.S. beef in their marketplace because they say it is produced with growth hormones and is therefore harmful to their health. There is no scientific evidence of that. In fact, all the evidence is on the other side. But Europe says, We are not going to allow American beef into the European marketplace. In fact, they portray our beef as two-headed cows, some sort of obscene animal that would be terribly harmful to the marketplace, so they say, Keep it out.

So we go to the World Trade Organization and file a complaint against Europe and we win. It doesn't matter to Europe that we win. They are still not going to allow American beef into Europe. So what do we do? We are going to get tough. This is symbolic of the lack of backbone we have in this country when it comes to trade. How do we get tough? We decide to slap some retaliation on Europe. We hit them with some tariffs on truffles, goose liver, and Roquefort cheese.

God bless us, we are really getting tough with Europe. We are going to sock them around with truffles, goose liver, and Roquefort cheese. So what is Europe's idea to retaliate against us? Tariffs on U.S. steel and textiles.

Can you just see the difference? We simply do not have the backbone, the nerve, or the will to stand up for this country's economic interests.

I am mentioning Europe. There are plenty of problems with Europe in terms of our trade agreements. We continue to see country after country—with respect to Europe, we see the entire continent—with large, abiding, yearly trade deficits that relate to jobs lost in this country.

If we were losing those jobs just because we couldn't compete, that is one thing. That is fine. I wouldn't like it but I would understand it and I would say we better figure out how to compete in the international marketplace. But if we are losing those jobs because the basis of competition is fundamentally unfair to America, then I say there is something wrong with the trade agreements.

We connect to other countries in a way that says to other countries: All right. We will trade and this is the circumstance. We will just tie one or two hands behind our back and then we will start. You can hire kids, you can put them in plants that are unsafe, dump your chemicals into the streams and the air, and you can prohibit them from organizing by law. You can do all those things and it is fine. Make your product as cheap as you can make it and ship it to the marketplace in Bismarck, ND, or Boise, ID, or Fairbanks, AK, or Los Angeles, and we would love to purchase that.

How absurd is that? Is there not any basic standard at all? Are the standards we fought for in this country for so long so old-fashioned? Is it not a timeless truth that workers ought to be able to organize, they ought to be able to expect a fair wage, and that you ought not be able to work 12-year-olds 12 hours a day 7 days a week?

If you wonder about that, let me give an example of a story. This story is entitled "Worked Till They Drop." This happens to be about a 19-year-old girl but it is happening way too often in parts of the world where they do not care about the conditions of production that we have cared about for a long while and that we fought over for many decades. This is a story about Li Chunmei, May 13 of last year. She had been on her feet for 16 hours, her coworkers said:

> . . . running back and forth inside the Bainan Toy Factory, [in China] carrying toy parts from machine to machine.

Let me read a bit from the piece.

> This was the busy season, before Christmas, when orders peaked from Japan and the United States for the factory's stuffed animals. Long hours were mandatory, and at least 2 months had passed since Li and the other workers had enjoyed even a Sunday off.

Sixteen hours a day, 7 days a week.

> Lying on her bed in the night, staring at the bunk above her, the slight 19-year-old complained she felt worn out.

She was massaging her aching legs, coughing, and she told them she was hungry.

> The factory food was so bad, she said, she felt as if she had not eaten at all. . . .
>
> "I want to quit," one of her roommates . . . remembered her saying. "I want to go home." Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor. . . .

She was dead.

The exact cause of Li's death remains unknown. But what happened to her last November in this industrial town in southeastern Guangdong province is described by family friends and coworkers as an example of what China's more daring newspapers call guolaosi.

The phrase means "over-work death," and usually applies to young workers who suddenly collapse and die after working exceedingly long hours, day after day.

This is the sort of thing that is happening in some factories around the world, producing, in this case, stuffed toys. They could have been producing baseball caps. A prominent Ivy League college buys baseball caps from similar factories. They pay ⅕ cent labor for each cap produced and each cap is sold at $17 on the campus of the Ivy League university. Fair trade?

The question is, What did we fight about all these years? It seems to me we fought about having an economy that gave American businesses a chance to compete fairly and provide good-paying jobs to American workers. On issue after issue in international trade, we have trade agreements being brought to the floor of the Senate that have been negotiated with other countries in a way that is fundamentally incompetent.

One other example I have spent 10 years working on is the aftermatch of a free-trade agreement with Canada. The free-trade agreement with Canada is one I voted against. Incidentally, it was a vote when I was serving in the United States House Ways and Means Committee. It was 34-1. I was the one who voted against it. I was told by my colleagues we really need to make this a unanimous consent vote, that Canada was our good neighbor to the north and we share a common border. I said no. What you are proposing here is wrong. It is going to dramatically injure family farmers in this country.

But the deal was passed under fast track and no one could offer amendments. Oh, we had an assurance in writing from Trade Ambassador Yeutter that it would not represent a change or a significant change in the quantity of grain going back and forth across the border. The minute it was passed, we began to see a flood—a virtual avalanche—of Canadian wheat coming into this country sold by the Canadian Wheat Board, a state-sanctioned monopoly that would be illegal in this country. Our farmers were badly undercut by this unfair competition. We haven't been able to do a thing about it—nothing.

I had the GAO go to the Canadian Wheat Board because we think they are dumping in our marketplace. The Canadian Wheat Board simply thumbed its nose at the General Accounting Office, saying we don't intend to open our records to you at all. We intend to show you no information.

Year after year, we face this unfair grain trade from Canada. In fact, one day I went to the Canadian border—I have mentioned this many times—with a man named Earl Jensen in a 12-year-old orange truck with a couple hundred bushels of durum wheat. We drove to the Canadian border. All the way to the Canadian border we saw 18-wheelers coming south full of Canadian grain being dumped on our marketplace injuring our farmers. We saw semi load after semi load. I bet we met 20 semi loads of Canadian grain. When we got to the border in the 12-year-old little orange truck, guess what. We were stopped dead in place and we could not get that truck across the border because you couldn't take 200 bushels of durum wheat into Canada. The Canadian market was closed to us, but our market was wide open to unfair Canadian trade in this country. This has gone on for 10 years and we have not been able to do a thing about it.

Today we have a trade ambassador who has been scurrying around the world doing new trade agreements. So we have two new agreements to vote on, one of which has a 5,400 immigrant quota of people coming into our country from Singapore to take American jobs. Everyone knows that is wrong. Everybody in this Chamber knows that is foolish. That is not the way you do immigration policy—behind closed doors in secret on a trade bill. And yet no one in this Chamber will be able to get rid of that provision. That provision will be ratified by this Congress either this afternoon or tomorrow. Not with my vote.

At some point, somehow, somebody will have to wake up on trade. It is not the case that I believe we ought to shut down trade or that we ought to build walls and prevent trade. It is the case that this country needs to have a backbone and some nerve and some will—yes, dealing with China, Japan, Europe, Korea, Canada, and Mexico. And until we get that will and are willing to protect American jobs with the requirement for fair trade, this country is going to continue to lose economic strength.

After the Second World War, for a quarter of a century our trade policy was almost exclusively foreign policy. It wasn't trade. It wasn't economics. It was all foreign policy coming out of the State Department. It didn't matter because we were the biggest, the best, and the strongest country in the world by far and we could tie one hand behind our backs and out-compete anybody under any circumstance. So it was just fine. We could have mushy-headed foreign policy masquerading as trade policy. It didn't matter. We just would win.

But in the second 25 years after the Second World War, we saw the development of some pretty tough and canny competitors—Japan, Europe, now China, and others. Still much of our trade policy is fuzzy-headed foreign policy. Now you tie one hand behind your back with moves that are fairer and this country loses. Again, what do we lose? We lose jobs, economic expansion, opportunity for businesses, opportunity for workers, and some say it doesn't matter; it is just irrelevant.

I do not for the life of me understand that. It makes no sense that this country does not any longer understand that international trade is a significant foundation for this country's economic future. That foundation is either a foundation of cement with strength or quicksand that washes away quickly.

I have a chart which I believe shows a graph of where we have been with all these trade agreements. One after another of these trade agreements has traded away this country's economic interests. You can see the line. It describes when the Tokyo round of GATT was approved. It describes the Uruguay round of GATT. It describes where we are with WTO, and with NAFTA.

It seems to me when something isn't working, you ought to change it. Yet we see no proposal here for change at all. It is just let's have a couple more helpings from the same menu, and the menu isn't working for our country.

There are so many issues related to this. I talked about jobs because, in my judgment, that is central to this. First, you have currency issues and the fact that China, for example, dramatically undervalues its currency against the U.S. dollar. They have a terrific advantage in our marketplace in trade.

There are so many different facets of trade that it is almost hard to describe. You have the political issues. Some countries as a matter of governance decide here is the way we will compete. For example, I have mentioned on a couple of occasions today that some countries will prohibit workers from organizing. We are proud that our country protects those rights. We understand it has strengthened this country and it is good for our country. In fact, the way we have developed a strong middle class in our country is with the development of a manufacturing sector in which workers are organized and have been able through their strength to collect a reasonable share of the national income from manufacturing. But some countries say we will prohibit as a matter of political choice workers from organizing.

Then there are some others who say it doesn't matter that our manufacturing base is eroding; if that is what happens as a result of some natural function of trade, that is all right for our country. Well, it is not all right. There is no country that will long remain a world power—none—without a strong manufacturing base. You cannot be a world economic power without a strong manufacturing base. Those who think this country will remain a strong, vibrant, growing, economic superpower are dead wrong if they allow this manufacturing base to be dissipated. Too many of my colleagues seem to think it is just fine; whatever happens, happens.

It is not fine with me. All you have to do is look at where this country is headed in international trade. Look at what has happened to our manufacturing base. Look at how good jobs have shrunk in this country. I am talking about those people who worked in the coal mines, those who worked in the steel mills, those who worked in our manufacturing plants who used to earn a good wage with good benefits and good job security, and who now discover we are racing toward the bottom to figure out how we can compete with other countries that pay a dime an hour or 20 cents an hour.

How can we compete with other countries that have no laws that prevent them from abusing the environment with chemicals going into the airshed and into the water? If you wonder about that, just travel a bit. Go to those countries—I have—and take a look at what happens. Then ask yourself, Is that the level of competition? Is there an admission price to the American marketplace that says it is almost free? That you don't have to reach any threshold? And any trade—using circumstances I have previously described—is fair trade to which we ought to subject our workers and our employers?

I have explained at great length why I intend to vote no on these two trades agreements. It is not about Chile. It is not about Singapore. It is about a process that is fundamentally bankrupt. It is about trade negotiators who ought to be ashamed of themselves. It is about past trade agreements that are incompetent, whose repercussions we are dealing with today.

I have, from time to time, threatened to offer legislation that would require all U.S. trade negotiators to wear a jersey. When you are representing the United States of America in the Olympics, you wear a jersey that says "USA." It seems to me that perhaps our trade negotiators—more than almost anyone—need to have a jersey to be able to look down at and understand who they represent.

Will Rogers used to say: The United States of America has never lost a war and never won a conference. He surely must have been thinking about trade negotiators. This country had better develop a backbone and some will and some nerve to stand up for its economy and stand up for its workers and stand up for its employers—no, not in a way that is unfair to any other country but in a way that says to any other country: We are open for business, we are ready for competition, and we will compete anywhere and with anyone in the world, but we, by God, demand that the rules be fair. And if the rules are not fair, then we intend to change them to create rules that are fair to our country.

I yield the floor.

IN APPRECIATION OF OUR KOREAN WAR VETERANS

Mr. DASCHLE. Mr. President, on July 27, 1953, our country signed an armistice agreement that ended the Korean War after 3 years of devastating combat. Yesterday marked the 50th anniversary of the war's end. Today I rise to honor the courage and sacrifice of the military veterans who fought this war and to proclaim that our country has not forgotten their service.

More than 1.8 million Americans fought on the front lines of our battle to defend freedom and democracy on the Korean Peninsula. They joined with allies from 21 different nations to ensure that the people of South Korea would not be ruled by the tyranny and oppression of communism. More than 36,500 soldiers committed the ultimate sacrifice in this effort, and another 103,000 Americans were wounded in some of the bloodiest and most traumatic fighting the world has ever seen.

Currently, around 12,000 veterans of the conflict live in South Dakota. They are now among the elder statesmen of our country's long lineage of heroism, true role models to our youth and an inspiration to those service members now fighting around the world against terrorism and brutal dictatorship.

On June 25, 1950, North Korean dictator Kim Il-Song sent 135,000 troops to invade South Korea. The international response was immediate, and President Truman sent troops to defend the South Koreans 2 days later. For more than 3 years, these troops fought to preserve the integrity of South Korea. But this conflict was not simply about protecting the sovereignty of one nation against the designs of its invader. Rather, the Korean War represented an epic struggle of two political ideologies: the democratic values of peace, freedom, and self-determination against a communist system based on tyranny and violence.

No less than the fate of the world was at stake on the hills and plains of the Korean peninsula. With some of the century's most infamous tyrants Mao and Stalin backing the North Koreans and the world's beacon of democracy fighting alongside the South Koreans, this conflict could not have had higher stakes. Consequently, we future generations of Americans are deeply indebted to the veterans of the Korean War; it is to them we owe the preservation of our very way of life.

And yet, despite the significance of their achievement, these soldiers were never greeted with the type of homecoming befitting their heroism. A nation that, after World War II, was weary of war never fully grasped the enormity of the military's mission in Korea. Few returning troops were greeted with the ticker-tape parades and community celebrations that were common after World War II. The Korean War became the Forgotten War.

As our country honors the 50th anniversary of the Korean War, I say to America's veterans of this war, you are forgotten no more. Your legacy is our nation's prosperity, our continuing commitment to liberty and democracy. Your legacy is a thriving, democratic nation of 40 million souls on the southern half of the Korean Peninsula. With great personal sacrifice and tremendous dedication, you secured our future. And while we sometimes take our way of life for granted, the veterans of the Korean War remind us that, as their Korean War Commemoration Flag proclaims, "Freedom is not free." Without the dedicated service and sacrifice of the soldiers we celebrate in this, the Year of the Korean Veteran, our nation would not be able to enjoy the freedom and prosperity that we too often take for granted. So, on behalf of later generations of veterans, like myself, and on behalf of all the citizens of South Dakota and all Americans, thank you for your lasting contribution to our nation's greatness. You, the veterans of the Korean War, are true American heroes, and we salute you.

Mr. SANTORUM. Mr. President I have a poem written by my constituent Dee M. Tramontina of Buck Hill Falls, PA.

I rise today so that I might call special attention to the thoughts and observations of my constituents who would like to accord proper recognition to those brave Americans who sacrificed, fought and died in the Korean conflict.

I would like to recognize both Dee M. Tramontina and Albert Tramontina, Jr., who, on behalf of the Monroe Chapter of the Korean War Veterans Association, have shared a poem with me concerning the conflict which ended 50 years ago.

I would like to call attention to this historic anniversary by asking that Dee's poem be printed in the RECORD.

THE "FORGOTTEN WAR" NO MORE

(By Dee Tramontina)

Some have made the grave mistake
Of calling Korea the forgotten war
But you can bet that none of them
Had to storm the Inchon shore

I am also very positive it's memory
Sadly stays with all of those
That at the Chosin Reservoir
They shivered, fought and froze

Perhaps you know of someone
Who fought among the ranks
And saw the awful, bloody terror
Of "Old Baldy" or the Yalu River banks

Be assured that a foggy memory
Would be a relief to maintain
For those that charged up the hill:
"Heartbreak Ridge" it seems, in vain

We can be sure that there are some
To this very day can still
Hear the horrors of the battle
We know as "Pork Chop Hill"

Definitely an everlasting imprint
Of the 38th parallel has been burned
Into the hearts and minds of families
Of the many heroes that never returned

We are coming up on fifty years
Since Panmunjom brought peace
In honor of those that fought there
May the memory never cease

VA POLICY

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the attached article from the Gainesville Sun be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gainesville Sun, July 19, 2003]

PERVERSE VA POLICY

There is something perverse about the Bush administration's push to cut medical services for veterans at a time when America is fighting a war in Iraq with the help of tens of thousands of reservists and guard members.

Most of those citizen soldiers will come home to once again take up their non-military lives and careers. And those who do develop service-related illnesses and injuries (anybody remember Gulf War Syndrome?) will invariably turn to a Veterans Administration medical facility for care.

In the North Florida-South Georgia region alone, about 5,600 reservists have been called to service for the current conflict. When they come home, some may require the care available at the Lake City VA Medical Center. But even if none do, that medical center already treats about 36,000 area veterans.

And yet, a VA reassessment group—perversely called the Capital Asset Realignment for Enhanced Services, or CARES—has called for services to be eliminated or scaled back at the Lake City VA and 19 other veterans facilities around the nation.

In response to a directive from Washington, local VA officials have, albeit reluctantly, submitted recommendations that would involve turning the Lake City medical center into an outpatient clinic, transferring 230 nursing home patients to private facilities—assuming adequate facilities can even be found in the largely rural region—and/or transferring patients to Gainesville's VA.

The objective would be to save perhaps $6 million a year by eliminating jobs and operational costs at the Lake City VA center. That seems like a false economy in light of the thousands of veterans who depend on the center for care.

Fred Malphurs, director of the North Florida-South Georgia Veterans Health System, was clearly not enthusiastic about complying with the directive to identify cuts. "The benefits would be, in my opinion, marginal at best," he told The Sun last week.

Whatever the perceived "benefits" of closing down or drastically cutting back on Lake City's services, the impact on area veterans would be negative to the extreme. It also seems a bitter pill for veterans to have to swallow at a time when thousands of area reservists and regular military personnel (read future veterans) are still risking their lives and their health fighting a war half a world away.

Nationally, the VA does have a problem with underutilized facilities. We just have a difficult time believing that Lake City's VA center is one of them.

Florida is a magnet for retirees, many of them veterans of past conflicts. We would think that if anything, the demand for veterans medical services is rising, not falling, in the Sunshine State.

As North Florida becomes a more desirable destination for retiree vets, demand for care at the Lake City VA center is only going to grow.

SALUTE TO THE 109TH ENGINEERING BATTALION

Mr. DASCHLE. Mr. President, today South Dakotans will welcome home the 109th Engineering Battalion of the South Dakota National Guard. This unit, headquartered in Sturgis, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom. On March 23, it became the first South Dakota unit to enter Iraq, and was the only South Dakota unit to operate in Iraq during the early days of combat.

Today, these soldiers and their achievements become a part of South Dakota's military heritage. Like those who served in the two world wars, in Korea, in Vietnam, and in numerous other places, this new generation has answered the call. They have offered to make every sacrifice, including life itself, to protect our freedom and security. We must never forget them or the honor with which they served.

The 109th Engineering Battalion is a headquarters battalion of 39 members, responsible for the management of several other units in carrying out engineering missions. The 109th was a critical part of our Nation's efforts in Iraq, completing a wide variety of missions, from force protection, to mine clearing, to construction of the Cedar II Logistical Support Area. The unit managed the activities of the 68th Engineering Company, the 95th Firefighters, the 520th Firefighters, and the 562nd Firefighters.

After being stationed in Kuwait during the month leading up to the conflict, the 109th moved to Tallil Air Base in southeastern Iraq, just outside of al Nasiriyah, where some of the war's most fierce fighting occurred. When the members of the 109th arrived at their destination, Logistical Support Area Adder on Tallil Air Base, they found an encampment that was quickly filling up with soldiers from the Army, Air Force, Marines, and from the British military. Force protection would be essential to guaranteeing these troops a swift victory over the stiffening opposition in the region.

At LSA Adder, the 109th oversaw the preparation of the battlefield for combat, preparing fighting positions, constructing guard towers, building a 3-mile protection berm around the perimeter, establishing supply routes, and building two Patriot Missile launch sites. In addition, the 109th managed the establishment of critical life support structures for the camp, including a water well, nuclear-biological-chemical (NBC) decontamination sites, a major Convoy Support Center, latrines, showers, and roadways.

I am proud to welcome home the members of the 109th Battalion and to commend them on a job well done. All of us know about the tremendous courage and commitment of the infantry soldiers and others who engage the enemy directly. But often we don't recognize the vital efforts of those units behind the scenes—units like the 109th that prepare the battlefield, provide medical care, establish life support services, and transport supplies. Their work ensures the success of our frontline troops and helps to hold casualties to a minimum. In 3 short weeks of fighting, the United States military was able to overthrow a tyrannical regime that had reigned in Iraq for 45 years and utterly vanquish its military, with very few casualties. Support units like the 109th were the backbone of this effort.

The 109th Engineering Battalion participated in a mobilization with few precedents in South Dakota history. Nearly 2,000 Guard and Reserve troops were called to active duty in our State, by far the largest mobilization since World War II. At the time the fighting began, units from more than 20 communities had been called up, from Elk Point in the south to Lemmon in the north, from Watertown in the east to Spearfish in the west. Indeed, our State's mobilization rate ranked among the highest of all the States on a per capita basis.

In addition to the service of the 109th, I want to acknowledge the sacrifices and dedication of the families who stayed home. They are the unsung heroes of any mobilization. They motivate and inspire those who are far from home, and they, too, deserve our gratitude.

Today, I join these families and the State of South Dakota in celebrating the courage, dedication, and success of the members of the 109th Engineering Battalion, and I honor their participation in this historic event in our Nation's history. Welcome home. Thanks to all of you for your hard work, your sacrifice, and your noble commitment to this country and its ideals.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Los Angeles, CA. On September 12, 2001, two Spanish-speaking women were harassed and beaten by another patient in a doctor's office. Believing the women to be of Middle Eastern descent, the attacker verbally and physically assaulted the women in retaliation for the September 11, 2001, terrorist attack on the United States. As the attacker struck the women, she yelled "You foreigners caused all this trouble."

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

IN SUPPORT OF U.S.-CHILE AND U.S.-SINGAPORE FREE TRADE AGREEMENTS

Mr. HAGEL. Mr. President, I rise today to support the U.S.-Chile and

U.S.-Singapore Free Trade Agreements, which are now before the Senate. These agreements are the first to be considered under the expedited Trade Promotion Authority, TPA, procedure that Congress passed last year. Ratification of these agreements will provide significant benefits to agricultural producers and the U.S. economy. Strong bipartisan votes will send an important message that the U.S. Congress is strongly committed to growing the U.S. economy and helping American farmers and workers succeed in an ever-growing competitive global marketplace.

Both the U.S.-Singapore and U.S.-Chile free trade agreements will level the playing field for U.S. products and farm goods. Specifically, both agreements will eliminate the use of subsidies on agricultural exports, a major step forward for U.S. agriculture in WTO negotiations. There is a clear link between a healthy agricultural sector and trade. More than 43,000 Nebraskans hold jobs related to agriculture exports. Nebraska ranks fourth nationally in exports of agricultural products—an estimated $3.14 billion in 2002. In 2002, Nebraska farmers and ranchers saw increased international sales of corn, soybeans, and wheat, and depend on the ability to export their products to the rest of the world for continued growth.

The U.S.-Singapore free trade agreement will strengthen an important relationship and serve as our first free trade agreement with an Asian nation. Singapore is a critical ally in Southeast Asia in the global war on terrorism. Singapore is also an important economic ally. It is our 12th largest trading partner. This free trade agreement will provide expanded opportunities for trade and investment and will increase job opportunities here at home. It will benefit American firms in many sectors, including those in the banking/financial industry and in professional services. Under the agreement, 100 percent of U.S. goods and 92 percent of Singaporean goods will have duty-free status immediately. The free trade agreement further ensures that Singapore cannot increase its duties on any U.S. product.

The U.S.-Chile Free Trade agreement will be the first between the U.S. and a South American nation. Under this agreement, American farmers, workers, and businesses will benefit from improved and expanded access to the Chilean market. More than 75 percent of U.S. farm goods will enter Chile tariff-free within 4 years, with all tariffs being phased out within 12 years. This agreement will eliminate tariffs on corn and most distilled spirits in 2 years. It will immediately eliminate tariffs on pork and pork products, soybeans, and many other agricultural products. Access for beef on both sides will be completely liberalized over 4 years. Overall, this agreement will immediately remove tariffs on more than 85 percent of U.S. exports. The U.S.-Chile agreement will provide momentum to the ongoing negotiations in the Free Trade of the Americas and global trade talks. Bilateral agreements, such as this agreement with Chile, are essential because they provide benefits immediately and help the U.S. keep pace with the 16 global competitors, including the EU and Canada, who already have preferential trade agreements with Chile.

Free trade provides the basis for economic growth and democratic governance in developing countries. Free trade promotes American values around the world. It underpins a global economic order that is essential to our own economic security. Agreements like those before us today will help the U.S. to reap the benefits of free trade and gain access to emerging markets, creating new jobs and higher incomes for Americans. Ninety-six percents of the world's consumers are outside of U.S. borders. Foreign market access is essential for the continued growth and viability of the U.S. economy. International trade is an essential component of growth and opportunity in our global economy. The U.S. must be a leader, not a follower, in the global marketplace.

I urge my colleagues to vote in favor of the Chile and Singapore Free Trade Agreements.

THE BEGINNING FARMERS AND RANCHERS TAX INCENTIVE ACT OF 2003

Mr. DORGAN. Mr. President, I recently joined Senator HAGEL of Nebraska in introducing legislation that is important to the survival of farm families and rural America. Our bipartisan legislation, called the Beginning Farmers and Ranchers Tax Incentive Act, provides significant capital gains tax breaks to encourage retiring farmers and ranchers to sell their farm property to others who will continue to use the property in the farming business. Identical legislation has been introduced in the House of Representatives.

As many of our colleagues know, the economic well-being of many rural communities across the country is at a crossroad. Over the past several decades, jobs on family farms and in Main Street businesses in small towns have been disappearing from the Nation's Heartland. Rural communities are facing an out-migration crisis of epic proportions. Senator HAGEL and I have been working at the Federal level to adopt fiscal policies that will give rural America the tools and funding it needs to reverse the out-migration problem. One of the challenges for stabilizing and revitalizing our rural communities is to ensure that the Federal Government backs strong farm policies that support this generation and the next generation of family farmers.

A strong farm economy is critical to the survival of many rural communities over the long term. But the number of family farmers, who are the backbone of the agricultural sector, has been steadily declining over the course of the past century. In the 1930s, North Dakota had over 85,000 farms. That number has dwindled to just 30,000 in 2002, the lowest number of farms in North Dakota's history.

More and more of our young people are leaving rural communities in pursuit of jobs elsewhere and the remaining farmers are growing older. A recent report prepared by the Center for Rural Affairs found that almost half of the Nation's farmers are age 55 or older. The already small number of farmers and ranchers under age 25 (about 1 percent of farmers and ranchers) has dropped significantly in recent years. If we don't act quickly to address the aging of the farm sector, the prospects for many farm communities appear bleak.

The Center's report found that one of the major impediments to individuals who want to start a farm or ranch is the cost of land and other farm property. The legislation that Senator HAGEL and I have introduced speaks to this issue by providing substantial capital gains tax incentives for farmers and ranchers who are retiring or forced to get out of farming to sell their farm operations to beginning farmers and ranchers or others who will continue to use the property in farming. Because of the extra benefit the retiring farmer would receive for selling to a first-time farmer, for example, he or she could accept a lower price from such a buyer and still come out ahead economically as compared to a sale that would otherwise take the land out of agricultural use.

Specifically, our legislation allows farmers and ranchers to exclude up to $500,000 in capital gains that are derived from the sale of qualifying farm or ranch property over their lifetime. The benefit of the capital gains tax exclusion provided by this legislation is greater for the sale of such property to first-time farmers and ranchers or to others who continue to use such property for farming purposes. To encourage farm sales to beginning farmers, this legislation provides a 100-percent exclusion from gross income of the long-term capital gain from the sale of qualifying farm property to a first-time farmer who certifies that he or she will use the property for farm purposes for at least 10 years. Our bill also provides a 50-percent exclusion from gross income of the long-term capital gain from the sale of farm property to any other person who certifies that the property will be used for farm purposes for at least 10 years. Finally, this legislation provides a 25-percent exclusion from gross income of long-term capital gain from the sale of such property to any other person for any other use.

If anytime within 10 years after the sale, the property benefiting from the 100-percent or 50-percent capital gains exclusion is disposed of or ceases to be used as a farm for farming purposes, then a penalty shall be imposed as a proxy for recapturing the capital gains tax benefit. However, the penalty for disposition or cessation of the use of qualifying property as a farm for farming purposes may be waived by the Secretary of the Treasury in the case of hardship.

Senator HAGEL and I believe that if we are going to deal with the economic problems facing much of rural America that we must ensure that tax and other Federal policies are in place to encourage a new generation of young people to enter into farming and ranching. This legislation should help in this endeavor and we urge our colleagues to support our effort.

VOTE EXPLANATION

Mr. BUNNING. Mr. President, I regret that I missed this evening's vote in the Senate on the confirmation of Earl Leroy Yeakel III, to be U.S. District Judge for the Western District of Texas. Had I been present, I would have voted "yea" on his confirmation. Unfortunately, the airplane I was to travel on back to Washington, DC was grounded for some time due to mechanical problems, and this caused a delay in my return.

DEATH OF BOB HOPE

Mr. HAGEL. Mr. President, the death of Bob Hope is a great loss for all Americans. At 100 years old, Hope was truly a legend in his own time. His famous wit and generous spirit endeared him to generations of Americans.

For more than 50 years, Bob Hope headlined USO tours, performing for America's Armed Forces around the world in times of war and peace. While serving on board of directors of the World USO and as president of the USO, I was privileged to have worked with Bob Hope. His selfless commitment to entertaining the men and women of our Armed Forces was unmatched. In 1997, Congress voted to recognize Bob Hope as an honorary veteran. Hope is the only person to ever receive this honor.

For decades, Bob Hope brought American troops laughter and warmth around the globe. We are all grateful for his tireless service and spirited humor. Bob Hope will remembered not only as a gifted comedian and patriot, but as a humanitarian who used his tremendous talents to lift the spirits of millions of men and women. There will not be another like him.

GREENSPAN'S RECORD

• Mr. BUNNING. Mr. President, I want to share with my fellow colleagues an article written by the best selling author and investor Jim Rogers. Mr. Rogers has been dubbed the "Indiana Jones of investing" and has earned himself a reputation for being one of the world's leading economic minds.

In this article, Mr. Rogers does something that I have found rare when it comes to examining Chairman Greenspan's record. He actually looks at the Chairman's monetary stances throughout his tenure at the Federal Reserve and examines what kind of effect they had on the economy. In most cases, Mr. Rogers finds that Mr. Greenspan's policies were ill-timed or simply economically absurd. I urge my colleagues to read this article so that we may better understand the role the Federal Reserve and Chairman Greenspan specifically have played in our economic well-being.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOR WHOM THE CLOSING BELL TOLLS

At a recent symposium sponsored by the Federal Reserve Bank of Kansas City in Jackson Hole, Wyoming, Alan Greenspan reflected on causes of the stock market bubble that grew at the end of the 20th century. He discussed how difficult it was to recognize when a bubble began and how anything he could have done as Federal Reserve chairman would have only made matters worse for the economy at the time.

"Bubbles," Greenspan said toward the end of his speech, "thus appear to primarily reflect exuberance on the part of investors in pricing financial assets . . . Bubbles appear to emerge when investors either overestimate the sustainable rise in profits or unrealistically lower the rate of discount they apply to expected profits and dividends." He said he did not know there was a bubble and could have done nothing even if he had figured out there was a mania. I wonder if he really believes that. Even my mother knows there was a bubble. Is he a charlatan or a foot? Perhaps both as we will see from his own earlier words and deeds.

I've got news for you, Alan: This stock market bubble was yours and could have been prevented. It didn't have to happen. Don't go blaming investors for so-called exuberance. Irrational or rational. The only one who has acted irrationally, it seems to me, is you. You could have prevented it in the first place and certainly could have stopped the bleeding a long time ago.

I know, I know. This is not the way people want to think about Alan Greenspan. The way people often talk about him, you'd think he was up for sainthood. Back in 1999, Time magazine nominated him to the "committee to save the world." Legendary journalist Bob Woodward wrote a flattering book about Greenspan called "Maestro." Senator Phil Gramm of Texas called him the greatest central banker of all time. Even the Queen of England recently added her voice, knighting Greenspan and saying that Sir Alan has brought "economic stability to the world." I guess she didn't notice that there have been at least five major financial crises in the past eight years with perhaps more on the horizon.

Could someone please give me the phone number of Alan Greenspan's public relations firm? Actually it was down in the board rooms of investment firms who used him to coin money, but even they have caught on by now.

Our current master of monetary policy has been at the helm since 1987, one of the longest-running tenures of any Fed chairman. Four different presidents—a Democrat and three Republicans—have held court at the White House, but Alan himself remained safely ensconced about a mile away at the Fed. I'm the first to agree that Alan Greenspan has had a tremendous impact on our economy. It's just the facts and reality of his tenure that will look horrible to historians. Looking back over his career in the past decade and a half, it's pretty clear he made major mistakes that have gotten this country into a huge economic bind today.

Hindsight, as the saying goes, gives us 20–20 vision, but it does something else: it usually tells us the truth, even if it's a little late to correct the mistakes.

In the long run, history's going to remember Greenspan as the man who caused the stock market bubble and worse. If he doesn't change his monetary policy, he'll also be remembered as the man who created other bubbles to follow in its wake.

Let's take a step back in time and take a little history lesson. Think back to the gravy days of the 1990s. From 1992 to 1997, the S&P 500 soared 130 percent, or roughly 27 percent annually. It was the biggest bull market that many of us who'd been in the business for years had ever seen. All the economic indicators were pointing the right direction: Unemployment was down, manufacturing hours were up. Corporate profits rose about 120 percent over that period. The trade deficit wasn't ballooning at its typical breakneck pace. The Japanese Central Bank was flooding the world with money so we had an unusually good period so far, but nothing too dangerous here. These were good days for the country and the Maestro began taking the credit.

But here's the funny thing about the stock market, something even the most educated investors seem to forget when the going gets good: the stock market and economies move in cycles. It's just the way it goes. Don't take it personally. Markets have always done it; they always will. (Alan, are you listening?) A lot of people hoped the stock market had gone to a new, special place, that cosmic zone where stocks never go down. They continue to rise and we all get rich. The New Economy, I believe it was called—somewhat reminiscent of the New Era of the 1920s.

Well, we all know what happened to that myth. Corporate profits, we now know, peaked in 1997 and started to decline. Manufacturing hours were down. In the fall of 1997, the stock market, in turn, started to dip. Remember the other key thing about the stock market: It anticipates the future. It looks ahead. In other words, the stock market was recognizing that 1998 might not be a banner year for profits. When companies don't earn as much, their stock loses value. It's reality. Forget the Amazons: you need earnings to keep your stock price up.

But in the fall of 1997, something happened. We caught the flu, the Asian flu. Several key Asian economies, including Thailand and Malaysia, were the first to suffer when economies started heading down. Again, this was nothing unusual in economic cycles;

marginal countries and companies always get caught first when declines begin. There is often an "event" which signals the normal end to bull markets, but the simple reality always is that it is time for that bull run to end for whatever reason. Schumpeter showed that instability is one of the strengths of capitalism. There is always destruction upon which the dynamic thrive and create for future growth. But it was bad news for major investment firms like Goldman Sachs and Fidelity who'd invested tons of money, through loans, bonds, and other financial instruments, in these countries. The phones started ringing in Washington. Who came to the rescue? Sir Alan. Greenspan started printing money and extending credit, pumping liquidity into the U.S. economy to make sure that the problems in the East wouldn't rock his friends in the West.

To me, this was a pivotal moment in Greenspan's career and a problematic decision. He should have let the markets correct themselves as they were already trying to do. Stocks would have fallen. Companies would have been hurt or possibly destroyed by the normal, economic decline. There would have been a bear market, panic and a selling climax. Many investors would have lost money. But that's what bear markets often do: they chasten those who get a little too greedy. As the late Fed Chairman William McChesney Martin once put it, the central bankers' job has always been to take away the punch bowl just when the party gets going. They have to step on the brakes before things get out of control. It's no wonder Martin held the position of Fed chairman from 1951–1970, longer than any one else in history.

The problem is that Greenspan didn't take away the punch bowl or even let it empty naturally. He just kept pouring more into it. He overrode what would have been normal stock-market behavior. The same process repeated itself over the next three years. In the fall of 1998, it was the Russian collapse and the fall of the legendary hedge fund Long-Term Capital Investment. The stock market was already in trouble: roughly 60 percent of all stocks were down in 1998 and decliners also outnumbered advancers in 1999, even with Greenspan's pumping. Remember profits had already peaked in 1997 and were in decline. The LTCM crisis probably would have been the normal selling climax for the bear market which had begun the year before, but the Maestro kept the presses running. After all, he was getting panic calls from his Wall-Street friends who feared some would fail. Again, it was just the normal workings—more creative destruction—of financial markets, but Greenspan has never really understood markets. In 1999, it was Y2K.

All along, Alan Greenspan's Federal Reserve was pumping out cash and extending credit, helping to float the U.S. economy. From 1997 to 2001, M3, a broad measure of the money supply that includes all currency in circulation, and liquid assets like bank deposits, money-market mutual funds and time deposits, grew 48 percent, the fastest it's ever grown. Greenspan pumped roughly $2.6 trillion into the economy, adding fuel to the fire Off-balance-sheet debt and derivatives rose 185 percent to $59 trillion while non-government debt rose 52 percent. In 1997, syndicated loans totaled $423 billion. By June 2002, they were up 64 percent to $692 billion. Our foreign debts skyrocketed. Remember this was in a period when profits were declining steadily after a long climb from 1992 to 1997. Greenspan was trying to override normal economic history and laws for some reason.

Why did he do it? Why didn't he let the markets simply correct themselves? I'm not sure. From what he said in Wyoming, it appears he thought he was doing the right thing. My guess is he was also doing it to appease his friends on Wall Street who went into a panic when the markets began normal declines. After all, these are the people who are always singing his praise. Heck, I'd praise him too if he kept bailing me out of the poorhouse.

It may well be that he too was eventually swept up in the fantasies he was creating. After all, on Feb. 17, 2000, he said, "Security analysts' projections of long-term earnings, an indicator of expectations of company productivity, continued to be revised upward in January, extending a string of upward revisions that began in early 1995. One result of this remarkable economic performance has been a pronounced increased in living standards for the majority of Americans. Another has been a labor market that has provided job opportunities for large numbers of people previously struggling to get on the first rung of a ladder leading to training, skills, and permanent employment."

He seems to have actually believed all the New Economy stuff we now know was garbage. Our Maestro was relying on Jack Grubman, Mary Meeker, Abby Cohen, and Henry Blodget to justify his credit pumps.

Remember how he began marveling at the "remarkable wave of new technologies" and a "once-in-a-century acceleration of innovation" and "a pivotal period of economic history" where "I see nothing to suggest these opportunities [of high rate of return productivity enhancing investments] will peter out any time soon" in 2000? He went on to tell Congress on Feb. 13, 2001: "From all indications, however, technological advance still is going forward at a rapid pace, and investment will likely pick up again if, as expected, the expansion of the economy gets back on more solid footing. Private analysts are still suggesting the current sluggishness of the economy has not undermined perceptions of favorable long-term fundamental." Now we know this "Maestro" was relying on Wall Street "analysts" and bubblevision for his "genius." It is bad enough he listened, but he actually believed all this hype.

On Jan. 25, 2001, he explained to Congress on that budget surpluses would continue for years because of the "the extraordinary pickup in the growth of labor productivity experienced in this country since the mid-1990s." He went on to marvel at the "structural productivity growth." You would think someone with the brains and ability to "save the world" would remember what happened "once in a century" in 1917–1927 when electricity, automobiles, airplanes, telephones, radio, wireless, refrigeration and several other things came together to generate productivity growth over twice as high as under Dr. Greenspan. Even in the 1950s and 1960s, U.S. productivity grew more than 60 percent faster than during the mania he was creating and justifying as "once in a century."

Now we all make mistakes, but most do not have PR machines calling us maestros when we are actually just selling snake oil. He began by trying to bail out his old cronies and then by trying to override a normal bear market. The more money he printed and the more credit he created, the deeper we all got. Then he started believing Time [who also named the CEO of Amazon as Man of the Year a few months later] and the Washington Post. Everyone loves a bubble, so few wanted to know the Emperor actually had no clothes, especially when the party seemed to be getting better and better. The few Cassandras were ignored again.

As we know, even Alan Greenspan couldn't stop the stock market from correcting itself in the end. Bubbles all work the same way. They eventually pop. In his speech in Wyoming, Greespan said the Fed was "confronted with forces that none of us had personnally experienced." That's just not true. There have been plenty of bubbles in his experience, from the stock-market bubble of the 1960s to the Kuwait Stock Exchange bubble in the 1970s to gold and silver two decades ago to the Texas real-estate bubble of 1980s to the Japanese bubble to the S&L/junk-bond bubble. Evidently history does not mean much to our wise Maestro since there are also numerous descriptions of past bubbles and how they have always worked. You'd think someone with the ability "to save the world" would have read a few books about markets.

The problem is the glut of money and credit that has been poured into the U.S. economy has created a host of new problems. The U.S. Government's fiscal budget is now in huge deficit because so many projections were based on revenues from capital-gains taxes that won't be realized. Employee 401(k) plans are in the dumps, insurance companies, pension plans, whether they are corporate or government, are in trouble, some in danger of disappearing. Social Security and Medicare are certain to suffer in the long run.

It's caused problems on a corporate level as well. All the easy credit that's available is propping up companies that are basically zombies, companies that should have long gone out of business (read: Lucent?) to cleanse the system for the survivors. My guess is many of the corporate accounting problems now surfacing might not have happened if Greenspan had allowed the stock market to correct itself as profits declined. After all, he kept creating credit to prolong the bubble so companies played the stock-market game to keep their stocks and options participating.

Greenspan could have raised margin requirements—the ability to buy equities on credit—during all this to control the animal spirits loosened by his credit machine. He is even on record in 1996 stating: "I recognize there is a stock-market bubble problem at this point." He went on to say: "We do have the possibility of raising major concerns by increasing margin requirements. I guarantee that if you want to get rid of the bubble, whatever it is, that will do it." He was dead right. If he had followed through, many of these companies wouldn't have been jiggering the books when times got tough.

More important, Greenspan's reaction with regard to the stock-market bubble has caused two more bubbles to grow: a real-estate bubble and a consumer-debt bubble. Faithful readers know I believe the real-estate market will pop within a year or so. Many investors have simply transferred their assets from the stock market to the real estate market, thinking they can get rich quickly. Greenspan himself is certainly helping the effort, lowering interest rates 11 times in the last two years along, allowing homeowners to refinance their mortgages, often borrowing even more money, without raising their monthly payments. This might be fine if people were using the money to pay off their credit cards and car loans and other debts, but that doesn't appear to be true. Consumer-debt levels continue to soar as people take money from their homes and spend rather than lower debt or save. The U.S. savings rate, after all, is roughly 1 percent, one of the lowest in the world. A consumer-debt bubble is building and it will devastate many people when it bursts. Our Maestro is on record as saying this use of more unsustainable, non-productive credit is a sound basis for keeping the economy humming. I fail to see how pouring more debt into our houses which only produce more negative cash flow will save us down the road.

What would I do? I'm not the Federal Reserve chairman and it's not a job I'd want. That said, I wouldn't keep forcing lower interest rates. Way back when, before the central bank got involved, interest rates used to set themselves. If people borrowed a lot of money, rates were higher. If people didn't borrow money, rates fell. Why shouldn't it be any different now? The rest of the world is following these eternal verities these days. Plus, I'd aggressively encourage people to pay down their debt and start saving. Our system discourages saving and investing, but encourages consumption. The only way to make it through the hard times is if you've prepared for them. The U.S. desperately needs more saving and investment, not more SUVs and vacations in the casinos. We need to let inefficient companies fail to clean out the system. Japan over the past decade has proved that for all of us. Greenspan has even talked of Japan's "ensuring failures of policy." We need to build future productivity, not more bubbles. Hopefully, it's not too late.

Greenspan is up for reappointment in 2004. He's already lobbying to be reelected, hoping to surpass the last William McChesny Martin as the longest-running Federal Reserve chairman in history. He shouldn't be reappointed. By then, things may be so bad that even he won't be able to hide what he's done. In his recent speech in Wyoming, Greenspan said, "As history attests, investors too often exaggerate the extent of the improvement in economic fundamentals." Boy, did he speak from the heart and get that right, although he was trying to blame others for his mistakes. But who can blame investors for their rose-colored glasses when the Federal Reserve chairman—the man who allegedly makes the most important financial decisions for the entire nation—ignores history in order to protect his friends and his legacy?

On Sept. 25, 2002, Greenspan told a group of economists again not to worry about his approach of sustaining the economy with a new housing ad consumption base with more credit piled on top of the huge debt increase of 1997–2001. He is getting in deeper while still trying to override normal economic history and rules. He said, "These episodes suggest a market increase over the past two or three decades in the ability of modern economics to absorb shocks." We do not need to worry he said because the world economy "has become more flexible." He is now a believer once again—in a New Flexibility.

Among the most dangerous words in the world are: "It is different this time." The Maestro still believes once again that things are now different. History will judge him one of the worst Central Bankers ever.●

ADDITIONAL STATEMENTS

EARTH RESOURCES OBSERVATION SYSTEMS DATA CENTER CELEBRATES 30 YEARS

● Mr. JOHNSON. Mr. President, it is with great honor that I rise today to congratulate the Earth Resources Observation Systems, EROS, Data Center in Sioux Falls, SD, which will hold its 30th anniversary celebration on Tuesday, September 30, 2003.

Opened in the early seventies, the EROS Data Center was staffed by only a handful of people and the largest mainframe computer in the State of South Dakota. Thirty years later, the EROS Data Center has grown to an organization with over 600 employees and they are responsible for supplying data to a worldwide community of users. Scholars, engineers, and land managers use their data to study a growing list of environmental issues such as resource development, global change, and land use planning. In addition to maintaining Earth science data, EROS scientists are working constantly to discover new ways to utilize this information.

Within the EROS Data Center lies a computer room that was associated with NASA's Earth Science Enterprise initiative. The robotic mass storage systems within this room hold approximately 920,000 separate images and make much of the EROS Data Center's NASA satellite information immediately available to scientists working at desktop workstations in both South Dakota and around the world. A major part of NASA's Earth Science Enterprise initiative is the Earth observing system which will collect data required to measure changes in the Earth system. Beginning in 1999, and running for at least the next 15 years, The EOS will collect data through a series of satellites and field experiments to observe the Earth. In addition, since 1991, the EROS Data Center has supported the United Nations environment programme/global resources information database making environmental data available to developing countries.

While the EROS Data Center's mission has changed and grown over the years, its original mission, which was to receive, process, and distribute data collected and transmitted, still holds true. It is my belief that the center will keep on growing and continue to make a large impact within the Department of the Interior. As a small state, South Dakota can be extremely proud of the impact such a center has not only on the State but on the United States and other nations.

I am proud to have this opportunity to honor the EROS Data Center for its 30 years of outstanding service. It is an honor for me to share with my colleagues the exemplary leadership and strong commitment to data management and research the EROS Data Center has provided. I strongly commend their years of hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.●

TRIBUTE TO KEVIN A. POPE

● Mr. DODD. Mr. President, I rise to pay tribute to Kevin A. Pope, of Waterford, Connecticut, who passed away on July 14, 2003 at the age of 53.

I join all those who knew Kevin Pope in expressing my sadness at his untimely passing, and extending my deepest sympathies to his wife Donna, their two sons Jeffrey and Jason, their grandchildren, and Kevin's entire family.

In an age when so many of us move around from place to place, Kevin was a true Connecticut son—he was born in our state, grew up there, got married and raised children there, and lived there until his unexpected passing last week.

Kevin was a devoted husband and father to his two sons and was a vital member of the Waterford community. He was especially active in youth sports in Waterford, coaching Little League and Babe Ruth baseball and Preteen Basketball, umpiring baseball, softball, and basketball games, and working with the "Chain Gang" at Waterford High School football games. He was also a member of the Waterford Democratic Town Committee and the New London Lodge of Elks, and was the president of the New London Central Labor Union.

I met Kevin through his association with the International Association of Machinists and Aerospace Workers, where, since 1990, he was a Grand Lodge Representative serving not only Connecticut, but New York, New Jersey, and all of New England. I am grateful for all of the occasions that we had to work together, and I especially appreciate the support he gave me over the years.

Kevin was a loyal union man since joining the IAM while working for General Dynamics in 1969. He earned respect throughout Connecticut and the Northeast for standing up for the rights and interests of workers. He was known as a good leader, and a skilled and effective negotiator as well. There are so many people in factories across the Northeast, and nationwide, who have never met Kevin Pope, but their lives are better off today because of his efforts.

Kevin represented the best of the State of Connecticut. I know I speak for a great many people in Connecticut when I say that he was taken from us much too soon.

Once again, my thoughts and prayers go out to Kevin's family, his friends, and his colleagues. We will all miss him very much.●

MARKING THE SERVICE OF JOHN ALEXANDER ANDERSON

• Mr. CRAPO. Mr. President, I rise to express my appreciation to John Alexander Anderson, my senior policy advisor. John has been an important member of my staff. His counsel and efforts will be missed.

As my senior advisor on banking, finance, trade, and transportation issues, John managed policy initiatives and assisted me on numerous legislative accomplishments. He was also my liaison to the Senate Committee on Banking, Housing, and Urban Affairs.

John has been a tireless advocate for policies that promote economic growth, sound government, and financial deregulation. He has a keen comprehension of banking law and understands its impact on markets, investments, and business decisions. He has helped me fight numerous unsound financial initiatives, such as our recent success in protecting derivatives products from unnecessary Federal regulation. He has always been a critical advocate of good policy, including lowering Federal taxes and implementing market-opening trade agreements.

Prior to joining my staff, John served as a legislative assistant to Representative Jack Metcalf of Washington. Before his tenure with Congressman Metcalf, John worked for the Senate Committee on Foreign Relations.

Beyond his professional qualifications, John has an astute political sense and outstanding personal qualities. His loyalty, intellectual independence, talent for reaching consensus and his tactical ability to realize desired outcomes are all characteristics recognized and admired by his peers. He shares my political philosophy and commitment to the principles of limited government and open markets. John proves that the old tag line—better government through better people—is still on the mark.

It is rewarding to see John embrace a new challenge with the leadership and integrity that he demonstrated as a member of my staff. As he enters a new phase, I know my Senate colleagues will join me in acknowledging John's dedicated service as a congressional staffer and wish him every success in his future role. I will miss his counsel but I know John will remain a valued friend and advisor.•

LEADERS IN STEWARDSHIP

• Mr. SMITH. Mr. President, I rise today to speak about some Oregonians who are real leaders in environmental stewardship, the Bailey family of The Dalles, OR. Their family-owned and operated cherry operation, Orchard View Farms, is renowned for its high standards, both in product quality and in environmental management. Orchard View Farms was established in 1923 in the heart of Oregon's cherry growing region, the mid-Columbia Gorge area nestled in the foothills of Mt. Hood.

The Baileys have worked hard to ensure their operation is a good neighbor the environment and the surrounding community. They have championed the Mid-Columbia cherry Integrated Fruit Program, a total farm conservation plan that is modeled on a similar program in northern Italy. The Integrated Fruit Program, or IFP, encompasses all aspects of fruit production, from growing to packing and marketing. IFP emphasizes high quality fruit production that is economical for the grower and has a minimal impact to the environment. This requires careful placement of orchard plants, close monitoring of soil moisture levels and nutrients to avoid unnecessary irrigation or excess fertilizers. There is also an emphasis on non-chemical means of controlling plant pests and disease. The end result is more than 3000 tons of Ranier and Bing cherries that the Baileys ship to markets across the country and to Europe and Asia every year. Their accomplishments have not gone unnoticed by the farm conservation community—the American Farmland Trust recognized the Bailey family last year with its prestigious Steward of the Land Award.

In addition to their important work in the area of farm conservation, the Baileys have also worked closely with my office in the past on the challenging problem of reforming the agricultural guest worker program.

I am speaking about Orchard View Farms today to remind my colleagues that every day farm families like the Baileys are working hard to make a living in farming, ranching, or forestry in a way that is good for their community and good for the environment. They take their stewardship responsibilities seriously and deserve our commendation for adhering to these principles, especially in a time of unprecedented economic challenges for farmers in the form of increasing food imports and numerous regulatory mandates. I think we can all be proud of families like the Baileys who are truly leaders in environmental stewardship and demonstrate how American agriculture can succeed in this increasingly competitive global food market.•

SCOTT COUNTY FIRE DEPARTMENT

• Mr. BUNNING. Mr. President, I pay tribute to the Scott County Fire Department and its personnel for their progress in providing outstanding fire protection for the citizens of Scott County. Their efforts have not gone unnoticed.

Through the leadership of Scott County Fire Chief Billy Willhoite, the amount of full-time firefighters over the past 10 years has doubled. The efforts of full-time and volunteer firefighters alike along with increased investment in manpower, equipment, training, and facilities, have enabled the department to make great strides in serving their fellow Kentuckians. Billy Willhoite's 29 years of experience as a firefighter, 25 of which were as chief, have enabled him to shape the personnel of the Scott County Fire Department to make great strides in their firefighting capabilities.

While funding is a significant component to fire protection, no dollar sign can be placed on the bravery, courage, and commitment inherent of those who put themselves into harm's way to protect those in danger. The firefighters of the Scott County Fire Department are heroes to so many and deserve our gratitude. At a moment's notice, they can be relied upon to respond to any emergency regardless of the circumstances to assure the safety of those in need.

As our Nation takes measures to strengthen our homeland security, it will be imperative that fire departments throughout Kentucky and across America follow the example of the Scott County Fire Department and adapt to improve fire protection services. I am proud of their efforts and am grateful for how well they have represented the Commonwealth. I thank the Senate for allowing me to recognize the Scott County Fire Department and its personnel for their service to their community and to our Nation. They are Kentucky at its finest.•

MESSAGE FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of the reading clerks, announced that the House has passed the following bills, without amendment.

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1435. An act to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2746. An act to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the "Barbara B. Kennelly Post Office Building".

H.R. 2854. An act to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

H.R. 2859. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2003.

H.R. 2861. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 259. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2746. An act to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the "Barbara B. Kennelly Post Office Building"; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3452. A communication from the Secretary of Energy, transmitting, the report of proposed legislation entitled "Power Marketing Administration Authority Act"; to the Committee on Energy and Natural Resources.

EC-3453. A communication from the Secretary of Energy, transmitting, the report of proposed legislation relative to waste materials stored in silos at the Department of Energy uranium processing facility in Fernald, Ohio; to the Committee on Environment and Public Works.

EC-3454. A communication from the Chairman, Central Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, a report that the Commission has revoked Nebraska's membership in the Central Interstate Low-Level Radioactive Waste Commission; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 610. A bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes (Rept. No. 108–113).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1404. A bill to amend the Ted Stevens Olympic and Amateur Sports Act (Rept. No. 108–114).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. ENZI, Mr. DASCHLE, Mr. JOHNSON, and Mr. INOUYE):

S. 1469. A bill to amend the Head Start Act to provide grants to Tribal Colleges and Universities to increase the number of post-secondary degrees in early childhood education and related fields earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the community involved; to the Committee on Indian Affairs.

By Mr. SARBANES (for himself and Mr. CORZINE):

S. 1470. A bill to establish the Financial Literacy and Education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL:

S. 1471. A bill to amend the Public Utility Regulatory Policies Act of 1978 to require electric utilities to provide net metering service; to the Committee on Energy and Natural Resources .

By Mr. TALENT:

S. 1472. A bill to authorize the Secretary of the Interior to provide a grant for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 1473. A bill to authorize the Secretary of the Army to carry out a project for the mitigation of shore damage attributable to the project for navigation, Saco River, Maine; to the Committee on Environment and Public Works.

By Mr. ALEXANDER:

S. 1474. A bill to amend the Head Start Act to designate up to 200 Head Start centers as Centers of Excellence in Early Childhood, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH:

S. 1475. A bill to amend the Internal Revenue Code of 1986 to promote the competitiveness of American businesses, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. DAYTON):

S. 1476. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, and Mrs. CLINTON):

S. 1477. A bill to posthumously award a Congressional gold medal to Celia Cruz; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCAIN (for himself and Mr. HOLLINGS):

S. 1478. A bill to reauthorize the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 202. A resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33; to the Committee on Foreign Relations.

By Mr. LUGAR (for himself, Mr. BAYH, Mr. FRIST, Mr. DASCHLE, and Mr. BYRD):

S. Res. 203. A resolution relative to the death of Vance Hartke, former United States Senator for the State of Indiana; considered and agreed to.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUYE, the names of the Senator from Nevada (Mr. REID) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 846

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 894

At the request of Mr. WARNER, the names of the Senator from California (Mrs. BOXER) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 939

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1063

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1063, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1439

At the request of Mr. BUNNING, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1439, a bill to amend part E of title IV of the Social Security Act to reauthorize adoption incentives payments under section 473A of that Act and to provide incentives for the adoption of older children.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Minnesota (Mr. DAYTON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 169

At the request of Mrs. CLINTON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

S. RES. 200

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. PRYOR) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 200, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel.

AMENDMENT NO. 1140

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 1140 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1349

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 1349 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JULY 25, 2003

By Ms. MURKOWSKI:

S. 1466. A bill to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I am pleased to be joined by my colleague, Senator TED STEVENS, in introducing this very important legislation.

The Alaska Land Transfer Acceleration Act of 2003 will transfer millions of acres of land to Alaska Natives, the State of Alaska and to Native Corporations by 2009. The Federal agencies in Alaska have management jurisdiction of over 63 percent of the State. It is time to transfer these public lands from Federal Government control to private ownership. This legislation creates a strategic plan for the Bureau of Land Management to finally resolve long-standing land survey, land entitlement issues and land claim issues, some of which date back to 1906. Since 1906 Congress has enacted other legislation that requires the BLM to transfer public lands to Alaska Natives, the State of Alaska and to the Alaska Native Corporations.

The land conveyance program is the largest and most complex of any in United States history. For many years, BLM's primary goal was to convey title to unsurveyed lands to the State and Native Corporations by tentative approval and interim conveyance respectively. This management practice allowed the State and Native Corporations to manage their lands subject only to the survey of the final boundaries.

This legislation will accelerate release of lands for conveyance to Native corporations and the State of Alaska. It will complete land patterns to allow land owners to more efficiently manager their land. It will clarify that certain minerals can be transferred to Native landowners. And frankly, split estates can be minimized. The University will be given the opportunity to select the remaining Federal interests in lands the University already owns, that will likely produce economic opportunities not presently available under this land lock.

The complexity of land patterns and uses in Alaska is evident in the presence of Federal mining claims that are within lands owned or selected by the State of Alaska. Our legislation would clarify miners' right to convert from Federal to State claims without jeopardizing ongoing mining operations. At the same time, BLM would be allowed to expedite conveyances to the State. Properly maintained Federal claims will continue to be excluded from conveyance. Entitlements to the State will remain secure. The miner will decide when or whether to convert his claims to State claims.

For too many years, individuals, Native corporations and the State have been patiently waiting to receive title to their land. In 1958 the State of Alaska was promised 104 million acres of land, and has to date received final title to only 42 million acres; less than half of what is due. Of the 44 million acres of land that the Native Corporations are entitled to, only about a third has been conveyed or about 15 million acres. Worse yet, are the 2500 parcels pending title to Native individuals out of 16000 parcels. Almost 14000 parcels are still awaiting basic adjudication to even make a determination of land transfer. Too much land is hanging in the balance that must be surveyed and patented to rightful owners. Between now and the sunset of this bill in 2009, more than 89 million acres must be surveyed on State and Native Corporation lands. The lands that are awaiting survey do not include lands that will eventually be titled to Native individuals; these lands too must first be surveyed.

While some Native allotments have been conveyed, issues have arisen to challenge final conveyance to the land. Such challenges have included whether actual use of the land occurred; the location of the parcel; or even who should receive title to the land. Sadly, some of the original Native allotment applicants have died waiting to receive title or have disputes resolved. Oftentimes, the death of an applicant can present the agency with chain of title questions to determine who the rightful heir is, causing further delays to getting the lands transferred.

Some disputes have been easier to handle than others, resulting in settlement through an administrative appeals process. The Federal agencies have been hampered by many administrative and legal obstacles. There have been court decisions and lawsuit settlements, new legislation creating new rights or changing rules midstream. Old cases have been reopened that have created new land patterns for adjudication and survey. The administrative appeals process was designed to be efficient, and immediately accessible to individuals who believe they have been adversely impacted by actions taken by the BLM. In too many instances this process has resulted in long delays that hinder the BLM from finalizing its work. In the meantime, the applicant suffers at the hands of a process that generally takes years just for a case to be reviewed for resolution.

This legislation will provide the BLM with broader authority to solving many of the problems associated with land claims affecting all disputes that occur in Alaska. When disputes arise over the adjudication of land claims, BLM needs to have full authority to work in a more collaborative environment with its clientele.

This legislation will provide the BLM the opportunity to caucus with its clients. It will allow for a process of negotiation to gain consensus on final resolution of land applications. What has been missing all these years is the flexibility for the Federal agencies to work in such a cooperative fashion. This new process is intended to be free of complicated rules that have plagued the agency to finding solutions. Resolution and closure must come quicker.

I give great credit to the management and the employees of the BLM Alaska for their efforts over the years to transfer the land. They have proven to be dedicated and committed public servants. I believe they have tried to do the right thing; they just need the tools and the resources. They want to close the books on the Alaska conveyance program once and for all, and this bill will help them achieve that goal by 2009.

In 1973 the Alaska Native Claims Appeal Board was established. The Board had jurisdiction over decisions made under the Alaska Native Claim Settlement Act. The Board consisted of four judges, and was able to decide a case within three to six months of the close of briefing. It usually had a small backlog. While the Board was able to act in a fairly responsive manner, there was criticism the Board did not correctly apply general Federal land law precedent and that some of their rulings were inconsistent with policy of the Department of the Interior. The Board was dissolved in 1981. The backlog of cases was not necessarily attributed to Native Corporation cases; most of the backlog related to all other matters. This legislation will create a hearings and appeals process located in Alaska. Presently, there are almost 100 appeals of Alaska decisions pending before the Interior Board of Land Appeals. It usually takes this Board several years to rule on a case, sometimes as long as three to five years. The present process is broken. There should never be a process that controls the fate of someone's livelihood. Matters requiring resolution must not sit and languish for years without resolution. This practice is unacceptable and unreasonable.

Additionally, more than twenty cases are pending before Administrative Law judges at various Office of Hearings Appeals offices—Virginia, Minnesota and Utah. The cases currently in their hands are Native allotments and mining claims. Substantial delays have resulted from the slow pace of scheduling hearings in Alaska. Establishing an Alaska hearings unit to handle all Alaska appeals would significantly speed up the current process. Such a new process would be able to routinely issue decisions within three to six months of the close of briefing.

Challenges likely to emerge on land actions requiring judicial review will be handled by judges located in Alaska. Moreover, having judges located in Alaska, conducting Alaska business, would ensure an understanding of the special laws that are applicable to Alaska. In addition, this process would include all land transfer matters, not just claims under the Alaska Native Claims Settlement Act.

To achieve the acceleration of land conveyances, we must be able to count on a consistent level of funding. We do not want any aspect of the acceleration plan to be hampered. As I pointed out earlier, almost 90 million acres must be surveyed between now and 2009. The BLM is the single agency of the Federal Government that is charged with the authority and responsibility for surveys and land title record keeping. Official survey plats are the government's record of the boundaries of an area and the description of such surveyed land is known as the legal land description. Land title or patents are based on such plats of survey. And, until the land is surveyed, the Alaska Natives, the State of Alaska and the Native Corporations will still be waiting way off into the future for this work to be finalized.

The Alaska Land Transfer Acceleration Act of 2003 imposes very strict provisions on the agency to complete land conveyances by 2009 to Alaska Natives, the State of Alaska and to the Native Corporations. Some might view this plan as ambitious. I view it as being long overdue.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. ENZI, Mr. DASCHLE, Mr. JOHNSON, and Mr. INOUYE):

S. 1469. A bill to amend the Head Start Act to provide grants to Tribal Colleges and Universities to increase the number of post-secondary degrees in early childhood education and related fields earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the community involved; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Tribal Colleges and Universities/Head Start Partnership Act, on behalf of myself and Senators ENZI, DASCHLE, JOHNSON, and INOUYE.

As I am sure you all know, Head Start is the flagship Federal program that insures that disadvantaged children have access to the educational, social, health, and behavioral services that they need in order to be ready to enter and excel in school. Studies clearly show that Head Start is a strong and effective program and that children who enroll in it benefit from improved cognitive and social skills. Although Head Start is a model program, it can be even better. One factor that we know is strongly related to student outcomes is teacher quality and education. Simply put, the more advanced the credentials of the teacher, the better the outcomes for students.

In recognition of this fact, the 1998 Head Start reauthorization required that 50 percent of all Head Start teachers have at least an Associate's Degree, AA, in early childhood or a related field by 2003. In the impending reauthorization of Head Start, is it likely that teacher credential requirements will be increased even further.

Although across the Nation as a whole, the 50 percent AA degree requirement for Head Start teachers has been met, there are some regions and sub-groups in the U.S. for which this is not the case. It is particularly difficult for Head Start teachers on Indian reservations, in rural areas, and those who teach migrants to access the necessary educational opportunities. Often, the distance these individuals would have to travel to take classes at the nearest college that offers an early childhood education degree is simply prohibitive.

The purpose of the Tribal College and University/Head Start Partnership Act is to facilitate the continuing education of Native American Head Start teachers so that they can obtain the credentials they need to provide the best outcomes for the children under their care. Nationally, only 14 percent of Native American Head Start teachers have an AA degree and a scant 7 percent have a BA degree or higher.

The current Act is based on the "Head Start Partnerships with Tribally Controlled Land-Grant Colleges and Universities" discretionary grants program at HHS. This program provided grants to 16 tribal universities and colleges during the period 1999–2001. The purpose of the program was to utilize the capabilities of these institutions of higher education to improve the quality of Head Start and Early Head Start programs funded through the American Indian Programs Branch, primarily by providing education and training opportunities for Head Start staff. Partnership agreements provided academic credits primarily toward Associate's or Bachelor's Degrees. Since the program began in 1999, 322 students have graduated from these programs and an additional 59 are expected to graduate by the end of 2003.

In my home State of New Mexico, Southwestern Indian Polytechnic Institute, SIPI, received a 3-year grant of $150,000 per year. This grant has supported the teaching of courses leading directly to an AA degree in early childhood. There are roughly 125 declared majors, 90 percent of whom are Head Start teachers, enrolled in these classes each semester, distributed across eleven reservations and pueblos in New Mexico, the closest of which is 30 miles from the SIPI campus. Without access to this type of distance education, these dedicated Head Start teachers would not be able to receive the education that is crucial to both their own futures and to the lives of the many children they teach.

Although the Head Start Partnerships discretionary grants program at HHS has been very successful, funding has been sporadic. No grants were awarded in 2001 and 2002. Although HHS just recently announced a new competition for these grants, it is unclear if new grants will also be awarded in future years. I believe that an authorized grants program would be the best way to insure a steady and dependable source of funding so that tribal Head Start teachers can obtain the education that is so crucial to their success.

The TCU/Head Start Partnership Act would authorize 5-year grants to TCUs so that these institutions can develop programs resulting in increased numbers of advanced degrees for tribal Head Start teachers, particularly in technology mediated formats. The act authorizes $10,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005–2008, in order to achieve these goals.

I urge my colleagues to join me in supporting this extremely important program. At a time when we are rightfully demanding that Head Start teachers be highly credentialed, we must provide the supports that are necessary to help teachers gain these credentials.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Colleges and Universities Head Start Partnership Act".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Head Start Act requires that 50 percent or more of teachers nationwide in center-based Head Start programs must have at least an associate degree in early childhood education, or a field related to early childhood education, by 2003.

(2) A goal of the Head Start Act is to ensure that all Head Start programs nationwide will provide accredited continuing education for Head Start staff that provides college or university credit for such staff. However, Indian Head Start programs are generally located in areas isolated from mainstream colleges or universities where such credit can be earned.

(3) The vast majority of the Nation's 34 Tribal Colleges and Universities have early childhood education programs and, of these, 32 are accredited, or designated candidates for accreditation, by national accrediting associations.

(4) Tribal Colleges and Universities were created by Indians for Indians primarily on rural and remote Indian reservations, which were virtually excluded from the Nation's system of higher education.

(5) Tribal Colleges and Universities are engaged community institutions, offering higher education and continuing education opportunities to individuals who otherwise might find attaining such education impossible due to family responsibilities, and financial and geographic barriers.

(6) Tribal Colleges and Universities have been more successful than any other institutions of higher education in educating Indians and helping to retain Indians in high-need fields such as nursing and teaching. According to a 2000 survey, over 80 percent of Tribal College and University graduates go on to further higher education or become employed in the local community.

(7) Through partnerships developed between Tribal Colleges and Universities and Head Start programs nationwide—

(A) Indian Head Start agency personnel can gain greater access to accredited college and university programs in their career field;

(B) the knowledge, skills, and aptitude of those working at Indian Head Start agencies will be increased, thus enabling them to provide high quality and comprehensive services to Indian children and their families; and

(C) the health, early childhood development, and school readiness of Indian children will be improved as a result of increased staff knowledge, skills, and aptitude.

(b) PURPOSES.—The purposes of this Act are to—

(1) promote social competencies and school readiness in Indian children; and

(2) provide high quality, accredited educational opportunities to Indian Head Start agency staff so that they can better deliver services that enhance the social and cognitive development of low-income children through the provision of health, educational, nutritional, social, and other services to low-income children and their families.

SEC. 3. TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

"SEC. 648B. TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.

"(a) TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.—

"(1) GRANTS.—The Secretary is authorized to award grants, of not less than 5 years duration, to Tribal Colleges and Universities to—

"(A) implement education programs that include tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the tribal community involved;

"(B) develop and implement the programs under subparagraph (A) in technology-mediated formats; and

"(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency.

"(2) STAFFING.—The Secretary shall ensure that the American Indian Programs Branch of the Head Start Bureau of the Department of Health and Human Services shall have staffing sufficient to administer the programs under this section and to provide appropriate technical assistance to Tribal Colleges and Universities receiving grants under this section.

"(b) APPLICATION.—Each Tribal College or University desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a certification that the Tribal College or University has established a partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(2) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' means an institution—

"(A) defined by such term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)); and

"(B) determined to be accredited or a candidate for accreditation by a nationally recognized accrediting agency or association.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.".

By Mr. SARBANES (for himself and Mr. CORZINE):

S. 1470. A bill to establish the Financial Literacy and education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, today I am introducing the Financial Literacy and Education Coordinating Act of 2003. This legislation creates an intergovernmental coordinating Committee whose goal is to improve the financial decision making of all Americans by strengthening education to raise financial literacy levels.

The phrase "financial literacy" is one we often hear but often do not really understand. It is analogous in financial matters to basic literacy—the ability to read and understand what is read—in our everyday lives. We are keenly aware from our efforts to improve our schools and raise our students' ability to read that there are higher and lower levels of literacy. Numerous statistical studies indicate that in the field of personal finances, substantial numbers of people are financially illiterate. Among those who have some degree of literacy, the vast majority are performing below what their 'grade level' ought to be.

This bill addresses that problem. It reflects my long-standing concern that inadequate knowledge of financial issues leaves our consumers seriously vulnerable to exploitation, with devastating consequences for them and their families. As Chairman of the Committee on Banking, Housing and Urban Affairs, during the last Congress, I chaired a series of hearings to examine the state of financial literacy and education throughout the Nation. The Committee received testimony from a wide range of witnesses on the state of financial literacy and education among Americans of all ages and from all walks of life—from school age children to retirees, small investors to those without bank accounts, and first time workers to those saving for retirement. The witnesses were unanimous in the view that we needed to increase financial education in this country.

Federal Reserve Chairman Alan Greenspan stated before the Committee that: "In considering means to improve the financial status of families, education can play a critical role by equipping consumers with the knowledge required to make wise decisions. . . . This is especially the case for populations that have traditionally been underserved by our financial system." Chairman Greenspan made the point that increased financial education has the potential to improve significantly the economic situation of the vast majority of Americans.

The goal of this legislation is to promote better financial decision-making among consumers. While at present substantial work is in progress both within the government and outside of it, it suffers from the lack of a single comprehensive strategy—there is too little coordination, and too much duplication. As Tess Canja, President of AARP testified before the Committee: "We see a need for a coherent and coordinated national strategy for making available a well-researched and well-evaluated progression of financial literacy programs and services." By creating an underlying strategy to address these problems, the legislation will help enable Americans to make the financial decisions that best serve their needs and aspirations. This legislation seeks to address these problems and create a strategy to improve the financial choices and outcomes for all Americans.

The bill creates a Coordinating Committee chaired by the Secretary of the Treasury, based in the Treasury Department's Office of Financial Education. The Committee will be responsible for coordinating and centralizing the various existing financial education activities in our government agencies as well as any future initiatives. Currently there are at least sixteen active financial-education programs. They operate in each of the Federal banking agencies—the Federal Reserve, FDIC, OCC, and OTS; the NCUA; the SEC; in six executive departments—Education, Agriculture, Defense, Health and Human Services, Labor, and Veterans Affairs; and in such agencies as the Social Security Administration, Federal Trade Commission, the Commodities Futures Trading Commission, and the Office of Personnel Management.

The Committee will coordinate these and other efforts. Additional members can be added at the discretion of the Chairperson of the Committee. All will benefit from the better coordination and the elimination of unnecessary duplication that the Committee will provide.

In addition, many State and local governments, non-profit entities, and private enterprises have developed and implemented excellent financial education programs. A successful national strategy to increase financial literacy and education must involve a partnership that engages all levels of government, including at the State and local level, along with leaders of the non-profit and private sectors. As Don Blandin, President of the American Savings Education Council noted in his testimony before the Committee: "Organizations in both the private and public sectors must collaborate on all levels to help educate Americans about the importance of taking control of their financial future. By combining and leveraging our comprehensive networks and resources, we have a better chance of reaching people that none of us would be able to reach alone." The Coordinating Committee established by this legislation will undertake just such a collaboration. It will develop a national strategy in conjunction with State and local governments and with the private and non-profit sectors, and will report its findings back to the Congress.

It is disturbing to hear the statistics about the current situation and how financially under-educated the American people are. The Consumer Federation of America found that the typical American failed a 14-question test of basic knowledge of personal finances. Fewer than one in ten, 8, answered three-quarters of the questions correctly. Eighty-two percent of high school seniors failed a 13-question personal financial quiz on such basic questions as interest rates, savings, loans, credit cards, and calculating net worth.

The lack of financial education affects Americans of every age and background. There may be differing opinions on issues of financial security for retirees, but I suspect there is little disagreement on the importance to every family of budgeting and savings for retirement. We have data showing that households with a savings plan save twice as much as those without a plan, and yet surveys indicate that half of all Americans have not taken the basic step of calculating how much they will need to save for retirement. Teaching families how to budget and develop a savings plan as well as the importance of doing so would enhance many Americans' financial security.

There are far too many people today who lack a bank account, which is the passport for access to mainstream financial services. The Wall Street Journal, in an article appearing June 28, 2001, estimated that 10 million adult Americans have no relationship with a mainstream financial services provider. Of the millions of households that have no relationship with a bank, one-third are African American and 29 percent are Hispanic. The large costs of failing to bring people into the mainstream financial system makes it imperative to pursue all avenues to bring them in. A lack of basic consumer financial education on how a checking and a savings account work and why it's important to have such an account is one explanation for these disturbing figures. Once people enter into the financial mainstream a lot of the protections and safeguards which have been developed for the board mass of the public are enjoyed by these newly banked people.

The Banking Committee heard from witnesses that many college students have access to significant credit through credit cards, but have little experience and often little to no education on how to use them responsibly. Kentucky State Treasurer Jonathan Miller, who has held a series of hearings on financial literacy throughout his state, testified before the Banking Committee that: "for a significant and growing minority of college students, credit card use and misuse can be devastating." The Department of Education estimates that the average credit card debt among college students was over $3,000 in the year 2000. College students are not the only ones susceptible to credit card debt: the average credit card debt per American family is over $8,000. Furthermore, too many people are unaware of their own credit score, how to access that score, and the impact that their credit score has on both their access to credit and the terms on which that credit is offered.

Students are entering college with insufficient knowledge of the financial system and as a result, they are getting into serious financial problems. One of the Committee's witnesses, Ms. Ellen Frishberg, Director of Student Financial Services at John Hopkins University, testified that, "Because of the case of getting credit, the lack of financial savy on the part of these otherwise very bright students, and the unchecked solicitation and giveaways that were going on during orientation, in 1994 the Dean of Students decided it was best to prohibit credit card vendors from the Homewood campus." We can all agree that college students who are better educated in the basics of the financial system will be less susceptible to falling into serious credit card debt.

Special attention should also be paid to immigrants, often of modest means who send, or remit, a significant portion of their income to family in their country of origin. According to a recent study by the Inter-American Development Bank, in the aggregate $32 billion was remitted out of America last year, with over $10 billion going to Mexico alone. It is estimated that nearly 70 percent of all Hispanic immigrants send money home. The financial transaction of sending money internationally is complex: there are transaction fees, currency conversion fees and exchange rate spreads. The full costs can range up to $50 even when the amount being sent home is $300. A survey by Bendixen and Associates estimated that ⅔ of Hispanic immigrants who send money home are unaware of the full costs. Before the Banking Committee, Mr. Bendixen testified that, "When these immigrants were informed that besides a fee paid in the U.S., international money transfer companies often provide unfavorable exchange rates or discount additional commissions or charges in Latin America, a large majority of them felt that the fees paid for the service are excessive and unfair. Customers should have access to information about the full costs of their transactions, and they need a level of financial literacy that enables them to interpret the information. Only then will they be able to shop effectively, compare costs, and make wise financial choices.

Increased financial education is a first step in the consumer education process but as Federal Reserve vice-Chairman Roger Ferguson testified before the Committee, "legislation, careful regulation and education are all components of the response to these emerging consumer concerns." The legislation I introduce today will make a significant contribution to improving the quality of financial education in this country. It is modeled closely on the Trade Promotion Coordinating Committee established by the Export Enhancement Act of 1992.

A number of Senators have taken a strong interest in this issue. Senator CORZINE is a co-sponsor of this legislation and has been actively involved on the issue. I particularly want to acknowledge the outstanding leadership of Senators STABENOW and ENZI as well as Senator AKAKA. I know that Senators STABENOW and ENZI are working on a bill and I look forward to working closely with them.

I also want to express my appreciation to Senate Banking Committee Chairman SHELBY for the time and attention is devoting to this subject. Tomorrow Chairman SHELBY is holding a hearing in the Committee on "Consumer Awareness and Understanding of the Credit Granting Process." These issues are directly related.

I ask unanimous consent that a summary of the Financial Literacy and Education Coordinating Act and the bill be printed in the RECORD together with letters in support of the bill. I urge my colleagues to work toward speedy enactment of meaningful legislation to improve the financial literacy and education of all Americans.

There being no objection, the summary and letters of support were ordered to be printed in the RECORD, as follows:

FINANCIAL LITERACY AND EDUCATION COORDINATING ACT OF 2003

This legislation establishes an interagency Committee, based in the Department of the Treasury, with assistance provided by Treasury's Office of Financial Education. The Committee shall be chaired by the Secretary of the Treasury and charged with coordinating governmental financial literacy initiatives and developing a national strategy, in cooperation with state and local governments, and non-profit and private enterprises, to improve financial education and literacy of all Americans.

The Committee initially includes representatives from the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Departments of Treasury, Agriculture, Defense, Education, Health and Human Services, Labor, Veterans Affairs, the Social Security Administration, the Federal Trade Commission, the Commodities Futures Trading Commission, and the Office of Personnel Management. The chairperson has the authority to include other agencies and departments that are engaged in a serious effort to improve the state of financial literacy and education among any group of Americans. The Committee shall meet no less than quarterly.

There is substantial evidence that many Americans do not have an adequate basis for making sound decisions about their personal and household finances, especially given the myriad choices of financial products and services available to them. A more comprehensive financial education would help provide individuals with the necessary tools to create household budgets, initiative savings plans, manage debt, and make strategic investment decisions for education, retirement, home ownership or other savings goals. While increased levels of financial literacy and education are critically important, improved financial decision making by consumers, not simply improved knowledge, should be the most important financial education goal.

The Committee is required to: review financial literacy and education efforts throughout the federal government; identify and remove duplicative financial literacy efforts within the federal government; coordinate and promote financial literacy efforts including partnerships between federal, state and local governments, non-profit organizations and private enterprises; develop within one year a national strategy to promote financial literacy and education among all Americans; develop and implement the strategy with the participation of non-profit and private sector institutions; coordinate efforts towards the implementation of the strategy; and submit an annual report, providing testimony if requested, to Congress detailing the state of financial literacy and education as it relates to the strategy.

CONSUMER FEDERATION OF AMERICA,
July 25, 2003.

Hon. PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES, the Consumer Federation of America commends you for introducing legislation to boost financial awareness and improve financial decision-making by Americans. There has never been a greater need to advance financial education. CFA strongly supports the creation of the Financial Literacy and Education and Coordinating Committee within the Department of the Treasury, as called for in this bill, and looks forward to working with you to enact this timely legislation.

The financial education needs of the least affluent and well-educated Americans are especially pressing, in part because recent changes in the financial services marketplace have increased the vulnerability of these households. In particular, the dramatic expansion of high-cost and sometimes predatory lending to moderate and lower income Americans in the last decade has put many of these people at great financial risk. Because these individuals lack financial resources and often are charged high prices, they cannot afford to make poor financial choices. But because of low general and financial literacy levels, they often have difficulty making smart financial decisions, in part because they are especially vulnerable to abusive seller practices.

THIS LEGISLATION WOULD ESTABLISH EFFECTIVE FEDERAL LEADERSHIP ON FINANCIAL EDUCATION

While many worthwhile financial education programs exist, they are not well-coordinated, effectively reach only a small minority of the population, and do not reflect any broad, compelling vision. Many focus only on increasing consumer knowledge of how to best operate in the financial services marketplace, and not on actually changing consumer behavior to improve decisions about spending, saving, and the use of credit. Moreover, there is no clear consensus about how to effectively provide financial education, especially to those who have completed their secondary education and to those with low literacy levels. What is most needed is a comprehensive needs assessment and plan to guide and inspire financial educators and their supporters. Such a plan could also convince a broad array of government, business and nonprofit groups to work together to persuade the nation to implement that plan.

This legislation recognizes that, for any comprehensive plan to win broad public and private support and participation, the federal government must provide leadership. The bill would give the Department of Treasury the authority to establish a federal governmental network to coordinate financial literacy efforts and requires every relevant agency to participate at a high level, including the Securities and Exchange Commission, the Department of Education, the Federal Reserve, and the Department of Defense. It emphasizes the importance of assessing the federal government's capacity for promoting financial literacy. It requires the Coordinating Committee to evaluate different financial programs and strategies and identify those that are most effective in improving consumer decision making—not just awareness. It makes the Coordinating Committee directly accountable to Congress for its activities and accomplishments. Most importantly, it requires the Coordinating Committee to develop and implement a national strategy to promote basic financial literacy, with broad input from business, educational and nonprofit leaders.

LOWER INCOME CONSUMERS NEED BETTER FINANCIAL LITERACY EFFORTS

There is no large population that would benefit more from improved financial education than the tens of millions of the least affluent and well-educated Americans. In 1998, 37 percent of all households had incomes under $25,000. With the exception of older persons who had paid off home mortgages, these households had accumulated few assets. In 1998, according to the Federal Reserve Board's Survey of Consumer Finances, most of these least affluent households had net financial assets (excluding home equity) of less than $1,000. Moreover, between 1995 and 1998, a time of rising household incomes, the net worth of lower-income households actually declined.

For lower income households with few discretionary financial resources, failing to adequately budget expenditures may pressure these consumers into taking out expensive credit card or payday loans. Mistakenly purchasing a predatory mortgage loan could cost them most of their economic assets.

These households also need to make smart buying decisions because they tend to be charged higher prices than more affluent families: higher homeowner and auto insurance rates because they live in riskier neighborhoods; higher loan rates because of their low and often unstable incomes; higher furniture and appliance prices from neighborhood merchants that lack economies of scale and face relatively high costs of doing business; and higher food prices in their many neighborhoods without stores from major supermarket chains. Lower-income families are also faced with higher prices for basic banking services and they lack access to essential savings options.

Lower-income households with low literacy levels are especially vulnerable to seller abuse. Consumers who do not understand percentages may well find it impossible to understand the costs of mortgages, home equity, installment, and credit card, payday, and other high-cost loans. Individuals who do not read well may find it difficult to check whether the oral promises of salespersons were written into contracts. And, those who do not write fluently are limited in their ability to resolve problems by writing to merchants or complaint agencies. Consumers who do not speak, read, or write English well face special challenges obtaining good value in their purchases.

MORE AVAILABLE CREDIT HAS INCREASED FINANCIAL EDUCATION NEEDS

Over the past decade, the financial vulnerability of low- and moderate-income households has increased simply because of the dramatic expansion of the availability of credit. The loans that subjected the greatest number of Americans to financial risk were made with credit cards. From 1990 to 2000, fueled by billions of mail solicitations annually and low minimum monthly payments of 2–3 percent, credit card debt outstanding more than tripled from about $200 billion to more than $600 billion. Just as significantly, the credit lines made available just to bankcard holders rose to well over $2 trillion. By the middle of the decade, having saturated upper- and middle-class markets, issuers began marketing to lower-income households. By the end of the decade, an estimated 80 percent of all households carried at least one credit card. Independent experts agree that expanding credit card debt has been the principal reason for rising consumer bankruptcies.

Also worrisome has been the expansion of high-priced mortgage loans and stratospherically-priced smaller consumer loans. In the 1990s, creditors began to aggressively market subprime mortgage loans carrying interest rates greater than 10 percent and higher fees than those charged on conventional mortgage loans. By 1999, the volume of subprime mortgage loans peaked at $160 billion. Mortgage borrowers in low-income neighborhoods were three times more likely to have subprime loans than mortgage borrowers in high-income neighborhoods. A significant minority of these subprime borrowers would have qualified for much less expensive conventional mortgage loans. Some of these borrowers were victimized by exorbitantly priced and frequently refinanced predatory loans that "stripped equity" from the homes of many lower-income households.

The 1990s also saw explosive growth in predatory small loans—payday loans, car title pawn, rent-to-own, and refund anticipation loans—typically carrying effective interest rates in triple digits. The Fannie Mae Foundation estimates that these "loans" annually involve 280 million transactions worth $78 billion and carrying $5.5 billion in fees. The typical purchaser of these financial products has income in the $20,000 to $30,000 range with a disproportionate number being women.

Both proper regulation and education are necessary to insure that lower and moderate income Americans are not subject to abusive lending practices and that they have the knowledge to make effective decisions in an increasingly complex financial services marketplace. We applaud you for proposing this comprehensive and achievable vision for improving financial awareness and decision-making. We look forward to working with you and leaders in the House of Representatives to put such an approach in law as soon as possible.

Sincerely,

TRAVIS B. PLUNKETT,
Legislative Director.

AARP,
July 28, 2003.

Hon. PAUL SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: AARP is pleased to offer our support for your legislation, the "Financial Literacy and Education Coordinating Act of 2003," that will begin to address this nation's need to improve financial literacy.

Last year, at the Senate Banking Committee's hearing on the status of financial literacy and education in America, AARP President Tess Canja documented in her testimony the need for a coherent and coordinated national strategy to make available a well-researched and well-evaluated progression of financial literacy programs and services. Your legislation establishes a permanent inter-agency platform for developing a national financial literacy strategy, and it will begin to provide the necessary coordination to integrate and to help deliver educational and training programs that already exist at the federal, state and local levels. For example, the Congress is working to expand the availability of credit reports and credit scores to all Americans. This is critical information for consumers, but it does not become effective knowledge until it is understood.

The dramatic loss in stock market valuations in recent years highlights the financial vulnerability facing many retired Americans. The haunting prospect of an under-informed generation of Baby-Boomers nearing retirement age suggest that there is little time to waste in developing, testing and arraying improved financial education and training services.

We look forward to actively working with you to enact the "Financial Literacy and Education Coordination Act of 2003." If there are further questions, please do not hesitate to call upon me, or have your staff contact Roy Green of our Federal Affairs staff at (202) 434-3800.

Sincerely,

MICHAEL W. NAYLOR,
Director of Advocacy.

NATIONAL COUNCIL ON ECONOMIC EDUCATION,
July 25, 2003.

Hon. PAUL SARBANES,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR SENATOR SARBANES: We at the National Council on Economic Education (NCEE) strongly endorse the Financial Literacy and Education Coordination Committee Act. This Act, which proposes establishing a committee chaired by the Secretary of the Treasury, to coordinate the activities of all Federal Agencies with an interest in financial and literacy, could not come at a better time.

This is a time of growing public interest in financial education. Parents everywhere want their children to know how the world works before they go to work in it, and to possess the basic knowledge and decision-making skills that will help them to become productive and responsible citizens, employees, consumers, savers and investors.

In response to the growing interest in financial literacy, a number of government agencies have set up departments focusing on this issue. In our opinion, the fact that the Coordinating Committee will bring the various departments together will reduce duplication of much needed resources, and get new programs into the community more quickly. We also understand that the Coordinating Committee will work with non-profits, and state and local organizations—both private and public—to develop strategies for improving financial literacy. We welcome this inclusive approach to getting a sound economic education into the hands of our young people.

The NCEE is pleased to support the Financial Literacy and Education Coordination Committee Act. Please keep us informed of its progress.

Yours sincerely,

ROBERT F. DUVALL,
President & Chief Executive Officer.

HOWARD UNIVERSITY,
OFFICE OF THE PRESIDENT,
Washington, DC, July 25, 2003.

Hon. PAUL S. SARBANES,
Committee on Banking, Housing, and Urban Affairs, Senate Dirksen Building, Washington, DC.

DEAR SENATOR SARBANES: Last year, as a representative of higher education and Historically Black Colleges and Universities, I testified before the Committee in support of its proposed national strategy to promote financial literacy and education. Today, I remain steadfast in my advocacy of this initiative.

Financial illiteracy continues to plague many Americans: an unfortunate reality that further underscores the urgent need for The Financial Literacy and Education Coordinating Act. It provides the most effective solution to establishment of a nationwide program that will protect and educate our citizens.

Although financial literacy should be a lifelong program beginning in elementary school, I believe that higher education has a special responsibility to ensure that students in postsecondary institutions develop sound financial competency as early in their college careers as possible.

The typical college graduate leaves school with an average of $19,400 in student loans. Throughout their matriculation, students are routinely bombarded by aggressive credit card companies who entice them with offers of free gifts and easy credit. The addition of credit card debt creates an overwhelming burden on recent graduates.

Promoting financial education for our youth is consistent with Howard University's core values. The University, in collaboration with other organizations—including our strategic partner Fannie Mae—is addressing the national financial literacy problem as it relates to African Americans and other minorities, who are already disadvantaged by the wealth gap. Howard believes that the ability to make informed financial decisions is an increasingly important skill.

We have introduced a number of initiatives to empower our students and members of the community by teaching them the importance of effectively managing their money and improving their credit so that the dream of homeownership and other personal financial opportunities can become a reality.

We now look to the Congress to enact legislation that will buttress our efforts in this regard. The Financial Literacy and Education Coordinating Act is indeed representative of a worthy, collective, non-partisan effort that will have a lasting impact on generations to come.

Respectfully,

H. PATRICK SWYGERT,
President.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Literacy and Education Coordinating Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) there is substantial evidence that many Americans do not have an adequate basis for making sound decisions about personal and household finances;

(2) financial education could play a critical role in equipping consumers with the knowledge to make wise decisions, especially for lower income consumers and those underserved by the mainstream financial system;

(3) an increased awareness of the availability of credit scores and credit reports, the process of accessing them, their significance in obtaining credit, and their effects on credit terms, are of paramount importance to consumers;

(4) easily accessible and affordable resources which inform and educate investors as to their rights and avenues of recourse should be provided when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries;

(5) a basic understanding of the operation of the financial services industry would help consumers and their families to make more informed choices about how best to progress economically, avoid harmful personal debt, avoid discriminatory and predatory practices, invest wisely, develop financial planning skills necessary for maximizing short- and long-term financial well being, and better prepare for retirement;

(6) comprehensive financial education would help to provide individuals with the necessary tools to create household budgets, initiate savings plans, manage debt, and make strategic investment decisions for education, retirement, home ownership, or other savings goals; and

(7) improved financial decision making, not simply more knowledge, should be the primary financial education goal.

SEC. 3. FINANCIAL LITERACY AND EDUCATION COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish within the Office of Financial Education of the Department of the Treasury, the Financial Literacy and Education Coordinating Committee (in this Act referred to as the "Committee").

(b) PURPOSES.—The purposes of the Committee shall be—

(1) to coordinate financial literacy and education efforts among Federal departments and agencies;

(2) to develop and implement a national strategy to promote basic financial literacy and education among all Americans;

(3) to reduce overlap and duplication in Federal financial literacy and education activities;

(4) to identify the most effective types of public sector financial literacy programs and techniques, as measured by improved consumer decision making;

(5) to coordinate and promote financial literacy efforts at the State and local level, including partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises; and

(6) to carry out such other duties as are deemed to be appropriate, consistent with this Act.

SEC. 4. COMMITTEE DUTIES.

(a) IN GENERAL.—The Committee shall—

(1) not later than 1 year after the date of enactment of this Act, develop a national strategy to promote basic financial literacy among all American consumers;

(2) coordinate Federal efforts to implement the strategy developed under paragraph (1);

(3) not later than 1 year after the date of enactment of this Act, and annually thereafter, submit a report to the Committee on

Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding actions taken and progress made by the Committee in carrying out this Act during the reporting period, and any challenges remaining to implementation of such purposes; and

(4) provide testimony by the chairperson of the Committee to either Committee referred to in paragraph (3), upon request.

(b) STRATEGY.—The strategy to promote basic financial literacy required to be developed under subsection (a)(1) shall provide for—

(1) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(2) the development of methods—

(A) to increase the general financial education level of current and future consumers of financial services and products; and

(B) to enhance the general understanding of financial services and products;

(3) review of Federal activities designed to promote financial literacy and education and development of a plan to improve coordination of such activities;

(4) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication; and

(5) a proposal to the President of a Federal financial literacy and education budget that supports such strategy and eliminates funding for such areas of overlap and duplication.

SEC. 5. COMMITTEE MEMBERSHIP.

(a) COMPOSITION.—The Committee shall be comprised of—

(1) the Secretary of the Treasury, who shall serve as the chairperson of the Committee; and

(2) a representative from—

(A) each Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Labor, and Veterans Affairs, the Social Security Administration, the Federal Trade Commission, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(B) a representative from any other department or agency that the Secretary determines to be engaged in a serious effort to improve financial literacy and education.

(b) ASSISTANCE.—The Director of the Office of Financial Education of the Department of the Treasury shall provide to the Committee, upon request, such assistance as may be necessary.

(c) MEMBER QUALIFICATIONS.—Members of the Committee shall be appointed by the heads of their respective departments or agencies. Each member and each alternate designated by any member unable to attend a meeting of the Committee, shall be an individual who exercises significant decisionmaking authority.

(d) MEETINGS.—Meetings of the Committee shall occur not less frequently than quarterly, and at the call of the chairperson.

(e) CONSULTATION.—The Committee shall consult with private and nonprofit organizations and State and local agencies, as determined appropriate by the chairperson and the Committee.

By Mr. TALENT:

S. 1472. A bill to authorize the Secretary of the Interior to provide a grant for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri; to the Committee on Energy and Natural Resources.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HARRY S TRUMAN STATUE, KANSAS CITY, MISSOURI.

(a) GRANT AUTHORITY.—The Secretary of the Interior (referred to in this Act as the "Secretary") may provide a grant to pay the Federal share of the costs for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri.

(b) REQUIREMENTS.—To receive a grant under subsection (a), an eligible entity shall submit to the Secretary a proposal for the use of the grant funds.

(c) MAINTENANCE.—The Federal Government shall not be responsible for the costs of maintaining the statue.

(d) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed $50,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act $50,000, to remain available until expended.

By Mr. ALEXANDER:

S. 1474. A bill to amend the Head Start Act to designate up to 200 Head Start centers as Centers of Excellence in Early Childhood, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, I introduce today a bill to be considered as part of the legislation reauthorizing Head Start. My bill would create a way for states to help strengthen and coordinate Head Start, but would continue to send federal funds directly to grantees for the 19,000 Head Start centers that serve one million disadvantaged children.

My proposal authorizes the Secretary of Health and Human Services to create a nationwide network of 200 Centers of Excellence in Early Childhood built around exemplary Head Start programs. These Centers of Excellence would be nominated by Governors. Each Center of Excellence would receive a Federal bonus grant of at least $100,000 in each of 5 years, in addition to its base funding. And each State would receive a grant to establish and fund a State Council in Early Childhood, which would work with the State Head Start collaboration office to showcase the work of exemplary Head Start centers within a state, capture and disseminate best practices, and identify barriers to and opportunities for coordinated service delivery.

The bill would authorize $100 million for those grants for each of the 5 years.

The Centers of Excellence bonus grants will be used for centers:

(1) to work in their community to model the best of what Head Start can do for at-risk children and families, including getting those children ready for school and ready for academic success;

(2) to coordinate all early childhood services in their community;

(3) to offer training and support to all professionals working with at-risk children;

(4) to track these families and ensure seamless continuity of services from prenatal to age 8;

(5) to become models of excellence by all performance measures and be willing to be held accountable for good outcomes for our most disadvantaged children; and

(6) to have the flexibility to serve additional Head Start or early Head Start children or provide more full-day services to better meet the needs of working parents.

Head Start has been one of our country's most successful and popular social programs. That is because it is based upon the principle of equal opportunity, which is at the core of the American character. Americans uniquely believe that each of us has the right to begin at the same starting line and that, if we do, anything is possible for any one of us.

We also understand that some of us need help getting to that starting line. Most Federal funding for social programs is based upon this understanding of equal opportunity.

Head Start began in 1965 to make it more likely that disadvantaged children would successfully arrive at one of the most important of our starting lines, the beginning of school.

Head Start over the years has served hundreds of thousands of our most at risk children. The program has grown and changed. It has been subjected to debates and studies touting its successes and decrying its deficiencies. But Head Start has stood the test of time because it is so very important.

We have made great progress in what we know about the early growth and development of young children since Head Start began in 1965. At that time very few professionals had studied early childhood education. Even fewer had designed programs specifically for children in poverty.

The origins of Head Start had its roots in an understanding that success for these children was not only about education. The program was designed to be certain these children were healthy, got their immunizations, were fed hot meals, and, of crucial importance that their parents were deeply involved in the program.

From the beginning comprehensive services and parent and community involvement were essential parts of good Head Start programs. And that is still true today. In the early days, teacher training and curriculum were seen as less important. But we now know a great deal more about brain development and how children learn from birth.

Today young children are expected to learn more and be able to do more in order to succeed in school. Public schools offer kindergarten and 40 states now offer early childhood programs.

In addition to the $7 billion spent each year on federal Head Start programs, there are 69 other federal and state programs costing $18 billion a year. The greatest increases have come in private spending as parents seek early childhood development services for their own children.

As Congress approached the 5-year reauthorization of Head Start, President Bush challenged Congress to make a "good Head Start program excellent." The President suggested four objectives for strengthening Head Start:

(1) Improve school readiness by focusing more attention on specific cognitive development;

(2) Increase accountability;

(3) Improve coordination with other programs that serve young children, including public and private schools.

(4) Increase state involvement in strengthening Head Start by transferring federal funding for Head Start to states, with certain criteria and restrictions.

The House of Representatives completed work last week on the reauthorization bill. It is called the School Readiness Act. It made significant progress toward the President's first three objectives: school readiness, accountability, and coordination.

(1) On school readiness, the bill would ensure a greater number of Head Start teachers are adequately trained.

(2) On accountability, the triennial reviews are strengthened by adding unscheduled visits, and chronic underachievers would be subject to a more aggressive review.

(3) On coordination, the bill expands the requirements for the State Head Start Collaboration Offices to coordination.

As for the idea of letting states administer Head Start, the House created a pilot program that would allow eight states to take over Head Start as long as they maintain or improve the level of services.

As the Senate begins its consideration of Head Start, I believe there is consensus about the need to improve school readiness, accountability, and coordination of programs—but no consensus on how to involve the states more actively.

I believe that states should be more involved with Head Start. States have primary responsibility for setting standards for and funding public education. A child who arrives at school too far behind the starting line may never catch up. In addition, the state is in the best position to help coordinate the variety of public and private programs that have grown up since Head Start began.

But the need to involve states does not necessarily mean sending federal dollars first to states and then to Head Start centers. As important as the state is, education and caring for children is primarily local—a community and family responsibility. I believe that in education and in child care local solutions work best.

While Head Start centers are uneven in performance, they have generally excelled in two areas critical to success in caring for and educating children—developing community support and encouraging parental involvement. I do not believe that it would be wise—at least at this stage of the Head Start program—to risk interrupting the strong community support and parental involvement in the 19,000 Head Start centers by transferring funding to the states. There are other and better ways to meet this objective.

That is why I believe creating a nationwide network of 200 Head Start Centers of Excellence in Early Childhood is the right step for the next 5 years. Governors would nominate 149 of these centers. Governors would create or designate a State Council for Early Childhood. Governors could then use these Centers of Excellence and the State Council to encourage other centers to adopt best practices and to improve coordination of programs.

At the federal level additional funds will be made available—$100 million is authorized—for research on the effectiveness of these Centers of Excellence as a strategy for coordination of all early childhood federal and state programs and ensure school success for at-risk children.

In addition, I would hope the President would convene an annual conference of these Centers of Excellence and State Councils to highlight their successes. After four years, we would learn from these activities how state involvement in Head Start might be increased in the next 5-year authorization.

Alex Haley, the author of Roots lived by these six words, "Find the good and praise it." For me that was an invaluable lesson. My mother taught me another invaluable lesson—the importance of preschool education. When I was growing up, she ran a kindergarten in a converted garage in our backyard in Maryville, Tennessee. She helped our community appreciate the value of a good preschool program. I have remembered both lessons in trying to fashion this proposal to bring out the best in Head Start.

The work that the House of Representatives has done on readiness, accountability and coordination—plus the adoption of this proposal for 200 Centers of Excellence in Early Childhood should provide a strong basis for our Head Start reauthorization bill.

The president would have challenged the Congress to improve Head Start in four major respects—readiness accountability, coordination, and state involvement—and he will be able to sign legislation that will do just that.

I ask unanimous consent to have printed in the Record a one-page summary of my bill and the text of the bill itself.

There being no objection, the material was ordered to be printed in the Record, as follows:

Head Start Centers of Excellence in Early Childhood

What are the objectives for reauthorization? The reauthorization should strengthen Head Start for one million disadvantaged children in all 19,000 Head Start Centers by improving (1) school readiness, (2) accountability, and (3) coordination with other programs that serve young children, including public and private schools.

What is the proposal? In support of these objectives, to create a nationwide network of 200 Centers of Excellence in Early Childhood built around exemplary Head Start centers. These Centers of Excellence will receive a special grant to serve as a "magnet" for teachers and others working with at-risk young children to come, learn, and develop action plans to take back to improve their own practices.

Exactly how would the Centers of Excellence do this? The Centers of Excellence will strengthen Head Start, early childhood programs and public and private schools by: (1) *modeling excellence* in high quality seamless service coordination while achieving measured academic success in pre-literacy, number recognition and school readiness; (2) modeling the use of *effective accountability systems;* (3) coordinating services for low-income children from *prenatal through age 8;* (4) following children who *transition from Head Start* to public or private schools, working with both their parents and their teachers; (5) providing *support and training to teachers and others* working with those low-income children, sharing best practices and dramatically leveraging themselves; (6) having the *flexibility* to serve additional Head Start or Early Head Start children or to provide more full-day services to better meet the needs of working parents.

Who could become a Center of Excellence? All 19,000 Head Start centers would be eligible to apply for five-year designations as a Center of Excellence in Early Childhood.

Who would pick the Centers of Excellence? The Secretary of HHS. One hundred forty-nine (149) of the Centers picked would be selected from among applicants nominated by governors; the other 51 would be picked by the Secretary to try to achieve a goal of one in each state.

What are the criteria for selection? (1) a track record of achieved measured academic success including school readiness, (2) a strong demonstrated ability to work with parents and the community, (3) the ability to serve as a model of high quality seamless service coordination, (4) the ability to provide outreach support and training for teachers in other Head Start programs, and in other early childhood settings and in public and private schools. (5) ability to work in partnership with the State Head Start Collaboration Office.

What would the states' role be in these Centers of Excellence? (1) For 149 of the 200 Centers the Governor's nomination is a necessary part of the application. (2) Each state will receive a grant to establish and fund a State Council in Early Childhood which will work with the Head Start Collaboration Office to tie together the work of exemplary Head Start centers within a state, capture and disseminate emerging best practices and identify barriers to and opportunities for better coordination of service delivery.

How will Centers of Excellence be funded? Each Center of Excellence will receive a five-year grant directly from HHS. These excellence grants are bonus grants and are in addition to the center's base Head Start funding.

What is the total Cost of the Centers of Excellence? $100 million—which includes grants to 200 Centers of Excellence in Early Childhood, the grants to state council as well as the costs of research and HHS administrative costs.

S. 1474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Centers of Excellence Act of 2003".

SEC. 2. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

The Head Start Act is amended by inserting after section 641A (42 U.S.C. 9836a) the following:

"SEC. 641B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

"(a) DEFINITIONS.—In this section:

"(1) CENTER OF EXCELLENCE.—The term 'center of excellence' means a Center of Excellence in Early Childhood designated under subsection (b).

"(2) STATE COUNCIL.—The term 'State council' means a State Council for Excellence in Early Childhood described in subsection (e).

"(b) DESIGNATION AND BONUS GRANTS.—The Secretary shall establish a program under which the Secretary shall—

"(1) designate up to 200 exemplary Head Start agencies as Centers of Excellence in Early Childhood; and

"(2) make bonus grants to the designated centers of excellence to carry out the activities described in subsection (d).

"(c) APPLICATION AND DESIGNATION.—

"(1) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive designation as a center of excellence under subsection (b), a Head Start agency in a State shall be nominated by the Governor of the State and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENTS.—At a minimum, the application shall include—

"(i) evidence that the Head Start program carried out by the agency has improved the school readiness of, and enhanced academic outcomes for, children who have participated in the program;

"(ii) evidence that the program meets or exceeds Head Start standards and performance measures described in subsections (a) and (b) of section 641A, as evidenced by successful completion of programmatic and monitoring reviews, and has no citations for substantial deficiencies with respect to the standards and measures;

"(iii) information demonstrating the existence of a collaborative partnership between the Head Start agency and the Governor's office;

"(iv) a nomination letter from the Governor, demonstrating the agency's ability to carry out the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood services to children and families in the community served by the agency; and

"(v) information demonstrating the existence of, or the agency's plan to establish, a local council for excellence in early childhood, which shall include representatives of all the institutions, agencies, and groups involved in the work of the center for and the local provision of services to eligible children and other at-risk children, and their families.

"(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate at least 1 from each of the 50 States and the District of Columbia.

"(3) TERM OF DESIGNATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

"(B) REVOCATION.—The Secretary may revoke an agency's designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance.

"(4) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence for the center's staff costs on the number of children served at the center of excellence. The Secretary shall make such a bonus grant in an amount of not less than $100,000 per year.

"(d) USE OF FUNDS.—

"(1) ACTIVITIES.—A center of excellence that receives a bonus grant under subsection (b) may use the funds made available through the bonus grant—

"(A) to provide Head Start services to additional eligible children;

"(B) to better meet the needs of working families in the community served by the center by serving more children in Early Head Start programs or in full-working-day, full calendar year Head Start programs;

"(C) to model and disseminate best practices for achieving early academic success, including achieving school readiness and developing preliteracy and prenumeracy skills for at-risk children, and to provide seamless service delivery for eligible children and their families;

"(D) to coordinate early childhood and social services available in the community served by the center for at-risk children (prenatal through age 8) and their families, including services provided by child care providers, health care providers, and providers of income-based financial assistance, and other State and local services;

"(E) to provide training and cross training for Head Start teachers and staff, and to develop agency leaders;

"(F) to provide effective transitions between Head Start programs and elementary school, to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services, and to provide training and technical assistance to providers who are public elementary school teachers and other staff of local educational agencies, child care providers, family service providers, and other providers of early childhood services, to help the providers described in this subparagraph increase their ability to work with low-income, at-risk children and their families; and

"(G) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

"(2) INVOLVEMENT OF OTHER HEAD START AGENCIES AND PROVIDERS.—Not later than the second year for which the center receives a bonus grant under subsection (b), the center, in carrying out activities under this subsection, shall work with the center's delegate agencies, several additional Head Start agencies, and other providers of early childhood services in the community involved, to encourage the agencies and providers described in this sentence to carry out model programs. The center shall establish the local council described in subsection (c)(1)(B)(v).

"(e) STATE COUNCILS FOR EXCELLENCE IN EARLY CHILDHOOD.—

"(1) ESTABLISHMENT.—The Secretary shall make grants to States to enable the States to establish State Councils for Excellence in Early Childhood. The State council established by a State shall include representatives of Head Start agencies, public elementary schools, providers of early childhood services (including family service providers), and other entities working with centers of excellence in the State. The State council shall be chaired by a Director of a center of excellence in the State.

"(2) FUNCTIONS.—The State council shall work with the State Head Start Office of Collaboration. The State council shall review and compile information on the work of the centers of excellence in the State, collecting and disseminating information on the findings of the centers, and identifying barriers to and opportunities for success in that work that could be addressed at a State level. The State Head Start Office of Collaboration shall address the barriers and opportunities.

"(f) RESEARCH AND REPORTS.—

"(1) RESEARCH.—The Secretary shall make a grant to an independent organization to conduct research on the ability of the centers of excellence to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center's delegate agencies, additional Head Start agencies, and other providers of early childhood services in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

"(2) REPORT.—Not later than 48 months after the date of enactment of the Head Start Centers of Excellence Act of 2003, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each subsequent fiscal year—

"(1) $90,000,000 to make bonus grants to centers of excellence under subsection (b) to carry out activities described in subsection (d);

"(2) $2,500,000 to pay for the administrative costs of the Secretary in carrying out this section, including the cost of a conference of centers of excellence;

"(3) $5,500,000 to make grants to States for State councils to carry out the activities described in subsection (e); and

"(4) $2,000,000 for research activities described in subsection (f).".

By Mr. HATCH:

S. 1475. A bill to amend the Internal Revenue Code of 1986 to promote the competitiveness of American businesses, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce legislation to change the way this country taxes business income, whether earned at home or abroad. The bill I am introducing, the "Promote Growth and Jobs in the USA Act of 2003," or the "Pro Grow USA Act," was made necessary because the World Trade Organization has ruled that a significant feature of our current tax system, the Extraterritorial Income Exclusion (or ETI), is an impermissible trade subsidy under WTO rules.

This final WTO ruling followed a similar decision of that body made a few years ago that a previous U.S. tax provision, the Foreign Sales Corporation (or FSC), was also an illegal trade subsidy under the WTO rules. After that first WTO decision, Congress replaced the FSC provision with the ETI provision, which generally replicated the benefits of the FSC to its recipients. Both provisions were designed to help U.S. exporters better compete in the global economy.

Unfortunately, we now find ourselves in the very unpleasant situation of having to repeal the ETI tax benefit. This repeal will cost the exporters of this nation more than $4 billion per year. Failure to repeal it by the end of 2003 could bring upon us trade sanctions by the European Union, which has already been authorized by the WTO to assess these sanctions in an amount exceeding $4 billion per year.

Even though I am not enthusiastic about introducing legislation to repeal that tax benefit, I believe we should make a virtue out of necessity. This is what I am trying to accomplish with this bill. We know we cannot, in a WTO-compliant way, give those lost tax benefits back to the companies that are losing them by the repeal. What we can do, however, is pass tax reform measures to strengthen all American businesses.

I see this as an opportunity to once again make America the world's greatest location to start a business, and the world's greatest location to grow a business.

Today, savings and investment dollars flow around the world at the speed of light, and businesses look all over the world when deciding where to put their global headquarters, their research departments, and their manufacturing operations. We need to take these facts into account when we reform our tax rules, which we now are forced to do. Our goal should be to make the U.S. economy a magnet for greater innovation and greater capital formation.

I believe, that this is the right time to look at how our companies do business overseas, both how they export products abroad and how they expand their operations abroad. And, I believe we should also take this opportunity to examine whether our tax policy can be improved to better help U.S. firms that operate only domestically grow and thrive.

In my view, the ETI repeal has to address the legitimate concerns of both domestic producers and U.S.-based multinationals. Both kinds of companies hire Americans, both kinds of companies make interest payments and dividend payments to Americans, and both kinds of companies pay American taxes.

In response to this situation, Members of Congress have introduced several proposals to repeal and replace the ETI benefit. One leading proposal would create a new, lower tax rate for American manufacturers. While I am certainly not opposed to lowering tax rates on U.S. manufacturers, I am convinced that such a solution, by itself, is not adequate. This is because it ignores the very real problems our tax code presents to U.S. businesses that expand overseas.

As with several of my colleagues on the Finance Committee, I have long been interested in improving our tax rules that govern international transactions. They are woefully out of date and harm the ability of U.S. firms to compete on a global basis. Moreover, the rules are mind numbingly complex.

Legislation I introduced with Senator BAUCUS in 1999 would have gone a long way toward updating and simplifying these laws so they work much better. Some of those provisions were included in a large tax bill that both the Senate and House passed that year that was unfortunately vetoed by President Clinton for reasons unrelated to the international provisions.

Since then, however, there has been a great deal of interest in reforming the international rules, but the opportunities to bring such measures to the floors of the House and Senate have been quite limited, until now. As I mentioned, I believe that the repeal of the ETI represents a rare opportunity to address these much-needed changes.

Another major solution to the ETI repeal and replacement problem is the one taken by Chairman BILL THOMAS of the House Ways and Means Committee in the bill he introduced last Friday. I want to emphasize that while my bill and Chairman THOMAS's bill are very different in many respects, they are very much alike in the approach they take to the problem. Both Chairman THOMAS and I believe it is vital to address the issues presented by both domestic businesses and by multinational firms.

There are three principles underlying my legislation. The first is that as we repeal ETI, we should strive to replace it with provisions that would increase the competitiveness of U.S. companies at home as well as abroad, and that would increase the productivity growth of our economy. I want to increase the ability of all American firms to compete, both those just at home and those that also operate abroad

There is a false notion we hear from time to time that if we make it easier for U.S. companies to operate effectively on a worldwide basis, we are making them more likely to move U.S. jobs abroad. I believe just the opposite is true—that making U.S. firms more competitive worldwide increases the quality and quantity of American jobs.

When companies expand overseas, they likely hire more people at the U.S. headquarters. The R&D jobs, the marketing jobs, management and support jobs—we can have those jobs here, supporting a U.S. company's worldwide operations. I think we should make it easier to grow those kind of good-paying headquarters jobs right here at home.

The second principle is that we ought to simplify the tax code to the extent possible. My bill would do this both in the international arena and in the depreciation rules.

Finally, I want to make it clear that I disagree with the notion that replacing the ETI provision has to be a zero sum game. The Senate budget resolution calls for nearly $500 billion more in tax cuts outside of budget reconciliation. I believe we should be willing to spend some of this tax cut money to ensure that all American businesses are better able to grow and compete.

Notwithstanding our new deficit projections, I still believe that President Bush and those who support him are on the right track in trying to pass tax cuts to increase economic growth and productivity, combined with spending discipline. One thing is for certain—we will never get out of a deficit mode with the slower growth that comes from tax hikes and more government spending.

I understand the political realities facing the Senate in this, the 108th Congress. I understand that a bill featuring $200 billion or more in additional tax cuts is not likely to attract the kind of bipartisan support it needs in order to be marked up in the Finance Committee and to make it to the floor of the Senate.

Therefore, my goal in introducing this legislation is threefold. First, I hope to help convince my colleagues of the importance of meeting our WTO obligations this year, by repealing the ETI provision. As our economy struggles to shake off the last recession, the last thing we need is to impose large and onerous trade sanctions upon it.

Second, I want to expand the options on the table for the Finance Committee to consider when we start putting the bill together this autumn. Even in a revenue neutral environment, the ideas put forward by my bill should provide many additional choices for the Committee to consider.

Finally, I hope that by introducing this legislation, we will end up with a final bill that will be more beneficial to U.S. domestic and U.S.-based multinational companies and their workers. In my view, we simply cannot afford to focus on just workers for domestic companies or just on employees of global companies. We need both for our long-term prosperity.

The bill I am introducing today has four major components. First, of course, it repeals the ETI provision and provides three years of generous transition relief. When a representative of the U.S. Trade Representative's office testified before the Finance Committee a few weeks ago, I asked him what the appropriate phase-out of the ETI benefit might be, so as not to trigger the trade sanctions by the E.U. In reply to my question, he stated that he believed the Europeans would view one or two years as a normal and expected phase out period.

On the other hand, the USTR official indicated that he believed that a longer period of, four or five years I believe he said, would definitely cause some real concern on the part of the Europeans. Therefore, I included a three-year phaseout of the ETI benefit in my bill. Specifically, the benefits of the ETI exclusion would be phased out at the rate of 25 percent in 2004, 50 percent in 2005, 75 percent in 2006, and no benefits in 2007 and thereafter.

Second, the bill contains a substantial international tax reform title. Our international tax system is based on two key principles, neither of which work very well in practice under our current outdated laws. The first principle is that U.S. companies that pay income tax to other countries should not be double taxed on that income. The second principle is that companies engaged in active overseas businesses should not pay tax on that income until it is returned to the U.S. parent corporation. Our current rules violate these principles again and again, and I think it's time to return to these principles.

For example, our foreign base company tax rules, which make it expensive for companies to create an overseas regional marketing and distribution network for U.S. products, are an anachronism. They hurt U.S. exports, and need to be fixed. But we are told that repealing these rules would cost the Treasury too much revenue, and that they may open up opportunities for transfer pricing abuses.

Recognizing this revenue concern, I am proposing to allow a repeal of the foreign base company rules as long as the base company is in a country with which we have a comprehensive tax treaty, or when the U.S. parent has an advanced pricing agreement in place with the IRS. These backstops should reduce these concerns about base company repeal.

Further, I want to open a debate on the merits of a territorial tax system. I want to open that debate by proposing an expansion of the temporary dividend repatriation proposal that some of my colleagues have embraced, and that I myself voted for in the Finance Committee and on the floor. While I believe that such a temporary provision has merit from an economic stimulus standpoint, I have real tax policy concerns about it.

Therefore, in my bill I propose a permanent, reduced corporate tax rate of 5.25 percent to companies that repatriate foreign earnings to the U.S., as long as they spend that money on higher levels of business equipment and research expenditures. Overseas profits can pay for new machines, new research, and better jobs right here at home, and multinational businesses will be given a strong incentive in my bill to invest in such economically positive activities. I hope that my colleagues will give serious consideration to this proposal.

In the 107th Congress, Senator BREAUX and I introduced S. 1475, a bill to provide an appropriate and permanent tax structure for investments in the Commonwealth of Puerto Rico and the possessions of the United States. That bill would have allowed subsidiaries of U.S. companies incorporated in Puerto Rico and the U.S. possessions to repatriate active business income earned in these jurisdictions at the equivalent of a 5.25 percent tax rate.

As I just mentioned, the bill I am introducing today would provide generally comparable treatment for U.S. subsidiaries incorporated in all foreign jurisdictions, including Puerto Rico and the U.S. possessions, to the extent the companies invested those repatriated earnings on higher levels of business equipment and research.

As a result of expanding the scope of last year's bill, I recognize that U.S. companies might not be encouraged to invest in Puerto Rico and the U.S. possessions as compared to any foreign country. Since 1921, the United States has accorded preferential tax treatment to the business operations of U.S. companies in Puerto Rico and the U.S. possessions. This tax treatment offsets U.S. regulatory mandates—such as minimum wage and environmental and safety regulations—and has supported Puerto Rico's industrial development program, which has resulted in an increase in Puerto Rico's per capita income from 16 percent of the U.S. average in 1948 when the industrial incentives program began, to 32 percent today.

I remain concerned about the economic development of Puerto Rico and the U.S. possessions and therefore will continue to support separate legislation that supports employment and economic opportunity for American citizens living in the Commonwealth and the possessions.

The third section of my bill extends and expands the research credit on a permanent basis. This provision is identical to the bill that Senator BAUCUS and I introduced earlier this year. And as many of my colleagues know, a permanent research credit enjoys significant bipartisan support here in the Senate, both on and off the Finance Committee.

Finally, the bill offers real depreciation reform. The bill offers three years of complete expensing of business equipment and leasehold improvements. It builds on the bonus depreciation incentives we included in both the 2002 stimulus tax cut bill and the growth tax cut bill we passed earlier this year.

Essentially, all the same kinds of assets that qualified for the bonus depreciation benefits in those two bills would now qualify for 100 percent immediate expensing under this bill. Moreover, the bill would extend the Section 179 expensing provision for small businesses by one full year. Economists tell us that what this recovery lacks is capital spending by business. By building on the incentives we passed in the earlier tax bills, we can get capital spending moving again. This will lead to higher productivity and higher wages.

I would like to comment on more aspects of the depreciation section of my bill. I have been told by some of my business constituents in Utah that the bonus depreciation provisions are not helpful to them. This is because those companies are currently suffering losses and have no current taxable income. Moreover, some of these businesses have been having difficulties for so long that they have no recent year when tax was paid to which they may carry back a net operating loss.

One tax attribute that many of these companies do have, however, is prepayment credits under the Alternative Minimum Tax. As many of my colleagues know, the AMT has the perverse effect of hurting companies when business conditions are poor, thus exacerbating an already difficult financial situation. So, unprofitable companies often find themselves continuing to pay the alternative minimum tax.

In order to assist companies like the ones I described, my bill includes a provision that would allow a taxpayer to elect to forego the expensing of newly acquired business property and instead to effectively monetize their corporate alternative minimum tax credits to that extent. This simple proposal bestows no new tax benefits on these companies, but rather delivers the full expensing provision at the time it is most needed by the company and in the economy generally.

Moreover, this provision helps to equalize the tax treatment between fully taxable companies that can take full advantage of tax incentives and their less fortunate competitors that cannot at the present fully utilize those benefits. Having Congress assist those companies who are enjoying good times at the expense of those who are struggling is not in the best interest of this nation.

I hope this bill will make a positive contribution to the debate in both the Senate and the House. And, I hope the final ETI repeal and replacement bill that the President signs will be more beneficial to more domestic and multinational companies because of the ideas we are proposing.

Finally, I hope that throughout this debate, as accusations and proposals fly back and forth regarding how best to help the U.S. economy, we keep our eyes on the real goal—keeping America's workers the most productive in the world, whether they work in an office park or in a factory. And as the 1990s proved beyond doubt, high productivity and lower unemployment rates can easily go hand in hand. As we saw in the 1990s, higher productivity is the key to higher wages and better jobs.

I ask unanimous consent that a section-by-section summary of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ETI REPEAL AND REPLACEMENT BILL—PROMOTE GROWTH & JOBS IN THE USA (PRO GROW USA) ACT OF 2003

SECTION-BY-SECTION DESCRIPTION

Title I—Repeal ETI & Provide Transition Relief

Section 101. Repeal of exclusion for extraterritorial income.

Provides for repeal of ETI regime with three years of transition relief, (i.e., 75 percent of current benefit in 2004, 50 percent in 2005, and 25 percent in 2006).

Title II—Simplification of Rules Relating to Taxation of U.S. Businesses Operating Abroad

Subtitle A—Treatment of Controlled Foreign Corporations

Section 201. Exceptions from foreign base company sales and services income rules.

Provides for repeal of the foreign base company sales and services income rules for income derived either from transactions covered by an Advanced Pricing Agreement with IRS (APA) or from transactions with countries with whom the U.S. has a comprehensive income tax treaty and exchange of information program, excluding Barbados. Provides that transactions in which an APA would not apply will not trigger subpart F income in any case. This provision allows companies to centralize their offshore marketing and sales operations in one country without triggering current U.S. tax.

Section 202. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.

Dividends, interest, rents, and royalties received by one CFC from a related CFC would not be treated as foreign personal holding company income to the extent attributable to non-subpart F earnings of the payor. Under current law, many companies can already achieve this result through the use of hybrid branches. This provision would simplify the subpart F rules and reduce the expense of international tax planning.

Section 203. Look-thru treatment for sales of partnership interests.

Treats the sale of a partnership interest by a CFC as the sale of a proportionate share of partnership assets for purposes of determining foreign personal holding company income under subpart F.

Section 204. Repeal of foreign personal holding company rules and foreign investment company rules.

Eliminates redundancy in the U.S. tax code. Recommended by the Joint Committee on Taxation, in its simplification study.

Section 205. Clarification of treatment of pipeline transportation income.

Foreign base company oil-related income would not include income derived from a source within a foreign country in connection with the pipeline transportation of oil or gas within such foreign country. Pipeline transportation income is not mobile income, and the arms-length price of such income is readily determined.

Section 206. Permanent extension and modification of Subpart F exemption for active financing.

Permanently extends the subpart F exemption for active financing income, currently due to expire January 1, 2007. This provision first became law in 1997, and accords with the underlying policy that income earned by a domestic parent corporation from active foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax only when repatriated. Until such repatriation, the U.S. tax on such income is generally deferred. In addition, for purposes of defining "qualified banking or financing income" (under section 954(h)(3)), activities conducted by employees of certain related persons are treated as conducted directly by an eligible CFC or qualified business unit in its home country.

Section 207. Expansion of de minimis rule under subpart F.

Expands Subpart F de minimis rule to be the lesser of 5 percent of gross income or $5 million. Current law threshold is 5 percent of gross income or $1 million. Recommended by the Joint Committee on Taxation in its simplification study, this provision would simplify tax planning for small- and medium-sized companies just starting their overseas operations.

Section 208. Modification of interaction between Subpart F and PFIC rules.

Adds an exception to the rules governing the overlap of the Subpart F and passive foreign investment company rules for U.S. shareholders that face only a remote likelihood of incurring a Subpart F inclusion in the event that a CFC earns Subpart F income, thus preserving the potential application of the passive foreign investment company rules in such cases. Recommended by the Joint Committee on Taxation in its Enron report. This provision would raise a small amount of revenue.

Section 209. Determination of foreign personal holding company income with respect to transactions in commodities.

Allows a company to hedge its commodities without triggering Subpart F as long as the company uses these commodities in the course of its business. Since hedging allows companies to lock in long-term prices on commodities with fluctuating spot-market prices, this hedging simplifies long-run business planning, and is an integral part of a company's active operations.

Section 210. Repeal of foreign base company shipping income rules.

Foreign base company shipping rules are repealed outright. The proposal also relaxes the "active rents" test under subpart F for rents derived from aircraft or vessels. Requires the CFC receiving such rental income to be actively in the business of renting or leasing such aircraft or vessels. The current "active rents" test, by looking at the CFC's active leasing expense rather than its actual activity, sets too high a bar for companies leasing aircraft and vessels.

Section 211. Reduced tax on repatriated earnings previously exempt from tax under Subpart F.

Allows companies to repatriate overseas profits at a reduced tax rate as long as those funds are spent to increase U.S. innovation. Specifically, reduces the tax on repatriated earnings by 85 percent, to a 5.25 percent rate, to the extent that a company's spending on equipment and research exceeds an "innovation baseline." The innovation baseline is defined as 85 percent of the average spending on equipment and research over the past three years. This permanent provision encourages companies to repatriate overseas profits that would otherwise likely remain offshore.

Subtitle B—Provisions Relating to Foreign Tax Credit

Section 221. Interest expense allocation rules.

Modifies current-law interest expense allocation rules by providing a one-time election for the common parent of an affiliated group to allocate and apportion interest expense of domestic members of a worldwide affiliated group on a worldwide-group basis and allows a one-time election for financial subgroups to allocate interest expense by applying fungibility principles on a worldwide basis. Current interest allocation rules assume that money borrowed in the U.S. is used in overseas operations, and thereby reduces reported foreign source income. This may artificially reduce the foreign tax credit limitation, even for companies that have paid substantial foreign taxes.

Section 222. Extension of period to which excess foreign taxes may be carried.

Allows a 20-year carryforward of foreign tax credits. Extending the carryforward from five years to 20 years allows companies more opportunities to avoid double taxation.

Section 223. Ordering rules for foreign tax credit carryforwards.

Reorders the utilization of foreign tax credits so that credits carried from prior years would be used before current year credits under a first-in-first-out rule, instead of the current-law last-in-first-out rule. By allowing companies to use their oldest foreign tax credits first, this provision would reduce the possibility of double taxation.

Section 224. Repeal of limitation of foreign tax credit under alternative minimum tax.

Eliminates the arbitrary and unfair 10 percent haircut on foreign tax credits that can be applied to the alternative minimum tax.

Section 225. Look-thru rules to apply to all dividends from noncontrolled section 902 corporations.

Current law provides look-through treatment to dividends from section 902 corporations for dividends paid out of earnings and profits accumulated from 2003 onward. This provision gives such treatment to all dividends, regardless of the year the earnings and profits from which a dividend is paid were accumulated. The current rules for dividends from section 902 corporations are complex and result in compliance burdens for taxpayers; this provision would simplify the Code and remove these burdens. This proposal is based on a Joint Committee on Taxation recommendation.

Section 226. Reduction to 2 foreign tax credit baskets.

Reduces number of foreign tax-credit baskets to two: General Category Income and Typically-Low-Taxed Income (TyLT). The TyLT tax basket would include income from the eliminated passive, shipping, and DISC/FSC baskets. The General Category Income basket would include income from the old general limitation basket, as well as income from the high withholding interest income and financial services income baskets. The current-law division of income into multiple baskets is a leading source of tax complexity.

Section 227. Recharacterization of overall domestic loss.

Allows companies with an overall domestic loss to more easily use their foreign tax credits. This proposal would provide symmetry in the treatment of U.S. and foreign losses for foreign tax credit limitation purposes. Current law makes it difficult for companies to use these credits when they have overall domestic losses.

Section 228. Repeal of special rules for applying foreign tax credit in case of foreign oil and gas income.

Repeals special rules for applying foreign tax credits in the case of foreign oil and gas income. Current law places special restrictions on foreign tax credits derived by the foreign oil and gas extraction industry.

Section 229. Increase in individual exemption from foreign tax credit limitation.

Increases the current exemption from the foreign tax credit limitation for certain individuals under section 904(j) from $300, $600 in the case of a joint return to $500, $1,000 in the case of a joint return, and indexes those amounts for inflation. This simplifies tax filing for individual investors who hold small amounts of foreign investments.

Section 230. U.S. property not to include certain assets of CFCs.

Reforms the rules regarding investments in U.S. property by CFCs so that "U.S. property" does not include certain securities acquired and held by a CFC in the ordinary course of its business as a dealer in securities.

Section 231. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.

For foreign tax credit purposes, allows stock owned indirectly through a partnership to be treated as proportionately owned by the partners. By allowing foreign tax credits to pass through to partners, potential for double taxation is reduced. Recommended by the Joint Committee on Taxation in its simplification study.

Section 232. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.

Provides foreign partnerships with the same sourcing treatment on interest payments as foreign corporations. Current law states that if a foreign partnership has any U.S. operations, then any interest paid by that partnership is U.S. source. By contrast, for foreign corporations with U.S. branch operations, only interest payments from the U.S. branch are U.S. source.

Section 233. Application of look-thru rules to interest, rents, and royalties.

Applies look-through rules to interest, rents, and royalties received or accrued from noncontrolled 902 corporations and entities that would be CFCs if they were foreign corporations.

Section 234. Clarification of treatment of certain transfers of intangible property.

This resolves an uncertainty that arose in connection with changes made to section 367(d) in 1997.

Subtitle C—Other Provisions

Section 251. Application of uniform capitalization rules to foreign persons.

Requires the use of U.S. generally accepted accounting principles rather than UNICAP rules for purposes of determining earnings and profits as well as subpart F income. For most firms, this will prevent companies from having to keep accounting books in both UNICAP and GAAP formats. This simplification proposal was recommended by the Joint Committee on Taxation in its simplification study.

Section 252. Treatment of certain dividends of regulated investment companies.

Exempts from U.S. withholding tax certain dividends received by nonresident alien individuals or foreign corporations from a regulated investment company. Such exemption would apply to dividends paid out of short-term capital gains and interest income that would itself be exempt from withholding.

Section 253. Repeal of withholding tax on dividends from certain foreign corporations.

Extends an exemption from the withholding tax to dividends paid by certain foreign corporations. Recommended by the Joint Committee on Taxation in its simplification study.

Section 254. Airline mileage awards to certain foreign persons.

Grants Treasury authority to exempt from the air travel excise tax amounts attributable to mileage awards issues to persons outside the United States.

Section 255. Interest payments deductible where disqualified guarantee has no economic effect.

Eliminates the limitation for the deduction of interest as a result of section 163(j) for interest payments on debt guaranteed by a foreign person as long as the taxpayer establishes that it could have borrowed the same amount of debt from an unrelated lender without a guarantee. The Secretary would be granted authority to disregard such a showing if the terms of the loan are substantially dissimilar. This proposal properly focuses the U.S. earnings stripping rules on the realm of possible abuse: related party debt.

Section 256. Modifications of reporting requirements for certain foreign-owned corporations.

Creates de minimis exception for reporting, and provides companies a 60-day window for translating documents into English.

Section 257. Repeal of tax on certain U.S. source capital gains of nonresident aliens.

Repeals the tax on net U.S. source capital gains of nonresident alien individuals present in the U.S. for 183 days or more during a taxable year. Recommended by the Joint Committee on Taxation in its simplification study.

Section 258. Election not to use average exchange rate for foreign tax paid other than in functional currency.

Allows companies an election to use the effective exchange rate on the day of payment rather than an annual average exchange rate. Exchange rates in many countries are volatile, which can turn an annual average rate into an inaccurate indicator of taxable income.

Section 259. Study of impact of international tax laws on taxpayers other than large corporations.

The Secretary of the Treasury shall conduct a study regarding the impact of the international tax rules on smaller taxpayers, in particular regarding the compliance burden on such taxpayers. The study shall set forth suggestions of how the compliance burden could be reduced for smaller taxpayers. Not later than 180 days after the date of enactment, the Secretary shall submit to the Congress a report of such study.

Title III—Credit for Increasing Research Activities, provisions are identical to S. 664, the Hatch-Baucus research credit bill, which enjoys the bipartisan support of 30 senators

Section 301. Permanent extension of research credit.

The research credit, which is scheduled to expire on June 30, 2004, would be extended permanently.

Section 302. Increase in rates of alternative incremental credit.

The rates of the current-law alternative incremental credit, which is elective, would be increased as follows:

Tier One, qualified research expenditures (QREs) in excess of 1.0 percent of base amount,—increase from 2.65 percent to 3 percent.

Tier Two, QREs in excess of 1.5 percent of base amount,—increase from 3.2 percent to 4 percent.

Tier Three, QREs in excess of 2.0 percent of base amount,—increase from 3.75 percent to 5 percent.

Section 303. Alternative simplified credit for qualified research expenditures.

The proposed alternative simplified credit (ASC) would provide a meaningful incentive for companies to perform R&D activities in the United States as opposed to other countries that provide more substantial incentives for such activities. The ASC is an elective credit that equals 12 percent of the excess of current-year qualified research expenses ("QREs"), as defined under section 41(b), over 50 percent of the taxpayer's average QREs for the prior three years. For start-up taxpayers, the credit would equal 6 percent of current-year QREs.

The election, once made, would apply for taxable years ending after the date of enactment, and all subsequent taxable years, unless revoked with the consent of the Secretary of Treasury. Taxpayers that have previously elected the Alternative Incremental Research Credit (AIRC) could apply the new computational rules or continue to calculate the credit under the AIRC rules.

Title IV—Reform of Depreciation of Business Property

Section 401. 100 percent expensing for certain property through 2006.

Provides immediate write-off for all business equipment and leasehold improvements, the same property which benefits from the 2002 and 2003 Tax Acts' bonus depreciation provisions. Effectively, this provision would expand the bonus deprecation to 100 percent and extend it through 2006.

Section 402. One-year extension of expensing for small businesses.

The expansion of section 179 (allowing small businesses to immediately write off their business property) is extended through 2006, rather than expiring at the end of 2005 as is now the law.

Section 403. Election to increase minimum tax credit limitation in lieu of bonus depreciation.

Would allow taxpayers making investments in business equipment and leasehold improvements (which would otherwise qualify for immediate expensing under Section 401) to elect to claim accumulated AMT credits in lieu of claiming immediate expensing. Specifically, a taxpayer making the election would forego the expensing and would either reduce its current-year regular or minimum tax liability or be allowed an unlimited carryback of AMT credits in an amount not to exceed the amount of foregone expensing multiplied by 0.35, i.e., the assumed corporate tax rate. The provision would expire at the same time as the expensing provision. Taxpayers making the election would not reduce the basis of eligible property and the depreciation adjustments of the AMT would not apply to such property. Provision would expire at the end of 2006.

By Mr. HARKIN (for himself and Mr. DAYTON):

S. 1476. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President, I am introducing today the Wind Power Tax Incentives Act of 2003. I am pleased to be joined by Senator DAYTON. This legislation makes it easier for farmers and others around the country to invest in wind power for commercial electricity production. Wind power is a clean, economical, and reliable source of renewable energy abundant on farms and in rural areas in Iowa and elsewhere.

With this legislation we can help farmers help themselves by developing a new source of income, and help the rest of the country in the production of renewable energy. Farmers are ready to take on this effort. A recent study found that 93 percent of corn producers support wind energy generally. They also strongly support the farm bill's historic energy title.

This bill complements the farm bill's energy programs and other wind power initiatives currently being considered by this body. The bill would make changes to Federal tax law to make the section 45 wind production tax credit more widely available to farmers, farm cooperatives, and other investors. Section 45 of Federal tax law provides a tax credit, currently 1.8 cents per kiowatthour, for electricity actually produced and sold during the first ten years of the life of a wind turbine. The credit has been extraordinarily successful in spearheading the installation of new wind power capacity by utilities and in bringing down the cost of this sustainable energy source to consumers. However, certain barriers have prevented wide use by farmers and other investors.

It's time to take the next step and help our family farmers and other investors benefit from the credit as well. Our legislation does this by making three changes to the tax code. First, under current tax law most losses, deductions, and credits from passive investments cannot be used to reduce taxes on wages or other income. So a farmer who passively invested in wind energy could not use the tax credits to offset taxes on farm income. This bill creates an exception to passive loss restrictions for an interest in a wind facility that qualifies for the section 45 credit. The wind facility's loss or tax credits could then offset the income or taxes on the taxpayer's farming business. Similar exceptions currently apply to oil and gas investments. To prevent potential abuse by wealthy taxpayers, the exception is limited to taxpayers with income under $1 million.

Second, under current law individual and corporate taxpayers are subject to an alternative minimum tax (AMT) if their tax rates fall below certain levels. Taxpayers subject to an AMT cannot currently use the section 45 wind tax credit. This bill allows a farmer or other taxpayer who invests in a wind electric generating facility to use the resulting tax credit against the taxpayer's alternate minimum tax (AMT). Similar provisions already exist for several other tax credits. Again, this provision is limited to taxpayers with income under $1 million.

Third, the bill allows cooperatives to invest in qualified wind facilities and pass through the section 45 credits to cooperative members. This will allow farmers to join together and pool their resources in a cooperative and still take advantage of the credit.

The benefits of this legislation are obvious. Increased renewable energy production lessens our dependence on foreign oil, provides environmental and public health gains, bolsters farm income, creates jobs and boosts economic growth, especially in rural areas. The Nation must move toward energy independence, and domestically produced wind power, along with other forms of renewable energy like biofuels, play an important part in this endeavor.

I want to thank Senator DAYTON for co-sponsoring this legislation with me. His leadership in this area will be instrumental to moving the bill forward. I am hopeful we can pass this legislation soon to help secure a brighter future for our Nation's farmers and fellow citizens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wind Power Tax Incentives Act of 2003 ".

SEC. 2. OFFSET OF PASSIVE ACTIVITY' LOSSES AND CREDITS OF AN ELIGIBLE TAXPAYER FROM WIND ENERGY FACILITIES.

(a) IN GENERAL.—Section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n) and by inserting after subsection (k) the following new subsection:

"(l) OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS FROM WIND ENERGY FACILITIES.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the portion of the passive activity loss, or the deduction equivalent (within the meaning of subsection (j)(5)) of the portion of the passive activity credit, for any taxable year which is attributable to all interests of an eligible taxpayer in qualified facilities described in section 45(c)(3)(A).

"(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer the adjusted gross income (taxable income in the case of a corporation) of which does not exceed $1,000,000.

"(B) RULES FOR COMPUTING ADJUSTED GROSS INCOME.—Adjusted gross income shall be computed in the same manner as under subsection (i)(3)(F).

"(C) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer for purposes of this paragraph.

"(D) PASS-THRU ENTITIES.—In the case of a pass-thru entity, this paragraph shall be applied at the level of the person to which the credit is allocated by the entity."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. 3. CREDIT FOR WIND ENERGY FACILITIES OF AN ELIGIBLE TAXPAYER ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR WIND ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of the wind energy credit of an eligible taxpayer—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind energy credit).

"(B) WIND ENERGY CREDIT.—For purposes of this subsection, the term 'wind energy credit' means the portion of the renewable electric production credit under section 45 determined with respect to a facility using wind to produce electricity.

"(C) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' has the meaning given such term by section 469(l)(2)."

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) of such Code are each amended by inserting "or wind energy credit" after "employee credit".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4. APPLICATION OF CREDIT TO COOPERATIVES.

(a) IN GENERAL.—Section 45(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) ALLOCATION OF CREDIT TO SHAREHOLDERS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned pro rata among shareholders of the organization on the basis of the capital contributions of the shareholders to the organization.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any shareholders under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of the shareholder with or within which the taxable year of the organization ends.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such shareholders under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, and Mrs. CLINTON):

S. 1477. A bill to posthumously award a Congressional gold medal to Celia Cruz; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise to honor the magnificent life, and the legacy, of Celia Cruz, and to introduce legislation to award her posthumously our Nation's highest civilian award, the Congressional Gold Medal. This award would be an appropriate tribute to Ms. Cruz's life, given her innumerable accomplishments in the world of entertainment, her work as an ambassador of Latino culture, and her many contributions to American society.

Celia de la Caridad Cruz Alonso was born on October 21 during the 1920's. She died on July 17, 2003, at her home in Fort Lee, NJ.

Over a prolific 50-year career as an entertainer, Celia Cruz, the "Queen of Salsa," recorded more than 50 albums. Each was a showcase of her talent, flair, and the passion she brought to her work. Her collaborative efforts ranged from work with legendary salsa artist Tito Puente, pop star David Byrne, and hip-hop producer Wyclef Jean. Through those cross-cultural efforts, Cruz's music reached over four generations of fans, and helped break down ethnic and cultural barriers.

Celia Cruz's gifts as an entertainer were recognized throughout the world, and she won hundreds of awards, most notably a 1990 Grammy Award and Billboard Magazine's "Lifetime Achievement Award" in 1995. In 1994, Ms. Cruz was recognized by President Clinton with a National Endowment of the Arts award.

While best known for her work as an entertainer, Celia Cruz was much more than a singer to her fans, especially to Latinos in America. She touched the lives of millions. The outpouring of sorrow that accompanied the news of her passing underscores that point. More than 100,000 people turned out to pay their respect, and honor the memory of Celia Cruz at her wake in Miami, FL. More than 75,000 people lined the streets of Manhattan—some crying, many singing and fondly recalling Ms. Cruz's life—as her funeral procession made its way from the St. Patrick's Cathedral.

The enormous outpouring of support that accompanied news of the death of Celia Cruz provides some indication about the special nature of this amazing woman. Her story is that of a girl from meager means in Havana, Cuba who eventually grew up to become a "queen."

Celia Cruz was one of 14 children raised in Havana's Santa Suarez district. As a child, she could be heard by neighbors as she sung her siblings to sleep. She received her first award in a competition on the talent show La Hora Del Té on Radio García Serrá, in which she won first prize.

Her first break came in 1950 when she took over as the lead singer with Cuba's Sonora Matancera. Cruz's first recording was a 78 rpm single released with Sonora Matancera in January 1951, entitled "Cao Cao Mani Picao".

On July 15, 1960, Cruz and members of her band fled Cuba for the United States, to escape the regime of Fidel Castro. They were able to get out by convincing Castro's officials that the group was simply going on another tour abroad. Enraged by the singer's choice to pursue freedom, Castro never forgave Cruz for this and refused to let Celia return to Cuba—even as her mother was sick and when her father passed away.

In the 60's, Celia Cruz and Pedro Knight, her husband and a member of the band, decided to make America their permanent home and Celia Cruz became a citizen of the United States. During that time, Celia Cruz transformed from a gifted, charismatic Cuban-American singer to a woman who would become the "Queen of Salsa."

In 1966, she teamed up with the legendary Tito Puente and together they released eight albums. Although her classic style, the origins of salsa, did not immediately appeal to Latin youth during the 1960's, Celia Cruz returned with a vengeance after a stint in the Operetta "Hommy," in the early 1970's.

By 1973, Latin pride had begun to take hold in American cities with large Latino communities—particularly in New York, New Jersey and Florida.

In New York, Latin musicians had begun to mix classical musical styles from Puerto Rico, such as Bomba and Plena, with classical musical styles from Cuba, such as Mambo and Son, combining them with the trombone for a more urban sound. This combination created what is now known as salsa—and Celia Cruz was a pioneer of the genre.

Ms. Cruz signed with Fania Records, one of the major salsa record labels of the time, and in the summer of '74 released Celia & Johnny, the first in a series of collaborations with Johnny Pacheco. Building upon the success of these albums, Cruz then recorded albums with other top leaders on the Fania roster, like Willie Colón, Papo Lucca and Ray Barretto, whose bands each had their own trademark sound. She toured with the Fania until 1988.

While Latin music has historically been predominately dominated by male artists the talent of Celia Cruz could not be ignored. Her flamboyant clothing, charismatic presence, proud voice and her trademark "Azuuuuuuuuuuuucar!" tag line became legendary.

In addition to her lucrative recording career, Cruz also had roles in several American films such as Salsa, the Mambo Kings and the Perez Family. She was a true pioneer.

As I mentioned earlier, Celia Cruz received hundreds of awards as a result of her contributions to music, most notable the Grammy Award and the National Endowment of the Arts Award from President Clinton. Her contributions to society and her contributions to Latino culture have also been well recognized. Among those the Presidential Medal in Arts from the Republic of Colombia and the Hispanic Heritage Award's Lifetime Achievement Award.

Other notable recognitions bestowed upon Ms. Cruz include an honorary Doctorate of Music from Yale, a star on Hollywood's "Walk of Fame," and the keys to the cities of Union City, NJ; Miami, FL; Dallas, TX; and New York City.

Those recognitions are all noteworthy, and the life of Celia Cruz warrants each and every one of them. But of the hundreds of awards won by Celia Cruz, there is one award that she did not receive, but most certainly deserves the Congressional Gold Medal.

This award is considered our Nation's highest civilian honor, and has been awarded to a rare and esteemed group of individuals. Notable recipients include George Washington, Sir Winston Churchill, Bob Hope, Robert Frost, Joe Louis, Mother Teresa, and most recently Tony Blair.

The standards for considering legislation authorizing Congressional Gold Medal state that, among other things, "the recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after that achievement."

Celia Cruz, music pioneer and the acknowledged "Queen of Salsa," certainly fits the criteria to receive the Congressional Gold Medal. Celia Cruz, ambassador of Latin culture, impassioned voice of freedom, and American is what the Congressional Gold Medal is about.

This award would properly honor the legacy, and the life, of Celia Cruz. I urge my colleagues to support this important legislation, and ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Tribute to Celia Cruz Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Celia de la Caridad Cruz Alonso was raised as one of 14 children in the Santa Suarez district of Havana, Cuba;

(2) in 1960, Cruz and members of her band fled Cuba for the United States to escape the oppressive regime of Fidel Castro;

(3) Celia Cruz and Pedro Knight, her husband of 40 years, chose to make America their permanent home, where she became a naturalized American citizen;

(4) while best known for her work as an entertainer, Celia Cruz influenced the lives of millions of people as an ambassador of Latino culture and a powerful voice of freedom;

(5) over a prolific 50-year career as an entertainer, Celia Cruz became know as the "Queen of Salsa";

(6) she recorded over 50 albums, and her collaborative efforts with other performers helped break down ethnic and cultural barriers;

(7) the musical talent of Celia Cruz earned her hundreds of awards worldwide, most notably a 1990 Grammy Award and Billboard Magazine's "Lifetime Achievement Award" in 1995;

(8) in 1994, Cruz was recognized by President Clinton with the National Endowment of the Arts Award;

(9) on July 17, 2003, "Celia Cruz", as she was more commonly known, passed away at her Fort Lee, New Jersey home after battling brain cancer; and

(10) Celia Cruz was much more than just a singer to millions of fans worldwide, especially to Latinos in America, and her contributions to music, Latino culture, and American society make her most deserving of America's highest civilian award, the Congressional Gold Medal.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the posthumous presentation, on behalf of Congress, of a gold medal of appropriate design in commemoration of Celia Cruz, in recognition of her enduring contributions to music, Latino culture, and American society.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 202—EXPRESSING THE SENSE OF THE SENATE REGARDING THE GENOCIDAL UKRAINE FAMINE OF 1932–33

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 202

Whereas 2003 marks the 70th anniversary of the Ukraine Famine, a manmade disaster that resulted in the deaths of millions of innocent Ukrainian men, women, and children and annihilated an estimated 25 percent of the rural population of that country;

Whereas it has been documented that large numbers of inhabitants of Ukraine and the then largely ethnically Ukrainian North Caucasus Territory starved to death in the famine of 1932–33, which was caused by forced collectivization and grain seizures by the Soviet regime;

Whereas the United States Government's Commission on the Ukraine Famine concluded that former Soviet leader Joseph Stalin and his associates committed genocide against Ukrainians in 1932–33, using food as a political weapon to achieve the aim of suppressing any Ukrainian expression of political and cultural identity and self-determination;

Whereas, as a result, millions of rural Ukrainians starved amid some of the world's most fertile farmland, while Soviet authorities prevented them from traveling to areas where food was more available;

Whereas requisition brigades, acting on Stalin's orders to fulfill the impossibly high grain quotas, seized the 1932 crop, often taking away the last scraps of food from starving families and children and killing those who resisted;

Whereas Stalin, knowing of the resulting starvation, intensified the extraction from Ukraine of agricultural produce, worsening the situation and deepening the loss of life;

Whereas, during the Ukraine Famine, the Soviet Government exported grain to western countries and rejected international offers to assist the starving population;

Whereas the Ukraine Famine was not a result of natural causes, but was instead the consequence of calculated, ruthless policies that were designed to destroy the political, cultural, and human rights of the Ukrainian people;

Whereas the Soviet Union engaged in a massive coverup of the Ukraine Famine, and journalists, including some foreign correspondents, cooperated with the campaign of denial and deception; and

Whereas, 70 years later, much of the world is still unaware of the genocidal Ukraine Famine: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the millions of innocent victims of the Soviet-engineered Ukraine Famine of 1932-33 should be solemnly remembered and honored on the 70th anniversary of the famine;

(2) the 70th anniversary of the Ukraine Famine should serve as a stark reminder of the brutality of the totalitarian, imperialistic Soviet regime under which respect for human rights was a mockery and the rule of law a sham;

(3) the Senate condemns the callous disregard for human life, human rights, and manifestations of national identity that characterized the Stalinist policies that caused the Ukrainian Famine;

(4) the manmade Ukraine famine of 1932–33 was an act of genocide as defined by the United Nations Genocide Convention;

(5) the Senate supports the efforts of the Government of Ukraine and the Verkhovna Rada (the Ukrainian parliament) to publicly acknowledge and call greater international attention to the Ukraine Famine; and

(6) an independent, democratic Ukraine, in which respect for the dignity of human beings is the cornerstone, offers the best guarantee that atrocities such as the Ukraine Famine never beset the Ukrainian people again.

Mr. CAMPBELL. Mr. President, I rise to submit a Senate Resolution regarding the genocidal Ukraine Famine of 1932–33. The resolution commemorates the millions of innocent victims of this Soviet-engineered famine and support the efforts of the Ukrainian Government and Parliament to publicly acknowledge and call greater international attention to one of the 20th century's most appalling atrocities.

This year marks the 70th anniversary of Stalin's man-made famine, one of the most heinous crimes in a century notable for events that demonstrated the cruelty of totalitarian regimes. Seventy years ago, a famine in Soviet-dominated Ukraine, and bordering ethnically-Ukrainian territory in Russia, resulted in the deaths of millions of Ukrainians—estimates range from between four and ten million. In his seminal book on the Ukraine Famine, Harvest of Sorrow, British historian Robert Conquest writes, "A quarter of the rural population, men, women, and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors." Conquest and many others, including eyewitnesses and recently opened archives, chronicle the devastating human suffering of this man-made famine.

The Ukraine Famine was not the result of drought or some other natural calamity, but of Soviet dictator Stalin's utterly inhumane, coldly calculated policy to suppress the Ukrainian people and destroy their human, cultural, and political rights. It was the result of purposeful starvation. Communist requisition brigades, acting on Stalin's orders to fulfill impossibly high grain quotas, took away the last scraps of food from starving families, including children, often killing those who resisted. Millions of rural Ukrainians slowing starved amid some of the world's most fertile farmland, while stockpiles of expropriated grain rotted by the tons. Meanwhile, the Soviet Government was exporting grain to the West, rejecting international offers to assist the starving population, and preventing starving Ukrainians from leaving the affected areas in search of food elsewhere. The Stalinist regime—and, for that matter subsequent Soviet leaders—engaged in a massive coverup of denying the Ukraine Famine. Regrettably, they were aided and abetted in this campaign of denial and deception by some Western journalists, including Americans.

The final report of the Congressionally-created Commission on the Ukraine Famine concluded in 1988 that "Joseph Stalin and those around him committed genocide against Ukrainians in 1932–33." James Mace, who was staff director of the Commission, recently wrote: "For Stalin to have completely centralized power in his hands, he found it necessary to physically destroy the second largest Soviet republic, meaning the annihilation of the Ukrainian peasantry, Ukrainian intelligentsia, Ukrainian language, and history as understood by the people; to do away with Ukraine and things Ukrainian as such. The calculation was very simple, very primitive: no people, therefore, no separate country, and thus no problem. Such a policy is genocide in the classic sense of the work."

It is vital that the world not forget the Ukraine Famine, honor its victims, and reiterate our support for Ukraine's independence and democratic development as the best assurance that atrocities such as the famine become truly unimaginable. I urge colleagues to join me in commemorating this genocide perpetrated against the Ukrainian people.

SENATE RESOLUTION 203—RELATIVE TO THE DEATH OF VANCE HARTKE, FORMER UNITED STATES SENATOR FOR THE STATE OF INDIANA

Mr. LUGAR (for himself, Mr. BAYH, Mr. FRIST, Mr. DASCHLE, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas Vance Hartke served in the United States Coast Guard and Navy during World War II from 1942 to 1946;

Whereas Vance Hartke served as mayor of Evansville, Indiana from 1956 to 1958;

Whereas Vance Hartke served as Chairman of the Committee on Veterans' Affairs of the United States Senate from the ninety-second Congress through the ninety-fourth Congress; and

Whereas Vance Hartke served his nation as United States Senator from 1959 to 1977: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Vance Hartke, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it stand recessed or adjourned as a further mark of respect to the memory of the Honorable Vance Hartke.

AMENDMENTS SUBMITTED & PROPOSED

SA 1403. Mr. REID (for himself, Mr. CRAIG, Mr. ALLARD, Mrs. FEINSTEIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1404. Mr. BURNS (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1405. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1406. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1407. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1408. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1409. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1403. Mr. REID (for himself, Mr. CRAIG, Mr. ALLARD, Mrs. FEINSTEIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, on page 4, line 19, insert "and incremental geothermal energy production" after "energy".

On page 6, strike lines 22 through 25, and insert:

"(4) GEOTHERMAL.—

"(A) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(B) INCREMENTAL GEOTHERMAL ENERGY PRODUCTION.—

"(i) IN GENERAL.—The term 'incremental geothermal energy production' means for any taxable year the excess of—

"(I) the total kilowatt hours of electricity produced from a facility described in subsection (d)(4)(B), over

"(II) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of the enactment of this subparagraph after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

"(ii) SPECIAL RULE.—A facility described in subsection (d)(4)(B) which was placed in service at least 7 years before the date of the enactment of this subparagraph shall commencing with the year in which such date of enactment occurs, reduce the amount calculated under clause (i)(II) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in clause (i)(II) with such cumulative sum not to exceed 30 percent.

On page 11, line 1, insert "OR INCREMENTAL GEOTHERMAL ENERGY PRODUCTION" after "ENERGY".

On page 11, line 3, strike "IN GENERAL" and insert "GEOTHERMAL OR SOLAR ENERGY".

On page 11, strike lines 10 through 15, and insert:

"(B) INCREMENTAL GEOTHERMAL ENERGY PRODUCTION FACILITY.—

"(i) IN GENERAL.—In the case of a facility using incremental geothermal energy production to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before such date of enactment, but only to the extent of its incremental geothermal energy production.

"(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning not earlier than the date of the enactment of this subparagraph.

On page 329, after line 20, add the following:

SEC. 834. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Amendment of Internal Revenue Code of 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) Amendments of ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Energy Tax Incentives Act of 2003".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Energy Tax Incentives Act of 2003".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Energy Tax Incentives Act of 2003".

SA 1404. Mr. BURNS (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165, between lines 14 and 15, insert the following:

SEC. 512. LIMITATION ON CERTAIN CHARGES ASSESSED TO THE FLINT CREEK PROJECT, MONTANA.

Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Federal Energy Regulatory Commission (referred to in this section as the "Commission"), any political subdivision of the State of Montana that holds a license for Commission Project No. 1473 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SA 1405. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, insert the following:

SEC. 625. CEILING FANS.

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.84.14	Ceiling fans for permanent installation (provided for in subheading 8414.51.00).	Free	No change	No change	On or before 12/31/2013		".

(b) Effective Date.—The amendment made by this section applies to goods entered, or withdrawn from warehouse, for consumption on or after the 15th day after the date of enactment of this Act.

SA 1406. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 138, strike line 9 through page 146, line 14 and insert the following:

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) except as provided in paragraphs (2) and (3), 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficient building envelope improvements installed during such taxable year,

"(2) 25 percent of the amount paid or incurred by the taxpayer for qualified duct sealing services or qualified air infiltration reduction services performed during such taxable year, and

"(3) 20 percent of the amount paid or incurred by the taxpayer for qualified replacement natural gas or propane heating systems installed during such taxable year.

"(b) Limitation.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section:

"(1) Qualified energy efficient building envelope improvement.—The term 'qualified energy efficient building envelope improvement' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(A) such component or combination of measures is installed in or on a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(B) the original use of such component or combination of measures commences with the taxpayer, and

"(C) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(2) Qualified duct sealing services.—

"(A) In general.—The term 'qualified duct sealing services' means services which bring the duct system of a dwelling into compliance with the Energy Star Duct Specifications published by the Environmental Protection Agency if such service is performed with regard to a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

"(B) Certification required.—Services shall not be considered to be qualified duct sealing services unless the dwelling is determined to be not in compliance with such Energy Star Duct Specifications before such services and certified to be in compliance with such Energy Star Duct Specifications after such services.

"(3) Qualified air infiltration reduction services.—

"(A) In general.—The term 'qualified air infiltration reduction services' means services which bring the air infiltration of a dwelling into compliance with the infiltration requirements in the Energy Star Home Sealing Specifications published by the Environmental Protection Agency, if such service is performed with regard to a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

"(B) Certification required.—Services shall not be considered to be qualified air infiltration reduction services unless the dwelling is determined to not be in compliance with such Energy Star Home Sealing Specifications before such services and is certified to be in compliance with such Energy Star Home Sealing Specifications after such services.

"(4) Qualified natural gas or propane heating systems.—The term 'qualified natural gas or propane heating systems' means a natural gas or propane furnace or boiler which is certified to achieve at least 90 percent annual fuel utilization efficiency (AFUE) and which replaces an existing natural gas or propane furnace or boiler which has an AFUE of less than 78 percent or which does not include a power burner or induced draft exhaust, if—

"(A) such furnace or boiler is installed in a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(B) the original use of such furnace or boiler commences with the taxpayer, and

"(C) such furnace or boiler reasonably can be expected to remain in use for at least 5 years.

"(e) CERTIFICATION.—

"(1) METHODS OF CERTIFICATION.—

"(A) COMPONENT-BASED METHOD.—

"(i) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.—The certification described in paragraph (1) of subsection (d) for any component described in such paragraph shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(ii) QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—The certification described in paragraph (4) of subsection (d) shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected natural gas or propane furnaces or boilers.

"(B) PERFORMANCE-BASED METHOD.—

"(i) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE MEASURES.—The certification described in paragraph (1) of subsection (d) for any combination of measures described in such paragraph shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) QUALIFIED DUCT SEALING SERVICES.—The determination and certification described in paragraph (2) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Duct Specifications.

"(iii) QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—The determination and certification described in paragraph (3) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Home Sealing Specifications.

"(iv) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) PROVIDER.—

"(A) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE IMPROVEMENTS.—A certification described in paragraph (1) of subsection (d) shall be provided by—

"(i) in the case of the method described in paragraph (1)(A)(i), by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

"(ii) in the case of the method described in paragraph (1)(B)(i), an individual recognized by an organization designated by the Secretary for such purposes.

"(B) QUALIFIED DUCT SEALING SERVICES; QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—A determination or certification described in paragraph (2) or (3) of subsection (d) shall be provided by a State-licensed contractor.

"(C) QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—A certification described in paragraph (4) of subsection (d) shall be provided by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization.

"(3) FORM.—Any certification described in subsection (d) shall be made in writing on forms which—

"(A) in the case of a certification described in paragraph (1) of subsection (d), specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling,

"(B) in the case of a certification described in paragraph (2) or (3) of subsection (d), provide test data on air infiltration and duct leakage, as appropriate, both before and after services are provided, provide a signed certification that all relevant aspects of the appropriate Environmental Protection Agency specifications have been met, and include a permanent label affixed to the electrical distribution panel of the dwelling, and

"(C) in the case of a certification described in paragraph (4) of subsection (d), specify in readily inspectable fashion the energy efficiency rating of the natural gas or propane furnace or boiler, and which include a permanent label affixed to such furnace or boiler.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B)(i), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) PROVIDERS.—For purposes of paragraph (2)(A)(ii), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain in a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(6) COORDINATION WITH RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.—No credit shall be allowed under subsection (a) with respect to any property to the extent for which a credit is also allowed under section 25C.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) TERMINATION.—

"(1) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE IMPROVEMENTS.—Subsection (a) shall not apply to qualified energy efficient building envelope improvements installed after December 31, 2006.

"(2) QUALIFIED DUCT SEALING SERVICES; QUALIFIED AIR INFILTRATION REDUCTION SERVICES; QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—Subsection (a) shall not apply to—

"(A) qualified duct sealing services or qualified air infiltration reduction services performed after December 31, 2005, and

"(B) qualified natural gas or propane heating systems installed after December 31, 2005.".

SA 1407. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes;

which was ordered to lie on the table; as follows:

At the end of title I of division B add the following:

SEC. 102. EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE WAVE ENERGY.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(I) wave energy.".

(b) Wave Energy.—Section 45(c), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Wave energy.—The term 'wave energy' means energy derived from the energy stored in ocean waves.".

(c) Wave Energy Facility.—Section 45(d) (relating to qualified facilities), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Wave energy facility.—In the case of a facility using wave energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.".

(d) Effective Date.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 1408. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 15 and 16, insert the following:

Subtitle D—Miscellaneous

SEC. 1 . EXCHANGE OF CERTAIN NONPRODUCING FEDERAL OIL AND GAS LEASES.

(a) Definitions.—In this section:

(1) Badger-two medicine area.—The term "Badger-Two Medicine Area" means the Forest Service land located in—

(A) T. 31 N., R. 12–13 W.;

(B) T. 30 N., R. 11–13 W.;

(C) T. 29 N., R. 10–16 W.; and

(D) T. 28 N., R. 10–14 W.

(2) Blackleaf area.—The term "Blackleaf Area" means the Federal land owned by the Forest Service and Bureau of Land Management that is located in—

(A) T. 27 N., R. 9 W.;

(B) T. 26 N., R. 8–10 W.;

(C) T. 25 N., R. 8–10 W.; and

(D) T. 24 N., R. 8–9 W.

(3) Eligible lessee.—The term "eligible lessee" means a lessee under a nonproducing lease.

(4) Nonproducing lease.—The term "nonproducing lease" means a Federal oil or gas lease that is—

(A) in existence and in good standing on the date of enactment of this Act; and

(B) located in the Badger-Two Medicine Area or the Blackleaf Area.

(5) Planning area.—The term "Planning Area" means each of the Western and Central Planning Areas of the Gulf of Mexico on the outer Continental Shelf.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) State.—The term "State" means the State of Montana.

(b) Evaluation.—

(1) In general.—The Secretary, in consultation with the Governor of the State, the eligible lessees, and any other interested persons, shall evaluate opportunities to enhance domestic oil and gas production through the exchange of the nonproducing leases.

(2) Requirements.—In carrying out the evaluation under paragraph (1), the Secretary shall—

(A) consider opportunities to enhance domestic production of oil and gas through—

(i) the exchange of the nonproducing leases for oil and gas lease tracts of comparable value in the State or in the Planning Areas; and

(ii) the issuance of bidding, royalty, or rental credits for Federal onshore oil and gas leases in the State or in the Planning Areas in exchange for the cancellation of the nonproducing leases;

(B) consider any other appropriate means to exchange, or provide compensation for the cancellation of, nonproducing leases, subject to the consent of the eligible lessees;

(C) consider the views of any interested persons, including the State;

(D) determine the level of interest of the eligible lessees in exchanging the nonproducing leases; and

(E) develop recommendations on—

(i)(I) whether to pursue an exchange of the nonproducing leases; and

(II) any changes in laws (including regulations) that are necessary for the Secretary to carry out the exchange; and

(ii) any other appropriate means by which to exchange, or provide compensation for the cancellation of, nonproducing leases.

(3) Valuation of nonproducing leases.—For the purpose of the evaluation under paragraph (1), the value of a nonproducing lease shall be an amount equal to the difference between—

(A) the sum of—

(i) the amount paid by the eligible lessee for the nonproducing lease;

(ii) any direct expenditures made by the eligible lessee before the date of enactment of this Act associated with the exploration and development of the nonproducing lease; and

(iii) interest on any amounts under clauses (i) and (ii) during the period beginning on the date on which the amount was paid and ending on the date on which credits are issued under paragraph (2)(A)(ii); and

(B) the sum of the revenues from the nonproducing lease during the term of the lease.

(4) Suspension of leases in the badger-two medicine area.—To facilitate the evaluation under paragraph (1) and review of the report under paragraph (5), the terms of nonproducing leases in the Badger-Two Medicine Area shall be suspended for a 3-year period beginning on the date of enactment of this Act.

(5) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report on the evaluation carried out under paragraph (1).

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 1409. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —MISCELLANEOUS

SEC. . NEW SOURCE REVIEW.

(a) In General.—The Administrator of the Environmental Protection Agency shall not require that any applicable implementation plan under the Clean Air Act (42 U.S.C. 7401 et seq.) be revised or adopted to comply with any part of the final rules relating to prevention of significant deterioration and nonattainment new source review published at 67 Fed. Reg. 80186 (December 31, 2002) and 68 Fed. Reg. 11316 (March 10, 2003), unless the Administrator demonstrates that no major emitting facility or major stationary source in the State would be permitted to increase the quantity of any air pollutant emitted under the final rules without the increase being considered to be a modification (as defined section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)), if the increase would have been considered to be such a modification under the rules in effect and applicable to that State before December 31, 2002.

(b) Effect of Section.—Nothing in this section affects the retention of State authority under section 116 of the Clean Air Act (42 U.S.C. 7416).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been postponed before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing to receive testimony on S. 808, S. 1107 and H.R. 620, originally scheduled on Tuesday, July 29, 2003 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC, will be rescheduled.

For further information, please contact Tom Lillie at 202–224–5161 or Pete Lucero at 202–224–6293.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 30, 2003, at 10:00 a.m. in Room 216 of the Hart Senate Office Building to conduct a business meeting on pending business, to be followed immediately by an oversight hearing on Potential Settlement Mechanisms of the Cobell v. Norton lawsuit.

Mr. President, I also would like to announce that the Committee on Indian Affairs will meet again in the afternoon on Wednesday, July 30, 2003, at 2 p.m. in Room 216 of the Hart Senate Office Building to conduct a hearing on S. 578, The Tribal Government Amendments to the Homeland Security Act of 2002.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources will hold a hearing on August 6, 2003, at 9 a.m. on legislation related to the State of Alaska. The hearing will be held in Anchorage at the Loussac Library, Assembly Chambers, 3600 Denali Street.

The Committee will consider S. 1421, the Alaska Native Allotment Subdivision Act; S. 1354, the Cape Fox Land Entitlement Act of 2003; and S. 1466, the Alaska Land Transfer Acceleration Act of 2003.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, DC 20510–6150.

For further information, please contact Dick Bouts (202–224–7545) or Meghan Beal (202–224–7556).

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. THOMAS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Monday, July 28, 2003 from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Christo Artusio, a Fellow in my office, be granted floor privileges for the remainder of the Energy bill debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Becca North and Haley Wallace of my staff be granted the privilege of the floor for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of Executive Calendar No. 21, the Estrada nomination.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia.

CLOTURE MOTION

Mr. SESSIONS. Mr. President, I now send a cloture motion to the desk.

The PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Judd Gregg, Norm Coleman, John E. Sununu, John Cornyn, Larry E. Craig, Saxby Chambliss, Lisa Murkowski, James Talent, Olympia Snowe, Mike DeWine, Michael B. Enzi, Lindsey Graham of South Carolina, Jeff Sessions, Lincoln Chafee, and Wayne Allard.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the live quorum provided for in rule XXII be waived and the Senate resume legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

UNANIMOUS CONSENT REQUEST—H.R. 2738 AND H.R. 2739

Mr. SESSIONS. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in concurrence with the Democratic leader, the Senate proceed to the immediate consideration of H.R. 2738 and H.R. 2739 en bloc, with the following conditions for debate only: GRASSLEY, 50 minutes; BAUCUS, 45 minutes; HOLLINGS, 60 minutes; DASCHLE, 30 minutes; JEFFORDS, 60 minutes; SESSIONS, 45 minutes; HATCH, 15 minutes; CORNYN, 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. I further ask that upon the use or yielding back of time, the bills be read a third time and the Senate then immediately proceed to a Senate resolution regarding immigration provisions included in the Singapore and Chile free-trade agreements; the resolution then be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; provided further that the Senate then proceed to a vote on passage of the Singapore free-trade agreement, followed by a vote on passage of the Chile free-trade agreement, with no intervening action or debate.

The PRESIDENT pro tempore. The Chair, as a Senator from the State of Alaska, objects to the consideration of the Chile agreement.

Mr. SESSIONS. Mr. President, I withdraw the unanimous consent request for the time being.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROVIDING CERTAIN FEDERAL ANNUITY COMPUTATION ADJUSTMENTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 219, S. 481.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 481) to amend chapter 84 of title 5, United States Code, to provide certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 481) was read the third time and passed, as follows:

S. 481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

"(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 2 months of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.".

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107–135), is amended by striking "8415(i)" and inserting "8415(k)".

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

IN REMEMBRANCE OF THE HONORABLE VANCE HARTKE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203 submitted earlier today by Senators LUGAR, BAYH, FRIST, DASCHLE, and others.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 203)

Relative to the death of Vance Hartke, former United States Senator for the State of Indiana.

Whereas Vance Hartke served in the United States Coast Guard and Navy during World War II from 1942 to 1946;

Whereas Vance Hartke served as mayor of Evansville, Indiana from 1956 to 1958;

Whereas Vance Hartke served as Chairman of the Committee on Veterans' Affairs of the United States Senate from the ninety-second Congress through the ninety-fourth Congress; and

Whereas Vance Hartke served his nation as United States Senator from 1959 to 1977: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Vance Hartke, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it stand recessed or adjourned as a further mark of respect to the memory of the Honorable Vance Hartke.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, I am very pleased to be a cosponsor of this resolution. As the distinguished Senator from Alabama noted, this was introduced today by the two Senators from Indiana and by the two leaders.

We express our heartfelt condolences to the family of Vance Hartke. I was one who admired his work, his leadership. While I did not have the opportunity to serve directly with him, his legacy remains today in the many ways he affected public policy during his 18 years in the Senate. He will be missed. We are grateful for his service.

Mr. SESSIONS. I join in expressing my sympathies to the family of former Senator Vance Hartke. He is known throughout this country and served this country with great distinction.

I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements appear at the appropriate place in the RECORD, without intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 203) was agreed to.

The preamble was agreed to.

ORDERS FOR TUESDAY, JULY 29, 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Tuesday, July 29. I further ask that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill.

PROGRAM

Mr. SESSIONS. I further ask consent that notwithstanding the provisions of rule XXII, at 11:15 there will be 1 hour of debate equally divided between Senators HATCH and LEAHY, or their designees, and that at 12:15 the Senate proceed to the vote on invoking cloture on the Owen nomination. I further ask consent that the Senate recess following that vote until 2:15 p.m. for the weekly party lunches.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. On behalf of the majority leader, I advise all Senators that the Senate will resume consideration of S. 14, the Energy bill. It is the majority leader's hope to dispose of the two pending CAFE amendments tomorrow morning. In addition, the Senate will conduct its third cloture vote on the Owen nomination for the Fifth Circuit tomorrow at 12:15. Therefore, Senators should expect the possibility of several votes prior to the party lunches. Members will be notified when the first vote is scheduled.

For the remainder of the day, the Senate will continue debate on the Energy bill. The Senate may also begin consideration of the Chile and Singapore trade agreement bills tomorrow. Therefore, Senators should expect votes throughout the afternoon and into the evening tomorrow.

Mr. DASCHLE. Mr. President, just to clarify, because I think this is an important scheduling to note, if I could ask the distinguished Senator from Alabama, under this unanimous consent request, it would then appear that there would be a vote on the Owen nomination at 12:15 but that votes on the two pending CAFE amendments, the Durbin amendment and the Levin amendment, could occur prior to 11:15, which is when we are scheduled to debate the Owen nomination; is that correct?

Mr. SESSIONS. As I understand the agreement and the majority leader's position, it is his hope to dispose of those two CAFE amendments tomorrow morning. I would think the Senator is correct.

Mr. DASCHLE. That is my understanding, that we will have a vote at 12:15 on the Owen nomination and Senators should be advised there could be one vote, perhaps two votes, prior to 11:15 on the two amendments offered by the Senators from Illinois and Michigan having to do with the CAFE standards.

I thank the Senator for his answer.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the provisions of S. Res. 203, as a further mark of respect to our distinguished and late former colleague, Senator Vance Hartke.

There being no objection, the Senate, at 7:45 p.m., recessed until Tuesday, July 29, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 28, 2003:

THE JUDICIARY

EARL LEROY YEAKEL III, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

KATHLEEN CARDONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

EXTENTIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Monday, July 28, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

9 a.m.

Environment and Public Works

To hold hearings to examine climate history and its implications, and the science underlying fate, transport and health effects of mercury emissions.

SD–406

9:30 a.m.

Armed Services

To hold hearings to examine the nominations of General Peter J. Schoomaker (Ret.), USA, for appointment as Chief of Staff, United States Army and appointment to the grade of general; and Lieutenant General Bryan D. Brown, USA, for appointment as Commander, United States Special Operations Command and appointment to the grade of general.

SR–222

Energy and Natural Resources

Energy Subcommittee

To hold hearings to examine the role of the Department of Energy's Office of Science in supporting research in physical sciences.

SD–366

Foreign Relations

To resume hearings to examine the status and prospects for reconstruction resources relating to Iraq.

SH–216

Governmental Affairs

To hold hearings to examine the nominations of Joe D. Whitley, of Georgia, to be General Counsel, and Penrose C. Albright, of Virginia, to be an Assistant Secretary, all of the Department of Homeland Security; to be followed by a hearing to examine the nomination of Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget.

SD–342

Judiciary

Business meeting to consider the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Larry Alan Burns, to be United States District Judge for the Southern District of California, Glen E. Conrad, to be United States District Judge for the Western District of Virginia, Henry F. Floyd, to be United States District Judge for the District of South Carolina, Kim R. Gibson, to be United States District Judge for the Western District of Pennsylvania, Michael W. Mosman, to be United States District Judge for the District of Oregon, and Dana Makoto Sabraw, to be United States District Judge for the Southern District of California.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine consumer awareness and understanding of the credit granting process.

SD–538

Health, Education, Labor, and Pensions

To hold hearings to examine the nomination of Howard Radzely, of Maryland, to be Solicitor for the Department of Labor.

SD–430

Aging

To hold hearings to examine a current law trust fund exhaustion scenario if no action is taken to strengthen Social Security, focusing on the GAO report analyzing the "do nothing" scenario with the analytical framework previously used to evaluate the models developed by the President's Commission to Strengthen Social Security.

SD–628

2:30 p.m.

Judiciary

Immigration, Border Security and Citizenship Subcommittee

To hold hearings to examine the LI visa and American interests in the 21st century global economy.

SD–226

3 p.m.

Veterans' Affairs

To hold hearings to examine U.S. Army policies on the award of the Combat Medical Badge, and on pending legislation relating to VA-provided health care services including the following: S. 613, to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado, S. 615, to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic", S. 1144, to name the health care facility of the Department of Veterans Affairs located at 820 South Damen Avenue in Chicago, Illinois, as the "Jesse Brown Department of Veterans Affairs Medical Center", S. 1156, to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, S. 1213, to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans, S. 1283, to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and S. 1289, to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone.

SR–418

JULY 30

9 a.m.

Foreign Relations

To hold hearings to examine the nominations of Jeffrey A. Marcus, of Texas, to be Ambassador to Belgium, Constance Albanese Morella, of Maryland, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador, George H. Walker, of Missouri, to be Ambassador to Hungary, and Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons.

SD–419

Governmental Affairs

Investigations Subcommittee

To hold hearings to examine practices for identifying and caring for new cases of SARS.

SD–342

9:30 a.m.

Environment and Public Works

Business meeting to consider S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area, H.R. 274, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge, S. 930, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to prepare for and respond to all hazards,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

S. 269, to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species, S. 551, to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, S. 793, to provide for increased energy savings and environmental benefits through the increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete, H.R. 1018, to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building", H.R. 281, to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the "Tony Hall Federal Building and United States Courthouse", S. 1210, to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries, S. 1425, to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program, proposed legislation to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify requirements relating to the recycled oil, and proposed legislation to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

SD-406

10 a.m.

Finance

To hold hearings to examine the nominations of Robert Stanley Nichols, of Washington, to be Assistant Secretary for Public Affairs, and Teresa M. Ressel, of Virginia, to be Assistant Secretary for Management, both of the Department of Treasury.

SD-215

Health, Education, Labor, and Pensions

Business meeting to consider the nominations of Howard Radzely, of Maryland, to be Solicitor for the Department of Labor, and Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission.

Room to be announced

Indian Affairs

Business meeting to consider pending calendar business, to be followed by oversight hearing on potential settlement mechanisms of the Cobell v. Norton lawsuit.

SH-216

Judiciary

To hold hearings to examine S.J. Res. 15, proposing an amendment to the Constitution of the United States to make eligible for the Office of President a person who has been a United States citizen for 20 years.

SD-226

2 p.m.

Indian Affairs

To hold hearings to examine S. 578, to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security.

SH-216

2:30 p.m.

Judiciary

To hold hearings to examine S. 1194, to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

SD-226

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine space exploration.

SR-253

JULY 31

9:30 a.m.

Armed Services

To hold a closed briefing regarding the work of the Iraq Survey Group.

S-407, Capitol

Banking, Housing, and Urban Affairs

Business meeting to mark up S. 627, to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and H.R. 659, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals; to be followed by a hearing to examine measures to enhance the operation of the Fair Credit Reporting Act.

SD-538

Commerce, Science, and Transportation

Business meeting to consider pending calendar business.

SR-253

Judiciary

Business meeting to consider pending calendar business.

SD-226

10 a.m.

Governmental Affairs

To hold hearings to examine origination, organization and prevention in relation to terrorism financing.

SD-342

Health, Education, Labor, and Pensions

To hold hearings to examine solutions to the problem of health care transmission of HIV/AIDS in Africa.

SD-430

2 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine corruption in North Korea's economy.

SD-106

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed Mine Safety and Health Administration (MSHA) rule on coal dust; to be followed by a hearing on union financial reporting and disclosure.

SD-192

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the funding of forensics sciences.

SD-226

2:30 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings to examine Internet Corporation for Assigned Names and Numbers (ICANN).

SR-253

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH-219

AUGUST 1

9:30 a.m.

Judiciary

To hold hearings to examine the Greater Access to Affordable Pharmaceuticals Act.

SD-226

SEPTEMBER 16

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to receive the legislative presentation of The American Legion.

SH-216

POSTPONEMENTS

JULY 29

2:30 p.m.

Veterans' Affairs

Business meeting to consider pending legislation and nominations, to be followed by a hearing on U.S. Army policies on the award of the Combat Medical Badge.

SR-418

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 808, to provide for expansion of Sleeping Bear Dunes National Lakeshore, S. 1107, to enhance the Recreational Fee Demonstration Program for the National Park Service, and H.R. 620, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

SD-366

HOUSE OF REPRESENTATIVES—*Tuesday, July 29, 2003*

The House met at 4 p.m. and was called to order by the Speaker pro tempore (Mr. DOOLITTLE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 29, 2003.

I hereby appoint the Honorable JOHN T. DOOLITTLE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, the work of Congress is a human endeavor, like the work of any farmer, salesperson, or artisan. As a human work, it suffers from human limitations; but it is also the embodiment of the greatness of human expression.

Because the work of Congress is the work of a group of people, it takes on a broader dimension and entails the efforts of dialogue and debate, as well as compromise and consensus.

Because the work of Congress, Lord, is also the work of government in this great democracy, it reflects the will of the people and needs the compliance and acceptance of the people of this Nation. Then the work of Congress guides, structures, and empowers the workforce of the Nation.

As Congress prepares for summer break, we ask You, Lord God, to bless all the work of this session of the 108th Congress of the United States of America. We also ask You to bless all the workers who have labored on this legislation here on Capitol Hill.

May this work become a blessing for this Nation; and may the Members of Congress and all who assist them in their efforts be rewarded for serving You by serving this Nation. All has been undertaken in Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 481. An act to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

CONDITIONAL ADJOURNMENT TO FRIDAY, AUGUST 1, 2002

The SPEAKER pro tempore. Without objection, when the House adjourns today it shall adjourn to meet at 4 p.m. on Friday, August 1, 2003, unless it sooner has received a message from the Senate transmitting an amendment to House Concurrent Resolution 259 in the form that is now at the desk, which the Clerk presently shall report, in which case the House shall be considered to have concurred in such Senate amendment and to have adjourned pursuant to such concurrent resolution, as amended.

The Clerk will report the form of the amendment.

The Clerk read as follows:

Amendment to H. Con. Res. 259:

Strike "when the House adjourns on the legislative day of Friday, July 25, 2003, or Saturday, July 26, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee," and insert: "when the House adjourns on the legislative day of Tuesday, July 29, 2003,"

The SPEAKER pro tempore. Without objection, that shall be the order.

There was no objection.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 481. An act to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes; to the Committee on Government Reform.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned pursuant to that order.

There was no objection.

Thereupon (at 4 o'clock and 5 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m., Friday, August 1, 2003, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 259, as amended in conformity with that previous order.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3617. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to Burma declared by Executive Order 13047 of May 20, 1997, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 108–109); to the Committee on International Relations and ordered to be printed.

3618. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 2003 through June 30, 2003 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 108–106); to the Committee on House Administration and ordered to be printed.

3619. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Port of Mobile, Mobile, AL [COTP Mobile–03–001] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3620. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Royal Palms Fireworks, West Palm Beach, FL [COTP Miami 03–033] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3621. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Miami Beach Winter Sprints, Miami Beach, FL [COTP Miami 03–028] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3622. A letter from the Chief, Regulations and Administrative Law, USCG, Department

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of Homeland Security, transmitting the Department's final rule—Security Zone; Port of Miami, Miami, FL [COTP MIAMI-03-023] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3623. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Bareardi Bar Mitzvah Fireworks, Buena Vista, FL [COTP-Miami 03-020] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3624. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Lake Okeechobee Challenge, Lake Okeechobee, FL [COTP Miami 03-013] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3625. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Lake Okeechobee Challenge, Lake Okeechobee, FL [COTP Miami 03-013] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3626. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Marine Stadium Fireworks, Biscayne Bay, Miami Beach, FL [COTP Miami 03-010] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3627. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Biscayne Bay, Miami Beach, FL [COTP Miami 03-009] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3628. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL [COTP Jacksonville 03-040] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3629. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Indian River, Cocoa Village Mardi Gras, Cocoa, FL [COTP Jacksonville 03-034] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3630. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL [COTP Jacksonville 03-030] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3631. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL [COTP Jacksonville 03-029] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3632. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Atlantic Ocean, St. Johns River, Atlantic Intracoastal Waterway, Jacksonville, FL [COTP Jacksonville 03-027] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3633. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Matanzas River, St. Augustine, FL [COTP Jacksonville 03-019] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3634. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Houston Ship Channel, Houston, TX [COTP Houston-Galveston-03-002] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3635. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Houston Ship Channel, Houston, TX [COTP Houston-Galveston-03-001] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3636. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX [COTP Corpus Christi-03-001] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3637. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Charleston Harbor, Cooper River, South Carolina [COTP CHARLESTON-03-025] (RIN: 2115-AA101) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3638. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Captain of the Port Chicago Zone, Lake Michigan [CGD09-03-201] (RIN: 2115–AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of July 25, 2003]

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 2535. A bill to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965; with an amendment (Rept. 108–242 Pt. 1). Ordered to be printed.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 876: Mr. GEORGE MILLER of California.

H.R. 937: Mr. BAIRD.

H.R. 1910: Mr. WILSON of South Carolina.

H.R. 2916: Mr. GEORGE MILLER of California, Mr. INSLEE, and Ms. McCOLLUM.

SENATE—*Tuesday, July 29, 2003*

(Legislative day of Monday, July 21, 2003)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

For the beauty of the Earth, for the glory of the skies, for the love which, from our birth over and around us lies, Lord of all, to You we raise this, our prayer of grateful praise.

We thank You for Your loving providence that sustains us each day. Thank You, also, for the liberty that provides the foundation for our Nation.

Bless our Senators today. May they remember to trust You for guidance and to believe that You will order their steps. Make their lives a source of wisdom, deep as the ocean and fresh as a flowing stream.

We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. It is our intention this morning to reach an agreement to allow for the disposition of the two pending CAFE amendments.

In addition, the Senate will conduct its third cloture vote on the Owen nomination at 12:15 today. Therefore, Senators should expect the possibility of several votes prior to the party lunches. Members will be notified when the first vote is scheduled.

The Senate will recess, following the cloture vote, until 2:15 p.m. for the weekly party lunches, and for the remainder of the day the Senate will resume debate on the Energy bill. The Senate may also resume debate on the Chile and Singapore free-trade agreements. This morning we would like to lock in the agreement for the consideration of those two bills. Therefore, Senators should expect votes throughout the afternoon and into the evening.

THE ENERGY BILL

Mr. FRIST. Mr. President, I want to very briefly comment on the Energy bill. I did not make a statement on the bill and indeed was a bit disappointed on the progress we made yesterday for lots of extenuating circumstances. I do want to point out my absolute commitment to aggressively addressing the bill this morning and over the course of this week. Today, we do begin our 16th day, our 16th day of consideration on this Energy bill on the Senate floor. Just to point out to my colleagues, 16 days is longer than we spent on any other single bill this year. In fact, it is twice as long as we spent on the Medicare reform bill, the Medicare prescription drug bill. I say that only to encourage my colleagues to come to the floor, offer amendments, allow us to offer the amendments so that we can debate and vote on the amendments that people are at least considering.

Time and time again the statement is made that we spent 7 weeks on this bill last year on the Senate floor. Seven weeks, that was 24 days that we spent last year, and last year the bill didn't go through committee. It was not marked up. It wasn't debated in committee. It was taken straight to the floor.

Now we have a bill that was marked up, debated in committee, and now we spend 16 days on it. We need to finish this bill this week. We need to stay focused with it and we can't tolerate the sort of delays we have seen to date. We need to aggressively recognize that we have a period of this week and use the time that is available.

The issue of organizing how we do these amendments and sort of getting them done procedurally is what I have been concentrating on, but I think all of us have to step back and recognize the substance of this bill is what is important. It is incumbent upon us as U.S. Senators to address an issue that has been put forth by the President.

An Energy bill has been passed by the House of Representatives, and we have a bill on the Senate floor that we are debating and we must address and finish and complete this week.

A strong energy policy is what Americans want. It is what Americans deserve, a policy that, indeed, balances new production with conservation, with the development of renewable resources, all of which is crucial to strengthening our economy and our national security.

In terms of the economy, we know this bill will have a direct impact on the creation of jobs—not just 100,000 jobs or 300,000 or 400,000 but 500,000 jobs it is predicted this bill will create.

We know what has happened with natural gas prices. We have seen what has happened with those prices just since we have been discussing this bill. Again, it calls upon us to pass this Energy bill which sets out our policy.

While we have addressed issues, not as aggressively as I would like, gas prices have shot up. Federal Reserve Chairman Alan Greenspan has made the statement that there is no end in sight. To put this in some sort of perspective on a personal level, 80 percent of the Nation's 35,000 laundromats have raised prices in the past year due to high natural gas prices. Folks who have to take their laundry to the corner Sit and Spin are facing, every day, prices that increased over the past several weeks and months and may well increase into the future.

That is why we need to respond and respond expeditiously. If you take it beyond the personal level to the industry level, the U.S. chemical companies are closing plants. They are laying off workers. They are looking to expand their own production, not domestically but expand it abroad, as a result of high prices.

Next year, the United States is expected to import, to bring into this country, approximately $9 billion more in chemicals than it will export.

American industry is caught between regulations, on the one hand limiting the supply of natural gas, and regulations encouraging its use on the other. The result is rising gas prices with some industries cutting jobs. Again, I want to keep coming back to jobs because it is an Energy bill, an energy security bill, but it is also a jobs bill. We find some of these industries not just cutting jobs but sometimes being priced out altogether. And, of course, consumers are being hit with higher and higher electric bills.

We need to diversify our sources of energy. We must do so in a way that lessens our reliance on foreign sources. So when you summarize and step back, our energy policy should be one that is consistent with our foreign policy; that is, it is independent and it is secure. By increasing America's domestic production of clean coal, of oil and gas, nuclear, ethanol, solar, and other renewable energy sources, we increase not just our energy supply but we increase our national security.

Furthermore, by passing the comprehensive energy package we will be creating jobs; as I mentioned, as many as 500,000 jobs. Indeed, the Alaskan pipeline, for example, will create at least 400,000 jobs alone. The hundreds of millions of dollars that will be invested in research and development of new technologies will not only benefit the environment, which we know will be benefited, but it also will create new jobs in engineering, in math and chemistry, science, physics.

So, in summary, we cannot continue to dither or delay. We need to focus over the next 4 days on this bill, bring amendments to the chairman and ranking member, bring them to the floor for debate so we can vote.

We simply cannot let the behind-the-scenes political maneuvering in any way deny the American people energy that is cleaner, that is more abundant, and, indeed, more secure.

We need to take action this week for the sake of our economy, for our national security, and ultimately, and what is probably the bottom line, for our fellow Americans who are paying these bills each and every month. It is time to pass an energy policy for the 21st century. I am confident we can do so this week.

I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. REID. Mr. President, let the RECORD be spread with the fact that every Democrat in the Senate supports an Energy bill. There is not a single Senator who opposes an Energy bill.

I know that the distinguished majority leader has talked about our having been on this for 16 days—and we have been. But many of them have been extremely short days—Thursday afternoons and Friday mornings; a few days here and a few days there.

I think what we have to be concerned about is not how many days we have spent on it but the question is, Is this bill as good as it should be? I think the answer is a glaring no at this stage.

We have been willing to work with the majority to find consensus on a host of issues. There is not a single Senator on the other side of the aisle who I have worked more closely with than the chairman of the Energy Committee, the distinguished senior Senator from New Mexico. Not only have I worked with him on the Energy bill but I have worked with him on the Appropriations Committee. He and I have done energy and water bills for years. I have great respect for him. I know how badly he wants an Energy bill. He tells me once or twice a day. I know how important it is for him to move this bill through the Senate. But we can't move a bill through the Senate that doesn't have debate on important issues such as climate change, CAFE, electricity, renewable portfolio standards, and the tax title.

We on this side of the aisle are concerned about jobs. When we look at the last administration and 8 years, President Clinton created 25 million jobs. This administration and this President—as long as we have kept records where we have lost jobs—lost 3 million jobs in the private sector. I think that says it all.

On the Alaskan pipeline issue, I offered that amendment on the floor. That amendment passed. I am glad it did pass. We support that. It is good for the economy. It is good for the security of this Nation to bring that gas from Alaska. We want to do that.

We talked about Medicare legislation and doing that more quickly. Of course, that was bipartisan legislation. It makes it a little easier.

We have a number of northwestern Senators who are desperate to work out something on the electricity title. They could not get a copy of—it is a major title to this legislation—until late Friday night. Some got it but most didn't get it until yesterday; then to be asked, as we were yesterday, to go right to the electricity title.

There are three amendments pending. I think without any question we can have a vote on CAFE by 10:45 or 11 o'clock, according to how much time the opposition takes on it. I think we can do that quickly. We have discussed it with Senators LEVIN and STABENOW. Of course, there are others on the majority side who joined with these Senators on another CAFE amendment. That should take a very short period of time—I would say an hour or something like that, I would estimate.

Then we have to figure out some way as to what will be done with the Campbell amendment. Then there is nothing to stop us from going to the electricity title. There will be some debate on that. It is an extremely important issue for us.

As I said, I have the highest respect and regard for my friend from New Mexico, the senior Senator.

I don't see how we can do this bill this week. We are going to try. It is not as if this is some guerrilla attack. We have been saying all along that we need more time than this to complete the bill.

But on this side of the aisle, we recognize the importance of this legislation. We want to do what we can but there are certain issues that require debate and deliberation. We are going to make sure it takes place. If we have to stay in through next week, we have to stay in through next week. But there are issues that are so important to this country that we have to make sure that whatever bill comes out is the best bill we can get.

RESERVATION OF LEADERSHIP TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations."

Durbin amendment No. 1384, to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986, to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Bond modified amendment No. 1386, to impose additional requirements for improving automobile fuel economy and reducing vehicle emissions.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, just briefly, I wish to respond because I can tell both in opening and closing the Senate each day that we are going to come down to this same sort of dialog of our side of the aisle wants to move this bill through and the Democrats, or the other side of the aisle, are saying we are not slow walking this and we need more time. There is going to be sort of the setup at the end of the week with the other side saying we just haven't had enough time.

I want to make it clear to my colleagues that for the last month this bill came before the Senate 16 days. This is the 16th day on the bill. We are going to spend every day this week on it. These are not new issues. These are issues that we debated, that we talked about, that we hashed and rehashed last year. Indeed, it was 7 weeks and 24 days, and the issues are essentially the same issues.

In this Congress, we have gone through the committee itself, and it came to the floor on May 6. We spent 16 days on it. We are going to spend the next 4 days.

When I hear these statements either from the Democratic leader last night or the potential of a charge at the end of the week that, Well, Democrats just didn't want to finish the bill—those are the Democratic leader's words—I am beginning to think there is some delaying, there is some slow walking. I say that because I set up this schedule a long time ago. We are now early in the week for this final week being spent on the bill.

Yesterday we had the other side of the aisle objecting to setting aside CAFE and laying down the electricity bill. Yet we just had the assistant Democratic leader and the Democratic leader last night say, Well, we just got it on Friday.

The whole point of laying it down yesterday was so we could look at it, so we could debate it, and so we could talk about it. Yet we spent all day yesterday—or they spent all day—objecting to laying it down and to setting other amendments aside.

It is too early to get into this sort of finger pointing back and forth. But I can tell from the Democratic leader's statements—no, we are not slow walking it, that you are going to accuse us of slow walking it—all I can say is that it is early enough in the week, and if we stay focused and if we expeditiously and systematically address the issues, we can complete this bill.

I encourage both sides of the aisle to allow the managers to deal with these amendments and organize in a systematic way so we can debate. It is our No. 1 priority this week so that we can do what the American people deserve, we can pass a bill which has been adequately debated and appropriately amended and which fulfills what both sides of the aisle want to do; that is, to develop good energy policy.

I yield the floor.

The PRESIDENT pro tempore. The minority leader.

Mr. DASCHLE. Mr. President, I just wanted to respond briefly to the comments made by the distinguished majority leader.

I, again, will publicly affirm what I have said to him privately—that we are more than ready to grind out amendments and work through the many contentious issues. I listed them last night. He knows very well what those issues are.

We have a very controversial electricity title that was redrafted. Once the bill was reported out of committee, for whatever reason, the majority decided they didn't like the electricity title and redrafted an entirely different electricity title that we had not seen until Friday. So we were not able to examine it for purposes of consideration of amendments and other issues until this weekend.

But we also have the question of nuclear licensing, the conservation questions which we have talked about, the renewable portfolio standards, and a number of issues that hopefully we can address in addition to the electricity matter. The tax title has yet to come up.

You can't slow walk a bill that has not been pending. And it has not been pending. We have urged our colleagues to bring the bill to the floor so we could walk through these issues one by one and address them constructively. For good reason, yesterday we were not able to come to the bill, in part because the two managers, out of necessity, had to be in New Mexico.

So we are prepared to deal with the Durbin amendment and then the Levin amendment. I know the Campbell amendment is pending after that. If we could dispose of that, there is no reason whatsoever we could not go to the electricity title and begin debating that and consider amendments to the electricity title.

So I will certainly again offer my cooperation to the distinguished majority leader in an effort to begin addressing these issues. But I wish it were the beginning of this work period rather than the end. I would feel a lot more confident about our ability to complete our work.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before the distinguished minority leader leaves the floor, might I say we, too, are prepared to move quickly to the Durbin amendment. Senator BINGAMAN and I are writing up a list we would agree on as to how we would proceed the next couple days. The problem is, the pending amendment is the Campbell amendment on Indians, and we were going to ask if we could set it aside so we could proceed with Durbin and then proceed with the subsequent amendment on automobiles which is just pending, and right on down—we have a list—including getting the amendment on electricity offered today for debate.

But there is an objection to our proceeding. So that means we probably will have to take one of two actions: either put the electricity amendment on the Indian amendment, which I do not like, or we do the Indian amendment first. I don't know if we can do that. So it is too bad. Whoever is objecting, it would be good if they would not object to just setting the Indian amendment aside. It is being worked on. It is not a game breaker; it is just a question that there are now people who want to work it out as compared with fighting over it.

Senator BINGAMAN is here. I think he wishes to speak.

Mr. DASCHLE. Mr. President, if I might respond quickly to the distinguished Senator from New Mexico, I simply say that however he wants to address the Campbell amendment managerially is his decision. I think it is important to dispose of it. You have plenty of options. Even though we have a finite list of amendments, you can easily bring it back if it is in other forms and address it later on to clear the path, if you wish, to bring up the electricity title. So whether or not there are objections to setting it aside should not be an impediment. There ought to be ways in which to address it, and I know he will find one. Again, I will work with him to see if that can be done.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I agree with the points made by the minority leader and Senator DOMENICI as well. Let me just suggest, though, that I know Senator DURBIN is here ready to debate his amendment, on which we hope we can get a vote this morning.

I think we could go ahead with that debate and then possibly even go ahead with some debate on the Bond-Levin issue while we are trying to clear any objections on this side. The hope is then we would be able to vote on one or both of those amendments before we go to the discussion about the Priscilla Owen nomination.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think the minority leader has convinced me, and his suggestion was a good one. I withdraw the Campbell amendment provided he has the right to offer it at a later date.

The PRESIDENT pro tempore. Is there an objection?

Mr. REID. Objection.

The PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, under the present parliamentary situation, of course, it takes consent to withdraw because we have a finite list of amendments. We have at least one Senator here whom we have to protect. As a result of that, I object.

Mr. DOMENICI. Mr. President, I thought the other side said I could dispose of it however I would like so we could get on with the business. I just tried to do that.

Mr. REID. But of course, Mr. President, we have two amendments ahead of that. It is not parliamentary procedure that is proper at this stage. When we get to the Campbell amendment, the distinguished Democratic leader said the Senator would have to do what he wanted in that regard. We stand on that.

Mr. DOMENICI. We can't proceed with any of the other amendments.

Mr. REID. But even at that time, even if the other two amendments were gone, the alternatives are, as the Senator said, second-degreeing the amendment or disposing of it with a motion to table or some other thing. But just to agree to withdraw it, I am not in a position to do that right now.

Mr. DOMENICI. We would like to proceed with the CAFE amendment at this point.

The PRESIDENT pro tempore. If the Senator will suspend, the Chair informs the Senator from New Mexico, the finite list requires that the amendment must be disposed of. It cannot be withdrawn except by unanimous consent.

Mr. DOMENICI. I say to Senator DURBIN, would you like to then proceed for a few minutes on your amendment?

Mr. REID. Mr. President, I had the floor, and I will yield in just 1 second. I would also say, so there is not a problem in the future, I don't think you can amend the Campbell amendment with an electricity title under the rules that are now before the Senate. I would just alert Senators to that.

The PRESIDENT pro tempore. I think the Senator from New Mexico had the floor.

Mr. DOMENICI. We will get to that. Senator BINGAMAN wants some time to speak to a Senator. So I ask Senator DURBIN, how much time would you like to speak on your amendment?

Mr. DURBIN. I am prepared to move to my amendment. It is my understanding that the minority leader may be seeking the floor. If he is, I will certainly yield to him.

The PRESIDENT pro tempore. The minority leader.

Mr. DASCHLE. Mr. President, I appreciate the Senator yielding. I will not take a lot of time now.

TRADING IN DEATH

Mr. DASCHLE. Mr. President, I come to the floor in part to call to the attention of my colleagues an article which appeared in the New York Times this morning. The article is entitled "Pentagon Prepares A Futures Market On Terror Attacks."

The article reports that the Bush administration is prepared to spend $8 million on a program that actually encourages betting on the probability of future terrorist attacks. I am really amazed. This fits in that category: "We are not making this up."

You ask whether there are traders or traitors—T-R-A-D-E-R-S or T-R-A-I-T-O-R-S. As we understand it, even terrorists would be allowed to bet on the likelihood of future terrorist attacks.

This program could provide an incentive, actually, to commit acts of terrorism. We are asking the administration this morning to renounce this plan to trade in death. The administration should issue a public apology, especially to the families of the victims of September 11. This is just wrong: The Pentagon calls its latest idea a new way of predicting events and part of its search for the "broadest possible set of new ways to prevent terrorist attacks." I don't know how one can possibly use the marketplace for that purpose.

The initiative, which is called the Policy Analysis Market, is to begin registering up to 1,000 traders on Friday. It is the latest in a series of projects advanced by DARPA, a Pentagon unit that has run into a great deal of controversy over other issues.

But I must say, this is perhaps the most irresponsible, outrageous, and poorly thought out of anything I have heard the administration propose to date. For the life of me, I cannot believe anybody would seriously propose that we trade in death, that we set up a futures market on when, as the Web site proposed, the King of Jordan could be overthrown, when a leader would be assassinated, when a terrorist attack would occur. Most traders try to influence their investments. How long would it be before you saw traders investing in a way that would bring about the desired result?

I hope the administration will explain what it is they had in mind, why they are doing this, why we are investing taxpayer dollars in the probability of future terrorist attacks.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Illinois.

Mr. DURBIN. I would like to ask the Senator from South Dakota, our distinguished minority leader, is it not true that those who find your statement incredulous can log on to policymarketanalysis.com and find this proposal from the Department of Defense to create some sort of investment speculation in the possibility of assassination and terrorism? Is that not a fact?

Mr. DASCHLE. The Senator from Illinois has exactly stated the fact. Policymarket.com can be called up on your Web site today. The Web site can be called up on the Internet and you can see for yourself.

Mr. DURBIN. In fairness to the Senator, I think the reference is policyanalysis.

The PRESIDENT pro tempore. Will the Senator please address through the Chair? The Senator from Nevada has the floor.

Mr. DURBIN. I believe the Senator from South Dakota has the floor.

Mr. DASCHLE. I sought recognition and the Chair recognized me.

The PRESIDENT pro tempore. Very well. I thought the Senator yielded to the Senator from Nevada. The minority leader has the floor.

Mr. DURBIN. If the minority leader would further yield, through the Chair, is it not true that the site referenced here is policyanalysismarket.org, for those who question whether what you are saying is accurate?

Mr. DASCHLE. That is correct. I don't have the Internet reference in front of me.

Mr. DURBIN. Is it not also, I say through the Chair, that the administration is proposing spending $8 million of taxpayer money through the year 2005 in creating this marketplace to trade in speculation about assassination and terrorism, $8 million over the next several years?

Mr. DASCHLE. It is my understanding they are actually encouraging investors to trade in this terrorist probability or possibility. Their view is that somehow, by those who invest, in watching or monitoring those who invest, they can better determine where this terrorist attack may occur. What they don't fail to appreciate is that investors try to make good on their investments. So would it not stand to reason that once this investment was made and the market moved in the direction of assassinating a given leader, indeed, that would be the ultimate outcome?

Mr. DURBIN. If the Senator would further yield for a question, is it not true that on their Web site yesterday they put up some hypothetical things that people could invest in, questions as to whether, for example, Mr. Arafat, with the Palestinian Authority, would be assassinated, whether North Korea would launch a missile attack, whether the King of Jordan would be overthrown, and whether Israel would be attacked with bioterrorism weapons? Weren't these some of the items on which the Department of Defense was suggesting we start opening speculation and investment and betting by people around the world, including possible terrorists? Wasn't this on the Web site yesterday and removed today?

Mr. DASCHLE. Each of the items that the Senator from Illinois has reported were on the Web site yesterday: When the first biological attack would occur in Israel, when the King of Jordan might be assassinated. Each of these were listed as possible investment opportunities. Of course, our distinguished colleagues—I cite them for their efforts, Senators WYDEN and DORGAN—called attention to these particularly unusual investments, and they were pulled from the Web site once the fact that these were listed was made public.

Mr. DURBIN. If the Senator would further yield, I would ask the Senator from South Dakota to reflect on the reaction of the United States and the Congress——

The PRESIDING OFFICER (Mr. ENSIGN). The Senator will suspend.

Mr. STEVENS. Is the Pastore rule in effect at this time?

The PRESIDING OFFICER. The Senator is correct.

Mr. DASCHLE. Mr. President, am I not recognized on leader time?

The PRESIDING OFFICER. The Senator is.

Mr. DASCHLE. I appreciate that.

Mr. DURBIN. If the Senator from South Dakota will further yield for a question, would the Senator from South Dakota indicate what his reaction would be if we learned that in some country overseas they were opening up betting on the assassination of American officials, opening up betting on the possibility that America would be the target of future terrorism? Could the Senator from South Dakota speculate on our reaction if a similar betting scheme were opened in some other country in the world?

The PRESIDING OFFICER. The Senator will address his questions through the Chair.

Mr. DURBIN. Through the President, I ask whether the Senator from South Dakota would respond.

Mr. DASCHLE. Responding to the Senator, I would simply say where do we limit this? What would prevent somebody from offering a futures market on terrorist acts within the United States on a leader of the United States? If these markets were available to leaders in the Middle East, countries in the Middle East, it doesn't take much of a stretch of the imagination to suggest that perhaps these new investment opportunities on terror for U.S. leaders, U.S. politicians, U.S. locations would be a big part of this market of death in a very short time. Once this is in the marketplace, as we say, there is no telling what the market may do.

This policyanalysismarket.org is something I would encourage my colleagues to check out. It is the most amazing Web site I think I have seen in my life. I just cannot imagine that somebody seriously would propose something as outrageously irresponsible as this.

Mr. DURBIN. Will the Senator yield for one final question?

Mr. DASCHLE. I am happy to yield.

Mr. DURBIN. I would like to ask through the Chair, it is my understanding from press reports that former Admiral John Poindexter has now been associated with this concepted idea, the same man who was involved in the controversy of Iran-contra and the same individual who, through this same office, suggested a massive intelligence-gathering operation across the United States involving the invasion of medical records, financial records, that was discredited by the administration? Is this the same John Poindexter who was behind this proposed scheme by the administration?

Mr. DASCHLE. Mr. President, I answer the Senator from Illinois by saying yes, indeed, the same John Poindexter with the checkered past that we have known him to have is back again. This time policyanalysismarket.org apparently is one of the projects for which he is responsible. This new trade in death is something that I am told he is heading. I am anxious to get more information, of course, from the administration and others about how this individual as well as this Web site came to be.

Just very quickly, this is the Web site the Senator from Illinois cited, the specific possibilities for investment: The King of Jordan overthrown, the price they suggest starts at just 23 cents on that one. Arafat assassinated, that is worth 23 cents as a possibility. The price range may be anywhere from 22 to 33 cents. They expect a volume of 2,333 investors.

We can move to the second chart. This is the actual Web site from DARPA: King of Jordan overthrown, North Korea missile attack, Arafat assassinated. All of these are on the Web site.

> Whatever a prospective trader's interest in the web site, the involvement in this group prediction process should prove engaging and may prove profitable.

This is one of the most intriguing parts of their assertion, that these actual investments in these incidences could actually prove to be profitable, as they consider investments in any one of these tragedies. I should say, investing in these incidences for purposes of profit.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Mr. President, I am wondering if the distinguished Democratic leader's reaction, when he and I read the front page of the New York Times today, was the same as mine—amazement, bewilderment—when reading on the front of the New York Times: "Pentagon Prepares a Futures Market on Terrorist Attacks"?

> The Pentagon office that proposed spying electronically on Americans to monitor potential terrorists has a new experiment. It is an online futures trading market, disclosed today . . . in which anonymous speculators would bet on forecasting terrorist attacks, assassinations, and coups.
>
> Traders bullish on a biological attack on Israel or bearish on the chances of a North Korean missile strike would have the opportunity to bet on the likelihood of such events on a new Internet site established by the . . . [Pentagon].

Did the Senator read that in disbelief?

Mr. DASCHLE. I actually thought it was a hoax. I could not believe that we would actually commit $8 million to create a Web site that would encourage investors to bet on futures involving terrorist attacks and public assassinations. For the life of me, I cannot believe that we would spend the money this administration has committed for that purpose.

But, as you said, according to the article in the New York Times this morning, that is indeed what has happened. The Web site is up. I encourage my colleagues to check policyanalysismarket.org for themselves and consider what this remarkable development may mean for us in public policy and for the safety and security of our country as we consider its ramifications.

I yield the floor.

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I know the Senator from Illinois is seeking to speak on his amendment. Is there a time agreement on that amendment?

The PRESIDING OFFICER. There is not.

Mr. STEVENS. I would like to have an opportunity to speak on the Energy bill. I do not want to interfere with the Senator's amendment if we can get it done.

Mr. DURBIN. I am happy to yield to the Senator from Alaska if he would give me an idea how much time he would like.

Mr. STEVENS. The reverse is true also. I am glad to yield to the Senator if he would consider giving us a time agreement on his amendment.

Mr. DURBIN. If the Senator from Alaska would like to work with me through the leadership to come up with a time agreement, I will be happy to do that. At this point, with no time agreement, I will yield—without yielding my right to the floor on the amendment—for the Senator to speak on the Energy bill. He certainly has a right to do that. I am happy to yield for that purpose.

Mr. STEVENS. I have come to the floor to speak on the bill in general, but I would be happy to have an opportunity to have the Senator from Illinois debate his amendment and have it voted on. As I understood it, that was the plan this morning.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I address the Senator from Nevada. Is it possible to get an agreement on the Durbin amendment?

Mr. REID. Mr. President, Senator DURBIN has always been agreeable to that. He has indicated he would want probably 45 minutes.

Mr. DURBIN. Yes.

Mr. REID. And Senator STABENOW may want 10 or 15 minutes. We will check with her. I am sure we can do it within an hour on our side. I would propose that on the Durbin amendment there be 1 hour of debate on our side, that there be no second-degree amendments in order, and we would then vote on or in relation to the Durbin amendment.

Mr. DOMENICI. We are trying to work with Senator BINGAMAN on the Durbin amendment and the other CAFE amendment.

Mr. REID. I say to my friend from New Mexico that we have seen the proposal. We are not going to agree to the unanimous consent agreement that was given to me.

Mr. DOMENICI. We don't need a time agreement on Senator DURBIN at this point.

Mr. REID. Mr. President, if the Senator will yield so I may comment briefly, I think we have tried to be as reasonable as we can on the Durbin amendment, which is the pending amendment. The Senator from Illinois has agreed from the beginning on a time agreement. That still stands.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I will speak briefly. I hope, however, we can move on to the Durbin amendment as soon as we get a time agreement.

Mr. President, one of the basic goals of the Energy bill, as our leader has indicated, is job creation. According to the estimates that I have, based upon the Bureau of Labor Statistics, the natural gas pipeline project to bring Alaska's natural gas to market would create as many as 400,000 job years. There have been various press releases issued in that regard. The more conservative estimates by the Energy Committee staff put the number at 118,000. Even those figures include: 1,650 welders and helpers; 2,000 operators; 135 surveyors; 1,250 laborers; 755 teamsters; 418 inspectors; 90 UT technicians; and 170 salaried foremen. Beyond that are both manufacturing jobs and infrastructure jobs, including airstrip improvements at 5 airports.

Additionally, the project will require an enormous number of buses, loaders, and automatic welders. We will need 440 sidebooms, 225 other sidebooms, 18 trenchers, 250 backhoes, 236 large dozers, 125 stringing tractors, and 1,300 pickup trucks.

I have come to the floor to raise my voice in support of this Energy bill and to urge the Senate to complete it. I commend Senators DOMENICI and BINGAMAN and their staffs for their efforts so far. This Energy bill is an important step toward a comprehensive and balanced national energy policy. It contains many important provisions designed to ensure our energy security.

The most important of those, to me, is the authorization for a natural gas pipeline from the North Slope of Alaska connecting through Canada to what we call the Lower 48.

As we are all aware, our country faces a natural gas crisis. The leader spoke of that this morning, and I want to emphasize the importance of his remarks. In the last 10 years, demand for natural gas has increased by 19 percent. It is projected to grow over 50 percent in the next quarter century. Absent a new supply of natural gas, a gap of 15 billion cubic feet per day or 6 trillion cubic feet per year is likely in the next decade.

High natural gas prices have severely impacted our industries and our consumers and are hindering our economic recovery.

The fertilizer industry alone has seen its current operating capacity in the United States for ammonia plants drop to 60 to 65 percent of former capacity. High gas prices are responsible for the closure of almost 20 percent of the nitrogen fertilizer capacity.

This has severely impacted our farmers. They are now paying $350 per ton for fertilizer, more than twice what they paid last year.

Our chemical industry has been similarly affected as high gas prices continue to affect its market share, which again threatens millions of existing jobs.

The chemical industry employs more than 1 million Americans, with 5 million Americans working at jobs dependent upon that chemical industry. Millions of Americans are depending upon our ability to maintain an adequate supply of gas. Our constituents are also feeling the pressure from natural gas prices. Sixty million households in this country use natural gas.

In 1999, their average gas bill was $534. In 2001, the average gas bill was $750. This year, the average gas bill for American consumers at home will be $915—almost double what it was in 1999, Mr. President.

Given these disturbing facts and the negative impacts high gas prices are having on the Nation as a whole, I urge the Senate to act quickly to address this situation. This Energy bill must pass this year. It must be passed by the Senate now before we go on recess so a final conference package can be voted on in the fall.

The Energy Committee has taken the first step towards addressing this situation by including authorization for the Alaskan gas pipeline. The pipeline is vitally important to preventing an even more serious natural gas crisis in the future.

The gas pipeline will increase our supplies. Alaska's gas alone would meet approximately 10 percent of our country's natural gas needs, which means 4 billion to 6 billion cubic feet per day. It will decrease our dependency on foreign gas and imports of liquefied natural gas. It will generate over $40 billion in revenues for the Federal Government. It will create the jobs I outlined earlier.

I do hope the Senate will focus on the jobs created by the Energy bill and particularly the Alaska natural gas pipeline. The gas pipeline translates into 7,000 construction jobs, thousands of manufacturing jobs necessary to create equipment, and thousands of infrastructure jobs.

In addition to the authorization language, the Finance Committee has provided a fiscal incentive package to ensure the pipeline can begin delivering gas as quickly as possible. I will discuss the fiscal package once the energy tax provisions are introduced. We are working with the distinguished chairman of the Finance Committee to assure that those provision meet all the objectives of assuring financing for this enormous project.

I urge the Senate to consider that this is gas that was produced alongside oil at Prudhoe Bay, almost 13 billion barrels of oil to date. As that oil was produced, natural gas was pumped to the surface as well. This gas was then separated from the oil and reinjected into the ground. This is not gas we have to look for; we know where it is. This is 35 trillion cubic feet of gas that is stored beneath Prudhoe Bay.

I point out to the Senate that 35 trillion cubic feet of gas is merely what has already been produced. The North Slope of Alaska has an abundant supply of gas, which has the potential to produce around 100 trillion cubic feet of gas. The Alaska gas pipeline project must begin so that we can start tapping into Alaska's gas reserves. No one is drilling gas wells in my State now because there is no transportation mechanism for gas. The known reserves of natural gas will be produceable as soon as there is a transportation mechanism to bring it to market. This pipeline will be that transportation mechanism to bring Alaska's gas to the Lower 48.

Nothing is more important to our Nation right now in terms of our economy than reassuring our people that we will have the natural gas supplies we need for the future. The Alaska natural gas pipeline can do it. It will help to fill the gap for the immediate future once it is constructed, and the benefits of the Alaska pipeline will have lasting effects on our Nation.

It will take a long time to construct the pipeline. We estimate it will be 2012 or 2013 before that gas actually gets to market. But once it gets to market, it will be competing with new liquefied natural gas that will be coming from foreign sources.

It is estimated that eventually we will import about 6 percent of our gas supplies in LNG. The counterweight to LNG is Alaska's gas. There is no other source in the United States with such an enormous amount of gas.

I urge us to move swiftly on this bill, and I will do anything I can to help accelerate the decisions on this bill. Again, I congratulate the two Senators from New Mexico for what they have done so far. I wish we could get together on a bipartisan basis and come up with a substitute. We ought to find some way to resolve these differences. The country needs this energy, and my State and the country need this project. I urge Senators to consider what we have to do to get this Energy bill passed as quickly as possible and that it contain the legislative authorization that is now in the bill and the tax provisions necessary to get the pipeline built.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we are preparing a unanimous consent request with reference to CAFE that has a reasonable chance. I wish to say to everyone, the distinguished Senator from Alaska just suggested that we attempt to get this bill completed, suggesting that we sit down and try to find some alternative. In this Senator's humble opinion, there are ample votes to get the pending bill passed. Individual Senators, justifiably, have reason for delay. That is their business, and they are going to do just that.

The question is how long will they delay and to what end. There is no question that the Senator is correct with respect to natural gas. There are even other provisions with reference to natural gas. But the issue now is to get an agreement where we can have some votes.

It appears to me that we are now close to getting something done on CAFE. There are two very important CAFE amendments. We are trying to get them written up where we will get them scheduled for debate and votes shortly after the recess this afternoon, after which the pending amendment will obviously be the Campbell amendment, and we will attempt to dispose of that amendment. Then we are free to move with dispatch, I say to the Senator from Alaska.

I wonder if we are pretty close to getting a unanimous consent request?

Mr. REID. Will the Senator yield?

Mr. DOMENICI. Yes, I will be pleased to yield.

Mr. REID. Perhaps Senator DURBIN can start his debate, and as soon as the unanimous consent request is prepared, perhaps he will yield the floor so the Senator may put the request to the Chair.

Mr. DOMENICI. Might we count his time now? I have no objection. He is going to get some time in the unanimous consent request. I ask that whatever time he uses now be counted.

Mr. DURBIN. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. DURBIN. I have been here an hour trying to begin the debate. I have tried to cooperate completely. I ask the Senator from New Mexico if he will give me assurance that I will get an up-or-down vote on my amendment.

Mr. DOMENICI. He will. Did the Senator ask for an up-or-down vote on his amendment?

Mr. DURBIN. Yes.

Mr. DOMENICI. I cannot give the Senator that assurance. It is not totally up to me. If it was up to me, it would be all right. It is not up to me.

Mr. DURBIN. Will it be included in the unanimous consent request?

Mr. DOMENICI. It is not included.

Mr. DURBIN. It could be.

Mr. REID. The unanimous consent request says "on or in relation" to the amendment.

Mr. DOMENICI. Yes, "on or in relation."

Mr. DURBIN. I know where that is headed. I will proceed to engage in a debate on this amendment if no one else is seeking recognition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico?

Mr. DOMENICI. I agree. The Senator can have an up-or-down vote.

Mr. DURBIN. I thank the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Senator from New Mexico.

Mr. REID. And as to Senator DOMENICI's request, Senator DURBIN's time will be counted against the time in the order; is that right?

The PRESIDING OFFICER. That is correct. The Senator from Illinois.

Mr. DURBIN. Mr. President, I understand my amendment is not pending, although it has been offered and set aside. I would like to address that amendment and engage in some explanation for my colleagues so they can understand what will be voted on shortly by the Senate.

I hold in my hand S. 14, and it is the bill that has been prepared, with long hours of work by the Senator from New Mexico and many others, to address the energy security of the United States of America. I suggest that if one visits the State of Nevada or the State of New Mexico or my home State of Illinois and asks the average person on the street, If the Senate is serious about energy security, should they consider the fuel efficiency and fuel economy of the cars and trucks that we drive, the answer would be universally yes because people intuitively know we are dependent on overseas oil to power our cars and trucks, and that, of course, is expensive not only in terms of dollar amounts but in terms of our political commitment to Saudi Arabia and other countries.

If we are talking about America's energy security, most Americans believe S. 14 would include provisions that lead to more fuel efficiency and more fuel economy of America's cars and trucks. But the sad report for the American people is this: They are wrong.

S. 14 includes no provisions requiring that automobile manufacturers provide us more fuel-efficient cars in the future. So how can it be a serious energy proposal? How can we talk about our energy security if we ignore the obvious?

Let's take a look for a moment at what we face. The vast majority of oil reserves in the world, according to this chart, are in the Middle East. In terms of the billions of barrels of oil, there are 677 billion barrels of oil in the Middle East. There is no other part of the world that can even come close in terms of its potential for providing oil. The closest I guess would be South and Central America with some 86 billion and then, of course, North America, some 76 billion. But the reserve of oil in the world, outside of the Middle East, pales in comparison.

That is important for us to consider because we in the United States and in Canada are the largest global consumers in the world of oil per capita. These 1999 figures show of what I am speaking. In the United States and Canada, we consumed 3 gallons of oil for every man, woman, and child every day in 1999. That is 3 gallons a day.

Let's look at other industrialized countries. It is 1.3 gallons per capita in other industrialized countries.

The world average was about half a gallon. So we have a veracious appetite for oil that we do not own.

When we are talking about energy security, we have to wonder how this bill, S. 14, can honestly address energy security without addressing the obvious—that unless and until we are less dependent on foreign oil to sustain our lives and our economy, how in the world can we reach energy security?

The obvious question is, What are we doing with all of this oil? Well, intuitively we know the answer, but this chart tells us with specifics: U.S. oil demand by sector, over a 50-year period of time.

What we will find is this: Cars, SUVs, minivans, pickup trucks, and other vehicles account for 40 percent of U.S. oil consumption; and the transportation sector in total, 60 percent. They own the oil. We consume it in quantities unparalleled in the world. We consume it to power our vehicles.

Stick with me because I think this takes us to the end point and why the Durbin amendment really gets to the heart of energy security.

The amendment which I have proposed would save a cumulative amount of 123 billion gallons of oil by 2015.

Now, some have said there are other ways to do this; we do not have to ask for Detroit or any automobile manufacturers to do anything responsible for fuel efficiency and fuel economy. We can ignore that. Let the market work. We continue to have bigger, heavier, less fuel efficient vehicles. Just ignore it. There are other ways out. There is an easy way to deal with it.

What is the easy way that opponents of my amendment are proposing? Take a look at it. One of them is, let's go drilling for oil in the Arctic National Wildlife Refuge. Take a refuge created by President Eisenhower in the 1950s, that is supposed to be protected, and open it up for oil exploration. They say: If we just open up the Arctic National Wildlife Refuge, we do not have to worry about cars, trucks, and fuel efficiency. There is so much oil up there, we just do not have to sweat it. So give a little. Compromise this national wildlife refuge. Let oil companies come in and make a few bucks and future generations are going to be in a much better position.

Look at the facts. Look at the comparison. Look at what the Arctic National Wildlife Refuge will save for us, or at least produce for us, in terms of billions of gallons of gasoline over a 17-

year period of time. The number is down here and it shows, I think conclusively, that we are dealing with a very small amount that would come out of the Arctic National Wildlife Refuge; in fact, less than a tenth of what we would derive if we set about a sensible national energy policy calling for more fuel efficient cars and trucks.

NHTSA, the National Highway Traffic Safety Administration, has a proposal that would save 20 billion gallons of gas, and that is a good idea, but that again is just a fraction of what we can do if we address the obvious: The fuel economy of the cars we drive.

A lot of people have said: We can invent our way out of this problem. We do not have to sweat it in terms of demanding from Detroit and other automobile manufacturers that they come up with better cars and trucks. Let them continue to sell these behemoths on the road that have terrible fuel economy and eventually we are going to invent our way out of the problem.

Well, would that that were true. In this situation, when we take a look at the proposals for fuel cell vehicles, one of the things we have heard about is hydrogen power. I support that. I think the President's research is a good idea. But even if it is successful, in a matter of 12 years it could save us less than 10 billion gallons of gasoline. That is less than a tenth of what my amendment would achieve.

What about the consumers? I have heard Senators say: We have no right to dictate to American consumers what they want, what they prefer. We should let the consumers have what they want. Let the market govern.

I will tell my colleagues what consumers have said. An annual survey by J.D. Power and Associates found that fuel consumption was the second most common driver complaint industry-wide.

Mr. REID. Mr. President, if the Senator will yield for a unanimous consent request, I ask that Senator DOMENICI now be recognized to offer a unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the following Senators be permitted to speak in relation to amendments Nos. 1384 and 1386: Senator LEVIN, 10 minutes; Senator BOND, 10 minutes; Senator LOTT, 10 minutes, to follow Senator DURBIN; Senator STABENOW, 10 minutes; Senator LAUTENBERG, 10 minutes; Senator DURBIN, 40 minutes; Senator BINGAMAN, 5 minutes; Senator DOMENICI, 5 minutes. Further, that the Bond amendment be amended with a Bingaman second-degree amendment which is at the desk and has been agreed to by both sides. Further, I ask unanimous consent that following the use or yielding back of the time, the votes occur on the Durbin amendment No. 1384, to be followed by a vote in relation to the Bond amendment No. 1386, as amended, at a time determined by the majority leader after consultation with the Democratic leader, and that there be no second-degree amendments in order to the amendments prior to the votes in relation to the amendments.

Mr. REID. Mr. President, I ask that the distinguished chairman of the committee modify his amendment to allow Senator BINGAMAN 5 minutes to speak after Senator LOTT on the Levin amendment.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from New Mexico?

Mr. DURBIN. Reserving the right to object, only to clarify where I am with my 40 minutes, I do not know how much time I have consumed. I inquire of the Chair how much time I have consumed.

The PRESIDING OFFICER. The Senator from Illinois has consumed 8½ minutes.

Mr. REID. Nothing happens until 11:15, and then we go to a judge. So the Senator has plenty of time to speak.

Mr. DURBIN. I thank the Senator. I have no objection to the unanimous consent request.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from New Mexico? Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2738 AND H.R. 2739

Mr. DOMENICI. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, with the concurrence of the Democratic leader, the Senate proceed to the immediate consideration of H.R. 2738 and H.R. 2739, en bloc, under the following conditions for debate only: Senators GRASSLEY, 45; BAUCUS, 45; HOLLINGS, 60; DASCHLE, 30; JEFFORDS, 60; SESSIONS in control of 45; HATCH, 15; STEVENS, 15; CORNYN, 15; FEINSTEIN, 60. I further ask that upon the use or yielding back of the time, the bills be read a third time and the Senate immediately proceed to a Senate resolution regarding immigration provisions included in the Singapore and Chile free trade agreements; the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; provided, further, that the Senate then proceed to a vote on passage of the Singapore free trade agreement followed by a vote on passage of the Chile free trade agreement, with no intervening action or debate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask the distinguished manager of the bill if he would modify the agreement to allow Senator HARKIN 30 minutes.

Mr. DOMENICI. On the unanimous consent I just read?

Mr. REID. Yes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the original unanimous consent request?

Without objection, it is so ordered.

Mr. DOMENICI. Before we proceed to Senator DURBIN, I say to all the Senators, so there will be no misunderstanding, we are going to dispose of the CAFE amendments this afternoon. That means that the next amendment which will be before us is the amendment regarding Indians. If there continues to be objection that we cannot set it aside, we will vote either on it or in relation to it immediately following disposition of the CAFE amendments. It is the intention of the manager that that occur, after which time it is the intention of the manager to proceed to lay before the Senate the electricity amendment which has been in the hands of Senators for almost 4 days now.

I thank everyone for their cooperation thus far. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Will the Chair be kind enough to notify me after I have used 25 minutes of the 40 minutes I have allocated under the unanimous consent request?

The PRESIDING OFFICER. The Chair will do so.

Mr. DURBIN. Going back to the point I was making about more fuel efficient vehicles, a lot of people say if we are going to have more fuel efficient vehicles, they are going to cost more and they have to add things to these vehicles that will be expensive to consumers. But they fail to account for several things. One is that a more fuel efficient vehicle costs more money to operate. If it costs $1,200—and that is the estimate from the National Academy of Sciences—to put on the new fuel-saving technology, over the life of the car that same consumer will save $2,000 in terms of the gasoline they have to buy.

Arguing that this is a consumer burden is plain wrong. In fact, most consumers are concerned about fuel economy; unfortunately, the Senate is not. The Senate has taken the position, which unfortunately major automobile manufacturers in this country espouse, that we should not be concerned about fuel efficiency and fuel economy.

As a person who makes a point of trying always to buy American vehicles and having done that all my life, it is becoming increasingly apparent that Detroit is falling further and further behind when it comes to new, environmentally responsible technology to deal with fuel efficiency.

What we have with the Levin-Bond amendment is a concession to the fact that Detroit continues to fail. Detroit continues to come in second when we deal with new technology. I am concerned about that. Our American automobile industry is critically important to our economy.

As a person who wants to buy American as often as possible, I look at this and say we have to do better. This Energy bill before the Senate does not challenge the automobile industry to do better at all. It basically says we are going to include language which does not place any burden on the automobile manufacturing industry or anyone else. We are going to ignore the CAFE standards and basically allow what is currently existing to continue indefinitely. That is energy security? I don't think so.

One of the concerns I have is the impact on pollution by automobile emissions. The United States produces a third of the greenhouse gases emitted from automobiles worldwide. Out of all of the emissions from automobiles in the world, the United States is responsible for one-third of the pollution. These greenhouse gases affect agriculture, public health, the economy, our sea levels and shore lines. The greatest impact is at the North and South Pole.

Scientists predict, for example, that many species will be threatened because of the greenhouse gases that are aggravated and exacerbated by the emissions from the tailpipes of our cars and trucks. That is a reality.

It is not just a question of lessening our dependence on foreign oil but a question of environmental responsibility. Let me give one illustration. When I was a young boy growing up in East St. Louis, IL, one of the biggest treats in my life was to go over to the St. Louis zoo. I would stand there watching the polar bears until my mom and dad finally said we had to go home. I got the biggest kick out of that as a kid. A lot of children around America look at polar bears—the big, huge, lumbering white bears in zoos—and think, what a magnificent creature. The sad reality is if we do not get honest about the environment and the destruction of the environment for which we are responsible, this species of animal will be threatened.

Scientists say if the most optimistic scenario should evolve, the polar bears will not be extinct for 100 years. It means that though your children may see them during their lifetime, their children will not. Others say, no, 50 years. If that is true, if in 50 years polar bears will be extinct because of the pollution coming out of tailpipes of our cars, because of the refusal of the Senate to accept the responsibility to reduce automobile emissions, to reduce the use of fuel, if that happens in 50 years, you can say to your children and grandchildren today, go to the zoo and look closely because this animal will not be here for your children to see. There is no way.

Do we want that burden? Do we want to accept that burden in the name of not pushing the automobile companies to make more fuel-efficient vehicles? That is what this vote comes down to.

From my point of view it is very simple and very sad. We sometimes have a responsibility to make tough decisions in the Senate. We have a responsibility to say to these big multinational corporations that produce these automobiles: You have to do better. You have to do better so the United States is not dependent on foreign oil, so we have true energy security and reduce the environmental degradation and damage of air pollution. We have to accept that responsibility. If we don't, who will? Do you expect the marketplace to answer this? The marketplace will answer this by eliminating this species from the Earth. That is how the marketplace will answer.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. REID. I take this opportunity to tell the Senator from Illinois through the Chair that this is the most important amendment dealing with the environment that will be offered all year. I was asked in a television interview yesterday what I believed was the most important environmental issue facing America today. I said fuel efficiency of automobiles. There is not a close second.

I believe in the Clean Air Act, clean water, endangered species, historical preservation, and there is not an issue that is more important to the people of America and to the world than fuel efficiency of these cars and trucks in America today.

I want the record to be spread with the fact that the Senator from Illinois has offered, in my opinion, the most important environmental amendment that could be offered this Congress. I give the Senator my support.

I know what the vote was previously on this issue. We will probably lose this, which is too bad. The majority of the people in America support this amendment. The majority of people in America support this legislation. The Senate does not. That is too bad. On this issue we are not reflecting the will of the American people.

Does the Senator acknowledge that?

Mr. DURBIN. I agree with the Senator. So does the League of Conservation Voters, an organization in Washington that looks for important environmental votes. They said the Durbin amendment is a critical vote on the scorecards of Senators across the United States because it gets to the basics: Do you care about the future? Do you care about the responsibilities of American consumers and American producers of automobiles to make a better car and a better truck? If you do not care, then you want the current situation to continue.

Remember the history. If you reflect on the history, where did we come up with the word "cafe"? How was this created? It was created by a law in this Chamber in 1975 which said to automobile manufacturers; You have to do better; 14 miles a gallon is sinful. It will make us more dependent on foreign oil and it will pollute the environment. You must produce a more efficient car.

The chorus from Detroit and other automobile manufacturers could be heard all over the Chamber. They said the opponents of this amendment are saying it is technically impossible to make more fuel-efficient cars. It cannot be done.

Second, go ahead and make more fuel-efficient cars; they will not be as safe. We guarantee it. We will be riding around in these flimsy cars that are so light that lives will be lost right and left.

Third, they said: This is a job killer. More fuel efficiency for cars in America means we are going to ship American automobile manufacturing jobs overseas.

Those are the same three arguments they are making today. The Senate ignored them in 1975. The Senate said to the special interest groups: You are wrong. America's national interests demand we pass this bill. And we did.

As a result of passing that bill, we increased the fuel efficiency of America's vehicles from 14 miles a gallon to 27.5 miles a gallon in 10 years by Government mandate from a law we passed.

Is America a better place as a result? You bet. We have less air pollution; we did not sacrifice automobile safety; and we still have a vibrant automobile manufacturing industry.

To suggest we are going to kill jobs because we want cars that are more fuel efficient is, frankly, to wave the white flag and say Americans are not smart enough. We cannot figure this out.

Why is it, time and again, when it comes to fuel-efficient vehicles, automobile manufacturers from other countries seem to have it figured out? Look at these hybrid vehicles. Gasoline-electric hybrid vehicles have great potential. Is it as embarrassing to my colleagues in the Senate as it is to me that the first two companies to produce these vehicles were Toyota and Honda? Where was Ford? Where was General Motors? Where was DaimlerChrysler? Why do we always have to come in second when it comes to this technology? Is it that our people are not smart enough? I don't buy that. What is lacking is leadership, leadership in the American automobile industry and leadership in the Senate.

My colleagues will come to the Senate today and say 40 miles a gallon on our cars in 12 years cannot be done. If it is going to be done, you are going to condemn soccer moms and their kids to driving back and forth in cars that are death traps.

Listen, another thing that is wrong with the Durbin amendment, you will hear, is it is going to cost us jobs to America. That is the same story, the same argument we heard 28 years ago, the same tired old arguments that give up and give in instead of showing real leadership as this amendment demands that we do.

I say to my colleagues in the Senate, for goodness' sake, don't take the telephone calls from the special interest groups for a few hours. Listen to your heart and your mind and understand where the American people are.

Yesterday I was in the south suburbs of Chicago, Palos Heights. A woman came up to me who appeared to be a soccer mom. She stopped by the Dominick's food store, and I saw her as she walked by. She knew about this amendment, and she said: "Thank you for doing this. We have to do something about these gas guzzlers."

She knows, as we know, that no individual consumer can change this. Unless we show leadership, Detroit is going to continue to make the most fuel inefficient vehicles, put them on the highway, creating more pollution, more dependence on foreign oil, and ultimately destroying the environment of the Earth on which we live.

I don't think I am overstating the case—not at all. When 60 percent of the oil we import into America goes into our transportation, I believe I am understating the case. You cannot have a serious bill about America's energy security, or any serious legislation that considers the impact of energy on the environment, and ignore this issue. Ignore it we have.

The Landrieu amendment, which I supported, is a good idea. It is a study. It is an important message. It has no teeth, no enforcement. The same thing is true on the Levin-Bond amendment. It is an amendment that, in name, says we are concerned about this but, in fact, creates no responsibility on the automobile industry to do anything.

We can do things. The technology is within our grasp. What we need is the leadership in the Senate. My amendment would say we have to improve the fuel efficiency of cars and SUVs, minivans and crossover utility vehicles, to 40 miles a gallon by the year 2015; to require pickup trucks and vans to achieve a CAFE standard of 27.5 miles per gallon by the same year.

It changes the definition of passenger vehicle. That has been one of the most egregious violations of the original intent of the CAFE law that has occurred. You know these huge monster vehicles called Hummers, Humvees, and the like. Take a look at those and realize for a minute they are exempt from the CAFE law.

Take a look at these massive SUVs and realize we create tax incentives for businesses to buy the most fuel inefficient cars in America. I have a tax amendment, which will not be part of the amendment I offer this morning, but it goes after this tax policy which encourages the worst instead of the best.

The argument was made here, as I said earlier, that this technology is so expensive, it is going to cost $1,200 a car.

Forgive me; I have been buying cars recently. Cars are pretty expensive nowadays, and $20,000 and up, I guess, is average. Mr. President, $1,200 on that cost at the front end, if you are going to save $2,000 in gasoline over the life of the vehicle, is certainly not too much to ask.

In terms of losing jobs, the Union of Concerned Scientists say the opponents of this amendment have it all wrong. The opponents say, if we talk about new technology and American leadership, we are going to lose jobs. Just the opposite occurs. We are going to be creating jobs to create this new technology. We will be reducing the cost of business. The businesses that are dependent on cars and trucks with better fuel efficiency will have lower costs, lower input costs, will be more productive and more competitive. But the opponents just don't see it. They have tunnel vision. What they see are these massive SUVs getting bigger and bigger and the American consumers having no alternative but to buy.

Many have said the Durbin amendment is not necessary. I would say the Landrieu measure includes no new authorities to help reach oil savings goals and no enforcement mechanisms to ensure that the requirement be fulfilled.

The Levin-Bond amendment, they say, is based on sound science. But I would say the contrary is true. In 2002, the National Academy of Sciences found that existing and emerging technologies—existing and emerging technologies—could improve fuel efficiency of a light truck 50 percent to 65 percent; the fuel efficiency of cars 40 to 60 percent.

The people who oppose this amendment ignore the reality. This technology is within our grasp. But, sadly, what we have found over and over again is that Detroit and other automobile manufacturers do not believe they have any obligation to offer it.

The Levin-Bond amendment does not require an increase in fuel efficiency. It delays the job, passes the buck to NHTSA. It adds new roadblocks to NHTSA's decisionmaking process. NHTSA has failed to make any meaningful increase to fuel economy for 10 years. The record is there. We know if you hand this over to the National Highway Traffic Safety Administration, you are not going to get fuel efficiency for a decade. Its latest increase of 1.5 miles per gallon to light trucks is almost laughable, to think that is the best they can do considering that the standards for light trucks were last changed 18 years ago.

So if every 18 years we are going to increase the efficiency of vehicles in America by 1.5 miles a gallon, how long do you think we will be dependent on foreign oil? The answer is obvious: Forever.

We are addressing fuel efficiency through the President's hydrogen fuel cell initiative. I support that. But that certainly is not the total answer.

I say to my colleagues, there are people in the business of selling cars. There are people in the business of buying cars. There are consumers across America who are going to ask one basic question: Is S. 14 for real? It is not for real if we do not include any provisions requiring more fuel efficiency and more fuel economy of our vehicles.

I ask my colleagues to join me in supporting this amendment.

The PRESIDING OFFICER. The Senator has consumed 25 minutes.

The Senator from Missouri.

Mr. BOND. Mr. President, I ask that I be notified when I have used 7 minutes of my time. I intend to yield the remaining 3 minutes to my colleague from Missouri.

The PRESIDING OFFICER. The Senator will be notified.

Mr. BOND. Mr. President, I think Senators are all aware, now, that if you are serious about doing something positive regarding fuel efficiency and safety standards but avoiding something negative for jobs, safety, and consumer choice impact, you should vote yes on the Levin-Bond CAFE amendment to the pending Energy bill.

I am only going to make this speech one time, not three times as those on the other side do, as we drag it out. I want to point out, again, a similar amendment was agreed to last year on a vote of 62 to 38, supported on both sides of the aisle.

As I said on the floor a few days ago, Members supported our amendment because they knew then and I hope they know now that setting fuel economy standards is complicated. Future standards should be based on sound science and take into account important criteria: Jobs, technology, consumer choice, and many others, but also safety—safety which has been compromised by the politically set lower CAFE standards of the past. They should not be based on the political numbers. I urge my colleagues to oppose the higher, politically set CAFE numbers included in the Durbin and Feinstein amendments.

There are a lot of people who are very strongly supportive of the Bond-Levin amendment—farmers, union members, soccer moms, small businesses. The United Auto Workers wrote to us specifically urging defeat of the Durbin and Feinstein bills. The Chamber of Commerce also did. Not often do you see the UAW and Chamber teamed up, in opposition, but the people who have proposed these unreasonable standards have managed to achieve it.

I spent a lot of time on this floor talking about the impact of excessive CAFE standards, and I think it is important to talk about the hard industry data, economic impact, and the National Academy of Sciences report. After listening to the debate of the last few years, it is clear there are many myths.

The first myth is automakers take advantage of an SUV loophole. Fact: During the creation of the program in 1975, Congress recognized, because of their utility, different standards should be set for light trucks and passenger cars. While light trucks feature more amenities than their predecessors and provide more than 50 percent better fuel economy than their 1970 counterparts, they remain fundamentally trucks. They satisfy consumer needs for safety, passenger cargo space, towing ability, and off-road capability.

Second myth: Only Congress can increase CAFE standards. The other side has floated the old canard that our amendment ignores CAFE standards.

Fact No. 1, the Bond-Levin amendment requires increasing CAFE standards to the maximum extent feasible as far as the technology will permit.

Fact No. 2, the National Highway Traffic Safety Administration has the authority and expertise to change fuel economy regulations, and a few months ago it announced the biggest increase in 20 years in CAFE levels for light trucks and SUVs. The agency has already announced its intention to set new CAFE standards starting in 2008.

The difference is they are going to use science and technology and not force the use of smaller cars that kill people on the road more frequently.

Another myth is that automakers need to use more technology in their vehicles to increase full economy.

Fact: The auto industry utilizes world-class technology across product lines. The average automobile contains 40 to 50 microprocessors and has far more power than the computers used for the Apollo mission to the Moon. Engineers and scientists for the big three domestic manufacturers and their international competitors have focused on developments in advanced technology to produce cleaner, more full-efficient vehicles along with a host of safety advancements.

In addition, my colleague from Illinois has said the National Academy of Sciences has a huge number that can be achieved. If you will read that NAS study, I ask my colleagues to focus on the part of the NAS report which states "The committee cannot emphasize strong enough that the cost-efficient fuel economy levels are not recommended CAFE goals"—not recommended CAFE goals.

Let us stick with science.

Proponents of higher CAFE standards try to avoid any discussion of the job impact or just dismiss concerns as overreacting. But we have heard, as I have said, from union officials, technical experts, plant managers, local dealers, and small businesses. They tell me the only way for manufacturers to meet these unrealistic political numbers is to cut back significantly on producing light trucks, minivans, and SUVs, or to make them significantly smaller.

Look at this. This is a picture of a Ford F–250 series pickup truck. It is a workhorse. You buy this truck because you have a job to do, whether it is farming, construction, hauling, or any number of other legitimate needs. It weighs somewhere between 8,500 pounds gross vehicle weight or less than 10,000. It is currently not covered by CAFE as it is configured to do more than haul people. Under the Durbin proposal, these vehicles would be swept into the CAFE program to the detriment of everybody. They would become CAFE-constrained with several bad outcomes.

First, you tell this rancher or farmer that he will need to get a golf cart with a little wagon to carry one bale of hay at a time or you tell other farmers, ranchers, and construction workers they won't be able to buy these vehicles, and then you explain to the workers in the automobile industry how they will have jobs.

Did you know the average compensation by employees in the auto industry was $69,500 in 2001? This figure is 60-percent higher than the average U.S. job. Those would be the jobs we would lose because they could no longer make this machine.

Furthermore, as I have stated before, mandating politically set CAFE standards in the past has led to reduced weight, which, according to the National Academy of Sciences in the year they studied it, killed between 1,300 and 2,600 people a year on the road. That is roughly 2,000 people a year.

These are reasons to support the Bond-Levin amendment.

I yield 3 minutes to my colleague from Missouri.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Missouri.

Mr. TALENT. Mr. President, I thank my colleague for yielding.

We have six production facilities in Missouri that make vehicles. In Kansas City, they make the F-series truck for Ford, and the Escape. In St. Louis, they make the Dodge Ram and the Mercury Mountaineer. There are 36,000 jobs in Missouri that are directly dependent on auto manufacturing, and 220,000 jobs that are indirectly dependent on auto manufacturing.

The proposal before the Senate would require an immediate and substantial increase in CAFE standards which would increase the cost of those vehicles by anywhere from $3,000 to $5,000 and would mean, in short, that sales would go down and thousands and thousands of people in Missouri would be out of a job. It would be a disaster for them.

These are jobs that pay $50,000, $60,000, or $70,000 a year. These are jobs that mean kids can go to school and families can take vacations.

That is what we are talking about. This is not theory. This is not abstraction for them. It is bad enough when we try to help people get jobs and preserve their jobs and we fail because of extreme philosophies or partisanship or personalities or whatever. It is worse when we do something that actually takes their jobs away from them. They ought to be able to expect this Government is going to try to help them get jobs and preserve jobs. At a minimum, we ought not to pass legislation that takes it away from them.

I know this isn't going to happen. The Union of Concerned Scientists says the technology is available to do this without costing any jobs. That is a great comfort for my people back in Missouri who are trying to come out of a recession.

Maybe we can forgive them for being concerned and not trusting the Union of Concerned Scientists when the people who make the cars—the auto manufacturers—say they can't do it. The engineers who design the cars say they can't do it. The unions that produce the cars say they can't do it. I hope we will forgive my people back home in Missouri who depend on these jobs for being a little bit concerned.

I presided over the House while we were debating the measure to explore for oil in ANWR, which I think is related to this a little bit. A lot of folks who didn't want to explore for oil in ANWR wouldn't accept the fact we have the technology available today to do that without affecting the environment. They said we can't take that chance because it might adversely affect the caribou. It might be bad for the tundra in ANWR. Many of the same people who are advocating this big increase in CAFE standards said the technology is not available and we can't do it. They weren't going to take a chance when what was at stake was the caribou or the tundra. But they are willing to take a chance when what is at stake is somebody else's job in Missouri.

I thank the Chair. I will look forward to having a little more time later.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I think I have 10 minutes under the reservation. I would like to reserve 2 minutes of that time so Senator BOND can close when the debate is finished on this side.

Mr. REID. Mr. President, if I could, just for a matter of parliamentary procedure, at 11:15 we consider the judges. I ask unanimous consent that the Senator from Mississippi be allowed to complete his statement before we start with the judgeship. It would be 3 minutes later. Is that what the Senator wants?

Mr. LOTT. That would be much appreciated.

Mr. REID. We would extend consideration of the judgeship for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, parliamentary inquiry: It is my understanding that I have been given 10 minutes. Is that right?

Mr. REID. Yes but not now. We are going to the judge at 11:15. The Senator from Mississippi has the floor.

Ms. STABENOW. Thank you.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I will speak more later on about the bill itself in general terms. But for 3 years the Senate has been trying to come to an agreement on legislation that could get through the conference and be sent to the President so we will have a national energy policy. I believe this is a very important issue for the future of this country. If we don't have a national energy policy and if we don't deal with these many areas of concern, the day will come when the lack of a national energy policy will cause national security or economic problems for this country. We could see that even this coming winter as we see a declining availability of natural gas.

By the way, it is inexcusable that we are having a national gas shortage. It is because of our policies. That led to this shortage. If we don't have an adequate supply, it will affect the economy across the board. It is already affecting the chemical industry in my State, and the fertilizer industry. It is going to affect people's quality of life. This is so important. We need the whole package. We need more production. We need new technology. We need clean coal technology. That is just one example. We need more conservation of a responsible nature. We need to look at alternative fuels. I think a lot of these alternative fuels are, quite frankly, not very legitimate. But it is legitimate to try to find alternative fuels.

I urge my colleagues, let us work together. Let us get this done, get it into conference, and let us produce a national energy policy.

I think this issue is more important than any issue Congress is considering at this time. It is urgent that we get this work done.

I wanted to speak in support of the Bond-Levin amendment. I know very good work has been done on this amendment. I worked last year with Senator BOND and Senator LEVIN. They have given a lot of thought to how this should be designed. It bases decisions on these CAFE standards on science and solid data. I believe this idea of just plucking a number out of the air and saying that number is achievable is irresponsible. It may not even be achievable. Based on what? It makes somebody feel good? And what about the choices for the American people? What about the sacrifices in safety that we are asking them to make?

When you just pick a number, such as 32 miles per gallon or 37 miles per gallon, I don't think that is a wise decision, unless it has been based on thorough study and solid data. Of course, the organization to make that determination is the NHTSA. They have the expertise to analyze the numbers and consider all that should be involved, including the jobs that might be affected, the technology, how this improved fuel efficiency could be obtained, and, yes, safety. There are proposals out there which would adversely affect all these areas, including jobs, employment, consumer choice, and safety.

The National Academy of Sciences CAFE report declared there will be more deaths and injuries if fuel economy standards are raised too fast without proper consideration given to how that is being done and what impact it might have.

This amendment is supported by a broad coalition: labor, the UAW, the AFL-CIO, the Chamber of Commerce, the National Association of Manufacturers, the Farm Bureau, automobile dealers, and over 40 other organizations. That ought to tell you something. That type of broad support indicates that people are concerned about what might be done with this CAFE standard.

Yes, we should continue to work to improve fuel efficiency. We should have incentives to move in that direction. But I am very worried we are going to cause some real damage. What about the choice made by Americans? This is still America, isn't it?

Is the Federal Government going to mandate that every driver drive an automobile like the one in this picture? Last year, I talked about the "purple people eater." Shown in this picture is a version of the "purple people eater." That might be fine around town in Washington, DC, but I can tell you, on some of the back roads in my State of Mississippi that will get you killed. That is not practical and people will not choose to drive it. They want an SUV or they want a pickup truck. And they don't want to be penalized by the Federal Government saying to them: You have to do this. And, by the way, if you don't do this, we will make you pay some kind of a price. This is ridiculous.

In my own case, my family is growing. We have our children and grandchildren. It is a wonderful deal. Then, in August, when we take our annual family vacation, I have a choice. I can have a bigger automobile with the three seats in it, where we can securely carefully fasten our grandchildren in these safety seats. We can take two automobiles, each being an SUV, or we can take three automobiles. Now, how much fuel is saved? And how much safety is given up?

Mr. President, this is ridiculous. It continues to be. It was last year. The American people are speaking with their choices. They are voting with their feet and their cash. They can buy these more fuel-efficient automobiles, but they are not doing it.

What percent is actually buying these smaller automobiles? I think, any way you slice it, not more than 14 percent. The American people are making other choices.

So I think what we are doing is very important. I think there are a lot of very substantive issues involved, and the least of which is not the American people's choices.

I do not think we should be forced to drive that automobile shown in the picture. I don't know who makes that automobile. I don't know where it is made, but it is probably reposing somewhere in France or Germany. I like the bigger vehicle shown in the picture behind it.

The American people have a need for vans or SUVs or pickup trucks. I understand there is going to be an amendment offered that will pick on particularly light trucks. Goodness gracious, light trucks use less fuel. Why pick on a light truck versus a heavy truck? This makes no sense.

I oppose the amendment that is going to be advocated by Senator MCCAIN and, I think, Senator FEINSTEIN. I oppose the Durbin amendment.

This amendment by BOND and LEVIN is bipartisan. It makes common sense. It moves us in the right direction. But it is based on commonsense science and solid data. So I urge that we adopt this amendment, and let's leave the choice in the hands of the American people and not have the "Grand Poobah Government" tell us what we have to do in one more area. Don't make the American people drive this little grunt of a car shown here.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. LOTT. Mr. President, I yield the remainder of my time to the Senator from Missouri, keeping in mind that Senator BOND would have 2 minutes to close at the end of the debate on this section, I believe.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I doubt I will use the full 3½ minutes. It is just that I ran out of time before when I was in the middle of ranting and raving on this subject. I would hate to close my remarks on that tone, anyway.

Let me explain to the Senate why this is so important to me personally. I recently visited the Kansas City Ford plant where they make the new Ford 150 truck. It is a triumph of American engineering and the productivity of American workers.

The workers there are proud of that truck. And they should be proud of it. It means many people will be able to travel in this country safely and with comfort. I drive an SUV. I don't drive it because I am trying to hurt the environment or affect our energy independence. I drive it because we have small children. I used to drive a hatchback, but if we got in an accident in that hatchback, it would fold up like an accordion. That is why I drive an SUV. That is why millions of people do.

The Senator from Mississippi is right to say it is wrong to disparage these vehicles. People who make these vehicles in Missouri and around the country are proud of what they do. They are satisfied with their jobs. Let's not gamble with their jobs. We are trying to come out of a recession. We are trying to create jobs in this country.

Vote for the Bond-Levin amendment. It is a good, modern amendment and moves us forward. It protects people's jobs. I urge the Senate to support the amendment.

I thank the Senator from Mississippi for yielding me a few extra minutes. I yield back whatever time remains.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Resumed

The PRESIDING OFFICER. Under the previous order, not withstanding the provisions of rule XXII, there will now be 1 hour of debate equally divided between the Senator from Utah, Mr. HATCH, or his designee, and the Senator from Vermont, Mr. LEAHY, or his designee.

The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally between Senator HATCH and Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I know the Senator from Ohio has the floor, but through the Chair to him, I would note we are under a time constraint. If the Senator wishes to speak, I have no objection as long as it is charged off of Senator HATCH's time.

Mr. VOINOVICH. Mr. President, I would like permission to speak on the CAFE amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, as I indicated, I object unless the time is charged to Senator HATCH.

The PRESIDING OFFICER. Time will be so charged, unless the Senator from Utah objects.

Mr. HATCH. Mr. President, I ask what the request is.

The PRESIDING OFFICER. The unanimous consent request is that the Senator from Ohio be able to speak on CAFE standards.

Mr. VOINOVICH. For 6 minutes.

The PRESIDING OFFICER. Charged to the time for the judge.

Mr. HATCH. I ask the Senator, could you keep it a little lower than that because we—

Mr. REID. I cannot hear the Senator from Utah.

Mr. HATCH. Do you think you could do it in less time than that because we have very little time.

Mr. VOINOVICH. I can do it in 6 minutes.

Mr. HATCH. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. VOINOVICH. I thank the Senator from Utah.

(The remarks of Mr. VOINOVICH are printed in today's RECORD in legislative session.)

Mr. VOINOVICH. Mr. President, I thank the Senator from Utah for giving me this opportunity to speak on behalf of the Bond-Levin CAFE standards.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, what is the parliamentary order?

The PRESIDING OFFICER. We are under an hour of time equally divided. The Senator controls 24 remaining minutes.

Mr. HATCH. Mr. President, I rise today to speak on behalf of the nomination of Priscilla Owen for the United States Court of Appeals for the Fifth Circuit and to speak about the pattern of political tactics being used against President Bush's well-qualified judicial nominees.

We find ourselves at an important point in Senate history. History will show an effort by a minority of Senators to completely block well-qualified circuit court nominees during the 108th Congress. History will further show that this minority group of Senators was not asking for a full and open debate on the Senate floor. They were not asking for meaningful deliberation on these well-qualified nominees. Rather, this minority group of Senators was committed to reworking the meaning of advice and consent.

I think we can agree that the confirmation process is broken. I certainly do hope we can find a constructive way to restore the process, but recent events do not lead me to be overly optimistic—not when I hear injudicious talk about plans for more filibusters and not when I hear my colleagues characterize our advice and consent duty in terms of batting averages or quarterback completion rates. If anything, my colleagues on the other side haven't let Justice Owen even get up to the plate. This is not a matter of acquiring a certain win-loss record on the baseball field; this is a matter of whether we will be fair to our judicial nominees—the many talented men and women who have volunteered to serve our country through judicial service.

In Justice Owen's case, a handful of Senators blocked her nomination in committee last year, preventing a simple up-or-down vote on the Senate floor. Nearly a year later, Justice Owen still has not been afforded a vote by the full Senate. How much longer must she wait? One of my colleagues on the other side has already answered this question for himself, saying that there are not enough hours in the universe for sufficient debate, but I strongly disagree. We have debated long enough. Justice Owen has been on the Senate floor for 4 months. It has been 7 months since she was renominated by President Bush. It has been more than a year since her first hearing, and it has been more than 2 years since she was first nominated by President Bush on May 9, 2001—811 days in total. During all that time, she has not been afforded a vote. I think it is time Justice Owen was given the courtesy of an up-or-down vote. Keep in mind, she has the unanimous well-qualified rating of the American Bar Association.

Priscilla Owen could not be a better selection for the Federal court. She attended Baylor University and Baylor University School of Law, graduating cum laude from both institutions. She finished third in her law school class. Justice Owen earned the highest score on the Texas bar exam, and she has 17 years of experience as a commercial litigator.

Justice Owen is committed to legal services for the poor. She successfully fought with others for more funding for legal aid services for the indigent.

Justice Owen is committed to creating opportunities for women in the legal profession. She has been a member of the Texas Supreme Court Gender Neutral Task Force, and she is viewed as a mentor by younger women attorneys. She was one of the first women to sit on the Texas Supreme Court. Incredibly, this is the woman the liberal attack groups smear as "anti-woman." Give me a break.

Justice Owen's confirmation is supported by Texas lawyers such as E. Thomas Bishop, president of the Texas Association of Defense Counsel, and William B. Emmons, a Texas trial attorney and a Democrat who says that Justice Owen "will serve [the Fifth Circuit] and the United States exceptionally well." After a full review of Justice Owen's rulings, Victor Schwartz, a respected trial attorney and co-author of the leading torts textbook, concluded that she is a "moderate jurist," neither pro-plaintiff nor pro-defendant.

I ask unanimous consent that a copy of Mr. Schwartz's letter to the Judiciary Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHOOK, HARDY, & BACON L.L.P.,
Washington DC, July 18, 2002.

Re nomination of Texas Supreme Court Justice Priscilla Owen.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Throughout the past three decades, many members of your Committee have been kind enough to ask my views about tort law. I have taught in law school, and practiced on behalf of plaintiffs in the 1970s. I currently practice in the defense firm of Shook, Hardy & Bacon, L.L.P. and represent the American Tort Reform Association. You have appreciated that when I share my views with you, I try my utmost to be objective. Because almost anyone's views on judges are likely to be seen as having bias, I have refrained from commenting on any judicial nominee.

I am now writing you about Texas Supreme Court Justice Priscilla Owen because she has been attacked as being unfair in the very area of my expertise, tort or liability law. Since 1976, I have been co-author of the most widely used torts textbook in the United States, Prosser, Wade & Schwartz's Cases and Materials on Torts. I have also served on the three principal American Law Institute Advisory Committees on the new Restatement of Torts (Third). The study of tort law has been the love of my professional life.

Because of my academic and practice obligations, I have had a very deep interest in opinions of law in the field of torts. Naturally, I am familiar with state supreme court judges or justices who are thought to be "pro-plaintiff" or "pro-defendant." In that regard, when I heard about controversies surrounding Justice Owen, I was somewhat puzzled because I had not placed her in either group.

This past weekend, I reviewed most of her principal opinions in tort law. My review of Justice Owen's opinions indicates that any characterization of Justice Owen as "pro-plaintiff" or "pro-defendant" is untrue. Those who have attacked her as being "pro-defendant" have engaged in selective review of her opinions, and have mischaracterized her fundamental approach to tort law.

Justice Owen's fundamental approach to tort law is to make it stable. On the one hand, she is not a judge who would be likely to jump to the front of a plaintiff's lawyers petition to expand the scope of tort law. Furthermore, she would be unlikely to allow claims for brand-new types of damages, such as hedonic damages, or create cutting-edge liability claims (e.g., allowing a lawsuit against a fast food chain, where there was no showing that an individual plaintiff's health was actually harmed by eating at that chain). On the other hand, she would not and has not arbitrarily thwarted the rights of plaintiffs under existing tort law.

Let me give you just a few examples. In *Merrell-Dow Pharmaceuticals, Inc.* v. *Havner*, 953 S.W.2d 706 (Tex. 1997), a decision for which she was roundly criticized by a group called "Texans for Public Justice," Justice Owen held that the evidence was legally insufficient to establish that a birth defect was caused by exposure to the drug Bendectin.® Bendectin® is the only drug that helps alleviate the severe symptoms of morning sickness. It is still approved by the U.S. Food and Drug Administration and regulatory agencies throughout the world. As Justice Owen recognized, the attempts by plaintiff's counsel to tie the birth defects of the plaintiff's child to Bendectin® in the *Havner* case were insufficient. The Supreme Court of the United States itself recognized, in a case involving that very drug, that judges should act as gatekeepers, and not permit juries to make judgments based on bad science. See *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

I am not surprised that the Association of Trial Lawyers of America (ATLA), the organized plaintiffs bar, and those who have empathy with that group criticized Justice Owen for her decision. They also criticized the United States Supreme Court when it rendered the *Daubert* decision. ATLA and its sympathizers believe that judges should not act as gatekeepers; rather, they believe that juries should be permitted to weight scientific evidence as they choose.

Here is the rather interesting point. In a case decided almost simultaneously with *Havner*, not mentioned by "Texans for Public Justice" or other groups criticizing Justice Owen, she would have allowed an adult to pursue a sexual abuse claim against an alleged abuser who purportedly did the wrongful acts when the plaintiff was a child. In the case *S.V.* v. *R.V.*, 933 S.W.2d 1 (Tex. 1996), expert testimony indicated that the plaintiff had "repressed memories" that arose when the plaintiff was an adult. The majority held that expert testimony was insufficient to warrant the application of the "discovery rule," which would have tolled the statute of limitations. It required "objectively verifiable" evidence of abuse to apply the discovery rule and toll the statute. Justice Owen noted, however, that such evidence was often unavailable, and the unavailability of the evidence is frequently due to acts done by the alleged abuser. She would have held that the repressed memory evidence was sufficient to toll the statute and allow the claim. I recommend that Members of this Committee read this case and note that Justice Owen wrote the sole dissenting opinion in the case.

In a later case, Justice Owen prevented another plaintiff from falling into a statute of limitations trap. A patient brought a malpractice case against a surgeon in his individual capacity. The patient later amended his complaint, and named the surgeon's professional association as a defendant. The association moved to dismiss the case because the statute of limitations had expired by the time the suit was brought against the association. Writing for the Texas Supreme Court, Justice Owen held that the cause of action brought against the surgeon in his individual capacity preserved the potential of the claim against the association. See *Chilkewitz* v. *Hyson*, 22 S.W.3d 825 (Tex. 1999).

Justice Owen's views about product liability law strike the same balance. For example, Justice Owen joined in a Supreme Court of Texas opinion that considered a question certified by a federal court as to whether a manufacturer of a product used by adults—a cigarette lighter—might have a duty, in some situations, to childproof the product. Justice Owen joined with the Court in holding that a manufacturer may have such an obligation. See *Hernandez* v. *Tokai Corp.*, 2 S.W.3d.251 (Tex. 1999).

One finds the same sense of "balance" in Justice Owen's opinions in other areas of tort law. In a very interesting opinion, Justice Owen joined with the Texas Supreme Court to strip a defendant business of its defenses based on a plaintiff's fault when that defendant business had decided to opt out of the workers' compensation system. Justice Owen supported the sound public policy that would discourage businesses from opting out of workers' compensation and taking their chance on their vagaries of a tort lawsuit in the workplace. As you and Members of your Committee know, a fundamental reason why workers' compensation was adopted in the first place is so that a worker's fault does not preclude him or her from obtaining compensation for a workplace injury. See *Kroger Co.* v. *Keng*, 23 S.W.3d 347 (Tex. 2000).

I wish to reiterate that I am not suggesting that Justice Owen is a plaintiffs' lawyer's "dream judge." She is not. For example, when the Texas Supreme Court addressed the issue of whether jurors should be told that if they find a plaintiff more than 50% responsible for his or her own injury, the plaintiff might lose, Justice Owen dissented from the majority. The majority found that such information was allowed to go to the jury. Justice Owen believed such action could cause jurors to look more at the effect of the 50% rule than the facts of the case. See *H.E. Butt Grocery Co.* v. *Bilotto*, 985 S.W.2d 22 (Tex. 1998). While not everyone (including myself) would agree with Justice Owen's decision, it is anchored in logical judicial precedent and has a clear public policy basis. See Victor Schwartz, Comparative Negligence, §17–5(a) (3d Ed. 1994).

My fundamental point is that in the area of tort law, Justice Owen is a moderate jurist; she is neither a trailblazer for plaintiffs nor a captive of corporate interests.

I would be pleased to answer any questions or inquiries by Members of your Committee, and I value your taking the time to read this statement.

Sincerely,

VICTOR E. SCHWARTZ.

Mr. HATCH. Justice Owen is a consensus nominee. A bipartisan majority of the Senate supports her confirmation. Both of Justice Owen's home State Senators, Senators HUTCHISON and CORNYN, back her. The American Bar Association has awarded her a unanimous well-qualified rating, their highest rating, and the gold standard formerly used by many of my Democratic colleagues.

Former Texas Supreme Court Justices John Hill, Jack Hightower, and Raul Gonzalez—all Democrats—say Justice Owen is unbiased and restrained in her decision-making. Alberto Gonzales, another former Texas Supreme Court colleague, says she will perform superbly as a Federal judge.

Fifteen past presidents of the Texas State Bar, both Democrats and Republicans, who hold a variety of views on important legal and social issues, agree that Justice Owen is an outstanding nominee. Those who know Justice Owen best support her confirmation.

Sure, the usual abortion-rights groups and highly partisan Texas trial lawyer interest groups have announced that they expect Senators to filibuster. But what else is new? They have done and will continue to do what they do best: distort, smear, and profile. As Rena Pederson wrote in an op-ed published in the Dallas Morning News, "The people who know Priscilla Owen the best all agree. They say the Texas Supreme Court judge is nothing like the person portrayed by critics of her appointment to the 5th U.S. Circuit Court of Appeals."

I ask unanimous consent that a copy of this editorial be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Feb. 2, 2003]

SENATE DIDN'T GET TO KNOW THE REAL JUDGE OWEN

(By Rena Pederson)

The people who know Priscilla Owen the best all agree. They say the Texas Supreme Court just is nothing like the person portrayed by critics of here appointment to the 5th U.S. Circuit Court of Appeals.

Democrats on the Senate Judiciary Committee voted along party lines in September and rejected her appointment. They contended she had an anti-abortion bias and was a tool of big businesses like Enron.

But if they had bothered to check with the people who grew up with her in Waco or worked with her in top law firms in Houston or clerked at the Texas Supreme Court, they would have gotten a different, more accurate picture.

Those sources describe Judge Owen this way: She is a doggedly dutiful legal scholar who couldn't care less about party labels or moneyed interests. Many cite her as a helpful mentor for other women in the legal profession. She prefers cooking for friends to the political or social circuit. Yes, they say, she's a devoted Sunday school teacher, but not what used to be called a "goody-two-shoes" or a narrow-minded religious zealot. She was known to enjoy a few beers with her friends at Baylor University and has a smart sense of humor. She's a water-skier and was spunky enough to try rollerblading in her kitchen a few years ago, breaking her ankle.

The American Bar Association gave the 48-year-old Texas judge its highest rating, "well qualified." Many prominent Democrats from Texas—including former Texas Supreme Court Chief Justice John Hill and former State Bar President Lynne Liberato—spoke up in Justice Owen's defense. But their voices were discounted. A public relations campaign was generated by several interest groups, using snippets from the hundreds of cases that had come before her bench, in order to make her look as bad as possible and snub President Bush.

What particularly dismayed those who know the Texas justice well is that she was made to look anti-abortion and anti-woman. They emphatically insist that, while conservative, she is not an activist or ideologue with an agenda.

Laura Rowe, who worked with Ms. Owen at the Andrews and Kurth law firm in Houston, said, "I came across her when I was a young lawyer starting out, and she was a great mentor for the other women. She was so smart, hardworking, but funny and normal at the same time. When I met her, I thought 'that's a woman I would like to be like.' She was one of the lawyers that people wanted to work for, tough but fair. It did disturb me to see her vilified."

Kristin O'Neal, who was a law clerk at the Texas Supreme Court, said, "I understand why people distorted her opinions, because it furthered their agenda, but to say she has some kind of activist agenda is absurd to me. She takes very logical, methodical approach to everything. They tried to make her look bad for writing an opinion that benefited Enron because She had received a campaign contribution from Enron some time earlier. What people didn't know was that it was a unanimous ruling—and the judges don't select the opinions they write. It's a random drawing. You might disagree with one of her rulings, but I never, ever sensed that she was using her position in an activist manner or to further any personal beliefs. She takes her job and her role very seriously."

Ruth Miller, who has known Ms. Owen since they were in high school in Waco, said, "I don't know how Priscilla remained so composed and calm, when some of the senators cut her off. I thought she handled herself with dignity, even when she should have been able to continue. What people don't know is that she had to work for weeks and weeks on her own to prepare, on the weekends, no vacation. But she knew I was going through a serious health problem, and so she would call to check on me every week. And in the throes of the confirmation process, she went with me to my appointment at the hospital in Houston and just brought her portfolio with her."

Nancy Lacy, Ms. Owen's sister, attended the hearings in Washington and sat behind Justice Owen, as did the minister from the church Justice Owen attends in Austin. "It was eye-opening," she said. "It was a hard experience because no matter what she said, they were going to stick with the propaganda. It was obvious. I was hoping they were going to really give her a shot, try to get to know who she really is, ask her thoughtful questions. But the information they had was wrong to begin with. I felt sorry for them at times; their staff didn't do a very good job; it was obvious the special interest groups gave them the information, and they didn't research to see if it was true. The handwriting was on the wall. I just wanted to say to them, 'You're missing the boat. You're missing the opportunity to get to know a really neat person.'"

By all accounts, it was a wearing experience for the Texas judge. Although she understood she had been caught in a political spite match, she couldn't help but be pained by the attacks on her character. Still, her nomination has been resubmitted by Mr. Bush, so Americans may get a chance to see the rest of her story after all.

Mr. HATCH. Mr. President, Justice Priscilla Owen will be an excellent Federal judge.

We have a choice: Will we continue to block another highly qualified nominee for partisan reasons or will we allow each Senator to decide the merits of the nomination for himself or herself?

I know my choice. We should allow a vote. I hope my colleagues will do the right thing and make the same choice.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time does the Senator need?

Mr. CORNYN. Five to seven minutes.

Mr. HATCH. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I thank the chairman of the Judiciary Committee, who has done yeoman's work in shepherding President Bush's highly qualified judicial nominees through the Judiciary Committee and to the floor of the Senate.

Chairman HATCH has mentioned a number of people on both sides of the aisle who support the nomination of this good woman to the Fifth Circuit Court of Appeals. I have a few comments—first, to echo those comments in terms of the consensus of opinion in my State of Texas as to the good work that Priscilla Owen has done as a justice in the Texas Supreme Court. But I also bring a personal perspective to this debate because I served with Priscilla Owen for 3 years on the Texas Supreme Court. Frankly, I do not recognize the caricature that has been painted of this good judge in the debate before the Senate.

In May of this year, I spoke on the floor regarding the 2-year anniversary of Justice Owen's nomination. That dismal anniversary showed us just how far our confirmation process had gone awry. And now it has gotten even worse.

Today's vote is just the first in a series this week. Over the next 4 days, we will see just how far the minority in this body is willing to go to block well qualified nominees and parrot the talking points provided by special interest groups who oppose this and other highly qualified judicial nominees. It is my hope that the Senate will do the right thing and provide an up-or-down vote for this judicial nominee.

As I said, Justice Owen and I served for 3 years together on the Texas Supreme Court—from the time she came in January 1995 until the time I left in October of 1997. During those 3 years, I had a chance to observe Justice Owen's work habits and her basic judicial philosophy at work, how she approaches her job, how she thinks about the law, and how she acts given that position of public trust that judges hold.

I can tell you from my personal experience that Justice Owen is an exceptional judge who understands her profound duty to follow the law and enforce the will of the legislature.

That is, of course, one reason the American Bar Association has given her a unanimous well qualified rating, and that is why she has such strong bipartisan backing. That is why she enjoys the enthusiastic support of the people of Texas, where she got 84 percent in the last election from the people who know her the best.

Not once during my tenure with Justice Owen did I ever see her attempt to pursue some political or other agenda at the expense of the law as she understood it. I can tell you that Justice Owen believes very strongly, as I do and Americans do across this land, that judges are called upon not to act as another legislative branch, or as a politician, but as judges—to faithfully read statutes and to follow the law as written by the legislature and the precedents established by higher courts in earlier times.

Some of my colleagues have, unbelievably, taken the position that Justice Owen is to be criticized for disagreeing with other members of the Texas Supreme Court in some of her opinions. Some of my colleagues act shocked that appellate judges, particularly on the highest court in my State, will disagree with one another and have spirited debates in the form of opinions they write. But I firmly believe that is exactly the job that is expected of a judge and that Justice Owen has fulfilled that position well.

There are those who apparently believe a judge is not supposed to have a real debate about their interpretation of the law and is just supposed to assert his or her own will, regardless of what the law actually says. Perhaps these advocates believe a judge is supposed to follow the practice of what author James Lileks has called "teasing penumbras from the emanations of the glow of the spark of the reflection of the echo of the intent of the Framers."

I fundamentally disagree with that idea. If we did not have judges disagree with one another, it would mean somebody was not doing their job.

By the time cases get to the top echelons of our judicial system, they are the hardest cases. They are the cases that cannot be solved by lower levels of the judiciary or indeed by settlement between the parties. These are important issues and must be decided, through study and debate.

A judge, unlike a Member of this body, cannot choose to simply walk away and ignore a thorny legal issue. Judges are not supposed to make law. They are supposed to interpret and enforce the law written by the legislature.

In Texas, Justice Owen followed this duty to the letter. From experience and from observation, I know that Justice Owen believes strongly that judges are called upon to faithfully read the statutes on the books, read the precedents in the case, and then apply them to the case before the court.

Justice Owen did this job, and she did it well. She is a brilliant legal scholar and a warm and engaging person. To see the kind of disrespect the nomination of such a great Texas judge—and a great Texas woman—has received in this body is more than just disappointing. It is an insult to Justice Owen. It is an offense against the great State of Texas. And it is beneath the dignity of this institution.

It is clear who is calling the tune repeated by the minority opposition here on this floor. The beltway special interest groups are not interested in trying to understand or evaluate Justice Owen by her real record because, if they were, they would see it as a sterling record of intelligence, accomplishment, and bipartisan support. The special interest groups are not interested in the confirmation of nominees who merely interpret the law and render judgment responsibly. They are only interested in confirming people who they believe are advocates of their interests, something that is totally at odds with the role a judge is supposed to perform.

Sadly, it is clear that these same special interest groups are interested in obstructing as many of President Bush's judicial nominees as they possibly can. Those who oppose Justice Owen's confirmation appear to have really no stomach for debate and talking about the facts. They choose instead to filibuster and engage in the worst kind of mean-spirited and destructive political attacks.

I can only hope that my colleagues will realize the truth of what is going on, and reject this special interest influence on the judicial confirmation process. I can only hope that ultimately we will all strive for a process that is fair and consistent with our constitutional duty.

And I can only hope my colleagues realize that by blocking a vote on Priscilla Owen, they make themselves allies to these groups, groups that rejoice at the prospect of a Senate in constant gridlock over these qualified nominees.

My colleagues should not think the American people do not know what is going on here. They see when a nominee's well-recognized abilities are ignored in favor of scare tactics and revisionist history, and they see some ignore the interests of the States from which they were elected, and instead kowtow to special interest groups.

I am confident that Members of the Senate are wise enough to reject this inhuman caricature that has been drawn of Justice Priscilla Owen by special interest groups intent on vilifying, demonizing, and marginalizing an admirable nominee. And I know that if we were allowed to hold a vote, a bipartisan majority of this body stands ready to confirm Justice Priscilla Owen to the Fifth Circuit Court of Appeals. The question is whether that vote will ever happen.

I hope that my colleagues will give these qualified nominees what they deserve, and allow them to have an up or down vote, today, tomorrow, and every day this week. For the sake of the Senate, the Nation, and our independent judiciary, I hope that we will not have 4 days of filibusters.

I hope my colleagues will vote to allow this fine judge an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will be charged equally to both sides.

Mr. HATCH. Mr. President, how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. HATCH. Mr. President, how much time does the Senator from Alabama desire?

Mr. SESSIONS. Five minutes.

Mr. HATCH. Mr. President, I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, in the history of this country, we have not had a filibuster of a circuit judge or a district judge before and really never even one for a supreme court judge. This is an unprecedented obstruction of a nominee—something that really is unheard of.

It is particularly distressing to me, beyond words almost, that this fine nominee, Priscilla Owen, would be a person who would be blocked by a filibuster when she clearly has the votes, if given an up-or-down vote in this body, to be confirmed for the Fifth Circuit Court of Appeals. She is extraordinarily capable. She finished at the top of her class in law school. She made the highest possible score on the Texas bar exam. What a strong statement that is. She won her last race for the Supreme Court of Texas with 84 percent of the vote. She was unanimously rated well qualified, the highest possible rating the American Bar Association can give for this position, when they evaluated her. She has the support of 15 former presidents of the Texas Bar Association and is just extraordinary in every way.

As I looked through her record, I stumbled on this letter from a female attorney, Julie Woody, who clerked for the Texas Supreme Court. She noted she is a lifetime Democrat and she had the occasion to observe Justice Owen. She wrote these words. She went to Yale Law School, is a native of Pennsylvania, and practiced law in New York City. She said:

> As a result of my encounters with Judge Owen during my clerkship, I came to regard her as a judge and legal scholar of the highest caliber. She has a brilliant legal mind that is matched by her legendary work ethic. Her analysis of any issue is rigorous and true to the letter and spirit of the law. Her impeccable ethics and honesty and lack of political motivation in her decisionmaking were

> apparent in her discussions of cases and the manner in which she decided them.
>
> Justice Owen is among the best and the brightest—she will bring integrity, intelligence and the highest ethical standards to the Fifth Circuit.

She goes on to note that she got to know her later because her husband was in the seminary and at St. Barnabas, an Episcopal Church in Austin, a mission church. Priscilla was one of the original leaders and a member of the altar guild where she teaches Sunday school. She said about her:

> Priscilla worked incredibly hard behind the scenes, never seeking any attention or praise for her efforts. She exemplified servant leadership.

What is the complaint about this excellent, magnificent justice on the Texas Supreme Court? What is the objection? They do not like the fact that she affirmed lower court opinions concerning parental notification when children, minors, desire to have an abortion. Eighty percent of the American people believe parents should be notified before a minor child should be allowed to have an abortion. The Texas law is not an extreme law. It simply says the parents should be notified, and they do not have a right to object or stop an abortion from going forward—just one of the parents be notified, actually. If the minor does not like that, they can go to court. They go to court, and they have a hearing before a judge. A judge takes evidence on these issues and makes a decision at that point whether the child who does not want to notify even one of their parents should notify one of their parents.

If the judge concludes that she should notify a parent and the child and her lawyer are not happy, then the child can appeal to the Court of Appeals in Texas. Three judges will then hear the case. They will decide whether the trial judge who heard the evidence ruled correctly or not. If they rule that the child has to notify her parents that she intends to have an abortion, or at least one of the parents, only then does it go to the Supreme Court of Texas.

Priscilla Owen never heard one of these cases, never made an initial decision on one of these cases. She was one of a number of justices on the Texas Supreme Court. Her only responsibility was to review the record of judges who had already decided and concluded, based on facts and evidence, having seen the minor and heard the evidence and saw the witnesses in person, her question was: Should the decision be affirmed?

The opponents are unhappy that she voted to affirm both the trial judge and the three-court panel below the Texas Supreme Court. This is not good. This is a radical obsession with eliminating any restriction whatsoever, even for a minor child notifying her parent. It is not on any basis to object. Priscilla Owen would be a wonderful nominee.

I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I yield myself whatever time I shall consume.

We have heard for several weeks the urgency of passing the Energy bill. As I said this morning, we accept that urgency, but we have also said for several weeks that we cannot complete the Energy bill with 382 amendments in a period of 1 week, 4 or 5 working days. It cannot be done. The majority leader has come to the floor and said we have been on the bill 16 days. That is not fair because a lot of those days have been late Thursday and Friday mornings and sometimes on Monday. We have probably had about 7 real days of work on this Energy bill.

Complicating matters, the leader is scheduling issues that are unnecessary. To have votes on these judges when cloture has been attempted on a number of occasions and has not worked, and will not work again, is wasting valuable time. We could be working on Senator DOMENICI's and Senator BINGAMAN's Energy bill.

If the majority wanted to move judges—and we have moved 140 judges—but if the majority wanted to move judges, we have some who have already been cleared from the committee, something that is very unique because a lot of them are being cleared. We would be able to work out agreements to have James Cohn of Florida to be a U.S. district judge; Frank Montalvo of Texas to be a U.S. district judge; Xavier Rodriguez of Texas to be a U.S. district judge. We could also work something out for H. Brent McKnight of North Carolina to be a U.S. district judge. We could work something out on James Browning of New Mexico to be a U.S. district judge.

I recognize there are intense feelings about Judge Owen, but the intense feelings have not changed during the period of time since we last failed to invoke cloture on this nomination.

When there is an urgent need, according to the majority leader, to move the Energy bill, it is almost beyond my ability to understand why we would go to something when everyone knows what the outcome will be. We lose momentum. Every time we go off a bill, as we have gone off the Energy bill again, and try to start again, it takes time. I think the majority leader should understand he is his own worst enemy in trying to move the Energy bill by going to all these extraneous issues that are doomed to failure before he starts.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Utah controls 4 minutes 21 seconds.

Does the Senator from Utah yield time?

Mr. HATCH. I yield the remainder of my time to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to speak on behalf of my friend Priscilla Owen. I cannot think of a person who is being treated worse by the Senate than my friend Priscilla Owen. This is the nicest, gentlest person one could ever meet, and she also happens to be smart as a whip.

I watched her before the Senate committee. The chairman of the committee, Senator HATCH, took the extraordinary step of having two hearings because Priscilla Owen was nominated over 2 years ago. She had her hearing and went through the process and did very well in her first hearing. Then, after the new Senate came in, in January, the chairman brought her back before the committee, and she did an excellent job.

She knows exactly what she has done throughout her tenure on the Supreme Court of Texas, and she could cite the reasoning for all of the questions she was asked about the positions she has taken. She answered the questions in the most exemplary fashion. She showed exactly why she should be a Federal judge. She showed it by her brilliance.

We know she was a magna cum laude graduate from Baylor Law School as well as earning the highest score on the Texas bar exam that year, and she showed in that way that she is qualified to be a member of the Federal judiciary. Her demeanor also showed why she would be such an excellent Federal judge, because she has maintained the nicest and most patient demeanor I have ever seen of anyone who has been attacked in such a way. She has shown she has the temperament to be a good, honest, fair judge who also happens to be brilliant.

Priscilla Owen has been nominated for the Fifth Circuit. We have been talking about her now for over 2 years. Since May 9, 2001, Priscilla Owen has been before the Senate. She has handled herself beautifully. She has never shown any defiance. She has never shown any bitterness at the way she is being treated. She just answers the questions like a professional.

She is a wonderful member of the Texas Supreme Court. She has been elected in her own right to the Texas Supreme Court, and when she was running for the bench, the Dallas Morning News called her record one of accomplishment and integrity.

The Houston Chronicle wrote:

> She has the proper balance of judicial experience, solid legal scholarship and real-world know-how.

She was endorsed by every daily newspaper in Texas that endorsed in Supreme Court races. She has a wonderful record. The ABA gave her a unanimously well qualified ranking when she went before their committee.

I will read the words of former Texas Supreme Court Chief Justice John Hill. John Hill is a Democrat. John Hill was attorney general of Texas. He was chief justice of the Texas Supreme Court. He denounced the false accusations about Priscilla Owen's record, saying:

> Their attacks on Justice Owen in particular are breathtakingly dishonest, ignoring her long-held commitment to reform and grossly distorting her rulings. Tellingly, the groups make no effort to assess whether her decisions are legally sound . . . I know Texas politics and can clearly say these assaults on Justice Owen's record are false, misleading, and deliberate distortions.

This is a judge who deserves to be confirmed, and I hope the Senate will stop the delaying tactics on this wonderful woman and this qualified judge, and vote for cloture on Justice Priscilla Owen.

I yield the floor.

The PRESIDING OFFICER. The chairman's time has expired.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we are again being asked to consider the very controversial nomination of Justice Priscilla Owen to the United States Court of Appeals for the Fifth Circuit. The Senate has voted on this before.

One might ask what has changed since the last Senate vote? The only thing that has changed is that the administration, the Republicans, have ratcheted up their unprecedented partisanship in the use of judicial nominees for partisan political purposes.

Recently, they reached a new low through political ads and statements that should offend all Americans. The White House and the backers should understand with these ads they have gone far too far. They should withdraw and disavow.

Last week I urged our Republican Senate colleagues to disavow those despicable efforts. Unfortunately, they are choosing to continue the unfounded smear campaign of insult and division.

In that regard, I ask unanimous consent the articles in the New York Times of this past Sunday, both editorials from the Washington Post, the Boston Globe, Huntsville Times, Palm Beach Post, Atlanta Journal-Constitution, and Pittsburgh Post-Gazette, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 2003]

ACCUSATION OF BIAS ANGERS DEMOCRATS

(By Robin Toner)

WASHINGTON, July 26.—The battle over judicial nominations has grown ever more bitter on Capitol Hill, but Democrats on the Senate Judiciary Committee say they are particularly outraged over the latest turn: the accusation that their resistance to some conservative nominees amounts to anti-Catholic bias.

In a recent newspaper advertising campaign, run by groups supporting the Bush administration's judicial nominees, a closed courtroom door bears the sign "Catholics Need Not Apply." The advertisement argues that William Pryor Jr., the Alabama attorney general and a conservative, anti-abortion nominee to the federal appeals court, was under attack in the Senate because of his "deeply held" Catholic beliefs.

Democrats say they oppose Mr. Pryor because of his record, including what they assert is a history of extreme statements on issues like abortion and the separation of church and state. All nine Democrats on the Senate Judiciary Committee voted against Mr. Pryor's confirmation this week, while the 10 Republicans voted for it, sending the issue to the full Senate—and the likelihood of further Democratic opposition.

Republicans and their conservative allies argue that the Democrats have created a de facto religious test by their emphasis on a nominee's stand on issues like abortion. "It's not just Catholics," said Sean Rushton, executive director of the Committee for Justice, one of the groups that paid for these advertisements, which are running in Maine and Rhode Island. "I think there's an element of the far left of the Democratic Party that sees as its project scrubbing the public square of religion, and in some cases not only religion but of religious people."

Senator Orrin G. Hatch, Republican of Utah and chairman of the Judiciary Committee, sounded a similar theme this week, asserting that "the left is trying to enforce an antireligious litmus test" whereby "nominees who openly adhere to Catholic and Baptist doctrines, as a matter of personal faith, are unqualified for the federal bench in the eyes of the liberal Washington interest groups."

The accusation of anti-Catholic bias seemed especially galling to some of the Democratic senators who happen to be Catholic. Four of the Democrats on the Judiciary Committee are Catholic. In fact, 57 percent of the Catholics in the House and the Senate are Democrats, according to the forthcoming Vital Statistics on Congress, 2003–4 edition.

Like many Americans of Irish descent, Senator Patrick J. Leahy of Vermont, the ranking Democrat on Judiciary, said he grew up hearing his father talk about the bad old says when Irish Catholics were greeted with signs saying they "need not apply." He added, "It was a horrible part of our history, and it's almost like you have people willing to rekindle that for a short-term political gain, for a couple of judges."

Senator Richard J. Durbin, who is Catholic, said he reached his limit at a committee meeting on Wednesday when Senator Jeff Sessions, Republican of Alabama (and a Methodist), began explaining Mr. Pryor's positions as "what a good Catholic believes."

Mr. Durbin, an Illinois Democrat who personally opposes abortion but backs abortion rights, added, "I understand the painful process I have to go through with the elders of the church on many of these issues, explaining my position. But it is galling, to say the least, when my colleagues in the Senate, of another religion, start speaking ex cathedra."

Many Catholic elected officials are, perhaps, particularly sensitive to the line between religious faith and public responsibilities. It was a line drawn most vividly by President John F. Kennedy, the first Catholic president, who had to deal with widespared fears that a Roman Catholic president would serve both Rome and the American people.

Kennedy responded by declaring, "I believe in an America where the separation of church and state is absolute, where no Catholic prelate would tell the president, should he be a Catholic, how to act, and no Protestant minister would tell his parishioners for whom to vote." In recent years, Gov. Mario M. Cuomo reasserted that line, particularly regarding abortion.

Behind the anger of many Democrats is the suspicion that this advertising campaign is part of the Republican Party's courtship of Catholics, an important swing vote. In general, Andy Kohut, director of the Pew Research Center for the People and the Press, said Mr. Bush was "doing pretty well with white Catholics" lately.

It is all part of a politics that has changed radically since 1960. Among the nine Democrats on the Judiciary Committee accused of working against the interests of Catholic judicial nominees is, of course, John Kennedy's brother, Senator Edward M. Kennedy.

[From the Boston Globe, July 28, 2003]

PRYOR'S BAD-FAITH BACKERS

Congressional supporters of Alabama Attorney General William Pryor have descended to low blows in promoting his nomination to the federal bench. recently an independent committee launched an advertising blitz in Rhode Island and Maine, two states with swing Republican senators, claiming that Pryor's opponents are motivated by anti-Catholic bigotry. In the Senate committee hearing last week that advanced Pryor's nomination to the floor, Republicans repeated the allegation that Pryor's opponents believe "No Catholics need apply." This canard is designed to muddy the only real issue—Pryor's fitness to be a federal judge. When the full Senate considers Pryor's nomination, it must not allow itself to be swayed by such intimidation tactics.

Pryor, a Catholic, opposes abortion even for victims of rape or incest not just as a religious view but as a legal principle. He has called Roe v. Wade, the 1973 Supreme Court decision legalizing some abortions "an abomination." He also supported the Texas law banning sodomy that was recently overturned by the Supreme Court. Pryor's backers now claim that anyone questioning these views—views that, after all, conflict with existing federal law—is really targeting his religion. "Some in the U.S. Senate are attacking Bill Pryor for having deeply held Catholic beliefs," the ad reads.

In trying to cloak Pryor's views in protective religious garb, the Republicans have covered themselves in hypocrisy. First of all, Pryor holds one view at odds with Catholic teaching: He ardently supports the death penalty, which Pope John Paul declared in 1995 was permissible only in cases of "absolute necessity" to maintain civil order, occasions the pope said were so rare as to be "practically nonexistent." Pryor supports capital punishment so fiercely he even fought state legislation to replace Alabama's electric chair with lethal injection.

The ironies don't stop there. Conservative Republicans are forever railing against "identity politics," when minorities seek special assistance from the government. But when it comes to stacking the federal bench with right-wing judges, these same folks reach for the race or religion card with impunity. Opponents of nominee Miguel Estrada were accused of being anti-Hispanic, for example, and Clarence Thomas called opposition to his Supreme Court appointment "a high-tech lynching."

It was Senator Orrin Hatch, a Republican supporters, who first inserted Pryor's religion into the committee proceedings, not opponents. Pryor and his pious backers should take heed of John Kennedy's remarks in 1960, just before he became the nation's first Catholic president: "I believe in an America where the separation of church and state is absolute." That should apply to political tactics as well as matters of law. It was Senator Orrin Hatch, a Republican supporter, who first inserted Pryor's religion into the committee proceedings, not opponents. Pryor and his pious backer should take heed of the John Kennedy's remarks in 1970, just before he became the nation's first Catholic president: I believe in an America where the separation of church and state is absolute." That should apply to political tactics as well as matters of law.

[From the Washington, Post, July 29, 2003]

Bad Faith Advertising

(By Richard Cohen)

When Lance Armstrong took a spill during the Tour de France, the cyclists chasing him slowed until he could right himself and resume the race. Lucky for him his competitors were not conservative Republicans. They would have run right up his back.

For an example of how these conservatives play the game, it is probably best to live in Maine or Rhode Island. In those states, an organization called the Committee for Justice has been running newspaper ads accusing Senate Democrats of using a religion test for judicial nominations. The nominee in question is William H. Pryor Jr. of Alabama. The ad says that if Pryor were not a strict Catholic, the Democrats would have no problem with him.

The newspaper ads show a picture of a door labeled "Judicial Chambers." A sign says "Catholics Need Not Apply." The ad goes on to say that Pryor is being opposed because of his "deeply held" Catholic beliefs, omitting the awkward fact that some of the Democrats who oppose him are also Catholic. The ad—not to put too fine a point on it—is a lie.

What's more, it's an insult to Catholics. It employs a historically redolent phrase, once so familiar to New England's Irish Americans, to sidestep the real problem with Pryor's nomination to a Federal appeals court—not his "deeply held" religious convictions but his deeply held determination to impose them on others. The ad's sponsors deeply hope that Catholics react viscerally. I pray that they don't.

Pryor's record is unequivocal. As Alabama's attorney general, he not only made statements deploring Supreme Court decisions upholding the separation of church and state—"it seems our government has lost God"—but repeatedly expressed his conviction that the God he had in mind was the Christian one. "The challenge of the next millennium will be to preserve the American experiment by restoring its Christian perspective," he said in 1997.

On another occasion—his investiture as Alabama's attorney gengeral—he concluded his remarks by saying, "With trust in God, and his Son, Jesus Christ, we will continue the American experiment of liberty and law."

Although a state official, Pryor chose to intervene in federal court cases on the side of Roy Moore, now the state's chief justice. As a trial judge, Moore opened court with a prayer delivered by a Christian clergyman. He displayed the Ten Commandments in his courtroom and later, when elected the state's chief judge, had a monster statue of the Ten Commandments placed before the courthouse. Higher courts told him to remove it.

Whatever Pryor's religious convictions, they are no business of the Senate. But they are its business when he seeks to impose those beliefs on others—as he has repeatedly tried to do. This is what the Democrats on the Judiciary Committee object to. Yet the ads, sponsored by a committee led by C. Boyden Gray, the first President Bush's White House counsel, simply label Pryor's opponents as religious bigots. Gray lent his name to this cause, and so did former president George H.W. Bush, who lent his house for a fundraiser. This is a GOP operation, pure and simple.

Gray ought to be ashamed. Instead of battling religious prejudice, he is using the fear of it to stack the courts with conservative Republicans. At the same time, he has allied himself with those who traffic in their own kind of religious bigotry—a smug disdain for the beliefs of others, including dissenting Christians, non-Christians and people who have no religion at all. Pryor clearly feels his religion is the better religion—the one the state should support, the one with which to open a court session or to proclaim in stone on the courthouse steps.

This is dangerous stuff. We are a pluralistic society. I happen to think some religions are just plain weird. I also happen to think that Pryor cannot for a second explain through reason—reason, not faith—why his convictions are better, truer or closer to God's than mine. Such matters cannot be debated. Historically, they have been settled at sword's point. If you believe that a cow is sacred, I cannot argue with you. The same holds for the virign birth, or, for that matter, the burning bush. You believe what you believe. It is that simple.

Gray and by extension former president Bush ought to repudiate the ad. At its core, it is a demagogic lie. As for Pryor, by statements and actions, he has disqualified himself for the federal bench. I don't care if he's a good Catholic. I do care that he'd make a bad judge.

[From the Washington Post, July 26, 2003]

Beyond the Pale

"Some in the U.S. Senate are attacking Bill Pryor for having 'deeply held' Catholic beliefs to prevent him from becoming a federal judge. Don't they know the Constitution expressly prohibits religious tests for public office?"

So reads a wildly inappropriate ad run in newspapers in Maine and Rhode Island by a group called the Committee for Justice. Mr. Pryor is the elected attorney general of Alabama and President Bush's choice to sit on the U.S. Court of Appeals for the 11th Circuit. We oppose the nomination—which the Senate Judiciary Committee this week reported on a party-line vote—and hope it will be defeated on the Senate floor. Yet some of Mr. Pryor's supporters seem unwilling even to debate this troubling nomination on its merits. So they have hit on an alternative: branding his opponents as motivated by anti-Catholic bigotry.

The tactic is not entirely new. Republican senators—including committee Chairman Orrin Hatch (R-Utah) and Majority Leader Bill Frist (R-Tenn.)—have been complaining for some time of what Mr. Frist has called "a religious test on the confirmation of our judges." And Democrats during the last administration complained of bias in the Senate's treatment of women and minority nominees—as, indeed, Republicans now complain of bias in the treatment of appeals court nominee Miguel Estrada. But the new ad campaign ratchets up this gross kind of politics a notch, and the unwillingness of key Republican senators to distance themselves from it is striking.

The Committee for Justice was formed by former White House counsel C. Boyden Gray to support Mr. Bush's nominees. Its ad ran in states with large numbers of Catholics and moderate Republican senators. It shows a picture of a courthouse door with a sign hung on it saying, "Catholics Need Not Apply." And it asks "Why are some in the U.S. Senate playing politics with religion?" It goes on to describe the nominee as "a loving father" and "a devout Catholic" and insists that "it's time for his political opponents to put his religion aside and give him an up or down vote."

But who exactly is "playing politics with religion" here? We are aware of no instance in which any Senate opponent of Mr. Pryor has raised his religion—nor did the Committee for Justice produce an example in response to our inquiries. The only people raising Mr. Pryor's Catholicism, rather, seem to be his supporters. Mr. Pryor's nomination is controversial for the simple reason that he has never shied away from taking strident positions on matters of national moment: His record is replete with the sort of unblinking partisanship and ideological fervor that properly should raise questions about potential service on the bench. We have criticized liberal groups for smearing President Bush's nominees. Smearing senators is no better.

[From the Huntsville Times, July 25, 2003]

Sham Issue Invoked To Help Pryor

(By David Person)

Bogus. That's the only word that accurately describes this week's dust-up on the Senate Judicial Committee over the nomination of Alabama Attorney General Bill Pryor to the Federal Appeals Court. Sens. Jeff Sessions of Alabama and Orrin Hatch of Utah, both members of the committee, suggested that other committee members were opposed to Pryor because he is a Catholic

This criticism seems part of a larger strategy. According to National Public Radio, some ads have been running in Maine and Rhode Island that suggest the same thing.

And according to NPR, it was Hatch who introduced Pryor's faith into the proceedings by asking Prior about his religious affiliation during the nominee's June hearing before the committee.

Methinks the GOP doth protest suspiciously and a bit too much. Four of the nine Democrats on the committee—ranking member Patrick Leahy of Vermont, Dick Durbin of Illinois, Edward Kennedy of Massachusetts, and Joe Biden of Delaware—are Catholics.

That probably disqualifies them from being against Pryor due to his faith, you think?

My guess: The GOP knew that Pryor's right-wing views on Roe vs. Wade, Alabama Chief Justice Roy Moore's Ten Commandments monument and homosexuality would be lightning rods. So instead of going the stealth route—which would have been difficult since Pryor, to his credit, has been upfront about his views—why not spin out the ruse that opposition to Pryor's politics is actually opposition to his faith?

As a political strategy, it's clever. But discerning observers will know that the baloney-salami quotient is high.

Being anti-religion and opposing the insertion of religion into the public life are as different as being a meat-eater and vegan. The two aren't even remotely the same.

Pryor, a smart, competent, compassionate and honest elected official, has made it no secret that he follows one of Alabama's most practiced political traditions: fusing faith and politics. Again, to his credit, he's aboveboard. He doesn't pretend to be anything other than what he is. That's why many Democrats and liberals have supported him here and even in his quest to be appointed to the federal bench.

But history shows that when religious dogma collides with public policy and practice, someone will be hurt. (Please turn in your history books to the chapters on the Crusades, the Reformation, and Salem witch trials, and the conflicts between Protestants and Catholics in Ireland, Muslims and Christians on the African continent, and fundamentalist Islamic regimes and their opposition.)

In fact, isn't the United States currently resisting attempts by fundamentalist Muslims to assume control in a reconstituted Iraq?

Pryor's fellow Catholics on the Senate Judiciary Committee oppose how he applies his religion, not the religion itself.

This shouldn't be hard to grasp. Religions, like political parties, often have competing ideological wings.

Some of my Catholic friends in town also oppose Pryor. They mince no words as they spit out their criticism of him.

Not one had anything to do with his faith.

The committee, by the way, has voted along party lines to send Pryor's nomination to the full Senate for a vote. By the end of the summer, we may know if Pryor will get the appointment or if it will be derailed by a Democratic filibuster.

If the latter, I guess Leahy, Durbin and any others who will have opposed him will be called bigots by GOP extremists. But this will be a false charge. The only thing they will be guilty of is disagreeing in matters of faith.

Last time I checked, the Constitution gives them that freedom.

[From the Palm Beach Post, July 27, 2003]

NO DEFENSE FOR PRYOR'S CONVICTIONS

(By Randy Schultz)

As part of their ongoing effort to stack the federal courts, Republicans first accused Democrats of being anti-Hispanic. Now, they're accusing Democrats of being anti-Catholic. Here's the funnier part: Many of the Democrats in question are Catholics.

When it comes to judicial nominations, the Supreme Court obviously gets most of the attention. The highest court is the last word on issues that prompt fund-raising letters. In June, for example, the justices reaffirmed that race can be a consideration in college admissions and rules that sexual orientation can't be a consideration when states make laws about sex between consenting adults.

In fact, the highest court hears only about 100 cases each year. The 13 federal appeals courts, however, rule on nearly 30,000 cases in 2001. In practical terms, appeals court judges set most of the law. Also, they are the Supreme Court's farm teams. Seven of the nine justices—William Rehnquist and Sandra Day O'Connor are the exceptions—were promoted from the federal appeals courts.

So President Bush wants to put the youngest, most conservative people he can on those courts. The lastest is 41-year-old William Pryor, and you can tell how unqualified he is by the lengths to which Republicans are going.

TO FLORIDA FROM ALABAMA? NO WAY

Mr. Pryor is Alabama's attorney general. He believes that the 1973 Supreme Court did greater harm by legalizing abortion than the 1857 court did by legalizing slavery. President Bush wants to put him on the 11th U.S. Circuit Court of Appeals, which hears cases from Florida, Georgia and Alabama. To maintain geographical balance, this vacancy on the 12-member court goes to Alabama.

But to William Pryor? No way. There's evidence that he solicited political donations from companies that do business with his office. There's evidence that he wasn't straight about that when he testified before the judiciary committee last month.

So Democrats have objected, as they have when Mr. Bush has tried to put similarly ultra-orthodox conservatives such as Miguel Estrada and Priscilla Owen onto other appeals courts. When Democrats blocked Mr. Estrada's nomination, Republicans whooped that Democrats don't like Hispanics. Except that Republicans blocked Hispanics whom President Clinton had picked for the appellate bench.

Last week, the GOP kicked up the hysteria another notch. A group run by the first President Bush's chief counsel ran ads saying that Democrats want to keep Catholics such as Mr. Pryor off the court. The ads show a courthouse with a sign reading, "Catholics need not apply." Boston merchants used the same language in the 19th century, saying "Irish" instead of "Catholics." Sen. Jeff Sessions, R-Ala., parroted the ad Wednesday. "Are we saying that good Catholics can't apply?"

NON-CATHOLICS LECTURING CATHOLICS

How hilarious that must have sounded to the four out of nine Democratic committee members who are Catholic. As National Public Radio reported, one of them, Sen. Dick Durbin, D-Ill., first said, "This is disgusting." Then he remarked, "I want to express my gratitude to my colleagues who are members of the Church of Christ and the Methodist Church and the Church of Jesus Christ of Latter-Day Saints for explaining Catholic doctrine today."

Sen. Orrin Hatch, the Mormon in question, yelped that Democrats were opposed to any Catholic with "deeply held" beliefs or any nominee who opposed abortion. Sen. Durbin noted that the Catholic Church opposes the death penalty while Mr. Pryor supports it. Also, a Bush nominee who called abortion "evil" got a seat on another appeals court with Democratic support.

For all the Republican fussing, President Bush got more of his nominees through a Democratic Senate than President Clinton got through a Republican Senate. Nearly half of Mr. Clinton's appeals court nominees got no vote in the congressional term when they were nominated.

Now that Democrats are going all-out to block Mr. Bush's worst nominees, Republicans can't take it. They rant, and they pout. They can't argue the facts, and they can't argue the law. So they are trying to argue ethnicity and religion. The problem isn't their Democratic opponents. It's their president's nominees.

[From the Atlanta Journal-Constitution, July 25, 2003]

BRING ON THE FILIBUSTER AGAINST ULTRACONSERVATIVE

Southerners who care about the separation of church and state should hope Alabama Attorney General William Pryor never sits on the 11th Circuit appellate bench, which rules on appeals in cases from Alabama, Georgia and Florida. The ultraconservative Pryor, who preaches that Christianity should be more a part of American public life, was approved by the Senate Judiciary Committee Wednesday in a 10-9 vote along partisan lines.

If ever there were a nomination that merits a filibuster, it is this one. Not just because Pryor holds views far out of the mainstream, but also because of the unprecedented twisting of the Constitution's advise and consent process by President Bush's corporate pals. Misleading ads, funded by the deceitfully names "Committee for Justice," have already run in Maine and Rhode Island to pressure moderate Republican senators into voting for Pryor's confirmation on the Senate floor. The despicable ads show a courthouse door with a sign across it saying "No Catholics allowed."

Sen. RICHARD DURBIN (D-Ill.), who is Catholic and opposes the Pryor nomination, is infuriated that he and others were being accused of discriminating against Pryor for his religion, a false charge. Sen. PATRICK LEAHY, the ranking Democrat on Senate Judiciary, said religion is irrelevant to consideration of a judicial candidate. "Just as we're supposed to be colorblind, we must be religion-blind," he said.

The committee funding the ads is headed by the White House counsel to former President Bush, C. Boyden Gray, and includes lawyers and lobbyists who represent huge tobacco, insurance and investment banking corporations with cases pending before the federal courts. Because it would be unseemly to campaign for judges who favor corporations, they have cleverly aligned with the Ava Maria List, a Catholic pro-life political action committee.

Pryor's record is sufficient to disqualify him from any judgeship. In addition to his extreme views on abortion (he opposes it for rape victims), he favors prayer in public school classrooms and the Ten Commandments in the Alabama courthouse. He was also the only attorney general in the nation to argue that the Violence Against Women Act is unconstitutional.

Georgians ought to let U.S. Sens. SAXBY CHAMBLISS and ZELL MILLER know their opposition to Pryor. He is simply unfit for the decision-making essential to a fair, independent and nonpartisan judiciary.

[From the Pittsburgh Post-Gazette, July 25, 2003]

PRYOR RESTRAINT: SPECTER SHOULD HAVE BALKED AT AN EXTREME NOMINEE

With Pennsylvania's Sen. Arlen Specter trying to have it both ways, the Senate Judiciary Committee on Wednesday sent to the floor an unacceptably extreme nominee to a federal appeals courts—but not before some silly sniping over whether the nominee, Alabama Attorney General William Pryor Jr., has been the victim of anti-Catholicism.

The anti-Catholic canard, raised by a conservative pressure group and echoed by some Republican senators, would be laughable if anti-Catholicism weren't an ugly part of American history. Fortunately, excluding people from public life because they are "papists" is largely a thing of the past. Mr. Pryor himself is proof of that: Alabama, where he serves as the chief law enforcement officer, was historically home to Bible Belt anti-Catholicism.

But if some of Mr. Pryor's supporters are to be believed, opponents of his nomination to the 11th U.S. Circuit Court of Appeals are anti-Catholic bigots. A pro-Pryor group aired television ads showing a locked courthouse with a sign reading "No Catholics Need Apply." On the committee, Republican Sen. Jeff Sessions referred to his fellow Alabaman as "this solid Catholic individual" and offered a convoluted argument for the bigotry charge.

According to Sen. Sessions, Mr. Pryor's veiws on abortion—he called the Roe vs. Wade ruling an "abomination"—are rooted in his church's teaching. Therefore senators who oppose Mr. Pryor because of his denunciation of Roe vs. Wade are really subjecting him to an unconstitutional "religious test" for office.

Well, not really. The concern isn't that any Catholic judge will repudiate Roe vs. Wade—Justice Anthony Kennedy, a Catholic, voted to reaffirm Roe in a 1992 ruling—but that Mr. Pryor's vehement denunciations of Roe as bad law indicate that he is a man on a mission, despite his protestations that he would apply the law judiciously. The problem with Mr. Pryor isn't his religion; it's the fact that he is what we have called a "walking stereotype" of right-wing legal extremism.

(We wonder, by the way, if Sen. Sessions would rush to the defense of a liberal Catholic nominee who, citing pronouncements by the pope and America's Catholic bishops, denounced Supreme Court decisions upholding the constitutionality of capital punishment.)

Some Democrats on the Judiciary Committee who are themselves Roman Catholics objected to the Republicans' decision to play the Catholic card. Sen. Richard Durbin facetiously thanked Sen. Sessions, a Methodist, and Judiciary Committee Chairman Orrin Hatch, a Mormon, for elucidating his own church's doctrine for him.

The "anti-Catholic" discussion was an unseemly sideshow to the committee's decision, on partisan lines, to approve the Pryor nomination and send it to the floor. To his discredit, Sen. Specter, who faces a conservative challenger in next year's Republican primary, joined in that vote—while suggesting that he might vote against the nomination on the floor. That straddle is the opposite of a profile in courage. If Sen. Specter thinks Mr. Pryor unsuitable for the court, he should have voted no.

Mr. LEAHY. Mr. President, this has begun because the President renominated a divisive and controversial activist to another circuit court. That is regrettable. The Republican leadership in the Senate is forcing a confrontation at this time that is neither necessary nor constructive. I am sorry the White House has chosen to make these matters into partisan political fights rather than to work with Senate Democrats to fill judicial vacancies with qualified consensus nominees. There are thousands of qualified Republicans who would be endorsed by both Republicans and Democrats in this Senate. That would allow the American people to say we are not politicizing the courts. There would be a sigh of relief.

But we do not see that. We have a historic low level of cooperation from the White House. In fact, in the 29 years I have been here, through both Republican and Democratic administrations, I have never seen such a low level of cooperation.

Notwithstanding that, we have already confirmed 140 of President Bush's judicial nominees, including some of the most divisive and controversial sent by any President, Republican or Democrat. In fact, this year the Senate debated and voted on the nominations of three circuit court nominees who received far more than 40 negative votes.

If it were simply a case of filibustering judges, they would not have been confirmed. For example, Jeffrey Sutton's nomination to the Sixth Circuit received the fewest number of favorable votes of any confirmation in almost 20 years. He got only 52 votes.

When you have somebody who gets through the Senate with only 52 votes, you have to ask what kind of a signal that sends to the people of that circuit. Does it send a signal to the people of that circuit that we sent somebody there who is representing all the people within that circuit, Republicans, Democrats, independents? Or are we sending somebody who is intended to be a partisan ideologue representing only one party on a court that is supposed to be independent of party politics?

In fact, the administration is seeking to force through the confirmation process more and more extreme nominees in its effort to pack the courts and tilt them sharply in a narrow ideological direction. Instead of uniting the American people, too many of this administration's nominations divide the American people and divide the Senate. How much greater service could be done to the country and to the courts if the President sought to unite us and not divide us?

In fact, the unprecedented level of assertiveness by the administration has led to more and more confrontation with the Senate. As Republicans in the Senate abandon any effort to provide a check or balance in the process, it falls to Senate Democrats to seek to protect the independence of the Federal courts and the rights of all Americans.

Our Democratic leadership in the Senate worked hard earlier this year to correct some of the problems that arose from some of the earlier actions of the Judiciary Committee. But, once again, just last week, Republican members of the Judiciary Committee decided to override the rights of the minority and violate longstanding committee precedent and actually violated—imagine this, the Judiciary Committee violating its own rules, the Judiciary Committee of all committees, the committee that should set the standards for everybody else—violated these rules and precedents in order to rush to judgment even more quickly this President's most controversial nominees.

It was a sad day in committee, but it was a devastating day in the Senate. Yet my friends on the other side of the aisle persist in their obstinate and single-minded crusade to pack the Federal bench with right-wing ideologues, regardless of what rules, what longstanding practices, what personal assurances, what relationships, or what Senators' words are broken or ruined in the process.

Republican partisans fail to recognize that Democrats worked diligently and fairly to consider President Bush's nominees, including nominees to the same court as that to which Justice Owen has been nominated. Two months ago, on May 1, the Senate confirmed Judge Edward Prado to the U.S. Court of Appeals for the Fifth Circuit. Senate Democrats cleared the nomination of Judge Edward Prado to the United States Court of Appeals for the Fifth Circuit without delay.

The irony is, we cleared Judge Prado immediately, but he was held up by one anonymous hold—and it came from the Republican side. At the same time the White House is excoriating Democrats for holding up their nominees, we had a nominee of President Bush to the Fifth Circuit and for a month, while we are trying to have him confirmed, he is being held up by an anonymous hold, not even a hold somebody is willing to state for the record but an anonymous hold on the Republican side. Talk about rope-a-dope—if we clear the nominees, they hold them up and we get the blame. Interesting.

All Democratic Senators serving on the Judiciary Committee voted to report his nomination favorably. All Democratic Senators indicated they were prepared to proceed with the nomination. When Republicans finally lifted their hold on Judge Prado, he was confirmed unanimously.

When Democrats assumed Senate leadership in the summer of 2001, there had not been a Fifth Circuit nominee confirmed for 7 years. There had been a lot of nominees, but they were blocked by the Republicans. Indeed, Republicans blocked consideration of three qualified nominees to the Fifth Circuit in the years 1995 to 2001, along with 60 other judicial nominees of President Clinton.

In 2001, Democrats worked hard on the nomination of Judge Edith Brown Clement, a conservative judge nominated by President Bush, and with the efforts of Democrats she was confirmed. Thus, unlike the years 1995 to 2001 when Republicans were preventing action on every single one of President Clinton's nominees to the Fifth Circuit, Democrats have already cooperated in the confirmation of two of President Bush's nominees to that circuit, including one while we were in the majority.

In spite of the treatment by the Republicans of so many moderate nominees in the previous administration, we proceeded last July to the hearing on Justice Owen and we proceed to debate and vote on all three of President Bush's Fifth Circuit nominees, despite the treatment of President Clinton's nominees by the Republican majority.

The nomination of Priscilla Owen was rejected by the Senate Judiciary Committee. She was rejected as a judicial activist with extreme views. That is where it should have ended. Never, ever in our Nation's history has a President renominated somebody to the same judicial vacancy after rejection by the Judiciary Committee—never. In this case, of course, they did, to create a political point.

We tried very hard to work with the administration to fill judicial vacancies, in great contrast to the fate of many of President Clinton's nominees from Texas who were blocked and delayed by Republicans, including Enrique Moreno, nominated to the Fifth Circuit Court of Appeals, who never got a hearing or a vote; Judge Jorge Rangel, nominated to the Fifth Circuit Court of Appeals, who never got a hearing and never got a vote; and Judge Hilda Tagle, whose nomination was delayed nearly 2 years for no good reason.

All we are saying is let's have judges who are there for all the people. It is one thing for Republicans to control the White House. The President was inaugurated. He has that right. Republicans control both Houses. But the courts are supposed to be nonpartisan.

We have worked hard to try to balance the need to have enough judges to handle cases with the imperative that they be fair judges for all people, poor or rich, Republican or Democrat, of any race or religion. This has been especially difficult because a number of this President's judicial nominees have records that do not demonstrate that they will be fair and impartial.

The White House's allies have bombarded us with all sorts of misleading information to try to bully us into rolling over and rubber-stamping these nominees. They are playing politics with the judicial branch and using it for partisan political purposes. That is most regrettable. Their charges of prejudice are simply appalling and should be rejected by all Americans as the crass and base partisan politics that they are.

The plain fact is that this Senate has confirmed more judges at a faster pace than in any of the past six and one half years under Republican control with a Democratic President. With Democrat cooperation, this Senate has doubled the number of judicial confirmations and more than doubled the number of circuit court confirmations of President Bush's nominees compared to how the Republican-controlled Senate treated President Clinton's. The Senate has confirmed 40 judges already this year. That exceeds the number of judges during all of 2000, 1999, and 1997, and is more than twice as many judges as were confirmed during the entire 1996 session. It is more than the average annual confirmations for the 6½ years the Republican majority controlled the pace of confirmations from 1995 through the first half of 2001. Thus, in the first 7 months of this year, we have already exceeded the year totals for 4 of the 6 years the Republican majority controlled the pace of President Clinton's judicial nominees and the Republican majority's yearly average. One hundred and forty lifetime confirmations in 2 years is better than in any 3-year period from 1995 though 2000, when a Republican majority controlled the fate of President Clinton's judicial nominations.

We have already this year confirmed 10 judges to the Courts of Appeals. This is more than were confirmed in all of 4 of the past 6 years when the Republicans were in the majority—in 1996, 1997, 1999, and 2000. And in the 2 other years, the 10th circuit nominee was not confirmed until much later in the year. We have now confirmed 27 circuit court judges nominated by President Bush. This is more circuit court judges confirmed at this point in his presidency than for his father, President Clinton, or President Reagan at the same point. We have made tremendous progress and I want to thank, in particular, the Democratic members of the Judiciary Committee for their hard work in this regard. These achievements have not been easy. The Senate is making some progress. More has been achieved than Republicans are willing to acknowledge.

So, as we repeat our vote on this nomination today and Republicans continue their drumbeat of unfair political recriminations, we should all acknowledge how far we have come from the 110 vacancies that Democrats inherited from the Republican majority in the summer of 2001. In addition to more confirmations and fewer vacancies, we have more Federal judges serving than ever before.

Under a Republican majority, circuit vacancies more than doubled and overall vacancies increased dramatically. Despite the fact that close to 90 additional vacancies have arisen since the summer of 2001, we have worked hard and cut those vacancies from 110 to less than 60. Earlier this year, until new judgeships were authorized, the vacancy rate on the Federal courts was at the lowest number in 13 years. Even with the 15 new judgeships effective this month, the vacancy rate is now well-below where Senator HATCH inherited it, and well-below the rate Senator HATCH called "full-employment." There are more full-time Federal judges on the bench today than at any time in U.S. history, in the last 214 years. And, if you add in the senior judges, there are more than 1,000 Federal judges sitting on the Federal courts.

With a modicum of cooperation from the other end of Pennsylvania Avenue and the other side of the aisle we could achieve so much more. As it is, we have worked hard to repair the damage to the confirmation process and achieved significant results. Republicans seem intent on inflicting more damage, to the process, to the Senate, and to the independence of the Federal courts.

Unfortunately, the nomination of Justice Owen is a nomination that should never have been remade. It was rejected by the Judiciary Committee last year after a fair hearing and extensive and thoughtful substantive consideration. The White House would rather play politics with judicial nominations than solve problems. This unprecedented renomination of a person voted down by the Senate Judiciary Committee is proof of that. That Senate Republicans are continuing to press this matter knowing the outcome of this vote shows what a charade this has become.

This nomination is extreme. This nominee has shown herself to be a judicial activist and an extremist even on the very conservative Texas Supreme Court where her conservative colleagues have criticized her judging as activist again and again.

The nomination process starts with the President. It is high time for the White House to stop the partisanship and campaign rhetoric and work with us to ensure the independence and impartiality of the Federal judiciary so that the American people, all of the American people, can go into every Federal courtroom across the country and know that they will receive a fair hearing and justice under the law. It is time for Senate Republicans to stand up for the Senate's role as a check on the unfettered power of the President to pack the courts and for fairness.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion.

The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 86, the nomination of Priscilla R. Owen of Texas to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, John Cornyn, Michael B. Enzi, Jim Talent, Judd Gregg, Jeff Sessions, Ben Nighthorse Campbell, Craig Thomas, Chuck Grassley, Chuck Hagel, Thad Cochran, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, and Larry E. Craig.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the nomination of Priscilla Richmond Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM) the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The yeas and nays resulted—yeas 53, nays 43, as follows:

[Rollcall Vote No. 308 Ex.]

YEAS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—4

Edwards
Graham (FL)
Kerry
Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:15 p.m. having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:52 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

ENERGY POLICY ACT OF 2003—Continued

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 1480 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, there is an order floating around here on the floor that sets forth about 7 hours of debate on these two trade agreements, the Singapore and Chilean trade agreements. Is that true?

The PRESIDING OFFICER. The order has been obtained.

Mr. REID. It has been obtained?

The PRESIDING OFFICER. That is correct.

Mr. REID. It is my understanding the Senator from California, Senator FEINSTEIN, has an hour under that agreement. Is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that Senator FEINSTEIN be allowed to use her hour on the trade agreements at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

THE CHILEAN AND SINGAPOREAN FREE TRADE AGREEMENTS

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Nevada for the courtesy of allowing me to move ahead with some additional remarks on the Chilean and Singaporean free-trade agreements and on the immigration policy that is attached to those agreements. I have expressed my deep concern about the temporary entry provisions of the free-trade agreements on which we are about to vote. I was prepared to support the trade agreements. However, I believe the USTR has made a terrible mistake in negotiating immigration provisions in these trade agreements, and, thus, delving into areas of authority that should have been left to the Congress.

I spoke to this to some extent on Friday, and I would like to speak again today because I think this is like peeling an onion. The more you look at it, if you look at immigration law, the more you see the major loophole this agreement is creating.

This agreement would create new categories for nonimmigrant visas for free-trade professionals. It would permit the admission, on its face, of up to 5,400 professionals from Singapore and up to 1,400 from Chile each year. That is on its face.

It would require the entry for their spouses and children, so they could join foreign workers in the United States. That, of course, makes it less of a temporary visa program. Those visas can be extended indefinitely. They can be renewed year after year after year ad infinitum. The bill would require without a numerical limit the entry of business persons under categories that parallel three other current visa categories: The B–1 visitor visa, the E–1 trader or investor visa, and the L–1 intercompany transfer visa.

In fiscal year 2002, the State Department issued more than a total of 5,232,492 visas to foreign nationals under the current temporary visa category that parallels those in the free-trade agreement—5.2 million individuals from foreign countries who come here each year and replace American workers in various pursuits.

How many more do we need? This legislation requires the entry of foreign workers in a new way on L–1 visas regardless of whether they are nationals of Singapore or Chile.

I don't think most Members realize that. You can get an L–1 visa now under this trade agreement just if you have been employed by a Chilean or Singaporian country. You don't have to be a citizen of that country. This is particularly egregious, and I will explain why a little later.

The bill would permit but not require the United States to deny the entry of a free-trade professional if his or her entry would adversely affect the settlement of a labor dispute. It would require the United States to submit the dispute about whether it should grant certain individuals entry to an international tribunal. An international tribunal for the first time that I can recall would determine now under this treaty a sovereign right which belongs to the United States of America.

In enacting the Trade Promotion Act, the Congress did not provide the USTR authority to negotiate new visa categories or immigration programs or to impose new requirements on the existing temporary entry system. In fact, the USTR has taken that upon itself.

In negotiating these agreements, the USTR has negotiated a perpetual visa category that we as Members will not be able to modify no matter what the circumstances or the economic consequences may be. Employers can renew these new employee visas each and every year under the agreement with no limit while also bringing in every year an additional crop of new entrants to fill up the annual numerical limits for new visas.

This makes it possible for foreign employees entering the country on a supposedly temporary basis at the age of 22 to remain until he or she is ready to retire at the age of 70.

That is not what temporary visas aim to do.

In effect, by voting for these provisions we are adding to the U.S. labor market a continuous supply of 6,800 guest workers a year in addition to the more than 40,000 from Chile and the 30,000 from Singapore who came in last year under the existing temporary work categories.

In other words, this is in addition to the 50,000 workers who have already come in from these two countries. I don't believe Members realize that.

These workers come in without taking into account the potential impact on U.S. workers.

By voting on this agreement, we as Members of Congress are effectively ceding our authority to limit the duration of these visas when it is in the national interest to do so because we can't change a thing. We can't change a comma. We can't dot an "i". We can't cross a "t". That is fast track.

Another problematic provision—and we should be very concerned about this—is that the unlimited L–1 visa category included in the Chile and Singapore agreement does not require that these workers be citizens of either Chile or Singapore. They can be from anywhere as long as they are working for a company right now located either in Chile or Singapore.

This means under the agreement, a Chinese or Indian or any other country's multinational corporation with offices in Singapore, for example, can transfer an unlimited number of Chinese or Indian employees to the United States.

What happens if the corporation also has offices in countries hostile to the United States or are state sponsors of terrorism?

Under these agreements, the corporation may send an unlimited number of such nationals to the United States under the E–1 trader visa and the L–1 intercompany transferee visa category.

In other words, these trade agreements create a major loophole through which thousands of foreign workers can come into the country with little scrutiny.

I don't believe there is anybody virtually in this Senate who understands that.

This is the problem of having the USTR negotiate an immigration agreement. They don't understand it either. And I don't think they really understand what has been accomplished here.

Effectively, these agreements permit unlimited entry through Singapore and Chile under the L–1 visa category for any worker anywhere.

In negotiating these agreements, the USTR has eviscerated existing requirements that U.S. corporations first demonstrate that there is a shortage of domestic workers in an industry seeking foreign workers. Every one of us knows that unemployment rates are on the rise. In professional and technical services, it is over 6 percent. In computer and mathematical occupations, it is 5 percent. In architecture and engineering occupations, it is 4 percent. In informational technology, it is 7 percent. In financial services, it is about 4 percent. In business and professional services, it is almost 9 percent.

When there are all of these vacancies, why are we allowing new sources of low-wage labor into this country when we are not facing a labor shortage in any of these industries today? There is no public interest in keeping Americans unemployed in order to accommodate new guest worker programs that would be established by these trade agreements. Quite the contrary. We face the highest unemployment rate in almost a decade, and I can tell you it is high among these worker categories as well.

I think these agreements are going to do no more than foster a race to the bottom where American workers are forced to compete with whatever foreign workers will accept in the lowest wage categories. That is wrong. This trend should be stopped, not exacerbated.

In negotiating these agreements, the USTR has expanded the types of occupations currently covered under the H–1B visa to include management consultants, disaster relief claims adjusters, physical therapists, and agricultural managers—professions that do not require a bachelors degree. This a weakening of what are supposed to be highly qualified and highly skilled workers. Now they are amending this to permit a whole host of unskilled categories. You don't even have to have a higher education to qualify to come in as a skilled worker in a technical field.

These agreements lower the skill level in another way, too. In negotiating the agreements, the USTR has lowered the standards for which foreign professionals could enter the United States to work. Under current law, H–1B professionals must exhibit—and this is a term of art—highly specialized knowledge in the occupation for which he or she is seeking a visa. This agreement would require the applicant only to possess specialized knowledge. In other words, they are weakening the requirement. You don't need to be highly specialized, just specialized. And then for some, you don't even need to have a higher education.

This distinction is critical because the highly specialized knowledge criteria used under the H–1B program was designed to ensure that employers don't abuse the program to undercut American workers in occupations where there is no skill shortage. I assume that this is a crucial point.

To back that up, neither the trade agreement nor the implementing language would enable the Department of Labor to have the authority to investigate or conduct spot checks at worker sites, as they do now with H–1B visas, to uncover instances of U.S. worker displacement and other labor violations pertaining to the entry of foreign workers. So what this agreement is doing is handcuffing the Labor Department and removing from it specific authority that it has now to go out to investigate and to see whether the law is being abused and domestic workers are being replaced purposefully with foreign workers.

You would say: Well, is this really necessary for them to have this authority? The answer is absolutely. There have been labor violations involving H–1B visas, and not a few but a lot. These violations have jumped more than fivefold since 1998, according to the Labor Department. Back pay awards for such employees who have been replaced have soared by more than 10 times, jumping from about $365,000 in 1998 to over $4 million in 2002. So we know there is fraud going on. What this bill does is just simply eliminate the regulations to eliminate any investigation as to whether the fraud exists or not.

In response to what I have just said about the soaring awards because of fraudulent uses of visas, Labor Department officials have stepped up H–1B investigations. They say there really could be thousands of H–1B workers today who don't file complaints because they fear the loss of their visa.

In the last 5 years, Labor investigated 656 complaints involving H–1B visas. What did they find? They found that out of 308 cases that have become final, the Labor Department found 261 H–1B violations. That is almost a two-thirds rate of violation. Of that number, 227 employers owed 1,413 domestic workers who were replaced by foreign workers almost $8 million in back wages.

This temporary work visa system gives employers tremendous power over immigrants. More than 1 million people already are employed in the United States under visas for skilled workers. The growing trend in H–1B violations is proof that some companies will, in fact, violate and have violated the worker protection laws to protect their bottom line. This is happening now, and in a tough economy it is going to happen more often. Those of us who are elected by workers to protect them, if we vote for this agreement, fail to do our job because this agreement weakens protections. The most offensive aspect of these provisions is that the USTR has bargained away our sovereign right to set the criteria for admitting foreign visitors and workers to our country. Under the agreement, if Congress determines that the visa categories in this agreement should be subject to numerical limits or labor certification, we could well be subject to defending that decision before an international tribunal. So an international tribunal would decide the sovereignty of the United States of America to make these decisions.

During a time when our country is preoccupied with the threat of terrorism on our soil, what protection do we have to prevent individuals from purposely utilizing and abusing this visa process?

In essence, control over employment-based visas will effectively be taken out of the hands of Congress and placed in the hands of corporate executives, the USTR, and countries that are parties to these types of agreements. That is, frankly, unacceptable to me, and such proposals should be rejected by Congress.

I don't think this Congress should relinquish its plenary authority over immigration to any administration, whether it be Democratic or Republican, nor to any country that is party to a trade agreement. It is hard to imagine that against the backdrop of the highest unemployment rate in almost a decade, this administration has negotiated what, in essence, is a permanent guest worker program. That is the hard fact of what is in this bill.

Today in our Nation, 15 million people are unemployed, underemployed in part-time jobs out of economic necessity, or have given up looking for work altogether; 9.4 million are considered officially unemployed. In California, 1.1 million are out of jobs. The average person has been out of work for 20 weeks, a phenomenon this country has not seen since 1948, in over 50 years.

Yet while we are faced with unprecedented unemployment, we are negotiating and accepting a permanent guest worker program.

Beneath the aggregate unemployment numbers is an even more disturbing trend. Unlike past instances of high unemployment, the ranks of the jobless are increasingly populated by highly skilled, college-educated workers. Workers who typically had little difficulty finding a new job are becoming discouraged by their lengthy stay on the unemployment roll.

A recent CBS news segment on the Nation's unemployed captured so poignantly the lives behind the numbers. The Presiding Officer should know that this CBS clip was actually done in his State. The news footage shows a line of cars stretching out of sight down a flat two-lane road in Logan, OH, where the jobless and struggling families were waiting for the twice-a-month distribution of free food by the local office of America's Second Harvest. The head of the agency said: We are now seeing a new phenomenon. Last year's food bank donors are now this year's food bank clients.

CBS reporter Cynthia Bowers observed:

> You could call it a line of the times, because in a growing number of American communities these days, making ends meet means waiting for a handout.

There are many reasons for the persistent weakness in the labor market. But I think we are making the situation worse by agreeing to the immigration provisions set out in these trade agreements. Increasingly, American workers have expressed fears of losing their positions to foreign workers who are paid considerably less and whose ability to remain in the United States is often contingent upon their not making trouble from their employer. I must tell you, I didn't believe this 5 or 6 years ago because I was importuned by one CEO after another to vote to increase the quota on H–1B visas.

They all supported me, that there was no abuse. It was only when we began to look deeply into it that we found there was abuse.

Today, more and more out-of-work technology workers are filing complaints with the Government or going to court to protest perceived abuses of temporary visa programs. We cannot simply blame the foreign workers for causing Americans to lose their jobs. It is shortsighted, behind-the-scenes policies such as these visa provisions, negotiated in secret, without any meaningful public hearing, included in trade agreements in small print, that invite a dependence on cheaper, more pliable foreign labor, and thus threaten American jobs.

The scarcity of jobs has left many skilled immigrants more dependent on their employer and less willing to quit if trouble starts. The abuses have been particularly widespread in the high-tech industry, which used H–1B visas to bring in tens of thousands of programmers and other professionals. Remember, it is not just these workers; there are another 5.2 million coming in each and every year. They come in and companies seize upon them.

Let me give you an example of testimony that is going on right now in the Judiciary Committee in the Immigration Subcommittee. A woman named Pat Fluno, a computer programmer and former Siemens employee, is testifying that she and 14 of her colleagues were required to train their foreign worker replacements before U.S. workers were laid off. Their replacements were foreign nationals on L–1 visas. That is exactly the visa program we are establishing in this trade agreement. They were paid one-third the salary the U.S. workers were making. There is no requirement that L–1 visa employers pay the prevailing wage. Ms. Fluno was making $98,000 a year. Her replacement is making $32,000 a year. This is Siemens, and that is what it did to 15 workers.

Unlike U.S. workers, foreign workers on L–1 visas don't pay income tax. Ms. Fluno, before the Immigration Subcommittee of Judiciary right now, estimates that the Federal Government and the State of Florida would lose over $1.1 million in income taxes as a result of layoffs of the 15 employees.

The international consulting firm that Siemens used to obtain the foreign workers knew that the U.S. workers would be laid off, so they did not use the H–1B visas to bring the workers in; they used the underregulated L–1 visa to get around the existing employer protection of the H–1B visa program. That is what we are creating more of in this bill.

This type of abuse really should stop because if we don't stop it, it is going to go on. Look, if you pay an American worker $98,000 and you can bring in a technical worker and pay them $32,000, and it is OK, how would any of our workers ever be able to own a home and raise their kids?

Temporary professional workers are often paid less than American workers despite requirements that they be paid prevailing wage rates. Employers seeking to hire H–1B workers can base their prevailing wage rates on third party salary surveys up to 2 years old. An H–1B worker in a job since the beginning of 2003 might still be getting the 2001 prevailing rate.

I only use this because H–1B is a much more regulated program than the L–1 visa program that is in this bill. You see how they can kind of gerrymander this program by using out-of-date prevailing wage rates.

In December of last year, a New Jersey-based company, Pegasus Consulting Group, was ordered to pay

$231,279 in back wages to 19 former employees. Most of them were Indian nationals. The judge also required the company to pay $40,000 in civil money penalties for violating the prevailing wage provisions of the H–1B visa rules. The judge found that some of the employees had gone several months without being paid. So this is happening today.

Our Nation's growing dependence on foreign workers is not—and I originally thought it was—spurred by a lack of skills or education in the United States. In June of this year, an estimated 1.286 million bachelor's degrees were conferred all across the United States, along with 436,000 master's degrees, 80,400 professional degrees, and 46,700 doctoral degrees. In addition, an estimated 633,000 associate's degrees were awarded. We have told, and continue to tell, our young people to acquire more education, to get a skill, to remain competitive in the job market, and they are doing so.

If an advanced degree, years of experience, and a good work ethic are not enough to land a job and to keep a job, what does the future hold for the American worker? Now, for some, the answer to that question is really pretty tragic.

Just in April of this year, Kevin Flanagan, a 41-year-old software programmer, took his life in the parking lot of Bank of America's Concord Technology Center on the afternoon he was told he lost his job. His father said it was the "straw that broke the camel's back." Flanagan knew that his employer, Bank of America Corporation, as other corporations weathering the economic storm, was cutting high-tech jobs and sending them overseas. He applied for other jobs at the bank but didn't receive responses. His father said: "He felt like he was fighting a large corporation that pretty much didn't care."

Kevin Flanagan's death, which is a suicide, underscores the anxiety that has swelled among technology workers throughout this land, at the Bank of America in particular, and elsewhere, as more businesses shift high-tech jobs to foreign workers, even as they cut those jobs in the United States. To add insult to injury, some employers are requiring U.S. workers to train their replacements before they are laid off, and then they see where their replacement worker earns one-third the salary.

So I don't think we should gamble with the lives and livelihoods of American workers with an agreement the consequences of which are so problematic. I really find expanding the least regulated of all the visa categories at a time of economic distress in the United States, at a time when we have so many of our own highly skilled domestic workers out of work and looking for a job, somewhat cynical.

To do this in secret, not do it by virtue of lawmakers who are elected, who know their States, who hold hearings, and then make adjustments to visas is really stealth and very ill advised.

We should never use immigration law as a bargaining chip to negotiate bad trade deals. We should never have offered visas to Chile and Singapore as part of these trade deals, and we should not trade American jobs as part of a free-trade agreement. That is what we are doing in this trade agreement.

Bear in mind, we already have tens of thousands of workers, highly skilled workers, coming in from Chile and Singapore every year under the H–1B visa. What is cynical here is that the L–1 visa does not have the protections the H–1B visa has, and the Labor Department cannot go out and do an investigation and, therefore, cannot certify that no American worker is being replaced in his or her job. So I have to accept that the reason they are doing the L–1 visa is because they want to do just that: replace American workers with foreign workers. Remember, you can have a Chilean-owned company or Singaporean-owned company, I believe, not necessarily in Singapore, that can qualify under this trade agreement.

The fast-track process should not undermine Congress's authority under the Constitution, and that is what this agreement does. This is a bad trade bill, a bad precedent, and if this Congress does not stand up for its right to protect the American people, who will?

We asked in the Judiciary Committee for more time. We were denied more time. We asked to send this bill back to the administration and ask them to sever the immigration provisions from the trade provisions, and we were refused in our request. I do not think because immigration law is complicated and every visa program has with it a different set of rules, regulations, procedures, and protocols and that creating more of one of the weakest, in terms of protecting American workers at a time when American workers need the most protection because of rampant unemployment—the highest unemployment in the 10 years I certainly have been in the Senate—seems to me it is not timely, it is not economically productive except for the bottom line of some companies.

I believe in these remarks I have shown where many of these visas are being misused. I have shown where there is fraud, where there have been back payments made. And I have shown where already without this program, year in, year out, 5.2 million technical foreign workers come into this country without this addition.

I conclude by saying that I think the real angst, if I may use that word, of this bill is for us to accept the abdication of our constitutional authority and power over immigration law. I cannot do that because I represent a very large State that is going to be affected by this trade agreement, and a State where we have 1,100,000 people out of work, a State where the unemployment insurance trust fund is going to be in deficit at the end of next year and workers will not get anything when unemployed.

I think it is not good public policy at a time of economic deprivation for millions of Americans to be bringing in workers who will take a third of the salary of their American counterpart, displace that counterpart, not complain and to, by law, say to the Department of Labor of the United States of America: You cannot investigate any one of these complaints, and you cannot make a determination whether, in fact, an American worker has been replaced unfairly by a foreign worker. We should not do that.

I thank the Chair. I yield the floor.

AMENDMENT NO. 1386, AS MODIFIED

Mr. ALLEN. Mr. President, I ask unanimous consent to speak for 5 minutes in support of the Bond-Levin amendment.

Mr. REID. Mr. President, under the order now in effect, we have to take somebody's time.

The PRESIDING OFFICER. The Senator is asking consent.

Mr. REID. To take whose time?

The PRESIDING OFFICER. To have his own time.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I thank the Senator from Nevada.

I rise today to join my colleagues in support of the Bond-Levin fuel economy amendment that reasonably improves safety, fuel economy, and environmental conservation as mutual goals. I am pleased to join with a bipartisan list of Senators as a sponsor of this amendment that will ensure that our public policy in America does not compromise common sense, the free market, consumer choice, safety, or American workers. I wish to touch on some of these key issues.

Insofar as safety is concerned, estimates from the Harvard Center for Risk Analysis, Journal of Law and Economics, and Regulation Magazine have shown that between 2,000 and 4,500 deaths occur each year as a result of our current CAFE standards.

The reality is very logical: With smaller, lighter cars there is a higher risk of injury when an accident occurs. The issue of vehicle cost also affects consumers. The National Academy of Sciences concluded that CAFE standards have raised prices by as much as $2,500 for cars and $2,750 for pickup trucks and SUVs.

Clearly, if the opposition's amendments are adopted rather than the commonsense, reasonable approach that is proposed by Senator BOND and Senator LEVIN, we would have higher prices. With higher prices, what do we get? Obviously, if fewer people can afford to purchase new vehicles, sales are reduced, which translates into fewer jobs in the automobile industry.

The job loss issue is not theoretical. I have met with United Auto Workers in Virginia and learned that even a 1-mile-per-gallon increase in CAFE standards would result in the loss of approximately 10 percent of auto manufacturing jobs. The last thing I want to do is go down to the Ford F–150 assembly plant in Norfolk, Virginia and have the 2,000-plus employees line up and say to them: One out of every 10 of you is going to lose a job because of what some officious people in Congress want to impose on America's auto industry and consumers.

I do not want to do the same thing with the GM Powertrain facility in Fredericksburg-Spotsylvania County and tell those employees: One out of 10 of you will lose your job because certain elected officials in Washington are taking away your ability to put food on the table for your families.

The employment of over 116,000 Virginians is dependent on the automobile industry, and congressionally mandated unreasonable increases in CAFE standards will put these jobs in jeopardy.

The great success of America as a world economic leader is based on freedom and the ability of the free market and consumer choice to prevail in the marketplace.

Recently, my friend and fellow colleague from Missouri, Senator BOND, used a clever reference to a recent movie to describe the other side's approach to CAFE mandates, calling the approach "too fast, too furious."

I also want to draw on Hollywood and the recent success of Arnold Schwarzenegger's latest "Terminator" movie and point out that the other side's unreasonable and unscientific approach terminates jobs, terminates safety, terminates consumer choice and terminates common sense.

American's already have the choice of what vehicles they wish to drive. There are already vehicles available that get 40, 45, 50-plus miles a gallon. If Americans want smaller, lighter vehicles, they are available. It is important that we use sound science and common sense and trust free people to make the right choices for themselves, their families, and the environment.

The Bond-Levin amendment states that auto experts at the National Highway Transportation Safety Administration and the auto and safety industry ought to have the ability to determine the best methods of achieving these goals. The CAFE numbers used by the other side, in our view, are arbitrary and truly based on political science as opposed to sound science.

The Bond-Levin amendment increases the use of incentives to industry and consumers alike rather than punitive market distorting mandates that would decimate an industry responsible for approximately 3 percent of our gross domestic product and employs about 2½ percent of all Americans.

Also, it is a very forward looking approach in that it provides tax incentives for research and development of advanced technological innovation in fuel cells, hybrids, and electric vehicles.

It is my view that Congress should be in the business of providing incentives to people and manufacturers for innovation that do not compromise safety, do not cause the loss of American jobs, and do not preclude individual choice in the marketplace so that people can make their own decisions for themselves and their families.

I ask my colleagues to support the Bond-Levin amendment. We should trust free people to make decisions for the health, safety, comfort, and well-being of their families. Most importantly, we ought to make sure that America stays strong and competitive.

When we look at our auto industry, our strongest market base is in SUVs, minivans, and pickup trucks, which would be harmed by the opposition's amendments. So let us stand strong for American workers, as well as our families and free market, and support the Bond-Levin amendment.

I ask unanimous consent that the text of a letter from the American International Automobile Dealers Association in support of the Bond-Levin amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN INTERNATIONAL
AUTOMOBILE DEALERS ASSOCIATION,
Alexandria, VA, July 25, 2003.

Hon. GEORGE ALLEN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR ALLEN: On behalf of the American International Automobile Dealers Association (AIADA), I am writing to urge your support of the proposed amendment by Senators BOND (R-MO) and LEVIN (D-MI) to allow a regulatory approach to the raising of CAFE standards. AIADA is the national trade association representing over 10,000 American international nameplate automobile dealers and the 500,000 American workers who sell and service some of the finest automobiles and trucks available in the world.

The National Highway Traffic Administration (NHTSA) recently issued a final rule on April 1, 2003 aggressively increasing CAFE standards for light-duty trucks. NHTSA increased the light-truck CAFE standard from the current standard of 20.7 mpg to 21.0 mpg in model year (MY) 2005, 21.6 mpg for MY 2006, and 22.2 for MY 2007, the biggest increase in over twenty years. The standard applies to pickup trucks, mini-vans, and sport utility vehicles. NHTSA's charge was to set the light-truck CAFE standard at the "maximum technologically feasible level" while weighing the impact of increasing CAFE standards against a host of criteria, including vehicle safety, employment, and consumer choice, among other factors. NHTSA allows a process to increase CAFE standards that is based on sound science.

AIADA believes the regulatory process is the best way to increase standards in light of changing technology and market conditions. The Bond-Levin amendment establishes new standards through the regulatory process therefore ensuring the consideration of key factors when increasing CAFE standards.

Lastly, consumer choice should not be jeopardized to meet new federal standards. Consumer demand drives the automobile retailing market. A dramatic increase in CAFE standards could eliminate some of the most popular vehicles from the marketplace.

AIADA believes the Bond-Levin amendment is the best solution to achieving increased fuel economy without jeopardizing consumer choice and safety. AIADA opposes any other CAFE amendments that propose to legislatively increase current CAFE standards. We ask you to support the Bond-Levin amendment as part of a national comprehensive energy policy.

Sincerely,

MARIANNE MCINERNEY,
President.

Mr. ALLEN. I yield the floor.

Mr. VOINOVICH. Mr. President, as cochairman of the Senate Auto Caucus, I am pleased to join with my colleagues, Senator BOND and Senator LEVIN, as a cosponsor of this CAFE standards amendment to the energy bill. This is truly an important issue; one that impacts upon our Nation's economy, our environment, and the safety of the traveling public.

There is no doubt that each of us wants the automobile industry to make cars, trucks, SUVs, and minivans that are as energy efficient as possible. Not only is it good for the environment, it also means more money in the pocket of the American consumer because they will spend less at the gas pump.

However, I am deeply concerned that the extreme Corporate Average Fuel Economy standard supported by some of my colleagues will have a devastating effect on public safety, as well as put a severe crimp in the manufacturing base of my State of Ohio which is already under duress because of high natural gas costs, litigation, health care costs, and competition from overseas.

Two years ago, new vehicle sales of trucks, SUVs and minivans outpaced the sale of automobiles for the first time in American history. This remarkable result can be attributed to a number of factors, but one reason that is often cited is the fact that these vehicles are seen as safer.

Another concern is that an arbitrary standard would have a devastating effect on jobs. Ohio is the No. two automotive manufacturing State in America, employing more than 630,000 people either directly or indirectly. I have heard from a number of these men and women whose livelihood depends on the auto industry and who are frankly very worried about their future.

There is genuine concern that a provision mandating an arbitrary standard could cause a serious disruption and shifting in the auto industry resulting in the loss of tens of thousands of jobs across the Nation.

For example, DaimlerChrysler's fleet of light trucks makes up more than 50 percent of their entire fleet. The company manufactures the Jeep Liberty and the Jeep Wrangler in Toledo, OH and employs approximately 5,200 workers at this plant. If an arbitrary CAFE provision is mandated that requires a shifting of vehicles manufactured, this plant could close because Chrysler would be forced to redistribute their manufacturing base to build more small, high-mileage cars.

The Bond-Levin amendment is a rational proposal that will keep workers both in Ohio and nationwide working, allowing these men and women to continue to take care of their families and educate their children while also encouraging greater fuel efficiency and safer vehicles.

This amendment calls for the Department of Transportation to increase fuel economy standards based on several factors including the following: technological feasibility; economic practicability; the need to conserve energy; the desirability of reducing U.S. dependence on foreign oil; the effect on motor vehicle safety; the effects of increased fuel economy on air quality; and the effect on U.S. employment.

I believe this is a much more responsible approach that will improve the fuel efficiency of our Nation's vehicles while also protecting public safety and our nation's economic security.

This amendment also requires that the Department of Transportation complete the rulemaking process that would increase fuel efficiency standards within 2½ years. If the administration doesn't act within the required timeframe, Congress will act, under expedited procedures, to pass legislation mandating an increase in fuel economy standards consistent with the same criteria that the administration must consider.

The amendment will also increase the market for alternative powered and hybrid vehicles by mandating that the Federal Government, where feasible, purchase alternative powered and hybrid vehicles.

I believe that this guaranteed market will encourage the auto industry to continue to increase their investment in research and development with an eye towards making alternative fuel and hybrid vehicles more affordable, available and commercially appealing to the average consumer.

As a matter of fact, I have ridden in a hybrid manufactured by DaimlerChrysler, and I have driven a fuel cell automobile manufactured by General Motors. I firmly believe that my children and grandchildren will one day be driving automobiles that run on hydrogen and give off only water. However, it will take time for the technology that makes these vehicles possible to be cost-effective and for these vehicles to be marketable.

Until then, truck, SUV, and minivan demand is not expected to decrease anytime soon. Automakers that are meeting this demand will have to manufacture and sell a high-gas mileage vehicle that likely does not exist now. This will only increase prices for the safe vehicles America wants.

I urge my colleagues to support the Bond-Levin amendment. It meets our environmental, safety and economic needs in a balanced and responsible way, contributing to the continued and needed harmonization of our energy and environmental policies.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, pending are the Durbin amendment, the Levin amendment, another Durbin amendment, and the Campbell amendment. I ask unanimous consent that the Feinstein CAFE amendment be the next Democratic amendment in order. I recognize that the right of first recognition comes on the other side. I want there to be an agreement though that the next amendment we would offer would be that of Senator FEINSTEIN dealing with CAFE.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. ALLEN. Objection.

Mr. LEVIN. We object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I rise in support of the Bond-Levin amendment. I ask that Senator MIKULSKI be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I rise in support of the Bond-Levin amendment and in opposition to the Durbin amendment. I will take about 8 or 9 minutes to lay out some of the differences between the two amendments. There are some very key differences.

First, our amendment, the Bond-Levin amendment, employs positive incentives to promote the leap-ahead technologies which are so critical if we are going to make significant improvements in fuel economy. We do this in a number of ways right in this amendment, including the research and development part of this amendment where we authorize a significant increase in the funds for the Department of Energy to develop advanced hybrid vehicles, where we provide significant funds for the Department of Energy to work collaboratively with industry to research and develop clean diesel technologies, and a number of other ways.

In a separate amendment, dealing with the tax side, there will be an effort made to provide some additional incentives in that area as well.

In the body of the Bond-Levin amendment, we will be promoting the leap-ahead technology development by using the purchasing power of the Government to buy the hybrids which are going to be made available in the next few years. Since Government purchases a significant number of vehicles, it is essential that we use that purchasing power to acquire those new vehicles which will create a demand for those vehicles and help to commercialize them as well.

We require the Government purchase of hybrid trucks for our fleet of light trucks that are not covered by the Energy Policy Act. So there is no conflict between what we do in this bill and the Energy Policy Act itself.

There is another major difference between our approach and the approach in the Durbin amendment. What we do is we direct NHTSA, the Department of Transportation, to raise the fuel economy standards but we do not pick an arbitrary number to be reached. Instead, we set forth a series of factors which we want NHTSA, the Department of Transportation, the agency that has the expertise to do this and has done this and has been given that responsibility historically to set these standards, we lay out a number of criteria which we want them to consider, including what technologies might be available, which are emerging, what will be the cost of those technologies, what are the safety considerations, what are the job considerations, what are the air quality considerations, what will be the savings in terms of fuel, including imported oil. A whole host of criteria are set out which they should consider but which are not at all considered by selecting an arbitrary number and simply plugging that into a law.

To pick one factor which is real, and that is the safety factor, the National Academy of Sciences, in its report, found that in just the 1-year study, which was 1993, the effect of CAFE, which was already in law, was the death of between 1,300 and 2,600 people. They also found that between 13,000 and 26,000 additional moderate to critical injuries occurred because the CAFE standard which had been put in law resulted in down weighting and downsizing of vehicles.

Should we consider safety? Should someone consider safety? I would hope so. Should that be a factor which should be looked at in the rulemaking process? I would hope so, among all the other factors.

Saving fuel is important, and our amendment does that. It will lead to fuel savings but we do it in a very different way. Instead of selecting an arbitrary number, a very high number in the Durbin amendment, 40 miles per gallon, we direct NHTSA to use the various relevant factors to reach a conclusion, not just what is technologically achievable regardless of cost but what is the cost, what is the cost benefit, and all the other factors, including safety and impact on jobs.

There is another major difference between our approach and the Durbin amendment. It is not just that the Durbin amendment picks a number, a very high number, for this new CAFE standard, but in doing so, it uses the current structure. That so-called CAFE structure limits the production and sale of domestic SUVs of the same efficiency as imported SUVs, on which it has far less impact.

This is a critical issue. It is an issue which is not adequately understood by colleagues because it is very complicated. The very fundamental CAFE structure, because it was designed to look at the entire fleet instead of dividing the fleet into different classifications by weight, has an inherently discriminatory impact on those companies which have traditionally produced the larger vehicle. It has favored the imports because those companies have tended to produce the lighter weight vehicles, the vehicles at the lighter end of the continuum.

I quote the National Academy of Sciences because they have made a statement which I hope all of our colleagues would pause to consider before voting for the Durbin amendment. This is what they said in a January 2002 report:

> . . . one concept of equity among manufacturers requires equal treatment of equivalent vehicles made by different manufacturers.

Now the key words:

> The current CAFE standards fail this test.

This is something which is so fundamental to American jobs that it is critical all of us take some time to read that portion of the National Academy of Sciences study and to fully soak in its impact as to what it is saying. Equal treatment of equivalent vehicles made by different manufacturers is not achieved by CAFE.

By piling an arbitrary number on that CAFE structure, as the Durbin amendment does, it worsens the situation. The equivalent vehicles of equal efficiency are treated differently depending on the manufacturer, and the difference works against the domestic manufacturer; that is, jobs which are lost with no benefit to the air at all.

There is no reason I can conceive as to why we would want to say it is OK to drive a 17-miles-per-gallon imported SUV, but it is not OK to drive a 17-miles-per-gallon domestic SUV. It does nothing for the air to reach that result. Yet that is what the current CAFE structure leads to.

I have one other quote from the National Academy of Sciences report.

> A policy decision to simply increase the standard for light-duty trucks to the same level as for passenger cars would operate in this inequitable manner. Some manufacturers have concentrated their production in light-duty trucks while others have concentrated production in passenger cars. But since trucks tend to be heavier than cars and are more likely to have attributes, such as four-wheel drive, that reduce fuel economy, those manufacturers whose production was concentrated in light-duty trucks would be financially penalized relative to those manufacturers whose production was concentrated in cars. Such a policy decision would impose unequal costs on otherwise similarly situated manufacturers.

I don't understand why we would even think about treating similar vehicles of similar fuel efficiency in a different way, particularly when that works against the domestic manufacturers.

The Durbin amendment compounds this problem by raising the SUV level, at least in the case of the minivans and SUVs themselves, to the same requirement as standard vehicles. In doing so, it compounds the problem, the discriminatory effect, of the CAFE structure. I hope for that reason and the other reasons I have mentioned that we will defeat the Durbin amendment and adopt an alternative approach which focuses more on positive incentives to achieve fuel economy, which is what the Bond-Levin approach does and which also focuses more on the rulemaking authority, the efficiency, the experience, and the fairness of the Department of Transportation that would look at all of the factors which should go into the rulemaking rather than picking an arbitrary number.

I yield the floor.

Mr. BOND. Mr. President, I have conferred with the minority whip. Some of our colleagues are in a meeting of the Energy and Natural Resources Committee. I urge those who have time who are not on the Energy and Natural Resources Committee to follow the distinguished Senators from Michigan and take their time and express their views so we may get on with this debate. We hope to have votes on these very important amendments.

Mr. REID. Mr. President, I will yield in a brief minute to the junior Senator from Michigan. While the acting leader is here, I want the record to reflect we are doing everything we can to cooperate in the consideration of this Energy bill. There was an hour we could have done nothing because there was no one here to do anything because they are meeting at the White House. In an effort to expedite matters, there was an order pending on the Singapore and Chile trade agreements. There are 7 hours of debate in an order here before we vote on that; we used an hour of that time even though that was not anything we had to do.

If we were trying to "slow walk," as was said here today, that would have been an easy way to slow walk. The Senator from California came to the floor and used her hour.

The record should reflect this Energy bill is a very complex bill. People in good faith have different views on the legislation. As I said this morning, there is not a single Democratic Senator who does not want an Energy bill.

Mr. BOND. I thank the minority whip for his words. Obviously, there are times when other discussions have to go forward on the floor, and it was clear that the Senator from California had time. There will be many other areas of accommodation, setting aside amendments, to move on to the electricity amendment, for example.

We appreciate the cooperation of both sides of the aisle. I simply urge those who are not committed to the energy meeting to bring their positions to the floor and let us hear them.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to support the Bond-Levin amendment and I am very pleased to be a cosponsor. I commend both my colleague from Missouri and my senior Senator from Michigan for their work on this issue, and I certainly commend the Senator from Michigan for his statement. He presented the argument very well.

I also rise to oppose the Durbin amendment. I begin by saying this debate is not about whether we should increase vehicle fuel efficiency. That is not what this is about. I agree with Senator DURBIN about the importance of creating more fuel-efficient cars and SUVs, not only because it decreases our consumption of oil and our dependence on foreign oil but because of the important benefits it has to our environment.

This debate is about what is the best way to increase fuel efficiency without punishing U.S. manufacturers and American jobs. We have made significant progress since last year's debate. NHTSA is moving forward with increasing CAFE standards. This past April, it announced its final rulemaking for light trucks for model years 2005 through 2007. This will be the largest CAFE increase in 20 years and NHTSA has already announced plans to continue with rulemaking for the 2008 model year and beyond, later this year.

While this progress is extremely important, there are significant problems with the current CAFE standards and the way they are calculated. For example, the regulations continue to ignore such basic factors as the adverse competitive impacts of CAFE on our U.S. automakers, impacts on U.S. employment, and technology costs and necessary lead-time—which is very important.

The Bond-Levin amendment addresses these problems and builds on Senator LANDRIEU's amendment to reduce our dependence on foreign oil by 1 million barrels a day, an amendment I supported.

However, the Durbin amendment not only fails to fix the problems with the current CAFE system, but it makes them significantly worse.

Despite producing vehicles that are as fuel efficient, and often more fuel efficient than their foreign counterparts, our U.S. automakers continue to have a lower CAFE average then their foreign competitors. Why? That doesn't make any sense. Because the CAFE system does not reflect the real fuel economy of the cars and trucks in an automaker's fleet; instead it really reflects what vehicles consumers buy.

Therefore, an automaker can increase the fuel efficiency of all of its vehicles but still have a decline CAFE average depending on what models sell the most.

For example, over the past 4 years, GM has introduced new car and light truck models that are more fuel efficient than the models that they replaced, but GM's light truck CAFE has actually gone down.

In model year 2001, GM's combined car and truck CAFE average was 24.2 miles per gallon. For model year 2002, GM made fuel economy improvements to 18 different vehicles in its fleet, including SUVs and pickup trucks.

Some of these vehicles had 18 percent, 17 percent, 10 percent improvements in fuel economy over the previous year's models. The Chevrolet Silverado, a full size pickup truck, had over a 7 percent improvement on fuel economy.

But do you know what GM's combined car and truck CAFE average was for model year 2002? It was 23.4 miles per gallon, a 0.8 mile per gallon decrease from 2001. GM improved the fuel economy of 18 vehicles and their CAFE actually went down.

How does a system that does not reflect actual improvements in vehicle fuel economy and penalizes automakers for doing the right thing make sense? That is what this debate is about.

During last year's debate on this issue, we discussed in great depth the need for building a real federal partnership with our automakers to develop cleaner, advanced technologies, over arbitrarily picking higher CAFE numbers. The Senate resoundingly supported the first approach with a vote of 62–38 for last year's Levin-Bond amendment which I was pleased to cosponsor.

The Durbin amendment, however, would increase the CAFE standard for passenger cars from 27.5 miles per gallon to 40 miles per gallon—a 45 percent increase—in only 10 years. Incidentally, excluding hybrid and diesel vehicles, there are no cars on the market today that would meet this requirement.

It would also shift SUVs into the passenger car category, requiring SUVs that currently have a 20.7 mile per gallon CAFE standard, to double their fuel efficiency and meet a 40 mile per gallon standard. That would require an almost 100 percent CAFE increase for SUVs in just 10 years.

This amendment will have a disproportionately negative impact on our Big Three automakers, since they make a higher proportion of SUVs and pick up trucks than passenger cars. Furthermore, this CAFE proposal will not guarantee a more fuel efficient SUV, but it will guarantee that the SUV will not be made by an American auto company. How does that make sense?

It is also important to remember that the 40 miles per gallon number in this amendment is not anywhere in the National Academy of Science's 2001 report on CAFE.

Even under the most optimistic scenarios in the NAS report, which assume that consumers are willing to recover the higher costs of the technology over a 14 year period instead of a 3 year period and assume "low" technology costs, the highest projected level for any car within the 10–15 year timeframe, is 38.9 miles per gallon and that is for subcompact passenger cars.

And that is less than 40.

So if you assume that everyone gives up the SUV, gives up the truck, gives up the midsize car even, and goes to a subcompact passenger car, even if we all did that, we would not be able to reach the number in the Durbin amendment.

This amendment sets a CAFE number that according to the experts at NAS, not even the smallest passenger car could meet today.

The Bond-Levin amendment increases vehicle fuel efficiency without placing anticompetitive restrictions on our U.S. automakers. The amendment looks to the future, and provides the market incentives and investment in developing technologies that will really revolutionize the automobile industry.

The amendment directs the NHTSA to complete a rulemaking to increase fuel efficiency for passenger cars within the next 30 months, and standards for model year 2008 and beyond for light trucks within the next 32 months, but it also requires NHTSA to consider the flaws in the current CAFE system for this rulemaking.

We need to let the experts at NHTSA continue to do their job. And NHTSA has already moved forward by announcing the recent regulations for light trucks, the largest CAFE increase in 20 years.

Congress also needs to help automakers move in the right direction, instead of pulling them in the wrong one. Our automakers have already invested millions of dollars in developing cleaner, better technologies, and these investments are starting to pay off for the American consumer.

For example, a hybrid electric version of the GM Sierra full size pickup truck is going into production next year. Ford is currently developing a hybrid Ford Escape SUV which will be capable of being driven more than 500 miles on a single tank of gasoline.

In addition to these great technological developments, automakers have been working on fuel cell vehicles which could revolutionize the automobile sector within the next 15 years.

The Durbin amendment will force automakers to divert funding and research away from these important technological advancements and make meeting these incremental CAFE increases a funding and research priority. The Durbin amendment also locks the automakers into a rigid fuel efficiency plan for the next 10 years, setting back the progress they should be making on these important technologies.

Instead of placing restrictions on what our automakers produce, we should be looking for ways to help them introduce these better, cleaner technologies.

The Bond-Levin amendment includes incentives such as federal fleet purchase and alternative fuels requirements and a real federal investment in hybrid and clean diesel research and development.

These incentives will help create and build market demand for the more fuel efficient hybrid, electric or fuel cell vehicles, instead of locking automakers into costly incremental CAFE increases.

I urge my colleagues to vote for Bond-Levin-Domenici-Stabenow amendment and support increased fuel efficiency and a vibrant, economically healthy U.S. auto industry.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to support the Durbin amendment to raise the fuel economy standard and close the SUV loophole. I consider this truly bipartisan because I disagree with Democrats as well as our Republican friends. But I feel compelled to bring a problem to the public with which we have to deal.

I think it is fair to say that this amendment strikes a reasonable note in what is too often a contentious debate.

Today, 18 years after the first Corporate Average Fuel Economy standards were implemented, the standards for cars, trucks, and SUVs remain unchanged.

We are running in place and a major reason is that when CAFE standards were first required in 1975, light trucks made up just 20 percent of the market and were used mostly for work, not for negotiating congested urban streets.

But that was a quarter century ago. Today, light trucks—a category that includes SUVs and minivans—represent half of all vehicles sold.

SUVs produce 48 percent more smogforming exhaust and 44 percent more greenhouse gases than cars.

Today's SUVs are not light trucks. They are passenger vehicles and we should regulate them as such.

The impact of regulating SUVs as passenger vehicles, instead of trucks, would be impressive: we would save more than 40 billion gallons of gasoline by 2010—an average of 6 to 7 billion gallons a year.

By updating our regulations to reflect today's driving realities consumers would also save $7 billion at the pump during that same period, according to the Union of Concerned Scientists.

Another reason to raise CAFE standards is global warming.

The U.S. transportation sector is responsible for nearly one-third of all U.S. greenhouse gas emissions.

Since 1975, the miles traveled by vehicles have skyrocketed by 150 percent.

Higher CAFE standards are essential to cleaning up the air of our Nation's metropolitan areas and in protecting the health of Americans—especially the health of our young and our elderly who are most vulnerable.

The Durbin amendment provides until 2015 to set the CAFE standard to 40 miles per gallon.

So this amendment is reasonable, it is doable, and it is the right step toward reducing our dependence on foreign oil.

But there are a few standard myths invoked by opponents of better fuel economy standards that could prevent some of our colleagues from supporting this amendment. I would like to try to straighten that out.

For example, we usually hear that jobs will be lost. Detroit worries that requiring better mileage standards will hurt car sales and lead to job losses.

But I submit that by their insistence on maintaining a decades-old status quo, American car manufacturers are stuck in reverse.

Instead of improving fuel economy, we have just hit a 22-year low.

The Big Three have demonstrated considerable skill in improving everything about American vehicles—except for their fuel economy.

It is that backward thinking that will actually hurt their businesses and lead to job losses.

EPA's Green Vehicle Guide for 2003 models revealed that out of the top 75 most fuel efficient vehicles, there were only four American models—only four! We can do better than that!

Another claim often heard is that lighter cars will lead to more highway deaths.

I submit this is a disingenuous and specious scare tactic.

In fact, a University of Michigan study found that based on deaths per million vehicles sold, SUVs are more dangerous than most types of cars on the road.

Contrary to conventional wisdom, the study went on to say that many small cars have lower total mortality rates than SUVs.

In other words, vehicle weight does not necessarily determine a vehicle's overall safety performance.

The Big Three insist that they are victims of "consumer choice," that they only give American car buyers what they demand.

But while Americans like the convenience of an SUV, they certainly don't like to spend $45 or $50 filling the tank once or twice a week.

Americans want fuel-efficient automobiles which save them money at the pump.

The facts are clear. For the health of Americans, for environmental protection, for our energy security and for our pocketbooks, I urge my colleagues to close the SUV loophole and raise the bar for CAFE standards by voting for the Durbin amendment.

I also not once again the fact that there is a sufficient period of time put out there for these standards to be met.

I yield the floor.

Mr. FEINGOLD. Mr. President, I am voting in favor of the Bond-Levin Amendment, and I want to explain my views in detail. Fuel efficiency is a critically important issue for our country, for my home State of Wisconsin, and for our future. I remain committed to the goal that significant improvements in automobile and light truck fuel efficiency can be achieved over an appropriate time frame. Some will argue that my vote for Levin-Bond is a vote against increasing Corporate Average Fuel Economy, CAFE, standards; I do not share that view. The Bond-Levin amendment seeks to renew the Department of Transportation's role in setting CAFE standards acting through the National Highway Traffic Safety Administration, NHTSA. It requires NHTSA to set new standards by a time certain. If Congress does not act today to try to restore normalcy to the NHTSA process, Congress will always either block or act to set CAFE standards, every 20 years or so, when the political will is sufficient to do so. It will never become part of the normal process of reviewing and incrementally improving fuel efficiency for automobiles, as Congress originally intended when it passed the CAFE law in the 1970s.

As I did in the debate on last year's energy bill, I am committing myself to a consistent position on CAFE. Other interests have not done so. With my vote, I am affirming my past position, and I want to explain the evolution of that position.

Months prior to the midterm elections in 1994, NHTSA published a notice of possible adjustment to the fuel economy standards for trucks before the end of the decade. The following year, however, the House-passed version of the fiscal year 1996 Department of Transportation Appropriations bill prohibited the use of authorized funds to promulgate any CAFE rules. The Senate version did not include the language, but it was restored in conference. Much the same scenario occurred in the second session of the 104th and the first session of the 105th Congresses. In both those sessions, a similar rider was passed by the House and not by the Senate, but included by the conferees and enacted. However, the growth in gasoline consumption and the size of the light-duty truck fleet were concerns cited behind introduction in the Senate of an amendment to the bill expressing the Sense of the Senate that the conferees should not agree to the House-passed rider for fiscal year 2000. The amendment, sponsored by the former Senator from Washington, Mr. Gorton, and the Senator from California, Mrs. FEINSTEIN, was defeated in the Senate on September 15, 1999 by a vote of 55-40 and the rider was once again enacted into law.

As I stated on the Senate floor in the debates on the CAFE rider on June 15, 2000, my vote was about "Congress getting out of the way and letting a federal agency meet the requirements of federal law originally imposed by Congress." I supported removing the rider because I was concerned that Congress had blocked NHTSA from meeting its legal duty to evaluate whether there is a need to modify fuel economy standards by legislative rider.

As I made clear then, I have made no determination about what fuel economy standards should be, though I do think that additional increases are possible, and that the recent rulemaking affirms that view. NHTSA has the authority to set new standards for a given model year taking into account several factors: technological feasibility, economic practicability, other vehicle standards such as those for safety and environmental performance, the need to conserve energy, and the recommendations of the National Academy of Sciences. I want NHTSA to fully and fairly evaluate all the criteria, and then make an objective recommendation on the basis of those facts. I expect NHTSA to consult with all interested parties—unions, environmental interests, auto manufacturers, and interested citizens—in developing this rule. And, I expect NHTSA to act, and if it does not, this amendment requires Congress to act on a standard.

Voting against the Bond-Levin amendment would mean that I subscribe to the view that the rulemaking process cannot work. I do not support that view, just as I could not support retaining the CAFE rider in law.

The NHTSA should be allowed to set this standard. Congress is not the best forum for understanding whether or not improvements in fuel economy can and should be made using existing technologies or whether emerging technologies may have the potential to improve fuel economy. Changes in fuel economy standards could have a variety of consequences. I seek to understand those consequences and to balance the concerns of those interested in seeing improvements to fuel economy as a means of reducing gasoline consumption, dependence upon foreign oil, and associated pollution.

In the end, I would like to see that Wisconsin consumers, indeed all consumers, have a wide range of new automobiles, SUVs, and trucks available to them that are as fuel efficient as can be achieved while balancing energy concerns with technological and economic impacts. That balancing is required by the law. I fully expect NHTSA to proceed expeditiously with the intent to fully consider all those factors, and this amendment ensures they do so.

In supporting this amendment, I maintain the position that it is my job to ensure that the agency responsible for setting fuel economy be allowed to do its job. I expect them to be fair and neutral in that process and I will work with interested Wisconsinites to ensure that their views are represented and the regulatory process proceeds in a fair and reasonable manner toward whatever conclusions the merits will support.

Ms. MIKULSKI. Mr. President, I rise as a cosponsor of the Bond-Levin amendment to provide a reasonable compromise on CAFE standards. Our amendment provides a strategy for energy conservation while safeguarding American jobs. I strongly believe in energy conservation, and I support the effort to build more fuel efficient cars. Yet I also believe in job conservation. I believe we can improve the fuel efficiency of our cars without making it even harder for American workers to compete.

In considering any fuel efficiency standard proposal, I apply four criteria. Any proposal must achieve real savings in oil consumption. Secondly, it must preserve U.S. jobs. The goals for increased CAFE standards must be realizable and achievable by giving companies a reasonable lead time to adjust their production. And finally, it must create incentives to enable companies to achieve these goals. The Bond-Levin amendment meets this criteria.

I strongly agree with the underlying goals of greater fuel efficiency and energy conservation associated with increases in CAFE standards. We desperately need to reduce our dependence on foreign oil. We use about 20 million barrels of oil a day. About 40 percent of that goes to fuel cars and light trucks. Half of our oil is imported, a quarter of which from the Persian Gulf. It is imported from countries like Saudi Arabia, which sits on roughly two-thirds of all the oil reserves in the world. A reduction in our dependency on foreign oil would also greatly increase our flexibility in the war against terrorism. That's why I supported the Landrieu amendment. This amendment requires the President to submit to Congress a yearly report on the progress made toward reducing our dependency on foreign petroleum imports by 2013. This amendment also requires the Administration to develop and implement strategies to reduce our dependency by 1 million barrels of oil per day by 2015.

I support the key provisions in the energy bill that will help us conserve fuel. We need to build on these innovative provisions that encourage better fuel economy. And we must do it in a way that doesn't cost American jobs. That's why I oppose legislating arbitrary increases on CAFE.

Arbitrary increases in CAFE would be counterproductive. Any increase should be a question of science, not the result of legislative compromise. The NAS study said the most efficient small car could achieve 35.1 mpg within 15 years and the most efficient small truck could achieve 30 mpg within 15 years. One standard for small cars, one for small trucks. The study said nothing about a combined calculation for cars and trucks. There was no recommendation for an entire vehicle fleet.

Other proposals which call for an arbitrary increase in CAFE would have a devastating effect on our Nation's biggest industry—the automobile industry. It is unfair to the American auto worker. In my State of Maryland, 1,500 people work at the GM plant at Broening Highway in Baltimore building mini-vans. The workforce at the Broening Highway plant is down from 2,700 workers in the mid 1980's. Arbitrary increases would give an unfair advantage to foreign car manufactures and penalize U.S. automakers and auto workers, like the hard-working men and women at the Broening Highway plant, for selling vehicles that Americans are actually buying.

Large vehicles represent a small portion of the total fleet of European and Japanese auto companies. These companies produce so many smaller cars because that's what their customers buy. Most of their markets are in Europe and Asia where the landscape is much different. Consumers pay as much as $4 or $5 per gallon of gas. They have narrower roads and a limited highway infrastructure. Bringing a small fleet into the U.S. allows them to easily comply with our fuel economy standards. Even when you include their SUV's and light trucks, the average fuel efficiency standard for their fleet is still low.

When a foreign auto maker exceeds our fuel efficiency standards they also earn CAFE "credits" to buffer them in future years. These credits can be shifted to offset shortfalls for up to three model years. This means that if companies have a banner year selling smaller, more efficient vehicles, they can buffer future sales of larger trucks and SUVs. But this does not mean that foreign manufacturers sell more fuel efficient trucks and SUVs. In fact, the difference is usually 3–4 mpg. Their dependence on a smaller fleet allows them to enter the truck and SUV market without worrying about the CAFE standards of the larger vehicles.

Over the past decade, U.S. manufacturers struggled to meet CAFE requirements across a full-line of vehicles—both cars and trucks. Because a higher proportion of the U.S. automakers' fleets are trucks, raising CAFE standards will have more severe adverse effects on GM, Ford, and DaimlerChrysler than on other manufacturers.

Proposals to increase CAFE standards are also unattainable. They set aggressive standards on too short a timeline. This is in direct contrast to the NAS panel, which states "Technology changes require very long times to be introduced into the manufacturers' product lines."

Within any argument on CAFE, we must not forget to take into account the demands of consumers. A drastic increase in fuel efficiency standards causes a drastic change in the types of cars, which causes a limited choice of available cars and trucks for consumers. Alternate proposals set a default level for light trucks that is not achieved by ANY light truck on the road today. This would effectively cap the sales of light trucks—it would curb consumer choice.

I believe we can find other ways to achieve fuel conservation that won't cost American jobs. Our domestic automakers have already been weakened by the current recession, and we can't rely on foreign manufacturers to provide American jobs.

The numbers don't lie. The NAS reports that the United Auto Workers has seen its membership drop from 1.4 million members to 670,000 from 1980 through 2000. This loss was countered by the creation of only 35,000 jobs in assembly plants built in the U.S. by foreign automakers although imports have risen by 9 percent over the past 8 years. Our domestic auto share is falling. Only 64 percent of cars bought in America today are built in America compared to 73.9 percent in 1994. 1,000 workers were recently laid off at the GM plant in Baltimore, and the plant went through another shutdown after slow sales. In fact, GM shut down 14 of its 29 North American assembly plants for at least a week last year.

Today, all manufacturers have advanced technology programs to improve vehicle fuel efficiency, lower emissions and increase occupant protection. A return to a flawed regulatory program of higher CAFE standards would divert resources from these efforts. Raising CAFE standards to levels that effectively squash the American auto industry is not the only solution. Senators BOND and LEVIN have an alternative that is reasonable and fair. It brings together two common goals of Increasing fuel efficiency and protecting jobs and the American economy.

The Bond-Levin amendment directs the Department of Transportation to increase CAFE standards for cars and light duty trucks based on several factors. These include the desirability of reducing our dependence on foreign oil; the effect on U.S. employment; impacts on motor vehicle safety; cost and lead time required for introduction of new technologies; and the effects of increased fuel economy on air quality.

It also directs the Department of Transportation to complete two rulemakings. First, they must complete a rulemaking within 30 months to increase standards for passenger cars. Second, they must complete a rulemaking to increase standards for light trucks no later than April 2006. This will go into effect for model year 2008. Each rulemaking is to be given on a muliti-year basis, but cannot exceed 15 model years. This amendment also directs Congress to take action on CAFE should the DOT not take action in the required timeframe.

This bi-partisan amendment also includes expanded research and development into the production of hybrid electric vehicles and to improve diesel combustion. It authorizes $50 million per year over the next three years to conduct the hybrid electric technology research, and $75 million per year over the next three years for advanced combustion engine research and development.

Finally, the Bond-Levin amendment requires the Federal Government to purchase advanced technology vehicles, beginning in 2005. Hybrid vehicles must be purchased or leased for light duty truck fleets and alternative fuel vehicles must be purchased or leased for passenger car fleets.

We can have both energy conservation and job conservation. But it cannot be done by changing a number. It will take innovative solutions, improved technology, and the setting of realistic, achievable goals. The Bond-Levin amendment accomplishes these goals.

I urge my colleagues to join me in supporting the Bond-Levin amendment.

Thank you.

Mr. DOMENICI. Mr. President, parliamentary inquiry: I just returned, and I apologize. Where are we now? As I understand it, some time was used on a matter other than this bill charged to other matters. How much time is left now, and who has the time?

The PRESIDING OFFICER. The Senator from New Jersey has 4 minutes remaining. The Senator from Illinois has 15 minutes. The junior Senator from New Mexico has 5 minutes. The senior Senator has 5 minutes. The Senator from Mississippi has 1½ minutes.

Mr. DOMENICI. I note the distinguished minority whip is here.

The PRESIDING OFFICER. Does the Senator from New Jersey yield his time?

Mr. REID. No. He is not yielding back his time.

Mr. DOMENICI. He did. Yes.

Mr. LAUTENBERG. I am reserving the rest of my time.

Mr. REID. Mr. President, now that the manager of the bill is here, I renew a unanimous consent request that I made a short time ago. I ask unanimous consent that the Feinstein CAFE amendment be the next Democratic amendment in order. In addition to the unanimous consent request, I know the Republican manager has first right of recognition, but there is going to come a time when we offer our next amendment. I am alerting everyone that it will be the Feinstein CAFE amendment.

Mr. DOMENICI. We object to granting you that privilege at this point. We understand the time will come, but it isn't certain that she will have the next amendment. That is the point.

Mr. REID. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator does not have time under the agreement.

Mr. REID. I ask unanimous consent to have the Lautenberg time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, all day we have heard that we are slow-walking this bill. In an effort to help manage what goes on here, we have asked the Senator from California who has a CAFE amendment to be the next in order. We have 382 amendments. We have about half of them over here. Any one of the Senators can call up any one of their amendments. I think it would be in the best interest of the Senate if we have an orderly process for offering these amendments. This does not disadvantage the majority in any way. We have done what we can to help move this bill forward. Senator FEINSTEIN spoke. She came over to offer this amendment and couldn't do it.

Mr. DOMENICI. We have no objection. I misunderstood. I apologize. If you want the RECORD to reflect that the next Democratic amendment will be Senator FEINSTEIN's amendment on CAFE, we have no objection.

Mr. REID. Mr. President, so there is no misunderstanding. I ask unanimous consent—this is for the Democratic Senators—that next Democratic amendment that we offer, whenever that might be, will be the Feinstein CAFE amendment.

Mr. DOMENICI. That is correct; whenever you do.

Mr. REID. That is right.

Mr. DOMENICI. So you don't have any misunderstanding either, we will be finished with the debate and, as we understand it, we will then vote.

Mr. REID. We will vote. Following that vote we have two amendments to dispose of—another Durbin amendment which may work out very easily, and the second is the Campbell amendment. Following that, we have been advised on several occasions that the majority who has first right of recognition wants to offer the new electricity section.

Mr. DOMENICI. That is correct.

Mr. REID. That is fine. Whenever we offer our next amendment, Senator FEINSTEIN will offer her amendment on CAFE.

Mr. DOMENICI. We want to accommodate. If there was any misunderstanding, it perhaps was on my part. I have no objection.

I yield the floor and suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to the remaining three Senators.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, how much time remains for me to discuss the Levin-Bond amendment and the Durbin amendment under the unanimous consent agreement?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BINGAMAN. Mr. President, let me speak for that 4 minutes to indicate my opposition to the Levin-Bond amendment. As I see that amendment, by adopting it, we would do two things. First, we would be erecting new barriers to the development of meaningful fuel economy standards. Secondly, we would be effectively walking away from an opportunity to do something right about decreasing our growing oil consumption. In both cases, we would be making a mistake.

The Bond-Levin amendment establishes additional criteria that would impose unnecessary hurdles to any significant increase in fuel efficiency standards. There are multiple new factors such as the effect of CAFE standards on the relative competitiveness of manufacturers and levels of U.S. employment. Those kinds of criteria are being added to the current rulemaking process. In my view, adding those kinds of criteria will only cause the courts to revisit the careful balance that is already struck in the present statute.

NHTSA already considers in-depth evaluations of the impact of a standard on safety, on the environment, and on American jobs. And the Levin-Bond amendment complicates the agency's task by providing a lengthy list of 13 items which, in my view, are unnecessary and deliberately vague new statutory provisions that have to be considered.

This is not progress. We need to be honest with the American people and ourselves and recognize that if Alan Greenspan cannot even tell us the effect of a small drop in interest rates on the economy in the near future—as it is clear that he cannot and has not been able to, and he readily admits has not been able to—how can we expect the National Highway Transportation Safety Administration to possibly determine with accuracy the effect of any change in CAFE standards on employment levels or on relative competitiveness?

Passenger vehicles today already use more petroleum than is currently produced in the United States. The Energy Information Agency projects consumption to increase an additional 2 million barrels per day before the end of this decade. Consumer preference has switched to light trucks and sport utility vehicles in recent years, and this has caused the average fuel economy in the U.S. passenger fleet to actually drop rather than improve. We are going backward with regard to fuel efficiency in vehicles.

Today, we have the lowest fuel efficiency we have had since the early 1980s in our entire fleet of vehicles. A decision not to increase CAFE standards significantly is a decision to become more and more dependent on foreign energy sources.

I just returned from a meeting in the White House, where the President met with many of us, including my colleague from New Mexico, myself, the majority leader, the Democratic leader, and all of us were talking about how important it is that we move ahead with progressive energy legislation, and that we do so in order to reduce our dependence on foreign oil. The biggest factor causing an increased dependence on foreign oil is the increase in the use of oil and gasoline in motor vehicles. Instead of increasing the efficiency with which we reduce the efficiency of our motor vehicles, we are moving in just the opposite direction.

Despite what automakers are saying, new engines, transmission, and hybrid technologies are now available to give automakers the means to increase gas mileage over the next 10 years without reducing either vehicle size or weight. Mr. President, we drove to the White House a few minutes ago in a new Honda Civic that is a hybrid. The average miles per gallon of that vehicle is between 45 and 50 miles.

It is very unfortunate, in my view, that the only hybrid vehicles available to a U.S. consumer today are Japanese vehicles. They are the hybrid that is produced by Honda and the hybrid produced by Toyota.

I see that my time is up. I urge my colleagues to oppose the Levin-Bond amendment. I do support Senator DURBIN's amendment. I hope we can adopt that amendment and make some significant progress toward increasing vehicle fuel efficiency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, would you tell me how much time there is before the votes on the Durbin and Bond-Levin amendments?

The PRESIDING OFFICER. The Senator from Illinois has 12 minutes; the Senator from New Jersey has 1 minute 40 seconds; the Senator from New Mexico has 3 minutes 45 seconds; the Senator from Mississippi has 1 minute 8 seconds.

Mr. REID. Will the Senator yield?

Mr. DURBIN. Not on my time.

Mr. REID. This will be off of Senator LAUTENBERG's time. The Senator from Missouri, Mr. BOND, has asked that the proponents of these amendments have some time to speak before the votes take place. Senator DURBIN should be able to speak last, which is normal; it is his amendment. I want to make sure everybody has ample time to speak. The Senator from Missouri said he wants 2 or 3 minutes. Is that OK if Senator BOND has 2 minutes?

Mr. DOMENICI. That is fine. I was going to make sure he got it by giving him some of mine. I appreciate that very much. It is hard to say who should speak last because the first amendment to be voted on is Senator BOND's amendment. Maybe he should be speaking last. If that is the way we are going to do it——

Mr. BOND. Mr. President, to clarify, is there time after the vote on the Durbin amendment for debate on the Bond-Levin amendment?

Mr. REID. The Senator said you are going to be first.

Mr. BOND. Is there time for debate after that on the Bond-Levin amendment?

Mr. REID. Mr. President, I ask unanimous consent that there be 4 minutes equally divided.

Mr. DURBIN. Mr. President, what is the regular order of the votes on the amendments?

The PRESIDING OFFICER. The vote will occur first on the Durbin amendment, followed by the Bond amendment.

Mr. DURBIN. If I understand the unanimous consent request by the Senator from Nevada, there will be 4 minutes before the vote on the amendment of the Senator from Missouri.

Mr. REID. I modify my request to that effect.

Mr. BOND. There will be time allotted for those of us on the other side prior to the Durbin amendment—who has the last minutes on that, I ask the managers?

Mr. DOMENICI. Well, look, Senator DURBIN has 15 minutes. We don't need to give him any more time. He can save 2 of that for just before the vote. We need to save Senator BOND 2 minutes. We need to give Senator BOND 2 minutes to speak in opposition. Senator DURBIN doesn't need any additional minutes beyond the 15.

Mr. DURBIN. I probably have all I need.

Mr. DOMENICI. I thought you had been speaking all afternoon—but it is eloquent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Mr. President, please alert me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will do so.

Mr. DURBIN. Mr. President, before us is the most important single amendment on the question of energy security of the United States. That is quite a bold assertion but I stand by that because we understand how dependent we are on foreign oil. We understand that as long as the cars and trucks that we use in America are not fuel efficient, we will continue to have this dependence on foreign oil. So if we want to secure the Nation from an energy point of view, we have to show leadership on the floor of the Senate. We did that in 1975; 28 years ago, we established standards that said to those producing cars for sale in America: You are not doing a good enough job. Fourteen miles a gallon is unacceptable. You have to do better and we will give you 10 years to improve that. And they did.

At the end of 10 years, 27 and a half miles per gallon was the average fleet economy average across America. It was done because this Congress had the will. This Congress stood up to the special interest groups and said it is more important for the energy future of America and for families and businesses for us to have fuel efficiency. Look what we got for it: safe, fuel-efficient vehicles by 1985—double the fuel efficiency of just 10 years before.

Now I come to the floor and say, why haven't we done anything since 1985? Eighteen years of inaction. Isn't it time for us to show leadership again? You would think I was proposing the end of the automobile industry in America. Listen to the arguments we hear from the other side. A Senator came on the floor today and said: If DURBIN has his way, we are all going to be driving golf carts.

Get real. The technology is there. Don't take my word for it. I am a liberal arts lawyer. What do I know about engineering?

In 2001, the National Research Council came out with a report specifying all the technologies currently available that could increase fuel efficiency in cars and trucks. Why aren't they being put on those vehicles? Because Detroit doesn't have the will to do it. And because they don't, we continue to be sold heavier, more cumbersome, and, in many respects, more dangerous vehicles, with even worse fuel economy; we continue to import oil from overseas and be dependent on the Middle East; we continue to burn that oil, polluting the environment, creating greenhouse gases, resulting in public health problems and a degradation of the environment and, frankly, endangering species on Earth that could live, because they are God's creation, but will be destroyed because we are ignoring our responsibility today.

There are those who said: We cannot do this. We must understand that when it comes to this technology war between the United States and other countries, those who oppose this amendment say: Don't you understand, Senator DURBIN, we are not up to this fight; we cannot win this fight; we have to find a way to avoid this battle. And I will say to them: That is not my point of view. I believe America can compete. We have proven it in the past. We proved it in 1975.

These people who are so afraid that we will be forced to put a more fuel efficient car on the road that is also safe have told us it is impossible, and leading that chorus is none other than the big three in Detroit, once again falling behind when it comes to a global challenge to do the right thing. That is sad.

For those of us who want to encourage American automobile manufacture, for those of us who want to stand behind those workers, I ask them the simple question: Why are they afraid to lead? Why are they afraid of a challenge to their creativity, to their innovation, to their leadership? Why must we always take second place when it comes to automobile technology? I think America is capable of much more. But those doubters, those who do not believe America is up to the challenge, say: Defeat the Durbin amendment. If you establish a standard of 40 miles a gallon, America is throwing in the towel; we are giving up; no way we can compete on that kind of a standard.

They also say—and this is the saddest part of their argument—we also know foreign countries can compete and will compete successfully against us. What a sad commentary on American industry for the critics of this amendment to come up with that argument. I do not stand by it. I think if we show our leadership, they will show theirs. They did it in 1975; they can do it again today.

There is an old story—and it is probably anecdotal—that after we passed the CAFE standards in 1975 and said we wanted better fuel efficiency in our cars, in Japan they got the message of the passage of this new law and they said: Go out and hire an army of engineers; we have to be ready to compete. When they got the news of the passage of this new law in Detroit, they called all their leaders together and said: Go out and hire an army of lawyers to fight this law. That is sadly reflective of the mentality that comes to the floor today.

Instead of saying American industry can do better, that American families can expect more, that the next generation will have more safe and fuel-efficient cars, the opponents of this amendment say it is impossible, it cannot be done, and it can only be achieved at the expense of the American automobile industry.

That is a sad commentary. Frankly, it is one we should reject. I say to my colleagues in the Senate: If this Energy bill that involves so much work by so many people, S. 14, is to have any value, aren't we going to address the most important single use of energy by American families and businesses today—our transportation sector and its utilization of the imports of oil? If we do not do that, this bill is just window dressing. It is nice.

There are some aspects of the bill I actually like, but it does not get to the heart of the issue. It fears the heart of the issue because there are people who are afraid of it, and I think they are just plain wrong.

Let me mention a couple of other arguments brought up by my opponents. They said the Durbin amendment achieving 40 miles a gallon by 2015 is too fast and too furious. I remind them, the Durbin amendment is an increase of less than 1 mile per gallon per year for the first 6 years. That is hardly fast and furious.

They say my amendment is going to terminate jobs, safety, and consumer choice. The same weak arguments were made in 1975, and they should be rejected today as they were in 1975.

They say my CAFE levels are arbitrary. Listen, we use a standard, not political argument. The National Academy of Sciences already identified the technologies that can be put in cars and trucks effectively. They also say the Bond-Levin amendment is a great leap forward, but it is a great leap forward for litigation.

The Bond-Levin amendment is not an invitation to innovation; it is an invitation to litigation. Let me tell my colleagues why I say that. They establish the standards by which we can improve fuel efficiency in America through the National Highway Traffic Safety Administration. On one side of this chart are the existing standards. There are a handful of them. The opponents of my amendment decided to add all of these items to the standards that have to be followed by NHTSA before they can improve fuel economy.

What does this mean? It means that if they ever muster the courage to say we can have more fuel efficient vehicles, they will be challenged in court on each and every one of these elements. They will be tied up in court for years. That is exactly what the opponents of the Durbin amendment want. They do not want to see more fuel efficiency. They want this delayed indefinitely. And that delay means more dependence on foreign oil. It means more pollution. It means less energy security for America.

To come up with all of these new categories that have to be met is just a guarantee that, in our lifetime, we will never see a change. For 18 years we have not. NHTSA, left on its own for the last 18 years, has nominally improved MPG, miles per gallon, in America by 1.5 miles per gallon—in 18 years. How long will it take us to reach 32 miles a gallon by that standard? We would not see it this century. That is how slow they are today.

In comes the Bond-Levin amendment and it says: Let's throw some other categories in here and obstacles to increasing fuel efficiency.

The American people get this. American businesses do, too. They understand that more fuel efficient vehicles are going to make a more productive economy, make certain that America is more competitive, make certain there are more and good paying jobs. We are not going to throw in the towel. With the Durbin amendment, we accept the challenge that we can keep our love affair with the automobile alive but do it in a responsible way. It is the kind of situation our Nation has responded to time and again, and I think we should today.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

The Senator from Missouri.

Mr. BOND. Mr. President, obviously, I do not have the time the Senator from Illinois has, but I do want to point out that the National Academy of Sciences says:

> The committee cannot emphasize strongly enough that cost efficient fuel economy levels are not recommended CAFE goals.

The National Academy of Sciences also said that when the politically driven fuel economy numbers were imposed in the seventies and eighties, somewhere roughly approximating 2,000 deaths a year occurred on the highways due to smaller cars. Talk about the production of automobiles in auto-related industries in Missouri and Illinois, even in New Mexico: 21,000 in New Mexico; 16,000 in Rhode Island; 221,000 in Missouri; 331,000 jobs in Illinois.

I previously submitted for the RECORD a letter from the United Auto Workers saying it would endanger the jobs of their members.

Furthermore, we also know it does not relate to consumer choice. Thirty cars on the road today get more than 30 miles per gallon, and they represent only 2 percent of the sales. Consumers do not want them. Unless we have to tell people what they have to drive, we are not going to get them to drive around in these cars unless and until we get the technology to produce more fuel efficient cars.

We have seen NHTSA, the National Highway Traffic Safety Administration, make the most significant increase in fuel economy with their light truck standards which are going into effect. We mandate in the Bond-Levin amendment that the maximum feasible technology be utilized to increase standards in the future.

Let's get real. Let's talk about what is technologically feasible, what will continue jobs, get better fuel economy, not risk the lives of the drivers on the road and their families, and also not throw out of work the very wonderful American men and women who are making these automobiles in my State and others.

I urge my colleagues to reject the Durbin amendment and support the Bond-Levin amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have how many minutes?

The PRESIDING OFFICER. Two minutes 53 seconds.

Mr. DOMENICI. Mr. President, I will try to do it in that period of time. I ask unanimous consent for 3 minutes instead of the 2 minutes and something.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, the Senator from New Mexico, the manager of this bill, can have whatever time he wants.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I think I am going to do it in 2 minutes and whatever few seconds.

First, I have been looking forward to this debate all day because it is a very mature debate. The Senate spent a good deal of time last year discussing these two amendments, as well as others. The Feinstein amendment we agreed to and that we will be talking about, I think we discussed it heretofore also, but in any event, a lot of time has been spent discussing these amendments.

In addition to these amendments, I remind Senators that we have already adopted an amendment, that came as quite a surprise, by Senator LANDRIEU that would require the President to develop a plan to reduce domestic petroleum consumption by 1 million barrels a day by 2013. Since major reductions in oil consumption are most likely going to be achieved through reductions in the use of transport fuels, the President, as a result of the Landrieu amendment, will probably have to focus on measures to increase fuel economy.

I suggest to Senators that the Landrieu amendment may obviate the need for further debate. Nonetheless, we are debating and we will continue to debate. It seems to me the Landrieu amendment gives the President the kind of authority and flexibility needed in this country if, in fact, this issue is as important as it is being alluded to.

Keeping that in mind, if the Senate must choose among the offered CAFE amendments, I must lend my support to the amendment offered by Senator BOND and Senator LEVIN. Under Bond-Levin, standards will be based upon sound science and solid technical advice. Their amendment mandates that NHTSA experts set a new CAFE number considering jobs, safety, technology, and other key factors.

The Bond-Levin amendment passed overwhelmingly last year. I do not think much has changed. As a matter of fact, we are a little bit more secure in terms of energy now. We are still using a lot, maybe more, but the world is a little more secure in terms of oil dependence. The amendment they have offered is what I would call a commonsense amendment. It would not adversely affect employment, safety, or consumer choice, but it would do the job.

Incidentally, the amendment is supported by the United Auto Workers, the National Chamber of Commerce, the AFL–CIO, the Association of Manufacturers, the Farm Bureau of America, and over 30 additional associations.

When combined with the considerable tax incentives for advanced vehicle technology in the Finance Committee package, the Bond-Levin amendment offers a sensible way to achieve fuel efficiency gains and to reduce our dependence on foreign oil. It does so in a way that would not hurt the United States economy, increase vehicle cost to consumers, and cost American jobs or endanger lives.

I understand the distinguished Senator from Illinois has about 3 minutes, after which time we will start a vote.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

Mr. DURBIN. Mr. President, I understand I have 3 minutes to close the debate, is that right?

The PRESIDING OFFICER. Two minutes and 45 seconds.

Mr. DURBIN. I ask unanimous consent that a list of organizations supporting the Durbin amendment, as well as a letter from Mr. Chuck Frank of Z. Frank, the world's largest Chevrolet dealer, who supports my amendment, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SUPPORT FOR THE DURBIN CAFE AMENDMENT

Cosponsors: Nelson (FL), Jeffords, Reed (RI), Reid (NV), Kennedy, Boxer, Lautenberg.

Supporting Organizations: Sierra Club, Union of Concerned Scientists, Natural Resources Defense Council, U.S. PIRG, National Environmental Trust, Friends of the Earth, Public Citizen, The Wilderness Society, Citizen Action Illinois.

Coalition on the Environment and Jewish Life, National Council of Churches, Hadassah, the Women's Zionist Organization of America, American Jewish Committee, Jewish Council for Public Affairs, Union of American Hebrew Congregations, Central Conference of American Rabbis, MoveOn, Chesapeake Climate Action Network.

JULY 24, 2003.

Hon. RICHARD DURBIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURBIN: I am writing in support of raising fuel economy standards. I am the President of "Z" Frank Chevrolet. I've sold well over 1,000,000 vehicles. My family has been selling and leasing cars and trucks in Chicago since 1936. Before entering the family business in 1976, I graduated from George Washington University and then the University of Chicago Graduate School of Business. I have been a Chevrolet dealer since 1982 and since then have also held franchises from Oldsmobile, Hyundai, Mazda, Subaru and Volkswagen.

I know the car business, and I know that car companies can, and must, do better for the sake of our country.

I call on you to support the three CAFE related amendments that are expected to be offered—the Durbin amendment, the Kerry/McCain amendment and the Feinstein/Snowe amendment.

I support these amendments because I know that cars, SUVs and other light trucks consume 8 million barrels of oil every day and account for 20 percent of U.S. global warming emissions. At a time when energy security is a national priority, raising fuel economy standards will cut the country's dangerous dependence on oil, curb global warming, and save consumers money at the gas pump. Raising fuel economy standards is the best way to manage our energy future and encourage automakers to implement technologies that already exist.

How do I know that the auto companies can make vehicles that go further on a gallon of gas? Because they're already doing it with a small number of vehicles!

Existing fuel-saving technologies like more efficient engines, smarter transmissions, and sleeker aerodynamics are being put in some vehicles, but they could be in all. Already this year, we have seen a host of announcements showing that all kinds of vehicles can get better fuel economy using existing technology. For instance:

General Motors announced that it will be putting Displacement on Demand technology in 100,000 Chevy Trailblazers and GMC Envoys, helping improve the fuel economy of these large SUVs. Continuously Variable Transmissions are also gaining in popularity.

Hybrid-electric drivetrains are also becoming available in a range of vehicles. At this year's Detroit Auto Show, Ford, General Motors, and Toyota all announced that they will have hybrid gasoline-electric SUVs on the road within two years that will get close to 40 miles per gallon.

Toyota already has a hybrid gasoline-electric car on the road, the Prius, and plans on having SUVs and more hybrid cars as well. The Chevrolet Malibu will have a hybrid version by 2005.

J.D. Power and Associates has forecasted that sales of hybrid-electric vehicles will reach 500,000 within five years.

It is not easy for me to be at odds with the manufacturer I represent. Selling Chevrolets has been very financially beneficial for me and my family. But the fact is, they can and must do better. They can build cars, trucks and SUVs that are safe, affordable, and exciting to drive, while still going further on a gallon of gas. It's in the best interest of our country to raise the fuel economy standards of our cars and light trucks. Please feel free to share this letter with others. I hope it helps.

Sincerely,

CHARLES E. FRANK,
President, "Z" Frank Chevrolet.

Mr. DURBIN. Mr. President, when one lists all of the groups that oppose this, on business and labor, frankly, we would have found the same opposition in 1975. Those are the same groups that were arguing it is physically impossible for us to have more fuel-efficient cars. If they would have had their way, we would still all be driving cars at 14 miles a gallon or worse.

This Congress rejected those same groups and their positions 28 years ago, but we have not done a thing since. As a result, the fuel efficiency of our cars and trucks has gone down. Is that in the best interest of America? Is that as good as Congress can do, to abdicate our leadership and responsibility on something this essential?

I look at these automobile manufacturers—many of them are my friends and I have worked with them. Certainly, United Auto Workers has been one of my strongest supporting organizations since I have been involved in politics, but I just disagree with them. I believe America can do better. I think if we challenge American business and labor to work together for more fuel-efficient vehicles, they can rise to the challenge. But if we throw in the towel, as the Bond-Levin amendment does, then we know what is going to happen. We are going to continue to see this situation get worse.

The Senator from New Mexico talks about the Landrieu amendment, and I voted for it because it was a wonderful little message to include in this bill, but it does not have any teeth. It has no enforcement. What it basically says to the President is we hope he will see the light, we hope he will lead the way, and if he does, we would sure like to help him.

If that is the case, if that is all Congress is about, why do we have this bill? Why do we not say to the President of the United States, why doesn't he take care of the energy needs of America, and if he needs us, call us? Well, we do not say that. We say we accept our part of the responsibility to pass reasonable laws based on sound science to make America more energy secure.

I say to my colleagues, if we have an energy bill that does not address the fuel efficiency of vehicles, we have ignored the most important energy and environmental issue that should be debated under this bill. The special interests will have won the day again, as they failed in 1975, and as a result we will continue to see dependence on foreign oil, more air pollution, and less energy security for America.

That is not what we should promise to further generations, and I urge my colleagues to support my amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 1384.

The Senator from New Mexico.

Mr. DOMENICI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we are going to vote on this amendment, and then immediately following that, the next amendment will be the Bond-Levin amendment, which will be preceded by 2 minutes of debate on the part of Senator DURBIN in opposition and Senator BOND in favor. So Senators should know we have one vote, with 4 minutes of debate followed by another vote. I ask unanimous consent that the second vote be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 1384.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—32

Akaka
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Collins
Corzine
Daschle
Dayton
Dodd
Durbin
Edwards
Feinstein
Gregg
Harkin
Hollings
Inouye
Jeffords
Kennedy
Lautenberg
Leahy
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Wyden

NAYS—65

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kohl
Kyl
Landrieu
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Graham (FL)
Kerry
Lieberman

The amendment (No. 1384) was rejected.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1386 AS AMENDED AND MODIFIED

Mr. DOMENICI. Madam President, fellow Senators, if you will not leave, we will vote again very shortly. There are 4 minutes with 2 minutes on each side, and then we will vote on the Bond-Levin amendment. The Senator from Illinois has the first 2 minutes and Senator BOND wraps it up. Then we will vote.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Madam President, under the unanimous consent agreement, I have 2 minutes to speak in opposition to this amendment.

I understand some of my colleagues have offered this amendment in good faith in an effort to address the issue. The amendment which was just defeated addressed the issue. It would have increased fuel efficiency of cars. This Bond-Levin amendment establishes additional criteria for the National Highway Traffic Safety Administration to meet before they recommend and implement any increase in fuel efficiency.

What does this mean? Here are the existing standards that have to be met with the passage of this amendment. We add all of these new standards that have to be met. There are more hurdles to be cleared. It is an invitation for litigation because as the rules are announced those who oppose them will be able to step forward and say: you didn't meet this Bond-Levin criteria or you didn't meet this one. It just means further delay.

We know what NHTSA has done on its own. It has increased fuel efficiency by 1.5 miles per gallon in a span of 18 years. This is false hope. This is a figleaf for those who just voted no and say they want to vote yes. I encourage my colleagues to oppose this amendment.

Mr. BOND. Madam President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, our amendment will increase full efficiency but in positive ways by giving incentives to purchase vehicles, by having the Government buy the vehicles which are leaps ahead in technology, and by having the Government be more involved in joint research and development. By the way, we don't add criteria which must be met. We add criteria which we want the Department of Transportation to consider.

Is there anyone who doesn't want the Department of Transportation to consider—consider—technological feasibility or safety or economic practicability or the effect on jobs?

These are not hurdles which must be jumped. These are simply relevant facts which we want NHTSA to consider. For the life of me, I cannot understand why all of us would not want NHTSA to consider those relevant facts.

Mr. BOND. Madam President, I ask unanimous consent that Senators BUNNING, VOINOVICH, and NICKLES be added as cosponsors.

I thank my colleagues for a very strong vote. With the Senator from Michigan and other cosponsors, we ask for your support of this measure.

As I indicated in my earlier remarks, there is strong support by the United Auto Workers which believes, as I do, and which I hope a vast majority of this body does, that we can move forward to make progress that is economically feasible to assure better fuel economy while not sacrificing safety and not sacrificing jobs but making it clear that we are going to use the technology to build on the most significant advance in fuel economy in 20 years that the National Highway Traffic Safety Administration has just promulgated for light trucks.

Let us continue to move forward with CAFE based on sound science and not political numbers. I urge my colleagues to support the Bond-Levin amendment.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 30, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—66

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chambliss
Clinton
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kohl
Landrieu
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—30

Akaka
Biden
Bingaman
Boxer
Cantwell
Chafee
Collins
Corzine
Daschle
Durbin
Feinstein
Gregg
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kyl
Lautenberg
Leahy
McCain
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Wyden

NOT VOTING—4

Edwards
Graham (FL)
Kerry
Lieberman

The amendment (No. 1386), as modified and amended, was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, if I may have the attention of Senators, please, there are two amendments. One is a Durbin amendment, which Senator DURBIN indicated when he sent it to the desk was sent up by mistake. It is a so-called Durbin No. 2 tax amendment. He said, then, that he would like to withdraw it.

I ask unanimous consent that he be permitted to withdraw that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Mexico retains the floor.

Mr. DOMENICI. Madam President, I move to table the Durbin amendment.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to table has been made.

Mr. DOMENICI. Parliamentary inquiry: Is a motion to set aside the Durbin tax amendment the pending business?

The PRESIDING OFFICER. The Senator has made a motion to table the Durbin amendment.

Mr. DOMENICI. A motion to table.

The PRESIDING OFFICER. That motion is not debatable.

Mr. DOMENICI. Let's go.

Mr. DASCHLE. Madam President, I ask unanimous consent that the motion be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. That having been done, I move to set the amendment aside.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. The amendment is withdrawn?

The PRESIDING OFFICER. The motion to table has been withdrawn.

Mr. DOMENICI. The amendment is still pending. I move to set the amendment of Senator DURBIN aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. I want to set both amendments aside so that I can proceed with another amendment. I ask unanimous consent that the Durbin amendment be set aside and that the Campbell amendment be set aside so that we may proceed with the electricity amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will not object, but I publicly express my appreciation to the Senator from Washington, Ms. CANTWELL, who has some very strong concerns that she hopes to express once we get on the electricity title. She has several amendments. I have asked the distinguished manager if it would be his intention to allow the Senator from Washington to offer some of these amendments tonight. It is my understanding—and he can confirm this—that he is prepared to allow the Senator from Washington to offer these amendments tonight. I know that the distinguished ranking member, the

Senator from New Mexico, also has an amendment he is prepared to offer. So it is with that understanding that the ranking member and the Senator from Washington will have amendments, and that the Senator from Washington will be recognized to offer those amendments. We do not object now to moving to the electricity title and setting aside the amendments that have been pending.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. I thank Senator CANTWELL for her cooperation. First, I assure her that what we have just done in no way jeopardizes her rights to offer amendments. She has not only one but maybe a number of amendments she wants to offer to the so-called electricity provisions. That will be offered next, and clearly we are going to be on it until Senators have no more amendments. So we are going to be here long enough for the amendments of Senator CANTWELL to be offered, whatever they are and however many there are.

AMENDMENT NO. 1412

Mr. DOMENICI. I send the electricity amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN, proposes an amendment numbered 1412.

Mr. DOMENICI. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DOMENICI. The electricity amendment pending at the desk has 13 cosponsors. I thank the cosponsors, Senator LANDRIEU, Senator THOMAS, Senator MURKOWSKI, Senator CAMPBELL, Senator SMITH, Senator ALEXANDER, Senator KYL, Senator NELSON of Nebraska, Senator HAGEL, Senator TALENT, Senator BUNNING, and Senator COLEMAN.

I have a very brief statement, and I trust Senators will listen. It is to the point. We will be on this until there are no more amendments to offer to this title.

Mr. DORGAN. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I will be pleased to yield.

Mr. DORGAN. Madam President, I wanted to make the point and ask the question on the electricity title. The Senator from New Mexico indicated that all amendments would be available to be offered, and I appreciate that. This title, of course, is somewhat controversial.

Mr. DOMENICI. Yes.

Mr. DORGAN. The question of protection for consumers is very important. It is a very complicated title. I hope everyone in the Senate wants to plug the holes that existed with respect to some of the previous price manipulations that went on, on the west coast. My hope is that it is not just a case of allowing people to offer amendments but to have the staffs on both sides to actively work together so that we understand these provisions and actually plug the holes that exist that failed to protect consumers on the west coast in the last couple of years.

I know that is what the Senator would like to have happen. I know we have people on this side who want that to happen. I hope we can work together to make sure we understand it and then fix it.

Mr. DOMENICI. Madam President, I can guarantee Senators that the Senator from New Mexico has worked for the last 7 months on this bill. The electricity amendment is a compromise supported by a broad array of stakeholders, much broader than I ever would have thought when I assumed the chairmanship of this committee. I believe that, per se, assumes that this amendment plugs all the so-called loopholes so there will not be any Enron end runs.

I repledge that I will work with any Senator who has an amendment that they think improves upon this bill. That does not mean, however, that every amendment that comes along, that says it makes this bill better, is going to be one that this Senator accepts. I do not want to return to the regulation of PUHCA as a way of protecting the consumers. Quite to the contrary. I believe its day has come. It has served its purpose.

There are a number of letters of support for this electricity amendment which I am offering. Let me start with the administration. They say they support the substitute electricity amendment and believe it will effectively modernize our Nation's antiquated electricity laws.

The National Rural Electric Cooperative Association:

Supports passage of the carefully crafted Domenici amendment without modification.

The American Public Power Association:

Strongly supports the compromise in its totality without modification.

The Large Public Power Council:

Supports the electricity substitute without modification.

Electric utility companies such as Mid-America, Allegheny, and Xcel, have offered their support for the Domenici electricity amendment, and I have now told my colleagues that it is supported by 13 Senators.

Because it is bipartisan, we might call it the Domenici-Landrieu amendment. For those who claim we need a balanced energy policy, here is a balanced electric title with wide support that needs to be included in our final bill. Some would add changes to it, and we are willing to look at them, but those who understand the complexities of the issues known as the Domenici electricity amendment know it represents a fair common ground. That is why there is support for this amendment without modification.

I know there will be a number of second-degree amendments, and I am willing to look at them. I have already said I am willing to look specifically at amendments from the distinguished Senator from Washington, Ms. CANTWELL. I will look at them carefully. I understand the significance of the problem she confronts. I do not support any amendments yet, and obviously if they disturb the delicate and sometimes gentle balance in this bill, I will have to oppose them. I will look with genuine interest, with the best talent I have, at amendments that Senators have if they think they really address the issues that have beset this country over the past 25, 26 months in terms of natural gas, utility prices, and utility companies and their shenanigans, such as at Enron.

The amendment is now pending. I am very proud of it, and I am pleased to be at this point. I thank the Chair for recognition, and I thank the Senate for paying attention. We are going to be open to amendments, and I understand my friend and colleague from New Mexico, Senator BINGAMAN, will probably have an amendment shortly.

I yield the floor.

The PRESIDING OFFICER. The junior Senator from New Mexico.

AMENDMENT NO. 1413 TO AMENDMENT NO. 1412

Mr. BINGAMAN. Madam President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 1413.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strengthen the Federal Energy Regulatory Commission's authority to review public utility mergers)

On page 41, after line 17, strike all that follows through page 43 line 10, and insert the following:

SEC. . ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

“(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value excess of $10,000,000,

“(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

“(C) purchase, acquire, or take any security of any other public utility, or

“(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.

“(2) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

“(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

“(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

“(A) will be consistent with the public interest;

“(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any party to the transaction;

“(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public; and

“(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

“(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds that the proposed transaction does not meet the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.

“(6) For purposes of this subsection, the terms ‘associate company’, ‘electric utility company’, ‘gas utility company’, ‘holding company’, and ‘holding company system’ have the meaning given those terms in section 1151 of the Energy Policy Act of 2003.”.

Mr. BINGAMAN. The amendment Senator DOMENICI has now offered is a substitute for the entire electricity title of the Energy bill. It purports to contain consumer protections in order to compensate for the fact that in this bill we are also proposing to repeal PUHCA. What is PUHCA? That is the Public Utility Holding Company Act.

I have to agree the substitute amendment Senator DOMENICI has provided does contain some increase in the authority the Federal Energy Regulatory Commission will have to review mergers and dispositions; that is, some increase in the authority of FERC to review mergers and acquisitions compared to the previous bill. I also concluded the substitute does not do enough to solve the problem.

The amendment I am offering contains the language we passed in last year's Senate Energy bill, language we believe fills this inadequacy, solves this problem in the underlying provision. Not only did the amendment pass the Senate last year, there was an amendment that would have removed this language. That amendment lost in the Senate by a vote of 67–29. Forty Senators voted for much stronger merger review authority than the provision contains.

FERC's merger review authority is essential in this industry which has been based on a system of local and regional monopolies. It is essential that authority be vested in FERC. The industry we are talking about historically has been based on local and regional monopolies and is moving toward depending much more on a competitive wholesale market for electricity generation. The industry is highly concentrated. Consolidation of generation and distribution transmission can prevent the development of a genuinely competitive market.

There are two big problems in the substitute provision Senator DOMENICI has provided with relation to merger and acquisition authority. Let me try to explain those.

First, this proposal does not cover the generation of energy. Everyone understands there are various parts to the energy industry. There are generation companies involved in generation, there are those involved in transmission, those that are involved in distribution, and some that are involved in all. However, generation is not covered under this language.

The second big problem is there are no real protections against cross-subsidies or encumbrance of assets owned by utilities. That raises a real prospect that people who pay utility bills will wind up subsidizing nonprofitable, unprofitable ventures that companies get into, particularly in the case where there are holding companies involved.

Let me talk about each of these issues. The first key failure I have talked about in the Domenici substitute is it does not make generation acquisitions or dispositions jurisdictional under the law. That means it does not give FERC authority over those. There is no requirement anyone oversee it at the Federal level and sign off on it.

For generation mergers, while it is true most activities in this area are divestiture of generation by vertically integrated utilities at this time, that may not always be the case. Utilities getting rid of generation do tend toward deconcentration of the market but not if they sell to large and growing generation companies. Instead of leading to less concentration, it can lead to more concentration, depending upon who is buying these generation facilities.

Without the authority provided in my amendment, FERC, which is charged with making sure the competitive market produces just and reasonable rates, would have to stand by and watch while the industry reconcentrates rather than deconcentrates. A single company could acquire every generator in this country and FERC could do nothing about it under the Domenici substitute. This is not compatible with the development of a competitive market. Even when the transaction is only the sale of generation facilities, there are serious issues at stake.

Many of the utilities in the headlines lately because they are either facing bankruptcy or have deep financial troubles have come as a result of the utility spinning off its generation to an affiliate who then gets into the unregulated electricity market. As a result, there are companies such as Xcel and Allegany that are experiencing serious financial distress because of the activities of their generation and marketing affiliates, but these affiliates are not under the jurisdiction of the FERC, so there will be no Federal oversight.

The second failure in the Domenici substitute is it does not require the FERC to create real protection against cross-subsidy or against encumbrance of assets in the new merged company. My amendment strengthens the standards under which FERC reviews mergers. Our provision requires the transactions can be shown to do no harm, either to competition, to consumers, or to the capacity of regulators to regulate. Further, it requires that FERC determine there will not be any cross-subsidy of affiliate companies and there will not be any encumbrance of assets for the benefits of the affiliate. This is essential if we are going to protect ratepayers. We did not allow that cross-subsidy to exist. The underlying Domenici amendment does not require that of the Federal Regulatory Commission.

Essentially, our provision requires that FERC create some way to determine the goals of the requirement be met. Perhaps the only way to accomplish this is to create real corporate insulation between the utility affiliate of a holding company and its unregulated affiliates. That could be done by creating firewalls around the utility affiliate, by enacting rules about transactions between affiliates or in a combination of the two.

The purposes behind the Public Utility Holding Company Act which we are ready to repeal as part of this overall Energy bill are to ensure consumers are not harmed by the complexity of corporate structure, that regulation not be made too difficult by that complexity, and that utility affiliates not be allowed to benefit from cross-subsidization or to cross-subsidize nonutility affiliates so that resources of the utility wind up being drained away from service to the customers. This is exactly what the bill requires FERC to do before approving a merger. That is what our amendment requires FERC to ensure before approving a merger.

I have three charts that will try to make this clearer. This is complex. Frankly, one of the difficulties of trying to begin in the evening at 6 p.m. with this very difficult, complex subject, there is an awful lot of knowledge Senators need to have in order to vote intelligently on these issues. Let me try to go through it with the charts.

The first chart is FERC jurisdiction at the present time. The Federal Energy Regulatory Commission, FERC, has jurisdiction over mergers of two different utilities. We are talking about, under the Federal Power Act, utilities that are vertically integrated. That is the traditional utility, the utility that provides electricity to my home in New Mexico, provides electricity to my home in Washington, DC, and to homes all around this country. Utilities own the generation capacity, own the transmission, and own the distribution. If two utilities want to merge, they have to present their proposal to merge to the Federal Energy Regulatory Commission, and the Federal Energy Regulatory Commission looks at that and says this is OK or this is not OK because we have determined it is not going to adversely affect the ratepayers. The people at home who are being served by one or the other of these utilities will not have to pay more if we approve this merger. That is what FERC has to determine at this point.

In the past, all generation was owned by jurisdictional utility companies. This is the way the system was operated. If you had a plant to generate power, almost certainly that plant was owned by a utility company. There were no independent companies out there saying all we want to do is generate power and then we will sell it to utilities. It was all owned by utilities. If a utility merged with another utility, the merger was jurisdictional at FERC under the Federal Power Act. That means that FERC had to sign off on the deal, essentially, and that was the protection that was built into the law for consumers.

Since all generation except for small renewable generators and cogenerators under the Public Utility Regulatory Policy Act was owned by utilities that were, in fact, under FERC jurisdiction, all mergers involving generation came under the jurisdiction of FERC.

That was a good system as far as it went, but that was the system which made sense when the Federal Power Act was enacted because then we were dealing with vertically integrated utilities.

The world has changed, so let me go to chart No. 2.

Before I talk about the changed world, let me describe this second chart. The title of this chart is "PUHCA Jurisdiction." I said before, PUHCA is the Public Utility Holding Company Act, and the Public Utility Holding Company Act provides essentially a set of restrictions on what holding companies are able to do, and particularly what holding companies are able to do with regard to purchase or acquisition of utilities. If a holding company acquired a utility company, then the Securities and Exchange Commission under PUHCA, the Public Utility Holding Company Act, had jurisdiction and authority to review that acquisition. The relationships between the utility and all of its new affiliates were governed by the Public Utility Holding Company Act.

The proposal we have here before us in the Senate is let's repeal this entire thing. All of the restrictions under which holding companies operate today would no longer apply. The question is, If we do that, what are we going to substitute for that jurisdiction or for that oversight to ensure that consumers are not adversely affected? This shows the holding company over here on the right, and under it you see it owns a utility, it owns other affiliates, it owns perhaps another utility, generation and marketing affiliate—it has a variety of companies it holds as a holding company. The question is, Who is going to have the responsibility to be sure there will not be cross-subsidy so that ratepayers of utilities are not adversely affected if we eliminate the Public Utility Holding Company Act?

Let me move to the third chart to try to explain this. In the new world in which we now find ourselves, we no longer have as many vertically integrated utility companies. More and more we are seeing generation of electric power done by other companies which are not vertically integrated utilities. In this new world, generation is separated from the utility company, and it is either sold to a stand-alone generation company or spun off as an affiliate of a holding company that owns a utility. The sales or the spinoff would not be under FERC jurisdiction under the Federal Power Act, since generation facilities were not specifically put under FERC's authority. Generation facilities wound up under FERC's authority because they were part of integrated utilities. Now we are saying: OK, what do we put in place to live with this new world?

We are saying we need to specify that generation facilities are under FERC authority. They clearly would not be covered—there is no jurisdiction under FERC for the generation affiliate down below, or the generation affiliate of this utility. If those generation affiliates decide to merge, there is no prohibition against that. There is no requirement that any Federal agency review that to see whether it helps or hurts utility payers, ratepayers.

We get back to the point I was trying to make at the very beginning of my comments, which is you could see a company come along and buy up this generation affiliate, that generation affiliate, buy up all the generation affiliates in a region of the country, and do whatever it wished with regard to their rates for electricity, and nobody at the Federal level has oversight to review that.

I do not think that is in the best interests of consumers. I do not think that is in the best interests of ratepayers. Accordingly, I think we should fix it.

There are some horror stories that should make the point that what I am talking about is not just academic. This isn't something we dreamed up in some ivory tower somewhere. These are horror stories that can be read about in the mainstream press, in the trade press; in fact, it is hard to pick up a news publication that does not tell a new story about how some utility or other is in trouble because of its investments in and involvement in nonutility businesses. That is a very common problem that has arisen.

This is a quote from the December Wall Street Journal.

> Energy companies burned by disastrous forays into commodities trading and other unregulated businesses are increasingly seeking to pass some of the financial burden onto their utility units. This could lead to higher electricity rates for consumers in coming years.

That is the Wall Street Journal, which is not a left-wing publication. According to the Journal:

> Utilities are being nudged to buy assets from affiliates, to make loans to down-at-the-heels siblings, or to pass more money to their parent companies.

Then the story goes on to say:

> In many cases, regulators can do little to prevent energy holding companies from milking their utility units.

What my amendment is trying to do is put in place some protections against this milking of utility units.

When you talk about milking a utility unit, that is easily translated into raising electricity rates, raising the rates of the ratepayers in order to compensate for bad business judgments, unprofitable investments in other areas.

It is not enough for us to have in place some vague idea that we want to be helpful to consumers. What we want to say is the Federal Energy Regulatory Commission needs to make a finding when it approves one of these acquisitions or mergers. It needs to make a finding that there is not going to be a cross-subsidy, that we are not going to see the assets of the utility encumbered in order to help some other part of this business, some other part of this holding company. That is what we are saying.

All of these stories result in negative effects on ratepayers and consumers.

When the utility is downgraded, its consumers pay increased costs of capital. Where the utility itself is facing bankruptcy, the effects on consumers can be even worse than that.

Wesstar is one example. Wesstar's regulators have been left with the unpleasant alternative of saddling the utility's ratepayers with $100 million per year, which is the cost that is required to pay down the debt the company caused by its investment in unregulated ventures.

It is clear that utility customers need to be protected against these excesses; that firewalls need to be built between the utility affiliates of a holding company and its unregulated affiliates.

These are not stories from the distant past. These are stories from today's headlines. Let me go into a little more detail on a few of them. Let me mention Wesstar. Wesstar I just mentioned. Let me go into a little more detail about the problem.

Wesstar is the largest utility in the State of Kansas. It is owned by a holding company, WRI, that also owns KP&L, the other large utility in the State. It owns a variety of nonutility companies and holdings. All of these together used to be the Kansas City Power and Light and Kansas Gas and Electric.

Wesstar came under scrutiny last year because of its problems caused by nonutility affiliates. Wesstar had invested in a number of unregulated ventures, including a home security company. That investment did not turn out well. The holding company shifted $1.5 billion of debt from the unregulated companies to the utility.

The Kansas Corporation Commission began an investigation. The Justice Department began an investigation last summer. The Federal investigation resulted in the indictment of the CEO of the company for bank fraud. The Kansas Corporation Commission investigation resulted in a dramatic restructuring of the company to separate the utility from the unregulated companies of the holding company.

The utility customers, in spite of all that has since happened—these investigations occurred after the fact—are still left with an obligation to reduce the debt of the utility by $100 million a year because of the activities of the unregulated affiliates. Ratings agencies have reduced the debt rating of the company to below investment grade at this time. That is one example.

Let me mention another. AES is a holding company that owns generation assets and marketing assets around the world. In 2000, AES acquired Indiana Power and Light, which is a regulated utility in Indiana. Because of the difficulties in wholesale electricity markets, the utility has been propping up the debt of the parent company over the last 2 years. For the 2 years of 2000 and 2001, the utility's dividend payments to the parent exceeded its earnings by over $100 million. The parent company's rating has dropped from AA minus to double B since 2001. The utility's IPL is at the lowest investment grade. The Indiana Utility Regulatory Commission had no jurisdiction to review the acquisition of the utility by the holding company.

Let me give one more example. That is Portland General Electric. Portland General Electric is a regulated utility in Oregon. PG&E in the late 1990s was acquired by Enron Corporation. The Oregon Public Utility Commission required a number of conditions before it agreed to approve that acquisition. As a result of the corporate separation required by the public utility commission, the effect of Enron's bankruptcy has been less than other similar acquisitions in other States. But even so, PG&E is now a parentless company. It is in danger of being taken over by another company. The fate of the parent company has also had an effect on the ability of the company to gain access to capital markets.

I think the Senators from Oregon are probably better qualified than I to talk in detail about the frustration and dissatisfaction that utility ratepayers in Oregon have felt as a result of their unfortunate circumstance after being purchased by Enron.

The amendment I have offered is straightforward. In my view, it closes a very significant loophole that still exists in the electricity title and substitute electricity title Senator DOMENICI has presented to the Senate. It will help us head off the kinds of crises and the kinds of inflation or dramatic increase in utility rates that unfortunately have been seen in some parts of the country.

This is one of these issues where I think 2, 3, or 5 years from now people may look back and say, I wonder why I didn't vote for that amendment when we had a chance to plug that loophole. Those of us on the Energy Committee, quite frankly, will be saying, OK, who do we call before the Senate Energy Committee to hold accountable when these problems arise? The reality is it is going to be very hard to call anyone before the Senate Energy Committee unless we strengthen this legislation and put in there some very clear, bright-line tests that ensure we don't have crossover, to ensure the Federal Energy Regulatory Commission is held responsible for overseeing the acquisition, sale, or purchase of generation facilities. If we make a decision here to not vest that responsibility somewhere in the Federal Government—and obviously the place to do it would be the Federal Energy Regulatory Commission—then I think we will rue the day we stopped short of doing that.

I hope my colleagues will support this amendment. It goes to the very heart of the electricity title of this bill. It would correct a very major deficiency in the electricity title of the bill as it now comes before the Senate.

I yield the floor. I urge my colleagues to support the amendment.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, let me say, first of all, I am happy we are moving forward with this amendment. This, of course, is a total effort to take last year's activities with relation to the electric title in the Energy bill and to redo it. Actually, we have been through this same argument before and we came up with a different recommendation.

What we are seeking to do is cause our electric industry to be in a more modern status; to make changes in law and policy that reflect changes that have taken place and are taking place now in the energy industry.

What we are trying to do here is deal with the Public Utility Regulatory Policy Act of 1935. We have, of course, a Federal policy that has been in place for almost 65 years. The Public Utility Regulatory Policy Act is an outdated statute that imposes barriers to competition and discourages investment in transmission.

This is key. What we are seeking to do here is to modernize this system so that because of the changes that have already taken place, for instance, 30 percent now the power being generated by merchant generators who do not do their distribution, then there has to be an opportunity to have transmission lines. The investment in those is very high, and we have to make some changes in terms of how capital is created to be able to do that.

PUHCA limits geographic and product diversification and imposes many burdensome filing requirements. We are seeking, again, to see if we can't make these rules and these laws more simplified without having the expense of going through all these things. PUHCA is also a barrier to the formation of regional energy markets because arguably it could apply to the RTOs, the regional transmission organizations. This is again where we are moving. This is where we need to be.

What we are seeking to do with this amendment is have the rules that applied since 1935 to an electric industry that is here in 2005, almost. So we are moving backward in a situation which we are seeking to modernize. That is really what it is all about. Repealing PUHCA would not preclude State and Federal regulators from protecting ratepayers. We have an apparatus in place in Government to do that.

Access to books and records as well as rules regarding debt acquisition and accounting will protect investments on behalf of ratepayers. Also the Department of Justice and the Federal Trade Commission will continue to protect against antitrust violations.

The Securities and Exchange Commission, which currently overseas PUHCA, has recommended on a number of occasions that PUHCA be repealed with certain consumer protections transferred to FERC and State regulatory commissions, as noted.

Certainly there will be market transparency. There will be antimanipulation and enforcement in place. There will be rules issued to establish a system to do that. It prohibits the filing of false information regarding the price of wholesale electricity and availability of transmission capacity. It prohibits round-trip trading which was mentioned as the reason for making this change. It prohibits round-trip trading. It expands who can file complaints and who is subject to FERC investigation. It increases the penalties.

I guess the point is that there is substantial consumer protection in place. That is basically what we are seeking to do.

I rise in opposition to the pending amendment which proposes to expand the FERC's merger review authority to include acquisition of generating facilities. Under the current law, electric utility mergers are already heavily regulated. In addition, FERC, the Department of Justice, and the Federal Trade Commission must review proposed mergers for their impact on competition. State regulators in affected States also review proposed mergers. Expanding FERC's authority to cover acquisition of generation facilities is unnecessary. Furthermore, this amendment preempts the States' ability to protect consumers.

The Bingaman amendment requires FERC to review and approve any utility acquisition of a generation asset in excess of $10 million. Every time a utility wants to replace a major boil or steam turbine or install a new switchyard, they have to get approval. What does that have to do with protecting competition which is the reason why FERC needs the authority? Absolutely nothing.

Let me explain why this amendment is unnecessary to protect consumers. Under existing law, FERC has jurisdiction over wholesale power rates and States have jurisdiction over retail electric rates. That means that an electric utility cannot pass through to consumers, either in wholesale electric rates or in retail electric rates, any cost without first having obtained FERC or other State public utility commission authorization to do so. So a utility that purchases a new boiler—whether it is $1 million or $100 million—cannot pass through these costs without having to prove to the relevant regulator that the expenditure was prudent.

If the regulator decides the expenditure is not prudent, then the utility cannot pass through the costs, and they are borne by the utility's stockholders and not its customers. That is good consumer protection practice.

Let me explain why the pending amendment would actually interfere with State protection of consumers. Under existing Supreme Court doctrine, States may not deny the pass through of federally approved costs. The Supreme Court recently reiterated this principle just this summer in a June 2, 2003, decision, Entergy Louisiana versus Louisiana Public Service Commission. The Supreme Court held that FERC approved rates could not be second-guessed by State regulators. Accordingly, if, as the pending amendment proposes, we require FERC to approve and review utility acquisitions of powerplant utilities used for system supply to make retail sales, we are preempting the ability of a State public utility commission to review and approve—or deny—the utility's incurrence of those costs.

I ask, why should we deny the State public utility commissions the ability to review utility costs that are being passed through in retail rates? How does that protect consumers? Will the FERC do a better job than our State commissions?

This amendment is both unnecessary and unproductive. FERC will continue to review utility mergers to ensure that it is consistent with the public interest and will review proposed rates for the merged companies to ensure they are just and reasonable. That is FERC's appropriate role and we do not need to change it.

Increasing FERC's merger authority to include generation-only facilities will only serve to impede efficient transactions without gaining consumer benefits.

For these reasons, I think we should oppose the amendment, and I urge that we oppose the amendment.

Again, in general terms, what we have done is packaged in this whole title, this electric title, the idea of what is happening in the electric system, where we want to be over time, a policy that will work in what is currently going on and what we hope to have happen in the future. To maintain and continue to go backward does not seem what we are appropriately here to do.

We have gone through this whole thing. We have gone through witnesses in our committee. It has been approved. Certainly we ought to move forward with this package as it is conceived and dedicated, and we can improve the way we provide electric energy to everyone. But we have to continue to look forward and do things differently than we have done them in the past.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me make a few comments in response to my colleague, my good friend from Wyoming. I do think that he is in an awkward position because he was cosponsor with me of this exact language in the consideration of the Energy bill in the last Congress—the exact language that I am now proposing by way of amendment. I thought it was the right policy then. I still think it is the right policy. I hope very much we can persuade Senators to adopt it as part of this bill.

His statement was that we are preempting State authority if we adopt the language that I have offered by way of amendment. The National Association of Regulatory Utility Commissioners—those are the State commissioners—characterized the bill we had last year that had this provision in it, the provision I am now offering, as "an admirable compromise between Federal and State jurisdictional issues."

That does not sound like the words of an entity that believes it has been preempted to the point that it is unable to do its job. While it is true that States have some ability to deal with some of these problems, it is almost always the case that their statutes do not reflect the degree of protection that is currently in the law in the Public Utility Holding Company Act. They have not needed to have laws to provide those protections because PUHCA was in place. It has been Federal law for many years.

It is also true that many States that have found their customers to be victims of such abuse have not had the ability to deal with the problems. I gave you a couple of examples before where the States came along after the fact and tried to investigate, tried to find some way to make their consumers or their ratepayers whole, and found that they are not really able to do that. Some are trying. Some are trying in the face of tremendous opposition from their utilities to get the necessary authority from their State legislatures.

Do we have to wait for every State in the country to realize that their protections are inadequate once we repeal the Public Utility Holding Company Act or should we not here in the Congress provide at least some minimum protection at the Federal level to replace the protections we are eliminating as we repeal the Public Utility Holding Company Act?

I think we owe it to those who sent us here to provide this minimal protection. PUHCA broke up the industry into manageable chunks and focused on its core business—that is, the provision of a monopoly electric provision service by requiring that utilities either operate primarily in a single State or be regulated stringently at the Federal level by the Securities and Exchange Commission.

Utilities were also forbidden to engage in businesses that were not directly related to their monopoly electric service without explicit approval from the SEC. Large utilities were forbidden from such activities completely. A holding could not acquire more than one utility company in more than one State without coming under these very severe bans.

So the sprawling empires of interconnected corporations owning electricity utilities were broken up. Companies were required to choose between their other businesses—staying in those other businesses or staying in the electric industry.

If we are going to repeal the Public Utility Holding Company Act, as we are proposing to do in this bill, then it is essential that we lodge the consumer protections that are so important to all Americans in a meaningful place. We have seen, over the last few years, how far astray from the goals of providing electricity to consumers at affordable prices our industry can wander. As we move forward, we must be sure that consumers are protected.

Let me make a comparison between the language that I proposed by way of amendment and the underlying language. The reason I am offering my amendment is that the Domenici substitute has in it, in my view, very inadequate language to ensure that consumers are protected. It says:

> After notice and opportunity for a hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change of control—

That is any merger or acquisition anyone proposes and brings before the commission—

> if it finds that the proposed transaction will be consistent with the public interest.

Well, that is fine. I certainly want everything to be consistent with the public interest. But that is somewhat in the eye of the beholder as to what is meant by that phrase. It goes on to say:

> In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction will adequately protect consumers, will be consistent with the competitive wholesale markets, will not impair the ability of the Commission or State commission from having jurisdiction following the completion of their transaction over any public utility, and will not impair the financial integrity of any public utility that is a party to the transaction, or an associate company or any part of the transaction, and satisfies such other criteria as they think is consistent with the public interest.

Essentially, it is going back and saying the Commission has tremendous authority to decide what is consistent with the public interest and what is not consistent with public interest. Whatever they decide pretty much controls.

What I have proposed in the amendment that I have sent to the desk, and what we had in our bill last year, which my good friend from Wyoming supported last year, was much more specific. It said:

> After notice and opportunity for a hearing, the Commission shall approve the disposition, or consolidation, or acquisition of control if it finds that the proposed transaction, No. 1, will be consistent with the public interest; second, will not adversely affect interests of consumers of electric energy; third, will not impair the ability of the Commission or the State Commission; and, finally, will not lead to cross subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

It seems clear to me that we should want to be sure that cross-subsidy will not occur. That is a bedrock requirement, as I see it, if FERC is going to sign off on these acquisitions and mergers. That is why we proposed this amendment.

The other thing we propose in this amendment, which I think is also bedrock, is that companies involved with generation—the purchase and sale of those companies should also be under the jurisdiction of the Federal Energy Regulatory Commission. The FERC has not had to have that authority up until now because we have had the Public Utility Holding Company Act, which ensured there was oversight. There was regulation of those generation companies. That will no longer be the case once the Public Utility Holding Company Act is repealed.

The question is, Who is going to oversee the purchase and sale of generation companies? Who is going to try to ensure that electric utility rates in a region, in a State, in a particular area do not go up because of the noncompetitive merger, or acquisition, or purchase of various generation facilities?

So, clearly, our amendment tries to plug some major loopholes. It is exactly the language we offered in the debate last year. It was adopted at that time by a substantial majority of Senators. It was supported by my good friend from Wyoming last year. It is good policy. It was good policy then, it is good policy now, and it is the kind of test which, if we don't adopt it, we will regret that we did not. It is another one of these circumstances where at some future date we will be giving speeches on the Senate floor saying let's tighten up the regulation, strengthen the regulation; we don't want to see somewhere around the country any more of those problems like we just saw.

I think the opportunity is here today. We know enough about the problem of cross-subsidization. We know enough about the economic difficulties, the financial difficulties that lead to cross-subsidization to anticipate this problem and to get ahead of it and deal with it. That is what my amendment does. I urge adoption of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. DOMENICI, is recognized.

Mr. DOMENICI. Mr. President, first, I congratulate my colleague from New Mexico on his superb argument and presentation. I regret that I have to disagree. But before I state a few remarks, because I believe my friend from Wyoming has done a very good job of telling the Senate why we don't need this amendment, I would like to ask the Senate and all the Senators and their staffs, who were paying attention on their behalf, to remember now that we are on that very important part of this legislation—the electricity section—which we understood many Senators were worried about, and we understood a number of Senators had amendments.

I have known from the beginning that my friend, Senator BINGAMAN, had one or two amendments. But I heard other people saying: We don't want to hurry along here because this is a very important piece of legislation and we want to have a chance to offer amendments.

Well, the time is now. I am very hopeful, and the majority leader has told me it is up to me. I look at my distinguished friend, who is very much on top of things in the Senate, the Senator from Nevada, and say that he told me and our leader to stay here as late as we can tonight to get all the amendments we possibly can on this subject.

We know a lot of Senators are busy, but we know they were told we were going to be in session every day this week. We are going to work day and evening. Every evening we work, it takes away an extra day at the end of the week that will detract from our recess. So if Senators have amendments, get them ready. We want them after this amendment.

When I am finished, and after my friend from Wyoming has another chance to speak, if he wishes, I am going to ask the minority side what they would like to do next.

Mr. President, I say to Senator REID, my desire is that we not vote immediately on the Bingaman amendment, although I am perfectly willing. It is 20 minutes of 7. There is nobody on our side saying we should not. Maybe Senator REID knows some reasons. I much prefer Senators keep doing what they are doing but that somebody come down and offer another amendment. Then I prefer not to vote on that amendment. I prefer another amendment until we have as many amendments as we can get in by late tonight.

Why do I want to work late tonight? Besides it being Tuesday and we want to finish this bill by Friday, it is the unspoken word that the other side of the aisle, more so than we do, wants to offer some clean-air type amendments that really do not belong on this bill but have historically or traditionally found their way on it because they do not have any other place to go. They want to offer some amendments.

There are apparently two amendments on that side, at least, plus a couple of other amendments in the same vein. They wanted to offer them tomorrow, which can be nicknamed "environmental day." We want to cooperate. To the extent we have to use more of the day for electricity amendments, we use less time for other amendments.

I will in a very few words state my case. In 1935, I was 3 years old. I am not a student of what happened in the world during the Great Depression, but PUHCA was passed. It is funny sounding. It is terrible it had to have such an acronym, PUHCA, Public Utility Holding Company Act. It is almost one of those acronyms that cries out to never be called by an acronym, and it is better to be called the Public Utility Holding Company Act than PUHCA.

Over the years, I have heard that funny word, and I did not even want to find out what it meant, but Public Utility Holding Company was a protective mechanism to make sure that during an era of pyramiding, where big money would buy up utilities, there was somebody watching. As an example, if one very rich bank out of Chicago, IL, started buying up companies all over the country and became a holding company—thus the title.

Nobody is crying for the retention of PUHCA because there are so many other protections for that which it was invented. It is time for that funny name to disappear, and then it will not be used so much. We can then just say "used to be PUHCA," and we will not have to talk about it.

The truth is, as Senator THOMAS said—and I agree—expanding FERC's authority to cover acquisition of generating facilities, which is part of Senator BINGAMAN's amendment, is unnecessary. Furthermore, this amendment preempts States' abilities to protect consumers. Repealing PUHCA will not preclude State and Federal regulators from protecting ratepayers. Access to books and records, as well as rules, regarding debt acquisition will protect investment made on behalf of ratepayers.

Also, the Department of Justice and the Federal Trade Commission will continue to protect against antitrust violations, and the Securities and Exchange Commission, which currently oversees PUHCA, has recommended on a number of occasions that it be repealed with certain consumer protections transferred to FERC and State regulatory commissions, as noted above.

What we are doing is getting rid of PUHCA, the 1935 antiquated law. In place of it, we clarify the jobs FERC does today and expand it only in a limited fashion. Our amendment let's PUHCA review utility transactions. The new authority is granted over gas acquisitions of utility companies by an electric utility company. This protects consumers and promotes investment in that regard.

Clearly, if ever there was a case where we are overprotecting, it is the utility companies. I mentioned how many protections already exist. PUHCA started disappearing into the woodwork and became subservient and almost consumed by the SEC—they run it. SEC said they do not need PUHCA anymore.

Believe it or not, it is pretty certain, when we finally vote, we are going to get rid of PUHCA. It is like certain past Presidents recommended getting rid of PUHCA and 40 years later something happens. That reminds me of something interesting and funny. About 8 years ago, I was heralded as one who had passed the largest single sale of public property, and all I had done was to take the U.S. Government's ownership of converting highly enriched uranium for use by nuclear powerplants, which is owned by the public, which had been recommended 30 years before to be privatized, and I privatized it. I was heralded for having passed the first multibillion-dollar sale of property of the Federal Government. It is nothing new. It sure did not take any ingenuity, just like it takes no ingenuity to know that PUHCA ought to get out of here.

In getting rid of PUHCA, the test that FERC applies is:

> Consistent with the public interest, we do not add new tests.

Senator BINGAMAN's amendment does. I do not think we need to add new tests. I believe what is in the bill is adequate for the governance of FERC in that regard.

When I introduced the bill, I told the Senate all the groups that liked this bill—the public-private ownership, all of them. And it is most interesting, they all think we adequately protect against whatever the evils might have been that PUHCA might have covered: Municipalities, the APRAs, the large public power companies. They think there is a pretty good balance just like it is.

At some point in time I hope when we vote on this that Senator BINGAMAN will understand there are those of us who think what we put in the bill is perfectly adequate and well balanced with reference to protection in this area.

I ask Senator BINGAMAN and Senator REID if they are finished? Are we ready for another amendment?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could ask the Senator from New Mexico a question?

Mr. DOMENICI. Yes.

Mr. REID. As I understand it, the Senator indicated what he would like to do tonight on the electricity title is have people come and offer amendments on the electricity title.

Mr. DOMENICI. Yes.

Mr. REID. Senator BINGAMAN has an amendment. Senator CANTWELL perhaps has an amendment. There are a number of other Senators who wish to maybe offer amendments. The question I have to ask the Senator from New Mexico is, there are people who have amendments on other issues, separate and apart from the electricity title, and at least two Senators have asked if the Senator from New Mexico would allow the electricity title to be set aside and go to other areas.

Mr. DOMENICI. I say to the Senator truthfully, it is not understood how hard I worked and how much I worried and sweated to get to where we are, which is the pending matter. I want Senators to understand we have to get rid of it.

Mr. REID. I understand.

Mr. DOMENICI. So I do not want to do that. I want Senators to get their amendments, even if it takes us a little while longer. The Senator is implying there may be four, maybe five. I do not know.

Might I ask Senator BINGAMAN if he has another amendment?

Mr. REID. If I could respond, the manager of the bill on our side does have another amendment he could offer tonight. I would like to continue my colloquy with the Senator from New Mexico, through the Chair. We have people wondering, are we going to vote on the first Bingaman amendment now, the second Bingaman amendment; are we going to have two votes? What is the pleasure of the Senator from New Mexico?

Mr. DOMENICI. My pleasure is that we have votes tonight, unless the Senate sends word, in its inimicable way, that we are going to get all the amendments on electricity in due course this evening, in which event I would say we will not have any votes.

Mr. REID. I respond to my friend from New Mexico, I do not think that is going to happen. Senator CANTWELL, for example, has amendments she wants to offer. She wants to take a little time on the first amendment. It is going to be more than a few minutes. She has asked for some time on that. If we cannot agree on a time, I assume she would talk for a little while and then offer the amendment.

Mr. DOMENICI. When does the Senator think she might know?

Mr. REID. Well, she is ready to offer her first amendment but that is going to take some time. I do not know if she is willing to finish the debate on it tonight. I could call and ask her.

Mr. DOMENICI. Could the Senator inquire? What we could do then, while the Senator is inquiring, we could go with the second Bingaman amendment and we will stack them with a clear understanding that when we are ready, we will proceed in the same order they have been offered to vote on them.

Mr. REID. I say to my friend from New Mexico, I think realistically if Senator CANTWELL's is going to be the next amendment, it will be very difficult to finish all of the electricity amendments tonight. There are other people who want to offer amendments.

Mr. DOMENICI. To the extent the Senator from Nevada desires and can be helpful—and that is strictly up to him—I would rather we get other Senators to offer amendments. Senator BINGAMAN has one. Are there any others?

We know Senator CANTWELL wants a lot of time and we would say to her she could be last tonight and take as long as she wants. We could then come in in the morning and take some more. I do not think we ought to have her come up and then say the only thing we did tonight was the Bingaman No. 1 and Cantwell all evening. I think we ought to be doing a little more than that.

Mr. REID. I say to my friend from New Mexico, as I said earlier today, I know how hard he has worked to get the bill here and how important this bill is to him personally, and how important he believes this is for the country, but I say as sincerely as I can we are not going to be able to offer all the amendments on electricity tonight. I just do not think it will happen. I will go to the cloakroom and make some calls while the second Bingaman amendment is offered, but I think if the Senator's statement is that we are going to have to vote on the two Bingaman amendments unless we finish offering amendments tonight, we are going to have to vote on the two Bingaman amendments because I do not think we can get through all the amendments tonight.

Mr. DOMENICI. Let's try to do this: Let us assume that we had Bingaman No. 2 and the Senator from Nevada went off and tried to discern how many other amendments on this subject we have, and that he return and say what they are. I am perfectly willing then to try to set in motion an agreement that some of them would be taken up in the morning.

Mr. REID. I will be happy to respond to the Senator in the next little bit.

Mr. DOMENICI. If we do not know, we are going to stay here and see how many we can flush out.

Does Senator BINGAMAN want to proceed?

Mr. BINGAMAN. Mr. President, I would like to say a few more things about the pending amendment.

Mr. DOMENICI. Sure.

Mr. BINGAMAN. Then I do have a second amendment which I am glad to offer this evening as well.

I indicated there are several organizations that have supported the amendment I have sent to the desk, the American Association for Retired Persons, AARP, the Air Conditioning Contractors of America, Consumers for Fair Competition, the Consumers Union, the National Association of State Utility Consumer Advocates, National Electrical Contractors Association, Plumbing, Heating and Cooling Contractors, National Association of Public Citizens, U.S. PIRG. All of those groups support the amendment I have offered.

In addition to that, we have a statement from the Bush administration which was from last year supporting FERC review of transfers of generation assets, which is part of what the amendment does that I have sent to the desk. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSH ADMINISTRATION SUPPORTS FERC REVIEW OF TRANSFERS OF GENERATION ASSETS

09/14/01 ADMINISTRATION INCLUDES LANGUAGE IN ITS DRAFT "ELECTRIC RELIABILITY TRANSMISSION ACT"

"Clarify the commission's authority over holding company mergers and mergers and asset sales involving generation facilities."

10/16/01 ADMINISTRATION COMMENTS ON DRAFT SENATE BILL "ELECTRICITY RESTRUCTURING ACT" (BINGAMAN BILL)

Mergers and Asset Dispositions. "FERC has the authority to review mergers of 'public utilities' under section 203 of the Federal Power Act, and has asserted jurisdiction over mergers of public utility parent companies. This assertion has not been challenged, and holding companies have submitted their mergers to FERC for its review. This language also clarifies FERC authority over public utility mergers and asset dispositions involving generation facilities. Under current law, FERC has authority over only those generation facilities associated with a wholesale power contract. If it is going to prevent accumulation of market power, *it should have jurisdiction over generation facilities owned by public utilities*" (emphasis added).

10/9/01 "MAJOR PRINCIPLES IN ADMINISTRATION POSITION ON ELECTRICITY LEGISLATION" (DEPARTMENT OF ENERGY)

Mergers and Asset Dispositions: "Clarify FERC authority over holding company mergers and mergers and asset dispositions involving generation facilities."

10/24/01 LETTER FROM FERC CHAIRMAN PAT WOOD TO REP. JOHN DINGELL (D–MI)

Review of Mergers: "It may be a good idea to clarify the Commission's authority to review mergers involving only generation facilities and mergers of holding companies with electric utility subsidiaries. The increasing amount of competition in power generation markets makes this more than an academic question."

Mr. BINGAMAN. The administration includes language in its draft Electric Reliability Transmission Act to clarify the commission's authority over holding company mergers, and mergers and asset sales involving generation facilities. In another place in the administration's statement it says they support clarifying FERC authority over holding company mergers and mergers and asset dispositions involving generation facilities.

What I am proposing is not a radical policy proposal. It is exactly what we adopted last Congress. It was adopted by a substantial majority of the Senate. It was supported by the Bush administration. Now we are backing away from that.

I am told the Senator from New Mexico, my good friend Mr. DOMENICI, says this is agreed to by the Public Power Association and by the Rural Electric Cooperative Association. That is fine. I can understand that there are other things in the bill, in the overall electricity title, which cause them to believe this is something they should be quiet about or be willing to support—swallow hard and support, I would add—but the reality is, it is not good policy for us to leave this issue unaddressed, this issue of adequate authority of the Federal Energy Regulatory Commission to oversee the acquisition or sale of generation facilities. That ought to be covered if we are going to pass an electricity title.

Clearly, there should be authority and an enforceable responsibility on the part of FERC to ensure cross-subsidy does not occur. Those are the two primary things my amendment tries to deal with. I think they are very important.

I have a letter from MBIA, Richard L. Weill, who is the vice chairman of MBIA Insurance Corporation. I will read portions of that for my colleagues, because I think it is instructive. He says:

> I am writing on behalf of the MBIA Insurance Corporation in support of your proposed amendment to the Energy Policy Act of 2003 that would strengthen the regulatory framework of utility mergers.
>
> MBIA Insurance Corporation is the largest financial guaranty insurance company in the world. We have guaranteed the timely payment of principal and interest on more than $14 billion of electric utility debt. Our guarantee is unconditional and irrevocable, even in the event of fraud. In that context, we are profoundly concerned about the strength and integrity of the regulatory scheme of electric utilities.

> We are, in a sense, a gatekeeper to the capital markets for these utilities. We provide investors with our unconditional and irrevocable guarantee and, as a result, provide the utilities with the lowest possible cost of access to the capital markets. Our Triple-A rating by all major rating agencies enables the utilities to sell debt at the lowest interest rate. We can continue to serve these investors and this industry only if we can be assured of the probity, comprehensiveness and fairness of the regulatory framework.
>
> Your amendment would require that proposed mergers promote the public interest that is defined as encompassing the effects on competition, economic efficiency and regulatory oversight. It would also close loopholes that enable certain corporate combinations to avoid being characterized as mergers.
>
> We believe that this amendment will be viewed favorably by the capital markets.

We are trying to close loopholes that enable certain corporate combinations to avoid being characterized as mergers. That is exactly the problem with the substitute proposal Senator DOMENICI has laid before the Senate.

By adopting the language in my amendment—that was in the bill last year—we close those loopholes, we guarantee consumers will be protected, we guarantee these utilities will get the lowest possible interest rates and that this insurance arrangement can remain in effect.

This is a very good amendment. I hope my colleagues will support it. It will strengthen this bill. This is not an amendment offered with the intent of undermining the electricity title. This is an amendment offered with the intent of strengthening the electricity title. It is very well crafted, in my view, to accomplish that.

I yield the floor, and at the appropriate time I will offer another amendment on a different aspect of the electricity title.

Mr. REID. Mr. President, I need to confer with the Democratic leader about the question asked by the Senator from New Mexico. In the interim, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be recognized to speak for up to 5 minutes as in morning business regarding an unfortunate death of one of his close friends.

Mr. THOMAS. Reserving the right to object, I would like to make some more comments on this particular amendment following the remarks of Senator DURBIN.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

(The remarks of Mr. DURBIN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I take a moment to comment again on the pending amendment. It has been mentioned several times this was in our bill last year; that is true. I supported it; that is true. But we have to understand how we got in that situation.

First of all, we had come to the floor without having the committee work on the bill at all last year. This is quite a different situation where we quietly and completely have gone through the bill.

I also have to say my friend from New Mexico had quite a stronger statement and I had a less strong statement than what is in here. We agreed to a compromise. So it is not the way I would have done it had I had my way, but we wanted to move something. In any event, that is the way we came to have that language.

We are talking about consumer protection. We get all tied up in some of these terms, but the fact is we are seeking to put authority there for someone to oversee. What we want to do, of course, is to have FERC do it without an expansion of authority.

So we are saying in the language of the bill, no public utility shall, without first securing the order of the commission authorizing it to do so, sell, lease, or otherwise dispose of facilities; to merge or consolidate, directly or indirectly, such facilities or any part thereof; purchase, acquire, take any security over $10 million.

It is very clear. That is what we do under the bill as it now is drafted.

Then we go on to say in evaluating the transaction on the applications and so on, the Commission will adequately protect consumer interests, will be consistent with competitive wholesale markets

> . . . will not impair the ability of the Commission or the ability of a State commission having jurisdiction following the completion of the transaction over any public utility that is a party to the transaction or an associate company of any party to the transaction . . .

That is what we say in the bill.

> . . . will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction, and

Finally:

> . . . satisfies such other criteria as the Commission considers consistent with the public interest.

So what we do is give the direction to the Commission to do the very thing that we are talking about, and that is to ensure that mergers are fair to consumers. That is what this whole area is about. It has been drafted carefully to be in that form.

I think it would be a mistake for us to adopt any changes in that when we have what we need for the protection of consumers, something we have agreed to, something that is part of a modernization effort. We should not change that by an amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I indicated to my friend, the distinguished senior Senator from New Mexico, and Senator BINGAMAN, the manager on our side, that I would check to find out what we have in the way of amendments.

This is certainly an incomplete list. We have not hot-lined this, but we have had people call the cloakroom. We have five Senators who wish to offer amendments at this stage. We have at least one of those Senators who is going to offer multiple amendments—multiple means maybe three, maybe four amendments.

To make a long story short and not take undue time, we would be agreeable to having the second Bingaman amendment debated tonight. We would lay down the first Cantwell amendment with the understanding that she will lay that amendment down tonight and debate it for an hour tonight. She wants 2 hours on it tomorrow.

If the Senator from New Mexico, the chairman of the committee, does not want to agree to this, then we should have the two votes on Bingaman, and likely we will not offer any more amendments tonight.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First, I thank the Senator for the hard work he is doing, trying to ascertain from Senators at this hour—although we have all been telling them we are working, and this is the work part of the day, it is not hard to find out what they want to do. I thank you for the obviously successful effort you made so far.

Mr. REID. If my friend will yield for one other thing I should have said before?

Mr. DOMENICI. Yes.

Mr. REID. As the Senator from New Mexico knows, this electricity title is very important to some Members of the Senate. None of these amendments, I want the record to reflect, are done in any way to slow up, slow walk, or stop this bill. These amendments, as has been seen by the amendments of the Senator from New Mexico, are amendments offered in good faith to try to improve this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I say to the distinguished Senator from Nevada, all I want to try to do is move this bill along, as you know, and to do that in a way that is consistent with Senators having ample time to prepare and to present their amendments properly. You indicated to me, without certainty but relatively close, that you probably—we are probably looking at eight amendments, five Senators, with one of them who has three.

I might ask, Is Senator BINGAMAN's No. 2 included in that?

Mr. REID. No.

Mr. DOMENICI. No. So it is the possibility of nine amendments. I want to tell the Senator from the start that, as far as the distinguished Senator MARIA

CANTWELL, I certainly do not have any objection to 1 hour tonight and 2 hours tomorrow morning. We can start with that. But what I do have some concern about is trying to determine when we would be finished with amendments to the electricity title. I tell you that as much because I have been hearing from your side of the aisle of the great desire to take up two amendments that have to do with climate change. I have been told the only way that can be done, and done right, is tomorrow because everybody will be here. That is two.

I have been told that—and I know—Senator BINGAMAN wants to offer his amendment with reference to a 10 percent mandatory renewable portfolio, and that belongs in the same package.

I have been told the distinguished Senator has a new source performance review; is that correct? Is that what it is called?

Mr. REID. That is true. New source review.

Mr. DOMENICI. I remember that when I was on the committee—new source review. He had that up once. A couple of Senators came back who were not here then. That may well be why. But that is another one we have to look at.

I guess what I am wondering is, if it would be asking you too much to suggest the following; that Senator BINGAMAN offer his amendment—I am not suggesting, I am not proposing this officially—he offer his second amendment here, and that Senator CANTWELL offer her amendment tonight and debate it for an hour; that you try to find one more amendment to be offered tonight, and then that we reach agreement, come back tomorrow, reconvene at 9 o'clock in the morning, at which time Senator CANTWELL would have her time, and all the remaining amendments—that is 9, 10, 11—remaining amendments in this area would be finished by 1 o'clock in the afternoon.

Mr. REID. We couldn't agree to that.

Mr. DOMENICI. What time would you think?

Mr. REID. If Senator CANTWELL debates for 2 hours, that is 11 o'clock.

Mr. DOMENICI. Yes.

Mr. REID. And we have three votes, that takes us to about 12 or 12:15. That would be almost humanly impossible.

Mr. DOMENICI. What would you like, 2:30; 3?

Mr. REID. I say to my friend, I have no authority. I am dealing with five Senators who are all Senators in their own right. I am here just trying to help a little and take phone calls from them, things of that nature. Some of them, frankly, are out doing other things tonight. We could not agree to that.

The Democratic leader, with whom I spoke just a few minutes ago, indicates he thinks, and I would acknowledge he is probably right in this regard, about as far as we can go tonight is lay Cantwell down, get a time agreement on hers. Maybe during—not maybe, but during the morning hours when she is debating hers, we would be able to try to come up with a list of amendments.

But any one of these Senators can object to a finite list. I just don't see anything happening in the next few hours.

Mr. DOMENICI. I would like to do this, with your concurrence. Why don't we proceed with the Bingaman amendment, tell Senator MARIA CANTWELL she will be next for an hour tonight. In the meantime, would you let us work on the unanimous consent request proposal so your staff and ours——

Mr. REID. I say to my friend, I am very happy to do that. One thing that people on my side—and, frankly, I have gotten a call from somebody on your side. Are there going to be any votes tonight?

Mr. DOMENICI. Unless an agreement is worked out, Senator, we are going to have a vote tonight.

Mr. REID. Then there will be no Cantwell amendment offered tonight. As soon as Bingaman is offered, we can vote on that, and there will be no Cantwell amendments tonight.

Mr. DOMENICI. Would the Senator like to work on a unanimous consent request that includes Senator MARIA CANTWELL?

Mr. REID. I say, Senator BINGAMAN is going to take a little bit of time. He said he wouldn't take very long. But if he takes a half hour and there is response to that, we are not going to finish what we are doing now until 8:30, quarter to 9. Senator CANTWELL is not going to offer an amendment at that time.

If you want to finish Bingaman, have Cantwell laid down tonight, and have Cantwell come in in the morning, that is fine. Have votes whenever you want them, but if we are going to have votes on Bingaman, we are not going to offer any more amendments tonight.

Mr. DOMENICI. Let us make this effort: That Senator BINGAMAN would proceed for as long as it takes, Senator CANTWELL will offer her amendment and take an hour tonight, and that we work on a UC request together while that is occurring. She will get her 2 hours tomorrow, and we will try to get a consent as to when we might finish. If not, I will go along and say we won't have any votes tonight.

Mr. REID. I say through the Chair to my dear friend, the senior Senator from New Mexico, that I don't think it is possible to get an agreement locking in these amendments. I just do not think it is possible. I don't want to act in bad faith. I would like to do that. I believe in an orderly body. But I just don't think I can get that done. We have people off the Hill and people just automatically object to things at this time of night. I don't think we can get it done.

Mr. DOMENICI. I want to say now—and I will say it three more times tonight before we finish—to Senators wherever they are that we are not quitting tomorrow night at 7:20. If there are Senators who want to be off the Hill, they can be off. We are going to be here tomorrow night voting on amendments that your side wants. We are just about out of amendments on our side of the aisle. I am not sure of any really important ones left. Your side has been telling me they want these very important amendments that they claim are related to this bill. A whole bunch of amendments that are left don't even belong on this Energy bill and are not even within this committee's jurisdiction. This Senator stands up and argues against them but, as a matter of fact, they ought to be argued by another committee chairman. I am not even the one who takes care of them. But I will have to do that.

As long as everybody understands, Senator CANTWELL will be taking 2 hours tomorrow. We are going to start at 9 o'clock. We are still going to be on these amendments to this bill. We need Senators to get ready tomorrow morning with additional amendments in this arena. Then we will proceed quickly to the amendments such as the one Senator FEINSTEIN has and all the others. But we will be here tomorrow evening. We will be here plenty late as we take those amendments, as long as we understand we are ready to do what you recommend.

Mr. REID. If I could through the Chair, is the Senator from New Mexico saying that tomorrow we are going to move off of the electricity title into other areas?

Mr. DOMENICI. We will stay right on electricity in the morning and try to finish it as soon as we can. I am hoping that it doesn't take all day so we can go to the other issues. But at this point, could we just, so as to protect you, agree that if you will move as follows tonight, we will set aside the current Bingaman amendment so that the second Bingaman amendment can be taken up. Then it will be set aside so we can take up first the Cantwell. She will use 1 hour tonight. We will answer, if we see fit. If not, we will debate it tomorrow. Nonetheless, we will come in tomorrow at 9 o'clock, and when we get on this bill, Senator CANTWELL will be up and she will have an additional 2 hours on her amendment. I am merely adding as a matter of discussion that further amendments on this section of the bill will be in order at that time.

Mr. REID. I understand very clearly the chairman of the committee.

Mr. DOMENICI. Is that fair enough?

Mr. REID. Very fair.

Mr. DOMENICI. Senators understand that means we are not going to vote tonight. But you certainly can look to a late night tomorrow night with votes.

I yield the floor and thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to set aside the amendment that I just sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1418 TO AMENDMENT NO. 1412

(Purpose: To preserve the Federal Energy Regulatory Commission's authority to protect the public interest prior to July 1, 2005)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 1418 to amendment No. 1412:

On page 9, lines 23 through 24, strike "including any rule or order of general applicability within the scope of the proposed rulemaking," and insert: "nor any final rule or order of general applicability establishing a standard market design,".

Mr. BINGAMAN. Mr. President, my colleague from Wyoming is here. I mentioned to him that this is an issue which I would like us to try to find some way to resolve. This is something that we may well be able to avoid having a vote on tomorrow, if we can find a way to resolve it.

The amendment I have sent to the desk tries to clarify something in the bill that I think is very important. Senator DOMENICI's substitute contains a delay in the issuance of the Federal Energy Regulatory Commission's standard market design rulemaking until July 2005. I understand that. That is fine. I am not trying to disturb that. I believe the rule goes too far and should be dramatically modified or completely abrogated.

I know there are Members of the Senate who think 2005 is the wrong date, that we ought to go to 2008 or some other date. Others believe FERC should be permitted to go ahead, and as quickly as they would like. I am not taking a position on that issue with my amendment. I, frankly, can see both sides of the argument.

My amendment leaves the delay of the standard market design rule that Senator DOMENICI has included in his substitute in place. However, in an effort to prevent the Federal Energy Regulatory Commission from renaming the rule and issuing it under a new title, the bill also goes on to prohibit "any rule or order of general applicability on matters within the scope of the rule."

That means the Federal Energy Regulatory Commission cannot issue a rule or order of general applicability on any issue that is dealt with in the proposed rule during the 2 years of the delay.

What kind of actions would this prevent? That is the obvious question.

I think it would prevent the Commission from doing its job. The Federal Energy Regulatory Commission currently has a rule in the process on interconnections to the transmission grid. No matter what that rule says, the Federal Energy Regulatory Commission would be prohibited from issuing it under this language that we have in the Domenici substitute.

Other matters dealt with in the rule that the Federal Energy Regulatory Commission would be prevented from dealing with in a generic manner are such issues as market oversight, market litigation, transmission pricing, the scope of regional transmission organizations—RTOs—the adequacy of rules or transactions across RTO boundaries, and, in short, just about anything that the Commission does about transmission or markets because the proposed rule touches on all of those issues.

There are even rules that the Commission is required to issue by other provisions in this Domenici substitute that they would be prohibited from issuing because of this provision that I am here trying to change. There are a number of rules necessary to get the reliability section to work. The bill requires rules on mergers, on transmission access by public power entities, on participant funding, and other matters.

The provision that I am here trying to modify or change would prohibit the issuance of those rules whereas in another place in the same title we are saying the Commission is directed to issue.

It would be ironic, indeed, if the rule's opponents who want stronger participant funding language in the rule were to have prevented the Federal Energy Regulatory Commission from issuing this rule related to participant funding that they want to see issued because of their zeal to prevent the standard market design from being issued.

I also believe that some of the orders that the Federal Energy Regulatory Commission issued in the Western market crises would be defined as orders of general applicability and would have been prohibited.

If we have another crisis which occurs during these upcoming 2 years, would we not want the Federal Energy Regulatory Commission to bring order to those markets the way they finally did in the West 2 years ago in the summer?

Everybody, both the opponents and the supporters of the standard market design, should support the amendment I am offering. It is an amendment to clarify that the Federal Energy Regulatory Commission is not banned from issuing any orders or rules that deal with any matter in the proposed rule; that they should only, instead, be prohibited from issuing a standard market design rule by any other name.

So I believe what I am proposing is something that all colleagues who have looked at this issue would agree with. We are just trying to clarify the language so we do not wind up prohibiting the Federal Energy Regulatory Commission from doing the very things we are going to be calling upon them to get done, and that is the effect of the language that is in the Domenici substitute at this time.

So that is the thrust of my amendment. As I say, this is an issue which, frankly, we should not have to be dealing with by amendment on the Senate floor. I would hope we could just get this resolved at a staff level. We have not been able to. I hope that can still happen and that we can avoid having to go to a vote on this question because I think in the final analysis, if anybody will spend a little bit of time trying to understand this issue, they will agree with this change in language that I am proposing. And they will agree that is, in fact, what the Senate would like to see done.

So, Mr. President, with that, let me yield the floor. My colleague may want to speak on this same amendment.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I think the Senator raises an issue that we should discuss, but I have to tell you, it has been discussed, and there is a certain amount of balance that goes into this entire project. In other words, there are other parts of the bill which indicate that FERC should work with RTOs, for example, or should do some of the other things.

Market design is a rather broad concept, and I think this amendment is not necessary. It is illogical to read this SMD delay to tell FERC it cannot do its duty. So when you broaden the whole thing to say you can't do anything, as this amendment implies in establishing a general market design, I suppose you might pick up some things that might be a market design and say you can't do that, when in the bill that is what we are seeking to cause them to do.

I do agree perhaps there ought to be an effort made to clarify this language, as I think the Senator wants to do. And perhaps there is a way where we could do a colloquy, or do something to make it certain that it is not there to interfere with the other things we would want FERC to be doing; for instance, to issue rulemaking on market transparency or participant funding.

We have a balance. And it is a little difficult to achieve that balance if we go with this very broad change. So I think, as it stands, we would have to oppose the amendment. But we encourage the Senator—perhaps we could get together with our staffs and figure out a colloquy that would make it clear in some other fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I appreciate the comments of my friend from Wyoming. Now that we know the procedure—that this will not be voted on until tomorrow at some point—therefore, there will be an opportunity, perhaps this evening or early tomorrow, when our staffs can get together to see if there is any way to accommodate this concern I am trying to deal with in this amendment. As I say, it is a concern which I think many Senators will share if they will focus on what we are trying to deal with.

So the amendment is pending. If we have to, we can have a vote on it, but I would hope we could find another way to deal with this issue that will be acceptable to the chairman of the committee and to my colleague from Wyoming and to all Senators.

Mr. President, that is the only other amendment I intended to offer this evening.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to my friend, Senator BINGAMAN, perhaps, with a little bit of time, we can work on it and see if there is some way we can avoid an amendment. If not, clearly, you understand yours, and we understand our reasoning why we do not need it; that it should not be an amendment; that it should not be raised to that level; that it is not needed in terms of the full amendment. But we will work on it.

Now, I understand the time has arrived when I would make a request because I don't think I did the other in the form of a unanimous consent request.

I ask unanimous consent that the second Bingaman amendment be set aside so that the distinguished Senator, MARIA CANTWELL, can offer her amendment, and that she would use up to 1 hour tonight and have up to 2 hours tomorrow on that same amendment.

I ask Senator CANTWELL, that is correct, is it not, that you would like up to an hour tonight and up to 2 hours tomorrow on this amendment?

Ms. CANTWELL. That is correct.

My colleagues from throughout the West are very concerned that they have ample time to express their opinion about the electricity title and this particular amendment. So if you want to limit it to an hour tonight, we will use the 2 hours tomorrow to give my colleagues a chance to speak.

Mr. DOMENICI. I just wanted to make it clear we are not trying to deny you anything. We just have to have some idea what comes next so other people can be ready. And if it looks as if we come in at 9, you would still have up to 2 hours for further discussion by you and others regarding that amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. REID. Mr. President, reserving the right to object, it is my understanding, then, that the request is that Senator CANTWELL would be able to lay down her amendment tonight, that she would have up to 1 hour tonight, 2 hours tomorrow, and there would be no tabling motion before that 2 hours is up in the morning.

Mr. DOMENICI. The Senator is correct, except, might I say, I think it is fair, just for the Senate's sake, that we say on both of those up to 2 hours. And I do not intend to amend. But we don't have to wait here if she is finished.

Mr. REID. No question about that.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. CANTWELL. If I could clarify, I don't know whether we will actually physically lay down the amendment tonight or the first thing at 9 a.m., but we will talk about the amendment, use that 1 hour tonight, and use the 2 hours according to the agreement.

Mr. REID. Mr. President, if I could respond to the Senator from Washington, that is your choice. You have 3 hours on this amendment. You can either offer it tonight or in the morning. But if you offer it in the morning, the time you are taking tonight would run against your time. So if you take more than an hour tonight, you will lose it in the morning.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I don't have any objection, but we have been talking for about an hour about that amendment and you, I say to the distinguished minority whip, have been saying the important thing is that she would have an hour tonight on her amendment. But we are not going to have her amendment. We thought it was going to be laid down so we would know what it is about.

Mr. REID. Mr. President, I say to my friend from New Mexico, the Senator from Washington—as long as she knows she has a total of 3 hours on her amendment—would have no problem sharing that with you tonight.

Mr. DOMENICI. Can we have the amendment? That is all we want.

Ms. CANTWELL. Absolutely.

Mr. DOMENICI. Thank you.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleagues for their cooperation. We want all Members to understand the amendment I will be offering tomorrow, and we certainly want the American public to understand it. I have a few comments on the Domenici underlying amendment and on the Bingaman amendment as well. They are related to our overall effort.

Let me step back for a moment. The debate we have been having involves important issues about how America moves forward on an energy bill, how we diversify our energy away from foreign dependence, and how we make the right investments. I have a lot of concerns about this bill, that it is not on target making the right investments. I am sure I will have a chance to get to that point later as this bill continues to be debated. But what I feel is most important tonight is that my colleagues and the American people understand this bill has significant changes in it as it relates to consumer protections and the failure we have had as a government in protecting consumers from the energy crisis that has damaged the west coast economy.

When I think of this debate we have had for the last hour or two—actually for the last day or so—about how much time we should give to the Energy bill, I find it amazing. Because the west coast economy got hit basically to the tune of about $6 billion. That is the cost for manipulated contracts that we in the west paid for in our economies. So when you say, let's debate these amendments and let's get them off the table, let's give 6 hours to debating these amendments, we are basically saying to the west coast ratepayers: We are giving you 1 hour for every billion dollars you were gouged by Enron and market manipulators.

We can do better than that. We ought to be willing to give the American public at least an hour for every million dollars they paid in high energy costs that were part of manipulated contracts. I feel very fortunate that I have an hour tonight and that my colleagues from the west and I have 2 hours tomorrow to talk about this important issue. Frankly, the American people need to have their day in this body to debate fully whether we want to have changes to our consumer protection laws, whether this body, the Senate, is taking adequate measures to protect them from having another Enron crisis happen again, and whether our own regulators, the Federal Energy Regulatory Commission, are doing their job in protecting consumers.

This debate we just had about the underlying Domenici substitute and the Bingaman amendment is about that, about whether we should allow for more of the free market or whether we should have more controls.

My point to the American people is that we have a Federal Energy Regulatory Commission that has not done its job. The Federal Energy Regulatory Commission deserves an "F" when it comes to protecting consumers.

Let me show what has happened in my home State of Washington, how consumers have been gouged by high electricity prices. Yes, we were the unfortunate State that got caught with the second worst drought on record which meant our hydro system wasn't producing as much power as we needed it to produce. Consequently, what happened? Well, we had to go out on the spot market and buy electricity. When we went out to buy that electricity, we bought it at a time when California had gone through their deregulation and there were exorbitant prices, sometimes 300 times the price of electricity. Our utilities were forced to buy that power. Our consumers were forced to pay that price.

You say: Well, that is an unfortunate circumstance of that time period and the fact that your State had a drought. I can tell you it wasn't all related to our State having a drought. What we have found since this time is these contracts were manipulated. Enron has said they were manipulated. The Department of Justice has said they have been manipulated. We have a Federal Energy Regulatory Commission report—that report is so voluminous, many pages—that basically documents all the different ways in which these contracts were manipulated.

What is the result? The result of that has been in my home State of Washington we have had utilities that have ended up having increases in their rates. Down in southwest Washington, in the Vancouver area, there has been an 88 percent rate increase; in parts of King County, a 61 percent rate increase; in Snohomish County, a 54 percent rate increase; over in eastern Washington, in Okanogan, one of the areas that is most economically hard pressed in our State, a 71 percent rate increase; over on the Olympic peninsula, a 43 percent rate increase.

I ask my colleagues: Which States would be willing to put up with those kinds of rate increases, from an energy crisis where contracts have been manipulated, and say it is OK?

The kicker in this situation is these aren't just rates for 1999. Because of this crisis and the manipulated contracts Enron has put forth, we are stuck with those high energy costs for the length of those Enron contracts. In fact, even though this report from a Federal agency says these contracts have been manipulated, and unjustly so, these utilities, particularly the one here in Snohomish County, have to pay this 54 percent rate increase for another 5 years. They are stuck paying these Enron contracts for 5 years.

When the utility said: Why should we be paying this price? Why should we pay a contract that has been knowingly manipulated? Enron is suing them. Can you imagine that? Enron, who has admitted guilt in manipulating contracts, has the audacity to sue utilities in my State, forcing them to continue to pay these high rates.

This debate is about whether we are going to get some relief. Somehow people think maybe there is a way this rate increase of 54 percent doesn't really impact people. If you think somehow this really isn't causing harm, I want to submit for the RECORD a New York Times article from December of 2002, just last December, where it showed we had more than 14,000 customers from that local utility in Snohomish County basically disconnected from their energy source because they couldn't pay.

We saw a 44 percent increase in actual disconnections in Snohomish County because people could not afford to pay that 54 percent rate increase.

I ask unanimous consent to print the article I referred to in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 22, 2002]

LEGACY OF POWER COST MANIPULATION

(By Timothy Egan)

EVERETT, WA., Dec. 19.—Two years ago this month, a record was set at the height of the West Coast energy crunch: an hour of electric power was sold for $3,250—more than a hundred times what the same small block had cost a year earlier.

Now, power supplies are abundant and wholesale prices have plummeted. But the fallout from what state officials say was the largest manipulation of the energy market in modern times has continued to hit West Coast communities hard.

Here in Snohomish County, which has the highest energy rates in the state, more than 14,000 customers have had their electricity shut off for lack of payment this year—a 44 percent increase over 2001. They have seen electric rate increases of 50 percent, as the Snohomish County Public Utility District struggles to pay for long-term power contracts it signed with companies like Enron at the height of the price run-up.

Aided by charities, most customers have had their power returned within a day of being shut off, but others are forced to make choices about which necessities they can live without. "It's a pretty tough thing trying to explain to your 5-year-old kid why the lights won't come on anymore," said Crystal Faye of Everett. "I didn't pay much attention to all that stuff about California and Enron, but it's certainly come home to hurt us now."

Ms. Faye and her husband, Rick, who are unemployed, have had their power shut off twice this year. Brianne Dorsey, a single mother, said she removed the baseboard heater in her home here and has had to rely on a small wood stove for heat, because she is $1,000 behind in paying her electric bills.

Faced with such tales tied to rate increases along the West Coast, states are trying to get back some of what they lost during 18 months when energy prices seemed to have no ceiling. The decision this month by a federal regulatory judge that California utilities had been overcharged by $1.8 billion bolstered the case of Northwest utilities seeking refunds, officials of those utilities said. It also angered California officials, who say they will continue to press for a total of nearly $9 billion in refunds. The Federal Energy Regulatory Commission is expected to decide on Northwest refunds in the spring.

No matter what the federal government decides, officials say their best hope for compensation is from a number of criminal investigations being pursued by Nevada and the three West Coast states—Washington, Oregon and California. They liken their cause to state lawsuits against tobacco companies, which started as long shots but resulted in enormous settlements.

Aided by a guilty plea in October from a former trader for Enron, and by newly discovered internal documents describing how companies manipulated the energy market in 2000 and 2001, the West Coast states are hoping to get settlement money from more than a dozen energy trading companies. The companies say they acted legally in taking advantage of a unique market condition, but state officials say the companies created a fake energy crisis.

At the height of the rise in energy costs in early 2001, the Bush administration said the West Coast's troubles were a precursor of what would happen if the nation did not build 1,900 power plants over the next 20 years. But state officials in the hardest-hit areas say the crisis was never about energy shortages so much as it was about an epic transfer of wealth. They want payback—in some cases for immediate relief to consumers who cannot pay their bills this winter.

Last month, the Williams Company, in Tulsa, Okla., agreed to a $417 million settlement with Washington, Oregon and California. While admitting no wrongdoing, Williams agreed to pay refunds and other restitution to the three states; in return, the states dropped an antitrust investigation. Among large energy companies, the states are seeking refunds from the Mirant Corporation, Reliant Resources Inc., Dynegy Inc., Duke Energy and Enron.

"All of us on the West Coast have been hard hit by these rate increases, but the poor in this county have just been hammered," said Bill Beuscher, who runs the energy assistance program in Snohomish County. Mr. Beuscher said that in the first two weeks the winter energy assistance program was open this year, requests for financial aid were up 55 percent from the same period last year.

The power trading companies named in criminal investigations and refund cases did not want to comment publicly while the cases were pending. But several of the companies that are fighting refunds have said in their public filings that the utilities, particularly in the Northwest, are trying to renege on legitimate long-term contracts. They said they did not act in collusion and explained that the highest prices were a result of severe market shifts brought in part by the Northwest drought.

In some cases, the power trading companies said, the utilities resisted buying shorter contracts, which would have cost them less. They also said that some Northwest utilities took advantage of the price spikes and sold power into the market themselves, only to come up short later. The companies said they expected to be vindicated when the government finishes its refund cases next spring.

Mr. Beuscher said he would like to see money from the Williams settlement be used to help people who cannot afford the rate increase. Consumers in Oregon and California have made similar pleas. But officials in all three states say that until there are larger settlements with the energy companies, consumers are unlikely to see relief.

"We hope that the Williams case serves as a template," said Tom Dresslar, a spokesman for the California attorney general's office, "because California was monumentally ripped off by these energy traders."

About seven million consumers in California, who were initially shielded from having to pay for runaway energy costs during the worst part of the state's deregulation debacle, are paying rate increases averaging 30 percent more than the pre-deregulation prices of 1996. The state has the highest energy rates in the nation, consumer advocates say, although the structure of the rate increase allows poor people and low energy users to escape the recent increases.

"I don't hold out a lot of hope that we will ever get significant refunds," said Doug Heller of the Foundation for Taxpayer and Consumer Rights, a nonprofit group based in Los Angeles. The group calculates that California power customers overpaid a total of $70 billion.

At the height of the energy troubles, the trading companies boasted of record profits in their quarterly reports. But many of those companies are now near bankruptcy as they cope with a downturn that has caused the energy trading sector to lose 80 percent of its value, according to Wall Street analysts. "It's like the highwayman robbed us and then spent all the money on booze," Mr. Heller said.

The companies themselves blame the states. In one case that was heard this month, William A. Wise, chief executive of the El Paso Corporation, which is based in Houston, denied manipulating the market and blamed the officials who set up California's deregulated energy market for causing the price run-ups with "one bad policy after another."

Under a New Deal-era law, power companies can be forced to pay refunds if they have charged an "unreasonable and unjust" amount for electricity. The Federal Energy Regulatory Commission, which West Coast governors say did very little to restrain power traders during the height of the run-ups, will determine the exact refund amount, if any.

In the meantime, electric rates throughout the Pacific Northwest, once among the cheapest in the nation, have climbed as much as 50 percent.

California's problems stem from its chaotic attempt at energy deregulation, approved in 1996 and put in effect in 1998. The Northwest, with its tradition of publicly owned utilities, was drawn into the California crisis by a convergence of dry weather and freewheeling trading of its own.

Usually, the Northwest avoids price fluctuations by providing a steady stream of hydroelectric power, aided by abundant winter rainfall. But in late 2000, a drought in the Northwest forced utilities to buy power on the open market. Some utilities had also tried to sell power into the California market but were pinched by the drought.

At the same time, major energy traders were withholding blocks of power to create the appearance of further shortages, according to Enron memorandums discovered this year.

Refunds were once thought to be unlikely. But then came the memorandums—many of them detailing schemes to manipulate the market under names like Death Star—and the agreement in October by Timothy N. Belden, a former senior trader for Enron, to plead guilty to conspiring with others to manipulate the West Coast energy market.

Prosecutors say Mr. Belden is cooperating with investigations of the power trading companies.

"What really started the ball rolling were the smoking-gun memos, and then the guilty plea has helped as well," said Kevin Neely, a spokesman for the Oregon Department of Justice.

There is also continued bitterness among West Coast officials toward the Bush administration for waiting until June 2001 before putting price controls on the market, which immediately ended the large price spikes and rolling blackouts and brought stability.

Since then, power use has fallen and prices on the short-term market are about where they were before the energy run-up of 2000 and 2001.

"It was a fallacy to blame this crisis on a lack of new power plants," said Steven Klein, superintendent of Tacoma, Wash.'s public utility, Tacoma Power. "But it's a shame what came of this. It put a dent in a lot of family budgets, and forced some businesses to close."

Ms. CANTWELL. It is impacting people in my State. One of the largest employers in the State, the Boeing Company, has their major manufacturing base located in that particular county. In that county, they have made it clear they planned to build the next generation plane. They are not sure whether they are going to build that plane there or even in Washington State. What is on the list of issues about which they are concerned? The cost of energy, the high cost of energy. So again, individual ratepayers are suffering. Businesses are suffering. Businesses may decide the long-term investment in Washington State isn't worth it just because Enron manipulated contracts at a time my consumers and my businesses needed affordable electricity.

We are here tonight to talk about this situation and what the Senate is going to do about it. It is clear we are not doing enough.

I think there are newspapers all over the country who basically have said we are not doing enough about it. The New York Times said, "This energy crisis dims small business hopes." This is an administration that wants to get the economy on the right track. How can you get the economy on the right track if you won't do anything about manipulated energy contracts? Basically, they say the "perfect storm is creating a return of the energy crisis," and "power cuts in the cold winter ahead for those struggling to pay for electricity."

Just like I said, in Snohomish County, with a 44 percent increase in disconnect notices and an energy crunch, the Northwest might face another power crisis. "Costs hit home for the energy crisis" is in the San Francisco Chronicle. Believe me, we are going to hear from my colleagues from California tomorrow about how this crisis has impacted them.

Again, my colleagues on the other side of the aisle can spend as much time as they want talking about the need for future energy supply, which I am all for. About the fact that we should have been building more supply. That is fine. But you have to address the issue. The issue is these contracts were manipulated. They were schemed. The American people will come to know them by name—Get Shorty, Fat Boy, and a variety of others. That might seem humorous to some people, but it is not humorous when real people suffer the consequences. We are not doing enough about it.

So what else have newspapers said? The shocking thing is they basically are saying what I think some of my colleagues, particularly on the other side of the aisle, want to deny. I am not sure exactly why they don't want to address it. But they say, "Enron met with energy regulators during the crisis." "Enron monitor failed to do the job." "Federal energy regulators inept," this says. "Enron execs often called the FERC brass during crisis."

What is going on here is we have had this incredible lobbying effort by Enron in getting FERC commissioners and doing nothing about this crisis, and playing an overexcessive role. Now we have the choice as Members of the Senate as to whether we are going to stand up and do something about this.

I am outraged and I have been outraged about this issue for some time, because I go home almost every weekend and I see the real consequences of this problem. But even that pales in comparison to the steps I think this body is going to mistakenly take if it passes the Domenici electricity title as it is.

Mr. President. the Domenici electricity title as it is does nothing to protect consumers on power generation. The Domenici electricity title basically takes the only consumer protection law on the books—the Public Utility Holding Company Act—and repeals it. The good Senator from New Mexico, Senator BINGAMAN, tried to say: "Are you sure we want to do that because I don't think we should?"

If you are going to change the oversight of these utilities, you ought to put some protections in place. When they do these mergers, maybe we ought to figure out a way that we have some oversight of this and protect it. We will have some other amendments—Senator DAYTON's and some of mine—that say, listen, we cannot go far enough in protecting consumers. How could you go too far in protecting consumers when we have had one of the biggest energy schemes in our country's history just unfold in the last couple of years?

I applaud this body for passing new accounting requirements. I applaud giving the SEC more to do on accountability, making sure that books are not cooked, that schemes are not put into place. I applaud the Attorney General from New York for his aggressive action in making sure that those who have been participating from the financial side in helping to portray to the American people that somehow these companies were healthy, when in fact all they were deploying were buying-and-selling schemes with inflated pricing. I applaud all of that. But what this bill fails to do is take a similar step. It fails to take a similar step because it is repealing the only consumer protection bill we have for electricity.

So how did we get there? Some of my colleagues mentioned the Federal Power Act and the Public Utility Holding Company Act of 1935. During the Roosevelt era, guess what? We saw the same thing. No surprise. A bunch of energy companies had total control of the market, created a pyramid scheme, jacked up the price on consumers. Guess what? The Roosevelt administration said: We cannot tolerate this. Consumers need to be protected.

So 1935 might seem like a long time ago to some of my colleagues, but I know one thing—too much concentration of power by a free market does not deliver affordable energy.

My State is a big believer in cost-based pricing. We have a lot of public power. That public power provides us with affordable energy. I am not opposed to market-based rates. I am not opposed to the free enterprise system. As a former businesswoman, I like the marketplace where businesses can compete and where competition exists, where anybody gets nervous when there is too much consolidation and when there is no oversight.

So, basically, what we have here in the last 2 years is more of a move toward market-based pricing, without the regulatory oversight. I would love to hear from my colleagues on the other side of the aisle who think State utility commissions don't have a responsible role in making sure that utility rates are not too high and too expensive. I would love to hear from my colleagues that somehow they don't think the Federal Government should play a role in wholesale rates and in assuring consumers that wholesale rates are just and reasonable. But I can tell you this. There is nothing just and reasonable about manipulating contracts. Even Patrick Wood, chairman of the Federal Energy Regulatory Commission, said so before the Energy Committee:

> "Yes, that is right, Senator Cantwell, contracts that have been manipulated cannot be just and reasonable."

So why don't we do something about taking the Federal Energy Regulatory Commission and strengthening it? Why don't we smack them on the hand and say actually you have not done your job, because if you want to go through the sequencing—the issue is that in this timeframe of the explosion of the California market and the crisis and the problem, what happened is prices rose to that exorbitant 300 percent increase. We all started saying we need to do something about this; we need to have some sort of price cap or price mitigation.

In fact, my predecessor, Slade Gorton, and several other Senators, actually wrote letters saying we need to do something about this energy crisis. The former Energy Secretary, now the Governor of New Mexico, also said we have to do something to stop this manipulation of pricing.

The prices actually started unfolding in May of 2000 even though a variety of people said there is important business to do here. Secretary Richardson, in December of 2000, 4 or 5 months later, said this is an emergency and we need to do something about it.

The next day FERC basically decides they are going to deny a request to do anything about capping the prices. They are not going to do anything! It took the outrage of many Members of Congress, and almost a year later when a bipartisan group of Senators introduced a bill to put on price caps that in April of 2001 the Federal Energy Regulatory Commission finally responded and said: Oh, yes, these prices are outrageous, and we should do something about them.

Mind you, all of us were saying during that time period that these contracts have been manipulated. They have been manipulated, and it is not fair. Our ratepayers should not have to pay these exorbitant prices. At that time, people were saying: This is just about supply, and if you guys built more supply, you would not have a problem. We have come to find out that it is not all about supply. It is about those manipulated contracts.

What happened is we finally heard from the source itself: Enron declaring bankruptcy, an investigation of potential energy market manipulations, and then finally, in March of 2003, FERC issuing this report saying the prices have been manipulated.

We had to drag that Federal entity kicking and screaming into the realization that, one, the prices were too high; two, that consumers in the West absolutely needed relief; and three, that these prices have been manipulated. Now we are trying to drag them into the realization that manipulated contracts that cost ratepayers 54-, 77-, 80-percent increases over the next 5 or 6 years are hardly just and reasonable or hardly in the public's interest.

The underlying Domenici amendment says: Go ahead and trust these FERC people; they are doing a good job; and let's take away any of those basic tools they have to regulate this industry.

I am surprised that some of my colleagues have not said: Let's just do away with FERC and deal with the Power Act. We would be better going to court and having the courts decide in our favor than having a regulatory entity that fails to do its job. But I know this: tonight and tomorrow we should not be talking about repealing the Public Utility Holding Company Act. We should not be doing that.

PUHCA really does hold companies accountable for their business service to retail customers. It gives the SEC the authority to review these mergers and put a prohibition on acquisitions if they do not think there is evidence that we are going to have efficient rates. It makes sure they review the complex corporate structures. It makes sure that these companies do not exploit the consumer. It really did give the SEC the ability to regulate pyramid schemes that were based on fictitious or unsound value assets that had no relationship to fair sums of what was being invested and how much the company was worth. It is amazing, that was a 1935 act. I guess history really does repeat itself because these are the same abuses we have seen in the Enron situation.

Remember the maze of affiliates and offshore partnerships that were part of the Enron scheme? Remember Enron's diversification into businesses as far afield as trading of weather derivatives and water supply? Remember how Enron inflated their stock price and then it collapsed? It created such a gaping hole for individuals that they ended up losing their entire investment for retirement because of the collapse.

I can tell you this: We do not want to repeal PUHCA. What we want to do is have some further securities put in place. Some of those securities need to respond to these various schemes that have been perpetrated on the American consumer.

If we could see some of those schemes, I think the American public would be shocked to know that someone actually spent their time thinking up schemes in which the market could be manipulated.

I even have an article that Enron's Ken Lay admitted that he had gone to the then-current FERC Commissioner and said: If you continue to help us on this scheme, then we will continue to support you for the renomination of FERC. I guess Mr. Hebert was not quite so supportive because he was not renominated to that post. I ask unanimous consent that this article be printed in the RECORD.

The being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 25, 2001]

POWER TRADER TIED TO BUSH FINDS WASHINGTON ALL EARS

(By Lowell Bergman and Jeff Gerth)

Curtis Hebert Jr., Washington's top electricity regulator, said he had barely settled into his new job this year when he had an unsettling telephone conversion with Kenneth L. Lay, the head of the nation's largest electricity trader, the Enron Corporation.

Mr. Hebert, chairman of the Federal Energy Regulatory Commission, said that Mr. Lay, a close friend of President Bush's, offered him a deal: If he changed his views on electricity deregulation, Enron would continue to support him in his new job.

Mr. Hebert (pronounced A-bear) recalled that Mr. Lay prodded him to back a national push for retail competition in the energy business and a faster pace in opening up access to the electricity transmission grid to companies like Enron.

Mr. Hebert said he refused the offer. "I was offended," he recalled, though he said he knew of Mr. Lay's influence in Washington and thought the refusal could put his job in jeopardy.

Asked about the conversation, Mr. Lay praised Mr. Hebert, but recalled it differently. "I remember him requesting" Enron's support at the White House, he said of Mr. Hebert. Mr. Lay said he had "very possibly" discussed issues relating to the commission's authority over access to the grid.

As to Mr. Hebert's job, Mr. Lay said he told the chairman that "the final decision on this was going to be the president's, certainly not ours."

Though the accounts of the discussion differ, that it took place at all illustrates Enron's considerable influence in Washington, especially at the commission, the agency authorized to ensure fair prices in the nation's wholesale electricity and natural gas markets, Enron's main business.

Mr. Lay has been one of Mr. Bush's largest campaign contributors, and no other energy company gave more money to Republican causes last year than Enron.

And it appears that Mr. Hebert may soon be replaced as the commission's chairman, according to Vice President Dick Cheney, the Bush administration's point man on energy policy.

Mr. Lay has weighed in on candidates for other commission posts, supplying President Bush's chief personnel adviser with a list of preferred candidates. One Florida utility regulator who hoped for but did not receive an appointment as a commissioner said he had been "interviewed" by Mr. Lay.

Mr. Lay also had access to the team writing the White House's energy report, which embraces several initiatives and issues dear to Enron.

The report's recommendations include finding ways to give the federal government more power over electricity transmission networks, a longtime goal of the company that was spelled out in a memorandum Mr. Lay discussed during a 30-minute meeting earlier this spring with Mr. Cheney.

Mr. Cheney's report includes much of what Mr. Lay advocated during their meeting, documents show. Both men deny discussing commission personnel issues during their talk. But Mr. Lay had an unusual opportunity to make his case about candidates in writing and in person to Mr. Bush's personnel adviser, Clay Johnson. And when Mr. Bush picked nominees to fill two vacant Republican slots on the five-member commission, they both had the backing of Enron, as well as other companies.

Mr. Lay is not shy about voicing his opinion or flexing his political muscle. He has transformed the Houston-based Enron from a sleepy natural-gas company into a $100 billion energy giant with global reach, trading electricity in all corners of the world and owning a multibillion-dollar power project in India. He has also led the push to deregulate the nation's electricity markets.

Senior Bush administration officials said they welcomed Mr. Lay's input but did not always embrace it: President Bush backed away from curbing carbon-dioxide emissions, an effort supported by Enron, which had looked to trade emission rights as part of its energy business.

"We'll make decisions based on what we think makes sound public policy," Mr. Cheney said in an interview, not what "Enron thinks."

The Bush-Lay bond traces back to Mr. Bush's father and involves a personal and philosophical affinity. Moreover, Enron and its executives gave $2.4 million to federal candidates in the last election, more than any other energy company. While some of that went to Democrats, 72 percent went to Republicans, according to an analysis of election records by the Center for Responsive Politics, a nonprofit group.

"He's for a lot of things we're for," said Mr. Johnson.

But when it came to deciding on nominees for the commission, Mr. Johnson said that Mr. Lay's views were not that crucial. The two most important advisers, he said, were Andrew Lundquist, the director of Mr. Cheney's energy task force, and Pat Wood 3rd, the head of the Texas public utility commission.

As governor, Mr. Bush named Mr. Wood to the utility commission. This year, when the White House filled the two Republican slots on the federal agency, Mr. Wood was the first choice, Mr. Johnson said.

Consumer advocates and business executives praise Mr. Wood. But Mr. Lay also had a role in promoting him. Shortly after Mr. Bush was elected governor in 1994, Mr. Lay sent him a letter endorsing Mr. Wood as the "best qualified" person for the Texas commission.

In all, there are five seats on the commission, two held by Republicans, two by Democrats and one held by a chairman who serves at the pleasure of the president. Mr. Hebert, who became a commissioner in 1997, was named chairman by Mr. Bush in January.

The Federal Energy Regulatory Commission's mandate to ensure fair prices in wholesale electricity and natural gas markets makes it crucial to sellers like Enron as well as consumers.

The movement toward deregulation sometimes leaves the commission caught in a tug of war: power marketers like Enron are trying to break into markets and grids controlled by old-line utilities, which operate under state regulation. The commission's chairman has considerable latitude in setting its agenda.

As part of its oversight of the wholesale electricity markets, the commission ordered several companies to refund what it considered excessively high prices this year in California. One lesser offender named in the commission's public filings—$3.2 million, of a total of $125 million—was an Enron subsidiary in Oregon.

Enron owns few generating assets, but buys and sells electricity in the market. Many of those transactions resemble the complicated risk-shifting techniques used by Wall Street for financial instruments.

Mr. Hebert, after he became chairman, initiated an examination into the effects those techniques have on the electricity markets. "One of our problems is that we do not have the expertise to truly unravel the complex arbitrage activities of a company like Enron," he said, adding, "we're trying to do it now, and we may have some results soon."

William L. Massey, one of the agency's two democratic commissioners, said he supported the inquiry but had not been aware of it—an indication of the chairman's ability to set the commission's agenda.

Finally, the commission is trying to speed the pace of electricity deregulation by opening up the nation's transmission grid, much of which is owned by privately owned utilities that enjoy retail monopolies. Some Enron officials say the commission has been moving too slowly to open the grid. They attribute some of the problem to utilities. But they also fault Mr. Hebert.

"Hebert still has undeserved confidence in some of the vertically integrated companies coming to the table and dealing openly" with transmission access issues, said Richard S. Shapiro, an Enron senior vice president.

The utilities, however, maintain that they provide cheap and reliable service for their customers. Washington lobbyists for one Southern utility said that Enron was really interested in focusing on the utility's big-business clients, which under state regulation pay higher rates than residential customers.

Since 1996, about half the states have moved to open their retail markets to competition, and the commission has begun to make it easier for outsiders to use the nation's transmission grid. But the promise of cheaper rates has been largely unfulfilled. So the push for more deregulation, in which Enron has been a leader, has slowed, especially when California's flawed program led to skyrocketing rates and chaotic markets.

Mr. Hebert is a free-market conservative who favors deregulation but also recognizes the importance of state's rights. A former Mississippi regulator, he is a protege of Trent Lott, the Senate Republican leader from Mississippi. Mr. Hebert said Mr. Lott was instrumental in his nomination to the commission in 1997 by President Clinton.

President Bush elevated Mr. Hebert to chairman on Inauguration Day, a move Mr. Lay said he told the White House he supported.

Mr. Johnson, the White House personnel chief, said that Mr. Lott and Mr. Hebert had both been told that Mr. Hebert could remain chairman at least until the administration's nominees—Mr. Wood and Nora Brownell, a Pennsylvania utility regulator—are confirmed by the full Senate. The Senate energy committee voted earlier this week to approve the two nominees, after a hearing last week indicated strong support.

It is widely expected that President Bush will name Mr. Wood to replace Mr. Hebert as chairman after the Senate acts.

In an interview for a forthcoming episode of "Frontline," the PBS series, Mr. Cheney suggested as much. "Pat Wood's got to be the new chairman of the F.E.R.C., and he'll have to address" various problems in the electricity markets, he said.

Mr. Hebert said that no one had told him he was being replaced. If someone else is named chairman, Mr. Hebert can remain a commissioner until the end of his term, which expires in 2004.

It was a few weeks after President Bush made him chairman Mr. Hebert said he spoke by telephone with Mr. Lay.

Mr. Lay told him that "he and Enron would like to support me as chairman, but we would have to agree on principles" involving the commission's role in expanding electricity competition, Mr. Hebert said of the conversation.

A senior commission official who was in Hebert's office during the conversation said Mr. Hebert rebuffed Mr. Lay's offer of a quid pro quo. The official said that he heard Mr. Hebert's side of the conversation and then, after the call ended, learned the rest from him.

Mr. Hebert said that he, too, backed competition but did not think the commission had the legal authority to tell states what to do in this area. Concerning the issue of opening transmission access through the creation of regional networks, Mr. Hebert supports a voluntary process while Enron seeks a faster and more compulsory system.

Mr. Lay said that while he might have discussed issues relating to the commission's authority concerning access to the grid, "there was never any intent" to link that or any other issue to Mr. Hebert's job status.

The commission is a quasijudicial agency, so decision-makers like Mr. Hebert must avoid private discussions about specific matters pending before the commission. Mr. Hebert and Mr. Lay both said that line was not crossed, but Mr. Hebert said he had never had such a blunt talk with an energy-industry executive.

Mr. Lay added that his few recent conversations with Mr. Hebert were nothing special. "We had a lot of access during the Clinton administration," he said.

And he said that while making political contributions "probably helps" to gain access to an official, he made them "because I'm supporting candidates I strongly believe in."

Last June, Enron executives were asked to make voluntary donations to the company's political action committee. The solicitation letter noted that the company faced a range of governmental issues, including electricity deregulation.

This year, some people who sought but did not get nominations to the commission said that Mr. Lay and Enron had had a role in the process.

One was Joe Garcia, a former Florida utilities regulator and prominent Cuban-American activist. He said he had been "interviewed" by a few Enron officials, including Mr. Lay, who he said had not been as "forceful or insistent" as the other Enron officials.

But in their conversation, Mr. Garcia said, Mr. Lay made clear that he would be visiting the White House, adding that "everyone knew of his relationship and his importance."

Mr. Johnson, the White House personnel chief, could not cite another company besides Enron that sent him a list of preferred candidates for the commission, but he remembered hearing the views of Tom Kuhn, who heads the utility industry trade group, the Edison Electric Institute. Mr. Kuhn was a classmate of Mr. Johnson and Mr. Bush at Yale.

As for his conversation with Mr. Garcia, Mr. Lay said he was comfortable with his candidacy but "I'm not sure what I told him about my friends at the White House."

This article is part of a joint reporting project with the PBS series "Frontline," which will broadcast a documentary about California's energy crisis on June 5.

Ms. CANTWELL. Mr. President, what are these schemes that were perpetrated on ratepayers in the West?

Get Shorty is a scheme that individuals may have read about in the paper, or maybe some individuals know from being in California or hearing parts of what happened in Washington State or Oregon. I thought it was the title of a movie. I did not know it was a clever marketing tool presented by a bunch of executives at an energy company to manipulate the prices so my ratepayers might pay more. I could not believe something like that would happen.

Another scheme that was part of the process is Load Shift, another way in which the individual consumer did not understand that some trading was going on with the price, and yet prices could be inflated and because, again, we had a shortage and had to go out and buy on the spot market, we were trapped at buying at that high rate.

There is another attempt to defraud consumers known as the Silver Peak Incident. Silver Peak refers to a major transmission line in California but is outlined in an internal Enron e-mail that was made public by the FERC investigation. It is also synonymous with a scheme that was concocted by the Enron chief trader of the West who has since pled guilty to charges of conspiracy to commit fraud, Mr. Tim Belden, and on May 25, 1999, Mr. Belden filed 2,900 megawatts of an offer to sell within the California PX, the transmission line that could carry only 17 megawatts of power.

So the California PX and ISO did, in fact, detect that there was an anomaly. They ended up raising the price 71 percent that day, and eventually Enron and the PX reached a settlement in which the company paid a $25,000 fine. It shows the kinds of problems that are in these various schemes, Fat Boy, also known as Icing Load, basically into realtime power markets. According to a smoking gun memo that Enron had issued on December 6 and December 8, Fat Boy was one of the most fundamental strategies used by traders. According to one trader, it is one of the oldest tricks in the book. It is now being used by other market participants.

I want to read to my colleagues how Enron's own attorney described Fat Boy, but first remember how the market worked. It was the job of the California system to balance the supply and demand within California's transmission, and that required market participants to submit schedules of how much power they planned ahead of time. Given that there are various fluctuations because of weather and the demand that consumers have, it was simply a fact of life that marketers and utilities were not able to forecast to the exact megawatt the precise amount that would be needed.

Thus, in order to ensure that the lights stayed on, the ISO would offer payments to utilities that would increase their generation in realtime in order to make sure that supply and demand matched up. So to take advantage of the situation, Enron would anticipate when the market was going to be short on supply. It would then submit a false day-ahead schedule loading the lines with generation it knew it had no intention of really using. That way, when it accessed the portion of power it put on the realtime grid, it would receive extra payments from the ISOs in keeping the lights on. That is right. By falsifying its day-ahead schedules, Enron received untold millions for pretending to keep the lights on in the West. I can assure my colleagues that is a very cruel joke to play on consumers in the West.

So what we have before us in the Domenici amendment is a failure to protect consumers in the repeal of PUHCA and in the continuation of not outlawing these very practices that Enron has deployed. What we want to do is take all these schemes and include them in an amendment that I will lay down tomorrow that basically bans market manipulation. Yes, I would like to see us adopt the Dayton amendment that keeps the 1935 law on the books. Because, yes, left alone, energy marketers have shown that even after 70-plus years, they can recreate the same types of market manipulation. So we need to have protections in place.

Round-trip trading is not the only thing that needs to be addressed in this bill in addition to PUHCA. What needs to be addressed, besides protecting the Public Utility Holding Company Act and keeping that on the books, and besides saying that round-trip trading is a problem, we also need to make sure these various other schemes, the Wheel Out scheme—I do not know who the marketing person was who thought of these themes. I am amazed—the Black Widow scheme, the Cuddly Bear scheme, the Red Congo scheme—people can see we are having a tough time getting all of these charts up here because there were so many schemes of manipulation, basically undertaken by a variety of individuals who thought this was a great idea to make money—the INC-ing scheme and the Non-Firm Export scheme.

The amendment I will lay down tomorrow says all of these manipulations, not just on day-trip trading but all of these practices are illegal; that the Senate will not put up with market manipulation; that the Senate has seen, not just on the Democratic side of the aisle but the Republican side of the aisle—I want my Republican colleagues to join with us tomorrow and say that market manipulation is wrong—that it is wrong and we believe we need stronger consumer protections; that we think the Federal Energy Regulatory Commission should be given the powers to make sure we are protected from these schemes; that we have done our job from the Enron crisis, where we have learned that we need to do a better job on accounting practices; that we have learned that we need to do a better job on requirements of the SEC and, yes, we in the Senate understand that energy prices can be manipulated and we are going to do a better job of making sure the tools stay in place to protect consumers. That new enhancements to those tools prohibit these kinds of schemes from ever happening again.

As painful as this crisis has been for Washington State and for the West, this particular amendment I am offering is really about our next steps moving forward. It is about natural gas pricing. It is about the future manipulation that could happen if we do not put protections in place. It is about saying that we want to make sure, as we continue towards a diversified energy plan for our country, getting more natural gas from Alaska with a new pipeline, looking at renewable energy, looking at conservation, looking at all sorts of alternative fuels, planning for the hydrogen fuel economy, that while we are doing all of those things, we are going to make sure market manipulation does not take place. That is what is at stake with the amendments we are going to be voting on tomorrow.

Mine will not be the only amendment. As I have mentioned several times, Senator DAYTON has a great amendment in which he says we should leave the Public Utility Holding Company Act in place. I am trying to stop these marketing schemes from being foiled on other States and other economies. I am trying to say the billion-plus that was lost in Washington State and the over $3 billion that was lost in California is economic havoc that should never happen again to another State in this country.

To do that, we have to pass the Cantwell amendment that says these market manipulations are outlawed. That is what we are going to try to do tomorrow. I hope my colleagues will take the time tonight to understand this.

I point out my colleagues have talked about this Energy bill and the various aspects of that Energy bill in a way that would leave most thinking these are simple issues and we should basically dispense with them quickly. As I said, $6 billion to the west coast economy—and that is just the costs of additional power that we have had to buy at higher rates; that is not the ancillary costs of other businesses who have had to shut down.

We have had a paper company in Everett, WA, threaten if we have one additional rate increase of even a couple percentages, they will probably have to shut down that facility. We have had aluminum plants throughout the State of Washington that had to shut down for periods of time. If we have another rate increase they could be shut down permanently. We are talking thousands of jobs. We have had other industries say they do not think they could survive another rate increase.

It is hard when we have challenges to not say we should have a rate increase. My response is, why can't we get out of these long-term contracts by Enron? Why can't we renegotiate what have been manipulated costs we in Washington have had to pay for? When I think of what has happened to Washington State, we are talking about more than $6 billion. We owe it to people to have a debate about these issues.

I plan to offer several other amendments. It is incredible we allow big companies such as Enron to lobby for and to support the nomination of these FERC commissioners. Why should a big company like Enron get to influence the administration on who should chair a regulatory entity whose job is to regulate that very entity that is pushing their nomination? I will have an amendment about that.

I think the Federal Energy Regulatory Commission which engages in 15 calls with Wall Street to tell them when and how they are going to make decisions on these contracts and whether they are just and reasonable. I don't see why we should have a Federal Energy Regulatory Commission that spends its time telling Wall Street in advance whether they should try to settle manipulated contracts out of court with clients. I don't think that is their job.

We ought to have more protection on cost-based pricing than we have. We will have other amendments that try to address this issue about what we do about the fact that this voluminous report by the Federal Energy Regulatory Commission says all these contracts have been manipulated. Yet they fail to do nothing about it when the Federal Power Act says it is the commission's job to do something about unjust and unreasonable rates. That is what the Federal statute gave the authority to FERC to do, to make sure on wholesale rates the consumer was not gouged with unjust and unreasonable rates.

Now we have a Federal entity saying, yes, they certainly are manipulated contracts. These schemes are unbelievable, but we are not going to do anything as regulators to help the ratepayers out of this situation. We will have an amendment addressing the failure of FERC to do anything about these manipulated contracts.

Some of my other colleagues will have amendments dealing with this section. I don't know whether Senator FEINSTEIN will offer her amendment on derivatives but, again, that is another loophole Enron walked itself through by coming to Congress and lobbying for an exemption to the Futures Commodities Trading Act. They said online trades ought to be exempt. That was very smart of them to get that loophole. Why? Because then all online trading, that some of these schemes are the names for, was completed online where prices were manipulated in trades, inflated, and consumers ended up paying the higher price.

They get the derivatives loophole in the futures commodity. We say in America you can trade futures on corn and a variety of other agriculture products but you have to have open books. You have to have transparency. You have to show what you are actually doing so that if there is some sort of manipulation of the market you can come in and see what that manipulation is, a regulator can investigate.

But no, this body, several years ago, probably unknowing as to the unbelievable impact, said, let's go ahead and give them this exemption.

We found that a loophole big enough to drive a truck through—I should say big enough to drive billions of dollars through; that gouged consumers. I hope Senator FEINSTEIN will offer her derivatives amendment, which I cosponsor, to close that loophole.

Some of my colleagues say, we voted on that already; it failed. I ask my colleagues, we voted on that amendment before we knew of all these schemes about manipulation. Now we know these schemes and manipulation have happened and we are not going to try to do something to close those loopholes? It is something we need to bring front and center to the American people, demonstrating we here are doing our job. We are doing enough to get something done.

I have letters from various constituents through the West who chronicled events that have happened to them, individuals who have either sent E-mails, letters or various documentations about the problems they have seen in the energy market. The various costs they have endured paying for additional electricity, which then meant they had to make other choices. I know people that not only were part of that 44 percent increase in disconnect rates. People who had to make other choices about education, about vacations, including a sad story from a woman who could not even send her daughter to the prom because she could not afford to buy a dress because that money went to their energy bill instead.

What it comes down to tomorrow is whether we are going to allow this manipulation of Fat Boy, Get Shorty, Ricochet, Death Star, which the Domenici amendment is silent on. Whether we are going to take a vote to say that market manipulation is wrong.

What are we going to say to ratepayers who had to pay 88 percent increases, 61 percent increases, 54 percent increases, 71 percent increases, 43 percent increases? Again, these aren't increases for 1 year, these are increases that my ratepayers are stuck with. They are stuck with them because they signed an Enron contract and because we have a Federal Energy Regulatory Commission that basically says: Yes, they have been manipulated, but we don't care, you still have to pay that rate.

I do not want this to happen to other parts of the country. I don't want to see economies like the Northwest economy, or the west coast economy, which is a critical part of our Nation's economy, suffer the consequences of manipulation of energy prices. The American people, to whom I have to answer when I go home to Washington State, or in other parts of the country if I travel, say to me: How come I am stuck with an 88 percent rate increase? How come I am stuck with a 61 percent rate increase? How come I am losing my job because our company can't afford the high electricity costs? or, How come my school district is paying high electricity rates and we have to pay a higher tuition? How come our school district is asking for a levy because we have higher electricity rates? People are not even taking action on giving us relief.

We will come back at this body on what we should do about past bad actions. But what we need to do tomorrow on the Cantwell market manipulation amendment is say that market manipulation of energy prices is wrong and that an energy title that fails to address these issues is not satisfactory.

I could take the last few minutes I have tonight, of my 1 hour, and tell you six or seven things that are also wrong with the Domenici electricity title. There are lots of schemes in there that run towards a market-based system on regional transmission organization and standard market design that I know my colleagues from the South and parts of the West probably are not too anxious to hear about, aren't too excited that I put in play. The Domenici amendment is a step closer to that.

Why do they want more of a free market? Because they want to see having that free market without the regulatory aspects of the Public Utility Holding Company Act, or having oversight of mergers, or having these kinds of hammers making sure no manipulation takes place. They want to see how much further prices can be manipulated. They want to see how they can have a free rein on what really is a needed utility for the American people.

I think, regarding those RTO and standard market design schemes that are also part of the Domenici underlying amendment, it is the absolutely wrong time to be talking about moving towards more change. We have just had this crisis. My State is still paying for this crisis. We are going to still be paying for it for years.

I understand the President is coming to the Northwest in August. I hope the President has an answer for why his administration, and the Federal Energy Regulatory Commission, have not dealt with this issue. I hope he has an answer, to say to ratepayers why we should continue to be gouged on this issue; why we in the West, even though contracts have been manipulated, still have to pay those prices.

I would say to him: Mr. President, Washington State has a bright future. It still has a software economy. It still has an aerospace industry. Yes, it has been challenged, but it is still strong. We have a burgeoning biotech industry. We have a huge trade community. We have a vibrant, diverse agricultural economy throughout our State. But none of those can continue to exist with exorbitant energy prices that have been manipulated.

I hope when he comes to Washington State, he has an answer. I can tell you right now, that answer will not be well received if it is about just creating more supply. We are all for creating more supply in Washington State, and we are all for diversifying, but we are not for market manipulation.

We have to think through these other aspects of the Domenici amendment on RTOs, regional transmission organizations, standard market design and the other elements that really do call into question our ability to regulate the cost of electricity, for which the American people count on us. I hate to think, after 70 years of having a similar pyramid scheme push us into having the Public Utility Holding Company Act, that somehow this body will not get the message. Instead of just dealing with this crisis that we have dealt with in electricity—maybe not next year, maybe not in 5 years, but 7 years down the road—we end up having a similar crisis with natural gas, and, instead of just affecting the west coast and Washington ratepayers, it impacts the whole country.

Fair energy prices are part of having a healthy economy. Affordable energy prices help to continue to stimulate economic growth. But manipulated energy prices are not just. They are not reasonable. They are not in the public interest. This body ought to take strong action against them.

I know my colleagues all care about this issue. We wanted to do the right thing on securities law. We wanted to do the right thing on accounting law. It is time, with the Cantwell amendment tomorrow, to do the right thing on making sure that energy market manipulation is prevented and does not happen again.

I yield the floor.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—Executive Calendar

Mr. McCONNELL. Mr. President, as in executive session I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit; provided further that there then be 4 hours for debate equally divided in the usual form; and that following that debate the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate; further, that the President then be immediately notified of the Senate's action and the Senate then resume legislative session.

Ms. CANTWELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. Mr. President, I modify my request to allow for 8 hours of debate.

Ms. CANTWELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. Mr. President, I modify that to ask for 10 hours of debate.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, JR., OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

Mr. McCONNELL. Mr. President, I now ask unanimous consent that the Senate proceed to executive session for the consideration of calendar No. 310, and I send a cloture motion to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

Mr. McCONNELL. Mr. President, I further ask unanimous consent that the live quorum under Rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the cloture motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Orrin Hatch, Ben Nighthorse Campbell, Craig Thomas, Charles Grassley, John Cornyn, Chuck Hagel, Jim Talent, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, Larry Craig, Jeff Sessions, Lindsey Graham, Rick Santorum, and Thad Cochran.

LEGISLATIVE SESSION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN J. HOULIHAN: A LIFETIME OF GIVING

Mr. DURBIN. Mr. President, I rise to pay tribute a great man, a compassionate public servant, a decorated war hero and a beloved husband, father and grandfather, John J. Houlihan, who died of lung cancer, Thursday, July 24, in his Palos Heights home surrounded by his loving family.

Born in 1923 on Chicago's South Side to the son of a slaughterhouse worker, John Houlihan graduated from Leo High School in 1941. Shortly after the attack on Pearl Harbor in December of that year, John enlisted in the United States Marines. He was shipped to the South Pacific where he saw action in the Battle of Midway.

On his 21st birthday, during a battle on the South Pacific island of Bougainville, he was hit by enemy artillery fire and lost his left leg. John Houlihan was awarded a Purple Heart, the Marine Corps Medal and the Asian Pacific Medal with 3 Bronze Stars.

He spent the next year and a half in Veterans' Administration hospitals recuperating from his wounds and undergoing physical therapy. During that time, a friend persuaded him to attend a church dance in Chicago. It was at that dance that John met his future wife, Vernal. Together they would raise a wonderful family of eight children.

Even while bouncing on crutches, John taught his children how to swim, ride bikes and hit baseballs. He taught them music and the joys of being a Notre Dame football fan. As his daughter Maureen has said, John's children grew up learning the Notre Dame fight song and the Marine Corps hymn.

After leaving the military, John attended DePaul University, where he studied business and accounting, and began working in the Cook County Clerk's office. He later worked in the offices of State Treasurers Jerome Cosentino and Pat Quinn.

A loyal Democrat, John was elected to the Illinois General Assembly in 1965 and served 8 years in the State house, representing the 41st District in the Park Forest area. He was also elected as a delegate to several democratic national conventions. While in the legislature, John started insurance and accounting businesses.

Following his service in the General Assembly, John's attention turned to veterans' rights and veterans' services. He became the first director of the Illinois Department of Veterans Affairs when former Governor Dan Walker tapped him to head the fledgling agency. He developed programs for the Veterans' Administration in Washington under former President Jimmy Carter, and most recently was supervisor of the Cook County Veterans Assistance Commission. John spent decades fighting for veterans' rights, winning honors and accolades along the way, including the first-ever Cook County Veterans' Recognition Award in 2000.

Looking over this long list of accomplishments, I think anyone would come to the conclusion that this was a great public servant. But what those of us who knew John will tell you is that he was also a great human being.

Meet John Houlihan just once, the story goes, and he would greet you by name years later. If you were a veteran who needed help, John Houlihan was the man to see. It didn't matter if you were rich or poor, black or white, Democrat or Republican, John Houlihan's door—and his heart—were always open to you.

They say some people are naturals when it comes to politics and public service. Some people have the right temperament, the right personality and the right mix of talents to be a good leader. John certainly had all of those things. But in truth, John had something that distinguished him from the crowd—a passion to help others and to make sure they got a fair shake. A passion for life and a belief that giving of yourself in the service of others was the highest calling.

John Houlihan gave completely of himself on the battlefields in the South Pacific; in the legislative fights on the House floor in Springfield; in VA hospitals and service centers all across Illinois and the rest of the Nation; and every day to his wife and his children and his grandchildren.

Mother Teresa, the late Roman Catholic nun and missionary, once said: "We do no great things—we do only small things with great love." John Houlihan knew that. He showed us with his life. He will be greatly missed.

SINGAPORE SHOULD INCREASE PRESSURE ON BURMA

Mr. McCONNELL. Mr. President, I do not intend to delay consideration of the U.S.-Singapore free-trade agreement, but I do want to take a moment to highlight a significant step that Singapore can take today to further the cause of freedom in Burma.

It has been reported, by U.N. Special Envoy Razali Ismail and others, that the repressive and illegitimate State Peace and Development Council, SPDC, has assets tucked away in Singapore financial institutions. Given the many illicit activities of the SPDC, one can rightfully question the source of these funds.

Like the United States, Singapore should immediately freeze the SPDC's assets until such time that democracy leader Aung San Suu Kyi and other all democrats are freed from detention and a process of national reconciliation is agreed to and implemented by all parties—the National League for Democracy, ethnic nationalities, and the SPDC.

Such action not only underscores Singapore's commitment to the rule of law throughout the region, but places much needed pressure on the junta in Rangoon to change their oppressive ways.

Southeast Asian countries can no longer ignore the many threats to regional stability posed by the generals in Burma. The situation in Burma should be a matter of concern to all of Burma's neighbors—and the U.N. Security Council.

MAKING IT EASIER FOR BAD APPLE GUN DEALERS

Mr. LEVIN. Mr. President, last week I spoke about a report, released by the Brady Campaign to Prevent Gun Violence, that identified a list of 10 "bad apple" gun dealers. According to data released by the Bureau of Alcohol, Tobacco, Firearm and Explosives, the dealers cited in the Brady Campaign report were the source of thousands of guns traced to criminal activity. Earlier this week, despite the startling information contained in the Brady report, the House of Representatives included an amendment in the Commerce, Justice, and State Departments appropriations bill which would not only make reports like the Brady Campaign's much more difficult to produce but also might cripple the ability of the ATF to enforce the nation's gun safety laws against firearms dealers who supply guns to criminals.

The House amendment would prohibit the public release of information related to the importation and production of firearms. This means that the only reliable national information available as to how many guns are produced in a given year, as well as type, caliber, and manufacturer, would no longer be available to the public. Further, the amendment would prohibit the public release of information related to multiple handgun sales. Under current law, dealers are required to notify the ATF of the sale of two or more handguns to the same person within 5 business days. Eliminating the availability of this data would make it even more difficult to monitor the activities of reckless gun dealers. In addition, the amendment would prohibit the release of information related to crime-gun tracing requests.

The amendment would also prohibit the ATF from issuing a rule requiring

Federal Firearm Licensees to submit to a physical inventory. A physical inventory recently revealed that a Tacoma, WA, gun dealer could not account for the sniper rifle used by the Washington, D.C. area sniper and more than 200 other guns in its inventory. The amendment would also require the immediate destruction of records of approved firearms purchases and transfers generated by the National Instant Criminal Background Check System. The retention of these record has assisted law enforcement officials in trying to prevent guns from getting into the hands of criminals, as well as identifying gun trafficking patterns.

I believe this provision could shield reckless and negligent gun dealers from public scrutiny and weaken the ATF's oversight and enforcement authority. It will hopefully be rejected here in the Senate.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Boston, MA. On July 4, 2003, a group of teens attacked a lesbian woman, Lisa Craig, at a Fourth of July fireworks display in Piers Park. Craig, her partner, and her two daughters were picnicking and watching fireworks. The trouble began at the park's playground when a group of teens began shouting homophobic epithets. When Craig asked the groups to leave, she was struck in the head by one of the teens. The attackers continued to punch and kick Craig as she was bleeding on the ground. Given the severity of her head injuries, Craig underwent 2 operations and received over 200 stitches.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

IRAQ

Mr. ALLARD. Mr. President, for nearly 15 years, our country engaged in a bitter struggle with the tyrannical regime of Saddam Hussein. We argued, negotiated, debated, and compromised with this brutal dictator, and yet the results were always the same: deception, deceit, and lies. In the meantime, thousands of innocent Iraqis were raped, tortured, or murdered. Some disappeared entirely, never to be seen again. Meanwhile, Iraq's enormous wealth was pilfered and squandered by Saddam's cronies who were more concerned about their collection of foreign sports cars than ensuring the Iraqi people had running water and sufficient electricity.

It is easy to lose sight of how far we have come. As we constantly hear stories of the guerrilla style warfare, of secret Iraqi resistance groups, and the criticism regarding the pace of reconstruction, we forget about the people we have saved or the freedom we have provided. Iraqis are now truly free, and we must remember that.

Change is not instantaneous, particularly when it comes to freeing a people who have been oppressed for over 25 years. As the Center for Strategic and International Studies recently reported, the reconstruction in Iraq will be an enormous task. We cannot and should not expect immediate results: decades of neglect and degradation cannot be overcome by the simple exertion of will. No, rebuilding of Iraq will be a slow and deliberate process. It cannot be rushed, and we must remember that we have only been rebuilding for 11 weeks.

The recommendations from the CSIS report were helpful in identifying those areas that we need to work on. For example, the CSIS team found that public safety remains the primary concern for many Iraqis as well as American commanders and recommends quickly expanding the Iraqi civilian defense forces. Another critical recommendation is finding work for unemployed Iraqis who have far too much time to consider their plight. Realistically, I believe agriculture and construction could provide that employment.

Though we still have a long road ahead, we should also recognize how far we have come. Saddam's brutal dictatorship is no longer in power, and we have taken steps to track down members of his former regime. The recent killing of Saddam's two sons was an important victory, and it appears that it will only be a matter of time before we catch Saddam. The Iraqi people are starting to realize that Saddam is not coming back to power and that freedom is truly theirs.

We have also restored most of the public utilities and improved security. Thousands of Iraqis are joining the country's new civil defense force, which will free up thousands of American troops for other missions. And oil revenue is increasing daily, helping defray the costs of running the country.

Perhaps most significantly, Iraq's governing council has convened and the process of developing a formal structure for governing the country has begun. We also must not forget that 85 percent of the cities are now governed by local Iraqi leaders.

Despite this amazing progress, some have criticized the administration's approach to Iraq. For example, many have wanted to know when our troops will come home for some time. Unfortunately, the Army was unable to provide a rotation schedule until recently because of ongoing military operations and security concerns.

This concern resonated in my home State as well. In Colorado, we have been awaiting word on when the local soldiers from the 3rd Armored Cavalry based at Fort Carson might return since the end of Operation Iraqi Freedom. Thankfully, the Army recently announced its unit rotation schedule, which means that if all goes according to plan, many of the units in Iraq, including the 3rd Armored Cavalry, will be home within a year.

This information will bring joy to our troops who have served so valiantly over the last several months. It will also give hope to the many families who had been patiently awaiting for information on when their loved ones might return. We should not forget that without their support and sacrifice, our troops would not be able to function. It is their families who give our troops strength.

This is why I have been working with nonprofit organizations like the Armed Forces Foundation that have been providing support to these families during this prolonged deployment. During the August recess, for example, I will be joining the Armed Forces Foundation in organizing a fishing trip for the children of the soldiers from Fort Carson. While activities like the children's fishing trip cannot replace a mother or father, they can lift the spirits of these families who have sacrificed so much.

Other criticism, however, is completely unjustified at this time. For example, some pushed for cost estimates on our future operations in Iraq, which everyone knows is nearly impossible to predict at this time. Department officials can't look into their crystal ball and pull out the magic number. Future operations in Iraq may cost more than the $4 billion we are currently spending or they may cost less. We just don't know at this time, and we won't know until Iraq is completely stabilized.

Another criticism centers on Iraq's weapons of mass destruction programs. Almost all of us believed, and many of us still believe, Iraq had weapons of mass destruction. And what happened to these weapons is a legitimate question.

Our forces have not found these weapons yet, but that does not mean they didn't exist or that we won't find them in the future. There are few matters that our intelligence agencies have ever conclusively agreed on. One of those was that Iraq was developing weapons of mass destruction. Last October's National Intelligence Estimate clearly lays out the intelligence supporting this belief.

What attracted so much attention, unfortunately, was the use of particular pieces of intelligence in speeches by administration officials. The President's State of the Union Address for example included a statement that the administration now admits did not rise to the level of certainty required for Presidential speeches.

While I won't attempt to justify the inclusion of such a statement, I will say that the matter does not deserve the attention it has received. The President's statement was not false, and it was only one statement in a series that laid out Iraq's effort to develop weapons of mass destruction. In fact, British intelligence still stands behind the statement. And no one has questioned the veracity of the other statements in the President's speech.

So despite this statement, it seems clear to me that the President laid out a very convincing case that the American people and Congress agreed with. I also remind my colleagues that we voted to force Iraq to comply with United Nations resolutions 3 months before the President's speech.

Mr. President, Operation Iraqi Freedom was a spectacular campaign that resulted in the freeing of millions from tyranny and oppression. We should take pride in bringing freedom and liberty to the Iraqi people. Our troops are performing admirably and continue to believe in their mission. We still have much to accomplish, but with patience and perseverance, we will make a difference in this long-troubled region of the world.

THE BEGINNING FARMERS AND RANCHERS TAX INCENTIVE ACT OF 2003

Mr. HAGEL. Mr. President, I rise today to discuss S. 1464, legislation I recently introduced with Senator DORGAN to provide a capital gains tax incentive to agricultural producers on the sale of their farm or ranch land.

Agriculture is a vital engine that helps drive this Nation's economy. But this engine is only as powerful as the next generation of producers. The relentless financial problems facing the agricultural sector, particularly for beginning farmers, are daunting. It is often difficult for beginning farmers to compete for land with large capital-based operations. S. 1464 helps level the playing field by easing the transfer of land between the old and new generations of farmers and ranchers.

S. 1464, the Beginning Farmers and Ranchers Tax Incentive Act, would provide all agricultural producers selling their property to a beginning farmer or rancher a 100-percent reduction of their capital gains tax rate. Producers selling their land to someone who pledges to keep the land in agricultural production would receive a 50-percent reduction of their capital gains taxes. All producers selling their land would receive an automatic 25-percent reduction of their capital gains taxes. These incentives would encourage repopulation of the rural landscape with a new generation of young, energetic agricultural producers.

Family farmers and ranchers often do not benefit from some tax incentives already in place for other Americans. In 1997, Congress enacted a $500,000 capital gains tax exclusion for home sales. Unfortunately, this provision often does not benefit family farmers since their homes are typically included as part of the larger farmstead. S. 1464 would correct this inequity by extending the $500,000 exclusion to farmers and ranchers.

It is imperative that we do more to ensure that beginning farmers and ranchers are given opportunities to succeed in strengthening rural communities. S. 1464 helps do this by reducing the tax burden on retiring farmers and ranchers, so that the continuity of agricultural production remains unbroken from one generation to the next.

COMPETITIVE SOURCING INITIATIVE

Mr. THOMAS. Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed article from the Government Executive Magazine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Government Executive Magazine, July 28, 2003]

LET'S COMPETE

(By Senator Craig Thomas)

A handful of lawmakers are embracing the status quo in an attempt to shield federal agencies, such as the National Park Service, from restructuring the way they provide commercial services.

This opposition comes as President Bush moves forward with his competitive sourcing initiative. Competitive sourcing, part of the President's management agenda, represents not only an opportunity to improve the way federal agencies operate, but a way to save taxpayer dollars.

According to an inventory first conducted by the Clinton administration pursuant to the 1998 Federal Activities Inventory Reform (FAIR) Act, 850,000 positions in the federal government were categorized as commercial in nature. These are jobs performing engineering services, writing software, making maps, hanging drywall, mowing lawns and other services ranging from high tech to routine. These are the same jobs offered by private firms and small businesses found in the Yellow Pages in any town in America.

Under Office of Management and Budget Circular A-76, competitive sourcing allows federal agencies to consider whether the private sector could be used to create efficiency. This does not preclude federal employees from restructuring their departments and competing to keep the work in-house. As it is now, many federal employees who work in commercial functions are struck in inefficient bureaucracies performing activities that are not inherently governmental.

For example, the government is considering competitive sourcing to help improve the services available at our national parks. The effort underway at the Park Service to use competitive sourcing as a tool for improving fiscal and operational efficiency comes at a time when the agency is facing a tremendous funding shortfall for maintenance at almost every park. Nationwide, this maintenance backlog is estimated at nearly $5 billion.

The Park Service faces many challenges while making America's treasures available for million of visitors each year; however, funds are limited for maintenance, security, safety and a variety of other activities. In the past, the Park Service has been instructed by Congress to reduce the in-house performance of its commercial activities, but these efforts have not evolved. It is important that we now allow the Park Service to evaluate its workforce and how best to use its funding.

As the author of the FAIR Act, I strongly support improving effectiveness and efficiency in government. At the same time, I realize that we need to go about it in the right way. We need to have a clear process with a reasonable timeline and federal employees need to be kept informed. It also is important that any public-private competition involves a level playing field--private sector contractors and the government should be judged on the same requirements.

At a July 24 hearing of the Senate Energy and Natural Resources Subcommittee on National Parks, I heard from witnesses who explained how the competitive sourcing process works and who corrected misinformation pertaining to the Park Service's competitive sourcing plan. Several witnesses testified that the government, on average, saves nearly 30 percent regardless of whether in-house employees or a private contractor win the competition. Although there are some unfront costs associated with conducting these public-private competitions, the long-term savings dwarf these expenses.

Every president for the last 50 years, Republican and Democrat alike, has endorsed the elimination of commercial functions in the federal workforce, but their plans were not vigorously implemented or enforced. Thus, early half the civilian federal workforce is doing work that could be done by the private sector.

We should keep in mind that President Bush's competitive sourcing plan is far different than the Clinton administration's reinventing government initiative. President Clinton's plan established an arbitrary quota for eliminating 252,000 federal jobs—without any form of competition. By comparison, President Bush has set no such requirement for outsourcing, but has urged federal agencies to review their commercial functions aand open them up for competition.

Over the past two and a half years, the Interior Department has noted that of the 1,600 full-time employees it has analyzed for competitive sourcing, not one federal employee has been involuntarily dismissed from his or her job. As the case of the Interior Department reveals, agencies try to reassign federal employees to higher priority, inherently governmental positions within their agencies. Some employees transfer to jobs in other federal departments, others take early retirement, or they go to work for a winning contractor.

The taxpayer is the ultimate lower when competitive sourcing is stymied. Inefficient monopolies that waste taxpayer dollars divert much-needed federal resources from our government's most pressing programs. Through reasonable comeptitive sourcing, I believe federal agencies like the Park Service can increase services to the public, while maintaining the valued resources we all enjoy.

Let's give good old-fashioned competition a chance.

BOEING EELV VIOLATIONS

Mr. ALLARD. Mr. President, last week, the Under Secretary of the Air Force, Peter Teets, announced the Air Force's determination that the Boeing Company had committed serious violations of Federal law by illegally acquiring thousands of documents from its chief competitor, Lockheed Martin. Apparently, the Boeing Company used this information to underbid Lockheed during the billion-dollar Evolved Expendable Vehicle competition. Boeing's illegal activity probably cost Lockheed Martin hundreds of millions of dollars in contracts and did serious damage to the Federal Government's procurement process.

As a result, the Air Force has punished the Boeing Company by suspending Boeing's Launch Systems, Services, and Delta business units for an indefinite period of time. The Air Force also reduced the total number of Boeing launches by seven. The Air Force increased the total number of launches for Lockheed by the same number.

The Air Force granted Lockheed Martin permission to develop a west coast launch capability at Vandenberg Air Force Base, which will give Lockheed an opportunity to compete for launches from this critical base. This decision will give the Air Force more flexibility in awarding launches in the future.

I was pleased by the Air Force's decision. Integrity of the procurement process is essential and nothing less than the highest standards should be expected. Boeing's actions are a major disappointment, and it is my hope that the Air Force's decision will serve up as a wake-up call, not just for this company, but for all companies doing business with the Department of Defense.

Boeing must not take measures to ensure that its employees know that this activity is unacceptable. To this end, the hiring of former Senator Warren Rudman to review the company's policies and procedures regarding ethics and the handling of competitive information was a good first step. It saddens me to think that a handful of individuals could have caused such problems for the 160,000 hard-working men and women employed by the Boeing Company.

We should keep in mind that the Department of Justice is continuing its own investigation into the criminal activities of these former employees. I will also be requesting through the Senate Armed Services Committee that the General Accounting Office investigate whether defense consolidation has resulted in a situation where the Federal Government's ability to punish those companies that violate the procurement process has been limited.

To be clear, I continue to support the Air Force's policy of sustaining two launch providers for the EELV program. Last February, I sent a letter to the Secretary of Defense emphasizing my belief that reliance on only one provider could jeopardize our ability to utilize space. Assured access to space requires sufficient launch capability, which would be lost with the elimination of one launch service providers. And, while redundancy is expensive, I believe we need to ensure space assets are there for our men and women in the Armed Forces when they are needed.

ADDITIONAL STATEMENTS

TRIBUTE TO THE NASHUA LIONS CLUB

• Mr. SUNUNU. Mr. President, I rise today to pay tribute to the Nashua Lions Club in recognition of their 80th anniversary.

Eighty-six years ago, insurance executive Melvin Jones and his fellow Chicago business associates gathered and formed Lions International.

Originally, their objectives were humanitarian service to their community. It wasn't until Helen Keller spoke at their 1925 convention and challenged them to become her "Knights of the Blind" that they began a service that today has become the largest service organization in the world.

In mid-1923, a similar group of Nashua business leaders began meeting at the old YMCA on Temple Street. A few months later they were chartered as the Nashua Lions Club, becoming the second oldest club in the State. Since that time, the men and women of the Nashua Lions have answered the challenge of Helen Keller and have lived by the Lions motto "We Serve."

In their 80 years of service, the Nashua Lions have raised over $1 million that has gone to pay for eye examinations, eye glasses, eye surgery, and hearing aid for needy children and adults. Last year, Nashua Lions tested more children between the ages of 3 months and 4 years than any club in the entire State using the revolutionary "KIDSIGHT" camera that enables doctors to read a laster photo of a young child's eye and determine whether or not they have any problems at an early age.

In the early 1950's, the Nashua Lions led by former Major Mario Vagge built the friendship club—a place for handicapped Nashua residents to go and socialize—which is still in use today. In 1995, the club was approached by a Nashua family with a severely handicapped child at home. "Melanie's Room" became a reality and for several years Melanie and her family shared in her being with them at home.

Besides the usual groups and charities supported by the Lions, many club members throughout the years have given not only their own money, but they have devoted countless hours to the city through service as mayors, alderman, fire commissioners, judges, educators, police, and firefighters.

Local groups have benefited from having Lions serve on their organizations board of directors. Lions are involved with programs such as Big Brothers/Big Sister in-school mentors, Juvenile Diabetes Education efforts, Special Olympics, and Lions Club Camp Pride.

In addition to their numerous community and charity efforts, the Nashua Lions have also provided leadership to the entire Lions International Organization. During their 80-year history, Nashua has had three district governors: Clifford Sloan, 1960–1961, Joseph Bielawski, 1983–1984, and Edward Lecius, 1998–1999.

The Nashua Lions are a true example of the volunteer spirit that President Bush has asked all Americans to undertake. Their leadership, caring, compassion, and hard work have helped make Nashua a great place to live.

The countless lives they have touched through their many programs may never be known, however, just think what might have been if there were no Nashua Lions Club the past 80 years.

I offer my thanks and congratulations to the men and women of the Nashua Lions Club for their 80 years of dedicated service to the residents of the Gate City.•

TRIBUTE TO COLONEL DAVID L. HANSEN

• Mr. WARNER. Mr. President, I rise today to commend the distinguished service and leadership of Colonel David L. Hansen, who has ably served for the past 2 years as the district engineer for the Norfolk District of the U.S. Army Corps of Engineers.

COL Hansen will soon assume new responsibilities as the Assistant Deputy Chief of Staff for Resource Management at the U.S. Army Training and Doctrine Command, Fort Monroe, VA.

As he moves on to these new challenges, I want to convey my personal appreciation and the gratitude of all Virginians for his many accomplishments, and commitment to fulfilling the mission of the Corps of Engineers to provide superior planning, engineering, construction and conservation of our valuable water resources. In his brief tenure as district engineer, COL

Hansen led the Corps in effective disaster response to many communities, particularly the city of Franklin, in helping them rebuild from the devastating flooding of Hurricane Floyd. He led the Corps in proceeding with the modernization of Hampton Roads Harbor with his initiatives that have resulted in the construction of the 50-foot outbound channel so that Virginia remains competitive with the world's leading ports and is ready to serve the next generation of cargo vessels.

COL Hansen's hallmark has been in executing the Corps mission to protect and restore our environmental resources and he leaves us with a solid foundation to build upon in the years ahead. Through his unwavering determination, Virginians will soon enjoy a free-flowing Rappahannock River for 106 miles from the Chesapeake Bay to the Blue Ridge Mountains. The removal of the Embrey Dam at Fredericksburg has been a project that I am dedicated to completing, and COL Hansen's leadership has ensured that this will begin next February.

The Chesapeake 2000 Agreement renewed the Federal-State partnership to restore and improve the management of the living resources of the Chesapeake Bay. Immediately, COL Hansen took the goals of the agreement and put them into action. A central feature of the Chesapeake 2000 Agreement that I am actively involved with is the tenfold increase in native oyster stocks over the next 10 years. To accomplish this, we have pursued an unprecedented effort to build three-dimensional oyster reefs in traditional oyster grounds throughout the bay. COL Hansen has taken up this challenge with unprecedented energy and commitment to coordinate Federal and State policymakers and scientists.

These are just a few examples of COL Hansen's leadership in working with private organizations, State and local governments and other Federal agencies to ensure the Corps responds effectively to natural disasters, water resource development, and environmental initiatives. He embodies the finest traditions of the Corps of Engineers and the principles of public service.

We thank him for his service to our Nation and Virginia, and wish him and his family every success in his new assignment.•

BRIGADIER GENERAL JARED P. KENNISH

• Mr. REED. Mr. President, I rise today to recognize the accomplishments of BG Jared P. Kennish, Assistant Adjutant General for the Rhode Island Air National Guard. BG Kennish was awarded the Bronze Star Medal for meritorious achievement while serving as the commander of the 376th Air Expeditionary Wing at Manas Air Base in Kyrgyzstan from November 16, 2002 to April 16, 2003 in support of Operation Enduring Freedom.

BG Kennish was recognized by the United States Air Force for contributing "significantly to the overwhelming success of air and ground operations against the Taliban and al-Qaeda terrorist networks throughout Afghanistan." He led one of the most diverse and multifunctional air wings ever assembled, combining the operations of F–16s, KC–135s, KC–10s, C–130s and Puma helicopters from the Air Forces of the United States, Denmark, Holland, Italy, Norway and Spain. BG Kennish was also recognized as a "true global mobility visionary" whose selfless efforts in support of joint air operations during Operation Enduring Freedom "will be a model for future contingencies."

BG Kennish's accomplishments throughout Operation Enduring Freedom are no surprise to the great state of Rhode Island. Throughout a career of exemplary service that has spanned over 37 years in the United States Air Force and the Rhode Island Air National Guard, BG Kennish has left his positive imprint in every job he has performed. From service throughout Operations Desert Shield and Desert Storm in 1991, to operational deployments in northern Iraq and Mombasa, Kenya, to command of the 143rd Airlift Wing, Rhode Island Air National Guard, BG Kennish has been a shining example of professional excellence of whom all Rhode Islanders are rightly proud.

I echo the praise of the United States Air Force in recognizing BG Kennish with the award of the Bronze Star Medal. I ask my colleagues to join with me today, July 29, 2003, in thanking BG Kennish on behalf of a grateful Nation for his selfless service to our country.•

TRIBUTE TO DR. VICTOR WESTPHALL

• Mr. DOMENICI. Mr. President, I rise today to honor a wonderful man, Dr. Victor Westphall, who passed away July 22. Dr. Westphall dedicated his life to recognizing and celebrating the service and sacrifice of our Vietnam veterans.

Dr. Westphall's dedication to fallen heroes was not surprising because he too was a veteran. He entered the United States Navy in 1943 as an Ensign and served in the South Pacific during World War II. During this time, he was responsible for setting up message centers to allow front-line communication. After 3 years and two full stripes in the Navy, Dr. Westphall moved with his wife and his two sons to New Mexico. He earned his doctorate in history at the University of New Mexico and eventually became a leading author and expert on Southwest American history.

On a most painful day in May of 1968, Dr. Westphall received word that his son, David, had been killed in Vietnam. David, a Marine lieutenant, died with 12 of his men in an ambush near Con Thien. Soon after, Dr. Westphall was determined to draw some good out of this tragic event. He decided to use the life insurance payment from his son's death to build the Vietnam Veterans Peace and Brotherhood Chapel in Angel Fire, NM. Although Dr. Westphall struggled to find financial support to help build the memorial, he remained dedicated to the project, and in 1971, the first monument to pay homage to Vietnam veterans in the United States was formally dedicated.

The Vietnam Veterans Peace and Brotherhood Chapel stands as a majestic tribute to our veterans who served in Vietnam. Dr. Westphall hired a Santa Fe architect to design a beautiful white chapel with gentle curves sweeping 50 feet upward toward the sky. This serene memorial overlooks the sacred Moreno Valley, just below New Mexico's 13,000 foot Wheeler Peak. It offers visitors the opportunity to remember those who served their Nation proudly in the Vietnam War in a peaceful and spiritual setting. The Chapel's eternal flame illuminates this hallowed place for quiet meditation.

I often remember a touching story that Dr. Westphall occasionally recounted about the Chapel. When the memorial was first opened, the Chapel would close nightly. However, one morning Dr. Westphall found a message left by a young veteran on the door: "I needed to come in and you locked me out." Since then, the Chapel remained open every hour of every day.

Like the Chapel, Dr. Westphall was always there for our Nation's veterans. I salute Dr. Westphall's lifetime of service and devotion to our veterans, and I am proud and honored to have had him as a friend. He gave his son, his time, his money, his property, and life to honor our fallen heroes.

As a fitting tribute, I end with the inscription at the entrance to his son's Chapel, now called the Vietnam Veterans National Memorial:

The Ultimate Curse
Greed plowed cities desolate
Lusts ran snorting thru the streets
Pride reared up to desecrate
Shrines, and there were no retreats.
So man learned to shed the tears
With which he measures out his years.

—Victor David Westphall III•

MESSAGE FROM THE HOUSE

At 12:06 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), amended by Public Law 107–117, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. KENNEDY of Rhode Island.

The message also announced that pursuant to 36 U.S.C. 2301, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the United States Holocaust Memorial Council: Mr. LANTOS of California and Mr. FROST of Texas.

The message further announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. FILNER of California.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3455. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Boscalid: 3-pyridinecarboxamide, 2-chloro-N-(4'-chloro[1,1'-bipheny;]-2-yl); Pesticide Tolerance" (FRL#7319–6) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3456. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Low Pathogenic Avian Influenza; Payment of Indemnity" (Doc. no. 02–248–2) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3457. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Removal of Quarantined Area" (Doc. no. 02–130–2) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3458. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sapote Fruit Fly; Removal of Quarantined Area in Texas" (Doc. no. 03–032–2) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3459. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Japanese Beetle; Domestic Quarantine and Regulations" (Doc. no. 03–057–1) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3460. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State Designations; New Mexico" (Doc. no. 03–044–1) received on July 25, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3461. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Memorandum of Understanding—Switzerland" (DFARS Case 2001–D019) received on July 28, 2003; to the Committee on Armed Services.

EC–3462. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Tax Exemptions (Italy)" (DFARS Case 2000–D027) received on July 28, 2003; to the Committee on Armed Services.

EC–3463. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Caribbean Basin Country End Products" (DFARS Case 2000–D302) received on July 28, 2003; to the Committee on Armed Services.

EC–3464. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Veterans Employment Emphasis" (DFARS Case 97–D314) received on July 28, 2003; to the Committee on Armed Services.

EC–3465. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, the annual report on operations of the National Defense Stockpile; to the Committee on Armed Services.

EC–3466. A communication from the Principal Deputy, Office of the Assistant Secretary of Defense, Reserve Affairs, transmitting, the National Guard Challenge Program Annual Report for Fiscal Year 2001; to the Committee on Armed Services.

EC–3467. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–3468. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–3469. A communication from the Chairman, Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report of the Administration's 2002 compensation program adjustments; to the Committee on Banking, Housing, and Urban Affairs.

EC–3470. A communication from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Coastal Ocean Program Supplemental Notice of Funds Availability for the Monitoring and Event Response for Harmful Algal Blooms Program FY02" (RIN0648–ZB12) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3471. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Zone Off Alaska Western Alaska Community Development Quota Program" (RIN0648–AL92) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3472. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of the Commercial Run-Around Gillnet Fishery for King Mackerel in the Exclusive Economic Zone in the Southern Florida West Coast Subzone" received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3473. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pelagic Fisheries; Prohibition on Fishing for Pelagic Management Unit Species; Nearshore Area Closures Around American Samoa by Vessels More than Fifty Feet in Length" (RIN0648–AL41) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3474. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Framework 1 to the Atlantic Fishery Management Plan" (RIN0648–AP44) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3475. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Final 2002 Specifications for the Atlantic Herring Fishery" (RIN0648–AP37) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3476. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of the Commercial Hook-and-Line Fishery for King Mackerel in the Exclusive Economic Zone in the Southern Florida West Coast Subzone" received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3477. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled "Update of Existing and Addition of New Filing and Service Fees" (FMC Doc. no. 02–05) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3478. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Commercial Shark Management Measures" (RIN0648–AP70) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3479. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, a vacancy and a change in previously submitted reported information for the position of Assistant Secretary for Oceans and Atmospheres received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3480. A communication from the Chairman, Interagency Coordination Committee on Oil Pollution Research, United States Coast Guard, transmitting, pursuant to law, the Committee's report on Oil Spill Research; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with amendments:

S. 910. A bill to ensure the continuation of non-homeland security functions of Federal agencies transferred to the Department of Homeland Security (Rept. No. 108–115).

By Mr. GRASSLEY, from the Committee on Finance and the Committee on the Judiciary jointly:

Report to accompany S. 1416, a bill to implement the United States-Chile Free Trade Agreement (Rept. No. 108–116).

Report to accompany S. 1417, a bill to implement the United States-Singapore Free Trade Agreement (Rept. No. 108–117).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

Treaty Doc. 107–10, Agreement with Russian Federation concerning Polar Bear Population (Exec. Rept. No. 108–7)

Text of Committee Recommended Resolution of Ratification:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A CONDITION.

The Senate advises and consents to the ratification of the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, done at Washington October 16, 2000 (T. Doc. 107–10, in this resolution referred to as the "Agreement"), subject to the condition in section 2.

SEC. 2. CONDITION.

The advice and consent of the Senate to the ratification of the Agreement is subject to the condition that the Secretary of State shall promptly notify the Committee on Environment and Public Works and the Committee on Foreign Relations of the Senate in any instance that, pursuant to Article 3 of the Agreement, the Contracting Parties modify the area to which the Agreement applies. Any such notice shall include the text of the modification and information regarding the reasons for the modification.

Treaty Doc. 108–1, Agreement Amending Treaty with Canada Concerning Pacific Coast Albacore Tuna Vessels and Port Privileges (Exec. Rept. No. 108–7)

Text of Committee Recommended Resolution of Ratification:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Agreement Amending the Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, done at Washington May 26, 1981, and effected by an exchange of diplomatic notes at Washington July 17, 2002, and August 13, 2002 (T. Doc. 108–1).

Treaty Doc. 108–2, Amendments to the 1987 Treaty on Fisheries with Pacific Island States. (Exec. Rept. No. 108–7)

Text of Committee Recommended Resolution of Ratification:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A DECLARATION.

The Senate advises and consents to the ratification of the Amendments to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the United States of America, which Annexes and Agreed Statements, done at Port Moresby, April 2, 1987, done at Koror, Palau, March 30, 1999, and at Kiritimati, Kiribati March 24, 2002 (T. Doc. 108-2, in this resolution referred to as the "Amendments"), subject to the declaration in section 2.

SEC. 2. DECLARATION.

The advice and consent of the Senate to the ratification of the Amendments is subject to the following declaration: The advice and consent provide under section 1 is without prejudice to any position the Senate may take with respect to providing advice and consent to ratification of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, signed by the United States on September 9, 2000.

Treaty Doc. 106–45, Convention for International Carriage by Air (Exec. Rept. No. 108–8)

Resolved (two-thirds of the Senators present concurring therein).

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATION.

The Senate advises and consents to the ratification of the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999 (T. Doc. 106–45, in this resolution referred to as the "Convention"), subject to the reservation in section 2.

SEC. 2. RESERVATION.

The advice and consent of the Senate to the ratification of the Convention is subject to the following reservation, which shall be included in the instrument of ratification: Pursuant to Article 57 of the Convention, the United States of America declares that the Convention shall not apply to international carriage by air performed and operated directly by the United States of America for non-commercial purposes in respect to the functions and duties of the United States of America as a sovereign state.

Treaty Doc. 107–11, Protocol To Amend the Convention for Unification of Certain Rules Relating to International Carriage by Air (Exec. Rept. No. 108–8)

Text of Committee Recommended Resolution of Ratification:

Treaty of Committee Recommended Resolution of Ratification:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, done at The Hague on September 28, 1955 (T. Doc. 107–14).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 1479. A bill to amend and extend the Irish Peace Process and Cultural Training Program Act of 1998; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 1480. A bill to amend the Buy American Act to increase the requirement for American-made content, to tighten the waiver provisions, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEAHY (for himself, Mr. Jeffords, Mrs. Feinstein, and Mr. Kennedy):

S. 1481. A bill to prohibit the application of the trade authorities procedures with respect to implementing bills that contain provisions regarding the entry of aliens; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. Stevens, and Mr. Cochran):

S. 1482. A bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

By Mr. DODD (for himself, Mr. Kennedy, Mr. Harkin, Ms. Mikulski, Mr. Jeffords, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Edwards, Mrs. Clinton, Mr. Rockefeller, and Mr. Daschle):

S. 1483. A bill to amend the Head Start Act to reauthorize that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1484. A bill to require a report on Federal Government use of commercial and other databases for national security, intelligence, and law enforcement purposes, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Harkin, Mr. Schumer, Mr. Leahy, Mr. Dayton, Mr. Durbin, Mr. Reid, Mr. Dodd, Mr. Sarbanes, Ms. Stabenow, Ms. Mikulski, and Mrs. Clinton):

S. 1485. A bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAFEE (for himself and Mr. Jeffords):

S. 1486. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Trans-boundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 1487. A bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews; to the Committee on Armed Services.

By Mr. BINGAMAN:

S. 1488. A bill to establish the Native American Entrepreneurs Program to provide $3,000,000 in grants annually to qualified organizations to provide training and technical assistance to disadvantaged Native American entrepreneurs; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. AKAKA, Mr. ALLEN, Mr. BAUCUS, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, Mr. KERRY, and Mr. LEVIN):

S. Res. 204. A resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 138

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 486

At the request of Mr. DOMENICI, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 486, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 678

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 720

At the request of Mr. JEFFORDS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 720, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 874

At the request of Mr. TALENT, the names of the Senator from Maine (Ms. SNOWE), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1020

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1020, a bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

S. 1021

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1021, a bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1046

At the request of Mr. BUNNING, his name was withdrawn as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1177

At the request of Mr. HATCH, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

S. 1210

At the request of Mr. JEFFORDS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1210, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

S. 1265

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1265, a bill to limit the applicability of the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology for the award year 2004–2005, published in the Federal Register on May 30, 2003.

S. 1296

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1296, a bill to exempt seaplanes from certain transportation taxes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1381

At the request of Mr. MILLER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1419

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S.J. RES. 17

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S.J. Res. 17, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 5

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 5, a concurrent resolution expressing the support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. CON. RES. 33

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

S. RES. 107

At the request of Mr. INOUYE, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 107, a resolution expressing the sense of the Senate to designate the month of November 2003 as "National Military Family Month".

S. RES. 200

At the request of Mr. JOHNSON, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 200, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel.

AMENDMENT NO. 1140

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 1140 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1384

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 1384 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1386

At the request of Mr. BOND, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Kentucky (Mr. BUNNING), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of amendment No. 1386 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 1480. A bill to amend the Buy American Act to increase the requirement for American-made content, to tighten the waiver provisions, and for other purposes; to the Committee on Governmental Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing legislation to strengthen the Buy American Act of 1933, the statute that governs procurement by the federal government. The name of the act accurately and succinctly describes its purpose: to ensure that the federal government supports domestic companies and domestic workers by buying American-made goods.

While I a strong supporter of the act, I am concerned that, through abuse of its 5 broad waivers, the spirit—if not the letter—of the act is being weakened time and again.

It only makes sense, Mr. President, for the federal government to make every effort to purchase goods that are made in America. A law requiring this common-sense approach should not be necessary. Unfortunately, this law is necessary, and the way in which its many loopholes are being used also makes strengthening it necessary.

I have often heard my colleagues say on this floor that American-made goods are the best in the world. I could not agree more. This Congress should do more to ensure that the federal government adheres to this sentiment by enforcing and strengthening the provisions of the Buy American Act.

As we all know the United States manufacturing industry is hemorrhaging, as jobs and companies move overseas or are lost all together. According to the AFL-CIO, the United States has lost more than 2.4 million manufacturing jobs since April 1998. This disturbing trend is of particular concern in my home state of Wisconsin.

A March 2003 report by the Wisconsin State Department of Workforce Development notes that "a combination of weak domestic and global demand, mergers and consolidations, automation, globalization of operations, and uncertainty surrounding war have caused employment in Wisconsin's manufacturing sector to shrink in recent years." The Department found that there were 594,100 manufacturing jobs in Wisconsin in 2000, and the Department estimates that this figure had dropped to 517,100 jobs by June of this year. More than 77,000 jobs lost in just 2½ years, Mr. President. And the people of my state can expect more of the same during the rest of this decade if we don't take action soon.

While the Department expects some sectors to experience an upturn by 2010, it estimates that the people of my state can still expect to lose thousands more manufacturing jobs by 2010.

Much of this can be blamed on flawed trade agreements that the United States has entered into in recent years. The trade policy of this country over the past several years has been appalling. The trade agreements into which we have entered have contributed to the loss of key employers, ravaging entire communities. But despite that clear evidence, we continue to see trade agreements being reached that will only aggravate this problem.

This has to stop. We cannot afford to pursue trade policies that gut our manufacturing sector and send good jobs overseas. We cannot afford to undermine the protections we have established for workers, the environment, and for our public health and safety. And we cannot afford to squander our democratic heritage by entering into trade agreements that supercede our right to govern ourselves through open, democratic institutions.

I will be introducing legislation in the near future to address that problem directly by establishing minimum standards for the trade agreements into which our nation enters. That measure is a companion to a resolution that will be introduced in the other body by my colleague from Ohio [Mr. BROWN].

Regrettably, some of the blame for the dire situation in which American manufacturing finds itself also lies in our own federal tax and procurement policies, some of which actually encourage American companies to move or incorporate abroad. The Buy American law was enacted 70 years ago to ensure that Federal procurement policies support American jobs.

Some argue that the Buy American Act has outlived its usefulness in today's global economy. I argue that it is as relevant today as it was when it was enacted in 1933. The passage of 70 years has not diminished the importance of this Act for American manufacturing companies or for those who are employed in this crucial sector of our economy. In fact, a strong argument can be made that this Act is even more necessary today than it was 70 years ago. With American jobs heading overseas at an alarming rate, the Government should be doing all it can to make sure that U.S. taxpayer dollars are spent to support American jobs.

Some argue that the Buy American Act is protectionist and anti-free trade. I disagree. Supporting American industry is not protectionist—it is common sense. The erosion of our manufacturing base needs to be stopped, and Congress should support procurement and trade policies that help to ensure that we do not continue to lose portions of this vital segment of our economy.

The legislation that I introduce today, the Buy American Improvement Act, would strengthen the existing Act by tightening existing waivers and would require that information be provided to Congress and to the American people about how often the provisions of this Act are waived by Federal departments and agencies.

As I noted earlier, there are currently five primary waivers in the Buy American Act. The first allows an agency head to waive the Act's provisions if a determination is made that complying with the Act would be "inconsistent with the public interest." I am concerned that this waiver, which includes no definition for what is "inconsistent with the public interest" is actually a gaping loophole that gives broad discretion to department secretaries and agency heads. My bill would clarify this so-called "public interest" waiver provision to prohibit it from being invoked by an agency or department head after a request for procurement (RFP) has been published in the Federal Register. Once the bidding process has begun, the Federal Government should not be able to pull an RFP by saying that it is in the "public interest" to do so. This determination, sometimes referred to as the Buy American Act's national security waiver, should be made well in advance of placing a procurement up for bid.

The Buy American Act may also be waived if the head of the agency determines that the cost of the lowest-priced domestic product is "unreasonable," and a system of price differentials is used to assist in making this determination. My bill would amend this waiver to require that preference be given to the American company if that company's bid is substantially similar to the lowest foreign bid or if the American company is the only domestic source for the item to be procured.

I have a long record of supporting efforts to help taxpayers get the most bang for their buck and of opposing wasteful Federal spending. I don't think anyone can argue that supporting American jobs is "wasteful." We owe it to American manufacturers and their employees to make sure they get a fair shake. I would not support awarding a contract to an American company that is price gouging, but we should make every effort to ensure that domestic sources for goods needed by the Federal Government do not dry up because American companies have been slightly underbid by foreign competitors.

The Buy American Act also includes a waiver for goods bought by the Federal Government that will be used outside of the United States. There is no question that there will be occasions when the Federal Government will need to procure items quickly that will be used outside the United States, such as in a time of war. However, items that are bought on a regular basis and are used at foreign military bases or United States embassies, for example, could reasonably be procured from domestic sources and shipped to the location where they will be used. My bill would require an analysis of the difference in cost for obtaining articles, materials, or supplies that are used on a regular basis outside the United States, or that are not needed on an immediate basis, from an American company, including the cost of shipping, and a foreign company before issuing a waiver and awarding the contract to a foreign company.

The fourth waiver allowed under the Buy American Act states that the domestic source requirements of the Act may be waived if the articles to be procured are not available from domestic sources "in sufficient and reasonably available commercial quantities and of a satisfactory quality." My bill would require that an agency or department head, prior to issuing such a waiver, conduct a study that determines that domestic production cannot be initiated to meet the procurement needs and that a comparable article, material, or supply is not available from an American company.

The newest Buy American Act waiver, which was enacted in 1994, exempts purchases of less than $2,500 from the domestic source requirements of the Act. While this waiver is not addressed in my bill, I have requested that the General Accounting Office conduct a study of this so-called "micro purchase" exemption, including how often it is used and its impact on American businesses.

My bill also strengthens the Buy American Act in four other ways.

First, it expands annual reporting requirements regarding the use of waivers that currently apply only to the Department of Defense to include all Federal departments and agencies. My bill specifies that these reports should include an itemized list of waivers, including the items procured, their dollar value, and their source. In addition, these reports would have to be made available on the Internet.

The bill also increases the minimum American-made content standard for qualification under the Act from the current 50 percent to 75 percent. The definition of what qualifies as an American-made product has been a source of much debate. To me, it seems clear that American-made means manufactured in this country. This classification is a source of pride for manufacturing workers around our country. The current 50 percent standard should be raised to a 75 percent minimum.

My bill also addresses the crucial issue of dual-use technologies and efforts to prevent them from falling into the hands of terrorists or countries of concern. My bill would prohibit the awarding of a contract or sub-contract to a foreign company to manufacture goods containing any item that is classified as a dual-use item on the Commerce Control List unless approval for such a contract has been obtained through the Export Administration Act process.

Finally, my bill would require the General Accounting Office to report to Congress with recommendations for defining the terms "inconsistent with the public interest" and "unreasonable cost" for purposes of invoking the corresponding waivers in the Act. I am concerned that both of these terms lack definitions, and that they can be very broadly interpreted by agency or department heads. GAO would be required to make recommendations for statutory definitions of both of these terms, as well as on establishing a consistent waiver process that can be used by all Federal agencies.

I am pleased that this legislation is supported by a broad array of business and labor groups including: Save American Manufacturing, the U.S. Business and Industry Council, the International Association of Machinists and Aerospace Workers, the Milwaukee Valve Company, and the National and Wisconsin AFL–CIO.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buy American Improvement Act of 2003".

SEC. 2. REQUIREMENTS FOR WAIVERS.

(a) In General.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) In General.—Notwithstanding"; and

(2) by adding at the end the following:

"(b) Special Rules.—The following rules shall apply in carrying out the provisions of subsection (a):

"(1) Public interest waiver.—A determination that it is not in the public interest to enter into a contract in accordance with this Act may not be made after a notice of solicitation of offers for the contract is published in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) Domestic bidder.—A Federal agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

"(A) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

"(B) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

"(3) Use outside the United States.—

"(A) In general.—Subsection (a) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

"(B) Cost analysis.—In any case where the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

"(4) Domestic availability.—The head of a Federal agency may not make a determination under subsection (a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of the agency has conducted a study and, on the basis of such study, determined that—

"(A) domestic production cannot be initiated to meet the procurement needs; and

"(B) a comparable article, material, or supply is not available from a company in the United States.

"(c) Reports.—

"(1) In general.—Not later than 60 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the amount of the acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside the United States in that fiscal year.

"(2) Content of report.—The report required by paragraph (1) shall separately indicate the following information:

"(A) The dollar value of any articles, materials, or supplies for which this Act was waived.

"(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

"(C) A list of all articles, materials, and supplies acquired, their source, and the amount of the acquisitions.

"(3) Public availability.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.".

(b) Definitions.—Section 1 of the Buy American Act (41 U.S.C. 10c) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Federal Agency.—The term 'Federal agency' means any executive agency (as defined in section 4(1) of the Federal Procurement Policy Act (41 U.S.C. 403(1))) or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under the Architect's direction)."; and

(2) by adding at the end the following:

"(d) Substantially All.—Articles, materials, or supplies shall be treated as made substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, if the cost of the domestic components of such articles, materials, or supplies exceeds 75 percent.".

(c) Conforming Amendments.—

(1) Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by striking "department or independent establishment" and inserting "Federal agency".

(2) Section 3 of such Act (41 U.S.C. 10b) is amended—

(A) by striking "department or independent establishment" in subsection (a), and inserting "Federal agency"; and

(B) by striking "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(3) Section 633 of the National Military Establishment Appropriations Act, 1950 (41 U.S.C. 10d) is amended by striking "department or independent establishment" and inserting "Federal agency".

SEC. 3. GAO REPORT AND RECOMMENDATIONS.

(a) Scope of Waivers.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall report to Congress recommendations for determining, for purposes of applying the waiver provision of section 2(a) of the Buy American Act—

(1) unreasonable cost; and

(2) inconsistent with the public interest.

The report shall include recommendations for a statutory definition of unreasonable cost and standards for determining inconsistency with the public interest.

(b) Waiver Procedures.—The report described in subsection (a) shall also include recommendations for establishing procedures for applying the waiver provisions of the Buy American Act that can be consistently applied.

SEC. 4. DUAL-USE TECHNOLOGIES.

The head of a Federal agency (as defined in section 1(c) of the Buy American Act (as amended by section 2)) may not enter into a contract, nor permit a subcontract under a contract of the Federal agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information that would facilitate the manufacture of a dual-use item on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

By Mr. LEAHY (for himself, Mr. Jeffords, Mrs. Feinstein, and Mr. Kennedy):

S. 1481. A bill to prohibit the application of the trade authorities procedures with respect to implementing bills that contain provisions regarding the entry of aliens; to the Committee on Finance.

Mr. LEAHY. Mr. President, I rise today to introduce the Congressional Responsibility for Immigration Act, a bill to deny fast-track procedures to trade agreements that include immigration provisions. We have witnessed outrage in both parties and in both houses of Congress to the inclusion of "temporary entry" provisions in the Free Trade Agreements ("FTAs"), with Chile and Singapore. Members of the House and Senate Judiciary Committees, along with other concerned Members, have stated clearly that they never again want to see trade agreements that include immigration provisions. This bill will allow us to do more than rely on the vague assurances that the Office of the U.S. Trade Representative has offered in response to our strongly-held concerns—it will provide a major deterrent that should prevent this Administration and future Administrations from ignoring Congress' authority over immigration policy. I am pleased that Senator Feinstein—who has led the fight against the inclusions of immigration provisions in the Chile and Singapore agreements—Senator Jeffords, and Senator Kennedy have joined me in introducing this bill.

This bill is simple and straightforward. It states that whenever the Senate considers legislation to implement a free trade agreement, any Senator could raise a point of order against the bill on the grounds that it includes an immigration provision. If the point of order were upheld, the bill would have to be considered under ordinary procedures, allowing us to amend it and strike provisions that violated our constitutional authority over immigration. Succeeding Administrations have told us for decades that they simply cannot pursue trade agreements without "fast-track" authority, and Congress has chosen to give that authority to the Executive Branch. Having surrendered some of our power, however, we must be all the more vigilant in ensuring that this surrender remains limited in scope.

It has been widely reported that the USTR considers the "temporary entry" provisions in the Chile and Singapore agreements to be models for future agreements. I have criticized those provisions because I share the concerns expressed by Senators Feinstein, Lindsey Graham, Sessions and others that the United States Trade Representative should not be in the business of amending domestic immigration laws, as these treaties do. The decision to include immigration provisions was not only unauthorized but also unnecessary to achieve the Administration's stated goals. Congress has already created the H-1B program, which allows foreign workers with specialized skills to work in the United States. That program was established after a lengthy process of public hearings, debate, and negotiation, and it has worked to help meet labor shortages and strengthen our economy. If the Administration feels that the program needs to be changed, or a new visa category created, it should have sought to do so through the ordinary legislative process.

By including immigration provisions in trade agreements, the Executive Branch not only usurps Congress' authority to create programs, but also to amend them if they prove to be unsuccessful. Any amendments that Congress makes to immigration policies that are made through trade agreements are subject to challenge as violations of those agreements. As a result, our hands are tied not just at the time of the negotiation, but for all future legislative activity as well. This is simply unacceptable—it was not the purpose of our trade agreements and it is neither a wise nor a constitutionally appropriate means of creating our immigration policy. We must pass this bill and restore our proper separation of powers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Responsibility for Immigration Act".

SEC. 2. LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.

(a) IN GENERAL.—Notwithstanding any other provision of law, section 2103(b)(3) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b)(3)) and the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (trade authorities procedures) shall not apply to any bill implementing a trade agreement between the United States and any other country, if the implementing bill contains any provision relating to the immigration laws of the United States or the entry of aliens.

(b) POINT OF ORDER IN SENATE.—

(1) IN GENERAL.—When the Senate is considering an implementing bill, upon a point of order being made by any Senator against any part of the implementing bill that contains material in violation of subsection (a), and the point of order is sustained by the Presiding Officer, the Senate shall cease consideration of the implementing bill under the procedures described in subsection (a).

(2) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order described in paragraph (1), any Senator may move to waive the point of order and the motion to waive shall not be subject to amendment. A point of order described in paragraph (1) is waived only by the affirmative vote of a majority of the Members of the Senate, duly chosen and sworn.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this paragraph, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled. A ruling of the Presiding Officer on a point of order described in paragraph (1) is sustained unless a majority of the Members of the Senate, duly chosen and sworn, vote not to sustain the ruling.

(C) DEBATE.—Debate on a motion to waive under subparagraph (A) or on an appeal of the ruling of the Presiding Officer under subparagraph (B) shall be limited to 1 hour. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate, or their designees.

By Mr. INOUYE (for himself, Mr. STEVENS, and Mr. COCHRAN):

S. 1482. A bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise to introduce legislation to repeal the current 50 percent tax deduction for business meals and entertainment expenses, and to restore the tax deduction to 80 percent gradually over a five-year period. I am joined by my good friends, Senators TED STEVENS and THAD COCHRAN, as cosponsors of this measure. Restoration of this deduction is essential to the livelihood of small and independent businesses as well as the food service, travel, tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of the 50 percent tax deduction.

The business meals and entertainment expenses deduction was reduced from 80 percent to 50 percent in the Omnibus Budget Reconciliation Act of 1993, and went into effect on January 1, 1994. Its results have been detrimental to small businesses, the self-employed, and independent and traveling sales representatives. Research conducted by the National Restaurant Association (NRA) indicates that the great majority of business meal users are small businesses and of such businesses, one-fifth are self employed. On an average, business meal costs for small businesses is less than $15 per lunch. These groups rely on one-on-one meetings, usually during meals, for their marketing strategy, and the reduction of the business meals and entertainment deduction has impacted their marketing efforts.

An increase in the meal deduction would have a significant impact on the overall economy. Accompanying my statement is the NRA's State-by-State chart reflecting the estimated economic impact of increasing the business meal deductibility from 50 percent to 80 percent. The NRA estimates that an increase to 80 percent would increase business meal sales by $6 billion and create a $13 billion increase to the overall economy.

I urge my colleagues to join me in cosponsoring this important legislation. I ask unanimous consent that the NRA's State-by-State chart and the text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED IMPACT OF INCREASING BUSINESS MEAL DEDUCTIBILITY FROM 50 PERCENT TO 80 PERCENT

[In millions]

State	Increase in business meal spending—50 percent to 80 percent deductibility	Total economic impact in the state
Alabama	$79	$163
Alaska	17	29
Arizona	116	229
Arkansas	43	85
California	856	1,896
Colorado	120	259
Connecticut	76	143
Delaware	21	37
District of Columbia	29	38
Florida	333	680
Georgia	198	443
Hawaii	41	79
Idaho	23	46
Illinois	293	688
Indiana	130	267
Iowa	51	108
Kansas	50	102
Kentucky	90	180
Louisiana	91	177
Maine	25	48
Maryland	115	239
Massachusetts	190	378
Michigan	210	409
Minnesota	113	255
Mississippi	44	84
Missouri	119	271
Montana	19	34
Nebraska	35	71
Nevada	66	116
New Hampshire	31	57
New Jersey	168	350
New Mexico	36	68
New York	396	774
North Carolina	188	394
North Dakota	12	22
Ohio	250	547
Oklahoma	67	143
Oregon	82	170
Pennsylvania	242	537
Rhode Island	27	50
South Carolina	89	177
South Dakota	15	30
Tennessee	130	285
Texas	499	1,165
Utah	41	88
Vermont	12	22
Virginia	146	308
Washington	172	349
West Virginia	28	49
Wisconsin	106	228
Wyoming	10	16

Source: National Restaurant Association estimates.

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Section 274(n)(1) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking "50 percent" and inserting "the applicable percentage".

(b) APPLICABLE PERCENTAGE.—Section 274(n) of the Internal Revenue Code of 1986 is amended by striking paragraph (3) and inserting the following:

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage determined under the following table:

"For taxable years beginning in calendar year—	**The applicable percentage is—**
2001	68
2002	74
2003 or thereafter	80.".

(c) CONFORMING AMENDMENT.—The heading for section 274(n) of the Internal Revenue Code of 1986 is amended by striking "ONLY 50 PERCENT" and inserting "PORTION".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. REID, Mr. EDWARDS, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DASCHLE):

S. 1483. A bill to amend the Head Start Act to reauthorize that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to be joined today by my colleague, the ranking member of the Committee on Health, Education, Labor, and Pensions, Senator KENNEDY, and Senators HARKIN, MIKULSKI, JEFFORDS, BINGAMAN, MURRAY, REED, EDWARDS, CLINTON, ROCKEFELLER and DASCHLE in introducing the Head Start School Readiness and Coordination Act.

Let's be clear about one fact: Head Start works. More than 21 million children have gone through Head Start since the program began in 1965 and currently around 900,000 children are enrolled.

Head Start has to be one of the most studied of all Federal programs. But, with each study, there is no question about the results—Head Start children are learning. Could they learn more? Could they make greater gains? That's what our bill is about.

Our bill has four basic points. Our bill will: strengthen the Head Start workforce by requiring stronger Head Start teacher credentials and wages more comparable to public school prekindergarten and kindergarten children; improve Head Start's academic focus, particularly instruction in preliteracy; expand Head Start to all eligible preschool children by 2008, including serving 200,000 infants and toddlers through Early Head Start by 2008; and, promote better coordination across all early care and education programs in every State.

The biggest problem today with Head Start is not the children Head Start serves, but the children who are left behind—those who are not participating in a Head Start program.

While the majority of Head Start children enter the program below national language and literacy norms for all children of similar ages, about 25 percent of children entering Head Start are extremely behind their peers. For these children, Head Start is a particularly important jump start to build school readiness skills.

If our goal is to help Head Start children make even greater gains than they are currently making, then we need to raise the educational credentials of Head Start teachers. We require that within 3 years, all newly hired Head Start teachers must either have an Associate's degree or become enrolled in a program leading to an AA degree within a year from when they're hired. In addition, we require a teacher with a Bachelor's degree in every classroom over the next 8 years.

Currently, over half of State-funded pre-kindergarten programs require a teacher with a BA. We should require no less for Head Start children.

Unlike the House bill, we provide additional funding to meet this stronger teacher requirement—in fact, $3 billion over 5 years. The average Head Start annual salary is about $20,000. The average annual salary for a kindergarten teacher is $43,000. If we do not raise Head Start teacher salaries to be more in line with public school pre-kindergarten and kindergarten salaries, Head Start programs will never be able to attract and retain a stronger workforce.

Next, we improve the academic focus of Head Start. We require Head Start programs to align their curriculum and classroom practice with local school districts and state school readiness standards. We require every Head Start teacher to have on-going training in literacy instruction. And, we provide funds for more books for Head Start classrooms so that each classroom can truly be a literature-rich environment.

While the House bill does not even include enough funding to keep pace with inflation, our bill expands Head Start to all eligible preschoolers by 2008. In addition, we double the current set-aside for Early Head Start from 10 percent of Head Start funding to 20 percent. To me, the earlier we can reach these children, the greater the likelihood that they can make even greater gains than current children, who, for the most part enter Head Start as 4 year-olds.

Last, this bill will promote better coordination across all early care and education programs in every state—without a block grant. We require that every state designate or create an advisory council on early care and education. The council will issue a report to serve as a roadmap for how States can better coordinate various early childhood programs and services.

An expanded State Head Start Collaboration office would work with the advisory council to ensure that Head Start fits into the big picture set by the state for early childhood education.

Children in Head Start can learn more. But, they can't learn more unless we require a stronger workforce and unless we invest the resources necessary to attract and retain that workforce. While I agree that we need to strengthen the literacy focus of Head Start, we cannot do it unless every Head Start teacher is provided with literacy training.

The Administration and House Republicans believe that we need a block grant to promote coordination and collaboration. I disagree. The block grant serves only to weaken the comprehensive services offered by every Head Start program.

Tell the 208,000 children who needed dental treatment, the 71,000 who needed speech and language help, the 21,961 who had developmental delays, the 47,280 who needed treatment for asthma, the 25,869 who had vision problems, and the 20,260 who had hearing problems, that they did not need the comprehensive services provided by Head Start.

Doctors don't water down medicine that's working, and neither should we when it comes to Head Start. But clearly House Republicans have chosen expediency over bipartisanship. That's wrong.

Our bill, the Head Start School Readiness and Coordination Act, will further improve Head Start, without weakening the comprehensive services that Head Start children need.

While we look forward to working with House and Senate Republicans in an effort to craft a bipartisan bill, we also wish to emphasize that we hold certain fundamental beliefs about Head Start that are in our bill and should be part of any final bill.

Last night my colleague, Senator ALEXANDER, introduced legislation to promote better coordination and the creation of Head Start Centers of Excellence. His interest and creativity help stake a marker for basic principles that in addition to my bill should be part of any final bill. I agree with my colleague that there is consensus around improving school readiness, improving coordination, and increasing accountability. I look forward to working with Senator ALEXANDER and Senator GREGG, the Chairman of the Senate Health, Education, Labor, and Pensions Committee and others who joined with me today in drafting a bipartisan bill to promote the strongest start possible for low income children prior to beginning kindergarten.

In the wake of the No Child Left Behind Act, now is not the time to leave Head Start children behind.

I ask unanimous consent that a short summary of the legislation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

HEAD START SCHOOL READINESS AND COORDINATION ACT

Brief Summary: Head Start works. The Head Start School Readiness and Coordination Act will help Head Start work better. The Act strengthens the Head Start workforce by requiring stronger education credentials for Head Start teachers and wages more comparable to public school pre-kindergarten and kindergarten teachers; improves Head Start's academic focus, particularly in preliteracy instruction; expands Head Start to more children, including more younger children through the expansion of Early Head Start; and, promotes better coordination across all early care and education programs in the State.

EXPANDS HEAD START ENROLLMENT

Expands access to all eligible 3 and 4 year olds by 2008.

Serves over 200,000 infants and toddlers a year by 2008.

Increases funds for migrant Head Start programs from 4 percent annually to 5 percent.

Increases funds for tribal Head Start programs from 3 percent annually to 4 percent.

STRENGTHENS THE HEAD START WORKFORCE

Within 3 years, requires all newly hired teachers to have an Associate degree, or be enrolled in a program leading to an AA degree within 1 year of hire.

Requires a teacher with a Bachelor's degree in every classroom by 2008.

Provides the resources necessary to attract and retain a more educated workforce and to enable current Head Start teachers to go back to school.

STRENGTHENS HEAD START'S ACADEMIC FOCUS, PARTICULARLY PRE-LITERACY

Requires all Head Start teachers to receive on-going training in literacy.

Requires Head Start programs to align curriculum and classroom practice with local school districts and state school readiness standards.

Provides funds to increase the number of books in Head Start classrooms, promote partnerships with libraries, and foster books in the homes of Head Start children.

IMPROVES HEAD START'S COORDINATION AND COLLABORATION

Expands State Head Start Quality Improvement and Collaboration offices to better coordinate Head Start with other early childhood programs.

Promotes flexibility for Head Start to reach more children from working poor families.

PROMOTES BETTER COORDINATION ACROSS ALL EARLY CARE AND EDUCATION PROGRAMS

Requires States to designate or establish an advisory council on early care and education to review a State's overall needs for children from birth to school entry.

Allows States to administer Head Start training and technical assistance to better comply with Head Start performance standards and to promote professional development among Head Start teachers and other early care providers, if supplemented by the States.

Involves States as a member of the team monitoring and reviewing Head Start Performance and allows States to designate new Head Start agencies.

IMPROVES HEAD START ACCOUNTABILITY

Requires Head Start programs to conduct an annual review, with a team that includes a representative from the local school district, the State, and the HHS regional office.

Allows the Secretary of HHS to conduct periodic unannounced monitoring visits.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator DODD and other colleagues in introducing the Head Start Coordination and School Readiness Act. Our goal is to reauthorize Head Start and continue this very successful federal program to prepare low-income children for school.

For nearly four decades, Head Start has enabled vulnerable, young pre-kindergarten children to enter school ready to learn. It provides a balanced educational curriculum to see that children develop early skills in reading, writing, and math, and positive social skills as well. It provides visits to doctors and dentists, and nutritious meals to see that children are healthy. It provides outreach to parents to encourage them to participate actively in their child's early development.

It is clear that Head Start works. A federal evaluation found that Head Start children make gains during the program itself, and the gains continue when the children enter kindergarten. Once Head Start children complete their kindergarten year, they are near the national average of 100 in key areas, with scores of 93 in vocabulary, 96 in early writing, and 92 in early math.

In this legislation, we build on Head Start's proven track record and expand it to include thousands of low-income children who are not yet served by the program. We provide for better coordination of Head Start with state programs for low-income children. We strengthen Head Start's focus on school readiness and pre-literacy. We increase the education requirements and compensation for Head Start teachers. We provide greater accountability, including a high quality assessment of each Head Start program.

To strengthen Head Start, we have to begin by providing more resources for it. The need for Head Start is greater than ever. Child poverty is on the rise again. Today, only 60 percent of children eligible for Head Start participate in it. Over 312,000 three- and four-year-olds are left out because of the inadequate funding level of the program. Early Head Start serves only 3 percent of eligible infants and toddlers. It is shameful that 97 percent of the children eligible for Early Head Start have no access to it. It's long past time for Congress to expand access to Head Start to serve as many infants, toddlers, and preschool children as possible.

Throughout the 1990's, we tripled our investment, and Head Start expanded by 52 percent. But this year, the President's budget fails to reach out to a single new child. It provides only $148 million in additional funding for the coming year—only a quarter of the increase that Head Start received in recent years, and barely enough to cover inflation.

The bill that we introduce today will set a goal of fully funding Head Start over the next 5 years, in order to reach all eligible preschoolers. Each year, an additional 62,000 three- and four-year-olds would be served by the program. Funding will rise from $6.7 billion in the current fiscal year, to $8.5 billion in fiscal year 2004, and $16.3 billion in fiscal year 2008.

Early Head Start is an especially important lifeline for needy infants and toddlers. Research clearly shows its benefit to infants and toddlers and their families. Early Head Start children have larger vocabularies, lower levels of aggressive behavior, and higher levels of sustained attention than children not enrolled in the program. Parents are more likely to play with their children and read to them.

This bill will double the size of Early Head Start, providing resources to serve an additional 29,000 infants and toddlers each year, at an estimated cost of $1 billion in fiscal year 2004, and $3.2 billion in fiscal year 2008.

The current Federal-to-local structure of Head Start enables it to tailor its services to meet local community needs. Performance standards guarantee a high level of quality across all programs. Yet each program is unique and specifically adapted to the local community. Head Start is successful in serving Inuit children in Alaska, migrant-workers' children in Tennessee, and inner-city children in Boston. It is essential to maintain the ability of local Head Start programs to tailor their services to meet local community's needs.

To strengthen this coordination with local programs, our bill creates a Head Start Quality Improvement and Collaboration Office in every state to maximize services to Head Start children, align Head Start with kindergarten classrooms, and strengthen its local partnerships with other agencies. These offices will also work to expand training and technical assistance to Head Start grantees to better meet the goal of preparing children for school.

States will also have an active role in coordinating their early childhood programs and increasing their quality. Our bill designates an Early Care and Education Council in each State to conduct an inventory of children's needs in the state, develop unified data collection and make recommendations on coordination, technical assistance and training.

Over the past four decades, Head Start has built up quality and performance standards to guarantee a full range of services, so that children are educated in the basics about letters and numbers and books, and are also healthy, well-fed, and supported in stable and nurturing relationships. Head Start is a model program, and we can enhance its quality even more.

One way to do that is to strengthen Head Start's current literacy initiative. We know the key to later reading success is to get young children excited about letters and books and numbers. Our bill emphasizes language and literacy, by enhancing the literacy training required of Head Start teachers, by continuing to promote parent literacy, and by working to put more books into Head Start classrooms and into children's homes.

At the heart of Head Start's success are its teachers and staff. They are caring, committed persons who know the children they serve and are dedicated to improving their lives. They help children learn to identify letters of the alphabet and arrange the pieces of puzzles. They teach them to brush their teeth, wash their hands, make friends and follow rules. Yet their salary is still half the salary of kindergarten teachers, and turnover is high—11 percent a year.

Because a teacher's quality is directly related to a child's outcome, our bill sets a goal that every Head Start classroom has a teacher with a bachelor's degree within 8 years. It provides an additional $650 million over the next 5 years to see that teachers have the means to go back to school to earn a bachelor's degree, and it guarantees $3 billion over that period to see that teachers earn adequate wages to keep them in Head Start once they obtain their degree.

Finally, accountability is a cornerstone of excellence in education and should start early. Head Start should be accountable for its promise to provide safe and healthy learning environments, to support each child's individual pattern of development and learning, to cement community partnerships in services for children, and to involve parents in their child's growth.

Head Start reviews are already among the most extensive in the field. Every 3 years, a Federal and local team spends a week thoroughly examining every aspect of every Head Start program. They check everything from batteries in flashlights to how parents feel about the program. Our bill promotes even stronger monitoring of Head Start programs. It calls for periodic visits to programs, and strengthens annual reviews and plans for improvement.

Assessing outcomes for children is vital in promoting accountability and ensuring that the gains promised for Head Start children are actually achieved. But these steps have to be taken the right way.

Instead of rushing forward, as the Administration suggests, with a national assessment for every four-year-old in Head Start this fall, our bill calls on the National Academy of Sciences to guide the development and implementation of a high-quality assessment for Head Start children over the next four years. That assessment will be valid and reliable, fair to children from all backgrounds, balanced in what it measures, and assess the development of the whole child.

Unfortunately, the Administration and House Republicans have presented plans that would turn Head Start into Slow Start or No Start. It makes no sense to turn Head Start into a block grant to the states. To do so would dismantle the program and undermine Head Start's guarantees that children can see doctors and dentists, eat nutritious meals, and learn early academic and social skills. It would undermine the role of parents, who are better parents today, strong advocates, and enthusiastic volunteers as a result of Head Start.

The Head Start Coordination and School Readiness Act we are introducing today will keep Head Start on its successful path. I urge our colleagues on both sides of the aisle to join us in continuing and strengthening this program, and give children the head start they need and deserve to prepare for school and for life.

Mr. President, I ask unanimous consent that a letter of support and statement from the National Head Start Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington DC.

DEAR SENATOR KENNEDY: We are writing to voice our strong support for the legislation you plan to introduce today, the Dodd/Kennedy Head Start School Readiness and Coordination Act.

This legislation would reauthorize the Head Start program an build on it 38-year record of success in delivering high quality, comprehensive services to low-income children and their families. The Children's Defense Fund is working to ensure that we truly Leave No Child Behind in America. This bill takes an important step in making this promise a reality by proposing to expand Head Start to all eligible preschool children and double the current set-aside for infants and toddlers over the next five years.

We applaud the expanded funding as well as your efforts to strengthen and improve Head Start services for the nation's poorest children. Recognizing that teachers are critical to children's learning, the bill promotes advances education for Head Start teachers and guarantees the necessary federal resources to ensure that qualified teachers can afford to stay in Head Start classrooms. The bill also encourages new models for developing a comprehensive, coordinated system of preschool education. While preserving Head Start's existing federal to local funding structure, these strategies will ensure strong collaboration at both the local and start levels.

Your legislation is a marked improvement over the injurious bill passed by the House of Representatives last week. It is my fervent hope that the Senator wholesheartedly rejects the House approach in conference.

As always, we are deeply grateful for your extraordinary leadership of children and families and we look forward to working with you on this important piece of legislation.

Sincerely yours,
MARIAN WRIGHT EDELMAN.

STATEMENT BY SARAH GREENE, PRESIDENT AND CEO, NATIONAL HEAD START ASSOCIATION (NHSA)

Re Kennedy-Dodd Head Start bill.

WASHINGTON, D.C., July 29, 2003.—Sarah Greene, president and CEO of the National Head Start Association, released the following statement today:

"The National Head Start Association, representing 2,500 local Head Start providers, over 900,000 at-risk children, 47,000 teachers and parents and volunteers, is pleased to endorse the "Head Start School Readiness and Coordination Act" introduce today by Senators Edward Kennedy (D-MA) and Christopher Dodd (D-CT), ranking members of the Senate Health, Education, Labor and Pensions (HELP) Committee.

This legislation will strengthen the Head Start workforce by requiring stronger credentials for Head Start teachers and bring wages more into line with public school prekindergarten and kindergarten teachers; improve Head Start's academic focus, particularly in pre-literacy instruction; expand Head Start to reach more at-risk children, including more younger children through the expansion of Early Head Start; and promote better coordination across all early care and education programs within the states.

NHSA is proud to have been involved in the crafting of this expansive measure that will continue the long history of improving Head Start's program quality and outcomes for our neediest pre-schoolers. The Head Start community will work closely with members of the help Committee to assure passage of this important legislation."

ABOUT NHSA

The National Head Start Association is a private not-for-profit membership organization dedicated exclusively to meeting the needs of Head Start children and their families. The Association provides support for the entire Head Start family by advocating for policies that provide high-quality services to children and their families; by providing extensive training and professional development services to all Head Start staff; and be developing and disseminating research, information, and resources that impact Head Start program delivery. NHSA provides a national forum for the continued delivery and enhancement of Head Start services for at-risk children and their families.

Mr. REED. Mr. President, I rise today as a cosponsor of the Head Start School Readiness and Coordination Act.

Since 1965, Head Start has provided comprehensive early childhood development, educational, health, nutritional, social and other services to low-income preschool children and their families. I believe our goal during the upcoming reauthorization must be to enhance, not dismantle, this essential program so it can continue its important and necessary work to lessen the effects of poverty and ensure that children are ready for school.

Head Start serves our poorest children and families but it does not reach enough of them. Although Head Start currently serves over 900,000 children, mainly 3- and 4-year-olds, 40 percent of eligible children, approximately 600,000, are currently not served. Early Head Start, arguably an even more critically important program for infants, toddlers and pregnant women given what we now know about early brain development, serves a mere 3 percent of those eligible.

Several measures are needed to improve Head Start while ensuring that its many important services are not reduced. We need to fully fund Head Start so that many more children can benefit. We need resources to improve the quality of Head Start teachers and adequately compensate them. And we need to improve coordination with child care and State-funded pre-kindergarten programs.

Unfortunately, the Administration's proposal and the House bill do none of these things. Instead they would create a block grant for States and, by doing so, eliminate both the program's Federal quality standards and the requirement for comprehensive services. With almost all States facing substantial budget deficits and many already cutting funding for early child care and pre-kindergarten programs, a block grant demonstration for one State, eight States, or more would jettison the Head Start guarantee of high quality programs and comprehensive services for our nation's low income children and families.

The Head Start School Readiness and Coordination Act preserves both the performance standards that ensure quality as well as the comprehensive services such as health screenings, immunizations, nutritious meals, emotional and behavioral supports, and direct support to parents of Head Start children. I will work hard to ensure that these important services are not diminished and that the effort to improve Head Start does not come at the expense or sacrifice of other aspects of the program.

A particular focus of mine during the past several education reauthorizations has been to ensure that our teachers get the training and continued professional development they need to help students succeed.

Currently, only 25 percent of Head Start teachers hold bachelor's degrees. A key provision in the Head Start School Readiness and Coordination Act would require all newly hired teachers to have a minimum of an Associate's degree and all classrooms to have a teacher with a Bachelor's degree by 2008. Importantly, the bill also provides funding for Head Start teachers to meet these requirements and to boost Head Start teacher's salaries to alleviate the shortage and turnover problem that currently exists. Head Start teachers typically earn half the salary of kindergarten teachers. If we expect a higher level of education from these teachers, then we must compensate them at higher levels.

Unfortunately, the House bill does not provide the means of achieving either of these goals. It is questionable whether the House bill even provides enough funding to cover the cost of inflation. It clearly does not provide funding to boost salaries or provide the additional educational training to achieve the degree requirements sought. Worse, the House bill reduces the minimum set-aside for training and technical assistance from 2 percent to 1 percent and introduces a cap of 2 percent. We will never attract and retain highly qualified teachers without financial support to enable their education and training and incentives to keep them in the Head Start program.

Another troubling aspect of both the Administration's proposal and House bill is that both would allow employment discrimination based on religion in Head Start programs run by religious groups.

Faith-based organizations are an integral part of Head Start, having already provided such services for years. We should continue to encourage their participation without allowing them to discriminate. Indeed, during the Health, Education, Labor and Pensions Committee hearing, the Administration witnesses were unable to provide any information on barriers faced by religious organizations in participating in Head Start, nor could they identify any research pointing to the efficacy of teaching by unified religious staff. I will fight hard to prevent such discrimination in Head Start as I have in other bills moving through Congress.

I am pleased that provisions I worked on have also been included in The Head Start School Readiness and Coordination Act.

I am particularly pleased about the over-income provision that will allow more children to qualify whose families are above the poverty line but are still struggling to make ends meet. The parental involvement provisions will encourage the continuity of their involvement and improve the academic success of children in Head Start activities. The library and museum provisions will develop and enhance close collaborations of these institutions with Head Start programs to strengthen literacy skills and other educational outcomes for children.

I commend Senators KENNEDY and DODD on their work to draft this bill, and I urge my colleagues to consider and pass this important piece of legislation.

Mrs. CLINTON. Mr. President, I rise today to express my strong support for the Head Start Readiness and Coordination Act, of which I am a proud original co-sponsor. I want to commend Senator DODD and Senator KENNEDY for their hard work and commitment to making this bill the best it could be.

The Head Start Readiness and Coordination Act presents a clear contrast with what has been proposed by the Administration and what has been passed by the House of Representatives. What this Administration and the Republican Leaders in the House want to do will not provide a Head Start for children—it will be a giant step back. A step back from all of the great things that Head Start provides: family services, dental care, health care, and of course learning. We need to strengthen Head Start not weaken it. And we need to expand its reach, not limit it.

The way we create more opportunities for every child in New York and across the country is to build on our successes. And let met tell you Head Start has been a success since 1965. More than 20 million kids have benefited from this program. In this year alone, 50,000 New York families will participate.

And the trend every time reauthorization has come up is to build a program that helps even more children and their families. If it's not broken, don't fix it.

And that's what our "Head Start Readiness and Coordination Act" will do. We double the size of Early Head Start. We expand access to all eligible pre-schoolers. We provide better services for families and children who are still learning English—that's 25 percent of the Head Start population. And we improve coordination between the States so that children are ready for school and so that every child who needs it to have access to year-round care.

This bill builds on the remarkable success of the Clinton Administration in improving Head Start. During my husband's tenure in the White House, enrollment in Head Start increased by almost 30 percent and funding increased by 120 percent. In 1994, my husband created the Early Head program to provide critical care to infants who are in one of—if not the most—critical stage of development. And in the 1998 reauthorization, we doubled the Early Head Start program so that today it is serving 62,000 infants and toddlers.

The Clinton Administration also introduced outcome measures aligned with the successful performance standards to improve the quality of the program. And we ensured that 50 percent of all Head Start teachers have an Associates degree. At the time, many people said we were setting impossible standards, but today, the performance standards and outcomes are the backbone of every Head Start program, and the goal of 50 percent of teachers having Associates degrees has been exceeded.

So, I know that we can reform and improve Head Start. And that is why I will never support dismantling it. Head Start is more than just one of this country's most successful anti-poverty programs. It is a great equalizer. It is a place where a young girl might have a book read to her for the first time; a place where a young boy might have his first check-up, and a place where a mother or father might learn about nutrition, the early signs of lead poisoning, and how to encourage learning at home.

Head Start has lived up to its name and then some for millions of Americans. There is bipartisan support to preserve Head Start as we know it, to expand it, and to improve it. I look forward to working with my colleagues to make sure that this happens. We can do all of these great things without dismantling one of our greatest national endeavors for our children.

By Mr. WYDEN:

S. 1484. A bill to require a report on Federal Government use of commercial and other databases for national security, intelligence, and law enforcement purposes, and for other purposes; to the Committee on the Judiciary.

Mr. WYDEN. Mr. President, I believe the United States can fight terrorism ferociously without gutting civil liberties. The point of the legislation I am introducing today is to address concerns that have arisen about the second part of this equation: an area of privacy that has gotten short shrift. That is the personal financial, medical and other data on millions of Americans that today is less than a mouseclick away from the computers of thousands of Federal bureaucrats. Access to and the use of that personal information by Federal bureaucrats is not protected by any comprehensive law.

The power of technology that allows the Federal Government to pry into the personal lives of millions of Americans is only beginning to be understood. It is a breath-taking power, and it has come partly to light through the Defense Department's Terrorism Information Awareness Program (TIA), and through the Transportation Security Administration's Computer Assisted Passenger Profiling System II or CAPPSII Program. These and more than two dozen other agencies wield that power with little or no restraint.

The legislation I am introducing with the support of a bipartisan group of privacy watchdog organizations, the Citizens' Protection in Federal Databases Act, will put the breaks on unchecked Federal data sweeps. It requires the Federal agencies with law enforcement or intelligence authority to share with Congress exactly what they are doing with private or public databases, why they are doing it, and most importantly, what, if any, privacy protections the agencies are affording the individuals' whose sensitive information is caught up in those databases.

The Citizens' Protection in Federal Databases Act also prohibits searches based on hypothetical scenarios.

Apparently, some government agencies are using valuable Federal resources chasing hypothetical situations dreamed up without regard to actual intelligence or law enforcement information.

The TIA Report to Congress in May of this year explained at length the program's intent to construct possible terrorist "scenarios" based on "historical examples, estimated capabilities, and imagination." These scenarios would then be fed into database searches in an effort to substantiate the hypotheticals.

This Act bans such searches. This prohibition will promote the efficient use of Federal law enforcement time and money and help protect Americans from being subject to "virtual goose chases."

Since 9/11, there has been an abundance of stories regarding Americans being stopped, searched, or detained due to some mistaken information. For example, after 9/11, the FBI decided to share with companies across the country a list with names of people wanted for possible association with terrorism. This list, as part of "Project Lookout," was sent to thousands of corporations, some of whom now use the list in lieu of background checks.

Here's the problem—this list is not necessarily accurate. First of all, the list quickly became obsolete as the FBI checked people off. That means even if people were cleared by the FBI of suspicion, their names were still on this list. Secondly, the list has been shared so many times, and passed from person to person, group to group—many names have become misspelled and now folks, due to one or two typos, are being stopped as suspected terrorists.

That story is just one example of what can happen when information is mishandled. It is Congress's job to make sure mistakes like these do not happen.

The Citizens' Protection in Federal Databases Act is not the end of this issue. After shedding some light on what exactly is happening with personal information—the Congress must then address how to protect Americans from the misuse of this information.

I am happy to be working with a strong group of privacy advocates. The group includes the Electronic Privacy Information Center, the Electronic Frontier Foundation, the Center for Democracy and Technology, People for the American Way, the Free Congress Foundation, and the American Civil Liberties Union, and they have been instrumental in getting strong safeguards enacted against abuses in the TIA and other programs. I look forward to working with these groups, and my Senate colleagues, to see that this bill is enacted into law.

When tens of thousands of bureaucrats have at their fingertips all-too-easy access to such personal information from private and public databases as the use of passports, driver's licenses, credit cards, ATMs, airline tickets, and rental cars, the American people want to know what is happening to their information. They want to know who wants access to it and why. Their personal information deserves strong privacy protection, and that is what this legislation is all about.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizens' Protection in Federal Databases Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Many Federal national security, law enforcement, and intelligence agencies are currently accessing large databases, both public and private, containing information that was not initially collected for national security, law enforcement, or intelligence purposes.

(2) These databases contain personal and sensitive information on millions of United States persons.

(3) Some of these databases are subject to Federal privacy protections when in private sector control.

(4) Risks to personal privacy are heightened when personal information from different sources, including public records, is aggregated in a single file and made accessible to thousands of national security, law enforcement, and intelligence personnel.

(5) It is unclear what standards, policies, procedures, and guidelines govern the access to or use of these public and private databases by the Federal Government.

(6) It is unclear what Federal Government agencies believe they legally can and cannot do with the information once acquired.

(7) The Federal Government should be required to adhere to clear civil liberties and privacy standards when accessing personal information.

(8) There is a need for clear accountability standards with regard to the accessing or usage of information contained in public and private databases by Federal agencies.

(9) Without accountability, individuals and the public have no way of knowing who is reading, using, or disseminating personal information.

(10) The Federal Government should not access personal information on United States persons without some nexus to suspected counterintelligence, terrorist, or other illegal activity.

SEC. 3. LIMITATION ON USE OF FUNDS FOR PROCUREMENT OR ACCESS OF COMMERCIAL DATABASES PENDING REPORT ON USE OF INFORMATION.

(a) LIMITATION.—Notwithstanding any other provision of law, commencing 60 days after the date of the enactment of this Act, no funds appropriated or otherwise made available to the Department of Justice, the Department of Defense, the Department of Homeland Security, the Central Intelligence Agency, the Department of Treasury, or the Federal Bureau of Investigation may be obligated or expended by such department or agency on the procurement of or access to any commercially available database unless such head of such department or agency submits to Congress the report required by subsection (b) not later than 60 days after the date of the enactment of this Act.

(b) REPORT.—(1) The Attorney General, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of the Treasury, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation shall each prepare, submit to the appropriate committees of Congress, and make available to the public a report, in writing, containing a detailed description of any use by the department or agency under the jurisdiction of such official, or any national security, intelligence, or law enforcement element under the jurisdiction of the department or agency, of databases that were obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department or agency of the Federal Government for purposes other than national security, intelligence or law enforcement, regardless of whether any compensation was paid for such databases.

(2) Each report shall include—

(A) a list of all contracts, memoranda of understanding, or other agreements entered into by the department or agency, or any other national security, intelligence, or law enforcement element under the jurisdiction of the department or agency for the use of, access to, or analysis of databases that were obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department or agency of the Federal Government for purposes other than national security, intelligence, or law enforcement;

(B) the duration and dollar amount of such contracts;

(C) the types of data contained in the databases referred to in subparagraph (A);

(D) the purposes for which such databases are used, analyzed, or accessed;

(E) the extent to which such databases are used, analyzed, or accessed;

(F) the extent to which information from such databases is retained by the department or agency, or any national security, intelligence, or law enforcement element under the jurisdiction of the department or agency, including how long the information is retained and for what purpose;

(G) a thorough description, in unclassified form, of any methodologies being used or developed by the department or agency, or any intelligence or law enforcement element under the jurisdiction of the department or agency, to search, access, or analyze such databases;

(H) an assessment of the likely efficacy of such methodologies in identifying or locating criminals, terrorists, or terrorist groups, and in providing practically valuable predictive assessments of the plans, intentions, or capabilities of criminals, terrorists, or terrorist groups;

(I) a thorough discussion of the plans for the use of such methodologies;

(J) a thorough discussion of the activities of the personnel, if any, of the department or agency while assigned to the Terrorist Threat Integration Center; and

(K) a thorough discussion of the policies, procedures, guidelines, regulations, and laws, if any, that have been or will be applied in the access, analysis, or other use of the databases referred to in subparagraph (A), including—

(i) the personnel permitted to access, analyze, or otherwise use such databases;

(ii) standards governing the access, analysis, or use of such databases;

(iii) any standards used to ensure that the personal information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate Government purpose;

(iv) standards limiting the retention and redisclosure of information obtained from such databases;

(v) procedures ensuring that such data meets standards of accuracy, relevance, completeness, and timeliness;

(vi) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(vii) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongfully incurred due to the access, analysis, or use of such databases;

(viii) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(ix) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases.

SEC. 4. GENERAL PROHIBITIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no department, agency, or other element of the Federal Government, or officer or employee of the Federal Government, may conduct a search or other analysis for national security, intelligence, or law enforcement purposes of a database based solely on a hypothetical scenario or hypothetical supposition of who may commit a crime or pose a threat to national security.

(b) CONSTRUCTION.—The limitation in subsection (a) shall not be construed to endorse or allow any other activity that involves use or access of databases referred to in section 3(b)(2)(A).

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) DATABASE.—The term "database" means any collection or grouping of information about individuals that contains personally identifiable information about individuals, such as individual's names, or identifying numbers, symbols, or other identifying particulars associated with individuals, such as fingerprints, voice prints, photographs, or other biometrics. The term does not include telephone directories or information publicly available on the Internet without fee.

(3) UNITED STATES PERSON.—The term "United States person" has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

By Mr. KENNEDY (for himself, Mr. HARKIN, Mr. SCHUMER, Mr. LEAHY, Mr. DAYTON, Mr. DURBIN, Mr. REID, Mr. DODD, Mr. SARBANES, Ms. STABENOW, Ms. MIKULSKI, and Mrs. CLINTON):

S. 1485. A bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator HARKIN and other colleagues on this legislation to protect the right to overtime pay for millions of working men and women across America. The Bush administration has just announced new regulations that would deny overtime protections to more than 8 million hardworking men and women, including an estimated 200,000 workers in Massachusetts. Firefighters, police officers, military reservists, nurses, retail clerks, medical technicians, tech workers and many others would be harmed by the new rules.

In the current failing economy, these workers depend more than ever on overtime pay to make ends meet and to pay their bills for housing, food, and health care. Overtime pay often constitutes as much as a quarter of their total pay, and the administration's proposal will mean an average pay cut of $161 a week for them.

Our bill states clearly that no worker currently eligible for overtime protection can be denied overtime pay as a result of the new regulations.

We know that overtime protections make an immense difference in preserving the 40-hour work week. For over half a century, the Fair Labor Standards Act has discouraged employers from requiring longer hours of work, by making overtime more expensive. Instead of relying on fewer workers forced to work longer hours, employers are likely to hire additional workers to meet the employer's needs. That result creates more jobs, and reduces the unfair exploitation of workers.

The Bush administration is the first administration in 70 years in which the number of private sector jobs has declined. Not since President Hoover have we been hemorrhaging jobs like this. How could any fair administration possibly adopt regulations that will increase overtime working hours, and reduce the need to hire additional workers?

According to the Congressional General Accounting Office, employees exempt from overtime pay are twice as likely to work overtime as those covered by the protection. Americans are working longer hours today than ever before—longer than in any other industrial nation. At least one in five employees now has a work week that exceeds 50 hours, let alone 40 hours.

Clearly, workers are already struggling to balance their families' needs with their work responsibilities. Requiring them to work more hours for less pay will add an even greater burden to this daily struggle. Protecting the 40-hour work week is vital to protecting the work-family balance for millions of Americans in communities in all parts of the nation.

Sixty-five years ago, President Roosevelt signed into law the Fair Labor Standards Act to establish a minimum wage and maximum work hours. It was the midst of the Great Depression and President Roosevelt told the country that "if the hours of labor for the individual could be shortened . . . more people could be employed. If minimum wages could be established, each worker could get a living wage."

Those words are as true in 2003 as they were in 1938. The economy has lost more private sector jobs during this economic decline than in any recession since the Great Depression. What can the administration be thinking, to come up with this shameful proposal to weaken the overtime protections on which millions of workers rely? Is the administration so desperate to prop up business profits that it's willing to punish workers to do it?

As Senator HARKIN says, the President's policy is economic malpractice. Democrats will not sit idly by and watch Americans lose their jobs, their livelihoods, their homes, and their dignity. We will continue the fight to restore jobs to the economy, provide fair unemployment benefits, and raise the minimum wage. And we will do all we can to preserve the overtime protections on which so many Americans families depend. I urge my colleagues to support this essential legislation to keep the faith with the Nation's working families.

By Mr. CHAFEE (for himself and Mr. JEFFORDS):

S. 1486. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, today I introduce the POPs, LRTAP POPs, and PIC Implementation Act of 2003, along with Senator JEFFORDS. This legislation implements the Stockholm Convention on Persistent Organic Pollutants (POPs), the Convention on Long-range Transboundary Air Pollution (LRTAP POPs), and the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC). With advice and consent by the Senate and with passage of this legislation, the United States will appropriately become an active participant in these important international agreements.

Persistent organic pollutants (POPs) are highly toxic and cause adverse health effects, including cancer, reproductive disorders, and immune system disruptions. POPs may not break down for years or decades, can travel long distances through air and water, and are known to bioaccumulate in living organisms. PCBs, DDT, and dioxin are examples of POPs. The Stockholm Convention on Persistent Organic Pollutants seeks to globally eliminate or severely restrict the production and use of 12 of the most dangerous pesticides and industrial chemicals, ensure the environmentally sound management of POPs waste, and prevent the emergence of new chemicals with POPs-like characteristics. To date, there are 151 signatories and 33 Parties to the Convention.

The legislation we are introducing today implements the key provision of the POPs Convention which allows additional chemicals to be added to the Convention. The bill amends the Toxic Substances Control Act to create a process by which the Administrator of the Environmental Protection Agency would consider regulating a newly listed chemical to the POPs Convention or to the LRTAP POPs Protocol. Beginning 1 year after a chemical is added by the international body, any person may petition the Administrator to commence a rulemaking if one has not been commenced. Providing mechanism to include additional chemicals at a future date, with opportunities for public involvement, ensures that the United States will fully implement the POPs Convention.

This bill includes two titles: the first title amends the Toxic Substances Control Act (TSCA) and the second title amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Senator JEFFORDS and I have worked exclusively to forge a compromise on the first title amending TSCA. The second title amending FIFRA will be considered by the Committee on Agriculture, Nutrition, and Forestry. The language in this bill amending FIFRA is intended to serve as a place holder until the Committee on Agriculture, Nutrition, and Forestry has the opportunity to consider that title. It does not represent a compromise on that title.

I believe that this adding mechanism includes appropriate checks and balances, and requires the Environmental Protection Agency to balance the relevant factors when determining how to regulate a newly-listed chemical. While different parties would craft these provisions differently if starting with a clean slate, I believe that this legislation represents a solid compromise that will allow the United States to fulfill its obligations when Governor Whitman signed the POPs treaty, and will engage the United States as a leading member of the international community regarding toxic substances.

By Mr. SPECTER:

S. 1487. A bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews; to the Committee on Armed Services.

Mr. SPECTER. Mr. President, I have sought recognition to explain briefly the provisions of legislation I have introduced today that would direct the Secretary of the Army to award the Combat Medical Badge, CMB, or a similar badge to be designed by the Secretary of the Army, to pilots and crew of the Army's helicopter medical ambulance units—commonly referred to by their call sign "DUST OFF"—who have flown combat missions to rescue and aid wounded soldiers, sailors, airmen, and Marines.

The legacy of the DUST OFF mission was recently brought to my attention by a group of Pennsylvania constituents who have been sharing the DUST OFF story in an attempt to persuade the Army to recognize the service and sacrifice DUST OFF crews made, especially during the Vietnam War, in saving the lives of thousands of fallen comrades by extracting the wounded from forward positions to bases where they would receive life-saving medical care.

The Army began using helicopters to evacuate wounded soldiers during the Korean War. However, because of their smaller size, Korean War helicopters were used solely as a means of transporting the wounded from the combat zones. It was not until the early 1960's that a group of Army aviators envisioned using the newer, larger, UH-1A "Huey" helicopters to serve as mobile air ambulances where a medic and crew could provide life-saving treatment en route to the medical aide station.

The road to establish air ambulance units within the Army was rocky and uncertain. Combat commanders often considered the use of helicopters for this purpose a diversion of valuable resources. However, through determination, skill, and the American fighting spirit, air ambulance crews proved they were a valuable and reliable resource in providing support to the combat mission. Indeed, between 1962 and 1973, DUST OFF crews evacuated more than 900,000 allied military personnel and Vietnamese civilian casualties to medical assistance sites.

Captain John Temperelli, Jr. was the first commander of the 57th Medical Detachment, Helicopter Ambulance, who would lead the first DUST OFF unit in Vietnam. Army Captain Temperelli is considered the "pioneer" of DUST OFF; however, it was Army Major Charles L. Kelly, the unit's third commander, who would establish the traditions and the motto that DUST OFF crews hold sacred today.

Major Kelly, like his predecessors, believed in the mission of rescuing fallen comrades—so much so that he gave his life to the mission. On July 1, 1964, Major Kelly and his crew received a call to evacuate a wounded soldier. When they arrived, Major Kelly was instructed by an American advisor on the ground to leave the area; the landing zone was too "hot." Major Kelly responded with the phrase that would become the DUST OFF motto: "When I have your wounded." As Major Kelly hovered over the battlefield, an enemy bullet struck him in the heart; he was killed. It was with news of Major Kelly's death and the story of DUST OFF's dedication to the wounded that DUST OFF earned its permanency in the Army.

I recently received a book written by a Pennsylvania native, Army Chief Warrant Officer 5 Mike Novosel, titled DUSTOFF: The Memoir of an Army Aviator. Mr. Novosel—a Medal of Honor recipient who served two tours in Vietnam and was a veteran of two other wars—knows first hand the sacrifice, courage and dedication to duty that DUST OFF crews displayed in Vietnam and continue to display today. In his two tours as a DUST OFF pilot in Vietnam, Mr. Novosel flew 2,543 missions and extracted 5,589 wounded. In his book, Mr. Novosel shares many amazing stories of landing in "hot" landing zones to allow his medic and crew chief, who were also exposed to enemy fire, to rescue and care for the wounded. But as Mr. Novosel has said, his experience as a DUST OFF pilot was not uncommon. Thousands of brave soldiers risked their lives every day by flying into combat zones to evacuate the wounded.

I am honored that Mr. Novosel and others have brought the story of DUST OFF to my attention. It is my sincere hope that the Army will recognize DUST OFF pilots and crew with an appropriate badge which acknowledges the combat service of these brave individuals. When the War Department created the Combat Medical Badge, CMB, in WWII, as a companion to the Combat Infantryman Badge, CIB, it did so to recognize that "medical aidmen . . . shared the same hazards and hardships of ground combat on a daily basis with the infantry soldier." DUST OFF pilots and crew equally shared the hazards and hardships of ground combat with the infantry soldier. The fact that they were not directly assigned or attached to a particular infantry unit—a fact that, under current Army policy, makes them eligible to receive a CIB or CMB—should not bar special recognition of their service, service that one author has characterized as "the brightest achievement of the U.S. Army in Vietnam."

I had not introduced a bill until today because I wanted to hear testimony from DUST OFF participants about their experiences under fire. I also wanted to provide the Army with an opportunity to explain its position and, perhaps, rethink its opposition to the awarding of an appropriate designation to DUST OFF crew members. Earlier today, the Senate Committee on Veterans' Affairs held a hearing on the matter. Based on testimony offered today by three Vietnam veterans—Chief Warrant Officer, Ret., Michael J. Novosel, M.O.H., Chief Warrant Officer, Ret., John M. Travers, and Mr. William Fredrick "Fred" Castleberry—I am now more convinced than ever of the worthiness of this legislation. The Army again expressed its opposition today; I do hope that it will reconsider.

On the Vietnam Veterans Memorial are etched the names of over 400 medics, pilots, and crew that gave their lives so others might live. The forward thinking, enthusiasm, and dedication of DUST OFF crews in Vietnam are attributes seen in today's DUST OFF crews. I urge my colleagues to support this legislation which would recognize the nature of the service these individuals have performed, and continue to perform, while serving on DUST OFF crew.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARD OF COMBAT MEDICAL BADGE (CMB) OR OTHER COMBAT BADGE FOR ARMY HELICOPTER MEDICAL EVACUATION AMBULANCE (MEDEVAC) PILOTS AND CREWS.

(a) REQUIREMENT TO ELECT AND AWARD COMBAT BADGE.—The Secretary of the Army shall, at the election of the Secretary—

(1) award the Combat Medical Badge (CMB) to each member of a helicopter medical evacuation ambulance crew; or

(2)(A) establish a badge of appropriate design, to be known as the Combat Medevac Badge; and

(B) award that badge to each member of a helicopter medical evacuation ambulance crew who meets such requirements for eligibility for the award of that badge as the Secretary shall prescribe.

(b) AWARD FOR SERVICE BEFORE DATE OF ENACTMENT.—In the case of persons who qualified for treatment as a member of a helicopter medical evacuation ambulance crew by reason of service during the period beginning on June 25, 1950, and ending on the date of enactment of this Act, the Secretary shall award a badge under subsection (a) to each such person with respect to whom an application for the award of such badge is made to the Secretary after such date in such manner as the Secretary may require.

(c) MEMBER OF HELICOPTER MEDICAL EVACUATION AMBULANCE CREW DEFINED.—In this section, the term "member of a helicopter medical evacuation ambulance crew" means any person who while a member of the Army served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance.

By Mr. BINGAMAN:

S. 1488. A bill to establish the Native American Entrepreneurs Program to provide $3,000,000 in grants annually to qualified organizations to provide training and technical assistance to disadvantaged Native American entrepreneurs; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, I rise to introduce the Native American Entrepreneurs Act of 2003. The purpose of this legislation is straightforward: it authorizes grants of $3 million in 2004, $4 million in 2005, and $5 million in 2006 to qualified organizations to provide training and technical assistance to Native American entrepreneurs.

In my State of New Mexico and all across the country Native Americans still confront the problem of economic development, this in spite of the many efforts that have been made over time, both by Congress and by the tribes themselves. Over the last decade, some tribes have found a way to address this problem by focusing on the creation of gambling centers. But while these clearly have assisted many tribes, from where I sit this is at best a short- or medium-term solution that does not address the foremost issue at hand—that being how we help individual Native Americans acquire the business skills to become self-sufficient.

In the 106th Congress the Senate and the House passed legislation that created a program at the Small Business Administration that was designed to help disadvantaged individuals gain access to the technical training and funds. The bill—the Program for Investment in Microentrepreneurs Act of 1999, or PRIME—was drafted by several Senators, myself included, who felt it was imperative to encourage investment in microentrepreneurial activities in the United States. The reason for the effort was simple: microenterprise was a proven mechanism for enabling individuals on the periphery to obtain the capital and technical training needed to start their own business and move up the economic ladder in their community. It was also a proven mechanism for creating jobs, alleviating poverty, and stimulating economic development. It deserved to be pushed to the forefront of our legislative efforts in the Senate.

Under the PRIME legislation, organizations that provide technical assistance and loans to Native American communities are eligible for grants. But while diversity in grant award are mandated under the legislation, specific amounts mandated for Native Americans are not. The legislation I am introducing today would change that. The legislation provides additional funding to the PRIME Act for organizations that work with Native Americans specifically. In other words, the funding does not negate the possibility that further funds be provided to Native Americans under PRIME, nor, because it is additional funds over and above current authorization levels, does it cut into the funds that are now available to microenterprise organizations under PRIME. But it does ensure that organizations that serve only Native Americans get specific funding for their efforts.

I will be the first to admit that the authorization levels in this bill are modest, but they are feasible given the current budget environment. I will also admit that the bill carves out a small portion of the problem currently facing Native Americans, but I consider it to be a first step. I intend to address others problems in future legislation. The most important thing is that this bill, if enacted, will have an immediate and concrete impact in Native American communities in New Mexico and the rest of the country. I urge my colleagues to support it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 204—DESIGNATING THE WEEK OF NOVEMBER 9 THROUGH NOVEMBER 15, 2003, AS "NATIONAL VETERANS AWARENESS WEEK" TO EMPHASIZE THE NEED TO DEVELOP EDUCATIONAL PROGRAMS REGARDING THE CONTRIBUTIONS OF VETERANS TO THE COUNTRY

Mr. BIDEN (for himself, Mr. AKAKA, Mr. ALLEN, Mr. BAUCUS, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mrs. LINCOLN, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, Mr. KERRY, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 204

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by Americans;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in the Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas the system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas, on November 6, 2002, President George W. Bush issued a proclamation urging all Americans to observe November 10 through November 16, 2002, as National Veterans Awareness Week: Now, therefore, be it

Resolved,

SECTION 1. NATIONAL VETERANS AWARENESS WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week of November 9 through November 15, 2003, as "National Veterans Awareness Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

Mr. BIDEN. Mr. President, today I have the honor of joining with 54 of my colleagues in submitting a resolution expressing the sense of the Senate that the week that includes Veterans' Day this year be designated as "National Veterans Awareness Week." This marks the fourth year in a row that I have submitted such a resolution, which has been adopted unanimously by the Senate on all previous occasions.

The purpose of National Veterans Awareness Week is to serve as a focus for educational programs designed to make students in elementary and secondary schools aware of the contributions of veterans and their importance in preserving American peace and prosperity. This goal takes on particular importance and immediacy this year as we find ourselves again with uniformed men and women in harm's way in foreign lands.

Why do we need such an educational effort? In a sense, this action has become necessary because we are victims of our own success with regard to the superior performance of our Armed Forces. The plain fact is that there are just fewer people around now who have had any connection with military service. For example, as a result of tremendous advances in military technology and the resultant productivity increases, our current Armed Forces now operate effectively with a personnel roster that is one-third less in size than just 15 years ago. In addition, the success of the all-volunteer career-oriented force has led to much lower turnover of personnel in today's military than in previous eras when conscription was in place. Finally, the number of veterans who served during previous conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. Even though the Iraqi war has been prominently discussed on television and in the newspapers, many of our children are much more preoccupied with the usual concerns of young people than with keeping up with the events of the day. As a consequence, many of our youth still have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the Armed Forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history, can make decisions that have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice, and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me three years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled "How Should We Honor America's Veterans?" Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for department store sale, and we don't want to become a nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Last year, my Resolution designating National Veterans Awareness Week had 55 cosponsors and was approved in the Senate by unanimous consent. Responding to that resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1410. Mr. BINGAMAN proposed an amendment to amendment SA 1386 proposed by Mr. Bond (for himself, Mr. Levin, Mr. Domenici, and Ms. Stabenow) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 1411. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1412. Mr. DOMENICI (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson, of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) proposed an amendment to the bill S. 14, supra.

SA 1413. Mr. BINGAMAN proposed an amendment to the bill S. 14, supra.

SA 1414. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1415. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1416. Mr. FEINGOLD (for himself and Mr. Wyden) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1417. Mr. DAYTON (for himself, Ms. Cantwell, and Mrs. Boxer) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1418. Mr. BINGAMAN proposed an amendment to the bill S. 14, supra.

TEXT OF AMENDMENTS

SA 1410. Mr. BINGAMAN proposed an amendment to amendment SA 1386 proposed by Mr. Bond (for himself, Mr. Levin, Mr. Domenici, and Ms. Stabenow) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 5, strike lines 14 through 18 and insert the following:

(c) Clarification of Authority To Amend Passenger Automobile Standard.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", or such other number as the Secretary prescribes under subsection (c)"; and

(2) in subsection (c)(2), by striking "The procedures of section 551" and all that follows and inserting the following: "The amendment shall be considered to be a major rule that is subject to chapter 8 of title 5, United States Code (relating to congressional review of agency rulemaking).".

SA 1411. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, between lines 7 and 8, insert the following:

SEC. 712. AVERAGE FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS

(a) In General.—Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting "(1)" after "Automobiles.—"; and

(2) by adding at the end the following new paragraph:

"(2) The average fuel economy standard for pickup trucks manufactured by a manufacturer in a model year after model year 2005 shall be 20.7 miles per gallon. No average fuel economy standard prescribed under another provision of this section shall apply to pickup trucks.".

(b) Definition Of Pickup Truck.—Section 32901(a) of such title is amended by adding at the end the following new paragraph:

"(17) 'pickup truck' has the meaning given that term in regulations prescribed by the Secretary for the administration of this chapter, as such regulations are in effect on January 1, 2003, except that such term shall also include any additional vehicle that the Secretary defines as a pickup truck in regulations prescribed for the administration of this chapter after such date.".

SA 1412. Mr. DOMENICI (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowksi, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 405, strike line 18 and all that follows through page 467, line 16, and insert the following:

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) Electric Utility.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

"(22) 'electric utility' means any person or Federal or State agency (including any entity described in section 201(f)) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;".

(b) Transmitting Utility.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

"(23) 'transmitting utility' means an entity, including any entity described in section 201(f), that owns or operates facilities used for the transmission of electric energy—

"(A) in interstate commerce; or

"(B) for the sale of electric energy at wholesale;".

(c) Additional Definitions.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

"(26) 'unregulated transmitting utility' means an entity that—

"(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

"(B) is an entity described in section 201(f);

"(27) 'electric cooperative' means a cooperatively owned electric utility;

"(28) 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities; and

"(29) 'Independent System Operator' or 'ISO' means an entity used for the transmission of electric energy and which has been approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities.".

(d) Additional Modifications.—

(1) Section 201(b)(2) of the Federal Power Act (16 U.S.C. 824(b)(2)) is amended by striking "The" the first time it appears and inserting, "Notwithstanding section 201(f), the".

(2) Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after "political subdivision of a state," "an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or sells less than 4,000,000 megawatt hours of electricity per year,".

(e) For the purposes of this title, the term "Commission" means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

(a) Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"ELECTRIC RELIABILITY

"SEC. 215. (a) For the purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to such components to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the components of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulkpower system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

"(6) The term 'transmission organization' means an RTO or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section. The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this Part; and

"(C) the ordered change becomes effective under this Part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) The ERO shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i)(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

"(4) Within 90 days of the application of the ERO or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region; whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest, and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) The provisions of this section do not apply to Alaska or Hawaii.".

(b) The electric reliability organization certified by the Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e) of the Federal Power Act are not departments, agencies, or instrumentalities of the United States Government.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission's proposed rulemaking entitled "Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design" (Docket No. RM01-12000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, shall be preceded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations ("RTO") that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not own or have a financial interest in generation facilities used to supply electric energy for sale at wholesale.

SEC. 1123. PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

Nothing in this Act authorizes the Commission to require a transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.

SEC. 1124. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) Definitions.—For purposes of this section:

(1) The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) Transfer.—

(1) The appropriate Federal regulatory authority is authorized to enter into a contract, agreement, or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a Regional Transmission Organization ("RTO"), as defined in the Federal Power Act. Such contract, agreement or arrangement shall be voluntary and include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement, or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the RTO fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement, or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) Existing Statutory and Other Obligations.—

(1) Any statutory provision requiring or authorizing a Federal utility to transmit electric power, or to construct, operate, or

maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1125. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) STATE REGULATORY AUTHORITIES.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory authorities, as defined in section 3(21) of the Federal Power Act. The regional discussions should address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization ("RTO") or an Independent System Operator ("ISO"), as defined in the Federal Power Act. The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide nondiscriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonable and economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain their ability to use the existing transmission system without incurring unreasonable additional costs in order to expand the transmission system for new customers;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers ("economic dispatch") and maintain system reliability;

(6) a means to provide transparent price signals to promote proper location and utilization of generation and the efficient expansion of transmission in a manner that does not result in collection of transmission rents that do not relieve congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region ("pancaked rates");

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor for the region with State regulatory authority and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information and that provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access, including the formulation of transmission pricing methodologies, so as to best meet the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection related to the existence of transmission congestion, the existence of significant hydroelectric capacity, the participation of unregulated transmitting utilities, and the distances between generation and load;

(12) the need to submit regional studies, within one year of enactment of this Act, to the Commission outlining possible methodologies that will ensure that the amount of energy produced in any region will be equal to at least 50 percent of the amount of energy consumed in that region by 2013;

(13) the potential value of developing a uniform system-wide average rate for transmission pricing as a way to enhance the efficiency and reliability of the transmission grid; and

(14) a timetable to meet the objectives of this section.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and State or other retail regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SERVICE OBLIGATION SECURITY AND PARITY

"SEC. 216. (a)(1) Any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or, at its election, equivalent tradeable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

"(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradeable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradeable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

"(b) Nothing in this section shall affect any methodology, approved by the Commission prior to the date of enactment of this section, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

"(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

"(d) Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

"(e) For purposes of this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

"(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

"(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.

"(5) A transmitting utility that is a water district or water agency to which section 201(f) applies and that has a right under state law to provide water shall be treated as a load-serving entity. Such water district or water agency's right to provide water should be treated as a service obligation.

"(f) Nothing in the section shall apply to an entity located in an area referred to in section 212(k)(2)(A).

"(g) This section does not authorize the Commission to take any action not otherwise within its jurisdiction under other provisions of this Act."

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

"SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) if an unregulated transmitting utility exempted pursuant to subsection (b) no longer meets any of the criteria for exemption, the exemption shall expire.

"(e) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) Nothing in this Act authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission approved organization designated to provide non-discriminatory transmission access.".

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"PARTICIPANT FUNDING

"SEC. 217. (a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations establishing transmission pricing policies applicable to all public utilities associated with the construction of new interstate transmission facilities and expansion, modification, or upgrading of existing interstate transmission facilities ("transmission expansion").

"(b) CONTENTS.—Consistent with section 205, the regulation under subsection (a) shall, to the maximum extent practicable—

"(1) promote economic capital investment in efficient transmission systems;

"(2) encourage the construction and use of transmission facilities and generation facilities that reduce risk and provide just and reasonable rates to consumers;

"(3) encourage improved operation of generation and transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks; and

"(4) ensure that the costs of any transmission expansion are assigned or allocated in a fair manner, meaning that those who benefit from the transmission expansion pay an appropriate share of the associated costs.

"(c) PLAN.

"(1) IN GENERAL.—An RTO or ISO may submit to the Commission a plan containing the criteria for determining the person or persons who will be required to pay for any transmission expansion. Nothing herein diminishes or alters the rights of individual members of an RTO or ISO under the Act.

"(2) REQUIREMENTS.—The Commission shall approve a plan submitted under paragraph (1) if the Commission determines that the plan—

"(A) meets all the requirements of this Act and is consistent with the regulation promulgated under subsection (a);

"(B) specifies the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

"(i) directly assigned;

"(ii) participant funded; or

"(iii) rolled into regional or sub-regional rates; and

"(C) ensures that the party or parties who pay for facilities necessary for the transmission expansion receive appropriate compensation for those facilities, considering among other factors the economic benefits associated with the transmission expansion.

"(3) DEFERENCE.—In exercising its jurisdiction under this section, the Commission shall give substantial deference to the comments filed with the Commission by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO.

"(4) EFFECT OF SECTION.—Nothing in this section shall affect an RTO or ISO's allocation methodology for transmission expansion approved by the Commission prior to the date of enactment of this section.".

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—

"(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.".

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

"(i) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section III (d)(11), the term net metering service shall mean a service provided in accordance with the following standards:

"(1) An electric utility—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

"(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

"(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

"(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

"(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

"(7) For purposes of this subsection—

"(A) The term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

"(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

"(C) The term 'high efficiency system' means fuel cells or combined heat and power.

"(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.".

SEC. 1142. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(12) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 12 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(I) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(j) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2003, providing the Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2005.

"(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

"(1) It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

"(2) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

"(A) identifying the areas with the greatest demand response potential;

"(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response; and

"(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

"(3) Not later than 1 year after the date of enactment of the Energy Policy Act of 2003, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

"(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

"(B) existing demand response programs and time-based rate programs;

"(C) the annual resource contribution of demand resources;

"(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

"(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

"(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.".

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

"(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

"(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

"(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(9) Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

"(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.".

SEC. 1144. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

"(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as determined appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).".

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) is amended by adding at the end the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

"(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and

(ii) wholesale markets for longterm sales of capacity and electric energy; or

"(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and

"(ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

"(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

"(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—

"(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

"(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

"(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

"(ii) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

"(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

"(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

"(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

"(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

"(B) the electric utility is not required by State law to sell electric energy in its service territory.

"(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(7) RECOVERY OF COSTS.—

"(A) The Commission shall promulgate and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

"(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791 a et seq.).

"(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—

"(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure

"(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

"(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility; and

"(iii) continuing progress in the development of efficient electric energy generating technology.

"(B) The rule promulgated pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

"(2) RULES FOR EXISTING FACILITIES.—Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

"(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

"(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).".

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe.".

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.".

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

This subtitle may be cited as the "Public Utility Holding Company Act of 2003."

SEC. 1151. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "affiliate" of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term "associate company" of a company means any company in the same holding company system with such company.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms "exempt wholesale generator" and "foreign utility company" have

the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term "holding company system" means a holding company, together with its subsidiary companies.

(10) The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term "person" means an individual or company.

(13) The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term "public-utility company" means an electric utility company or a gas utility company.

(15) The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public-utility companies.

(16) The term "subsidiary company" of a holding company means

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 1153 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public-utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public-utility company, the Commission shall exempt such person or transaction from the requirements of section 1153.

SEC. 1156. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 1158. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e-825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal

Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1162. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1163. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this title.

SEC. 1164. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

SEC. 1171. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"MARKET TRANSPARENCY RULES

"SEC. 218. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

"(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.".

SEC. 1172. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"PROHIBITION ON FILING FALSE INFORMATION

"SEC. 219. It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f) knowingly and willfully to report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

"PROHIBITION ON ROUND TRIP TRADING

"SEC. 220. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f) knowingly and willfully to enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.".

SEC. 1173. MARKET TRANSPARENCY.

(a) IN GENERAL.—It shall be a violation of the Commodity Exchange Act (7 U.S.C. 1 et seq.) for a person or entity to knowingly report or manipulate any information relating to the price, quantity, sale or purchase, and counter party of any agreement, contract or transaction related to natural gas or electricity in interstate commerce, which the person or entity knew to be false at the time of reporting to any governmental entity or any person or entity engaged in the business of collecting and disseminating information.

(b) CLARIFICATION OF EXISTING CFTC AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by designating subsection (f) as subsection (e), and adding:

"(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil action as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2). This applies to any action pending on or commenced after the date of enactment of the Energy Policy Act of 2003.".

(c) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement contract, or transaction subject to regulation or this Act—

"(1) to cheat or defraud or attempt to cheat or defraud any person;

"(2) to willfully make or cause to be made to any person any false report or statement, or to willfully enter or cause to be entered for any person any false record;

"(3) to willfully deceive or attempt to deceive any person by any means whatsoever; or

"(4) except as permitted in written rules of a designated contract market or registered derivative transaction execution facility which the agreement, contract, or transaction is traded and executed—

"(A) to bucket an order;

"(B) to fill an order by offsetting against 1 or more orders of another person; or

"(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of such person, to become—

"(i) the buyer with respect to any selling order of the person; or

"(ii) the seller with respect to any buying order of the person.".

(d) TECHNICAL CORRECTIONS.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended by adding at the end the following:

"Any request by any Federal, State or foreign government department, agency, or political subdivision, or foreign futures authority, for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas and electricity) within the exclusive jurisdiction of the Commission shall be directed to the Commission.".

(e) AUTHORIZATION.—There are authorized to be appropriated to the Commission for fiscal year 2004 such sums as may be necessary to carry out the additional responsibilities and obligations of the Commission under this section.

SEC. 1174. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting "electric utility," after "Any person,"; and

(2) inserting ", transmitting utility," after "licensee" each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting "or transmitting utility" after "any person" in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "Any person," in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

(f) General Penalties.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

SEC. 1175. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking "the date 60-days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) striking "60 days after" in the third sentence and inserting "of";

(3) striking "expiration of such 60-day period" in the third sentence and inserting "publication date"; and

(4) striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

Subtitle G—Consumer Protections

SEC. 1181. ELECTRIC UTILITY MERGERS.

(a) Section 203(a) of the Federal Power Act (16 U.S.C. 824(b)) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other persons, by any means whatsoever, or

"(C) purchase, acquire, or take any security of any other public utility of a value in excess of $10,000,000.

"(2) No holding company in a holding company system that includes an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with an electric utility company, a gas utility company, or a holding company in a holding company system that includes a public-utility company of value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

"(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

"(A) will adequately protect consumer interests,

"(B) will be consistent with competitive wholesale markets,

"(C) will not impair the ability of the Commission or the ability of a State commission having jurisdiction following the completion of the transaction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public,

"(D) will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction, and

"(E) satisfies such other criteria as the Commission considers consistent with the public interest.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application.

"(6) For purposes of this subsection, the terms "associate company", "electric utility company", "gas utility company", "holding company", "holding company system", and "public-utility company" have the meaning given those terns in the Public Utility Holding Company Act of 2003.".

(b) Effective Date.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

SEC. 1182. MARKET-BASED POLICY.

Within six months of the enactment of this section, the Commission shall issue a policy statement establishing the conditions under which public utilities may charge market-based rates for the sale of electric energy subject to the jurisdiction of the Commission. Such policy statement should consider consumer protections and market power, as well as any other factors the Commission may deem necessary, to ensure that such rates are just and reasonable.

SEC. 1183. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) Task Force.—There is established an inter-agency task force, to be known as the "Electric Energy Market Competition Task Force" (referred to in this section as the "task force"), which shall consist of—

(1) one member each from—

(A) the Department of Justice, to be appointed by the Attorney General of the United States;

(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission;

(C) the Federal Trade Commission, to be appointed by the chairman of that Commission;

(D) the Department of Energy, to be appointed by the Secretary of Energy; and

(E) the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) Study and Report.—

(1) Study.—The task force shall perform a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) Report.—

(A) Final report.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) Public comment.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

(c) Consultation.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.

SEC. 1184. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1185. UNFAIR TRADE PRACTICES.

(a) Slamming.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) Cramming.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) State Authority.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1186. DEFINITIONS.

For purposes of this subtitle—

(1) the term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) the term "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Technical Amendments

SEC. 1191. TECHNICAL AMENDMENTS.

(a) Section 211 (c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking "(2)';

(2) striking "(A)" and inserting "(1)' "

(3) striking "(B)" and inserting "(2)"; and

(4) striking "termination of modification" and inserting "termination or modification".

(b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking "electric utility" the second time it appears and inserting "transmitting utility".

(c) Section 315 (c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking "subsection" and inserting "section".

SA 1413. Mr. BINGAMAN proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 41, after line 17 strike all that follows through p. 43, line 10, and insert the following:

SEC. ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

"(C) purchase, acquire, or take any security of any other public utility, or

"(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.

"(2) No holding company in holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

"(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

"(A) will be consistent with the public interest;

"(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any party to the transaction;

"(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect their interest of consumers or the public; and

"(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission Finds that the proposed transaction does not meet the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.

"(6) For purposes of this subsection, the terms 'associate company', 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in section 1151 of the Energy Policy Act of 1003.".

SA 1414. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 197, strike line 3 and all that follows through page 202, line 9, and insert the following:

SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that, on a regular basis, procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out, in whole or in part, using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground-granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other difficulties described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date of submission of the report under subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle F the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

"Sec. 6006. Use of granular mine tailings.".

SEC. 608. UTILITY ENERGY SERVICE CONTRACTS.

SA 1415. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In Division B, on page 263, after line 18, add the following:

SEC. . TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

"(l) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 1416. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 35, strike line 10 and all that follows through page 35, line 10, and insert the following:

SEC. 1156. AFFILIATE, ASSOCIATE COMPANY, AND SUBSIDIARY COMPANY TRANSACTIONS.

Section 204 of the Federal Power Act (16 U.S.C. 824c) is amended by adding at the end the following:

"(i) TRANSACTIONS WITH AFFILIATES AND ASSOCIATED COMPANIES.—

"(1) DEFINITIONS.—In this subsection, the terms 'affiliate', 'associate company', 'public utility', and 'subsidiary company' have the meanings given the terms in section 1151 of the Energy Policy Act of 2003.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Commission shall promulgate regulations that shall apply in the case of a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility.

"(B) CONTENTS.—At a minimum, the regulations under subparagraph (A) shall require, with respect to a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility, that—

"(i) the affiliate, associate company, or subsidiary company shall be an independent, separate, and distinct entity from the public utility;

"(ii) the affiliate, associate company, or subsidiary company shall maintain separate books, accounts, memoranda, and other records and shall prepare separate financial statements;

"(iii)(I) the public utility shall conduct the transaction in a manner that is consistent with transactions among nonaffiliated and nonassociated companies; and

"(II) shall not use its status as a monopoly franchise to confer on the affiliate, associate company, or subsidiary company any unfair competitive advantage;

"(iv) the public utility shall not declare or pay any dividend on any security of the public utility in contravention of such rules as the Commission considers appropriate to protect the financial integrity of the public utility;

"(v) the public utility shall have at least 1 independent director on its board of directors;

"(vi) the affiliate, associate company, or subsidiary company shall not acquire any loan, loan guarantee, or other indebtedness, and shall not structure its governance, in a manner that would permit creditors to have recourse against the assets of the public utility; and

"(vii) the public utility shall not—

"(I) commingle any assets or liabilities of the public utility with any assets or liabilities of the affiliate, associate company, or subsidiary company; or

"(II) pledge or encumber any assets of the public utility on behalf of the affiliate, associate company, or subsidiary company;

"(viii)(I) the public utility shall not cross-subsidize or shift costs from the affiliate, associate company, or subsidiary company to the public utility; and

"(II) the public utility shall disclose and fully value, at the market value or other value specified by the Commission, any assets or services by the public utility that, directly or indirectly, are transferred to, or otherwise provided for the benefit of, the affiliate, associate company, or subsidiary company, in a manner that is consistent with transfers among nonaffiliated and nonassociated companies; and

"(ix) electricity and natural gas consumers and investors shall be protected against the financial risks of public utility diversification and transactions with and among affiliates and associate companies.

"(3) NO PREEMPTION.—This subsection does not preclude or deny the right of any State or political subdivision of a State to adopt and enforce standards for the corporate and financial separation of public utilities that are more stringent that those provided under the regulations under paragraph (2).

"(4) PROHIBITION.—It shall be unlawful for a public utility to enter into or take any step in the performance of any transaction with any affiliate, associate company, or subsidiary company in violation of the regulations under paragraph (2).".

SA 1417. Mr. DAYTON (for himself, Ms. CANTWELL, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 30 of the amendment, strike line 24 and all that follows through page 36, line 24.

SA 1418. Mr. BINGAMAN proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 9, line 23 through 24, strike "including any rule or order of general applicability within the scope of the proposed rulemaking," and insert: "nor any final rule or order of general applicability establishing a standard market design,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, at 9:30 a.m., in open session to consider the nominations of General Peter J. Schoomaker (Ret.), USA, for appointment as Chief of Staff, U.S. Army and appointment to the grade of general; and Lieutenant General Bryan D. Brown, USA, for appointment as Commander, U.S. Special Operations Command and appointment to the grade of general.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on

Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 29, 2003, at 10 a.m., to conduct a hearing on "Consumer Awareness and Understanding of the Credit Granting Process."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, July 29 at 9 a.m. to examine climate history and its implications, and the science underlying fate, transport, and health effects of mercury emissions. The hearing will be held in SD 406 (hearing room).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, at 9:30 a.m., to hold a hearing on "Iraq: Status and Prospects for Reconstruction—Resources."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, July 29, 2003, at 9:30 a.m., to consider the nominations of Joe D. Whitley to be General Counsel, Department of Homeland Security; and Penrose C. Albright to be Assistant Secretary for Homeland Security for Plans, Programs, and Budget, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, July 29, 2003, to begin immediately following a 9:30 a.m. hearing, to consider the nomination of Joel David Kaplan to be Deputy Director of the Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Howard Radzely, of Maryland, to be Solicitor for the Department of Labor during the session of the Senate on Tuesday, July 29, 2003, at 10 a.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, July 29, 2003, at 9:30 a.m., in Dirksen Room 226. The markup will be a continuation of Committee action on S.J. Res. 1, the victims' rights amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, for a hearing on U.S. Army policies on the award of the Combat Medical Badge, and on pending legislation relating to VA-provided health care services including the following:

S. 613, a bill to authorize a construction project at the former Fitzsimmons Army Medical Center, Aurora, CO;

S. 615, a bill relating to the naming of a VA outpatient clinic in Horsham, PA;

S. 1144, a bill relating to the naming of a VA medical center in Chicago, IL;

S. 1156, the proposed "Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003";

S. 1213, section 2, a section of a bill relating to eligibility of U.S.-resident Filipino veterans for VA health care benefits;

S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs; and

S. 1289, a bill to name the Department of Veterans Affairs Medical Center in Minneapolis, MN, after Paul Wellstone.

The hearing will take place in room 418 of the Russell Senate Office Building at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BOND. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, July 29, 2003, from 10 a.m. to 12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Energy of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 29, 2003, at 9:30 a.m. The purpose of this hearing is to highlight the unique role that the DOE's Office of Science plays in supporting basic research in the physical sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a joint hearing on "The L1 Visa and American Interests in the 21st Century Global Economy" on Tuesday, July 29, 2003, at 2:30 p.m., in SD226.

Panel I: Patricia Fluno, former Siemens Technologies employee, Lake Mary, FL; Michael W. Gildea, Executive Director, Professional Employees Section, AFL-CIO, Washington, DC; Beth R. Verman, President, Systems Staffing Group, Member, National Association of Computer Consultant Businesses, Bala Cynwyd, PA; Daryl R. Buffenstein, General Counsel, Global Alliance Personnel, Atlanta, GA; Austin T. Fragomen, Jr., Chairman, American Counsel on International Personnel, Washington, DC; and Stephen W. Yale-Loehr, Adjunct Professor, Cornell Law School, Ithaca, New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that the following interns and fellows from the Finance Committee be granted floor privileges for the remainder of the debate on the energy bill: Mick Wiedrick, Constantine Tujios, Matt Linstroth, Jeff Klein, Stephanie Beck, Renee Johnson, Mark Kirbabas, Alisa Blum, and Rhonda Sinkfield.

I also ask that the following staff from the Joint Committee on Taxation be granted floor privileges for the remainder of the debate: George Yin, Thomas Barthold, Ray Beeman, John Bloyer, Nikole Flax, Roger Colinvaux, Harold Hirsch, Deirdre James, Lauralee Matthews, Patricia McDermott, Brian Meighan, John Navratil, Joseph Nega, David Noren, Cecily Rock, Carol Sayegh, Gretchen Sierra, Ron Schultz, Mary Schmitt, Allison Wielobob, Barry Wold, and Tara Zimmerman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I ask unanimous consent that Antonio Gonzales, Daniel Archuleta, Jasmine Fallstitch, Christine Nelson, Ryan Davies, James Guttierrez, Frank Murray, Tara Peterkin, and Scott Pearsall be granted the privilege of the floor during debate on the Energy bill this week.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. YANG JIANLI

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 233, S. Res. 184.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 184) calling on the Government of the People's Republic of China immediately and unconditionally to release Dr. Yang Jianli, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the amendments to the resolution be agreed to; that the resolution, as amended, be agreed; further, that the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments to the resolution were agreed to.

The resolution (S. Res. 184), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

(The bill will be printed in a future edition of the RECORD.)

COMMENDING THE SIGNING OF THE UNITED STATES-ADRIATIC CHARTER

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 234, H. Con. Res. 209.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 209) commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with amendments, amendments to the preamble, and an amendment to the title, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

H. CON. RES. 209

Whereas the United States has an enduring interest in the independence, territorial integrity, and security of Albania, Croatia, and The Former Yugoslav Republic of Macedonia and supports their full integration in the community of democratic Euro-Atlantic states;

Whereas Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia have taken clear and positive steps to advance their integration into Europe by establishing close cooperative relations among themselves and with their neighbors, as well as their promotion of regional cooperation;

Whereas Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia have already contributed to European security and to the peace and security of southeast Europe through the resolution of conflicts in the region and their regional cooperation in the Southeast Europe Defense Ministerial;

Whereas on May 2, 2003, the United States-Adriatic Charter was signed in Tirana, Albania, by Secretary of State Colin Powell, [Albanian Foreign Minister Ilir Meta, Croatian Foreign Minister Tonino Picula, and Macedonian Foreign Minister] Albania Foreign Minister Ilir Meta, Croatia Foreign Minister Tonino Picula, and The Former Yugoslav Republic of Macedonia Foreign Minister Ilinka Mitreva;

Whereas the Adriatic Charter affirms the commitment of Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia to the values and principles of the North Atlantic Treaty Organization (NATO) and to joining the Alliance at the earliest possible time;

Whereas Secretary of State Powell stated that the Adriatic Charter "reaffirms our partners' dedication to work individually, with each other, and with their neighbors to build a region of strong democracies powered by free market economies . . . [i]t underscores the importance we place on their eventual full integration into NATO and other European institutions . . . [a]nd most importantly, the Charter promises to strengthen the ties that bind the peoples of the region to the United States, to one another, and to a common future within the Euro-Atlantic family"; and

Whereas [Albanian special forces troops were sent to Iraq as part of the coalition forces during Operation Iraqi Freedom, 29 Macedonian special forces troops were sent to Iraq as part of the postwar stabilization force, and Albania, Croatia, and Macedonia] 75 special forces troops of Albania were sent to Iraq as part of the coalition forces during Operation Iraqi Freedom, 29 special forces troops of The Former Yugoslav Republic of Macedonia were sent to Iraq as part of the postwar stabilization force, and Albania, Croatia, and The Former Yugoslav Republic of Macedonia all contributed to the stabilization forces in Afghanistan, as signs of their commitment to promote international freedom and security: Now, therefore, be it

Resolved, That Congress—

(1) strongly supports the United States-Adriatic Charter and commends Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia for their continued efforts to become full-fledged members of the North Atlantic Treaty Organization (NATO) and the European Union;

(2) urges NATO to invite Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia to join NATO as soon as each of these countries respectively demonstrates the ability to assume the responsibilities of NATO membership through the Membership Action Plan;

(3) welcomes and supports the aspirations of Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia to join the European Union at the earliest opportunity;

(4) recognizes that Albania, Croatia, and *The Former Yugoslav Republic of* Macedonia are making important strides to bring their economic, military, and political institutions into conformance with the standards of NATO and other Euro-Atlantic institutions; and

(5) commends Secretary of State Powell for his personal support of the Adriatic Charter.

Amend the title so as to read: "A bill commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and The Former Yugoslav Republic of Macedonia.".

Mr. McCONNELL. Mr. President, I ask unanimous consent that the amendments to the concurrent resolution be agreed to, that the concurrent resolution, as amended, be agreed to, that the amendments to the preamble be agreed to, and that the preamble, as amended, be agreed to, that the amendment to the title be agreed to; further, that the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments to the concurrent resolution were agreed to.

The concurrent resolution (H. Con. Res. 209), as amended, was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The amendment to the title was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

Resolved, That the resolution from the House of Representatives (H. Con. Res. 209) entitled "Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.", do pass with the following amendments:

(1)Page 3, line 4, after "and" the second time it appears insert: *The Former Yugoslav Republic of*

(2)Page 3, line 8, after "and" insert: *The Former Yugoslav Republic of*

(3)Page 3, line 14, after "and" insert: *The Former Yugoslav Republic of*

(4)Page 3, line 16, after "and" insert: *The Former Yugoslav Republic of*

Amend the preamble as follows:

(5)Page 1, unnumbered line 6, after "and" insert: *The Former Yugoslav Republic of*

(6)Page 2, unnumbered line 4, after "and" insert: *The Former Yugoslav Republic of*

(7)Page 2, unnumbered line 11, strike out all after "Powell," down to an including "Minister" in unnumbered line 13 and insert: *Albania Foreign Minister Ilir Meta, Croatia Foreign Minister Tonino Picula, and The Former Yugoslav Republic of Macedonia Foreign Minister*

(8)Page 2, unnumbered line 15, after "and" the first time it appears insert: *The Former Yugoslav Republic of*

(9)Page 2, unnumbered line 29, strike out all after "Whereas" over to an including "Macedonia" in unnumbered line 2 on page 3 and insert: *75 special forces troops of Albania were sent to Iraq as part of the coalition forces during Operation Iraqi Freedom, 29 special forces troops of The Former Yugoslav Republic of Macedonia were sent to Iraq as part of the postwar stabilization force, and Albania, Croatia, and The Former Yugoslav Republic of Macedonia*

Amend the title so as to read: "Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and The Former Yugoslav Republic of Macedonia.".

POSTMASTER EQUITY ACT OF 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 235, S. 678.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 678) to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Postmaster Equity Act of 2003".

[SEC. 2. POSTMASTERS AND POSTMASTERS ORGANIZATIONS.

[(a) IN GENERAL.—Section 1004 of title 39, United States Code, is amended—

[(1) in subsection (a), by inserting ", postmaster," after "supervisory" both places it appears;

[(2) in subsection (b)—

[(A) in the first sentence, by inserting ", postmaster," after "supervisory"; and

[(B) in the second sentence—

[(i) by striking "or that a managerial organization (other than an organization representing supervisors)" and insert "that a postmaster organization represents a substantial percentage of postmasters (as defined under subsection (j)(3)), or that a managerial organization (other than an organization representing supervisors or postmasters)"; and

[(ii) by striking "relating to supervisory" and inserting "relating to supervisory, postmasters,";

[(3) in subsection (c)(1), by inserting ", and the Postal Service and the postmasters organization (or organizations)," after "supervisors' organization":

[(4) in subsection (d)—

[(A) in paragraph (1)—

[(i) in the matter preceding subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "the supervisors' organization" both places it appears;

[(ii) in subparagraph (B), by striking "organization" and inserting "organizations"; and

[(iii) in subparagraph (C), by striking "organization" and inserting "organizations";

[(B) in paragraph (2)—

[(i) in subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization"; and

[(ii) in subparagraph (B), by striking "organization" and inserting "organizations";

[(C) in paragraph (3)—

[(i) in subparagraph (A), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization"; and

[(ii) in subparagraph (B), by striking "organization" and inserting "organizations"; and

[(D) in paragraph (4), by inserting ", and the Postal Service and the postmasters organization (or organizations),";

[(5) in subsections (e)—

[(A) in paragraph (1), by inserting "and the postmasters organization (or organizations)" after "supervisors' organization";

[(B) in paragraph (2), by inserting ", the postmasters organization (or organizations)," after "The Postal Service"; and

[(C) in paragraph (3), by inserting "and the postmasters organization (or organizations)" after "supervisors' organizations";

[(6) in subsection (h)—

[(A) in paragraph (1), by striking "and" after the semicolon;

[(B) in paragraph (2), by striking the period and inserting a semicolon; and

[(C) by inserting after paragraph (2) the following:

["(3) 'postmasters organization' means, with respect to a calendar year, any organization whose membership on June 30th of the preceding year included not less than 20 percent of all individuals employed as postmasters on that date; and

["(4) 'postmaster' means an individual who is the manager-in-charge, with or without the assistance of subordinate managers or supervisors, the operations of a post office."; and

[(7) by redesignating subsection (h) as subsection (j), and inserting after subsection (g) the following:

["(h)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the postmasters organization (or organizations), believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (in this subsection referred to as the 'panel') concerning such matter.

["(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. The postmasters organization (or organizations) and the Postal Service shall each designate 1 individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first 2 individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the 2 individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

["(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the postmasters organization (or organizations) for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

["(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

["(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the postmasters organization (or organizations) agree to a longer period. The panel shall hear from the Postal Service and the postmasters organization (or organizations) in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the postmasters organization (or organizations), with the Service to be responsible for one-half the costs and the postmasters organization (or organizations) to be responsible for the remainder.

["(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the postmasters organization (or organizations) its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

["(i) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the postmasters organization (or organizations) may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (h)(2) of this section. The panel shall make recommendations to Congress for changes in this title as it finds appropriate.".

[(b) TECHNICAL AND CONFORMING AMENDMENT.—

[(1) SECTION HEADING.—The section heading for section 1004 of title 39, United States Code, is amended to read as follows:

["§ 1004. Supervisory, postmaster, and other managerial organizations".

[(2) TABLE OF SECTIONS.—The table of sections for chapter 10 of title 39, United States Code, is amended by striking the item relating to section 1004 and inserting the following:

["1004. Supervisory, postmaster, and other managerial organizations.".

[SEC. 3. EFFECTIVE DATE.

[The amendments made by this Act shall take effect 60 days after the date of enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postmasters Equity Act of 2003".

SEC. 2. POSTMASTERS AND POSTMASTERS' ORGANIZATIONS.

(a) PERCENTAGE REPRESENTATION REQUIREMENT.—The second sentence of section 1004(b) of title 39, United States Code, is amended—

(1) by inserting "that an organization (other than an organization representing supervisors) represents at least 20 percent of postmasters," after "majority of supervisors,"; and

(2) by striking "supervisors)" and inserting "supervisors or postmasters)".

(b) CONSULTATION AND OTHER RIGHTS.—Section 1004 of title 39, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) In order to ensure that postmasters and postmasters' organizations are afforded the same rights under this section as are afforded to supervisors and the supervisors' organization, subsections (c) through (g) shall be applied with respect to postmasters and postmasters' organizations—

"(A) by substituting 'postmasters' organization' for 'supervisors' organization' each place it appears; and

"(B) if 2 or more postmasters' organizations exist, by treating such organizations as if they constituted a single organization, in accordance with such arrangements as such organizations shall mutually agree to.

"(2) If 2 or more postmasters' organizations exist, such organizations shall, in the case of any factfinding panel convened at the request of such organizations (in accordance with paragraph (1)(B)), be jointly and severally liable for the cost of such panel, apart from the portion to be borne by the Postal Service (as determined under subsection (f)(4)).".

(c) DEFINITIONS.—Subsection (i) of section 1004 of title 39, United States Code (as so redesignated by subsection (b)(1)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (2) the following:

"(3) 'postmaster' means an individual who is the manager in charge of the operations of a post office, with or without the assistance of subordinate managers or supervisors;

"(4) 'postmasters' organization' means an organization recognized by the Postal Service under subsection (b) as representing at least 20 percent of postmasters; and

"(5) 'members of the postmasters' organization' shall be considered to mean employees of the Postal Service who are recognized under an agreement—

"(A) between the Postal Service and the postmasters' organization as represented by the organization; or

"(B) in the circumstance described in subsection (h)(1)(B), between the Postal Service and the postmasters' organizations (acting in concert) as represented by either or any of the postmasters' organizations involved.".

(d) THRIFT ADVISORY COUNCIL NOT TO BE AFFECTED.—For purposes of section 8473(b)(4) of title 5, United States Code—

(1) each of the 2 or more organizations referred to in section 1004(h)(1)(B) of title 39, United States Code (as amended by subsection (b)) shall be treated as a separate organization; and

(2) any determination of the number of individuals represented by each of those respective organizations shall be made in a manner consistent with the purposes of this subsection.

SEC. 3. EFFECTIVE DATE.

The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the committee amendment be agreed to, that the bill, as amended, be read a third time and passed, and that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 678), as amended, was read the third time and passed.

AUTHORIZING COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. McCONNELL. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment, committees be authorized to report legislative and executive matters on Tuesday, August 26, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the today's Executive Calendar: Calendar Nos. 285, 312, 313, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Roger Francisco Noriega, of Kansas, to be an Assistant Secretary of State.

UNITED STATES INSTITUTE OF PEACE

Stephen D. Krasner, of California, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2005.

Charles Edward Horner, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

FOREIGN SERVICE

PN778 Foreign Service nominations (101) beginning James M. Cunningham, and ending Howard M. Krawitz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 25, 2003.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, JULY 30, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, July 30; I further ask unanimous consent that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I further ask unanimous consent that there be 2½ hours of debate in relation to the Cantwell amendment, with 30 minutes under the control of the chairman; further, that following the use or yielding back of time, the Senate proceed to a vote in relation to the Cantwell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I further ask unanimous consent that following that vote, the Senate proceed to 60 minutes of debate, with 30 minutes under the control of Senator LEAHY and 30 minutes under the control of myself, and that following that debate, the Senate proceed to the vote on the motion to invoke cloture on the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. For the information of all Senators, tomorrow the Senate will resume consideration of S. 14, the Energy bill. Under the previous order, there will be 2½ hours of debate remaining on the Cantwell amendment. Following the disposition of that amendment, there will be 60 minutes prior to the cloture vote on the Estrada nomination. This will be the seventh cloture vote on the Estrada nomination. Following that vote, the Senate will resume consideration of the electricity amendment. It is expected that the Senate will be able to act on the two Bingaman second-degree amendments in a relatively short period of time. It is hoped that following those amendments, we will be able to reach an agreement as to when the Senate can dispose of the underlying electricity amendment, and the chairman will continue to work toward that agreement tomorrow. Senators should expect a very busy day tomorrow as the Senate continues to work through the energy-related amendments.

RECESS UNTIL 9 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 8:49 p.m., recessed until Wednesday, July 30, 2003, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 2003:

DEPARTMENT OF STATE

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS).

UNITED STATES INSTITUTE OF PEACE

STEPHEN D. KRASNER, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2005.

CHARLES EDWARD HORNER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE NOMINATIONS BEGINNING JAMES M. CUNNINGHAM AND ENDING HOWARD M. KRAWITZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25, 2003.

EXTENSIONS OF REMARKS

MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

SPEECH OF

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 2003

Mr. JOHN. Mr. Speaker, as Congress is about to adjourn for the August recess, I am proud to see that we have taken a very important step in protecting our constituents from a serious public health threat—from the West Nile Virus and other mosquito borne diseases. Today, the House will be considering S. 1015, the Mosquito Abatement for Safety and Health (MASH) Act which is the companion to legislation I introduced this year, H.R. 342.

This legislation is almost identical to legislation which I introduced this year in the House, H.R. 342, in light of the impending threat of the West Nile Virus and the constant threat of mosquito borne illnesses. In Louisiana, mosquitoes are jokingly considered our state bird given their size and numbers. So for me, protecting my constituents from mosquito borne diseases has been a priority.

As you may be aware, mosquito control programs have always been locally sponsored programs funded through a variety of ways—mostly through state and/or local taxes. In light of this, I wanted to find a way for the federal government to support, not supplant, this funding. Due to the severity of the West Nile outbreak last year, local mosquito control programs are buckling under the financial strain of operating these programs. This is where MASH steps in and how important it is for this program to be authorized and funded.

The MASH Act would establish a matching grant program through the Centers for Disease Control and Prevention (CDC) to assist states and counties in the creation or maintenance of a mosquito control program. This program is not designed to be a "federal takeover" of mosquito control programs, but it is designed to recognize the great expense of start-up and maintenance that these programs incur. Given the poor economic situation most of our states and localities are facing, there is simply not enough money that can be dedicated to this need. However, there still remains a major public health threat caused by the prevalence of mosquitoes. There is a federal need here and an appropriate cause of action for the federal government to take.

It has been a rather long road, Mr. Speaker, but I am happy to be here today to recognize the final passage of this legislation and to encourage President Bush to quickly sign it into law. I am excited to return home and tell my constituents that relief is on the way, and I encourage the House and Senate appropriators to fully fund the MASH Act so that we can begin to provide the financial assistance our localities need and deserve.

Mr. Speaker, I would also be remiss if I did not take a few minutes to recognize all of the hard work so many people have put into getting the MASH Act to this point. This legislation is a great example of bi-partisanship, and it was a pleasure to work with my colleagues across the aisle and across the Capitol on this issue. I must extend my sincerest thanks to Chairman TAUZIN and Ranking Member DINGELL for supporting the MASH Act. Without their help and guidance this bill would have never made it to the President's desk. In addition, Senators BREAUX, LANDREAU, FRIST, GREGG, and KENNEDY worked equally as hard in the Senate to ensure the active support and passage of the MASH Act in their chamber. And as we all know the real work is done by our staffs who spent many hours negotiating and building support for this legislation. I would like to take a second to thank Vera LeBrun, Cheryl Jaeger, John Ford, Paige Jennings, Kathleen Strothman, and Katy French for all of the time and energy they put into this legislation.

Today I stand here with a proud heart and an excited spirit. The MASH Act is so very important to me, and I am thrilled to see this program finally come into existence. I look forward to working with my colleagues on the Appropriations Committee to see this program fully realized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Wednesday, July 30, 2003*

(Legislative day of Monday, July 21, 2003)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, You give strength to the weak and hope to the weary. You provide us with songs in the night. Great is Your faithfulness. We thank You for daily blessings, for the many moments that are touched by Your providence. We thank You for restoring us every time we fail. Make our faith more sure and help us to be faithful stewards of Your gifts. Give us ears to hear Your voice and hearts to obey You. Guide our Senators today. Teach them Your paths. We pray in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 30, 2003.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. Under the order, the Cantwell second-degree amendment to the electricity amendment will be debated for 2½ hours. Following the disposition of that amendment, we will have 60 minutes prior to the cloture vote on the Estrada nomination. This will be the seventh cloture vote on his nomination.

Following the cloture vote, we will resume the electricity amendment and, hopefully, we will reach an agreement for the consideration of the two Bingaman second-degree amendments on electricity. The chairman has stated it is his desire for the Senate to work its will on those second degrees and then vote on the underlying electricity amendment. We hope to reach an agreement to allow for that to occur at a reasonable time this afternoon. In addition, there have been discussions about debating and voting in relation to several climate-related amendments during today's session. I certainly hope we can reach reasonable time limits on the amendments as we go forward, so we can have a productive day on the Energy bill. Senators should be prepared to work into the evening with votes as we move through the remaining amendments.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, while the majority leader is on the floor, we have had a number of conversations privately and publicly with the distinguished Senator from New Mexico on this electricity title. As I indicated last night, we have Senators FEINSTEIN, FEINGOLD, BOXER, DAYTON, and CANTWELL who have amendments to offer. All of them but Senator CANTWELL have single amendments. Senator CANTWELL may have two or three others. We will work with Senator DOMENICI to have time agreements on these. I am confident and hopeful that the Senators offering the amendments will agree to time agreements.

I also note—and I say this as respectfully as I can to the distinguished majority leader, who I know has such a difficult job—the electricity title is very complicated. I think we are approaching this in the right way, to move through it as quickly as possible. We are cooperating in that regard. It makes it really difficult, as somebody trying to help move this along and help the two managers, to have these stops and starts. We just get going on something and then we have votes on judges.

I want everybody to understand I know how important Senator HATCH and others believe it is about these judges. For example, on Estrada, this will be the seventh vote. The votes are not going to change. We will take an hour of debate on that and get off the Energy bill, and then we will go back on it. It makes it extremely difficult. Senator DOMENICI told all his committee members during the committee markup that we know the bill isn't perfect, but we will have an opportunity on the floor to amend that. The leader has stuck by that. I think that is important.

Just as an effort to help, because you have to move this bill along, for example, the two Bingaman amendments—Senator DAYTON cannot offer his amendments until those are disposed of. That is another procedural matter we have to deal with here.

We recognize we have a lot of work to do. We squeezed in yesterday an hour on trade while everybody was at the White House. I know the leader wants these two bills done, and the White House talked about how important they are. I think it is good we have time down as low as we do on a bill people feel so strongly about. From what I know, it should pass fairly easily—both of those trade agreements.

In short, I want the Senator from Tennessee, who, I repeat, has a tremendously difficult job, to understand we are doing everything we can to cooperate. I stated yesterday twice, and I will start the day off today saying, I don't know of a single Senate Democrat who doesn't want an Energy bill. The time line you have given us makes it really tough. We will cooperate in any way we can to move the schedule along despite the difficulties I see.

Mr. FRIST. Mr. President, first of all, I appreciate the assistance of the distinguished assistant leader on the other side of the aisle in moving the Energy bill forward. We had the opportunity yesterday to have a bipartisan meeting with the President of the United States, who once again called for this body to address energy as expeditiously as possible, allowing appropriate time for debate and amendment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The President set out his energy policy 2 years and 2 or 3 months ago and has called upon this body to work its will. The House has done that and passed a bill. We have not done that and the American people deserve it. That is why we brought this bill to the floor on May 6. That is why we have spent 17 days on the bill. That is why we are working as hard as we can to complete this bill in the next 3 days. I think we are working well together. It is a complex bill. We debated days and days last year. It has been taken through committee this year and marked up and brought to the floor appropriately. We are making real progress there.

The issue of judges, though, bothers me. It has been brought up every time I say we have to keep moving forward and that we owe it to the American people on this Energy bill, and then we have a few votes on judges. That is brought up as if that is slowing down progress on the Energy bill. It disturbs me.

First of all, all we are saying is let's give Miguel Estrada an up-or-down vote. That is all we want. If you don't like him and you want to vote against him, do it. We think that when judicial nominees come from the White House to us under advice and consent, we deserve the opportunity to express that advice and consent, and the only way we can do that is by voting. Each seat here has one vote. Let people express their will and, if the nominees are successful, fine. If not, we will move on. That is what we are saying.

I also want to make it clear on what we are having to do this week. Clotures filed on our side of the aisle don't require any debate. They require a vote and that is all we ask. Again, we want to keep things moving. We have been willing, as I said time and time again, to stack the votes among the other energy amendment votes. We don't require the debate or time. It is the other side that is requiring the time.

Another issue we have not really talked about, at least on the floor, is these votes on district judges, which is essentially unprecedented, which is being required of us today, if we look to the past, if we compare it to the past. The whole issue on both sides of the aisle is that many, if not most, of these could be approved by unanimous consent. Many, if not all, confirmations have to be by rollcall votes. Because there is this call from the other side of the aisle for rollcall votes, which traditionally in this body have been handled, for the most part, through voice votes, we are having to factor those rollcall votes, which take time, into the Senate schedule if we are going to demand justice around the country. If we do not get these judges confirmed, justice is, in effect, delayed. So they put a huge demand on us—really me as majority leader—demanding what has not been done in the past, rollcall votes, which take time and we have to factor them into the schedule, which does delay our schedule unnecessarily, and it means later hours at night and starting 30 minutes earlier in the day to accommodate the demands they are putting on us.

That, to me, is challenging. It is challenging that we work on this important Energy bill and, for the most part, these rollcall votes on the district judges are challenging.

To make that point, if we go back to the 105th Congress, there were 100 judges—20 circuit and 80 district judges. In that Congress, there were 25 rollcall votes—7 circuit, 18 district. So on about 25 percent of the 100 judges, rollcall votes were required.

If we move to the 106th Congress, there were 72 judges confirmed, and 18 of those were rollcall votes.

If we go to the 107th Congress, there were 100 confirmed and 59 rollcall votes.

And if we go to the 108th Congress, the present Congress, 37 judges have been confirmed. We have had to have 28 rollcall votes.

What is interesting is that of those 28 rollcall votes, 23 were unanimous. So we had rollcall votes, and all 100 Senators, or everybody present and voting, voted to confirm. Eighty-two percent of them were unanimous.

We can see this trend going back to the 104th Congress when there were 73 judges confirmed, and there were zero rollcall votes. What has happened in this Congress, because of the request from the other side of the aisle, is this demand that all of these judges, not just the circuit judges, but the district judges, have rollcall votes. Therefore, it has made it very difficult.

When it is brought up that our voting on judicial nominees is slowing the work of the Senate down, I ask the other side to at least consider what happened in the 103rd, 104th, and 105th Congresses in terms of the number of rollcall votes required.

ANNIVERSARY OF THE MEDICARE ACT

Mr. FRIST. Mr. President, I am going to come back later today and comment on the fact that today is the anniversary of Medicare. I know we want to move on to the pending bill. It was a historic day in 1965. On this day, President Johnson took the historic and bold action of signing Medicare into law.

Since that time, Medicare has helped millions of seniors cover their health care needs, but Medicare, in 1965, was designed to treat episodic illness and did not include the most powerful tool in medicine today—prescription drugs.

I mention this only because we have an opportunity before us, this body already having spoken its will in passing a comprehensive Medicare reform bill that strengthens and improves Medicare and includes prescription drugs. The House has done likewise. We are currently in conference. By working in conference, we will greatly strengthen and improve Medicare. Over the course of the day, I know there will be other statements, but there will also be a service and a statement about Medicare at the White House later today.

We have a great opportunity before us. I wish to share with my colleagues that the conference is going well and sometime after we come back from the recess, we will have a bill to bring back to this body.

Mr. REID. Will the Senator yield?

Mr. FRIST. Yes.

Mr. REID. Mr. President, I say not only did President Johnson sign that extraordinary bill—38 years ago?

Mr. FRIST. Yes, 1965; 38 years ago.

Mr. REID. As soon as he signed the bill, Congress went out of session. That was a good example.

Mr. FRIST. Well said.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ENERGY POLICY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations".

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Domenici amendment No. 1412, to reform certain electricity laws.

Bingaman amendment No. 1413 (to amendment No. 1412), to strengthen the Federal Energy Regulatory Commission's authority to review public utility mergers.

Bingaman amendment No. 1418 (to amendment No. 1412), to preserve the Federal Energy Regulatory Commission's authority to protect the public interest prior to July 1, 2005.

The ACTING PRESIDENT pro tempore. Under the previous order, there shall be up to 2½ hours of debate on the amendment to be offered by the Senator from Washington, Ms. CANTWELL, with 30 minutes under the control of the chairman, and 2 hours under the control of the Senator from Washington. The Senator from Washington.

AMENDMENT NO. 1419 TO AMENDMENT NO. 1412

(Purpose: To prohibit market manipulation)

Ms. CANTWELL. Mr. President, I call up amendment No. 1419.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. WYDEN, Mrs. BOXER, and Mrs. MURRAY, proposes an amendment numbered 1419 to amendment No. 1412:

Strike section 1172 and insert the following:

SEC. 1172. MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (as amended by section 1171) is amended by adding at the end the following:

"SEC. 219. PROHIBITION ON MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.".

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219".

(c) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219, the Commission shall, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.".

Ms. CANTWELL. Mr. President, I thank the clerk for reading this amendment, particularly at such an early hour of the morning. The reading of the amendment by the clerk shows exactly what we are up to this morning; that this is a simple amendment and a simple action we are asking the Senate to take. We are simply saying market manipulation under the Federal Power Act cannot be just and reasonable, and market manipulation should be found, under the Federal Power Act, by the Federal Energy Regulatory Commission, to be a wrongful act.

It did not take long to read that amendment but, as I said to this body last night, the fact that such law is not currently on the books has caused the ratepayers in my State great harm. It has caused ratepayers in Snohomish County, where I happen to live, a 54-percent rate increase. It has caused ratepayers in King County a 61-percent rate increase. It has caused ratepayers in Vancouver, WA, and businesses in Vancouver, WA, that can easily move to other parts of the country, an 88-percent increase. In eastern Washington, the part of the State hardest hit economically, where jobs are few and farmers struggle, it has caused ratepayers a 71-percent rate increase.

We are not talking about a rate increase that is just for 1 year. We are talking about long-term Enron contracts that were manipulated—knowingly manipulated—and my ratepayers are stuck paying those contracts for the next 5, 6, and 7 years without relief.

We are here today to say one thing and be clear about it: This kind of manipulation that gouges ratepayers should be prohibited. This body should be clear. We should be unequivocal. We should say, as other entities have said, that this kind of manipulation is wrong and needs to be corrected.

I have a lot to say on this amendment this morning, but I know I am going to be joined by many of my colleagues from the West who have had their economies wrecked by gouging and illegal practices. I want to give them an opportunity to say something, too, because I think the face of the west coast economy and what it has meant for ratepayers needs to be clear.

We are trying to say with the Cantwell-Bingaman amendment that we do not want to see this kind of action happen on natural gas prices in other parts of the country. We do not want to see this take place 4 months from now, or 2 years from now.

Let's be really clear. These kinds of practices that were deployed by Enron, the various schemes of Fat Boy, Ricochet, Megawatt Laundering, and Load Shift are illegal.

I will yield 10 minutes to my colleague from Washington State, Mrs. MURRAY, who knows all too well that this crisis has caused real hardship in our State. She has been outspoken on this issue as well and sent many letters to various entities, including the Federal Regulatory Energy Commission, talking about how we need to make changes.

I yield her 10 minutes this morning to talk about some of the impacts she has seen firsthand.

The ACTING PRESIDENT pro tempore. The Senator from Washington, Mrs. MURRAY.

Mrs. MURRAY. Mr. President, I rise today to support the amendment that has been offered by my colleague from Washington State, Ms. CANTWELL, that will help protect our consumers from this electricity market manipulation.

I begin by thanking Senator CANTWELL for her tremendous work on the energy commitment and her long-time work on trying to make sure consumers in my home State of Washington finally receive the attention and the help they need from us at the Federal level because of the gouging that has gone on in this market manipulation. We have seen the dramatic impacts that she has so eloquently talked about.

I thank her for speaking out on behalf of our Pacific Northwest consumers who are hurting. We have had the first, second, or the third highest unemployment rate for almost 2½ years, much of that precipitated by the fact of the energy spike costs that have hit the west coast, causing many of our cold storage companies, the aluminum industry, to shut down. They are laying people off. The effects of that reverberated throughout our economy, as other industries were hurt. Even our schools were hurt as they had to lay off teachers in order to pay energy bills.

It has had a tremendous impact on our economy and continues to do so. Bringing this amendment to the Senate floor today is absolutely critical. If we are going to have an electricity title, and if we do not deal with what happened in market manipulation, we are only going to see this continue.

We have a responsibility at the Federal level to protect our consumers at home. In fact, that is the responsibility of the Federal Regulatory Energy Commission. This amendment is so critical to making sure that we can go home and tell our consumers we are doing the right job of protecting them and the market manipulations that have occurred in the past will not occur again. Without this amendment, we will not have the ability to say that.

As Senator CANTWELL stated, all of us on the west coast remember the energy crisis of 2001. Our consumers and our businesses were hit with massive increases in the cost of energy. In California, they saw shortages and brownouts that were incredible. In Washington State we have felt the impact in every sector of our economy and in every home in our State. In fact, as I will talk about in a moment, we in Washington State are continuing to be penalized for the failures in the energy market and failures by our Federal energy regulators.

There were certainly many causes for the energy crisis that hit us, but the most disturbing is the fact that energy companies manipulated the marketplace specifically to take advantage of the customers. As we saw throughout that crisis, the Federal Regulatory Energy Commission did not take aggressive action to protect consumers from market manipulation. The amendment that has been offered by my colleague, Senator CANTWELL, will direct FERC, the Federal Energy Regulatory Commission, to revoke those market-based rate authority companies that have been found to knowingly engage in electricity market manipulation.

Our experience on the west coast shows why this amendment is so important and why FERC needs to be better policed in the energy market. For more than 2 years, many of us in the northwest delegation have been urging FERC to better protect our consumers. In fact, way back in March and April of

2001 and again in May of 2002, I sent letters to FERC calling for relief from this energy crisis. I asked for Federal price caps to stabilize the market. I asked for Washington State utilities to receive refunds, as California utilities received, and I urged FERC to report criminal activity to the Department of Justice.

Finally, on March 26 of 2003, FERC found that market manipulation occurred during the 2001 west coast energy crisis. Unfortunately, FERC indicated it was highly unlikely that Washington State ratepayers would be reimbursed for the harm that was caused by that market manipulation. That is really unfair when we look at what happened throughout that crisis.

At the height of the 2001 energy crisis, when Enron and others were manipulating the system, FERC was urging companies to enter into long-term contracts. Many of our utilities in the Pacific Northwest followed their request and entered into long-term contracts at highly inflated rates.

According to the Seattle Times, during the energy crisis the Northwest wholesale market averaged $276 per megawatt hour. That is 16 percent higher than the average prices in northern California, and 28 percent higher than in southern California. So it was really disturbing to all of us to see FERC agree that there was manipulation but then leave Washington State ratepayers holding the bag with no relief for the harm they experienced and continue to experience because of these contracts.

Clearly, FERC needs to be more aggressive in protecting our consumers. It needs to uncover and it needs to report market manipulation much earlier. It needs to have the authority to take action against companies that defraud the public and defraud the people in our States by manipulating the electricity market. The amendment that Senator CANTWELL has offered will direct FERC to take aggressive action against predatory energy companies that manipulate the market, and I strongly urge my colleagues to support this amendment.

This amendment will improve the underlying bill. It is extremely important. We need to have this kind of confidence if we want to see our ratepayers able to survive in the coming years.

I do have a lot of other concerns about the Energy bill and about an effort by Federal energy regulators. As my colleagues know, FERC is now pushing what they call a standard market design which would set uniform national standards for operating regional transmission grids, transmission grids that allow energy to be passed back and forth between communities that are in each region and their wholesale energy markets. Unfortunately, what FERC does not understand, what the bill does not understand, is that a one-size-fits-all solution is not going to fit the unique needs of the Pacific Northwest.

In New England, if they want to increase or decrease energy production, they burn more gas or more coal. They can regulate that industry. But in the Northwest, we cannot make it rain more or less based on some kind of profit schedule. Standard market design does not work in the Pacific Northwest. We cannot run our system that way because it is not designed to meet all of the needs we have. It means more opportunities for market manipulation and price gouging by big out-of-State energy companies.

As we have already talked about, we know FERC has already failed to protect Washington ratepayers from market manipulation. Given that, I think it is particularly unwise to allow FERC to take authority away from our State regulators through this standard market design and other proposals that are floating around through Congress and in this bill.

I am also very concerned that the Energy bill repeals the Public Utility Holding Company Act of 1935 which restricts utility ownership.

Although Senator DOMENICI's substitute electricity amendment—which we have just gotten, we are reviewing, and is now in this bill—does include some remedies to protect consumers, it does not go far enough. Just look at the devastating effects of the 2001 energy crisis to see we have to do more to protect our consumers. It is our utmost responsibility. I am concerned the electricity title in this bill fails to do that.

It is clear this Energy bill we are debating does not do enough to protect consumers against market manipulation and could actually facilitate more opportunities for manipulation. As currently written, it does not provide enough remedies to help our consumers who have been victimized by market manipulation.

That is why I am in the Senate today to support my colleague from Washington State, Senator CANTWELL, and the amendment she has offered. We have the utmost responsibility to assure market manipulation is not going to continue again. We know the effects in the Pacific Northwest. Senator CANTWELL has outlined the average rate increases that have hit our State because of market manipulation. Energy price increases affect every sector of our economy. They affect every person in our State. They affect everything from how we can operate our schools, how many teachers we can have versus how many energy bills our schools have to pay, to whether potential new homeowners can afford a home. A 51 percent rate increase means we have more families in the State of Washington who cannot afford to buy new cars, new refrigerators. That affects our economy in the Pacific Northwest and has a rippling effect to our businesses, which have laid off thousands of employees because they cannot afford to pay their increased electricity costs.

The market manipulation amendment of Senator CANTWELL is an absolutely critical amendment to assure we can protect our consumers in the future. Failing to pass it is a failure of the responsibility we have as Senators. I urge its passage.

I thank my colleague for yielding on this critical matter.

Ms. CANTWELL. I thank Senator MURRAY for her articulate capsulization of what this Energy bill and the Domenici title means to the Northwest.

The Senator has hit it right on the head, in that market manipulation has not been adequately dealt with in this legislation. Not only has there been no strong stand against market manipulation, there are further attempts toward deregulation with standard market design and regional transmission organizations that we in the Northwest find ludicrous.

I ask unanimous consent to have printed in the RECORD a Seattle Post Intelligence editorial from this morning's newspaper saying that the dubious Energy bill might be better shelved.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Seattle Post-Intelligencer, July 30, 2003]

Dubious Energy Bill Better Shelved

Republicans hope to drive the Senate toward a new energy bill this week. We all know what happens when you drive too fast; caution is lost in the rush to judgment.

For both the Northwest and the nation, the bill contains at least a trio of contenders for worst idea of the year—more deregulation of electricity, nuclear power subsidies and a new look at offshore oil drilling.

The West Coast is still trying to recover from cost increases created by deregulation schemes and market manipulation. Loan guarantees for nuclear reactors and a permanent cap on liability from accidents could increase radioactive waste—as if Hanford didn't have enough now. And, the idea of putting oil drilling platforms on more of the nation's coast was rejected decades ago.

The plan would also tilt relicensing of hydroelectric dams in favor of industry-designed environmental provisions. Don't expect that to help salmon runs.

Senators have a host of ideas for improving the bill: better vehicle mileage rules, new global warming standards and more incentives for renewable energy sources. The White House has intervened to try to move the bill forward, but senators must recognize they are starting from a tough spot. The existing bill is tainted because its roots are in closed-door meetings between Vice President Dick Cheney and his energy industry pals.

That kind of abuse during the Clinton administration killed health care reform. If senators hope to rescue the energy plan from its dubious origins, they had better plan on months of work.

Ms. CANTWELL. I thank my colleague for her diligence in expressing her opinion on this issue.

The RTO and standard market design issues she mentioned this morning show how unsound this idea is, not only in not protecting us from market manipulation but saying in a conceptual scheme, let's have a nationwide regional energy grid and let the people who will pay the most; that is, the power source that is willing to pay the most to get on to the grid, let them decide how power will be distributed.

For people in the Northwest, if we had power produced at cost-based rates; that is, cost plus what it takes to deliver to consumers—but all of a sudden FERC is pushing a concept of standard market design and saying, Enron or Reliance has more expensive power, we will shove it on to your grid and you pay that higher rate. As Senator MURRAY adequately pointed out, this is not a plan we endorse.

Some of my colleagues from the South also have concerns. Not only does this bill not do enough in protecting manipulation, it creates the possibility for more loopholes, more havoc, more chaos. Frankly, this is exactly how California got in trouble. Regarding a lot of market-based deregulation of the industry, everyone thought it would be competitive practices by which the cost of electricity would be driven down. This is not like something one can afford to have the price go up.

One county, Snohomish County, had a 54 percent rate increase. We had printed in the RECORD yesterday an article from the New York Times that Snohomish County has a 44 percent increase. Consumers got disconnected from their electricity because they could not afford to pay. This is not one of these schemes when the "free market" does not drive down the price of a utility and ratepayers have something to do. They cannot go over to Nordstrom's and buy a cheap electricity contract and get electricity. They cannot go over to Wal-Mart and buy affordable electricity. They are stuck with these rates. They are stuck with the 54 percent increase and they will be stuck for years ahead. We had a 44 percent disconnect rate in that county.

Mrs. BOXER. Will the Senator yield?

Ms. CANTWELL. I yield.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from California.

Mrs. BOXER. I thank the Senator for her leadership on this amendment. I know there are several other amendments she will be offering.

The Senator has explained very clearly what has happened to real people who are trying to pay their bills on something that is absolutely necessary for life itself.

I ask my colleague a question on this point. In California, where we had this all begin, there was some ill-advised legislation signed into law by then-Governor Pete Wilson which brought this deregulation to my State. Is my colleague aware that the rates started to double, triple, and more, in our State, that our State government under Governor Gray Davis said, the people cannot afford this. He went out and said that he would, in fact, take care of this crisis.

As a result, our State is in deep debt. About a third of our debt can be related directly to what the electricity companies did with their schemes that you are going to be explaining and I will be talking about later.

Is my colleague aware that a third of the problem in California is directly related to the energy scam?

Ms. CANTWELL. I thank the Senator from California for asking that question and for being a cosponsor. The Senator understands all very well how painful this has been to the California economy.

I was not aware that a third of the problem could be directly attributable to the crisis in California. I know businesses have closed in Washington State. I know people have moved to other regions and made other investments because the rate is high in our State. I know the amount of money paid by higher utility costs for our west coast region is $6 billion. Ratepayers in the West paid a $6 billion increase in their electricity bills because of the market manipulation.

When I think about the little time we have, maybe 6 hours total to debate this amendment, we gouged the ratepayers $1 billion and we are going to talk $1 billion an hour here. That is hardly the remedy for which I think people are looking. What they are looking for is some immediate action, saying these kinds of activities will not take place again, in the future.

So the Senator from California, Mrs. BOXER, is correct. The impact has been devastating. It has been devastating to California's economy, and obviously we would like to see some relief. For the moment, what we are trying to say in the Cantwell-Bingaman-Feinstein-Boxer-Hollings-Wyden amendment is that this kind of market manipulation ought to be outlawed specifically in the Power Act today so this does not happen again.

As we are looking at natural gas price increases and people are getting anxious, why would we have an electricity title that is unclear as to what the penalties are? Actually, under the Oxley legislation of Senator SARBANES and Congressman OXLEY, on the SEC side, on the auditor's side, it said: We are going to get tough. These are new requirements. We are going to put this in the statute. Yet on the electricity title, we are repealing PUHCA, as my colleague from Washington State said, the one consumer protection law that has been on the books since 1935.

Why would you change a law that has been on the books since 1935 when you just had the biggest pyramid scheme ever to defraud consumers, knowingly admitted by Enron, knowingly admitted by FERC, knowingly admitted by the Department of Justice, knowingly printed by every newspaper in the country that manipulation was going on? Why would you repeal the consumer protection laws on the books? You would actually try to enforce them.

That is what the Cantwell amendment does today, as the clerk read this morning. It simply says the manipulation of those contracts cannot be just and reasonable and put that in the Power Act, plain and simple. Plain and simple, not the 43 pages we have in the title addressing this issue, which I am sure tries to address the issue, but it falls far short.

Mrs. BOXER. Will the Senator yield for just a moment on this point? I am going to go into a markup and then return.

Ms. CANTWELL. Yes.

Mrs. BOXER. My colleague points out that what she is attempting to do in this amendment, of which I am so proud to be a cosponsor, is to make sure what happened to Washington and Oregon and California is not going to happen to any other State, be it Kansas, be it Illinois, be it anywhere else.

For the life of me, I guess I need to say to my friend, does she understand why anyone in this Chamber, knowing what happened to our States, knowing what happened to our businesses, knowing what happened to our consumers, knowing what happened, in the case of California, to our State budget because our Governor protected the consumers from these rates—can my friend understand why there would be one vote against her amendment, given what we know happened to us?

Ms. CANTWELL. My colleague from California has asked a question that is very important. No, I cannot imagine why any of my colleagues would want to vote against this amendment that prohibits market manipulation and puts that in the Power Act in a very simple way.

She mentioned something very interesting. A lot of people talk about this as the California energy crisis—the California energy crisis. Her economy has been devastated, but California actually had a retail cap, which meant even though those prices were being charged, and it left the California economy in disarray and a bill at the State legislative level that is exorbitant, what happened in Washington State, because we didn't have retail caps, is that the ratepayers actually saw the increase in their day-to-day electricity bills. They saw it to the tune of 88 percent increases, 61 percent increases, 54 percent increases. Those disconnect notices are real. The companies that have left or are leaving the State are real. The long-term impacts on our economy are real.

No, I cannot imagine, if this had happened to any of my other colleagues from other States, that they would not be in the same position I am in today, or Senator MURRAY, saying, at a minimum, outlaw this market manipulation.

So I appreciate the question the Senator from California has asked. I appreciate her keen attention to this issue. I know she has spoken many times on the floor about what has happened to our colleagues from the West and particularly how devastating it has been to her State. I appreciate that.

Mr. DORGAN. Will the Senator from the State of Washington yield for a question?

Ms. CANTWELL. Yes.

Mr. DORGAN. Mr. President, I know she has limited time. I will be very brief, but I did want to ask the question.

It seems to me this electricity title is critically important. I heard my colleague from California ask some questions. I chaired the hearings that dealt with the Enron abuses and other abuses in California and the west coast when I was chairing a subcommittee of the Commerce Committee. What happened there was egregious. It was wholesale stealing, and I use the word "stealing" in a very direct way. There are massive criminal investigations underway.

We have heard the terms Get Shorty, Fat Boy, Death Star—the schemes we unearthed. The people, in memoranda inside the company, were saying: Here is the way we are going to cheat consumers. They created congestion, and they then got paid for removing the congestion that they created. They actually deliberately cheated consumers, not to the tune of a couple of loaves of bread but to the tune of billions and billions of dollars.

It seems to me, as this energy title is written, there is not one person in the Senate—not one—who would stand up and say: It is fine for consumers to be confronted with that sort of manipulation and cheating or criminal behavior. Not one would say we support that kind of behavior.

If that is the case, if no one is going to support that, and they would not, then should we not write an electricity title that represents the best ideas of both sides of the political aisle here: that says we are going to stop criminal behavior; we are going to stop the kind of activities that attempt to steal from consumers?

I ask the Senator from Washington, have you had an opportunity, or perhaps has the ranking member of the committee had an opportunity, to sit down with those who wrote the electricity title, which we received last Friday, and talk to them about perhaps writing it together so we all accomplish that which we say we intend to accomplish—stopping this kind of manipulation and cheating? Because it did exist and it will again if we do not plug the hole.

Ms. CANTWELL. I thank the Senator from North Dakota for his question. I know he has been diligent, being at the committee hearings during the time period in which the West tried to convince the Federal Energy Regulatory Commission—the policeman on the watch, if you will, when this mugging of ratepayers was happening—we tried to convince the Federal Energy Regulatory Commission that prices were too high, that we were getting gouged. The Senator was very articulate at that time and subsequently, on the Commerce Committee, holding hearings, investigating the activities of Enron.

At that time, we were all speculating that manipulation happened. What has since come out is that the manipulation has been admitted to. It has been admitted to in the memos by the company in those various schemes you have talked about, and we have charts showing the names, of Death Star and Fat Boy and various other schemes. We have had the Federal Energy Regulatory Commission own up: Yes, this is market manipulation.

I have a report here, that is almost too heavy to handle, that basically documents all the manipulation that has happened. We have a Department of Justice investigating and saying yes, manipulation has happened. Yet this electricity title is very scant on putting those things in place.

The Senator is right. This new electricity title appeared last Friday night. I don't know what time it was, but well beyond the time, I am sure, that I was home in Washington State. We started in on it on Monday. But the bottom line is this underlying Domenici title has some language about: Let's make sure there is no false reporting.

That is in the current statute. It didn't save us. It didn't have anybody stop this or basically put everybody in jail.

Frankly, every time I get home, I hear from a constituent who is paying this high energy cost, paying this 61 percent or 88 percent rate increase, saying: Why isn't Ken Lay in jail? Why is it I am paying this rate increase and I am going to be paying it for 5 or 6 years and Ken Lay isn't in jail?

The transparency clause here is already on the books, making sure people do not report false information to the organization known as the Federal Energy Regulatory Commission. That is already on the books. The round trip trading, yes, is eliminated. But we have other schemes in this bill that are not included in the electricity title and are not outlawed. I think it should be simple.

The Power Act was created to protect consumers. We decided in interstate commerce; that is, the selling of power between States, that the Federal Government should play a role in protecting consumers on wholesale power rates.

We gave to the States the ability through their utility commissions the responsibility to protect consumers' electricity that is sold within each State. But we said as a Federal Government we want to make sure consumers have oversight of electricity. We said in the Federal Power Act we are going to make sure that rates are "just and reasonable." That is our job—"just and reasonable." We set up a commission to do it. Yet now we have seen that market abuse is continuing. And we have colleagues on the other side of the aisle who are proposing we repeal the only consumer protection law which has been on the books since 1935—the Public Utility Holding Company Act—and in its place put some language that basically smacks the hand of Ken Lay but doesn't have any teeth in it—teeth that will really bring to justice people who have manipulated this market.

We may have another day when we can discuss what kind of relief might be given to California or Oregon or Washington. But this amendment today is geared toward protecting people from future abuse by simply saying in the Power Act that manipulated schemes are not just and reasonable; that they ought to be banned in the Power Act. I don't know what is wrong with saying that. I would like to go over the specific details so my colleagues understand exactly what we are trying to say and why the current underlying title comes up short in the sense of not doing enough to protect consumers.

As I said, first of all, the Power Act put in place a broad prohibition on the manipulation of electricity prices. We want to continue that. We want to make sure that in this language we say manipulated electricity prices are wrong. In the Domenici substitute, we are going to say that round-trip trading; that is, buying and selling of electricity at inflated rates and inflated volumes, is illegal. That is a good thing to do. But that is particularly focused on the shareholder.

We are saying let us protect the shareholder to make sure these guys who are in this manipulative practice of buying and selling on the same day and inflating the price and inflating the volume is wrong and illegal. That is good in protecting shareholders. But how are ratepayers protected? I want to see protection for ratepayers.

In particular, my amendment would add a new paragraph to the act which is based on language the Federal energy commission has had in its power since 1934. This language would make it illegal for any company to use or apply any manipulative or deceptive device to circumvent the Federal Energy Regulatory Commission rules and regulations on market manipulation.

It is simple. Let's just say it. What is wrong with saying what Enron has admitted they have done? What is wrong with saying what the Federal Energy Regulatory Commission has put in the report? What is wrong about saying what DOJ has said about manipulation? Why not be really clear and specific? Any company that uses or applies any manipulative or deceptive device to circumvent Federal Energy Regulatory Commission rules and regulations on market manipulation should be punished.

Second, we want to say specifically that electricity rates resulting from manipulative practices are not just and reasonable under the Federal Power Act.

As we talked about last night and as some of my colleagues have said, we have the establishment of the Power Act and the protections of "just and reasonable," and it is our responsibility as a Federal Government to regulate wholesale energy prices between States. Why? Because in the 1930s, guess what happened. A bunch of companies had too much power and jacked up the price on consumers. They held them hostage. Electricity is something no one should be held hostage for, and certainly no one should lose their home because of a manipulated contract by a company that put a scheme in place.

We had a hearing before the Energy Committee in which I asked the Federal Energy Regulatory Commission chairman, "Do you think if you find market manipulation that it is ever going to be 'just and reasonable,' or ever in the public interest?" Chairman Wood told me, "I can't think of an instance when it would be."

We have the chairman of the Federal Energy Regulatory Commission saying I can't think this would ever be in the public interest or ever be just and reasonable. So why not put it in the Power Act? Guess what. Chairman Wood doesn't write legislation. We write legislation. We are the body that needs to take the responsibility. We are the body that needs to say to the American people we got the message that market manipulation has occurred.

My amendment would clear up any confusion and specifically declare in the Power Act that market manipulation is unjust and unreasonable.

Lastly, this amendment would amend the section 206 of the Federal Power Act requiring the Federal Energy Regulatory Commission to revoke the company's authority to sell at market-based rates whenever the commission finds it "knowingly" employs a strategy to manipulate the electricity market. It says when the Federal Energy Regulatory Commission finds people have manipulated a market that they revoke their market-based rates. Market-based rates is when the company decides what the rates are.

As I said, we in the Northwest have been traditionally comfortable with cost-based pricing that the public Power Act provided. Why? Because consumers get the power at the cost it takes to produce it. As a former business executive, I am all for marketplace competition. But marketplace competition has to have some regulation or some people basically end up controlling the market and consumers get whacked whatever they want. In this case, we know manipulation happened.

Why is this issue so important that we have to actually say to the Federal Energy Regulatory Commission make sure when these contracts have been manipulated that you revoke the market-based rate authority? Believe it or not, even though Enron, months and months ago, admitted in various memos that they manipulated the market, it wasn't until about 2 weeks ago that the Federal Energy Regulatory Commission actually revoked their market-based rate authority. Maybe it was 17 days ago. Sometime in the last 2½ weeks, the Federal Energy Regulatory Commission finally took the action they should have taken over a year and a half ago. We have a Federal agency that has been laggard at addressing this issue.

While we will have other amendments to address the Federal Energy Regulatory Commission and address the fact they have not stepped up to their appropriate role in being the policeman on the books as this mugging of ratepayers happens, because clearly they haven't—it took us, the Members of the Senate and House of Representatives pounding on them for months about the high cost of electricity in our region to finally get a mitigation plan. Over a year later it finally took the hearings of Senator DORGAN and many others and an investigation that we finally got the truth on the table that contracts were actually manipulated. Now it is going to take the effort and focus of this body to say, Let's make it simple. Let us make it really clear: Manipulation of contracts is unjust and unreasonable. Any company that employs such tactics should not have free rein of the market by having market-based rates allowed under the Federal Power Act and the Federal Energy Regulatory Commission. It is simple.

I want to point out to my colleagues the fact that there are other entities that are way ahead of the game; that is, they are way ahead of us. They are way ahead of this body in saying that Enron manipulated contracts and something ought to be done about it. And that is bothersome. I think we are the protectors of the consumers in the oversight of how well an agency is doing its job and to which we have delegated the responsibility.

I am sure there are people in this body who probably never heard of the Federal Energy Regulatory Commission until this crisis happened. I am not sure the agency has had the bright light of day shined on it too often in its Congressional history.

In fact, the Government oversight committee, then chaired by Senator LIEBERMAN during this energy crisis, had some hearings on whether the Federal Energy Regulatory Commission was doing its job. I thought that was very appropriate. It is very bothersome to me there are many newspaper articles and accountants of Ken Lay actually lobbying members of the Federal Energy Regulatory Commission on whether they should have a cap or a plan in trying to control or mitigate prices in the western energy market. He lobbied for Commissioners he thought would not put a cap in place. He lobbied for people he thought would continue the trend toward deregulation of the market.

I do not know why we should listen to Ken Lay's energy plan and who he thinks should be the nominees in these instances. We even have one newspaper article that suggested he was for the renomination of the current Chairman of the FERC but only if he would continue to have a free market strategy and make sure these prices that basically had been charged were kept in place. I think that is unconscionable. We need to do something to make sure this agency has our trust in the Senate and the trust of the American people. I think that is critically important.

Even though my colleagues have been hearing about this crisis for a couple years and some may think it is over, it is not over for the ratepayers of Washington State. It is not over for the California economy. We are stuck with this bill. We are stuck with the impact of these manipulated prices.

But I want to be clear, there are people who knew this was going on. And they have admitted it—Enron itself. Enron knew we were going to get access to this information eventually, so basically they produced the smoking gun memos where the company said it engaged in practices to manipulate the western power market. And they knew it was wrong.

In fact, even when these memos were starting to be uncovered, people realized these tactics had these exaggerated names that were not going to sound too positive, so they ended up saying: Well, let's change the names. I am not sure if it was Fat Boy—oh, yes, Death Star. Death Star was the name of a tactic used to manipulate the market, and they said: Well, if that comes out maybe that won't sound like such a good name. Let's change that to Cuddly Bear.

So somehow we were not going to find out there was market manipulation in place because Death Star all of a sudden became Cuddly Bear. It does not matter whether you change the code name, the impact on my State is the same. It is wrong, and this body ought to outlaw it.

So when FERC finally began to investigate, they realized this problem, as their report concludes, was significant and "epidemic," and the epidemic market manipulation took place in the West. Their own report says there is overwhelming evidence that suggests "Enron and its affiliates intentionally engaged in a variety of market manipulation schemes that had profound adverse impacts on the market outcomes."

In fact, the report goes on to say:

> Enron's corporate culture fostered a disregard for the American energy customer. The success of the company's trading strategies, while temporary, demonstrates the need for explicit prohibition on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement.

That is what the Federal Energy Regulatory Commission is saying has transpired and what we need. It "demonstrates the need for explicit prohibition on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement."

It is not FERC's job to write the law. It is FERC's job to enforce it and interpret it. Our job is to act. They are telling us they need to have this market behavior monitored and enforced, and that this problem demonstrates the need for an explicit prohibition. Let's give them that explicit prohibition. Let's put into the Federal Power Act that the manipulation of prices cannot be just and reasonable and companies that participate in that practice do not deserve to have market-based rates.

As I mentioned, FERC just came to this conclusion recently, so it is a little troubling that it took them so long, after so much damage has been done—$3-plus billion to the California economy, over $1 billion to the Washington economy, and billions more to Oregon and, I am sure, other parts of the West. So we don't want them to be confused or slow to pick up the regulatory framework and to use it as a hammer against these kinds of manipulations. So let's make it really clear.

DOJ thinks this manipulation is wrong. The U.S. Department of Justice believes what Enron did was, as they said, wrong and fraudulent. The Department of Justice continues to conduct investigations into Enron's activities. It has filed criminal charges levied against 16 different employees, most recently resulting in one of those 16 arrested, a trading desk manager. Already, two Enron traders have pleaded guilty on charges of conspiracy to commit wire fraud. And charges are pending against another.

So DOJ knows it is wrong. Yet in the electricity title we have not put in strict enough language to prevent it from happening again.

One of the most recent criminal complaints filed against an Enron trader by the U.S. Attorney's Office says: Based on the facts, there is probable cause to conclude that between approximately June 1999 and January 2001 the Enron trader unlawfully conspired to commit and did commit acts in violation of the Federal law. There is probable cause to conclude that the trader committed the offense of wire fraud in violation to title 18, United States Code, and conspired to commit the offense of wire fraud in the northern districts of California and elsewhere.

The Department of Justice knows these acts are manipulative and illegal. The fact that they only have two people indicted so far—and we still don't have justice as it relates to Ken Lay; and it was the diligence of those on the west coast and Members here saying manipulation went on—bothers me; it has taken so long. So I certainly want to make sure there is no question that we think these activities are wrong and that something should be done about it. That is why we need tough language.

Now, this body did its job as it relates to the auditing of regulators and reform after Enron. This CRS report for Congress—basically that is part of the report about the Sarbanes-Oxley act—talked about how we stepped up and did our job as it related to the auditing and accounting practices of these organizations.

Now, why was that important? It was important because not only did ratepayers get gouged, but people counted on those companies and their truthful reporting in their businesses. And the investors investing in those businesses counted on that truthful reporting. We uncovered that there was a lot of manipulation going on there as well. There was a lot of misinformation about what really was the cash and capital of these companies and whether the investments by investors really should have been made, given that the long-term outlook of the companies was not based on real numbers but on these manipulated schemes.

So what did we do? We didn't repeal accounting laws that were on the books to protect consumers. We stepped up and said: Let's make this stronger. Let's get the Sarbanes-Oxley act in place. In fact, the act creates a new oversight board for auditors. It prohibits auditing firms from providing certain consulting work for auditing clients so there is no conflict of interest in who they work for. It requires the rotation of all the partners. It imposes new regulations on corporate boards and executives. It increases government oversight and criminal penalties. We took tough action as it related to the auditors. We protected the shareholders moving forward from having this kind of scheme from an auditing perspective happen again.

If we were so ready to jump on this issue as it related to the auditing practices and the accounting practices of these companies, and we protected the shareholders and the individuals who may have had pension plans or investments in these companies, why aren't we now going to protect the ratepayers who actually got gouged with the high cost of these contracts? Why aren't we going to say this is so egregious that we should never allow it to happen again; that we, the Congress, believe that we are no apologists for Enron? We are not going to condone market manipulation. We are going to say, just as we did with accounting rules and auditing rules, we are going to have in the Power Act the same message; that manipulating contracts is unjust and unreasonable and anybody who participates in market manipulation does not get to have free market power under the Power Act. It is simple.

Let me talk about what is in here because I believe Chairman DOMENICI and his staff probably did try to say that some manipulations happen and we ought to do something about it. But I don't think we have covered the full gamut of issues that need to be covered. The Domenici amendment refers to round-trip trading. Round-trip trading is simultaneously buying and selling electricity to stimulate both the amount of electricity trading that was going on and to stimulate and increase the price. So the Domenici amendment says round-trip trading is wrong. And that is good. It is good that we took one of these schemes and shot a hole into it and said this is wrong.

But there are many other schemes that are not covered under the Domenici title: Fat Boy, also known as Icing Load, to create real-time power markets. According to Enron's own memos dated December 6 and December 8, 2000, Fat Boy was "one of the most fundamental strategies used by the traders." According to one, "the oldest trick in the book" and "is now being used by other market participants."

What Fat Boy did, when you boil it down, is Enron submitted false power supply schedules to the California ISO—the California organization in which power was bought and sold—and other market participants for the purpose of receiving payments when it didn't actually need the extra generation. So in essence Enron received untold millions of dollars for pretending to keep the lights on in the West when it really didn't need to. There is nothing in this current Domenici title that prohibits Fat Boy from happening. Yes, you say, you can't lie to FERC. There is nothing in the act that says you can't lie to the California ISO, which is exactly what Enron did under the Fat Boy scheme.

That was the whole point of California deregulation. That is what people went to the legislature and sold them, just as they are trying to sell us. Hey, guess what, California. If you deregulate, market competition is going to drive down the price. And we will create this mechanism, the California ISO, which stands for the independent system operator. We are going to make this scheme where an independent system operator is going to get you cheap electricity. And all those people in the marketplace who want to sell power and sell it at a cheap price, we are going to drive down the price.

That is not what happened. The price went up. It escalated. So they defrauded the California ISO. There is nothing in this underlying bill that protects the ratepayers from having Fat Boy happen again because it does nothing to prohibit lying under these kinds of schemes to the California ISO or any other organization like that.

Richochet was also known as Ping Pong. The sole purpose of this scheme was to evade California's attempts to put price controls in place. Knowing that FERC wasn't really paying attention, they were given market-based rates. They said: Go out and see if you can drive down the price of electricity. And under this scheme, basically to get out of the price controls that California was trying to put in place and control, the traders, instead of trading within the State of California, would ship their power outside of the State and then ship it back in. Yes, that is right, just like the ping pong ball, back and forth on a ping pong table, pushing power to one side and pushing it back—Ricochet.

If we push it out of California, then we are not subject to those State regulations, and guess what. When we ship the power back in, we can ship it in at the price we want. That way we avoid the caps of the California ISO and the power exchange that is trying to enforce them.

So the prohibition on round-tripping in the Domenici bill does nothing to prohibit Ricochet or Ping Pong from happening again. This kind of practice of shipping out of State and shipping back in is not illegal under the Domenici title. But it will be under the Cantwell-Bingaman amendment if this body will adopt it.

Let me talk about Death Star for a second. That is the one, yes, renamed Cuddly Bear. I don't care what you call it, there is no way the American public, the public in Washington State, doesn't know that this wasn't a cuddly bear. This was an unbelievable scheme that has ruined our economy. The essential strategy of Death Star was for Enron to earn money by lying about its transmission needs, scheduling transmission in the opposite direction of the congestion. No energy, however, is actually put on the grid or taken off, according to the company's own memos.

So wait a minute. We were saying to people this is what is going to be on the grid, but then we don't really put it on the grid.

The U.S. Attorney's Office described in a June court paper that Enron submitted schedules to the ISO that pretended to move the electrons owned by Enron, but in reality it didn't. Because of this, it appeared to relieve congestion. So the ISO awarded Enron congestion relief payments. Basically by pretending it was putting power out there to relieve congestion, which it really didn't, the ISO gave them relief payments. The ISO was deceived because part of the looping scheme was outside of California and, therefore, it couldn't be detected, thereby costing more money.

According to the Department of Justice, senior Enron traders denied they were doing this practice or violating any market rules. So basically what we are saying is that there were people at Enron who told other fine people who probably worked at Enron and who were trying to do their jobs, there is nothing wrong with this. This is totally OK to do.

One of the trading managers was smart enough and said: We are worried that the details of the strategy would be leaked to the ISO and other power companies or the public. One of the consequences of his concern was that he was instructed to refrain from calling this Death Star. That is when they said: Gee, employees are getting nervous about this scheme; they don't think it is right. Let's change the name to Cuddly Bear and maybe everybody will be OK with it. Well, we are not OK with it.

The underlying Domenici electricity title does not prohibit Death Star from happening again. Only the Cantwell-Bingaman amendment will do that.

Load shifting was another ploy. To employ this tactic, Enron would distort its transmission schedule to create the appearance of congestion, or knowingly increase the congestion cost to all market participants. Again, more misinformation. The underlying Domenici title says nothing of falsified information provided to the FERC. Well, FERC already has language in there about reporting. It didn't get them to stop Enron from following these practices. It doesn't require or make illegal any of these practices of providing misinformation to the California ISO.

Remember, the California ISO was an organization that basically was created after deregulation. After deregulation, people went to the California Legislature and said: We will create a mechanism where the marketplace buys and sells power at a cheap rate. We will let the market do it.

Under the California ISO, the independent system operators basically were supposed to help control price. That is where the misinformation was, where the lying and fabrication of information took place. This underlying bill does nothing to protect or say that those kinds of activities to the California ISO, an independent system operator, are illegal. It has no teeth as it relates to that. So nothing in this underlying Domenici electricity title will protect us from load shifting. The Cantwell-Bingaman amendment will.

Get Shorty. Like many Americans, I thought this was a title of a movie. I thought it was supposed to be a joke. But in my State it was not a joke to the ratepayers who actually had a premium price increase. Basically, what they did was they gambled that it would be able to find service at a cheaper price the next day. Enron's own memos admitted that "this was obviously a sensitive issue because of reliability concerns." Indeed, the company stated that it would be "difficult to justify our position if the lights go out because these services were not available, and the reason was because we were selling them without actually having them in the first place."

They basically were saying: We are going to have a scheme where we are going to say there is power available when there is not. And then when the lights went out, they knew they were going to have concerns. They knew. How they could think the west coast economy would not be reached by this havoc being laid upon them. I cannot understand. I cannot understand the corporate greed that goes into this kind of thinking—that somehow this kind of marketing strategy would be good for California, good for Washington, good for America, good for corporate business, good for our confidence as a country—confidence that we as a government are going to say this kind of manipulation is wrong. It has created a huge deal of unrest in the West. Nothing in the Domenici electricity title prevents Get Shorty from happening.

Wheel Out. I am not sure what marketer came up with this one. Enron would submit schedules for a transmission on a line they knew was out of service. In doing so, the company would earn extra payments for their trouble. It is not even available. It is sort of like a cab driver heading straight for a traffic jam in order to keep the meter running on an unsuspecting tourist, basically saying: I am going to get you into congestion and it is going to cost you a lot. The poor passenger in the car doesn't know there is a quicker route, a cheaper way, a more expedient way to control the cost. But unlike a cab ride, the costs of this are not in the tens of dollars but in the millions of dollars, and the cost to our economy has been in the billions of dollars. There is nothing in the Domenici underlying amendment that would prohibit the Wheel Out strategy from happening again.

The Cantwell-Bingaman amendment says that the Wheel Out strategy is manipulation of the market—it is manipulation. Under the Federal Power Act, it cannot be just and reasonable that companies that deploy these kinds of practices should not have market-based rates.

I hope there are not any more schemes. I hope I don't have any more charts because this is enough. This is enough of the tactics that were deployed by a company that basically thought that making a few more dollars through manipulative practices was somehow OK to do.

I read some of those quotes from employees at Enron who said: I don't think this is right; I think this is a concern. Yet they continued.

So the Cantwell-Bingaman amendment, which is supported by Senators HOLLINGS, MURRAY, BOXER, FEINSTEIN, and others, simply says let's put into the Power Act that manipulation is not just and reasonable.

We have had lots of support: The Northwest Public Power Association, Northwest Energy Coalition, AARP, Consumers Union, International Brotherhood of Electrical Workers, Consumers for Fair Competition, National Association of State Utility Consumer Advocates, Union of Concerned Scientists, U.S. Public Interest Research Group, and many other organizations, such as members of the AFL–CIO, and many people who are concerned about the economic impact of manipulation happening prospectively on natural gas.

Why won't somebody just take this experiment that happened in California and the West and say, OK, we will—with the current Domenici language, Congress barely smacks the hands of those Enron traders. Gee, only one of them went to jail. I guess you have to be smart enough not to be the one who gets caught with a memo on an electronic file on your computer, and, guess what? You will get out of this. So let's take this same kind of scheme and deploy it for natural gas.

That is what this amendment is about. This amendment is about saying that natural gas in the future will have better protections of consumers in mind regarding potential rate increases. So, if we have an increase in natural gas prices, maybe because of shortage of supply, guess what, we will really know that it is about shortage of supply. We will really know. We will be able to tell consumers in America that we really know it was about not having enough supply; it was not because some natural gas producer had tons of supply but manipulated the market through a variety of schemes and somehow gouged consumers, and that is why your rates are higher. Can we not give the American consumer that kind of confidence about our energy? I sure hope we can.

This issue has a real impact on people, and I know my colleagues are in the Chamber, and they want to speak, but I wish to share one letter from an 11-year-old girl whom I met almost a year and a half ago. I did not know at the time she had sent this letter, but she lives in a region of the State where they have had a 71 percent rate increase—a huge increase.

This 11-year-old girl sent an emotional letter about how the crisis was affecting her family, that her mom was living paycheck to paycheck. That actually the job her mom had was dependent upon affordable electricity. She wrote:

> This is the first time I've lived in a house. This is the most important thing in my life, that we get to live in a house. Please listen to what might happen to hundreds of kids, including myself, when my mom might lose her job and we might have to move out of our house.

The impact is being felt by young children, not just by the parents who might lose their job. Not just by the Snohomish County ratepayers who had 44 percent disconnect notices, but by young children who are fearful that their families are not going to make it because these schemes caused these rate increases that we are stuck with for years and years.

There is somebody sitting in their office somewhere in America saying: Gee, why don't you just sue those Enron people? Why don't you just sue them and tell them that under the Federal law, they cannot manipulate these contracts? I think people in America would be surprised to know that Enron is suing these utilities. Enron is turning around and suing these utilities and forcing them to pay these rate increases. They are suing the Snohomish County public utility district, saying: That contract—that has been manipulated—that you signed for 5 years of power, even though it is manipulated and you are paying a 54-percent increase, we are not letting you out of that contract; we are suing you.

This is the only body that can protect people in the future. It is only the Senate and the Congress that can say: This manipulation is wrong. This manipulation, moving forward, is wrong. Then ratepayers in my State in the future, if this happens, might have a chance.

We have had letters from senior citizens who are trying to live on a fixed income. This burden has made them make decisions about how they are going to live in the future. One woman from Okanogan County said: My friends, myself, and my neighbors cannot afford the higher rates:

> I am in a total panic because I am disabled and barely can pay for heat now. With these rates going up as much, it will make it a life-threatening situation. This will become a public health disaster. To make matters worse, many businesses are planning on shutting down here due to the terrible economy and the power costs. This is putting the last nail in our coffin in a dire economic situation in Omak, WA.

That is what the ratepayers in my State think. Not just: Oh, please, Senator CANTWELL, Senator MURRAY, please, Members of Congress, smack the little hand of the Enron people and tell them that was a no-no. They are saying these are dire circumstances, these are life-threatening situations, these are public health risks. We ought to stand up today and say this kind of market manipulation is not just, it is not reasonable, it is not in the public interest, and these variety of schemes from Ricochet to Fat Boy to Death Star are not legal, they are examples of manipulation, and companies that practice such manipulation should not be given market-based rates.

I could go on about this issue and talk about how our Northwest economy has been impacted by the number of jobs lost. I know several of my colleagues wish to speak on this issue, and I am going to give them the opportunity because I know they have been engaged in such dialog and speaking out on this issue. I want to give them a chance to continue to express their opinion on this issue as well.

I do not know if the Senator from Iowa wants to have a few minutes now, but I am happy to yield to him—for how much time?

Mr. HARKIN. For 10 minutes.

Ms. CANTWELL. For 10 minutes of the time I have remaining, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Senator from Washington for yielding to me. I want to help her on this amendment. I ask unanimous consent to be added as a cosponsor to the Cantwell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, after listening to Senator CANTWELL's exposition of the crimes, manipulations, and the fraud perpetrated on the American people by the Enron Corporation, it is, again, amazing to this Senator that we have not done something about this situation before now. I am amazed this is not taken care of in the underlying bill.

We know that what Enron did can happen again if we do not address it. If we do not ban it, as Senator CANTWELL does in her amendment, it will keep happening over and over.

In the 1930s, at the height of the Great Depression, Congress realized one of the most important factors was the collapse of the electric utility industry. It turned out this basic industry had been built on fraud after fraud, shell game upon shell game, and when economic troubles hit, it collapsed like a house of cards.

Congress's attempt to prevent this from happening again was the Public Utility Holding Company Act of 1935, otherwise referred to around here as

PUHCA. That was our attempt in the 1930s to prevent what was happening then from happening again, with all the frauds and the collapse of the house of cards of the electric utility companies.

Then we go forward 60 years to about the midnineties, and we were told that the restructured electric utility industry would be built upon markets and trading, that the markets would ensure the soundness of the industry, that the PUHCA now was just a hindrance to cheaper power, more available power, for all of our consumers; that PUHCA was not only irrelevant but probably even a hindrance.

Enron was both the leading participant in and the leading advocate of this new scheme of electricity markets. They were not the only one, but they were the leading one. They were the ones that had the closest ties to people in Congress and to the Bush administration.

It turned out that Enron, like the electric companies of the 1910s and 1920s, was also built upon frauds, shell games, and out-and-out criminal activity. When troubles hit, Enron, too, collapsed like a house of cards. Again, this is what we saw in the 1930s.

As Senator CANTWELL has brought out, we had a whole new set of terms of art that entered our vocabulary: Fat Boy, Get Shorty, Death Star, and many more. Enron had legions of employees who were paid to dream up ways to defraud the public and manipulate prices of electricity and transmission capacity. They ranged from affiliate structures, creative loans, trading strategies.

We have heard about Wheel Out, about how they tried to sell electricity through nonexistent lines. Again, Enron was not the only one. FERC has found dozens of companies were involved in fraud, that market manipulation was epidemic.

The whole energy industry still has not recovered. In fact, the whole economy is hurt by investors who have lost their trust in American corporate management.

Now we see that PUHCA, the Public Utilities Holding Company Act, was, in fact, irrelevant to Enron schemes. Why? Because FERC had determined that Enron was exempt from the law. Even that was not enough for Enron's chairman Ken Lay, who later threatened to remove the FERC chairman if he did not back his beloved markets and schemes more strongly.

Where is Ken Lay today? Is he in prison? Is he behind bars? Well, of course not. I understand he had to sell a couple of his big houses, one in Colorado and one someplace else, but he is out free. He may be on the French Riviera for all I know. I do not know where he is. He made a lot of money. He sacked it away and he is living a grand life.

Now I guess a couple of his underlings went to jail because they got caught, but Ken Lay, the brains behind the whole scheme, the person who threatened to remove the FERC chairman, is scot-free. So much for justice in this regard.

At this point I doubt this Justice Department is going to do anything to really go after Ken Lay because of his closeness to the Bush administration. But Enron showed more clearly than any episode since the Great Depression that strong Federal oversight is needed in the electric industry; that fraud hurts consumers, investors, and our whole economy.

The Domenici substitute bans one particular trading scheme, round-trip trading, but it leaves all the other schemes with these names we have heard of from Star Wars. It would still leave them there, and Senator CANTWELL just laid all of those out for us. So it would leave all of those untouched.

Why just ban one and leave all the other ones there? Well, as one step to restoring confidence in the energy industry and thus getting the economy moving again, we need to ban all such market manipulation. That is what the Cantwell amendment does and that is why I support it.

The Presiding Officer is from the State of Missouri, the home State of one of my political heroes, Harry Truman, a great Democrat. Harry Truman once said when he was campaigning in 1948 in the Midwest and talking to a bunch of farmers who had lost a lot in the Depression and he was telling them that his opponent, Mr. Dewey, was going to turn the clock back and they were going to get rid of all of the support they had had for agriculture. Truman uttered one of his great lines. He said: How many times do you have to get hit on the head before you figure out what is hitting you on the head?

Well, I would like to take Harry Truman's line and apply it to us and the electricity industry. How many times do we have to get burned by fraudulent schemes in this industry before we figure out what we ought to do about it and ban all of these activities? How many times do we have to get hit on the head before we figure out there are deep problems in the electricity industry and they have to be solved? Because if they do not, it is going to continue to hurt our economy.

Our economy right now is in terrible shape. I will divert just a little bit from this bill for a few minutes if the Senator does not mind.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. HARKIN. I ask for an additional 5 minutes.

Ms. CANTWELL. How much time is remaining?

The PRESIDING OFFICER. The Senator from Washington has 32 minutes remaining.

Ms. CANTWELL. Five minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HARKIN. Mr. President, in March of 2001, President Bush visited Western Michigan University to stump for his tax cuts. He said:

> . . . we can proceed with tax relief without fear of budget deficits, even if the economy softens.

Of course, today we know that what the President said that day was not true, and I think it is time now that the White House comes clean on this issue. We do not know whether the President was aware at the time he made this statement that it probably was not true, but somebody should have known.

Surely, someone in this administration knew that trillions of dollars of tax breaks, combined with a downturn in the economy, would lead to massive budget deficits.

Following that speech, this administration gave trillions in tax breaks to the wealthy, the economy softened, and we have gone straight from record projected surpluses to record projected deficits and debt. In fact, just 2 years later, the United States now faces massive, prolonged, record-setting projected deficits—over $450 billion this year, $475 billion next year, and trillions of dollars of deficits over the coming years.

So, what the President said that day in 2001 was in fact woefully false.

Now, I know the other side is going to accuse me of making a mountain out of a molehill on this issue. They will say I am just taking 16 words from one speech and blowing them out of proportion in order to challenge the President's credibility. They will ask: How can 16 words in one speech be the test of a President's credibility?

Yes, I can hear the President's defenders already. They will say: This speech was cleared by the Council of Economic Advisors. It is not the President's fault. He relies on the technical advice of experts on these matters.

Maybe that is the case. Maybe the President thought he was telling the truth when he said we could reduce Government revenues by huge amounts without causing deficits. But somebody should have known it was not true.

If not one in this administration knew that passing enormous tax breaks for the wealthy, combined with an economic downturn, might lead to exploding deficits, that does not exactly inspire a lot of confidence, either.

The President's defenders on this issue may also say:

> Well, actually, the statement is technically accurate, and did not mislead anyone. After all, it says we can proceed without fear of budget deficits. It does not say we will not actually experience massive budget deficits. It just says we do not need to fear them.

Unfortunately, that explanation will not work, either. As Alan Greenspan has reminded us repeatedly, large deficits do matter, and they are something to be concerned about.

In truth, it is pretty obvious that the White House intended to communicate that the President's massive tax cuts would not create corresponding massive deficits. It is now apparent that someone misled the public in that speech by the President.

"Well, but even if what the President said was not true," I can hear his defenders say, "it does not matter. What matters is that we did what we really set out to do. We provided the most affluent Americans with large tax breaks. We rewarded our largest campaign contributors with millions."

Now, I hope that is not the real explanation. But that is what actually happened.

These days the administration does not want us to pay too close attention to what the President actually says. In fact, sometimes they would rather we disregard it altogether, especially when it is only 16 words. They say it does not really matter.

In this case, as in others, what the President of the United States says does matter. The President needs to come clean about these remarks. He needs to admit his mistakes. Otherwise we are left with the distinct impression the President, his advisers, or both, purposefully misled the American people about the economy in order to get tax breaks for the wealthy.

If they were a mistake, these 16 words, then the President ought to admit it. The resulting policy is driving our economy into the ground. If they would acknowledge the statement was wrong, hopefully we could all come together to remedy the President's economic malpractice and get the economy moving again.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. CANTWELL. Mr. President, I yield 5 minutes to the ranking member, Senator BINGAMAN, who is a cosponsor of my amendment. He has worked hard in bringing attention to everyone about this issue of market manipulation.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank Senator CANTWELL for yielding time on this amendment. I am a cosponsor of the amendment. I commend her for offering the amendment and focusing the attention of the Senate on this important set of issues.

The electricity title is perhaps the most complex part of this entire Energy bill. We recognize and understand there is a lot of complexity in writing a provision or a title that governs the regulation of electricity.

However, the issue that the Cantwell amendment deals with is not complicated. It is extremely straightforward. Frankly, I am at a loss to understand why we cannot get agreement between Democrats and Republicans in the Senate to go ahead and close this loophole which has become so clear to everyone in the country who has paid any attention to energy prices and energy markets in recent years.

Just a year ago, newspaper stories had almost daily headlines about power marketers manipulating the market in California and in the Northwest States, Washington and Oregon, in particular. Unfortunately, it seems something has been forgotten since those stories were written a year ago.

Senator CANTWELL has outlined very dramatically and effectively the parade of these schemes devised to defraud utilities—and ultimately to defraud consumers—that have resulted in consumers paying substantially more every month when they pay their utility bills. They have very exotic names. But the truth is, her amendment is extremely straightforward.

Let me read the operative part of this amendment and ask how this can be objectionable to anyone.

> It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may promulgate as appropriate in the public interest for the protection of electric ratepayers.

What is wrong with saying it is illegal to engage in manipulative and deceptive practices? I cannot understand why we are spending so much time debating an issue that seems so straightforward to me.

The Domenici substitute does prohibit round-trip trades. And they should be prohibited. Unfortunately, it does not go the next step and do exactly what I just read, which the Cantwell amendment would do. We need to add this provision. We need to be sure the tools are there in the Federal Regulatory Commission to do this job in the future.

I sympathize with the statements the Senator from Washington has made about the inaction of the Federal Regulatory Commission in the early months of the Bush administration. There was a period when prices were going through the ceiling, particularly on the west coast, and we were not seeing action out of the Federal Regulatory Commission as we should have. That was corrected, in my view at least. It was corrected after the new chairman came in, Chairman Wood, and began to assert the authority the Federal Regulatory Commission had and should have been asserting all along to go ahead and step in.

This is an additional tool. We should give FERC this tool and make it clear in the law that all of these deceptive and manipulative practices are illegal. Once we make that clear, we are in a position to hold the Federal Regulatory Commission accountable if, in fact, manipulative or deceptive practices occur in the future.

This is not an academic inquiry. These practices resulted in increased utility bills for many Americans. The Senator from Washington should be commended for stepping in to ensure that does not recur in the future.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

The Senator from Idaho is recognized.

Mr. CRAIG. I yield myself 5 minutes of our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I come to the floor this morning frustrated in part by some of the debate that has occurred on the floor. The Senator from Washington and I agree the ratepayers of the Pacific Northwest have been injured by a dysfunctional California market that was badly designed and badly conceived from the beginning. In fact, it got so bad and it has been so dramatically treated in the wrong political way that we have a gubernatorial recall going on in the State of California right now.

Finally, the ratepayers of California got it figured out. The politics of California destroyed the market and the ratepayers of Washington, Oregon, and Idaho had to help pay for it.

To come to the floor this morning and say nothing is going on and nobody is being prosecuted is, in fact, wrong. It is not telling the whole truth. The title we have in front of us, the electrical title, still allows thorough and aggressive prosecution of those who violate the law.

Where is the regulatory gap that is being talked about this morning that the Senator from the State of Washington, by her amendment, might change? Here are the agencies involved at this moment: The President's Corporate Fraud Task Force, the Federal Bureau of Investigation, the Federal Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the United States Postal Service, and numerous U.S. Attorney's Offices. Their cooperative enforcement activities have focused on investigations of possible round-trip trading, false reporting, fraud, manipulation of energy companies and their affiliates, employees, and their agents.

There is a list of some of the actions taken on various Federal agencies. Let me run through them:

Starting on July 16, 2003, the FERC administrative law judge recommended Enron be required to refund $32.5 million for violating section 205(c) of the Federal Power Act.

June 25, 2003, FERC revoked the market-based rate authority of the Enron power marketing entity.

June 3, 2003, John M. Forney, manager of the Enron real-time trading desk during 1999 and 2000, was arrested and charged with wire fraud and conspiracy.

May 1, 2003, new criminal charges were filed against former Enron chief financial officer, Andrew Fastow, including charges of security fraud, insider trading, falsification of Enron accounting records, tax fraud, and self-dealing.

I could go on, and I have numerous lists. But that is Enron.

Let me go to Reliant Resources: May 12, 2003, Securities and Exchange Commission issued a cease and desist order against Reliant Resources and Reliant Energy arising from Reliant's admission in May of 2002 that it conducted round-trip trading for the purpose of artificially increasing trading volume.

Dynegy, another energy company, June 12, 2003; the U.S. Attorney's Office for the South District of Texas charged three former Dynegy employees with conspiracy, securities fraud, mail fraud, and wire fraud in connection with round-trip energy trades, and the Securities and Exchange Commission also filed civil securities fraud charges against the former employees.

How about El Paso Corporation? May 9, 2003—in May of 2003 FERC deferred action in a pending proceeding stemming from allegations of affiliate abuse and anticompetitive impacts on the delivered price of gas and the wholesale electric market in California.

It goes on and on. I have four more pages of about seven items per page of actions that have already been taken against these companies.

The question is, Does the electrical title that we have before the Senate today create a regulatory gap? The answer is quite obviously no.

Does it change the problem in the State of Washington? Washington got stiffed by the old law and the old process. Idaho's ratepayers got stiffed by the old law and the old process. And the citizens of California have finally said: We have a Governor who will not do anything about it. He put us in a huge deficit problem, and we are going to throw him out of office. And that is what that recall is about. It all stems from a phenomenally dysfunctional electric market that the people of California created, and they created it by deregulating wholesale and regulating retail and in came the scammers and the scammers are now being prosecuted as they should be.

I do not believe the amendment is necessary. I believe the title in this bill on electricity appropriately addresses this. There is transparency. There is no regulatory gap.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Washington.

Ms. CANTWELL. Mr. President, I know my colleagues from the other side of the aisle want a chance to use up some of their time. I do not know whether the chairman wanted to speak now. The Senator from Louisiana was going to be yielded a few minutes, also. I do not know if the chairman wanted to use time.

Mr. DOMENICI. Mr. President, how much time does Senator CANTWELL have left?

The PRESIDING OFFICER. The Senator from Washington has 21 minutes remaining.

Mr. DOMENICI. The Senator from New Mexico has a half hour less than the Senator——

The PRESIDING OFFICER. The Senator from New Mexico has 24 minutes remaining.

Mr. DOMENICI. I inquire if the Senator from Louisiana desires to speak?

Ms. LANDRIEU. Yes, Mr. President, I desire to speak both in support of the chairman——

Several Senators addressed the Chair.

Ms. CANTWELL. I yield to the Senator from Louisiana 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will yield and speak after Senator LANDRIEU.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Ms. LANDRIEU. Mr. President, I would like to ask, since it seems there is enough time, if I could have 10 minutes. I ask unanimous consent for that.

Ms. CANTWELL. The Senator is yielded 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Ms. LANDRIEU. Mr. President, I rise in strong support of the Domenici substitute electricity amendment. There have been few other parts of the Energy bill that have been more controversial or that have been the subject of more debate than the electricity provisions. The Domenici amendment is a well-crafted compromise that represents some of the best thinking on electricity deregulation. It is worthy of the support of all Senators because it addresses those issues that need to be addressed and does so in a fair and balanced way.

The Domenici amendment deserves the bipartisan support of the Senate because it provides Federal agencies such as the Commodity Futures Trading Commission and Federal Energy Regulatory Commission with new tools to prevent and penalize anti-consumer and manipulative behavior, including false price reporting and simultaneous trading of the same volumes of electricity between two entities, known as round-trip trading. It encourages distributed and renewable generation through a nationwide net metering program; in other words, it allows entities that use solar power or small gas generators to put excess electricity back into the grid.

It moves the FERC's refund authority back to the filing of a complaint. Currently there is a 60-day grace period before refunds can be issued—the proposed language removes the 60 days. It expands FERC's merger review authority by increasing the number of transactions that will be subject to FERC review and approval; in addition to utilities FERC now will be able to review mergers of transmission assets. This prohibits so-called "slamming" and "cramming." This concept comes from the telecom industry. Slamming is when retail customers have their service switched unknowingly, for example, AT&T to Sprint. Cramming is when retail customers have items added on to their bills unknowingly, for example, call waiting.

It requires the FTC to issue rules protecting the privacy of electric consumers; and the customers information cannot be shared without their consent. It requires FERC to issue a new policy establishing conditions under which public utilities may charge market-based rates. This policy is to consider consumer protection, market power and other factors deemed necessary by FERC to ensure that market based rates are just and reasonable. FERC cannot switch to market base rates if a monopoly exist or else will have to employ cost based rates.

Let me talk a few moments about the consumer protection provisions of this amendment. This is an area where some of my colleagues say the Domenici amendment does not go far enough. I believe that the provisions of the Domenici amendment are a significant first step in the right direction. Let me tell you why. First, the Domenici amendment would require FERC for the first time to issue rules to establish an electronic information system to provide information about the price and availability of wholesale electric energy and transmission capacity. Transparency is key to well functioning and fair electricity markets and this amendment will significantly improve transparency. The amendment further seeks to ensure market transparency and integrity by prohibiting the filing of false information regarding the price of wholesale electricity and availability of transmission capacity.

Second, the amendment would prohibit specific manipulative conduct and practices, including simultaneous trading of the same volumes of electricity between two entities—round-trip trading.

Third, the Commodity Futures Trading Commission is given important new authority that will improve market transparency and further strengthen anti-manipulation powers. These new powers include a strengthening of the CFTC's authority to investigate and punish fraud and manipulation in the reporting of electric and natural gas prices and an expansion of the CFTC's general anti-fraud authority to cover certain on-line trading platforms, like those run by Enron.

Fourth, the amendment substantially increases criminal penalties for violations of the Federal Power Act to $1,000,000 per violation and civil penalties are substantially increased as well.

Finally, the refund effective date for violation of the "just and reasonable" pricing standard under the Federal Power Act is moved back to the date of the filing of a complaint, thus giving consumers a greater likelihood of receiving refunds where prices are found not to be "just and reasonable."

In short, this is a good consumer protection package and it is one that is worthy of our support. The Domenici amendment also makes certain long-overdue reforms to our Nation's outdated electricity laws. For example, the amendment would carefully extend open access requirements to transmission systems owned by all large transmission-owning utilities so that larger, more seamless regional wholesale electricity markets can be created. It would establish new transmission pricing policies to help ensure that those benefitting most from new transmission investments are obligated to pay for them. It reforms PURPA while protecting existing investments, contracts, and expectations. Lastly, it repeals PUHCA, while ensuring that State and Federal regulators have access to the books, records and information needed to ensure informed regulatory action.

Mr. President, this is a good amendment. I urge all my colleagues to support it.

However, there are some improvements that should be incorporated. One such example would be Senator CANTWELL's amendment that places a broad prohibition on all manipulative practices in electricity markets.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. CANTWELL. The Senator from Oregon would like a few minutes. I am happy to yield to the Senator from Oregon 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I thank the Senator from Washington, and I also thank the Senator from New Mexico for his courtesy.

I rise in strong support of the Cantwell amendment. What we have seen in the Pacific Northwest with respect to the manipulation of our energy markets is that the position of the Federal Energy Regulatory Commission has simply been see no evil, hear no evil, and ignore evil.

The reason I have come to that conclusion is that when the Federal Energy Regulatory Commission Commissioners came to the Energy Committee in March to discuss with us the question of manipulation of the Pacific Northwest market, I read excerpts point by point from the Reliant Energy trading transcript to the Commissioners. I read to them pretty much like a bedtime story. Here is the portion of the transcript that I read to the Commissioners. It involves the Reliant manager.

He says:

> How did it work today?
>
> Reliant Trader: 129. We're talking about the power exchange.
>
> Reliant Manager: Yeah. I saw that.
>
> Reliant Trader: Then we trade up to 1.31 for the third quarter next year.
>
> Reliant Manager: Sweet.
>
> Reliant Trader. We even had a senior manager down here.

Listen, if you would, Mr. President, and colleagues to this.

The reliant trader said:

> He just wanted us to know that everybody thought it was really exciting that we're gonna play some market power.

After reading this transcript, I asked the Commissioners, How can you reach the conclusion after what I have read to you that overpriced contracts based on manipulation toward market prices should not be avoided or at least reformed? I pointed out it was clear just on the basis of that short excerpt that the traders were manipulating long-term prices when they were talking about the third quarter next year.

What is more, the Federal Energy Regulatory Commission staff's investigative report issued earlier this year found that there was a particularly significant correlation between spot prices and shorter 1- to 2-year contracts. Despite being caught in the act with a smoking transcript, despite having it read to them like a bedtime story, despite the Federal Energy Regulatory Commission's staff findings, the majority of the Federal Energy Regulatory Commission—specifically Commissioners Wood and Brownell—still cannot see the connection between these caught-in-the-act, smoking gun memos and transcripts and the higher energy prices my constituents are now paying because of the market manipulation detailed in these transcripts.

I am pleased to be able to have just a couple of moments here. But it seems to me if the Federal Energy Regulatory Commission is unwilling or unable to police long-term energy markets in cases like this where people in the Pacific Northwest are being ripped off in broad daylight, it is time for the Congress to step in. That is why the Cantwell amendment is so important.

I urge my colleagues to back the Cantwell amendment and outlaw the kind of manipulation that I have read to the Senate today and that I read to the Energy Committee. Unfortunately, the Federal Energy Regulatory Commission is unwilling or unable to address it.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Mr. President, we will soon have a unanimous consent request that will set up another amendment of the same class to follow this afternoon immediately after the vote on the judge.

In the meantime, I have around 20 minutes to speak. I would like very much to be as short as I can. But first, let me say to fellow Senators that I am very proud of the electricity amendment, with 13 bipartisan cosponsors, which is pending. Does anybody think we would have worked on that for days on end and not have provisions in it that take care of the problems that Senator CANTWELL is talking about? Is it conceivable that I would come to the Senate floor with what we perceive to be a great American reform of an electricity system from top to bottom and leave out protection for the kind of people she is speaking of? I will answer my own question by saying that is impossible. It is impossible because we wouldn't let it happen. Second, it is impossible because it didn't happen.

Having said that, I understand full well—and I have explained privately to the very distinguished Senator, Ms. CANTWELL. As I talked with her, I could just see how her very being was upset with what has happened to her constituents because of the pricing that went wild in the State of California for which she got the aftermath in her State. But it is not only her State and her constituents, it is a whole section of the country which, in a sense, got it in the neck because of California.

While I am at it—I intended to do this later in my remarks, but let me do it right now—there was a lot of talk about what happened to bring those prices to that outrageously wild system that ended up falling over on to her constituents. And the word "manipulation" was used and that even FERC said, in a report, manipulation caused it.

Let me suggest, the Senator from New Mexico has done everything he could to try to find out what the real experts say caused it, and none of them say it was manipulation that was at the heart of the problem of prices going outlandishly high on the west coast. As a matter of fact, whether you ask the Federal Reserve Board or whether you look at the FERC report, the root cause is found not to be—not to be—manipulation. The meltdown was a significant supply shortage and fatally flawed design statutes.

Let me repeat, the general consensus of those who have looked at it carefully say significant supply shortfall added to a fatally flawed design market and that blew up the California market and, thus, its surrounding States.

On March 26, 2003, FERC issued its "Final Report on Price Manipulation in Western Markets." Senator CANTWELL believes the report proves there was manipulation. However, not everyone shares that view.

As a matter of fact, the Cambridge Energy Research Associates, CERA, is considered one of the top, if not the top, energy market analysts in the world. Daniel Yergin, the chairman of CERA, is the most respected expert in energy policy and the author of the "Prize," the Pulitzer Award-winning book on the global oil market.

CERA noted that FERC ignored the natural gas and electricity supply shortages and assumed scarcity was attributed to manipulation. It was scarcity first, and then it was flawed design statutes which permitted the scarcity to go berserk.

Now, that is aside from the question.

Let's get back to the issue of the bill and whether we would bring before the body a bill that we would ask the entire Senate to support—that I am very hopeful, by the time we are finished, will get in excess of 65, 70 votes—that does not protect the citizens from what happened on the west coast.

Now, this amendment addresses the Federal Power Act and the Natural Gas Act in the following ways:

No. 1, it establishes an electronic information system at FERC to enhance market transparency.

No. 2, it increases criminal and civil penalties under the Federal Power Act and the Natural Gas Act.

No. 3, it enhances FERC's refund authority.

No. 4, it requires FERC to issue regulations establishing conditions under which utilities can charge market-based rates.

No. 5, it prohibits the filing of false information.

And, last, it prohibits round-trip trading.

Further, the so-called Domenici amendment—that is the master amendment we are operating under that I have asked parenthetically of myself: Would I bring it here without protecting for the future events that are being alluded to by the distinguished Senator who is worried about her State—that Domenici amendment enhances the role of the Commodity Futures Trading Commission to provide oversight over electricity and natural gas.

The Senate, in my humble opinion, should reject amendments—all of them—to the electricity title of the bill that would affect FERC's and the CFTC's flexibility to react and deal with bad actors and upset further the already beleaguered utility industry's ability to respond to a changing market.

Now, I do not want to take a lot of time because, frankly, I am not sure, when we go on forever, that anybody listens. But I want to tell you that even without the so-called Domenici Modernization Act, the markets are being forced to respond, because FERC is taking action in the form of initiatives to protect electricity consumers, increase market transparency, and strengthen the regulation of electricity markets at the wholesale level.

They have proposed to identify more clearly transactions and practices that would be prohibited under electricity sellers' market-based rate tariffs and gas sellers' blanket certificate authority. These new market behavior rules would prohibit market manipulation or attempts to manipulate the market through activities such as creating and relieving artificial congestion.

They have proposed to require electricity sellers to operate and schedule generating facilities in compliance with the rules and regulations of the relevant power market.

They have proposed to require sellers to provide complete, accurate, and factual information in all communications with FERC, RTOs, ISOs, market monitors, and other similar entities. They have proposed measures to assure the accuracy of electricity and natural gas price reporting.

They have established a new Office of Market Oversight and Investigations as part of a stepped-up enforcement and audit program.

And I could go on.

Clearly, they are enforcing the law. They are taking out after those who are causing this market to react other than in a normal market way. And we will add to that authority in the bill that is before us which does not have to be amended.

The Commodity Futures Trading Commission has aggressively prosecuted fraud and manipulation in energy markets. They have committed 25 percent of their enforcement staff to conduct investigations into misconduct in energy markets.

CFTC's existing authority empowers it to prosecute fraud and manipulation. Under the authority of the Commodity Futures Trading Commission, they have filed civil action against Enron and a former Enron vice president for manipulation of prices in natural gas markets. They have filed civil action against Enron for operating an illegal futures exchange. They have filed civil action against El Paso Merchant for false reporting and have a $20 million settlement. And they have filed civil action against Dynegy Marketing for false reporting and have a $5 million settlement. They have filed civil action against Encana Trading for false reporting and Williams Trading for false reporting, both with a $20 million settlement.

Criminal actions have been filed, and I have a complete list of those. Enron's former head of CA trading pled guilty to conspiracy.

We don't need further amendments beyond the Domenici amendment that is pending to be sure the constituents of the distinguished Senator from the State of Washington are protected. They are protected. All we do by adding more is making the market more difficult. We would accomplish little but perhaps to say to ourselves we have done much.

The Natural Gas Supply Association, the Interstate Natural Gas Association, and the American Gas Association have all endorsed the market manipulation provisions in this amendment we call the Domenici amendment. I believe it is right as it is. It need not be changed.

Mr. President, let me just generally talk about where we want to go. Soon we will have the unanimous consent request in writing.

I say to the Senator, maybe we can just recite it here since you and I know it.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. REID. Will the Senator yield?

Mr. DOMENICI. Surely.

Mr. REID. Mr. President, the next amendment we will offer is an amendment of the Senator from Wisconsin dealing with the electricity section. He has agreed his time on it will take approximately a half hour. Senator FEINGOLD is usually quite concise. The problem is that if we lock in this time agreement, people coming and wishing to speak on other subjects would not be able to do so. We have no reason to think anybody is going to or not going to. We don't want to have those time constraints. We are going to offer the next amendment. It would be the Feingold amendment.

Mr. DOMENICI. People might want to speak to which amendment? To the amendment you were referring to?

Mr. REID. Well, to be very direct to the Senator from New Mexico, as I want to be, the majority leader has told us we are going to vote on cloture tomorrow on the attorney general of Alabama, Mr. Pryor. We have had no opportunity to debate this. We will have a half hour tomorrow under the rules. We are going to have members of the Judiciary Committee come this afternoon and speak to the competency and the professionalism of the attorney general of Alabama to be a United States Federal judge. People are going to take some time doing that. When they will come, I don't know. But we wouldn't want them to be prevented from doing that because we are in a time agreement on the Feingold amendment.

Mr. DOMENICI. Could we agree where we are going? There is an amendment up shortly, is there not?

Mrs. FEINSTEIN. Reserving the right to object.

The ACTING PRESIDENT pro tempore. No unanimous consent has been propounded. The Senator from New Mexico controls the time.

Mr. DOMENICI. Mr. President, I have not propounded a unanimous consent request. I just wanted to know how much time is left to Senator CANTWELL.

The ACTING PRESIDENT pro tempore. The Senator from Washington controls 7 minutes and 20 seconds. The Senator from New Mexico controls 9½ minutes.

Mr. REID. If the Senator will yield for a question.

Mr. DOMENICI. Yes.

Mr. REID. The Senator from California is here. The Senator from Washington has 7 minutes left. She wants to close. We have no more time than 7 minutes. The Senator from California wishes to speak on this amendment. She can only do that if unanimous consent is given to allow her to speak for up to 15 minutes. Otherwise, she will not be able to speak on the amendment. She wants to. Is that a fair description?

Mrs. FEINSTEIN. It is a fair description. I have great respect for the chairman of our committee. However, he did not correctly present the California situation. I would like an opportunity to set the record straight.

Mr. REID. I ask unanimous consent that on the Cantwell amendment, the Senator from California be allowed to speak for 15 additional minutes and that, of course, the majority, if in fact they want 15 minutes, would have equal time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Yes, there is objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DOMENICI. Mr. President, I don't want to object to the Senator from California speaking. I just want to remind the Senator and the Senate, this amendment has been on the floor 3 hours—not 3 minutes, not 30 minutes, 3 hours. We are supposed to vote, generally, when 3 hours is up. Three hours will be up in a few minutes. I would like to proceed and vote. I have a few minutes. I don't know that I need it. But I really don't think I am being unfair in suggesting to the Senator that perhaps, so we can vote on an amendment that has been pending for 3 hours, if you could take half the time you requested so we can proceed to vote, I would have no objection.

Mrs. FEINSTEIN. If I may respond, this is an amendment on market manipulation. You, Mr. Chairman, have just said there wasn't market manipulation.

Mr. DOMENICI. I have not.

Mrs. FEINSTEIN. I would like to present evidence specifically. I have 18 to 20 disks involving 3,000 pieces of paper which is evidence presented to FERC of market manipulation in the California market. This Senator has done a great service because those of us out west know what happened. What happened is so egregious as to give the senior Senator from California an opportunity to support the amendment of her colleague.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has the floor.

Mr. DOMENICI. I don't think it is fair for the Senator—I am going to give her time, but I don't think it is fair for her to give a speech this way. She knows she is going to get time, and she can just be patient like every other Senator, if you don't mind.

Mrs. FEINSTEIN. I have been patient.

Mr. DOMENICI. I thank you.

Might I say to the Senate, the Senator from New Mexico has responded to an amendment. Never once did I say there was no market manipulation. I don't intend that every time any of us gives a speech, that somebody come to the floor when there are time agreements and decide they would like to give a speech on something they heard.

I said there are studies that say market manipulation was not the principal reason for what happened. If the Senator would like to speak, I would ask her if she would speak for a little less time so we can proceed, since the time is up. I can object, and we will vote. And then you can speak after the vote.

Mr. CRAIG. Will the chairman yield?

Mr. DOMENICI. I am pleased to.

Mr. CRAIG. So you can sustain the goodwill of the rest of the colleagues because you are managing the bill, you should.

The ACTING PRESIDENT pro tempore. If the Senator will suspend. The Senators are reminded to address one another in the third person or through the Chair.

Mr. CRAIG. I simply say to the Senator that to sustain the goodwill that he needs to, he will work the bill, but when there are time agreements of 3 hours, this Senator will object to adding more time.

Mr. DOMENICI. I wanted to ask the Senator if he wanted to object at this point. He is not going to object.

How much time did the Senator ask for?

Mrs. FEINSTEIN. I asked for 15 minutes.

Mr. DOMENICI. I wonder if you would take 10 minutes.

Mrs. FEINSTEIN. I will do my level best.

Mr. DOMENICI. All right, 10 minutes, so long as we understand. I ask unanimous consent that she have 10 minutes, after which time we will finish the time allowed and then we will vote on the pending amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from California is recognized for 10 minutes.

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the committee.

I wanted to say a few words in support of what Senator CANTWELL is trying to do. Perhaps those of us in the West are more disconnected from the Beltway than I ever believed, but let me give you a startling fact which will demonstrate market manipulation. The total cost of electricity in California in 1999 was $7 billion. It increased 400 percent in one year to $27 billion the next year. There is no way supply and demand can be responsible for a 400 percent increase.

What we now know is that power generators, traders, and marketers manipulated the western energy markets, and the market abuse wasn't simply limited to Enron. Look at these schemes. There are more than we ever knew: Ricochet, Death Star, Get Shorty, Fat Boy, Nonfirm Export, Load Shift, Wheel Out, Black Widow, Red Congo, Cuddly Bear. This was not limited to Enron. It was a widespread series of schemes perpetuated by many companies that supplied and traded in the West. I deeply believe this.

The State of California, the California Attorney General's office, and the State's largest utilities compiled the 3,000-page report detailing the pervasiveness of fraud and manipulation in the western energy market in 2000. Then they couldn't present it to FERC. They had to go to a Ninth Circuit Court of Appeals to get the ability to conduct discovery and evidentiary hearings to be able to bring the allegations of fraud and manipulation to FERC. So the whole Federal system is stacked against allowing a State to make a presentation of fraud and manipulation.

This report concluded that energy companies intentionally withheld power from the western market, driving prices up and creating false shortages. For example, from August 30 to December 3, 2000, Dynegy shut down one of its units for repairs, yet repairs had already been done prior to August 30.

The report's conclusion: The plant was shut down to intentionally drive up prices.

Another example. Following an external tube leak, Merit held one of its plants offline for 2 extra days, from October 20 until October 22, 2000, denying the western energy market much needed power and driving prices up. The report also submitted evidence that suppliers bid higher after the California independent systems operator declared emergencies, knowing full well the State would need power and would be willing to pay any price to get it.

Further, we learned that suppliers submitted false load schedules to increase prices. One example of this bogus load is demonstrated in an internal PowerX memo, which documents that PowerX entered into a contract with the explicit purpose of overscheduling and underscheduling and for congestion manipulation.

Other games were played in the western energy market, including collusion among sellers, sharing of nonpublic generation outage information, and the manipulation of the nitrogen oxide emission market. Just look at one fact. One company, CMS Energy Corporation, has admitted conducting wash energy trades that artificially inflated its revenue by more than $4.4 billion. These round trips accounted for 80 percent of that company's trading that year, in 2001. So 80 percent of the trading of a large company was bogus in that year. The market was rife with fraud and manipulation.

Senator CANTWELL's amendment attempts to strengthen the Federal Power Act, so that the fraudulent and manipulative behavior we witnessed in the western energy crisis does not go unpunished.

The problem is that FERC could not go back. FERC would not accept findings from California to document the fraud and manipulation. California, to this day, has not received $1 of refund, despite settlements. So that is what is really going on out there, and that is a huge problem.

To have an Energy bill that doesn't adequately deal with fraud and manipulation is something none of us should vote for. I will tell you why. Under the present regulations, it can and will happen again. These companies will try to do it if they possibly can. Consumers should be protected from fraud and manipulation perpetrated by people who are only motivated by profit, which we know dominated the trading scenario in the western energy market. I can tell you terrible things traders said about shutting off power for the purpose of inflating the bottom line of their company. That is wrong and it should be dealt with.

The fact is that FERC has not dealt with it up to this point. So I very strongly support what Senator CANTWELL is trying to do. I hope the Senate will accept it because I think the energy title is weak. I hope at a later time to add natural gas to some of the provisions that this bill achieves in terms of increasing penalties in the electricity market. Unfortunately, the bill does not harmonize penalties for the natural gas market, and there is ample evidence of fraud and manipulation as well in the national gas market, specifically with El Paso Natural Gas, and I hope to indicate that in an amendment I will do at a later time.

I have tried to truncate my remarks to cooperate with the chairman. I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Mr. President, I thank the Senator for getting her remarks down to 10 minutes. How much time does Senator CANTWELL have?

The ACTING PRESIDENT pro tempore. She has 7 minutes 20 seconds.

Mr. DOMENICI. Does she want to deliver her remarks?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, how much time is available?

The ACTING PRESIDENT pro tempore. There are 7 minutes 20 seconds remaining. The Senator from New Mexico has 5 minutes.

Ms. CANTWELL. Does the Senator from New Mexico wish to complete his comments?

Mr. DOMENICI. I will wait for a while.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. CANTWELL. Mr. President, I appreciate the chairman of the committee giving time to the Senator from California so she could explain and respond to her views on this issue. I appreciate my colleagues from the West engaging in this debate. I appreciate the Senator from Idaho coming to the floor and reiterating to this body, yes, how ratepayers in Washington, Oregon, and Idaho got stiffed. That is the right word. We got stiffed. We got stiffed with paying a bill more exorbitant than ratepayers should have to pay.

The debate that has ensued in the last few minutes is whether the Domenici underlying amendment has enough protections in it to protect consumers or whether we need the Cantwell amendment. It is a clear and simple and plain statement that market manipulation should be outlawed in the Federal Power Act as not being just and reasonable.

I thank the Senator from Louisiana for her comments. She supports the underlying Domenici title, but she supports my amendment as well because she knows that kind of language can be helpful and can be specific.

Let me be clear. If anybody thinks that the Enron manipulation didn't have a profound and adverse impact on the marketplace and that this is all about poor management in California, I can assure you that is not the case. This is about whether this body is going to adopt tough standards against market manipulation so there is no question by the public. So the public doesn't debate, if there was a shortage of supply or manipulation going on?

We know there was manipulation going on. We have proof of it. The FERC itself said:

> Enron and its affiliates intentionally engaged in a variety of market manipulation schemes that had profound, adverse impact on market outcome.

There it is. The FERC said itself that market manipulation had profound, adverse impact on the market. So we know for a fact that market manipulation had an impact in California, it had an impact in Washington, it had an impact in Oregon, and it had an impact in Idaho. The question is whether this body is going to do enough to protect consumers in the future.

So the chairman of the committee—I appreciate his earnest time on the electricity title, and I appreciate the fact that he wants to have some protection in this legislation. But these protections don't go far enough.

Let me explain why. There is transparency language in the underlying Domenici title. Some of those powers are already in place with FERC. They are not doing us any good because reporting to FERC is one thing; reporting to the California ISO, the independent systems operator, who basically was the cog by which all the manipulations took place, you are not under any kind of threat or penalty for reporting falsified information to them. That is where the manipulation took place, so the Domenici title does not cover that situation.

There is a lot of talk in the bill about the Commodity Futures Trading Commission, and there is a section in the bill that tries to beef up that language. That is a noble attempt. I much prefer the Feinstein amendment which has very specific language about closing a loophole.

I have a letter from the National American Securities Administrators Association. They basically say the Domenici language is flawed. These are Federal regulators who are supposed to regulate this policy. They say the Domenici language is flawed because it will prohibit any Federal or State agency from obtaining information directly from a board of trade or exchange or market involving commodities, and that State and Federal agencies will be impeded from investigating violations of these wide range of commodities.

I ask unanimous consent that this letter from the National American Securities Administrators Association, about how the Domenici language is trying to correct some of the problems is actually causing a new problem and is not going to protect people, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTH AMERICAN SECURITIES
ADMINISTRATION ASSOCIATION, INC.,
Washington, DC, July 29, 2003.

Hon PETE V. DOMENICI,
Chairman, Committee on Energy & Natural Resources, Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Minority Member, Committee on Energy & Natural Resources, Washington, DC.
Re: S. 14, the Energy Policy Act of 2003.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: The North American Securities Administrators Association (NASAA) is writing to express its concern over proposed language in the Domenici substitute to Title XI, (the electricity title) of S. 14, the Energy Policy Act of 2003.

Proposed Sections 1171 and 1173 would require that "any request by any Federal, State or foreign government, department, agency or political subdivision" to a "board to trade, exchange, or market" involving transactions in commodities "within the exclusive jurisdiction" of the Commodity Futures Trading Commission (CFTC) "shall be directed" to the CFTC.

This prohibition on federal and state information gathering directly from a board of trade, exchange or market would place unnecessary burdens on state securities regulators when they investigate violations of laws regulating foreign exchange products, energy products and financial instruments. Over the years, state securities regulators have handled many of the foreign exchange cases under authority contained in the Model Code and state securities laws.

This language would prohibit state securities regulators from directly seeking information from a CFTC regulated entity. State securities regulators do not have regulatory jurisdiction over a CFTC regulated entity, but we must retain our authority to subpoena documents from all relevant sources as part of our enforcement cases. For example, a registered representative of a securities firm could illegally take investor funds and trade in commodities, and our members might have to subpoena a futures exchange for trading records or other information.

The CFTC and the states have a history of coordinating efforts and working successfully toward our mutual goal of protecting investors by recognizing potentially fraudulent activity and bringing it to the attention of the public. However, mandating that regulators go through the CFTC for information could be burdensome, time-consuming and inhibit our ability to investigate wrongdoing in a timely and efficient manner. It may also place the CFTC in a difficult position of deciding whether to send a state's subpoena to one of the exchanges it regulates.

With the fallout from Enron and a variety of financial scandals still in the news, now is the time to strengthen, not weaken, our complementary system of state and federal securities regulation. There seems to be no justification for limiting the ability of state securities regulators to gather information directly from a futures exchange.

We urge you to strike Sections 1171 and 1173 from the Domenici substitute. Please do not hesitate to contact me if I may be of further assistance to you.

Sincerely,

CHRISTINE A. BRUENN,
NASAA President,
Maine Securities Administrator.

Ms. CANTWELL. Mr. President, the bottom line is, in this amendment, while round-trip trading is covered and some, I am sure, well-intentioned language on reporting and falsifying information to FERC, it does not cover a myriad of other manipulative schemes that have been deployed and used by Enron.

Fat Boy is not outlined under the Domenici language. Ricochet is not outlined under the Domenici language. Death Star is not outlined under the Domenici language. Load Shift, Get Shorty, and Wheel Out are not outlined under the Domenici language.

I understand the chairman wants to see that the manipulation stops. In this Senator's opinion, that manipulation will stop when this body stands up and says to the American people with simple language in the Power Act: Manipulated prices are not just, they are not reasonable, and anyone who deploys them are not doing so in the public interest, and we cannot give them market-based rates.

If this body will say this, then any future debate about natural gas prices will not be about whether some company manipulated them, it will be about the real issues of the supply and demand.

Let's give the consumers confidence that market manipulation is prohibited in Federal law and that this body does not condone Enron's activities but is going to be aggressive in outlawing them.

Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the bill before us does away with the Enron loophole, there is no question about it. If I came from California or Washington, I would come to the floor of the Senate and offer an amendment that was very precise and specific and talked about the problems of the people of the west coast. That is what the Senator is doing. But merely talking about them does not mean that the bill before us does not protect her people. The truth is, it does.

The Domenici amendment protects consumers in the States of Washington, California, and others who were victimized by the Enron scandal, and many others, and market regulations in California that were doomed from the outset to cause the failures that occurred. To regulate at one level and deregulate at the other level is clearly to invite exactly what happened, and then the spillover falls onto the adjoining States, including that of the distinguished Senator from Washington, Ms. CANTWELL.

I commend the Senator from Washington for her genuine and abiding concern for her people. I commend the Senator from California for her studious and lengthy involvement in attempting to ascertain and articulate the problems. But neither of those qualities require serious amendment to this bill. They require just what is happening: that the Senators representing those problems speak to the issues. And speak they have—3 hours and 15 or 20 or 30 minutes on this subject—and, I assume, before we are finished on collateral issues even more.

I could take out my preparatory books, where I spent hours talking to everyone of every ilk in every type of industrial input and involvement as we put this bill together, and read the language showing that what happened before will not happen again.

I could tell my colleagues what has happened is being broken up by those in the criminal justice structure of our Government, and those involved with the civil part are filing their lawsuits. Neither of the States involved are having the same problem because there are protections being carried out, and there will be more when this bill is adopted, without adding any more burdens, additions, or specificity to the bill.

It is with great regret that I suggest we keep—since it was worked out so delicately with so many different units, institutions, and groups—that we preserve the delicacy of this bill. The Senator who proposed this knows that the cooperatives that are very worried have spoken to the fact that they do not need any more protection. They have told her that. They have told her office that. And there are more associations beyond them that say their fears are alleviated by this bill.

I yield the floor, and we will proceed.

The ACTING PRESIDENT pro tempore. All time has expired.

The question is on agreeing to the amendment.

Ms. CANTWELL. Mr. President, I ask unanimous consent that Senator HARKIN and Senator ROCKEFELLER be added as cosponsors to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Specter
Stabenow
Wyden

NAYS—50

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Snowe
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—2

Kennedy
Kerry

The amendment (No. 1419) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to 60 minutes of debate with 30 minutes under the control of the Senator from Vermont, Mr. LEAHY, and 30 minutes under the control of the Senator from Kentucky, Mr. McCONNELL.

The assistant minority leader.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the time under my control be as in morning business.

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. It is my understanding the Senator from Kentucky is going to use the half hour under the rule now available before the Senate on the Estrada cloture. He is going to use his time as in morning business; is that correct?

The ACTING PRESIDENT pro tempore. That is the request. The Senator from Kentucky.

Mr. McCONNELL. I did not hear the assistant Democratic leader.

Mr. REID. I just said the half hour that you are entitled to under the Estrada time for cloture, you are going to use that as in morning business?

Mr. McCONNELL. I would say, Mr. President, that is correct.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Kentucky controls the time.

MEASURE READ THE FIRST TIME—S. 1490

Mr. McCONNELL. Mr. President, I send a bill to the desk and ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1490) to eliminate price support programs for tobacco and provide assistance to quota holders and tobacco producers and tobacco-dependent communities, and for other purposes.

Mr. McCONNELL. I now ask for its second reading and object to further proceedings on the matter.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will receive its second reading on the next legislative day.

TOBACCO MARKET ADJUSTMENT ACT OF 2003

Mr. McCONNELL. Mr. President, I rise today to introduce the Tobacco Market Adjustment Act of 2003. This is truly a key moment in the history of tobacco as each of the Senators from the leading tobacco-producing States stands united in support of changing the Government's involvement with tobacco.

This legislation enjoys the support of farm bureaus from Kentucky, North Carolina, Virginia, Tennessee, South Carolina, Georgia, Florida, as well as the support of the Burley Co-op, Burley Stabilization, and the Council for Burley Tobacco.

I ask unanimous consent to have letters indicating their support printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 16, 2003.

TOBACCO STATE SENATORS: For many tobacco dependent states in the Southeastern United States, tobacco buyout legislation, possibly coupled with FDA regulation of tobacco products, is the most important potential federal legislative initiative for 2003. The undersigned Presidents of State Farm Bureaus believe this is the year to accomplish a tobacco buyout. For that reason, we urge you to endorse the legislative language developed by many meetings of Senate staff and eventually pledge your willingness to cosponsor the legislation as it is introduced.

We continue to believe there are some details yet to be ironed out in the legislation and we look forward to working through those as we continue the process, but we believe that to move forward, it is imperative that all tobacco state Senators support one bill and we believe the legislative language developed by the Senate staff gives all of us the best shot at accomplishing a buyout this year.

We appreciate all the work you have done up to this point in ensuring that tobacco farm families have a vibrant future, and we look forward to continuing to work through this process in the weeks ahead.

Sincerely,

SAM MOORE,
President, Kentucky Farm Bureau.
FLAVIUS BARKER,
President, Tennessee Farm Bureau.
BRUCE HIATT,
President, Virginia Farm Bureau.
CARL LOOP,
President, Florida Farm Bureau.
LARRY WOOTEN,
President, North Carolina Farm Bureau.
DAVID WINKLES,
President, South Carolina Farm Bureau.
WAYNE DOLLAR,
President, Georgia Farm Bureau.

THE COUNCIL FOR BURLEY TOBACCO,
Lexington, KY, July 25, 2003.

Hon. MITCH McCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR McCONNELL: The Council for Burley Tobacco, Inc. believes that during the 2003 Legislative Session is the best and maybe the only time to pass a Tobacco Buyout Bill. We are concerned about the lateness of the legislative session.

We appreciate very much your leadership in developing a consensus buyout bill with the Senate Tobacco Group and we fully support your effort to introduce and move forward in the Senate the consensus bill.

Please let us know how we can help you with this process and again we thank you for your leadership and support.

Sincerely,

JOHNNY BULLOCK,
President.
DEAN M. WALLACE,
Executive Director.

JULY 29, 2003.

Hon. MITCH McCONNELL
U.S. Senate,
Washington, DC

DEAR SENATOR McCONNELL: We are writing to thank you for your ongoing effort to help tobacco farmers and our communities and to offer our support to secure Senate passage of your newly-drafted tobacco buyout legislation.

Our organizations and the farmers we represent firmly believe that the Congress has a unique opportunity to establish a new visionary tobacco policy in this country—one that will allow tobacco-producing communities to adjust to the realities of the permanently altered marketplace while simultaneously protecting public health. We are united in our view that the Senate consensus bill is a major step toward achieving that objective.

While we look forward to continued discussion on a few key provisions in the Senate bill, we intend to work vigorously to secure Senate passage of this legislation.

Again, thank you for your leadership and commitment to tobacco farm communities. We stand ready to work with you side-by-side to pass historic tobacco legislation in 2003.

Sincerely,

HENRY S. WEST,
President, Burley Tobacco Growers Cooperative Association.
GEORGE MARKS,
President, Burley Stabilization Corporation.

Mr. McCONNELL. Mr. President, tobacco was in the United States before Europeans arrived here. It is depicted in various places here in the Capitol. George Washington and other Founders of our country grew tobacco. It has been an integral part of our history.

It is also no secret that the use of tobacco is dangerous to the health of Americans. Increasingly that view is held by a large number of Americans. The unfortunate side effect of that from an economic point of view in a State such as mine, which still has 44,000 tobacco growers, is that their income continues to plummet.

Back in 1998, I first suggested a buyout might be an appropriate direction in which to go. Ironically, at that time, that was roundly criticized by all the farm organizations in my own State and across the burley belt and flue-curing areas, the argument being that it would lead to the end of tobacco production.

It is interesting, as I go across my State, that I am treated now as a visionary because it is now virtually the unanimous view of our growers and certainly the unanimous view of our farm organizations that a buyout is the only appropriate measure to take at this particular juncture in our history.

The reason for that is the quota established under the tobacco program back in the 1930s, which has been adjusted year to year all of these years, has declined dramatically—up to 40 percent in the last 3 or 4 years alone. Our growers realize they are sitting on a declining asset that lowers the value of their property and their farm values and it is time to act and to move in a different direction.

Simply putting together a buyout proposal everyone could agree to—that is the various farm organizations as well as Senators from tobacco States—has not been easy. In fact, we have been working on this for 6 months to get to the point of actually introducing a bill, which as we all know around here is just the beginning. When you introduce a bill, it is not easy. It has not been easy to get to this point, which many people would argue is just the start. We have, however, almost total consensus. We have 100 percent consensus among tobacco State Senators and almost total consensus among those involved in the production of tobacco. We feel that is a significant accomplishment although it certainly doesn't guarantee the result we all would like to see, which is a law.

We understand this issue is likely to go forward in the Senate in conjunction with an FDA tobacco regulation bill which is being worked on in the Labor Committee under the leadership of Senators GREGG, DEWINE, and KENNEDY. It is our hope at some point after the recess to link those two measures together with what we hope will be a formidable coalition here in the Senate across an ideological divide to move us in the direction of achieving both of these goals.

Frankly, accepting an FDA bill is a bitter pill for this Senator to swallow, and I think some other Senators from the burley belt and flue-cured tobacco areas. But that simply is the reality which we confront today. These measures are likely to move in transition.

I also want to commend my colleague from Kentucky, Senator BUNNING, who I know is here on the floor. He has been an integral part of the development of this bill, as well as our new colleague from North Carolina, Senator DOLE, who is also here, both of whom will be speaking momentarily. They have been completely involved in the formulation of this product from the very beginning. As I said, it has not been easy to get to this point. We all understand it is going to be difficult to move the ball even further down the playing field. But today we begin with unity. We begin with an aggressive effort to achieve this buyout for our farmers.

America's history is closely linked to tobacco. It provided the early settlers with a key crop for trade and barter, and it provided gentleman farmers throughout the colonies with livelihoods that sparked the first inklings of the dream of an independent country. Throughout this beautiful Capitol there are depictions of tobacco leaves signifying this crop's importance to the founding of this country. George Washington, Thomas Jefferson, and James Madison all raised tobacco. Almost no crop in the history of agriculture has provided so many with a living off of so little land.

In agriculture, it is popular to speak about the importance of supporting the small farmer. In reality, the number of small farms has declined as competitive forces have forced most farms to consolidate and diversify to compete. Many farmers now must work second jobs in addition to farming just to get by. However, over centuries, small farmers with limited land have been able to carve out a living farming tobacco. The average acreage per tobacco farm is 6.7 acres—for my friends from the South and the Great Plains, you know that these are some small farms.

In my home of Kentucky, tobacco production is intimately connected to the history and the culture of the State. In fact, the basis of agriculture in the State of Kentucky has been inextricably tied to this crop. Home mortgages have been based on crops, loans for small businesses, and even children's educations have been funded through the performance of an individual's tobacco crop. It has been said that "A good crop is a good Christmas."

At harvest time, families gather: sisters, brothers, aunts, uncles, cousins and children all set about the hard work of bring in a tobacco crop. In the late fall, when the markets open for crop, entire communities hold celebrations and ceremonies. The marketing process along with the auctions have a particular significance as the livelihood of an entire family is dependent on a good crop.

Throughout Kentucky, tobacco has helped small communities construct schools and convention centers, it has supported local governments, and most importantly, it has supported the small family farmer. In Kentucky, tobacco is considered the 13 month crop, since there is virtually no time during the year that difficult and labor intensive work is not required. Despite the difficult labor required, it has provided generation after generation with the opportunity to make a living.

However, the very qualities that have allowed tobacco production to continue through the years have also led to the dependence of a culture, and a region, on this crop. There is no simple solution to the problems facing tobacco farmers, but there are clear steps that we can and should take to help these individuals transition into a new era.

Most of the key tenets of the tobacco program were established by the Agriculture Adjustment Act of 1938. The program implemented a system of supply restrictions and price guarantees aimed at stabilizing tobacco prices and income. Under this program, farmers agreed to restrict supply via acreage/marketing allotments—or quotas—in exchange for minimum price guarantees. The levels of production were set each year to best ensure that the prices received for tobacco would meet or exceed the guaranteed price.

These marketing quotas were originally divided among active growers, but this production right was then handed down to heirs or sold to others as an asset. As a result, much of the quota is now controlled by non-producers who rely on proceeds from renting or leasing this production right to growers. It is regarded as an inheritance and has been relied upon to support many seniors' retirements.

In 1982, the first major modifications to the tobacco program were made, requiring the program to operate at no-net-cost to taxpayers. Since then, Federal funds have been prohibited from being used for export promotion of American tobacco or research relating to tobacco production, marketing, or processing. As a result of many international and economic factors, the price supports have been reduced several times since the 1980's as well.

Under the current program, levels of production are cut in an effort to ensure a stable price. With lower consumption and increased foreign competition, the levels of quota have been cut significantly and farmers are paying much higher quota rents to continue producing.

In 1998, I proposed a buyout of the tobacco program, but this measure failed due to a lack of support from grower groups and a lack of consensus among elected representatives from tobacco producing States. Since my effort in

1998, the programmatic decline of production has imposed severe economic hardships on tobacco producing communities. During a time when most agriculture production in this country has had to consolidate into larger operations to remain competitive due to economies of scale and foreign competition, tobacco farmers, faced with the same challenges, have actually been forced through this program to simply cut production. While manufacturing needs have only declined slightly, production quotas have been reduced by more than 60 percent. Such production cuts have forced domestic producers to vacate ever larger amounts of market share to foreign producers. As a result, domestic production levels have not been this low since 1908.

Despite financial help in the form of tobacco loss assistance payments, the crisis imposed by the program is plunging rural farm families in Kentucky and throughout the tobacco belt into poverty, bankruptcy, or simply eliminating the ability of entire communities to remain engaged in agriculture.

In less than a decade the number of tobacco farms in the United States has declined from 123,000 individual farms to right around 90,000, with 44,000 of those in Kentucky. At the same time the annual value of domestic tobacco farm production has fallen from an average of $2.8 billion per year during the 1990's to $1.7 billion in 2002. In Kentucky, tobacco represented 24 percent of total cash receipts for agriculture products during the 1990s. By 2001, cash receipts for tobacco dropped to 16 percent, and further quota cuts have continued to reduce the amount of tobacco that can be sold by producers.

Imports have also had a significant impact as the quality of foreign leaf has improved, domestic production has been restricted, and the price of U.S. tobacco has been kept artificially high by quota rent costs. These factors have led to dramatic increases in the amount of imported tobacco, with imports increasing by 25 percent between 2001 and 2002 alone.

Simply put, 165,000 of my constituents and 44,000 rural family farms in Kentucky are facing financial ruin due to the continuation of a program that we in the Congress have the power to change. In 1998, growers were divided on the issue and no consensus could be reached. Today, the introduction of this bill signifies the unified support of tobacco state Senators and growers to achieve the reforms.

The Tobacco Market Transition Act represents months of hard work and negotiation. Such an undertakiing has required input, debate and compromise over every element of the legislation ranging from the funding mechanism to the health consequence of the changes that we are proposing. It provides tobacco growers with a fair level of support for transition and tobacco quota owners with a fair level of compensation for their asset. We also worked to ensure that these payments are fully decoupled from current production, to avoid any possibility of trade implications.

The changes we propose represent a radical shift in the way that tobacco production will occur in this country. The current tobacco program has outlived its usefulness, and now represents a hurdle and a threat to the economic health of communities in tobacco producing states. Therefore, it is important to end the quota system and do away with the strict production control price support system to usher in the necessary reforms.

This legislation will provide $8/lb on 2002 basic quota for quota owners and $4/lb on effective quota for 2002 for growers over 6 years. The funds required will be obtained from manufacturers and importers of all tobacco products sold in the United States and shall total no greater than $13 billion. Many quota owners and growers would like to be compensated at higher levels, while many companies claim that the levels are too high. This bill represents our extensive efforts to take both the needs of the growers and the concerns of the companies into consideration.

No longer will quota owners have control over the right to grow tobacco, a right that has been handed down from generation to generation regardless of their actual involvement with production. In doing so, this bill eliminates the increasing expense of quota rent, which has artificially increased leaf prices without any benefit to actual growers or manufacturers. This requires that these assets, assets that were created and given value to through government policies, be compensated. The impacts on the growers will be immediate and the reduced costs of tobacco produced in the U.S. will reduce leaf prices for manufacturers who utilize domestic tobacco.

However, in our consideration of the problems facing the farmers and the manufacturers of tobacco products, it was essential to consider the adamant opposition of health groups to the unrestrained growth of tobacco throughout the United States. For years, tobacco production has been limited in both the area it could be grown and the amount that could be produced. Our proposal addresses these concerns by limiting tobacco production to traditional tobacco producing regions and providing a mechanism for producers to limit the amount of acreage grown for each kind tobacco to historically established levels.

The key difference between the programs of yesteryear and the reforms we are proposing today is the removal of the price guarantee for every pound of tobacco grown. Under this new system, production will reflect the market realities of the tobacco industry. This system provides key elements for tobacco dependent communities to transition out of tobacco production, while affording those who accept the risk, the opportunity to continue and compete in a shrinking and every more competitive market. Should these individuals choose to continue, we have created in this bill the opportunity for growers to insure themselves—at no expense to the U.S. taxpayer—against disastrous market conditions that might emerge.

In addition to the buyout of quota, transition payments to growers, and the new regulations governing tobacco production, this bill provides significant support to assist small tobacco dependent communities as they attempt to adjust to diminishing tobacco production.

This legislation will not solve all the problems that face small tobacco farms, but it does set in motion a system of reform and transition that will allow these individuals and these communities a chance to continue or move into new industries. Such continuation or transition will not be possible without this legislation. These communities are suffering due to problems with a government program that we have the power to change. As elected representatives, we have a responsibility to fix these problems, improve the lives of thousands of small farmers and greatly impact the future of an entire region.

I salute my colleagues from tobacco producing states for their hard work and willingness to compromise to reach this consensus legislation. It has been a long and difficult process, but this is only the first step in addressing this issue. For this exercise to have any meaning whatsoever, we need to enact this legislation and make these reforms as soon as possible.

The worst thing that can happen is nothing. So, I ask my colleagues from all 50 States for their support of the Tobacco Market Transition Act of 2003.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today in support of S. 1490, the Tobacco Market Adjustment Act. Since Daniel Boone first came through the Cumberland Gap in 1775, farming has provided the economic and cultural backbone of Kentucky.

The family farm is the foundation for who we are as a commonwealth. And for over a century, the family farm in Kentucky has centered around one crop—tobacco.

Tobacco barns and small plots of tobacco dot the Kentucky landscape. We are proud of our heritage and proud of the role that tobacco plays in our history. Recently, we have recognized that we cannot rely upon tobacco forever. We have seen the handwriting on the wall. In fact, in 1998 the Senate had a long debate about the future of tobacco. Nothing passed then. But ever since we have known that sooner or later the subject was going to return to the Senate floor.

Back in Kentucky, we have over the past few decades begun to diversify and to prepare for the future.

We have tried to broaden our agricultural base. And we have had some success with vegetables, beef cattle, raising catfish and expanding into other areas like ethanol production.

But, at the end of the day, nothing brings as much of a return to the small farmer and tobacco quota holder in Kentucky as tobacco.

Whatever the opponents of tobacco say, there is no denying that the future for thousands of family farms and small communities across the south is tied directly to tobacco.

This is a complicated issue. Many tobacco quota holders are not even full-time farmers and hold off-farm jobs.

And even full-time farmers usually do not raise only tobacco but grow it as only part of their total crop. But it is a crucial part, and for many families it is absolutely irreplaceable, because the money they get from tobacco pays their mortgage, puts their kids through school or allows them to keep farming.

Outside of the western part of our State, Kentucky does not have tens of thousands of acres of flat land. We need a crop that grows on rolling hills, that thrives in our climate and can be profitably raised on small plots that cannot accommodate other crops. Tobacco does that, and economically it is the only crop that can.

Farmers get a yield of over $4,000 per acre of tobacco. They get less than $300 per acre for corn, soybeans and hay. That is how big the difference is. This is what has made tobacco the economic linchpin for rural Kentucky. It is profitable and farmers rely on it. That might not be popular today but it's an economic reality we have to face.

This Senate cannot—and if those of us from tobacco States have any say about it, it will not—work on tobacco legislation without taking care of tobacco farm families. Time have been getting tougher and tougher for small farms and rural communities in Kentucky. Plus, as I am sure most of my colleagues know, there is no tobacco subsidy.

We do have a price support system and production control program. But even the quotas have lost 60 percent of their value since 1998. No business would be around if it lost 60 percent of its income in 5 years, and we have lost a lot of growers.

Many farmers are barely holding on. They need help.

We believe that the time has come to assist them and to get the Government out of the tobacco business at the same time.

Our bill, which has the full support of the grower community, will buy out the tobacco program. We will give our growers relief and end the Federal price support program.

We will let many growers, whose average age is 62, retire with dignity.

Dr. Will Snell, the highly regarded agricultural economist at the University of Kentucky, estimates 70 to 75 percent of tobacco growers will get out of the business with a buyout.

In recent years tobacco has come under fire from all sides. And while the antitobacco forces might not have intended it, their attacks are hurting tobacco farm families and rural America.

In Kentucky, we have counties that depend on tobacco for as much as 85 percent of their revenue.

Without a tobacco base, land values will collapse and rural communities could fall into an economic death spiral.

Falling land values mean lower property tax revenues and eventually severe cuts in services such as police, fire, and emergency services, schools, sewers, and roads.

For decades farms and small communities have been built around the cultivation of a legal crop. To change that now without accounting for the consequences would be devastating.

Our bill recognizes this reality and would offer some degree of economic certainty for tobacco farm families that toil at the mercy of forces more powerful than themselves.

Mr. President, I am a realist. I know that passing any sort of tobacco legislation in Congress is a difficult, uphill fight. And I do not know if we are going to be successful with this bill. But I do know that if any tobacco legislation passes, it must include help for tobacco farm families. It is the least we can do for them.

I urge my colleagues in this Senate to understand this problem we are having in these six tobacco States.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mrs. DOLE. Mr. President, tobacco farmers across the Southeast have been anxiously waiting for this day—the day when they can see hope for the future. During the past 6 months, Senator McCONNELL, Senator BUNNING, and I have been working with all of the other Senators from major tobacco States to craft legislation that will enable tobacco-dependent communities to survive.

The Tobacco Market Transition Act, which we are introducing today, will mark a major change from the current tobacco program, and it will bring a major sigh of relief to countless farm families across the Southeast.

For years, the Federal tobacco program created economic opportunity for farm families in North Carolina and other tobacco-producing States. It allowed towns to prosper that would have been hard pressed to make it otherwise. It provided stability when other commodities suffered low prices. It was the standard bearer of all farm programs. Buyers of tobacco would come from all over the world to purchase America's leaf. America's tobacco farmers held the world standard for quality, and they still do today. But the environment in which they find themselves is much different. And it is not of their own making.

The current tobacco program was never designed to accommodate the significant changes that have engulfed this industry during the past decade. Extensive litigation has forced the companies to cut costs and thereby purchase increasing amounts of cheap foreign tobacco. The increasing cost of U.S. leaf as a result of the current tobacco program has caused more and more foreign buyers to look elsewhere for their supply. The numbers do not lie: The United States now accounts for only 7 percent of all flue-cured tobacco production in the world.

We must not forget that behind every economic statistic is a human element. The tobacco farmer bears the brunt of these changing forces with nowhere to turn. Unlike the companies that can, and most often do, pass their extra costs on to the consumer, the tobacco farmer must absorb any extra cost and hope for better days ahead.

During the past 6 years, the amount of tobacco allowed to be grown—also known as quota—has been cut more than 50 percent. In fact, not since 1874 has so little been grown.

Let me explain what that really means. The tobacco farmer's paycheck has been cut in half. They only get that if they can produce a good crop. The weather, disease, and insect infestation make it all the more challenging. Costs continue to rise. And making this even more unbearable is the increasing cost of leasing quota.

In North Carolina, more than 60 percent of quota is leased—a major factor in the increasing cost of production. As quota has continued to decline, farmers have sought to rent more quota in order to maintain the economic viability of their operations. The quota owners, trying to maintain their income stream with less, demand a higher price for the use of their quota. It is simple supply and demand, with an aim at meeting a bottom line. But you can only go on like this for so long—until you reach the breaking point.

This is where the growers are today. Many have hung on and have continued to produce in hopes that things will get better, knowing that if they got out they would have to sell their farm and liquidate other assets to settle up their debt. Even then, many would still be short.

Every week my office receives calls from farmers in desperation. They have worked hard all their lives, sent their children to college, contributed to their community, but now—now—all of that is passing before their eyes. There is a deep feeling of helplessness.

It is estimated that more than 60 percent of the tobacco farmers today will exit the business entirely if a tobacco buyout is achieved. Most are at retirement age, just hanging on a little while longer in the hopes of being able to pay off their debt. Those who would like to continue to produce know their market is shrinking, not because of a lack of demand in the world for tobacco but because the price of U.S. tobacco is too high as a result of the current tobacco program. All they can do is watch as Brazil and other countries take their market share.

Many say: Well, why don't they just produce another crop? The truth is, they are. North Carolina ranks third in agricultural diversification, behind only California and Florida. Our farmers are very diversified but, as other Members from farm States will attest, prices have been at historical lows for every commodity over the past 5 to 6 years—further exacerbating the problem for tobacco farmers in the Southeast.

Tobacco farmers are at a crossroads but, unlike most people who reach a point of decision in their lives, these salt-of-the-Earth folks have no options because the current tobacco program does not accommodate the changes needed for them to have an opportunity to survive in this new marketplace. To them it is like standing on the tracks while watching a train speed closer and closer and yet they can't move. They strain and try but they are shackled with nowhere to go.

This is why a tobacco buyout is so sorely needed. It will allow those who want to retire the opportunity to do so with dignity, the opportunity to know that all they have worked for has not been in vain. It will allow the widow whose sole source of retirement income is from quota rent and Social Security the opportunity to get a fair return in exchange for the taking of her quota. It will allow young farmers who want to continue to produce the opportunity to compete in the world market—and compete very well because of their skills.

Let me bring a little more perspective to the buyout of quota. This program was created in the 1930s. Right or wrong, the Federal Government has allowed quota to be bought and sold. Rather than investing in stocks and mutual funds, as many Americans have, tobacco farmers and their spouses have invested in quota over the years to prepare for their retirement. But they never predicted this massive change in the environment for tobacco that has led to such a steep slash in quotas. And how could they? Unlike a stockholder whose shares lose value if the market tanks, the quota holder has lost not only the value from this steep decline in quotas but the quota itself—for good. Unlike the stock market where time is a prudent investor's best friend, those who have invested in quota will never get that investment back.

In the legislation we are introducing today, the Federal tobacco program is eliminated. Quota owners are compensated for their investments—for the taking of their asset—just as the owners of the peanut quota were compensated with the peanut quota buyout in the 2002 farm bill.

Traditional producers are provided direct payments over a 6-year period in order to allow them to better transition into this new marketing environment—again, mirroring what Congress provided for all program crops under the 2002 farm bill.

There is no recreation of price supports or a new quota program. Rather, this legislation keeps tobacco production in traditional areas and on a traditional level of acreage while allowing private industry to develop insurance products so farmers will be better able to manage their price risk in the free market.

Perhaps the most important point for my colleagues in the Senate: Every penny that this buyout will require is paid for in full by all manufacturers and importers that sell tobacco products in this country.

Status quo is simply not an option. If nothing happens this year, many of these farmers will be forced to give up all they have. After 6 years of loaning on collateral, there is nothing left for the banks to do except foreclose. There will be no holding out for just a little while longer. This may sound like rhetoric to some but it is the precise truth for countless numbers of farm families. The lenders who call my office confirm it. Status quo is simply not an option.

I thank Senator McCONNELL and his staff for working so diligently to address this issue. It is vitally important that this legislation is achieved this year.

I am grateful, indeed, for Senator McCONNELL's commitment and Senator BUNNING's commitment to making this a reality. I look forward to my continued work with them and all the other tobacco State Senators on this important legislation. It is either now or never. Many livelihoods hang in the balance, and with it the future of rural communities in North Carolina and other tobacco-producing States. These rural citizens, the very ones who have helped make this country great, have been caught in a battle between corporate interests, some greedy trial lawyers, and those whose true desire is to ban tobacco from the face of the Earth. Let us allow these farm families who have been trapped in this battle to move on with their lives. They deserve it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank the Senator from North Carolina and the Senator from Kentucky for their important contributions to the development of this legislation. I also want to make clear to our colleagues this is a bipartisan bill. Senator EDWARDS of North Carolina, Senator HOLLINGS of South Carolina, Senator MILLER of Georgia, and Senator BAYH of Indiana are also cosponsors. In fact, there are 13 cosponsors of this important legislation. This is critical to our section of the country. We are going to work as intensely as we can to achieve the result for which our farm families are hoping.

With that, how much time remains on this side?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has 7½ minutes remaining.

Mr. McCONNELL. I will reserve that time. I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? Who yields to the Senator from Pennsylvania?

Mr. McCONNELL. I will be happy to yield such time to the Senator from Pennsylvania as he desires.

SPEECH BY PETER R. ROSENBLATT

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Kentucky.

I have sought recognition to comment about a very profound speech which was made by former Ambassador Peter R. Rosenblatt to the American Jewish Committee in Detroit, a speech which has a unique historical perspective, makes an analysis of the new-fashioned war, the asymmetrical war of terror, comments about the trio of terrorists, those who harbor terrorists, and the possession of weapons of mass destruction, and has a perceptive analysis of the complex role of the United States on working through the complex relationships with so many countries and the United Nations as we assert our role as the world's sole superpower.

This is a speech worth reading very broadly. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

THEN, NOW AND TOMORROW: AMERICA'S ROLE IN A CHANGING WORLD

Throughout recorded history the relationship amongst states has been determined primarily by the largest and most powerful among them and by their efforts to protect their interests within a stable state system. That may seem a statement of the obvious but it has become an issue now, as never before. In order to understand how, why and to what extent such a basic condition of human history may now be in question we must reach back to the political roots of the modern world.

It all goes back almost two centuries ago to the Congress of Vienna in the immediate aftermath of the French Revolution and the Napoleonic Wars. The victors of those wars, Britain, Prussia, Austria and Russia, joined with the restored royalist regime of defeated France to establish a new European order which, to all intents and purposes, meant a new world order. It endured, with modifications, for nearly a century.

Towards the middle of the century a number of major events threatened to unravel the stable Great Power relationships that had prevented major wars. The popular revolutions of 1848 undermined or overthrew traditional regimes, Italy was reunified in 1856 and, most importantly, the reunification of Germany was completed in 1871.

In 1862 King William I of Prussia had appointed Otto von Bismarck as his Chancellor. In three brief military campaigns in seven years against Denmark, Austria and France, respectively, Bismarck expelled the three states with opposing interests in Germany and in 1871 the new German Empire was proclaimed by King William, now Emperor William I.

The German Empire emerged from this series of events as the leading military power of Europe and Bismarck set to work to secure the new state against the pressures that he knew would inevitably build up against the leading power. Chief among the sources of this pressure was defeated France, now in her Second Republic and deeply embittered by her humiliation on the battlefield and the loss of two border provinces. Bismarck realized that French hostility to Germany had become a fixture of European diplomacy and that France would ally itself with any of the other three Great Powers which might, at one time or another, wish to align itself Germany. Bismarck saw Germany as what he called a "satisfied" power which, after its unification, wanted nothing further from the other powers and was therefore primarily interested in a restoration of the stability that had prevailed since the Congress of Vienna. Understanding that in a constellation of five greats powers Germany must be, as he put it, on the side of the three, he saw that it would be necessary for Germany to ally itself with Austria-Hungary and Russia. Of the other two Great Powers, France was in permanent opposition and Britain, an active colonial rival of France, adhered to a policy of "magnificent isolation" and therefore wished to become no one's ally—and least of all France's.

When Bismarck's chancellorship ended in 1890, his brilliant diplomacy had secured Germany as the linchpin of Europe, the leading power in an alliance structure of three, on good terms with England and absolutely unassailable militarily. He had created a state system so stable that even the unrelenting hostility of France threatened neither the security of Germany nor the peace of Europe.

The old Emperor's grandson and successor, the arrogant and foolish young William II, failed to understand Bismarck's statecraft and in short order terminated the alliance with Russia, throwing that country into the arms of France and dividing the continent into two increasingly unstable alliance blocs, which left Britain holding precarious balance. William then alienated Britain by a vast naval building program designed to match Britain's navy. Thus in a few years time William II reversed Bismarck's diplomatic accomplishments, ending a century-long period of stability which had seemed to make a major war unthinkable. In its place the statesmen of the time substituted uncertainty, rivalry between two alliance blocs and fear, always the enemies of peace. With the destruction of Bismarck's state system the world lost a stability which we have not succeeded in regaining in 113 years. The outcome was World War I, in some ways the major tragedy of the 20th Century, which destroyed the optimistic and predictable post-Napoleonic world of our ancestors.

Out of that war there emerged an entirely new and different state system of five powers, an exhausted and depleted Britain and France, revolutionary Soviet Russia and the newest entrants into the field, Japan and the United States. After fifteen years of turmoil and economic depression the five were joined by a resurgent Germany under Nazi rule. Unlike the stable state system of the 19th Century the inter-war state system was highly volatile and ultimately collapsed due to the weakness and passivity of England and France, the isolation of the United States and the aggressive expansionism of the other three.

World War II produced an entirely new state system of two great powers with a global reach engaged in a titanic struggle for dominance and survival. The cold war was a zero sum game in which the advantage of one became a loss to the other. The defeat of the Soviet Union in this massive half century long struggle produced a result unprecedented in world history; a single global power militarily, politically and economically vastly more powerful than all of its actual or potential rivals.

It would be a mistake, however, to think that because this is so there is no longer anything resembling a "state system" in the world today. There are now five other powers each one of which could, under appropriate circumstance, present a challenge to the United States over time and with which we must learn to live on a basis of mutual accommodation. These are Russia, Japan, China, India and Europe, when Europe becomes significantly unified to act with one voice. Each of these is currently unable to present a significant challenge to the United States because of severe internal problems which inhibit the full realization of its potential power.

Russia has not recovered from the wars, misrule, economic mismanagement and intellectual distortions of the 20th century.

Japan, having prospered under the U.S. defense umbrella through the mobilization of its ancient social and cultural system, now suffers the downside of the very same system.

China will eventually become a great military power through the diversion of resources which are needed to bring its entire population into the modern world and to overcome vast internal demographic, social, economic and even hydrological problems, any one of which would alone take a generation to cope with.

Much the same could be said of India whose agenda, in addition, is still dominated by the unresolved consequences of the subcontinent's messy partition in 1947.

Western Europe, though prosperous, is disunited and disarmed. It is as unprepared to assume the responsibilities of a great global power as England and France were in 1939.

The wonderful professors who taught me my freshman European history course at Yale were fond of saying that "history does not repeat itself, only historians do." But certainly this maxim does not preclude even the devoted student of Professors Foord and Mendenhall from attempting the occasional historical analogy. We have arrived at this new phase of history very much more powerful in relation to the other major powers than was Germany after 1871. But like Germany then we are a "satisfied" power which wants nothing from any other. Our diplomatic task, like Bismarck's, is therefore to crate and preserve global stability. But our efforts to do so will have to be focused on new and different issues in addition to those which preoccupied Bismarck; and they are just as subject to mismanagement, the consequences of which could be even more catastrophic.

Now, why do I recite all of this history for you if the facts of today's world are so very different? Well, it is because the power politics of the 19th and 20th Centuries persist even as we cope with an entirely new class of threats arising from a totally different source. It's a bit like the science fiction movies in which a world preoccupied with its normal conflicts and rivalries is suddenly confronted with a unifying threat from outer space. But unlike the movies, there is little present evidence of a global appreciation of the magnitude of the threat.

The old world has not been abolished. International relations are still largely determined by the most powerful states—disproportionately our own. Just as in Bismarck's day, armies, economic power and cultural influence still determine the pecking order among states. Nor is there the slightest reason to expect that the major states will cease competing with each other.

But since September 11, 2001 Americans and a few others have become conscious of a new and terribly destabilizing overlay on the traditional state system which we are just in the earliest stages of understanding. I refer not just to terrorism, but more broadly to the ever increasing capacity of small, poor, weak states, terrorist groups, criminal organizations or even individuals to gain access to the most terrible weapons of mass destruction (WMDs) and to use them against the most powerful states or to hold them to ransom by threatening their use. The fact that increasingly powerful weapons are becoming ever easier and cheaper to buy or produce places them within the reach of the familiar rogue's gallery of terrorist sponsoring or harboring states and to irresponsible non-state actors. It is not terrorists or terrorist harboring states or WMDs alone that are so terribly menacing and destabilizing in today's world, but the conjunction of all three.

The use of these terrible WMDs has been largely avoided up until now through the doctrine of deterrence—the threat of retribution as terrible or more so than the initial assault. That doctrine has depended for its viability on an assumption that the nation to be deterred is managed by at least minimally responsible leaders with enough judgment not to attack when the cost of so doing would be unacceptable. But how does one deter a WMD assault by a fanatic or psychotic adherent of some doctrine who has no regard for his own or any one else's life? And how does one deter a group if one cannot find it or if it is only one of many capable of mounting a devastating attack without leaving a fingerprint? And even if one were able to identify and find such a group, and if one were willing and able to buy it off, how much security would that bring and for how long?

This new global configuration has come to be known as asymmetrical warfare, in which the weak attack the strong without hope of victory in the conventional sense. The attackers have only the power to destroy. When Prussia defeated France in the Franco-Prussian War of 1870 Germany replaced France as Europe's strongest power. When the U.S. won the cold war it became the sole superpower. If Al Qaeda or some successor were, God forbid, to deliver a WMD to New York, Washington or Chicago in a shipping container or suitcase and detonate it, it could kill many Americans and do grievous damage to the U.S. economy, but it could neither conquer the U.S. nor replace it. The purpose of terrorist organizations which pursue this form of warfare is, rather, the survival of enough of them to attack again and again. Chaos, not direct conquest, is the objective. The theory of asymmetrical warfare conducted through terrorism is to disrupt the stronger power's enconmy, social cohesion and morale though massive human and material casualties so as to ease the path for the terrorists' political or other objectives.

The administration has reasonably concluded that a successful defense against asymmetrical warfare requires us to seize and hold the initiative. We simply cannot wait until the fatal conjunction between terrorists and WMDs occurs, most likely in the relative security of a terrorist-harboring rogue state, and we are confronted either with a WMD attack or with blackmail threats of such an attack.

We are therefore required to embark on a non-traditional policy of searching out, seizing or neutralizing through diplomatic, covert or, if necessary, military means any rogue states, terrorists, fanatics, criminals and psychotics who we believe are actively attempting to acquire and use, or threaten to use WMDs, or to harbor, support, supply or passively tolerate those who would do so. The administration has called this a policy of pre-emption and has explained that the threat is too urgent and the costs of failure too grave to allow us to respond solely through the usual diplomatic requests for investigative assistance, extraditions and trials by jury. In other words, we are engaged in war—a type of war for which there is only one historical precedent—but a war nonetheless, and not a criminal prosecution.

The precedent is, of course, Israel, which has been made a testing ground for the strategy of asymmetrical warfare. All the ingredients are there, even if they have not worked as the attackers have planned. Terrorists are the delivery vehicles. The West Bank and Gaza were designed to be the harboring states after the Palestinian Authority was placed in charge of the so-called Area A under Oslo and after Israel's withdrawal from southern Lebanon. And WMDs? Well, fortunately none have yet been used, but not for lack of will. The Israeli authorities stopped an attempt to destroy Tel-Aviv's largest office building, the Azrieli Tower, and a fuel storage area north of Tel-Aviv. If either of these efforts had succeeded the casualties might well have matched those of 9/11.

The asymmetrical war of terror hasn't worked against Israel. The impact has been opposite that which the attackers expected. Israeli morale remains high, divisive internal disputes have been largely laid aside, and Israel has struck back with tremendous force and effect. Later, if not sooner, the impact intended for Israel may, in fact, be visited upon the attacker's own society.

Just as the war of terrorism being waged against Israel was a harbinger of the war now being waged against us and the rest of the civilized world, so Israel's reaction forecast ours. Israel long since identified this assault as a war rather than a criminal problem. Israel determined that it could not afford to wait until terrorist attacks occurred to take action against its sponsors. And it determined that preemptive action, in order to be effective, required military intervention in the harboring areas and elimination of those who plan, lead and execute the assaults.

The administration has made quite clear, through its actions more than its words, that it has gotten the message. It now rarely criticizes Israel for pursuing policies locally which it, itself, is pursuing globally.

Like Israel we are engaged in a twilight war in which we can be certain of the full support of only a few nations. Unlike Israel we do have some support from many others, but only we, Britain, Australia, Poland and a few others are willing to take the initiative in prosecuting the war with full vigor, and only our government does so with substantial popular support.

This circumstance requires that we maintain an international diplomatic posture and military force directed simultaneously at maintaining our political primacy and military superiority vis-à-vis other major powers, while waging active diplomatic and military warfare against terrorists, those who harbor or tolerate them and the proliferation of WMDs.

That is going to be expensive. We have seen that it took most of our West European allies only a decade of inattention and deeply slashed defense budgets to become nearly irrelevant to the global strategic equation. Far from cutting down on major weapons systems we are going to have to keep on developing new generations of them while we reconfigure a portion of our military to enable it to intervene anywhere in the world on very short notice to carry on the new war and, if necessary, to conduct what President Bush used to call "nation building."

We will also have to figure out how we are going to pay for all of this without killing the goose that has been laying all those golden eggs—by saddling ourselves with unacceptably high taxes or huge, escalating deficits.

It will also take active and imaginative diplomacy for us to avoid the fate of William II by alienating the rest of the world. We can afford to ignore or exclude a France which seeks actively to undermine our national interests. But only if we can ensure that it is France and not we that becomes isolated in consequence. We cannot win this war without the active support of most, at least, of the world's major powers who see themselves to some extent as our rivals. And we will require at least the acquiescence of much of the rest of the world, including the Islamic world, whose governments are the terrorists' primary targets but many of whose ordinary people feel at least some sympathy for the terrorists' proclaimed objectives.

Well, that brings us back to our starting point this evening; our relationship with the world's other major powers. Anti-proliferation efforts and the war against terrorism cannot be conducted successfully by the U.S. alone. Therefore, it is necessary for us simultaneously to conduct our relationships and to contain our rivalries with these powers—perhaps it would be more accurate to say their rivalries with us—in the traditional manner on one level, even as we seek to lead them in a priority joint campaign against a global threat which some of them do not regard as seriously as we, but which has or soon will target all of them.

To some extent, this is happening even now. France, with which we have serious and perhaps enduring differences of a geo-political nature, is cooperating with us in intelligence sharing in relation to the war on terrorism. China, which views us as a rival for influence in East Asia, is beginning to co-operate with us in dealing with the nuclear threat posed by its North Korean ally. And China and our old adversary, Russia, identify their campaigns against separatism amongst their Moslem minorities with our war on terrorism—a very uncomfortable fit for us.

The United Nations Security Council, seen after 9/11 as the logical instrument for organizing the world consensus against terrorism, proved incapable in the face of discord over Iraq among its permanent members. It was therefore bypassed, for much the same reason that it was bypassed during most of the cold war. Its structure no longer reflects the realities of the current global state system—if it ever did—and it is unlikely to realize its full potential until it, along with the entire United Nations system, is restructured. The UN today is a shambles, and not merely because Nauru with 6,000 citizens has the same General Assembly vote as China's 1.2 billion, nor because Libya is elected to chair the UN Human Rights Commission, or Iraq the Disarmament Commission or Syria becomes a non-permanent member of the Security Council, or that the UN and its agencies spend vast amounts of their time, effort and resources debating and implementing annual resolutions directed exclusively against Israel. No, the UN is a shambles because so much of what it does is irrelevant to the world's major issues that it lacks credibility even among those of its members who are chiefly responsible for its distortions.

But before we dismiss the UN as entirely irrelevant let us recall a few salient truths:

Metternich could conduct the Congress of Vienna, Bismarck the Congress of Berlin and Wilson the Versailles peace conference with four other principles and reshape the world. We are relatively far more powerful than any of those principals were, but we cannot be as effective as they were then in our war against terrorism, even with the co-operation of the 15 members of the Security Council.

The world has become so small and dangerous a place that we cannot even consider trying to stabilize it without the active participation of much of the rest of the world.

Therefore, if the UN did not already exist it would have to be invented. Only we, with our enormous power and influence, can make it work to focus the world's attention upon the current version of the threat from outer space.

So here we are, the most powerful nation the world has ever known; and what is our number one global problem? A collection of small to medium third world countries none of which has ever won a war against anyone, with economies a tiny fraction of ours, most of whose people are still living in the Middle Ages, and rag-tag gangs of fanatics and criminals which, if they should ever acquire the world's most powerful weapons, may be undeterrable and unappeasable and may use these weapons rather than submit.

The real authority in our world may be distributed—albeit unevenly—among six major powers. But neither we, as the first among them, nor a majority of them as in Bismark's alliance system nor all of them acting together, as in Vienna, Berlin, Versailles or last year in Security Council Resolution 1441, can absolutely ensure our safety. But we have no alternative but to try to create sufficient harmony among the world's principal powers to turn back the dark forces that threaten civilization.

TRIBUTE TO ASSISTANT U.S. ATTORNEY THOMAS P. SWANTON

Mr. SPECTER. Mr. President, I pay tribute to a very distinguished lawyer, Thomas P. Swanton, who has been in my office for more than 2 years on assignment from the Department of Justice, and I thank the Attorney General and the Department of Justice for this program which enables Senators to have excellent legal service and gives a different perspective to those who are assigned to a Senate office.

Tom Swanton is an extraordinary lawyer. He has come to my office with extensive trial skills and has done extraordinary work on counseling in my office, on post-9/11 legislation, on working on nominations, on legislative packages involving the death penalty, and the war on terrorism.

He has worked hard on these issues—each time jumping in feet first, soaking up knowledge, and moving legislation forward in this often complicated process. From his first assignment, he earned the respect of my staff, as well as mine.

Tom's primary duty consisted of working as my legal counsel for Judiciary matters where he handled a wide variety of issues. He also proved to be of invaluable assistance in crafting several pieces of post-September 11 legislation, all the while leading an investigation on terrorism financing. His skills and judgment in this arena are exceptional. My staff and I were constantly impressed with the wealth of knowledge he demonstrated.

Tom also provided a tremendous service to the people of Pennsylvania in working on issues such as class action reform and the Patents Bill of Rights. He demonstrated a remarkable amount of enthusiasm and initiative throughout his entire fellowship.

His dedication to each project was remarkable, and the assistance he provided to my office will not be easily matched. However, for Tom this level of dedication is par for the course. Since his graduation from West Point in 1983, he has consistently served our country. Prior to his service with the U.S. Attorney's office, Tom served in the United States Army and is currently a LTC in the Army Reserve.

Tom's personal record is equally distinguished. Those who know him well consistently praise his qualities as a devoted husband and father of four beautiful children.

I urge my colleagues to join me today in commending Tom Swanton for his service as a legal fellow and for his devotion and leadership to our country.

TERRORIST PROSECUTION ACT

Mr. SPECTER. Mr. President, this morning a group of Senators met with Israeli Prime Minister Ariel Sharon in a very informative session as part of Prime Minister Sharon's visit to the United States where yesterday he met with President Bush.

An item which has been worked on for many years has been the effort to try in the U.S. courts Palestinian terrorists who murder U.S. citizens abroad. The Terrorist Prosecution Act, which I wrote back in 1986, provides for exterritorial jurisdiction where U.S. courts have jurisdiction to try a Palestinian terrorist who murders an American citizen.

There are two prominent cases which could lend themselves to this approach. One case involves a Palestinian terrorist who is in the United States, where we have jurisdiction over him, where we need the cooperation of Israel in providing the witnesses. It was a matter which I discussed this morning with the Prime Minister, and we are working to see if we can secure that kind of cooperation. It was pointed out that sort of cooperation has been present in the past, and we are seeking to bring that about here.

Another possible prosecution would involve a Palestinian terrorist who confessed on television, so there is no issue about the voluntariness of his confession. There is a potential problem in that Israel opposes the death penalty and characteristically will extradite only where there is assurance from the country receiving the individual that the death penalty will not be sought. I believe there are exceptions under Israeli law where Israeli national security is involved. I believe the threat of the war on terrorism would qualify under that section.

There is a second aspect, and that is the vindication of U.S. rights where American citizens are murdered by Palestinian terrorists in Israel. I think there is a very real issue about vindicating U.S. interests. We are going to continue to pursue that line.

One other observation in the brief amount of time remaining. The meeting between President Bush and Prime Minister Ariel Sharon was a very warm and a very good meeting. One of the items which I think bears a little focus is the unusual rapport between these two men, where President Bush referred to Prime Minister Sharon by his first name "Ariel," and Prime Minister Sharon reciprocated by referring to President Bush as "George." I think that signifies an unusually warm relationship.

It brings to mind comments by Prime Minister Begin who visited the United States back in June of 1982 and met with a group of Senators, and at that time made a comment that President Reagan had asked Prime Minister Begin to call President Reagan "Ron." Prime Minister Begin said that he deferred, which led President Reagan to say to Prime Minister Begin: Well, Menachem, if you don't call me Ron, I won't call you Menachem.

Prime Minister Begin went through that circle but refused to call the President by his first name, referring to the President as a Head of State.

I think it is a very encouraging sign when the President of the United States and the Prime Minister of Israel are on a first name basis. That bodes very well for the relationship.

I note the time of 1 o'clock has arrived.

The ACTING PRESIDENT pro tempore. The time controlled by the Senator from Kentucky has expired.

Mr. SPECTER. Mr. President, I yield the floor in any event.

EXECUTIVE SESSION NOMINATION OF MIGUEL A. ESTRADA TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I believe the regular order is for the minority to be given a half hour on the proposal to proceed with the Estrada nomination; is that correct?

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New York has one-half hour under his control.

Mr. SCHUMER. Mr. President, we are back to voting on whether to proceed with the Estrada nomination. Before I get into the merits of Mr. Estrada, I want the record to show that we have now confirmed 140 of the President's nominees. By the end of the week, it could be over 150. By the end of the week, we may be blocking as many as 4. So right now it is 140 to 4 and could be at the end of the week 150 to 4. That is a record that even Yankee fans would be jealous of.

We have this view of some, including the White House, that we are obstructionist because we have tried to block 4 out of 140 nominees. My guess is if James Madison or George Washington or Benjamin Franklin or any of the Founding Fathers were looking down on this Chamber, they would say: Why are they blocking so few? We wanted the President and the Senate to come together on judicial nominees.

It outlines in the Federalist Papers that the Founding Fathers didn't want the President to have sole power to choose judges, nor did they want the Senate to be a rubber stamp. In fact, one of the first nominees, John Rutledge from South Carolina, was rejected by the Senate, which contained a goodly number of the Founding Fathers themselves because they were appointed to the Senate in those days right from the Constitutional Convention. Rutledge was rejected because of his views on the Jay Treaty.

So this idea that unless we find the candidate to have some kind of criminal record or has done something unethical, we should not be examining that record or speaking to that record makes a good deal of sense. President Bush is a classic case of what the Founding Fathers were worried about in the way he has chosen his nominees because the Founding Fathers, I believe, wanted nominees to be from the American mainstream. They wanted them to interpret the law, not to make law.

There have been times when judges have leaned to the far left—the 1960s and 1970s—and they now lean to the far right. The bench becomes infused with ideologues and ideologies, and those judges want to make law, not interpret law—very much against what our Founding Fathers wanted. That has been the case of President Bush. I don't think it is disputed that he has nominated judges through an ideological prism more than any President in our history. You don't have a sprinkling of Democrats or liberals or even moderates—you have a few moderates, but the overwhelming majority of the President's judges have been hard core, hard right. A few of them have been so far over that they don't deserve nomination. They include Miguel Estrada and Priscilla Owen, and they include, in my opinion, two nominees we may vote on later this week: Carolyn Kuhl, and the attorney general of Alabama, Pryor.

If you look at the records of these judges and you put scales, left to right, 10 being the most liberal and 1 being the most conservative, these judges are ones, to be charitable. When Bill Clinton nominated judges, he nominated mainly sixes and sevens, people who tended to be a little more liberal, but were moderate and mainstream—very few legal aid lawyers or ACLU charter members, much more prosecutors and partners in law firms.

This President, for whatever reason, has chosen to nominate judges way over to the far right side.

I am proud of what we have done in this Chamber. I am proud that we are bringing some moderation to the bench. I am proud that we are following the wishes of the Founding Fathers and not just being a rubber stamp. For those who try to beat us with a two-by-four, by calling names, by saying we are anti-Black, anti-Hispanic, anti-Catholic, anti-women, when we oppose a judge who happens to be of that description, we are not going to win. We believe in what we are doing. We believe it is mandated by the Constitution. We believe we are following the will of the American people who don't want judges either too far left or too far right.

I assure you, Mr. President, and I assure President Bush, and I assure my colleagues in the Senate that we will continue to do this. You can prolong this and put up all the visuals and nasty ads you want, like the one just run by one of the President's associates in Maine, accusing those who will vote against Mr. Pryor of being anti-Catholic, including good Catholics in this Chamber. That is wrong. In fact, I think it is reprehensible. But I tell the other side, not only will it not work, if anything it strengthens our desire to do the right thing.

Let's talk about Miguel Estrada. This nominee was unusual in this sense: He had no real record because he had not been a judge previously, nor written law articles. By many reports, his views were very extreme. But when I approached the hearings for his nomination, and when many colleagues did, we were willing to see what he thought. The bottom line is that he didn't tell us what he thought. The bottom line is that when he was asked very simple questions on issues that he had an obligation to expound upon, such as: What is your view of the first amendment; how broad or narrow should it be; what is your view of the commerce clause; what is your view of the relationship between the States and the Federal Government; he kept hiding behind this idea that canon 5 of lawyers ethics says you should not comment on a pending case if you are nominated to be a judge, so that he could not comment on anything. If Mr. Estrada were asked how should Enron be treated, he would rightfully say: I cannot answer that because I might judge Enron on the bench. But if he is asked what his views on corporate ethics are, of course, he has an obligation to answer that question. He did not. And doing so was an affront, not to any one individual, but to our Constitution.

If Mr. Estrada were correct, then probably most of the judges we have nominated in the last two decades should be cited for violation of canon 5. They all answered these questions. Judges nominated by President Bush before and after Estrada have answered these questions. So why would Mr. Estrada not come clean and tell people what he thought? Why would he not do what every American has to do?

When every American applies for a job, the employer says: Please fill out this questionnaire. Can you imagine someone saying I refuse to fill out the questionnaire in getting the job? It would be rare to do that. That is what he did. He is applying for a job—not just any job, but one of the most important jobs this Government has—a Federal judge, with awesome power. He kept refusing to fill in the job application form by answering the questions we had asked.

We then came to the question: How could we tell what his views were? We did not stop. We asked him, and we asked the Justice Department to give us some documents about issues on which he had worked when he was in the Solicitor General's Office. There were some in that office who reported, again, that his views were way over, that they were extreme, and we were refused our request..

I will tell you this, Mr. President, and I will tell every Member of this Chamber, as long as Mr. Estrada refuses to answer questions about issues over which he is going to have virtual life and death power in terms of governing the American people and we do not know how he feels, we are going to continue to block him. We are proud of that fact.

At first when it started, most people said: Don't do it; politically they will attack you—and this and that. I told my colleagues I thought we ought to do it because it is the right action to take, regardless of politics.

A funny thing has happened. Politics seems to be rolling in our direction. People are beginning to understand that this President is not nominating mainstream, moderate judges. People are beginning to understand that there is a desire to pack the courts and turn the clock back.

Congress will not turn the clock back. The President himself will not turn the clock back. We are elected. But if you put judges in, they can turn the clock back for a whole generation. There is a view out there that this is happening.

What started out as something done out of a deep conviction remains a deep conviction, and our view about the direction of this country, our view about the appropriate role of the Senate in the nomination process of judges is not ending up to be the political loser that some prognosticated.

We will continue to block this nomination. If nominees stubbornly and arrogantly refuse to answer legitimate questions of members of the committee, we will not allow them to become judges. That is not our doing in an ultimate sense; it is their own doing. If nominees are so far out of the mainstream that it is quite clear they will make law, not interpret the laws that others have made, we will oppose them as well.

We will vote on the nomination of Mr. Estrada for the seventh time. I make the point that my good friend from New Mexico was saying we have to move the Energy bill forward. Our majority leader is saying we have to move the Energy bill forward, but we are taking out time to vote on this nomination again. The purpose I do not know, a purpose grander than I can think of. But we are here and we are doing it.

No one has changed his or her minds. Mr. Estrada has not answered the questions, and as long as he continues not to answer these important vital questions, he will not be approved.

Mr. President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will use some of the allocated time on the nomination to make a comment. We have been debating the Energy bill for the last couple of days and, of course, for good reason; the distinguished majority leader has said he wants to move this legislation forward and that we ought to do all we can to find a way to resolve the many issues that are still pending on energy prior to the end of the week.

I cannot think of a more counterproductive effort, a more counterproductive device, than to bring back a nomination that has already been before the Chamber six times. I certainly am not questioning the majority's motives. I do not question their desire to finish the Energy bill, but I do question the management of our time when I think with every bit of sincerity our Republican friends tell us they want to finish this bill.

We are now in a quorum call in the middle of the day on a nomination that has already been before the Senate six separate times this year. Six times we have debated whether Miguel Estrada ought to be required to do what every nominee is required to do, which is answer the questions and fill out the job application. Six times, without equivocation, Senators said you do that and we will take another look at your nomination.

Here we are now for the seventh time, in the middle of an energy debate that we are told by the majority must be done, debating once more this very issue.

That is not all. Yesterday we debated Priscilla Owen, and I think that was for the third time. Tomorrow we may debate another nominee, William Pryor, for the first time. Who knows what could come on Friday.

The majority needs to show us they are truly intent on working with us through these many important issues before they can convince us that they want to finish the job on energy.

It is 1:25 and for the life of me I cannot understand why we are in the middle of a quorum call on a judicial nomination that has come before us on six other occasions. That is not good time management. It is not a good practice. It obviously has not generated much interest, and I think it is a huge waste of time.

I only come again to express my disappointment and my puzzlement, my lack of ability to answer the question why is this happening now, when we have so much work to be done.

I will make another prediction. This vote will not change. If we do it 18 more times, it will not change. So we can continue to waste our time or we can continue to find ways to work together to use our time a lot more effectively than we are using it now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the minority leader for his comments on this Miguel Estrada nomination.

As a member of the Senate Judiciary Committee, I can say we have been very cooperative with the Bush administration. Of the 146 judges, if I am not mistaken—the minority leader can correct me but I think it is in the range of 140, and then there are five or six judges in another lifetime category that some add in, but whatever the number, 140, 146, it is significant—only two nominees to date have been held.

We have a responsibility under the Constitution, as Members of the Senate, to advise and consent to the President's nominees, and that means more than a rubberstamp. In the Miguel Estrada case, he is a person with extraordinary academic credentials and an extraordinary legal background who has refused to provide the Senate and members of the Judiciary Committee important writings he generated which would reflect on his view of the law. He has said we cannot see them.

A few months ago, when we first considered this nomination, the Republican Senator from Utah came to the floor—not Senator HATCH but his colleague Senator BENNETT—and suggested maybe the answer to this impasse is for the White House to release these documents for us to review, and once having reviewed them we can decide whether to move forward with this nomination.

I was here and I said I applaud that; I think that is a reasonable standard of conduct. Within hours, the White House came out and said publicly, we will not release them. We do not believe we have to, and we are not going to generate this kind of paperwork that may make Estrada's nomination more controversial. That was the end of the story. That has been the end of his nomination. So it was a conscious decision by the White House not to release documents which may give us an insight into Miguel Estrada and his lifetime appointment to one of the highest Federal courts in the land.

In the Priscilla Owen situation, she is a classic judicial activist. We have nominated and approved scores of conservative judges for the Bush administration. She reached a new level, a level of judicial activism which has put her in a special category with Miguel Estrada.

Now because of those two nominees being held up, we see practices in the Senate Judiciary Committee that are unprecedented. Rule 4, which is this obscure rule of the committee, was put in place by Senator Strom Thurmond years ago to protect the minority. It is now being ignored on a regular basis, twice in the last few months by Senator HATCH. This rule basically says if the majority wants to, they are going to move a nominee regardless of whether there is minority opposition. That was never the practice of the committee. It is now. It is an effort by the Bush administration and their supporters and the Senate Judiciary Committee to basically ignore the precedent.

In the next couple of days, we are going to consider two other nominees, and they are fraught with controversy. William Pryor of Alabama has become a lightning rod on Capitol Hill. If one looks at his background, what he has done as attorney general in the State of Alabama, they can understand why. This is a man who goes far beyond conservatism. His positions on issues far and wide are so controversial. I said during the course of the committee, when one looks at the controversial positions that have been taken by William Pryor, the Attorney General of Alabama, it is like an all-you-can-eat buffet. You do not want to fill up your plate early on with his controversial statements, discriminating against women, because you have to save room for his controversial statements when it comes to the environment and to civil rights.

When it is all over, you are going to need more than one plate to get through the William Pryor all-you-can-eat buffet of controversial positions.

This man is headed for the floor. How did he get here? He got here by circumventing an ethics investigation which was not completed. A decision was made by the Republicans in the Senate Judiciary Committee that we do not need to finish that investigation; we are just going to send him to the floor. Then they went through that shameful display on the issue of his religion, which I hope never again is brought up in the Senate Judiciary Committee but was brought up for William Pryor. Finally, they jammed it through, strong-armed his nomination to the floor, under rule 4.

So here we sit in the minority and what are we supposed to do? Are we supposed to ignore these tactics, this departure from the precedent of the Senate Judiciary Committee? Are we supposed to ignore the fact that at least two, maybe four or five, of these nominees clearly would never have passed through the Senate Judiciary Committee under any other circumstances but for these tactics? I think if we did that, we would be ignoring our constitutional responsibility.

Whether the nominee is William Pryor, Miguel Estrada, or Priscilla Owen, time and again we have to stand and accept our constitutional responsibility to really stand in judgment as to whether these individuals deserve a lifetime appointment to the Federal court. Miguel Estrada, until he is ready to come clean with his writings so we understand who he is and what he believes, I am afraid is going to face the same fate over and over again.

The Republicans can call this to a vote as often as they want.

Our Senate Democratic leader, Senator DASCHLE, is right: The Democrats will hold fast to the position. Until he is forthcoming and honest and open as to who he is and what he believes, he does not deserve this high appointment to a Federal circuit court. That spells out why we are here.

I also add, I listened for days last week and this week as the Republicans complained we were not spending enough time on the Energy bill; we were finding all sorts of excuses not to get down to the work of the Energy bill. We are certainly not on the Energy bill right now. We were not yesterday when we voted on Priscilla Owen, nor will we be later in the week when other judicial nominations come to the Senate. Any excuse will do to get off that bill, it seems. I had hoped we would stay on it and do our work. I offered my amendment early. Others have done the same. We will continue to make the symbolic votes.

If we are going to have true comity in this institution, if we are going to have a cooperative relationship, it will require us to deal with this on a bipartisan basis. I urge my colleagues to continue to oppose the nomination of Miguel Estrada.

Mr. LEAHY. Mr. President, yesterday the assistant minority leader made some cogent observations about how the Senate is being required to expend hours on matters that are leading nowhere and take away from debate on the Energy bill. If the Republicans were truly serious about finishing the Energy bill this week, they would not be scheduling hours of debate on contentious judicial nominations. Nor for that matter would they break for several hours yesterday to have a pep rally at the White House. From the Senate schedule, an objective observer would have to think it is more driven by partisanship and trying to score political points than a desire to make progress on the business of the Senate and on the issues that are the most important to the American people.

This week we have not proceeded to the foreign operations appropriations bill, which contains a number of matters of overriding importance to the country and the world, although Chairman MCCONNELL and I have been ready to proceed. We have not proceeded to the energy and water appropriations bill or the other appropriations matters that need to be concluded soon for the Government and Government programs to continue to operate in the fiscal year that will soon be upon us. Usually we devote July to appropriations matters but the Republican leadership has chosen to take this week off in that regard.

Today we must again return to the controversial nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. The last cloture vote on this nomination was scheduled on May 8. The only thing that has changed since that unsuccessful vote is that the administration and some Republicans in the Senate have ratcheted up their unprecedented partisanship and the use of judicial nominees for partisan political purposes.

I spoke yesterday about the new low to which some Republican partisans have stooped in political ads and charges that should offend all Americans. I again challenged Republicans and the administration to disavow those despicable efforts but, instead, they are choosing to continue to support the smear campaign of insult and division. Yesterday I inserted into the CONGRESSIONAL RECORD some of the articles and editorials that comment upon this most troubling development.

Yesterday I also had the opportunity to meet with representatives of the Interfaith Alliance. I thank them for condemning these unwarranted attacks and for standing up for the Constitution and the first amendment rights of all Americans. Reverend Gaddy, Father Drinan, Reverend Veazy, Right Reverend Dixon, and Rabbi Moline understand what is afoot and have spoken out in the best tradition of this country, and I thank each of them.

I do not expect the vote on this nomination to change today. Nothing has been done to accommodate Senators' concerns. No arrangements have been made to provide access to the documents requested in connection with this nomination that are available to the administration and that Mr. Estrada said he had no objection be provided. Thus circumstances have not changed since the first vote on this nomination or the most recent vote back in May.

There continues to be, in the phrase favored by the White House, "revisionist history" regarding the precedent of providing the Senate with legal memos to the Solicitor General and by the Solicitor General and similar documents in connection with nominations for both lifetime and short-term posts. Senator SCHUMER, Senator KENNEDY, and I have detailed those earlier precedent in earlier debate. It has not been refuted. It cannot be refuted. Facts are stubborn things. Nonetheless the administration and Republicans continue to ignore the facts seeking political gain and have chosen to use Mr. Estrada as a pawn in their efforts. That is unfortunate and regrettable.

We have worked hard to try to balance the need for judges with the imperative that they be fair judges for all people, poor or rich, Republican or Democrat, of any race or religion. This has been especially difficult because a number of this President's judicial nominees have records that do not demonstrate that they will be fair and impartial. In response, the White House and its allies have bombarded the airwaves with all manner of misleading information to try to bully the Senate into rolling over and rubberstamping every one of its these nominees.

The claims that we are anti-Hispanic or anti-Catholic or anti-woman or anti-Christian are part of Republican politics of attack and division as taught by Presidential advisor Karl Rove and as implemented by the administration's allies in the Senate and C. Boyden Gray and his so-called Committee for Justice, who paid for the most recent volley of ads. These dirty tricks are nothing new to this gang. Earlier this year, Mr. Gray and his group ran ads insinuating that Democrats oppose the nomination of Mr. Estrada because he is Hispanic, ads which were refuted by the courage of many Latino leaders and Latino civil rights groups which spoke out against confirming Mr. Estrada. Mr. Gray's group recently ran print and radio ads calling Democratic Senators anti-Catholic because they oppose President George W. Bush's most controversial and divisive appellate nominee, Alabama Attorney General Bill Pryor. These are despicable and false charges intended to distract the public from the serious evidence that Mr. Pryor was chosen because he would be an unfair, results-oriented judge. This type of demagoguery, in its shameful effort to mislead and inflame, should be disavowed.

The cynical political games are all the more disappointing from a President who campaigned claiming that he was going to be a uniter not a divider and set a new tone in Washington. The reality is that on nominations this administration goes out of its way to choose divisive nominees. The tone set by the White House has been unilateral and been marked by a refusal to consult with Senators in advance of nominations and to accommodate concerns raised.

Senate Democrats have more than demonstrated our good faith. We inherited 110 vacant seats in the Federal judiciary in July 2001, vacancies that were increased and perpetuated under Republican control of the Senate. In 17 months, Democrats worked hard to have the Senate confirm 100 of President Bush's judicial nominees.

Second, as of July 28, 2003, the Senate has confirmed 140 of President Bush's judicial nominees, including 27 circuit, or appellate, nominees. This is more circuit court judges confirmed at this point in his Presidency than for his father, President Clinton, or President Reagan at the same point in their Presidencies. It is more judges than a Republican-controlled Senate allowed be confirmed in any 3-year period serving with President Clinton.

We are finally below the number of vacancies Republicans inherited in 1995, and earlier this year we reached the lowest number of vacancies in the Federal courts in 13 years. This from the 110 vacancies that Democrats inherited from Republican obstruction. Indeed, today there are more full-time Federal judges serving on the Federal courts than at any time in U.S. history.

These confrontations and problems with nominations are of the White House's own making. It is true that some of this President's judicial nominees with troubling records have not been confirmed. It is also true that Democrats have supported as many nominees as we could responsibly. Democrats have not been spoiling for a fight.

We did not seek out the nomination of Judge Pickering or Judge Owen. But we treated them fairly and much more fairly than Republicans had treated President Clinton's nominees to the Fifth Circuit by according them hearings, debate, and a committee vote. They were rejected. For the first time in history a President nonetheless renominated those rejected by the Senate Judiciary Committee. That it was unprecedented is part of the difficulty with these controversial and divisive nominees. Justice Owen is someone whom Republican judges on the Texas Supreme Court criticized as a judicial activist.

We did not seek out the nomination of Miguel Estrada, but we accorded him a hearing and sought to consider the nomination responsibly. We are being required to vote without all the information we need. The committee did vote, which was more than was accorded President Clinton's nominees to the DC Circuit. The Senate is resisting a vote without knowing more about Mr. Estrada's work and judgment. Democrats did proceed to vote on and confirm the nomination of another to the DC Circuit in spite of Republican obstruction of President Clinton's nominations to that important court.

We did not seek the controversial nominations of Jeffrey Sutton, Timothy Tymkovich, or Dennis Shedd, but we proceeded with them. They each received more negative votes than required to prevent cloture, but we proceeded. We proceeded on Deborah Owen, Michael McConnell, and a number of strongly conservative and controversial nominees.

We have not chosen these fights this week. They have been staged by the Republican leadership. We have fought them for the sake of the American people, the independence of the Federal courts, and to preserve the Senate as a check on this expansive court packing by the Executive.

Republican partisans have responded to the sincere concerns of numerous Senators about the records of controversial nominees by demanding that Senate rules be changed to force votes on the most extreme nominees. This effort is in the wake of repeated violations by Republicans of longstanding committee rules and agreements to allow sufficient time to review the FBI investigations and legal careers of the President's nominees for these powerful positions with lifetime tenure. With the Constitution's guarantee of lifetime jobs for judges, we cannot correct mistakes made in a slipshod confirmation process.

In their quest to limit public scrutiny, Republicans have invented interpretations of the Constitution without any basis in tradition or history. Although they now contend that the Constitution requires an up-or-down vote on every judicial nominee, the plain facts are that they blocked up-or-down votes on more than 60 of President Clinton's judicial nominees and more than 250 of his nominees to short-term positions in his administration.

Did they engage in wholesale constitutional violations during President Clinton's Presidency? I did think their one-person filibusters by anonymous, secret holds were unfair, and that is why I made blue slips public as chairman and have supported ending anonymous holds.

Our Democratic Senate leadership worked hard earlier this year to correct some of the problems that arose from some of the earlier hearings and actions of the Judiciary Committee in violation of rules that have served the committee and the Senate well for a quarter of a century. However, once again just last week, the Republican members of the Judiciary Committee decided to override the rights of the minority and violate longstanding committee precedent under rule IV in order to rush to judgment even more quickly for this President's most controversial nominees. That was another sad day in committee. And yet Republicans persist in their obstinate and single-minded crusade to pack the Federal bench with right-wing ideologues, regardless of what rules, longstanding practices, personal assurances, or relationships are broken or ruined in the process.

These rules and precedents are not just "inside baseball." They are the core of the rule of law in our system of government. If those elected will not follow rules to confirm judges or create statutes, then we have little hope that the rule of law will prevail in our courts and in our country. Republicans in the Senate seem intent on sacrificing the role of the Senate as a check on the Executive for the short-term political gain of this White House.

The Framers expressly protected Members' freedom of debate in the Constitution. The Constitution also gives the Senate the power to devise its procedural rules. There is no requirement in the Constitution that matters be decided by simple majorities or that all bills or nominations be brought to a vote.

As the Supreme Court has recognized that "Certainly any departure from strict majority rule gives disproportionate power to the minority. But there is nothing in the language of the Constitution, our history or our cases that requires a majority to always prevail on every issue." Gordon v. Lance, 403 U.S. 1 at 6, 1971, finding constitutional local voting rules requiring a majority of 60 percent to pass a measure. The notion that every nominee is entitled to a vote on the Senate floor is defied by decades of practice over the past two centuries.

Filibusters and other parliamentary tactics to delay matters were known to the Framers. There was even a filibuster in the first Congress over locating the Capitol.

More importantly, the Framers created the Senate to be unique from the House in the protections for the rights of each Senator and the stability and continuity in this body. Unlike the House, the Senate is not reborn every 2 years but two-thirds of its Members remain through every election. The Framers gave the Senate special powers, as a check on the executive branch, to confirm nominees or to decline to do so, affirmatively or by inaction.

History shows that since the early 19th century, nominees for the highest court and to the lowest short-term post have been defeated by delay, while others were voted down. Not even President Washington's nominees were all confirmed. One of President Washington's short-term nominees, Mr. Benjamin Fishbourn's nomination to the port of Savannah, was defeated on the floor of the Senate because of the opposition of both Georgia Senators. Many Supreme Court nominations were defeated through inaction or delay, rather than by failed confirmation vote.

For 160 years, until 1949, there was no way, other than through unanimous consent, to bring a judicial or executive nomination to a vote. For the past 86 years, the Senate has required a vote of two-thirds to end debate on changing any rule of procedure, made explicit in 1959. For the past 54 years, the Senate has required more than a simple majority, ranging from two-thirds to three-fifths, to bring a judicial nomination or legislation to a vote. For the past 25 years, the Senate has required three-fifths of the Members sworn to vote to end debate on any matter, other than amending the rules, two-thirds.

The Senate and the Nation not only have survived all of these years while respecting freedom of debate but have thrived, strengthening our democracy by ensuring a forum that honors the passionate views and interests of a minority of its members while checking the caprice of temporary majorities, particularly regarding the lifetime appointments to our Federal courts.

As the late, eminent Professor Lindsay Rogers observed, "the fact of the matter is . . . that, as the much vaunted separation of powers now exists, unrestricted debate in the Senate is the only check upon president and party autocracy." The American Senate 164, 1926. We would all do well to remember that, as the scholar Charles Black observed, "If a President should desire, and if chance should give him the opportunity, to change entirely the character of the Supreme Court, shaping it after his own political image, nothing would stand in his way except the United States Senate."

If we give up the genius of the checks and balances of the Constitution as embodied in the role of the Senate exercising its independent judgement to confirm or reject lifetime appointees, by vote or inaction, the American people will be the losers. Yet some Republicans seem intent on inflicting more damage, to the process, to the Senate, and to the independence of the Federal courts.

Republicans claim there has never been a filibuster of a circuit court judge. This is false. As recently as 2000, Senator FRIST and his Republican colleagues filibustered two of President Clinton's circuit court nominees. One of those nominees, Judge Richard Paez, a Mexican American nominated to the Ninth Circuit was subject to filibuster procedures and other blocking tactics that prevented him from being confirmed for more than 1,500 days. That was a circuit court filibuster, even though it was ultimately unsuccessful. At the same time, Republicans were simultaneously filibustering the nomination of Ninth Circuit nominee Marsha Berzon. This was in addition to nearly 2 dozen other circuit court nominees who were languishing or defeated in committee without a vote in committee or on the floor as well as dozens of other district court nominees.

Republicans who now claim that the Constitution requires a majority vote on every judicial nominee should explain how Republicans through secret objections, blocked votes on more than 60 of President Clinton's judicial nominees, including nearly 2 dozen circuit court nominees. For Republicans to claim that the process is now broken because a few of President Bush's circuit court nominees are being debated in the light of day, rather than defeated in the dark of night, is breathtaking in its hypocrisy.

Republicans also blocked more than 250 of President Clinton's nominees to short-term positions in his administration. For example, they successfully debated to death his nominations of an ambassador, Sam Brown, and of Dr. Henry Foster to be Surgeon General, in addition to the other more than 300 judicial or executive branch nominees blocked in the dark of night by one of more Republicans. I mention this because I just cannot imagine how they can get away with these false claims, which the most recent history of nominations clearly refutes. This data is publicly available.

The Senate, unlike the House, has never had a rule allowing a simple majority to force a vote on any matter. Only for the past 54 years have Senate rules allowed fewer than the agreement of all Senators to force a vote on a nomination, reducing the number needed to end debate from unanimous agreement to the current number, 60 votes. These rules help ensure that lifetime appointees have wide, rather than narrow, support because consensus nominees are more likely to be fair than extremely divisive ones.

The nomination we vote on today, that of Mr. Estrada, is another divisive nomination of this President. Despite the overtures that have been made to the White House to ask them to honor past precedent and provide Mr. Estrada's memos to the Senate, the White House has refused to budge. Instead of honoring that precedent, the White has sought to break other precedents and understandings in the quest to win confirmation at any cost.

Just last week, the White House signaled again its refusal to seek compromise or accommodation for the sake of the fairness of the courts. The President nominated two more controversial individuals to the DC Circuit. This is just one more sign in a long line that this White House is determined to continue to divide the American people with its nominations and to pack the courts in order to win judicial victories for its ideological agenda and its allies at the expense of fairness for all.

Since the administration has not provided the information requested more than a year ago with respect to Mr. Estrada, nothing has been done to alleviate concerns about this nomination.

Mr. HATCH. Mr. President, I rise today to speak on the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit. It is truly a sad record that the Senate is now being obstructed by multiple filibusters on judicial nominees and that we are required to conduct an unprecedented seventh cloture vote on this particular extremely qualified nominee.

Let me state that a clear majority of this body supports this nomination, as has been demonstrated in the past six cloture votes. So it is regrettable that a minority number of Senators have followed their script of extraordinary obstructionism to prevent the Senate from concluding the debate on this nomination and proceeding to a final vote.

It has now been 6 months since Mr. Estrada's nomination was reported by the Judiciary Committee and placed on the Senate Executive Calendar. It has been nearly 8 months since he was renominated by President Bush. It has been more than 10 months since his hearing before the committee, and I has been more than 2 years since he was first nominated by President Bush on May 9, 2001.

In all of that time my Democratic colleagues have had unlimited opportunities to make their case. Some of them oppose him; others support him. But one thing has remained clear through this debate: There is no good reason to continue this route of obstruction by denying Mr. Estrada an up-or-down vote.

We are at a troubling point in Senate history. Over the past few months I have spoken frequently on the calculated effort to stall action on President Bush's judicial nominees. There have been efforts to bottle up nominees in committee, to inject ideology into the confirmation process, to delay by demanding production of all unpublished opinions of nominees who are sitting Federal judges and making demands for answers to questions that are unanswerable. And, in the case of Mr. Estrada, opponents have demanded he produce confidential internal memoranda that are not within his control. When these tactics have failed, opponents have turned to their ultimate weapon—the filibuster.

Filibusters of judicial nominees allow a vocal minority to prevent the majority of Senators from voting on the confirmation of a Federal judge, a prospective member of our third, coequal branch of Government. It is tyranny of the minority, and it is unfair to the nominee, to the judiciary, and to the majority of the Members of this body who stand prepared to fulfill their constitutional responsibility by voting on Mr. Estrada's nomination.

I am not alone in my disdain for delaying or defeating judicial nominees through a cloture vote. I think that it is appropriate at this point to note that many of my Democratic colleagues argued strenuously on the floor of the Senate for an up-or-down vote for President Clinton's judicial nominees.

The distinguished minority leader himself once said, "As Chief Justice Rehnquist has recognized: 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.' An up-or-down vote, that is all we ask. . . ."

The ranking member of the Judiciary Committee echoed these sentiments when he said, ". . . I, too, do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41."

Another one of my Democratic colleagues, Senator KENNEDY, himself a former chairman of the Judiciary Committee, had this to say: "Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that's obstruction of justice."

The distinguished Senator from California, Senator FEINSTEIN, who also serves on the Judiciary Committee, likewise said in 1999, "A nominee is entitled to a vote. Vote them up; vote them down." She continued, "It is our job to confirm these judges. If we don't like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that don't pass muster, vote no."

My other colleague from California, Senator BOXER, said in 1997, "It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor."

My colleague from Delaware, Senator BIDEN, also said in 1997, "I . . . respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor."

The qualifications of Miguel Estrada are well known to the Senate. However I would like to briefly remind my colleagues of his outstanding record of accomplishment. Miguel Estrada represents an American success story. Born in Honduras, he immigrated to the United States as a teenager to join his mother. Overcoming a language barrier and speech impediment, he graduated magna cum laude and Phi Beta Kappa in 1983 from Columbia College. At Harvard Law School he was an editor of the Harvard Law Review and graduated magna cum laude in 1986.

Mr. Estrada's professional career has been marked by one success after another. After graduation he clerked for Second Circuit Judge Amalya Kearse—a Carter appointee—then Supreme Court Justice Anthony Kennedy. He worked as an associate at the distinguished firm of Wachtell Lipton in New York. He then worked as a Federal prosecutor in Manhattan, rising to become deputy chief of the appellate division. In recognition of his appellate skills, he was hired by the Solicitor General's Office during the first Bush administration. He stayed with the SG's Office for most of the Clinton administration. When he left the SG's Office, he joined the D.C. office of Gibson, Dunn & Crutcher, where he has continued to excel as a partner and has risen to the top of the ranks of oral advocates nationwide, having argued fifteen cases before the Supreme Court.

The legal bar's wide regard for Mr. Estrada is reflected in his evaluation by the American Bar Association. The ABA evaluates judicial nominees based on their professional qualifications, their integrity, their professional competence, and their judicial temperament. Based on its assessment of these factors, the ABA has bestowed upon Mr. Estrada its highest rating of unanimously well qualified.

His supporters include a host of well-respected Clinton administration lawyers, including Ron Klain, former Vice President Gore's chief of staff; Robert Litt, head of the Criminal Division in the Reno Justice Department; Randolph Moss, former Assistant Attorney General; and Seth Waxman, former Solicitor General. I have, on previous occasions, placed letters of support in the record. I would refer my colleagues to previous statements regarding Mr. Estrada's qualifications and endorsements.

Yet, despite the superb record, qualifications, temperament and experience of Mr. Estrada, he continues to be blocked in his nomination. In support of their obstruction, our Democratic colleagues have repeatedly raised red-herring issues with two demands that Mr. Estrada answer their questions, and that the administration release confidential memoranda he authored at the Solicitor General's Office.

With regard to the first demand, the record is clear that Mr. Estrada spent hours during a day-long hearing answering my Democratic colleagues' questions. He answered written questions submitted after the hearing. He gave answers to questions that were substantially similar to answers given by Clinton nominees who were confirmed. Yet my Democratic colleagues still complain that he has not answered their questions. Really, their complaint is that, in answering their questions, Mr. Estrada did not say anything that gives them a reason to vote against him. Simply put, they are not interested in his answers to their questions—they are interested in defeating his nomination.

This is why every effort to make Mr. Estrada available to answer additional questions has gone virtually unacknowledged. He has been made available to answer written questions and to meet with individual senators. There has even been an offer to make Mr. Estrada available to answer questions in a second hearing. But only one Democratic Senator has met with Mr. Estrada since these offers were extended, and only one has submitted written questions since the floor debate began, to which Mr. Estrada has responded. We have met our Democratic colleagues more than halfway on this, but they insist on continuing down this path of obstructionism.

Their second demand, for the Solicitor General memoranda, has been fully debated. The short response is that never before has a Presidential administration released confidential appeal, certiorari, and amicus recommendations on the scale that my Democratic colleagues seek for Mr. Estrada. This is a full-scale fishing expedition, pure and simple, and the Justice Department is right to oppose it.

Despite these supposed reasons for denying an up-or-down vote on Mr. Estrada's nomination, I think there are other factors. Last fall a Democratic staffer on the Judiciary Committee was quoted in The Nation magazine as saying, "Estrada is 40, and if he makes it to the circuit, then he will be Bush's first Supreme Court nominee. He could be on the Supreme Court for 30 years and do a lot of damage. We have to stop him now."

So it appears that the real reason for this filibuster is the threat of a Justice Estrada on the Supreme Court. An editorial appearing in the Atlanta Journal-Constitution said it best: "The fear with Owen and Estrada is that one or both will be nominated to the U.S. Supreme Court should a vacancy occur. Senate Democrats are determined to keep off the Circuit Court bench any perceived conservative who has the credentials to serve on the U.S. Supreme Court."

There is an additional factor that is not based on any substantive objection to his nomination. I believe that some Senate Democrats do not want the current President, a Republican President, to appoint the first Hispanic as United States Circuit Judge for the District of Columbia Circuit.

Let me read from an editorial published by the Dallas Morning News addressing this point. On February 17, 2003, the News wrote, "Democrats haven't liked Mr. Estrada from the beginning. Part of that is due to his ideology which is decidedly not Democratic. But part of it also has to do with the fellow who nominated him. Democrats don't relish giving President Bush one more thing to brag about when he goes into Hispanic neighborhoods during his reelection campaign next year. They are even less interested in putting a conservative Republican in line to become the first Hispanic justice on the Supreme Court."

Miguel Estrada will be an excellent Federal judge. Today, once again, we have a choice either to continue to block another highly qualified nominee for partisan reasons or to allow each Senator to decide the merits of the nomination for himself or herself. I choose to vote against obstructionist tactics and permit an up-or-down vote on the nominee. I urge my colleagues to do likewise.

I ask unanimous consent the Atlanta Journal-Constitution editorial to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal-Constitution, May 4, 2003]

DEMOCRATS USE WRONG ROUTE TO WIN SOUTH

(By Jim Wooten)

U.S. Senator John Kerry (D-Mass.) brought his presidential aspirations to the South last week, promising in Alabama that he will make the national party competitive here once again.

Make competitive, he neglected to mention, a party that has positioned itself in opposition to the war in Iraq and anything other than token tax cuts, and as Democrats reminded the nation once again about the elevation of conservatives to the federal bench. While the White House may appeal to some as inside work with no heavy lifting, getting there through the South toting this party's agenda will be a task requiring Herculean labor.

Just this week, for example, Kerry's Democratic colleeagues—Georgia's Zell Miller excepted—began to filibuster the nomination of Texas Supreme Court Justice Priscilla Owen to the New Orleans-based 5th U.S. Circuit Court of Appeals.

Kerry and other Democrats are already filibustering the nomination of Miguel Estrada to the District of Columbia Circuit Court of Appeals—the first time simultaneous filibusters against judicial nominees have occurred in the U.S. Senate.

Both Owen and Estrada are superbly qualified in every respect. Yet on Owen, those who complain that a "glass ceiling" exists for women of achievement are busily constructing one to keep her in her place. And those who complain that the federal bench lacks "diversity" find Estrada to be too much diversity for their taste. He is considered to be a conservative, and the interest groups that drive the Democratic Party nationally fear Owen is, too, at least on their abortion litmus test.

The fear with Owen and Estrada is that one or both will be nominated to the U.S. Supreme Court should a vacancy occur. Senate Democrats are determined to keep off the Circuit Court bench any perceived conservative who has the credential to serve on the U.S. Supreme Court.

Kerry, then, and the legions of presidential soundalikes who campaign with him, have to come to a region where conservatism is the mainstream to explain how reducing federal taxes is bad and cheating exemplary women and minorities of the fair hearing they have earned before the U.S. Senate because they might be conservative is good.

"I can help you wage a fight down here and rebuild this party for the long," Kerry said in Birmingham. Republicans have carried Alabama in all but three presidential elections in the past 50 years. Jimmy Carter in 1976 was the last Democrat to carry the state. George W. Bush carried every Southern state in 2000, including Tennessee, his Democratic opponent's home state. Al Gore Jr. thought so little of his Southern prospects that he actively campaigned in just three states—Tennessee, Florida and West Virginia.

Some Democrats, said Kerry, were "surprised" that he visited Alabama.

No surprise that he visited. The real surprise is the party baggage he hauled.

Opposition to tax cuts is comprehensible. Politicians loathe interruption in the flow of spendable revenues. Opposition to the war is, too. Too confrontational. Angers adversaries. Provokes understandable aggression, for which we bear unexpurgated sin.

While some positions are understandable, not so their party-line opposition to Owen and Estrada. Owen, the new filibusteree, drew the American Bar Association's highest rating. She is a cum laude graduate of the Baylor University Law School who scored the top grade in Texas on the bar exam. She practiced 17 years before becoming a judge and has been widely praised for her integrity and ability. Liberal groups say, unconvincingly except when they are talking to each other and Senate Democrats, that she is anti-abortion and pro-business.

Being a neighborly people, Southerners of course welcome Kerry to visit the region and to indulge himself in its hospitality. But the senator should not indulge himself into believing that a party that opposes tax cuts and filibusters nominees such as Owen and Estrada has the slightest chance of carrying this region.

[From the Dallas Morning News, Feb. 17, 2003]

RUSH TO JUDGMENT: ESTRADA NOMINATION HAS BEEN BLOCKED TOO LONG

There is a time for talking and a time for voting. The time is past for the U.S. Senate to talk about Miguel Estrada's nomination to the federal Court of Appeals for the District of Columbia circuit. It's time to vote.

Having emigrated from Honduras as a teenager unable to speak much English, Mr. Estrada went on to graduate magna cum laude from Columbia University and Harvard Law School, to clerk for a Supreme Court justice, to serve two administrations in the U.S. solicitor general's office, to win more than a dozen cases in the Supreme Court. In short, the 42-year-old lawyer is talented. Who knew that talent would extend to tying the Senate in knots for days on end.

Democrats by now are in full filibuster. Senate proceedings, as carried on C-Span, resemble the firm Groundhog Day, where the main character has to relive the same day over and over again. Every day, it's the same thing. Democrats get up, march over to the podium, shuffle papers and recite their main complaint with Mr. Estrada—that he's conservative, unconventional and unapologetic. That when he had the chance to hand them the rope with which to hang him during his hearing before the Senate Judiciary Committee, he refused to hold up his end.

Democrats haven't liked Mr. Estrada from the beginning. Part of that is due to his ideology—which is decidedly not Democratic. But part of it also has to do with the fellow who nominated him. Democrats don't relish giving President Bush one more thing to brag about when he goes into Hispanic neighborhoods during his re-election campaign next year. They are even less interested in putting a conservative Republican in line to become the first Hispanic justice on the Supreme Court.

And so they have talked and talked, in hopes that Republicans will back down. They won't. Nor should they.

Republicans certainly stalled their share of appointments during the Clinton administration. But Democrats are being shortsighted in seeking retaliation. It is precisely these sorts of narrowly motivated temper tantrums—from both sides of the political aisle—that turn off voters and make cynics of the American people. When that happens, it doesn't matter which nominees get confirmed or rejected. Everybody loses.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. FRIST. All time has expired?

The PRESIDING OFFICER. That is correct.

Mr. FRIST. I will use a couple minutes prior to the vote in response to some of the comments that have been made, specifically in response to the Democratic leader's comments which I understand really are two.

Are we committed to addressing energy issues and completing this bill? We are. We will continue to work aggressively on this bill starting earlier than we normally would and continuing later tonight. Again, I ask for amendments to come forward. We are going to address them one by one in a systematic way with adequate time for debate and amendment.

Second, the question has been raised as to why we are considering these votes today, such as cloture on Miguel Estrada. The answer is, the American people deserve it. They understand we are not fulfilling our responsibility in this body without an up-or-down vote. That is our job. That is our responsibility. It is advice and consent of the judicial nominees sent by the President of the United States. That is being denied by the other side of the aisle. That is unacceptable to us. That is why that is being voted on today.

I made it very clear in my request both publicly and otherwise that we would like to stack these votes as we are voting on other energy amendments; it is not us who requested the time.

The complaint was made we were in a quorum call; why were we sitting in a quorum call in the middle of this bill? It should be made very clear that they requested that time and it was on their time that we were in a quorum call. I, once again, make this plea for a vote like today. When the initial request was made, it was that we have the vote and not spend a lot of time discussing the issue.

Second, let me reinforce a point I made this morning; that is, we are being required by the other side of the aisle to use a lot of our valuable time, time that is increasingly valuable as we get closer and closer to the recess, to rollcall votes on district judges. That has not been done in the past. Once again, I ask and, in fact, plead with the other side to change this request they have made that we spend so much time on rollcall votes which historically have been unnecessary.

On the issues of Chile and Singapore, I have made it very clear that we will move those to a time after energy unless we are not dealing with an issue on energy. I will talk to the other side of the aisle. If there is debate on Chile and Singapore, we will probably do it after we have the final energy votes this week. Then we will take up Chile and Singapore trade issues at that point.

The same issue will come up tomorrow because we will be voting on Judge Pryor. I am sure the same issues will come up about spending time and people will come to the floor and spend time.

I make it clear, our request last night was to set aside time, some time in the future—not necessarily this week—to debate and discuss Pryor and have an up-or-down vote on Pryor. That was refused. Again, it would not have been this week—it could be sometime during September—but there was an objection to that unanimous consent request. Thus, we will proceed with a vote tomorrow.

Again, I make it clear my initial request is not to use a lot of time simply to be able to go to Pryor but that we proceed aggressively on energy. The American people deserve it. We will do it in an orderly way as we go forward today. I am confident we can complete this Energy bill if we stay focused, work together. The American people deserve it. I am confident we can do that.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin G. Hatch, Judd Gregg, Norm Coleman, John E. Sununu, John Cornyn, Larry E. Craig, Saxby Chambliss, Lisa Murkowski, Jim Talent, Olympia Snowe, Mike DeWine, Michael B. Enzi, Lindsey Graham of South Carolina, Jeff Sessions, Lincoln Chafee, Wayne Allard.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 312 Ex.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Kennedy
Kerry

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Does the Senator want to offer a second-degree amendment to the electricity amendment?

Mr. FEINGOLD. Yes.

Mr. DOMENICI. I did not know that. I did not understand that.

Mr. FEINGOLD. My attempt was to set aside what I thought was a pending amendment to your amendment and then to offer a different amendment to your amendment. And I make that request again.

Madam President, I ask that in the form of a unanimous consent request, that the pending amendment to the Domenici amendment be set aside.

Mr. DOMENICI. Well, they have all been currently set aside for amendments to the electricity amendment, Madam President. That is why I wondered, what is the need for the unanimous consent request?

The PRESIDING OFFICER. There are currently pending second-degree amendments which would have to be set aside.

Mr. DOMENICI. I have no objection to the request.

Mr. REID. Will the Senator from Wisconsin yield?

Mr. FEINGOLD. I yield to the Senator from Nevada.

Mr. REID. Madam President, I direct this question through you to the distinguished manager of the bill for the majority. I have had a number of inquiries during the vote as to whether or not, when the Secretary of Defense comes here at 4 o'clock this afternoon, we are going to take a recess. We have a number of Democrats who are going to attend. I assume there will be members of the majority attending that briefing also.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, if somebody is discussing an amendment, and there is business on the floor of the Senate, we will not recess; we will work.

The PRESIDING OFFICER. Without objection, the request of the Senator from Wisconsin is granted.

Mr. FEINGOLD. Thank you, Madam President.

AMENDMENT NO. 1416 TO AMENDMENT NO. 1412

Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. BROWNBACK, proposes an amendment numbered 1416.

Mr. FEINGOLD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the public and investors from abusive affiliate, associate company, and subsidiary company transactions)

Beginning on page 35, strike line 10 and all that follows through page 35, line 15, and insert the following:

SEC. 1156. AFFILIATE, ASSOCIATE COMPANY, AND SUBSIDIARY COMPANY TRANSACTIONS.

Section 204 of the Federal Power Act (16 U.S.C. 824c) is amended by adding at the end the following:

"(i) TRANSACTIONS WITH AFFILIATES AND ASSOCIATED COMPANIES.—

"(1) DEFINITIONS.—In this subsection, the terms 'affiliate', 'associate company', 'public utility', and 'subsidiary company' have the meanings given the terms in section 1151 of the Energy Policy Act of 2003.

"(2) REGULATIONS.—

"(A) IN GENERAL.—The Commission shall promulgate regulations that shall apply in the case of a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility.

"(B) CONTENTS.—At a minimum, the regulations under subparagraph (A) shall require, with respect to a transaction between a public utility and an affiliate, associate company, or subsidiary company of the public utility, that—

"(i) the affiliate, associate company, or subsidiary company shall be an independent, separate, and distinct entity from the public utility;

"(ii) the affiliate, associate company, or subsidiary company shall maintain separate books, accounts, memoranda, and other records and shall prepare separate financial statements;

"(iii)(I) the public utility shall conduct the transaction in a manner that is consistent with transactions among nonaffiliated and nonassociated companies; and

"(II) shall not use its status as a monopoly franchise to confer on the affiliate, associate company, or subsidiary company any unfair competitive advantage;

"(iv) the public utility shall not declare or pay any dividend on any security of the public utility in contravention of such rules as the Commission considers appropriate to protect the financial integrity of the public utility;

"(v) the public utility shall have at least 1 independent director on its board of directors;

"(vi) the affiliate, associate company, or subsidiary company shall not acquire any loan, loan guarantee, or other indebtedness, and shall not structure its governance, in a manner that would permit creditors to have recourse against the assets of the public utility; and

"(vii) the public utility shall not—

"(I) commingle any assets or liabilities of the public utility with any assets or liabilities of the affiliate, associate company, or subsidiary company; or

"(II) pledge or encumber any assets of the public utility on behalf of the affiliate, associate company, or subsidiary company;

"(viii)(I) the public utility shall not cross-subsidize or shift costs from the affiliate, associate company, or subsidiary company to the public utility; and

"(II) the public utility shall disclose and fully value, at the market value or other value specified by the Commission, any assets or services by the public utility that, directly or indirectly, are transferred to, or otherwise provided for the benefit of, the affiliate, associate company, or subsidiary company, in a manner that is consistent with transfers among nonaffiliated and nonassociated companies; and

"(ix) electricity and natural gas consumers and investors shall be protected against the financial risks of public utility diversification and transactions with and among affiliates and associate companies.

"(3) NO PREEMPTION.—This subsection does not preclude or deny the right of any State or political subdivision of a State to adopt and enforce standards for the corporate and financial separation of public utilities that are more stringent that those provided under the regulations under paragraph (2).

"(4) PROHIBITION.—It shall be unlawful for a public utility to enter into or take any step in the performance of any transaction with any affiliate, associate company, or subsidiary company in violation of the regulations under paragraph (2).".

Mr. FEINGOLD. Madam President, I rise today to offer an amendment on behalf of myself and the Senator from Kansas, Mr. BROWNBACK. I am pleased that the Senator from Kansas is joining me in this effort, and he has done so because I know he shares my view that the repeal of the Public Utility Holding Company Act in the underlying bill creates a serious regulatory void and market flaw that Congress should correct.

I am so pleased this is a bipartisan effort. I believe we have broad support in this body and beyond for these amendments.

These amendments would improve on the bill by making clear the actions that the Federal Energy Regulatory Commission—or FERC—must take to ensure that deregulated holding companies do not outcompete our small businesses, damage their financial standing, and then pass the costs of bad investments to consumers.

Our amendment is supported by a wide and impressive coalition of business, labor, financial, and consumer groups which include: the Independent Electrical Contractors, Air Conditioning Contractors of America, Plumbing-Heating-Cooling Contractors, Associated Builders and Contractors, National Electrical Contractors Association, Mechanical Contractors, Sheet Metal Air Conditioning Contractors, the International Brotherhood of Electrical Workers, the National Alliance for Fair Competition, the Small Business Legislative Council, Consumers for Fair Competition, and the Association of Financial Guaranty Insurors.

The Senator from Kansas and I are concerned because electricity is not like other commodities. Electricity is essential to public well-being. When this bill is enacted and the Public Utility Holding Company Act is repealed, a strong incentive will exist for large utilities with the financial resources and the potential to exercise market power to get larger. Already, the electric utility industry is undergoing rapid consolidation. In the past 3 years alone, there have been more than 30 major utility mergers and acquisitions, creating large multistate holding companies, including several in my own home State and with utilities in Minnesota that serve Wisconsin. Many companies have seen their stock plunge and credit ratings downgraded, and these companies are now prime buy-out targets.

I acknowledge that deregulation is not inherently bad and should not always be prevented. It can produce efficiencies, economies of scale and cost savings for electrical consumers. However, it can also reduce competition, increase costs, and frustrate effective regulator oversight. This amendment protects consumers from assuming the costs and risks of utility diversification into non-utility businesses, prevents utilities from subsidizing affiliate ventures and competing unfairly with independent businesses, and protects utility investors. It does so by requiring FERC to issue regulations that require affiliate, associate, and subsidiary companies to be independent, separate, and distinct entities from public utilities; maintain separate books and records; structure their governance in a manner that would prevent creditors from having recourse against the assets of public utilities; and prohibit cross-subsidizing, or shifting costs from affiliate, associate, or subsidiary companies to the public utilities.

The Public Utility Holding Company Act was enacted in 1935 to rein in the pervasive economic and political sway that holding companies held over the Nation's public utilities at that time. Studies conducted by the Federal Trade Commission and the U.S. House of Representatives at the time demonstrated that the holding companies, which controlled approximately 80 percent of the Nation's gas and electric utilities, were exploiting both consumers and investors. At the time PUHCA was passed, 16 major holding companies and their utility subsidiaries produced more than three-quarters of the electric energy in this country.

Individual States and localities enacted their own laws, but were unable to control these multi-State holding companies—many of which also held investments in foreign countries—and their utility subsidiaries. Holding companies created organizational structures that extended across State lines, specifically to place the holding companies beyond the regulatory reach of the individual State commissions. In fact, registered holding companies were formed specifically for the purpose of avoiding regulation. Holding companies leveraged their utility assets to gain financing for risky investment ventures and engaged in anti-competitive behavior.

PUHCA requires that proposed investments benefit the utility system, and not harm ratepayers, shareholders or the public interest.

PUHCA requires that holding companies seeking to acquire utilities obtain preapproval from the Securities and Exchange Commission. In addition, a particular class of holding companies, known as "registered holding companies," those holding companies with utility subsidiaries in more than one State, must obtain SEC approval also for acquisitions of nonutility businesses. The SEC has authority to oversee and provide advance approval for the complicated financial transactions of the registered holding companies, including intrasystem transactions and diversification into unregulated businesses.

PUHCA does these things, but the bill before us repeals PUHCA. As a result, registered holding companies will be able to freely diversity into unregulated businesses, and to engage in interaffiliate transactions in which the holding company and nonutility businesses drain financial resources and key assets from the utility businesses.

In California, for example, holding company maneuvers have left California utilities in a weakened financial condition. Billions of dollars have been moved out of their utility companies into the holding company and then into their unregulated affiliates which are protected by laws that now put this cash beyond the reach of even the holding company. As a result, the utilities have had too little cash to carry out their utility obligations.

In addition, even with PUHCA, we are already experiencing concerns about utilities expanding into electricity-related services and outcompeting small businesses in my State. Small contractors can't compete against big utilities in areas like energy efficiency upgrades to private homes, when big utilities can use existing assets like personnel, equipment, and vehicles to perform those services. When PUCHA is repealed, utilities will be able to expand into other business areas, and we should make certain that we protect small businesses.

This amendment is good public policy, and it will strengthen the Senate's position in Conference with the House of Representatives. I urge my colleagues concerned about ensuring fairness in a deregulated system to support this amendment.

Let me say how delighted I am to be working with the Senator from Kansas who I know has a deep and abiding commitment to small businesses as well.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I thank my colleague from Wisconsin for offering this amendment. I join him on it.

The amendment my colleague from Wisconsin has described first came to my attention by a constituent and a friend of mine, D.L. Smith, Topeka, KS. D.L. is a great K-Stater, loves his country, has a medium size contracting business. He employs between 57 and 100 Kansans. Founded in 1972, the DL Smith companies provide commercial, institutional, and industrial electrical services and, in recent years, even a little bit of telecommunications. They have been expanding slightly. D.L.'s service trucks can be seen as far west as Salina and as far south as Pittsburg, KS.

DL's is a successful medium size business by Kansas standards. It might grow and could become more successful. But it might not be able to grow and could falter. The success or failure of this business will in great part be dependent upon the dispensation of this amendment.

This is what he brought to my attention. D.L. said: Look, what is taking place is we are having to compete with these large utility companies that he asserts are using their regulated business to subsidize the unregulated business and drive the small contractors out of business. That is my 15-minute speech, what he said and the examples he gave.

What he does now is help in the contracting of electrical services into homes. He is having to compete now with very large utility companies that are looking at other areas they can expand into to be able to do contracting work and, in the process, are driving these small to mid-size businesses out of business.

Such diversification on the part of the utility companies has been the cause of significant and continuing harm to many small private sector firms. Utility-owned subsidies and affiliates now operate in almost every imaginable type of business, from auto salvaging to resort management to real estate brokerage to, more frequently, electric and mechanical contracting. Utilities now routinely sell appliances, provide plumbing, heating and cooling, and service contracts, engage in insulation work, sell and install storm windows and doors, provide outdoor lighting and interior lighting fixtures.

Normally as a free market Republican, I wouldn't have much problem with that. This is a free country. People can compete the way they want to, the way they choose. The problem with this is, you have a regulated utility that has a clear income source that is dependent upon ratepayers that is set by the Government, and they have a flow of resources that is established by the public sector. And it is a rate of return based upon cost plus.

The challenge—and what the D.L. Smiths of the world are feeling—is the subsidization of that regulated business going into the unregulated field and driving small to mid-size contractors out of business. Too many companies are doing a very natural thing—trying to grow, get a little more business here and there for their shareholders to try to be able to hold down the cost of electrical rates to their customers. That is understandable. The problem is, you are using that regulated utility where they don't have competition coming in there to compete against an unregulated field and, in many cases, driving out small to mid-size contractors like the D.L. Smiths of Topeka, KS, and others.

Private sector businesses both small and large welcome competition. Unfortunately, there have been numerous instances where utilities have engaged, in some cases, in unfair and abusive competitive behavior which undermines true competition in these impacted markets.

The primary obstacle to free, fair, and open competition in these markets is the ability of a utility to provide its affiliates and subsidiaries with artificially lower costs of operation through cross-subsidization and the failure to properly recover the true costs of equipment and services provided by the utility to such unregulated operations. These advantages arise neither from size, nor efficiency, but rather from the corporate relationship such operations have with its related utility.

The utility companies are doing, by and large, a great job in serving the public, providing utility rates at as low a cost as possible. That is a good thing. They work conscientiously to do that. We have a number of very good utility companies in the State of Kansas. When they use the cross-subsidization, which is what we are trying to prevent in this bill, to run out small and midsize businesses, that is when we have a problem, particularly when denying access to newly emerging markets, a key to future expansion, job growth, and profitability for this country.

For those reasons, I support this amendment. I also recognize my colleagues who wrote the bill, the Senators from New Mexico, particularly Senator DOMENICI. They are trying to address this issue. We put forward an amendment that we hope will strengthen the bill, help it out, one that doesn't negatively impact the electrical utility businesses, other than to say here is the area in which you can operate. Outside of that, this should be left to other businesses, particularly small and midsize ones, to allow them to grow.

The amendment we put forward has broad support from the contracting community, electrical contractors, plumbing, heating, and mechanical contractors because they are feeling this onslaught. Most of my colleagues, I guess, have been contacted by the contractors, most of which are small to midsize businesses operating in communities throughout the country, that want this Feingold-Brownback amendment to be added to the Energy Policy Act of 2003.

I recognize the work that the chairman and ranking member have put on this particular topic. We hope this amendment can be accepted because we think it strengthens the bill.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, I thank the Senator from Kansas for his excellent work. It is an excellent example of why this is so important. I appreciate his support in working with me on it.

I ask unanimous consent that the Senator from Oregon, Mr. WYDEN, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that a list of organizations in support of the amendment be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT FOR FEINGOLD-BROWNBACK AMENDMENT ON AFFILIATE TRANSACTIONS

The following organizations support this amendment:

American Association of Retired People.

AFGI: Association of Financial Guaranty Insurors: ACE Guaranty Corp.; Ambac Assurance Corp.; CDC IXIS Financial Guaranty North America, Inc.; Financial Guaranty Insurance Company; Financial Security Assurance; MBIA Insurance Corp.; Radian Reinsurance Inc.; RAM Reinsurance Company; XL Capital Assurance.

American Iron and Steel Institute.

Consumers for Fair Competition.

Consumers Union.

Electricity Consumers Resource Council (ELCON): A.E. Staley Manufacturing Company; Air Liquide; Alcan Aluminum Corporation; Anheuser-Busch Companies, Inc.; BOC Gases; BP; Central Soya Company, Inc.; Chevron Texaco; Delphi Automotive Systems; Eastman Chemical Company; E.I. du Pont de Nemours & Co.; ExxonMobil; FMC Corporation; Ford Motor Company; General Motors Corporation; Honda; Intel Corporation; International Paper; Lafarge; MG Industries; Monsanto Company; Occidental Chemical Corporation; Praxair, Inc.; Rockwell Automation; Shell Oil Products; Smurfit-Stone Container Corporation; Solutia Inc.; Weyerhaeuser.

IBEW.

MBIA Insurance Corporation.

Municipal Electric Utilities of Wisconsin.

National Alliance for Fair Competition, which includes: Independent Electrical Contractors; Mechanical Contractors Association of America; National Electrical Contractors Association; Plumbing-Heating-Cooling Contractors-National Association; Sheet Metal and Air Conditioning Contractors' National Association; Air Conditioning Contractors of America; Associated Builders and Contractors.

National Association of State Consumer Advocates.

Public Citizen.

Small Business Legislative Council (90 small business trade associations).

U.S. Public Interest Research Group.

Wisconsin Public Power, Inc.

Sierra Club.

Mr. FEINGOLD. Madam President, I am pleased that the ranking member of the committee, Senator BINGAMAN, is indicating positive remarks about this amendment as well. I wonder if he may wish to make some remarks in support at this time.

Mr. BINGAMAN. Yes. Madam President, first, I ask unanimous consent that I be added as a cosponsor, if I am not already one, on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I compliment the Senator from Wisconsin and the Senator from Kansas for proposing this amendment. In my view, it is offered in the same spirit in which the earlier amendment I offered related to mergers was offered, and also the amendment by Senator CANTWELL related to market manipulation.

I think all three of those amendments have somewhat the same purpose, which is to strengthen this bill, to ensure there are necessary protections for consumers, ratepayers, and for others who, in the case of the Senator from Kansas, pointed out there are many contractors in the private sector who feel an amendment such as this is essential if they are going to be able to compete and not face some type of unfair competition from companies that are part of holding companies that are owned by utilities or that also own utilities.

Let me back up here and talk a little about the Public Holding Utility Company Act, because that is the basic issue that causes this amendment to come to the floor. As part of this bill, the proposal is that we repeal the Public Utility Holding Company Act. That was in the bill passed in the previous Congress—the repeal of that. I have supported that but I have only supported it if it were clear that we were replacing those authorities and those responsibilities for regulation and oversight at the Federal level with other effective authorities for oversight and regulation.

My conclusion is that the Domenici substitute, as it now stands, does not put in place effective regulatory tools to ensure that at the Federal level we can prevent the abuses that caused the Public Utility Holding Company Act to come into existence in the first place.

There is a very useful article that I commend to all of the Senate in today's business section of the Washington Post, written by Peter Behr. It is called "Energy Monoliths Could Return; Law Limiting Companies' Reach Faces Repeal."

Well, the law that limits a company's reach that this article is talking about is the Public Utility Holding Company Act. As I say, there is general agreement that the act has become an anachronism; it is way too complex; that we need to modernize the Federal regulatory scheme in regard to utilities. So the Public Utility Holding Company Act should be repealed but it needs to be replaced with something that also constitutes effective regulation. Let me refer to the chart. I don't know if anybody can see it.

This tries to rapidly describe what is involved with the Public Utility Holding Company Act, or PUHCA, jurisdiction. It basically says that for a company which owns, as the chart shows, other affiliates—a utility generating and marketing affiliate—there are real restrictions on what that holding company can do with regard to any other acquisitions of utilities. Essentially, you can acquire one more utility, or you can own one utility, and then if you own any more than that, you come under a very strict set of requirements that are presently in the Public Utility Holding Company Act. Those requirements should be repealed but we need something that is effective.

This amendment tries to do that and would do it in an effective way. It accomplishes the same goal that I was trying to accomplish as part of—or one of the two goals I was trying to accomplish in the merger amendment I offered earlier yesterday, by requiring FERC to establish real firewalls around the utility affiliate of a holding company to prevent the assets of the utility from being used to prop up risky diversification ventures. That is, you cannot use the assets of the utility to support a contracting company, as an example, which is the kind of thing that the Senator from Kansas was talking about having to compete with.

I think the language of the amendment is extremely clear. It makes it very clear that the Federal Energy Regulatory Commission shall promulgate regulations, shall apply in the case of a transaction between a public utility and an affiliate or associate company of the public utility—and that is what the chart shows—where you have a utility and another affiliate. It basically builds a firewall and gets at the issue I was talking about when I offered my amendment yesterday evening; that is, the public utility shall not cross-subsidize or shift costs from the affiliate or associate company to the public utility. It cannot encumber the assets of the public utility in order to prop up some other business. That is only fair as far as the ability of the other business to compete in the marketplace, but it is particularly important as security for the ratepayers of that public utility.

There are an enormous number of examples. I went through several of them yesterday. Let me refresh people's memories. There are many examples in the last year—in recent months, in fact—where utilities have been getting into other activities and have encumbered the assets of the utility, and the ratepayers of the utility have been adversely affected.

One example I mentioned yesterday, and I will mention it again because it does relate to Kansas, is West Star. It is the largest utility in the State of Kansas. It is owned by a holding company. West Star came under scrutiny last year because of problems that it encountered with nonutility affiliates.

West Star had invested in a number of unregulated ventures, including a home security company, and the home security company did not do well. So the holding company, which owned both the utility and the security company, shifted $1.6 billion of debt from its unregulated companies to the utility. It loaded these debts onto the utility, and then you have essentially the ratepayers of that utility left having to pay $100 million per year because of the activities of unregulated affiliates that had nothing to do with the utility itself.

Some would say this is something the States should handle. The Kansas Corporation Commission began an investigation this last summer into this situation. The Justice Department began an investigation. The Federal investigation resulted in the indictment of the CEO of the company for bank fraud, and the investigation of the Kansas Corporation Commission, which is the State regulatory agency, resulted in a dramatic restructuring of the company to separate the utility from the unregulated companies of the holding company.

Some would say: They solved it at the State level. Why should we be having any authority at the Federal level? They solved it at the State level for the period going forward, but they did not solve it prior to this arrangement being put in place and, accordingly, the ratepayers are paying $100 million a year to repay the debt that the utility has acquired because of this activity.

One other example I mentioned yesterday that I will mention again is Portland General Electric. Portland General Electric was in the unfortunate position of having been acquired by Enron, and the Oregon Public Utility Commission required that a number of conditions be met before it approved that acquisition. That was helpful.

Frankly, they acted wisely in requiring those conditions. But even that was not adequate to fully insulate that utility from the collapse of Enron and from the collapse of the other many businesses in which Enron was engaged. The fate of the parent company has had a very adverse effect on the ability of Portland General to gain access to capital markets. As I say, that is just one of many other examples that can be cited.

This amendment Senator FEINGOLD and Senator BROWNBACK are offering is extremely meritorious. It is an essential part of what we ought to be doing if we are going to avoid getting back into a situation where cross-subsidy is permitted. We ought to have a bright line requirement that the Federal Energy Regulatory Commission ensure that cross-subsidy will not occur in these acquisitions and mergers. We owe that to ratepayers. We owe it to the public generally.

I hope very much we will adopt this amendment. I commend the authors of the amendment for their proposal today.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, before I start, I ask the distinguished sponsor of the amendment how much additional time does he think he needs on his amendment. I am not pressing the Senator.

Mr. FEINGOLD. Madam President, I do not expect a great deal of time at all. I would like the opportunity to respond to any comments the chairman of the committee might make.

Mr. DOMENICI. Since it looks as if we will not be very long, does the Senator from New Mexico know if there is another amendment ready on his side since we are close to completing the debate on this amendment?

Mr. BINGAMAN. Madam President, let me check with the Democratic floor leader. I will get an answer back on that question.

Mr. DOMENICI. I thank the Senator very much.

Madam President, I say to the author of the legislation, I very much appreciate the fact that during these difficult times when we are trying very hard to get so much done in a short period of time the Senator came to the floor, put an amendment down, and, in his typical manner, got to the point, and in short order is going to let the Senate vote.

Frankly, what he is asking us to do is exactly the wrong thing for the situation that exists today in the energy markets. There is an article that was quoted from which is on all our desks:

> Energy Monoliths Could Return.

It was quoted from, excepting on the second page there is an absolutely succinct paragraph that this Senator believes is totally, unequivocally correct. I quote three-quarters of the way down the paragraph starting with the word "repeal":

> Repeal could restore confidence in energy companies shunned by shareholders after the Enron scandal and encourage badly needed expansion of power transmission networks.
>
> From the financial market standpoint, repeal—

And let me add "of PUHCA," repeal of PUHCA—

> would be the single most important part of the energy bill. It certainly is what investors are looking for.

The problem with the amendment is that it probably will take the intent in that paragraph, the indication of what most probably will happen when PUHCA is repealed, and it will probably destroy it, wilt it, make it very vulnerable, and we will not get the result. The result is the need for huge injections of capital into the energy companies because of what has happened to them in the past 18 months.

That is why it is good news that PUHCA is being repealed. That is why it is bad news when an amendment comes along and says: This is just a little 'ole amendment to make sure the electric companies keep their money where it ought to be, that they ought not invest it anyplace else, and that their boards of directors be governed by this statute, the kinds of issues that tie up the potential of a company that is involved in the utility business.

We have already given FERC in this carefully balanced bill the enforcement power to make sure that the companies are properly invested, to make sure they are taking care of their business and of the stockholders' money and of the electrical business.

We have actually said that is a power FERC has. This title already includes enhanced books and records authority for both State and Federal regulators to ensure that ratemaking bodies have all the information necessary they need for retail ratemaking, to ensure there is no cross-subsidization or improper commingling of utility and affiliate assets. That is what the authors of the amendment are worried about, that if PUHCA is not there—and remember, everybody has said so far, including my friend Senator BINGAMAN, we ought to get rid of PUHCA. It is an unfair holding down of these companies by an old law. Everyone wants to get rid of it except these two Senators want to say now if we do, let's go back and put some more handcuffs on these companies because we are scared, we are frightened, that they will do wrong.

We are saying, if that is done, the very pluses, the positives, that come from the repeal are going to be negated because what is being done is not needed, and investment is going to be scared off.

The Domenici underlying bill says that when we get rid of PUHCA we better put in something, although this job is principally the job of States. When Senator BINGAMAN read about the two cases, in both cases State commissions were involved in cleaning up the matter, but nonetheless, we have put in here the Federal Government, FERC, is given this authority in this particular area, because of PUHCA going away, to make sure there is no improper commingling of utility and affiliate assets.

There is more. In fact, the underlying amendment also says, with reference to merger, acquisitions and dispositions, leasing, or other transactions:

> Will not impair the ability of the Commission or the ability of the State commission having jurisdiction . . . to protect the interests of consumers or the public.

And:

> Will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction.

So it even says when PUHCA is gone, we have all of these entities that will be worried about mergers and the like, but we put new language in that I just read, which says, nonetheless, if we are talking about merger, acquisition, or disposition, there are these additional powers.

Frankly, I understand that an amendment which is, in fact, a bill—

that is the Domenici amendment—it is that big. I understand Senators and their staff could read it and they could say, well, yes, we get rid of PUHCA, and then somebody back home might tell them if you are getting rid of PUHCA you better be sure you do so and so, and this amendment could be given birth.

If one looks at this carefully, they will find it did not come to the floor without the staff which worked on it helping the Senator make sure we know, when we get rid of PUHCA, we have to do something to be sure we have taken care of some problem children that might arise along the way.

I want to repeat, this is not a little proposition. If it was, I would accept it because these are very good Senators. But I know if I took it, I would be sending the wrong signal to all of those companies across this land that have reviewed this bill very closely, some small, some large, some of them municipal, some of them co-ops. They have looked at it carefully and they know we are through with PUHCA. I do not want them to say, well, we got rid of one and they turn right around and make it difficult for us to do what we ought to do, what we can do, what we should do, to make sure we got all the assets invested in our companies in these faltering days in terms of resources.

So I say to the two Senators, I wish that were not the case so I could thank them and accept it, but I honestly do not believe those who analyzed it did a careful job. No aspersions.

A better way might be that we looked at it carefully, we watched out, and we were certain we protected the public and the consumers, those who will take electricity, and indeed the stockholders, so the kinds of things they are worried about will not happen.

I do not know what it means, but the horror cases they are speaking of occurred while PUHCA existed. That is interesting, just as an observation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. First, I thank the Senator for the kind remarks. I do not believe we disagree with the goals with regard to the underlying amendment. In fact, I regard this, and I think Senator BROWNBACK regards this, as a friendly amendment; that is, an attempt to make sure this dramatic change, the repeal of PUHCA, gets off the ground properly and does not, in effect, throw out the baby with the bathwater.

My amendment does not attempt to repeal the repeal. I think if one was listening to the remarks of the Senator from New Mexico they might have gotten the impression we were sort of pretending we were repealing PUHCA and then putting it back in effect. That is not in any way, shape, or form what we are trying to do.

We are trying to address a very specific problem the Senator from Kansas laid out very well, the cross-subsidization problem, when a utility holding company owns other affiliated entities and the problems that occur when those assets are moving back and forth in a way I and many people think threatens ratepayers as well as investors.

Specifically, the Senator from New Mexico talks about the fact that there are those who are poised and ready to invest in the utility industry if changes are made, presumably such as the repeal of PUHCA. It is my belief that is exactly what our amendment helps do. I think it helps create a scenario that will make investors more positive rather than less positive.

The Senator's argument about somehow our amendment will scare off investors is really a 5-year-old argument. PUHCA repeal, without the bottom-up regulation these ring-fencing provisions of this amendment provide, will continue to keep capital away. We do not have some kind of insurance for investors in utilities that the resources of those utilities will not be spirited away to these affiliates. Then they will not have the confidence in investing, and I want that investment to happen.

Regulatory insulation, and that is what the Feingold-Brownback amendment does, will help restore investor confidence. It will actually help achieve the chairman's goal. Our belief, and our hope, is our amendment will help bring order to what is a beleaguered sector, not that it will wreak havoc.

Utilities provide an essential public service. Our amendment insulates these utilities wherever they are in a corporate family. So what we are doing is providing a clear distinction of what entities are regulated or not.

Now, if we are looking at investments, that is what we want to see. We want to know exactly what we are getting into. We want to know what our dollars are going to be used for and it helps restore investor confidence and consumer confidence, not the reverse.

This is a good amendment. It has strong bipartisan support. There have not been a lot of Feingold-Brownback amendments over the years, even though I thoroughly enjoy working with the Senator. I think what it represents is a powerful commitment on the part of those of us who are working on this to protect small businesses in our State.

I will not read again the list of the contractors and small business organizations that support this effort, but it is the kind of mainstream people that made my State. It is the kind of mainstream people that made the Chair's State. It is the kind of mainstream people that made the Senator from Kansas's State. They do not want to be driven out of business by utilities able to somehow move these assets back and forth through affiliates that are not properly regulated. That is a reasonable request.

Even more importantly and in response to the Senator from New Mexico, we are trying to make sure investors feel comfortable so it will help the utility industry. The worst thing we can do is raise the specter of another Enron. The phrase "cooking the books" dominated our headlines a year ago, and our amendment is about making sure there will not be any accusations or reality of cooking the books when it comes to a utility and its affiliates, that they will have two separate sets of books.

Yes, the Senator's underlying amendment is good. It allows FERC to look at the books. If they look at the books and there are no standards or rules about keeping the entities separate, what is the good? There need to be some teeth in it. That is what our amendment does.

I suggest this is a reasonable, fairly modest amendment that will make the Domenici substitute even better. I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I will speak briefly to the Feingold-Brownback amendment.

There is the illusion, or at least the concern, on the part of some of our colleagues that the title we have before the Senate in S. 14 somehow creates a type of regulatory gap that I don't believe exists. The chairman of the committee, in his thoughtful processes that brought us to this amendment and the time he has spent working on it with staff, would agree it does not exist.

Certainly Senator FEINGOLD and others have reason to be concerned, as do I. My constituency, my ratepayers of Idaho, for a period of time spent a good deal more than they should have on their electrical costs because of the dysfunctional markets in the State of California. Those dysfunctional markets occurred with all of these laws in place that we are talking about now changing. What is most important to recognize is, those who misused the market are now suffering. Those who misused the market are now being prosecuted. Those who misused the market to line their pockets, I trust, are having their pockets stripped of ill-gotten gold.

Why? Because our President has a Corporate Fraud Task Force, we have a little organization called the FBI, we have the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and, yes, even the U.S. Postal Service and the U.S. Attorney's Office that seek to look at and have found what they allegedly suggest is postal fraud.

Whether it is Enron, whether it is Dynegy, whether it is Reliant or whether it is El Paso Corporation, time and time again, and currently, many of the major operatives within those organizational structures are being brought before the Federal justice system and will be or are being prosecuted because of what they are now alleged to have done or are accused of having done as it relates to wire fraud, conspiracy, manipulation, round-trip trading, all of those things we suggest ought not happen.

What we have done in this title appropriately protects the consumers of this country, but, as important, we protect the capital that comes to this market to be invested, to create the generational capabilities, the transmission capabilities, the pipeline capabilities, all the things we need to interlock an energy system in our country and to continue to make it as reliable as it has been in the past and as reliable and abundant as it should be, hopefully at the least cost to the consumer.

Clearly, the consumer got gouged. My consumers got gouged. There was ill-gotten gold. We darned well ought to strip it from the pockets of those who were out to steal it from the consumer. Tragically enough, that stealing was going on long before this amendment, under the current laws that some argue we ought to keep in place, 1930 laws that have rendered themselves relatively obsolete in a modern-day energy system.

We are asking that we have the right enforcement in place. We have given FERC the authority it ought to have within the confines and the limitations in which we believe it ought to operate. There is no regulatory gap. Any reason to add to what we have done simply frustrates the multibillion-dollar market, the revenues that will come, the investment that will be created, toward once again creating the finest electrical and energy market in the history of the world. That is what we ought to have. That is what we need. Without that, our investors and our economies look elsewhere, beyond the bounds of our country where they can find stability of economy, stability of resource and, most importantly, an abundant supply of energy.

In the absence of energy, in the absence of an abundant, least cost supply of energy, our economy is in trouble. If our economy is in trouble, most assuredly our men and women who want to find work in that economy are oftentimes without work. We believe this is a full employment bill that will create literally hundreds of thousands of new jobs because of the stability it will bring.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I was informed a while ago by my good friend, the whip, Senator REID, that as soon as we finish this amendment—and I think we are finished; I am not quite sure whether the proponents have finished—Senator BYRD wanted to speak. I ask Senator BYRD, since he is here, if that is the case. And then I ask if I could speak following Senator BYRD, if he has no objection. I ask that after the distinguished Senator BYRD completes his remarks, the Senator from New Mexico be recognized.

Mr. REID. Reserving the right to object—and I shall not object—the Senator has that right. We are in the process of winding down debate on the Feingold amendment. After Senator BYRD and the Senator from New Mexico, the manager of the bill, we would be ready to vote on not only the Feingold amendment but the two amendments that have been offered by the Democratic manager of this bill.

I suggest, because these were debated yesterday, we should have 10 minutes equally divided prior to a vote on each of the Bingaman amendments. While Senator BYRD is speaking, maybe the staff could prepare a unanimous consent agreement to meet these steps that we need to take to complete votes on these three amendments. We would at that time be ready to offer another amendment.

Also, if Senator BYRD speaks for half an hour or 45 minutes, then we will have these votes occur at the same time as Mr. Rumsfeld is here. I don't know if that is what people want. At least half of the Senate will be going to the Rumsfeld meeting—maybe even more. It is up to the Republican leader, of course, what he wants to do with the Secretary of Defense. But whatever the wish of the leader is, we will certainly go along.

We are ready to vote on these three amendments.

Mr. DOMENICI. Madam President, if we could reduce the debate time before each amendment. We don't need 10 minutes; 5 minutes would do.

Mr. REID. I would be happy to do that, although I have conferred with Senator BINGAMAN. On one amendment he needs 5 minutes, and on the other amendment he could use 2½ minutes.

Mr. BINGAMAN. In response, I don't believe I will use 5 minutes; I will probably use closer to 3 minutes, but I would like to have the ability to go on if I get warmed up.

Mr. DOMENICI. Let's prepare the unanimous consent request on all three, with 5 minutes each, 10 minutes equally divided.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I want to bring this debate to a close, but I want to quickly respond to a couple of comments from the Senators from New Mexico and Idaho.

When the Senator from New Mexico was making his comments he talked about the fact the State commissions, public service commissions, and others would be able to sort of take care of these kinds of problems that would exist in a post-PUHCA repeal era. I don't think that is an adequate answer.

The fact is, as I mentioned in my opening remarks, in many cases these are interstate utility entities, and it is that very fact that has made it so difficult, prior to PUHCA, for there to be any appropriate regulation at all. So we do need some kind of appropriate law that homes in on this problem of utility holding companies and affiliates and the cross-subsidization problem that exists. That is the first point I want to make, that the State level is simply not going to do it.

The second point relates to the comments of the Senator from Idaho. The premise of the remarks of the Senator is that somehow my amendment undoes the repeal of PUHCA. It does not do that. Our amendment is necessary and helpful and good for investors and consumers and ratepayers and small business, whether PUHCA is repealed or not. The argument is a red herring. The argument has no relationship to the issue of whether these provisions are needed.

Maybe we could put it this way: The Senator from Idaho believes that a 1933 law known as PUHCA is no longer the right law for this time. We are proposing what we believe to be the appropriate, measured, consumer confidence and investor confidence provision for 2003, not 1935. So we are accepting in the amendment the repeal of PUHCA, but we are adding this provision that is necessary in 2003, not 1935.

The only other alternative, if we do not do at least our amendment, is we are going to be returning to the environment that we are just coming out of, the environment that everyone admits was a disaster for consumers and that it destroyed consumer confidence and investor confidence because of the recklessness and the cooking of the books that went on all over this country, particularly in the utility industry.

We have to make sure what we do here does not undercut the confidence we want to increase for consumers and for investors. That is the purpose of our amendment. We are not trying to undo the chairman's primary purpose of his amendment.

I yield the floor. Assuming that is the end of the debate, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator from New Mexico. I thank him for the knowledge he brings to the Senate on many matters. For these several years I have worked with him on the Appropriations Committee, he has shown himself to be one of the most knowledgeable persons on that committee and, with respect to energy, he has shown time and again that he is well equipped to enter into debate and to help to form good legislation, better legislation, or the best legislation.

I have always found him to be one who is easy to work with. I enjoy working with him and I compliment him for the time he has put in on this matter that is before the Senate. He arrives at his conclusions after due and deliberate examination, and he is a first-class legislator.

Mr. DOMENICI. Madam President, I say thank you very much, Senator BYRD. I greatly appreciate your remarks. It is always my pleasure to be serving with you.

Mr. BYRD. I thank the distinguished Senator. He has distinguished himself in many fields.

Mr. DOMENICI. Thank you.

Mr. BYRD. Madam President, on pleasant summer days, such as these, I doubt that the average person worries too much about the intricacies of energy policy. However, energy is the life's blood of our economy. Obviously, a comprehensive energy policy is a critical underpinning for a viable, strong nation.

And, there are real and growing concerns about the Nation's energy security—about our teetering economy and about our growing dependence on foreign oil. Coupled with these is an increasing need to protect the environment and address global climate change. But instead of looking for balanced and comprehensive solutions to our critical energy problems, this administration drags its feet and deals with our energy challenges by meeting behind closed doors with select corporate contributors.

As is often the case, this White House offers shortsighted, silver bullet solutions. But, in fact, there are just no silver bullet solutions to a sound and comprehensive energy policy for the future. There is no Lone Ranger approach to energy. There is no John Wayne approach to energy. We have to consider the worldwide energy supply and demand. We must be ready to invest in a range of policies, technologies, resources, and institutional structures that can prepare us for the future.

During the 2000 election cycle, the Bush campaign claimed that the creation of a national energy strategy was one of its most important priorities. But what they meant by that may not be what many people thought they meant. Even as candidate Bush traveled the Presidential campaign trail, the issue of energy often shared the stage with George W. Bush and DICK CHENEY, in part because both candidates were formerly business executives with ties to the energy industry. My own home State of West Virginia, where energy issues are very important, played a critical role in pushing the Bush-Cheney team over the top in the electoral college and handing the current administration the White House.

But, after his election, the President seemed more interested in seeking the advice of his corporate friends than developing a balanced, comprehensive, far-reaching energy policy. It may be illustrative here to review the background of some Bush administration officials. Vice President CHENEY served as the CEO of Halliburton. Secretary Norton has lobbied for the oil, gas, and auto industries. The President's Chief of Staff has served as the president and CEO of the American Automobile Manufacturers Association. The U.S. Trade Representative, Robert Zoellick, has served on Enron's Advisory Council. Even National Security Adviser, Condoleezza Rice, was honored by Chevron with a supertanker named after her. With such close connections to big corporate donors, one has to wonder about who really influences the energy agenda of this administration.

Upon taking office, the Vice President led a task force that hammered out the new administration's energy strategy for the Nation. After months of work, the National Energy Policy Development Group issued its report in May 2001. It was praised in some camps, criticized in others. The criticism arose because executives from Enron and other big corporate contributors played a major role in the recommendations of that task force. To many, the task force recommendations for a national energy policy appeared to be little more than an industry wish list.

When the General Accounting Office and outside groups requested basic information about the Vice President's task force, the White House claimed executive privilege. Throughout the court battle which ensued, the Bush Administration repeatedly claimed that the separation of powers and executive privilege prevented them from releasing pertinent documents. As a result, the credibility of the White House energy strategy development is certainly strained, to say the least, especially with regard to the oil industry.

I have been particularly concerned about our continued reliance on foreign oil and our lack of commitment to developing domestic fuel diversity. Tackling that growing problem requires a serious and multi-faceted commitment, involving cooperation and coordination among many players. But what the President seems to be proposing can be pretty much boiled down to drilling for oil in the Arctic National Wildlife Refuge, and exploiting the oil reserves under the hot sands near the Tigris and Euphrates Rivers, in the Fertile Crescent—modern day Iraq.

U.S. domestic oil production peaked in the early 1970's, and, since that time, our oil demands have far outstripped our supplies. But instead of figuring out how to disentangle ourselves from foreign oil dependence, the Bush administration seems to be intent on sinking our energy fortunes deeper and deeper into the hot sands of old Mesopotamia—the hot sands of the Middle East. What is this administration's total energy agenda? Is oil the only card in the energy deck which the administration will play?

It certainly appears so. And one has to wonder just how that card is being played. As the world witnessed in the war in Iraq, the administration was much more interested in protecting, defending, and developing Iraq's oil resources than it was in protecting Iraq's cultural or social resources. Early on in the war, coalition forces were ordered to make it a priority to protect the oil fields. Upon their entry into Baghdad U.S. troops were ordered to surround and protect Iraq's oil ministry. Despite clear warnings, coalition forces left Iraq's priceless museums and other government institutions defenseless. On top of that, U.S. forces failed to protect nuclear test facilities. This is especially puzzling in light of the administration's often stated concerns about dirty bombs and the pilfering of nuclear material by terrorists. So where are our priorities? What is the United States really up to in Iraq?

If the United States were really intent on developing a smart, commonsense oil policy, we would be taking additional measures to better balance our supplies from other nations; we would be carefully using our strategic reserves to hedge against future foreign manipulation; we would be promoting industrial energy efficiency, and we would be nurturing all forms of alternative sources for our energy and transportation needs, including coal, renewable, and biomass-based sources.

I have proposed my own commonsense proposal to help mitigate the growing global dependence on oil supplies from volatile regions. The United States encourage the transfer of our own clean energy technologies to other nations, especially developing countries who will increasingly be buying into the same finite oil markets that we are purchasing from. Such efforts are critical in order to satisfy our energy security needs as well as to address related economic, job creation, trade, and environmental objectives. The demand for oil from other countries will be increasingly fierce, and we have only a narrow window of opportunity ahead. Last year, the administration, at my urging, released a plan for just such an initiative intended to help open international markets and export U.S. clean energy technologies. However, little, if anything, has been done to implement it. Where have we seen this strategy before? The answer is, we have seen it virtually everywhere with this administration—from homeland security to No Child Left Behind.

Furthermore, the administration's Fiscal Year 2004 budget confirms some of my worst fears. When it comes to domestic issues, the plan of administration officials these days is about outsourcing, downsizing, reorganizing, reducing, cutting, slashing, slicing, dicing, and carving up the Federal Government. It is a tailor-made infomercial for the benefit of all-too-receptive corporate donors.

The administration's energy budget is a sham, and its energy program requests are no different. The Department of Energy cut $20 million for the Clean Coal Power Initiative. The Department of Energy's oil and gas research program was cut by more than 50 percent. In order to squeeze enough dollars out of the budget for the President's new hydrogen initiative, other critical energy programs were severely cut. Yet the administration's hydrogen program is years away and cannot serve as a substitute for conservation, energy diversification, or other key energy programs. Moreover, a proliferation of "new" initiatives have been announced by this administration that are purported to solve our energy needs, especially for fossil fuels. We have the hydrogen initiative, a carbon sequester program, FutureGen, a national climate change technology initiative, and more. My question is: Can anyone explain how these "new" initiatives will work together? Where is the money to provide for all of this without compromising other important efforts? The fact remains that there is no major increase in real funding or commitment for energy programs, just a proliferation of empty words from this administration. I do not believe we can treat our energy illnesses with the administration's current budget prescription.

In the 107th Congress, both the House and Senate actually passed comprehensive energy policy bills. After lengthy debate in conference, important progress was made. A number of compromises were struck, but in the end the conferees could not reach a final agreement. This should come as no surprise.

In fact, this administration made no real effort to help get a comprehensive, national energy strategy passed. President Bush suggested that energy was a cornerstone of his administration's agenda, but what did he do during the energy conference in the 107th Congress? Nothing. Oh, his rhetoric may have sounded good on the campaign trail. He tried to talk a good game, but when it counted, the administration took a decidedly hands off approach.

This new Senate Energy bill, S. 14, the House Energy bill, H.R. 6, and the White House's interest overall are intended to cater to the administration's friends in industry. That is it. That is all. In its present form, these energy bills are no victory for our country. They are a victory for special interests and a text-book example of our inability to set a long-term energy policy course. Now, we are on the brink of another important opportunity squandered. While there are some solid trees planted in the bill, this legislation will not produce the diverse energy orchard we must have to meet our needs down the road. The President and the Republican-controlled Congress are simply not prepared to make the tough choices that the Nation needs for a viable, long-term energy policy. How long will we wait?

The President would love a one-day Rose Garden ceremony and a 2004 campaign press release. But, given this administration's track record, an energy bill would simply be another empty soapbox for this President to stand on, as he has already demonstrated with the education soapbox, the farm legislation soapbox, Afghanistan soapbox, and the Homeland Security soapbox, and other soapboxes. The Congress has passed bills and supported the administration's rhetoric, but then the necessary resources to carry them out never materialize. This is the same fate that awaits an energy bill this session.

It takes leadership and it takes hard work to move forward in a responsible, balanced, and intelligent way on energy policy. Yet this administration makes do with a cheap knockoff. It looks like the real thing, but it is a fraud and a fake. It is much like cotton candy. At first glance, it may look good, but there is just no nutrition. In reality, it is just puffed air.

In the last 5 years, I have worked hard to help develop a balanced and bipartisan package of provisions to advance our national energy policy goals—provisions that could go a long way toward addressing both the near- and long-term energy needs of our Nation, while also providing numerous benefits both at home and abroad. These provisions garnered bipartisan support in the Senate Energy bill in the 107th Congress, including clean coal, climate change, international technology transfer, and other important provisions. Together, these initiatives represent a bold new enterprise—stepping stones along a 21st century energy pathway.

Yet the administration seems intent on just blocking many of these bipartisan ideas. For example, in a May 8, 2003, statement on the Senate Energy bill, the White House stated, in part:

> The Administration is not convinced of the need for additional legislation that would attempt to limit or direct U.S. global climate change, and will oppose any climate change amendments that are inconsistent with the President's climate change strategy . . . we urge the Senate to allow . . . the President's strategy to go forward unimpeded.

Well, I continue to ask, just what is the President's strategy—cotton candy?

Last session I introduced legislation with Senator TED STEVENS of Alaska that would allow the United States to deal more easily with the complex issues involved in climate change. The amendment to be offered by Senator BINGAMAN is based on last year's Senate-passed provisions. It would create a comprehensive strategy based on credible science and economics to guide American efforts to address climate change issues in our own backyard and around the world. This amendment also would establish a major research effort to invent the advanced technologies that we will need to effectively reduce greenhouse gas emissions that contribute to global warming. We must develop a commonsense package of technology, science, policy and other market-based measures to address this growing global problem. And it is growing. The question is what are we waiting for?

Specifically, the Bingaman amendment includes provisions that would commit more than $4 billion during the next decade to vastly expand U.S. research into technology that could help to address the problem of global climate change. The amendment provides for the creation of a more focused administrative structure within the Federal Government, including an office in the White House to coordinate and implement a national climate change strategy. We cannot continue to just ignore this problem.

This amendment does not mandate a reduction of emissions by American companies. Instead, this package places the Nation on a commonsense glidepath that is both achievable and sustainable. It provides the framework to address the long-term goal of stabilizing atmospheric greenhouse gas concentrations by working with other nations, while leaving the actual technology and policy decisions to energy experts and the marketplace.

China, Brazil, and India, among other states, will soon surpass the industrialized world in emissions of greenhouse gases. It is important that we work in coordination with these nations to reduce their emissions at an early stage. American know-how, technology, and ideas can help to lead to the implementation of a range of marketable clean energy technologies, not just in the United States, but also around the world.

It is time for real action. A cherry-picked energy plan based on soliciting big industry campaign contributions is a bankrupt policy. It takes this Nation nowhere, and it puts our future at risk.

We cannot continue energy programs and budgets if we ever hope to meet our long-term needs. We cannot continue forestalling the development of a long-term energy strategy with a phantom plan. The Nation is at a turning point. Our energy policy needs must stop being dominated by a crisis management policy. We must work to enact appropriate energy legislation so that we avoid the consequences of our long failure to respond. We cannot wait for the next energy crisis or the next spike in natural gas prices—or the next California electricity debacle. We cannot just go out and seize another oil rich country in order to solve our energy problems. We must enact bipartisan energy legislation that will deliver a thoughtful and reasoned energy package.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I hope we are moving toward the opportunity to vote shortly. But, in the meantime, I cannot resist making a few comments.

I don't see it at all the way the Senator from West Virginia has described it. Over the last couple of years, I have worked very hard to bring an Energy bill before the Senate. I believe we have an Energy bill before us that is very broad, that is very encompassing, and that is very balanced. That is what we have needed to do.

We have been working now for 2½ years, and we generally have not been able to get over the obstacles to be able to get it completed, and I think I understand why. But it is time for us to decide: How important is it for us to have an energy policy?

The first thing this administration came up with when it came into office was an energy policy with a direction, and we have been fooling around with it ever since.

Last year, we couldn't even get it through the committee. We had to go right to the floor. We went to the conference committee and worked very hard. We did not succeed.

But this is a balanced approach. We are talking about an opportunity to have conservation, which is one of the things we need to do in energy. We are talking about the opportunity to have alternative sources of energy, which we will come to over a period of time.

I remember very much a number of years ago somebody coming to Casper, WY, talking about energy, saying: We have never run out of energy because we have always found a new source. Well, we probably will, but we need to be doing that in research.

The bill involves research in a variety of different areas that relate to energy. What else could you do besides research? There is a very great emphasis on hydrogen in this administration and doing something that will move us to a different kind of energy opportunity. Coal might be the basis for that opportunity. It would be much more economical to move.

Lots can happen in the future. What we are faced with doing in this bill relates to the fact that the energy industry has moved faster than we have moved. This is not a matter entirely of setting a future: it is a matter of catching up with what has already been done. And much of that is evidenced in the electrical industry.

Years ago everything we did was designed to have an energy company and an electric company that had their own distribution. They did their own generating. It was all in one area. That is not the case anymore. Thirty percent of electrical energy is generated by merchant generators. That energy has to be moved from the generator to the market. It is quite a different situation. It is already there, yet we seem to resist talking about it. We seem to resist accepting it. We seem to resist making that an advantage for us rather than a problem, and we have an opportunity to do that.

One of the other issues that is emphasized is domestic production, of course. It has already been pointed out that some 60 percent of oil comes from overseas. We are talking about the possibility of shortages of natural gas. I can tell you something: We have a lot of natural gas right here in this country, much of it in the west where I am from. We could be producing a great deal more if we had the policy to go ahead and do that, if we had the opportunity to have multiple use of lands to protect the environment and produce at the same time, to be able to have the transportation to move it to the market. These are the things that are there and available. That is what this bill is about.

To suggest that this bill does not have any substance to it is simply not right. It is a good excuse if you don't want to vote for it. But the fact is, there is substance. The fact is, it does move us forward. The fact is, we need to move it on.

We are talking now about an electric title, which I think is crucial. We were just upstairs talking about what energy does for jobs. Remember the economy started to turn down in the year 2000. We have been working at all kinds of things ever since. Here is one that has probably more of an immediate impact to jobs than anything else we could do, not only in production but, of course, it has an impact on all business activities.

How important is electricity to us? Everything we do—travel, gasoline, natural gas, all these things. So I guess it is sort of frustrating to hear there is no basis to this, that we don't need to hurry doing this. Yet the fact is, it is probably one of the most needed things we have had for a number of years. And yet we continue to find excuses for not going forward.

I hope we can move. We can complete this bill this week. We have already discussed almost all these items for a long time. It is time to move, and I hope we do.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Madam President, I commend Senators CANTWELL and BINGAMAN for their amendments to the electricity title that will, in effect, ban all forms of market manipulation and add important merger provisions. I am terribly disappointed that the Cantwell amendment failed by a vote of 48 to 50. She did an extremely fine job of laying out this program. I am sorry it didn't pass. It should have. I think there will be some Senators who voted against her amendment who will regret having done so.

We know that the energy crisis in California in 2001 resulted from market manipulation and price fixing. People of the State of Nevada were severely hurt by this manipulated electricity market, as were consumers all over Western States.

The State of Nevada has just completed the most contentious legislative session in the history of the State. The Governor of the State, after the regular session ended, had to continually call special sessions. I don't really know how many he called—two, three, four, five—but they were there for a long time. Finally, because nothing could be completed, the Governor filed a legal action with the Nevada Supreme Court. After the Supreme Court acted, action was taken. The provision in question that went before the supreme court is whether the Nevada Legislature had to pass tax increases by a two-thirds vote. The Nevada Supreme Court said no and they said yes, but regardless of that, I spoke to the majority leader from Nevada, Bill Raggio, today. He said he made the determination that it was going to pass by two-thirds, and both the assembly and the house ultimately did that.

The reason I mention the difficulty they had is because of the tremendous burden the State of Nevada had in not having enough revenues to meet the projected deficit, $1 billion in the State of Nevada, much of which was caused by the problems that developed in California with manipulating the energy prices there.

The State of Nevada had other problems: unfunded mandates that we have passed on to them with homeland security and Leave No Child Behind, which has left a lot of kids behind. The fact is, the electricity rates had a lot to do with that very difficult legislative session. That session took a long, long time to complete. Since 1999, electricity rates in the Las Vegas area have increased by more than 60 percent. Over the same period, natural gas prices across Nevada have doubled. It is a sad state of affairs that some seniors, especially, and low-income families in Nevada are being forced to go without prescription drugs or cut back on food in order to pay their electricity rates. That is a fact.

The bills that come from these increased electricity rates are a real burden, as the Senator from Washington, Ms. CANTWELL, mentioned today. She read specific letters from people in the State of Washington where these prices were preventing them from getting proper medical care and having the ability to pay their rent. The same applies, of course, in Nevada.

These wild price increases in electricity were painful to homeowners. They also made it hard for businesses to expand or make long-term plans. Nevada consumers were being asked to pay for the same very expensive long-term contracts negotiated by utilities in 2001 at the time of the California energy crisis. It cost Nevada ratepayers hundreds of millions of dollars.

Nevada Power, the power company that serves the Las Vegas area and southern Nevada, has flirted with bankruptcy. It is rated at junk bond status where in the past it was one of the strongest utilities in America. What does this junk bond status mean? It means the cost of money for the utility to purchase power for Nevada is very high.

The weakened financial condition of our utility is a burden to our ratepayers. I can remember during some of this time that I had to call the Governor of California to see if there could be some arrangement made so the power that the people of the State needed coming from California could be provided. I had to have a signoff from the Governor of California. This was difficult. They were in deep distress but their distress was passed on to Nevada.

The weakened financial condition of our utility is a burden to our ratepayers and the taxpayers of the State of Nevada. After Enron was exposed for its unfair and unethical practices, whether it was Fat Boy or Get Shorty, all these practices had an impact in Nevada. After these unfair practices were exposed, a subsidiary of Enron stopped delivering electricity to Nevada Power because of its weakened financial condition. Then adding insult to injury, this Enron subsidy sued Nevada Power for the losses it might incur if it couldn't sell the power at the contract price.

In a recent ruling, FERC upheld the contract the utility signed at these exorbitantly high prices. Again, our ratepayers were not protected from abuses during the California energy crisis. It is not consistent with rational thought that FERC could do this but they did it.

As the western energy crisis and Enron's collapse made clear, electricity markets are ripe for manipulation unless clear safeguards are put in place and companies are held accountable. The electricity title should ban all forms of market manipulation and contain concrete penalties for those that break the rules. The electricity title should strengthen FERC's authority to review public utility mergers for electric and gas—there will be an amendment that will focus just on gas in this regard—holding company mergers and generation assets, and ensure any consolidations are in the public interest.

I extend the appreciation of the entire Democratic caucus for the work done by the manager on our side, Senator BINGAMAN. Senator BINGAMAN is an intelligent Senator. He is experienced. He has done everything he can to help this bill be a bill that is a good bill which is indicated by the tremendous amendments he has filed that we will vote on in the next few hours.

Last year Democrats worked with Republicans to pass energy legislation by a vote of 88 to 11. This vote was to strengthen our national energy security, safeguard consumers and taxpayers, and protect the environment. The heavy vote is an indication that we were able to accomplish that.

That vote came after 24 hours of debate over the course of 8 weeks, and only after the Senate dispensed with 144 amendments.

Madam President, the distinguished Senator from Tennessee, the majority leader, has said we have been on this for 16 days. He has to say that with tongue in cheek. Many of those days have been Fridays and Mondays, when everyone knows when you turn to a bill for a day or two and it is a Friday or Monday, that is like turning to nothing. It is filler. Nothing happens. Most of those days the managers weren't even here. They said we are going to energy on short notice. The 16 days the distinguished Senator from Tennessee talked about really is more like 7 or 8 days.

As we know from past experience, the effort to craft comprehensive energy policy involves working through a series of complex issues. We are currently working through one of the most complex issues right now, electricity policy. These issues take time to debate, and we have a duty to the American consumer to ensure that we carefully consider what our energy policy will look like in the future. We have spent significantly less time debating the Energy bill this year. We have considered 42 amendments and held 15 rollcall votes. We have spent less than 7 days on this bill, considered 102 less amendments, and conducted 20 less rollcall votes than last year. There are a number of issues outstanding: Electricity; global warming; renewable portfolio standard; CAFE standards, on which we have debated two amendments but others need to be considered; hydroelectric dam relicensing; nuclear energy; natural gas; energy efficiency incentives; wind energy; carbon sequestration; exploration of the Outer Continental Shelf, and the energy tax package, just to name a few.

These amendments offered on this Energy bill dealing with electricity are not specious amendments, they are substantive amendments. The Cantwell amendment vote was 48 to 50. Without arm-twisting on the other side, Senator CANTWELL would have won. These are serious amendments people wish to offer. They are not single amendment issues. I expect there will be several amendments on each subject. We ended with a good product last year when we let the Senate work its will on the legislation. We need to spend adequate time this year to get a similar result.

I see the Senator from Florida on the floor. My understanding is that he wishes to speak.

Mr. THOMAS. I wonder if it would be possible to propound this unanimous consent request.

Mr. REID. Madam President, the Senator has been here all day. It is my understanding that the Senator wishes to speak; is that right?

Mr. NELSON of Florida. Yes, for perhaps only 3 or 4 minutes.

Mr. REID. I thought the Senator had longer to speak.

Mr. NELSON of Florida. I will accommodate the leadership. Whatever is the pleasure of the leadership.

Mr. DOMENICI. Madam President, the Senator has no right to decide who speaks. They have to seek recognition.

Mr. REID. Madam President, as I have said several times during the day, and yesterday and the day before, I have the greatest respect for the Senator from New Mexico. But the Senator from Florida, who is gracious and said he would take just a few minutes, has a right to speak as long as he wants to before we have votes on this.

Mr. THOMAS. The Senator from Wyoming was on the floor before he was, however.

Mr. REID. I have the floor.

Mr. DOMENICI. The Senator cannot dole out the time. He has no right to dole the time out to other Senators, Madam President.

Mr. REID. Madam President, I have the floor, and I have the right to speak about anything I want to speak about. The fact is, the Senator from Florida has been here several times today.

Mr. DOMENICI. Madam President——

Mr. REID. I have the floor, Madam President. I have the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. The Senator from Florida has been here several times during the day. He has a right, prior to our entering into this unanimous consent agreement, to speak for as long as he wants. He said he chooses not to do that, and that is in keeping with the courtesy that this junior Senator from Florida extends to everybody. I want to make sure he doesn't have hurt feelings and that he has the opportunity to speak. He knows the rules of the Senate and he has a right to speak if he wishes.

Having said that, I am willing now to have this unanimous consent agreement proffered.

Mr. THOMAS. Madam President, I ask unanimous consent that there now be the following debate in relation to the listed amendments: Bingaman No. 1413, 10 minutes equally divided in the usual form; Bingaman No. 1418, 10 minutes equally divided in the usual form. I further ask consent that following the debate, the Senate proceed to a vote in relation to amendment No. 1413, to be followed by a vote on amendment No. 1418, to be followed by a vote in relation to the Feingold-Brownback amendment No. 1416, provided there be 2 minutes of debate equally divided prior to each vote.

Mr. REID. Madam President, reserving the right to object, I ask if my friend, the distinguished Senator from Wyoming, would modify his unanimous consent request to allow the Senator from Florida, prior to this kicking in, to speak for up to 5 minutes.

Mr. THOMAS. I have no objection to that.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Madam President, not wishing to object, I just indicate that I did not intend to ask for 10 minutes of debate on each of my two amendments, and then in addition ask for 2 minutes equally divided. I just intended to have some time to refresh people's memories of what the two amendments were, since they were proposed and debated yesterday.

As far as I am concerned, once I have had a chance to describe my amendment, and there has been any discussion in opposition, we can vote on the first of the Bingaman amendments.

Mr. REID. Madam President, I ask the Senator to further modify the request to eliminate the 2 minutes of debate prior to the vote.

Mr. THOMAS. That will be fine.

The PRESIDING OFFICER. Is there objection to the request as modified?

Without objection, it is so ordered.

The Senator from Florida is recognized.

(The statement of the Senator from Florida, Mr. NELSON, is printed in the RECORD under "Morning Business.")

AMENDMENT NO. 1413

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, as I understand it, I now have 5 minutes to describe the first of the two amendments I have offered to the electricity title of the bill.

Let me make the obvious point at the beginning of my description, and that is that the amendment tries to do two basic things. It proposes language which would ensure that someone at the Federal level—in this case, the Federal Energy Regulatory Commission—has jurisdiction to review purchase and sale of generation companies and generation assets, the companies that actually produce the electricity about which we are talking and which we have all come to expect to get when we turn on the switch and see the room light up.

We ought to have someone with authority over that because under the Domenici substitute as it now is, nobody has authority at the Federal level. It is not realistic to suggest the States can handle that problem. They cannot. There is no prohibition in law, and there will be none under this proposal, to one company acquiring all the generation in one particular region or one company acquiring all the generation in one part of the country. We should have someone reviewing the acquisitions of that generation capacity to be sure that ratepayers are looked out after. That is the first thing the amendment does.

The second thing the amendment does is to prohibit cross-subsidy between utility companies and affiliated companies that may be in the same general holding company. We are eliminating the Public Utility Holding Company Act, so there is going to be no restriction as provided under that act. We need to be sure that cross-subsidy does not occur.

I have an article dated December 26 of last year in the Wall Street Journal which does a very good job of pointing out the problem that needs to be fixed. It says:

> Energy companies burned by disastrous forays into commodities trading and other unregulated businesses are increasingly seeking to pass some of the financial burden on to their utility units. This could lead to higher electricity rates for consumers in coming years.

Then it goes on to say:

> Utilities are being nudged to buy assets from affiliates to make loans to down-at-the-heels siblings or pass more money to their parent companies.

The article goes through a series of examples of how this is happening.

One example I thought was particularly constructive was Duke Energy. In July of 2001, a Duke accountant contacted regulators complaining that expenses generated by unregulated parts of the company were being transferred to the books of Duke's utilities.

We need a capability at the Federal level to protect the ratepayers and to ensure that does not happen. We do not have that in the underlying Domenici substitute. The underlying substitute does say that the Commission shall look out to be sure the public interest is served, and that is useful. That, unfortunately, is very general.

What we need in the law, I firmly believe, is a bright line requirement that in order for these kinds of acquisitions and sales to occur and to be approved, the Federal Energy Regulatory Commission ought to determine that there is not going to be a cross-subsidy as a result, that utilities will not be loaded down with debt from nonutility companies held by the same company. We need to keep the protection in the bill.

Utilities are a different kind of business. It is important that the lights turn on when we flick a switch. It is important that other utilities function. In this case, in this electricity title, we need to be sure that ratepayers are adequately protected.

I am persuaded that this amendment will strengthen the bill. I hope very much my colleagues will support it. It is exactly the same language we had in the bill last year, and last year there was an effort to delete the language which I am offering as a second-degree amendment, and that effort lost in a vote of 67 to 29. So a majority of the Senate is on record supporting the language I have proposed as an amendment to the underlying Domenici substitute. I hope Members will support the amendment. It will strengthen the electricity title. I very much believe it is good public policy and will serve us well in the years ahead when some of these problems recur, as I fear they will.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, how much time do I have?

The PRESIDING OFFICER. Five minutes.

Mr. DOMENICI. Madam President, I wish to make a point in case there are people observing the Senate. Senator NELSON from Florida indicated he had been waiting a long time—maybe all day—to be heard. There are a lot of Senators all day long who would like to come to the floor and be heard. The Senate is not the place where we just come down to the floor and automatically, if we come here, we ought to be heard. We have business, and we have rules. I am glad the Senator found time and we allowed 5 minutes and we allowed Senator BYRD 30 minutes, but we are engaged in a bill we are trying to pass.

I had a lengthy discussion with my friend from Nevada, and I have no doubt he wants to get this bill finished. I thank him for his willingness to move along. We will have another amendment ready pretty soon.

My objection to the Bingaman amendment is very simple. He alludes to last year and what happened with amendments such as his last year. There was no alternative last year. There is an alternative this year. It is the underlying electricity bill, which clearly protects the citizens, the users, and all of those concerns about mergers.

The merger review in our section is supported by groups such as the National Rural Co-ops, the rural power people, and many others. If, in fact, we did not have protection in this area with reference to gobbling by merger, obviously they would not be for this underlying bill. So I oppose this amendment because we do not have to expand FERC's merger authority. They have merger authority.

Under current law, electric merger departments are heavily regulated. FERC, the Department of Justice, and the Federal Trade Commission must review proposed mergers for their impact on competition. States also review proposed mergers. Expanding FERC's authority to cover the acquisition of generation facilities is unnecessary. We have plenty of merger authority if that is what we are worried about. We are getting rid of undue regulation. There is no need to impose more.

Further, changing FERC's review standards will impede efficient transactions, and we do not need that today, either.

So while I have great respect and admiration for my friend, I believe the electricity bill that is pending before us, which has been carefully put together, has broad support all based on the fact that it fits all the pieces together properly. It should be left alone. We do not have to add more merger review layers.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, my understanding is that at this point, under the unanimous consent agreement, I am allotted 5 minutes to talk about my second amendment. Is that accurate?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1418

Mr. BINGAMAN. Madam President, I will describe this second Bingaman amendment which was offered last evening. It was offered at a time when very few Senators or their staffs were in their offices and were not following this issue, I am afraid. The amendment tries to clarify a point in the bill that I think is very important.

Senator DOMENICI's substitute contains a delay in the issuance of FERC's standard market design rulemaking and it delays it until July of 2005, and that is not of concern. I accept that. Many believe the rule goes too far, should be dramatically modified, changed or completely abrogated, but others think we should go ahead right away. He has decided to put it off until July of 2005. So I am not involved in that in my amendment.

My amendment leaves the delay of the standard market design rule in place so it will still be delayed until July of 2005. However, in an effort to prevent FERC from renaming its rule, I believe that was the purpose that Senator DOMENICI and his staff had in an effort to keep FERC from renaming its rule and issuing that same rule, or something very close to it, under a different title, the bill would prohibit any rule or order of general applicability on matters within the scope of the rule. I think the clear meaning of that language is that FERC could not issue a rule or order a general applicability on any issue that is dealt with in the proposed standard market design for 2 years from now.

Standard market design covers a world of issues. One example, FERC currently has a rule in process related to interconnections to the transmission grid. No matter what that rule said, FERC would be prohibited from issuing that rule, as I read this language. I do not think that was the intent of my colleague from New Mexico or others who worked on this bill.

There are even rules that the Commission is required to issue by provisions in the bill. We have various provisions in other parts of this bill that say the Federal Energy Regulatory Commission shall issue an order on this issue, the Federal Energy Regulatory Commission shall issue an order on this subject. The bill requires rules on mergers, on transmission access by public power entities, on participant funding, and on other matters.

We are in the ironic position of having this one provision which says an order cannot be issued, a general applicability, on any subject that is covered by standard marketing design and at the same time we are saying you have to go ahead and issue orders of general applicability in these other areas.

So I am trying to get that clarified. I do not believe we are in disagreement on the substance but I do think it is important that we provide clear language or else we will be shooting ourselves in the foot.

The amendment I am offering says we would not want FERC issuing any final rule or order of general applicability establishing a standard market design. I think that is what we are trying to do. That is all my amendment does is to clarify that is what we are trying to do. I hope everybody will support it. I think it will make very clear that FERC will be able to go ahead and do the work that it is required to do in the next couple of years, between now and July of 2005. If we have another crisis such as we have had out in California or out in the west coast, we are going to be expecting FERC to issue orders of general applicability. They should be doing that. They should not be issuing a standard market design, and I am not suggesting they should, but they should have the authority to issue orders of general applicability and that is exactly what my amendment would give them.

I hope very much my colleagues will support the amendment and we can improve the bill by doing so.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, one of the most difficult negotiations in this bill was getting the language that prohibited the finalization of SMDs until July 1, 2005. The occupant of the chair knows that. That is what we have been talking about. Other Senators wanted a longer time. Some wanted a shorter time. Well, Senator BINGAMAN changes the language surrounding that July 2005 agreement. Frankly, I would be letting down all of those different groups that worked together to negotiate the language that said the finalization of SMDs will be delayed until July 1, 2005; by changing the words around it, all kinds of groups will be saying we have let them down; we changed what we agreed to.

In other words, I regret to say that the exact words surrounding this 2005 letter expansion are binding. Senator BINGAMAN wants to clarify it one way. There will be a whole group of people who worked on it saying, well, I did not want it clarified that way. I wanted it clarified another way.

The point is, it will work like it is. It might work like he wants it to work but the problem is we agreed to these words. Believe me, I am not agreeing to words just for words. They will work. It is just that the distinguished Senator would like to be more precise, more specific, his way. In doing that, he puts this Senator, who has worked this out with all of these other people, in a bind that if I say, yes, let's change it, then we are going to have telephone calls besieging Senators all over saying vote no; the senior Senator from New Mexico is not doing what he told us he would do.

Now, I regret that but that is just the result of the way we do things. I am very proud of the words, the date, and the negotiation. I do not lose a lot of Senators on that language and that date. Maybe six or eight wanted more time but we got a pretty good deal for almost everybody. So I just cannot take the risk. I am sorry.

With that, I do not need any more time. I yield back any time I have remaining.

VOTE ON AMENDMENT NO. 1413

Mr. DOMENICI. I move to table the first Bingaman amendment, which is the pending subject matter, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—53

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NOT VOTING—3

Biden
Kennedy
Kerry

The motion was agreed to.

Mr. THOMAS. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, I ask unanimous consent that the next two votes in this series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, there will be additional votes this evening. We are going to stack these two rollcall votes at 10 minutes. The chairman and ranking member have been here since 9 o'clock this morning. They have been working hard. We will continue tonight. We will finish the electricity amendment today. Therefore, Members can expect votes into the evening.

VOTE ON AMENDMENT NO. 1418

The PRESIDING OFFICER. The question occurs to the amendment of the Senator from New Mexico.

Mr. THOMAS. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—54

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hollings
Hutchison
Inhofe
Kyl
Landrieu
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Gregg
Harkin
Inouye
Jeffords
Johnson
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NOT VOTING—2

Kennedy
Kerry

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1416

The PRESIDING OFFICER. The question now occurs on the Feingold amendment No. 1416.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any time to speak on this amendment?

The PRESIDING OFFICER. There is no time to speak on the amendment.

Mr. DOMENICI. I move to table the Feingold amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Mississippi (Mr. LOTT) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—50

Alexander
Allard
Allen
Bayh
Bennett
Bond
Breaux
Bunning
Burns
Campbell
Carper
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Thomas
Voinovich
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Brownback
Byrd
Cantwell
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Murray
Nelson (FL)
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Talent
Wyden

NOT VOTING—2

Kerry
Lott

The motion was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I wonder if the minority whip will advise me—we are on the electricity title—are we ready to vote on passage of the electricity title or do you have additional amendments?

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Madam President, as I indicated last night, we have Senator DAYTON who still wishes to offer amendments. Senator CANTWELL has at least two more amendments. Senator FEINSTEIN has an amendment. Those are the ones I know of at this time. And Senator BOXER has an amendment. Senator CANTWELL is here. She has a very important amendment to offer.

I relate to my distinguished friend, the manager of this bill, that Senator KENNEDY is here and wishes to speak also. We are in a position where we are ready to move forward on the electricity title with a number of amendments.

Mr. DOMENICI. Does Senator KENNEDY have an amendment?

Mr. REID. The Senator from New Mexico will have to ask Senator KENNEDY.

Mr. KENNEDY. No. It has been the decision of the leadership to have a vote on Judge Pryor tomorrow. Under the agreement, we will have 1 hour for debate. This is an important nomination. I wish to address the Senate on that matter since we are going to be under very strict time limitations on the morrow.

We had that series of votes. I want to accommodate the managers of the bill. If there is an amendment that needs to be disposed of, I will be glad to wait; otherwise, at some point, I wish to address the Senate because this is an extremely important nominee. The nomination was just reported out of committee, and we will be voting in a very short period of time on the nominee. It is an extremely important nomination. If the decision was to not have that vote on the morrow, I am glad to withhold my statement and make my statement at the time the Senate addresses the nomination. I will certainly work with the floor managers to work out a time that is suitable, but I am ready to speak. If there is a pending amendment, and it is the desire of the floor manager to move ahead, I will accommodate him.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I say to the distinguished Senator from Massachusetts, I will speak to the majority leader, as soon as an amendment is laid down, with reference to the issue Senator KENNEDY just raised. I understand if we proceed on an amendment, we will have an hour or so, at which time I will talk with the majority leader and tell him of your desire and others to speak, and see what his wishes are in that regard.

Mr. SCHUMER. Will my colleague yield?

Mr. DOMENICI. Without losing my right to the floor.

Mr. SCHUMER. There are others who wish to speak in addition to the Senator from Massachusetts.

Mr. DOMENICI. I will mention the Senator's name.

Mr. REID. I know the Senator from New Mexico has the floor.

Mr. DOMENICI. Yes.

Mr. REID. Madam President, earlier today I alerted the Senate that we would have members of the Judiciary Committee come to the floor, and we have members of the Judiciary Committee here today. We have the Senator from Massachusetts, who is a three-decade member of that committee. We have Senator SCHUMER, who is a relatively new member of that committee. Sometime tonight they are going to speak on the Pryor nomination. I indicated that would happen, and that is going to happen. They have an absolute right to speak. I know the Senator from Massachusetts is being kind and generous, but he has a right to speak. It can either be done now or 5 minutes from now or 10 minutes from now, but the Senator from Massachusetts is going to get the floor, and he is going to speak on the Pryor nomination, as I alerted the Senate today that would happen.

We did not make the choice that we would vote for the seventh time on Estrada today. The votes have not changed. We did not make the decision we would vote on Priscilla Owen. We have voted three times, and the votes have not changed. We did not make the decision that the Pryor nomination would be voted on without a single bit of debate on the Senate floor, but just move it forward for cloture. This is not as if it is a surprise.

We telegraphed our intentions today that there would be members of the Judiciary Committee who would come to the Chamber and speak, and that is going to happen tonight.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I cannot do anything more than that, and I think the distinguished Senator from Massachusetts accepts my statement as an honest statement.

Mr. KENNEDY. Yes.

Mr. DOMENICI. I will leave the floor. I will find the leader, and I will tell him what is going to happen. I will seek his advice and give him my advice. I very much appreciate the Senator from Massachusetts letting me know. We have a number of amendments left. We have important legislation before us. It is absolutely impossible to do the people's business if, in fact, during the next 12 hours we have 6 or 8 hours taken up by speeches with reference to a judge. We will get it done, but we will be here Sunday, which is all right with this Senator. I do not think I want to let that happen under my watch as manager, but I guarantee my colleagues, for those who insist they are going to speak, I can assure them we are going to be here.

Sooner or later the speeches will run out, and we will be here, and we will take up the pending amendments on this bill. I have been told that by the leader unequivocally. I assume that is true if only 60 Senators stick around. So long as we do not lose a quorum, I presume we are going to be here on Friday, on Saturday, and on Monday to finish this bill. Senators have their rights, but we have an obligation to do this work.

I say to the distinguished whip, if he will call up the next amendment, I will leave the floor and find out what the leader will do about this, and perhaps we can come up with some accommodation with reference to this issue. I thank Senator KENNEDY for his willingness to let me do that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will proceed then. I just wish to indicate, as someone who also has been a bill manager, I understand completely the frustration the Senator from New Mexico has and his desire to move along. As Senator REID mentioned, we did not anticipate at the time this nominee was reported out that we would have a vote so early in the consideration.

Then last week, the chairman of the committee made a very extensive statement about the nominee and also the procedures of the committee itself, and I want to attempt to correct that record.

We are on the eve of a vote on the nominee, and that has been established by not the Senator from New Mexico but by the majority leader. We are just trying to meet our responsibilities as members of that committee who have strong views and want to share those views with the membership and we also feel a responsibility to tell, to the extent the American people are interested, what our reservations are in terms of the merits and the process.

I say to the Senator from New Mexico, I plan to be here this evening, and if it is the desire of the floor managers to consider another amendment, I am glad to take my turn, although I do think we ought to have at least an opportunity to speak in the next few hours.

I will begin my statement on this nominee. If it so works out and the Senator from New Mexico wants to intercede, I will be glad to try to accommodate him.

Mr. DOMENICI. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DOMENICI. How long does the Senator intend to speak?

Mr. KENNEDY. I expect to talk probably 30 minutes.

Mr. DOMENICI. Does the Senator from New Mexico have the floor or the Senator from Massachusetts?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I would rather not get caught into a precise time limit at this time but my general sense is about 30 minutes.

Mr. DOMENICI. Will the Senator yield? I will get right back to him.

Mr. KENNEDY. That is fine.

Mr. DOMENICI. Madam President, let me repeat——

Mr. KENNEDY. Madam President, I think I have the floor but I will yield to the Senator from New Mexico for whatever comment he wants to make.

Mr. DOMENICI. I ask for a couple of minutes, and it will not take any longer.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. First, I say judges are important, and speaking on behalf of or against judges is very important. I say that not only to the Senators but to our majority leader. It is also very important that we pass an Energy bill. We have been waiting for weeks and weeks. This committee was asked to put a bill together. The Senator from New Mexico wants to get the Energy bill finished. Clearly, I find nothing in the rules that says the Senator from Massachusetts is not entitled to make his speech of 30 minutes or up to an hour. I do believe it is important, nonetheless, that somewhere along the line there be some accommodation and that we proceed to get the Energy bill finished. I understand there are four or five amendments. I wish I could see them sooner or later so I will know what they are about but nobody owes me that, either. We will take it as it comes.

I will ask the distinguished majority leader to be accommodating so we can get this bill finished, but I am doing that with great trepidation, not as to Senator KENNEDY but as to whether there is a willingness to pursue this bill with vigor if that accommodation is made. I am not sure about that based on some things that have been happening but I hope it is. It is with that in mind that I will talk to the leader, hoping it does mean that if accommodation is made, we will proceed with dispatch on the Energy bill.

I thank the Senator for yielding to me.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. SARBANES. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield for a question.

Mr. SARBANES. I have been listening to this discussion. Am I correct in saying that the Senator would not be seeking to speak now if the other side had not indicated that they were intending to try to bring the nomination of Mr. Pryor to the Senate tomorrow? Is that right?

Mr. KENNEDY. The Senator is exactly correct.

Mr. SARBANES. The Senator is not inserting himself into the debate on the Energy bill seeking to slow the Energy bill down; he is prompted to do this by the fact that the other side is scheduling this nominee for a vote, I understand, with no debate whatsoever. Is that correct?

Mr. KENNEDY. Well, that is correct. It is not the members of the Judiciary Committee who are holding up the consideration of the Energy bill. It is the decision to put before the Senate, under the legitimate procedures of the Senate, a cloture petition to have a vote on this nominee, effectively shutting off all the debate.

Quite clearly, my own belief is if we had the time, and also had the time during the August recess, to complete the investigation which needs to be done on this nominee, the Senate would be much better informed, the American people would be much better informed, and the judiciary would be much better served. That is not the decision of the leadership and, therefore, we believed that as the day wore on, after 5, we would at least have an opportunity, since this is an enormously serious nominee for a very serious position and there are very serious charges, to address the Senate.

Mr. SARBANES. Will the Senator yield for a further question?

Mr. KENNEDY. Yes.

Mr. SARBANES. It is my understanding that twice this week, if I am not mistaken, we have had to go off of the Energy bill, which we are being told we must move forward, in order to address other judgeship nominees who had previously been voted on a number of times. So we have been diverted off the track of the Energy bill by these judicial nominees, not of our doing but because of the scheduling which the other side has undertaken.

I know our assistant leader has been concerned about that as well, if I am not mistaken, in that regard. Is that not correct?

Mr. KENNEDY. The Senator is correct. As the Senator remembers, I think those votes were in the late morning and even interrupted committee work at that time, which many of us were involved in, let alone the consideration of the Energy bill.

Mr. SARBANES. I thank the Senator.

Mr. KENNEDY. I thank the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Massachusetts.

NOMINATIONS

Mr. KENNEDY. Mr. President, contrary to the widespread impression of a partisan breakdown in the judicial nomination process, Democrats in this closely divided Senate have, in fact, tried our best to cooperate with the President on judicial nominations. We have largely succeeded, even though there are a handful of nominees who we believe are too extreme.

Since President Bush's inauguration, the Senate has confirmed 140 of his nominees and so far blocked only 2. We have said "no" in those cases partly because these few nominees were too extreme for lifetime judicial appointments and partly because the White House and the Senate majority have tried to jam the nominations through the Senate without respect for the Senate's advice and consent role under the Constitution and without respect for the Senate rules and traditions.

The nomination of Mr. Pryor illustrates all of these issues. Even his advocates concede that his attitudes and beliefs are the very extreme of legal thinking. I am confident that when the Members of the Senate and the public fully understand and consider his prejudices and attitudes, a majority of the Senate, with the strong support of the public, will agree that he does not merit confirmation to a lifetime seat on an appellate court that often has the last word on vital issues, not only for the 4½ million people of Alabama but also for the 8 million people of Georgia and the 15 million people of Florida. In fact, this nomination does not belong on the Senate floor at this time.

The Pryor nomination was reported out of the committee as a result of a gross violation of the same committee rule of procedure which caused the Cook and Roberts nominations to be held up in the Senate floor earlier this year. The Judiciary Committee has a rule which clearly prevents the termination of debate on a nominee unless a majority of the committee, including at least one member of the minority, is ready to vote on the nominee.

This rule, Rule 4, was adopted at the insistence of Senator HATCH, Senator Thurmond, and other Republicans in 1979, when I was chairman of the Judiciary Committee, as a reasonable protection for the minority. After the rule was ignored in the Cook and Roberts case, we thought we had resolved this matter amicably and equitably. Both nominees were later confirmed based on a clear understanding that Democrats would not in the future be deprived of their Rule 4 rights.

After all, these rules were put in place at the start of this Congress, with the support of the Republican chairman of the committee, and now we have seen a blatant and flagrant disregard, which is not just an issue of procedure but affects the substance of this issue in a very important way.

Just as important is the reason why Democrats were unwilling to vote on this nomination in the committee. The reporting of this nomination was totally premature because the committee was forced to move to a vote in the midst of a serious investigation of substantive questions of candor and ethics raised at the hearing by the nominee's own testimony, by his answers and non-answers to the committee's followup questions.

On Friday, Chairman HATCH presented a version of the history of this nomination and this investigation which does not comport with the facts. I want to go through that history so the Senate can fully understand that Democrats have proceeded expeditiously and responsibly and that the rush to judgment in the committee last week was an effort to cut off an important investigation. The full Senate deserves to know its result before it considers this nomination.

The basic facts on this issue are straightforward. Democrats did not invent the issue. Years before this nomination, lengthy articles in Texas and DC newspapers raised the question of the propriety of the activities of the Republican Attorneys General Association.

It was reported that the organization sought campaign contributions to support the election of Republican attorneys general because they would be less aggressive than Democratic attorneys general in challenging business interests for violations of the law. Some descriptions of this effort characterize it as a shakedown scheme. The leaders of the association denied the allegation but refused to disclose its contributors. They were able to maintain secrecy by funneling the contributions through an account at the Republican National Committee that aggregated various kinds of State campaign contributions, thus avoiding separate public reporting of the contributions or the amount of these gifts. The issue received significant press coverage during the 2002 U.S. Senate campaign in Texas especially since several Republican attorneys general have denounced the association as fraught with ethical problems.

Since Mr. Pryor had been identified publicly as a leader of the association's efforts and the ethical issues raised by it, these issues are obviously relevant to his qualifications. Senator FEINGOLD asked the nominee about it at the June 11 hearing. Until this point in the hearing, Mr. Pryor was, in Senator HATCH's own words, "no shrinking violet." He had been open and honest about his personal beliefs and ideological views. He did not retreat a single step or hedge his opinions. Nor were there any "confirmation conversions" taking new views, contradicting old ones. Mr. Pryor was a model of outspokenness, with clear recollections of the details of briefs, legal opinions, speeches, and other complex legal issues.

Only on the issue of the Republican Attorneys General Association were his statements cramped and fudged, his recollections virtually nil. His answers were unresponsive and incomplete. They raise serious questions about his candor and truthfulness. He was asked a broad question reciting the allegations against the association. He was asked whether, if the allegations of soliciting contributions from potential target corporations are true, his own role in the association would present at least an appearance of conflict of interest. His answer was what would have been called a "nondenial denial" in the Watergate days. He said the contributions were made to the Republican National Committee, not to the association. He said that "every one of these contributions, every penny, was disclosed [by the Republican National Committee] every month."

The association's own materials show that its contributions were being given to the association and that the writing of checks to an aggregated account of the Republican National Committee was merely a way to use a reporting loophole to mask the association's contributions and the amounts of their gifts.

Even more startling, Mr. Pryor's assertion that every penny of the contributions was disclosed by the Republican National Committee was a clear misrepresentation. The fact is, the association and its members have explicitly refused to disclose the contributions. Republican National Committee reports did not mention any association funds, let alone every penny. Mr. Pryor's statement raised a giant red flag.

Senator FEINGOLD immediately told the nominee there would be followup on this issue in written questions. On June 17, Senator FEINGOLD and I both asked the followup questions. We gave him an opportunity to review the previous answers and make them more responsive. He refused. He said: "I stand by them." We asked about other details of the association's operation and his specific role in it. Once again, his answers were unresponsive and silent on key facts.

This careful lawyer could remember the most esoteric details of complex legal cases going back many years but could not remember a single company or person he himself had solicited for the association. He could not recall whether any of the leading tobacco or other companies identified by the President were contributors. He could not remember the name of a single association member or contributor or whether he had ever personally received any of the campaign funds.

Typical was this question and answer: I asked, "To the extent that the RAGA designated system funds were transmitted to or through another entity, did that entity disclose publicly the funds raised by or for RAGA?"

His answer was a non-answer: "To my knowledge, RAGA complied with all the applicable campaign laws and its operations.

He later said, "I never solicited for RAGA a contribution from any person who has been the subject of an investigation or legal action of my office." He refused to say whether someone else on behalf of the association had made such solicitations. He refused to say whether contributions came from companies his office might have investigated, but did not.

These issues that were raised about the telephone companies, about the calls, about the meetings, about the breakfast meetings, who was there, have all been left open. There is strong evidence that is in conflict with what the nominee has presented. This is part of the committee's work in terms of the future, to get to the bottom of this, in fairness to the nominee and so that the Senate will be able to make its judgment.

Senator HATCH's floor statement made much of the number of times the Pryor nomination appeared on the committee's agenda. In fact, the Pryor nomination was on the agenda for June 19 but the listing was obviously premature since the answers to our questions had not even arrived. The answers were received on June 25. Again, Pryor was placed on the agenda for the next day, but before any of us had a chance to examine his intricate web of answers, partial answers and non-answers. The nomination was obviously not even close to ready for consideration. Even our first look at the answers made clear there would have to be further investigation, more followup questions. Even Senator HATCH realized proceeding the next day would be inappropriate.

By this time, Pryor's statements had been widely reported and had come to the attention of many people who knew the facts and some who might cast light on the facts that Mr. Pryor could not recall. On July 2, during the Fourth of July recess, just before the long holiday weekend, extensive new material from one such source arrived at the minority office in the committee. After a brief initial review to assess the authenticity and relevance, the material was turned over to the majority staff when the Senate returned from the recess. At the same time, the chairman's staff was fully briefed about the process by which the materials had reached the committee.

Then, contrary to the chairman's floor assertion, a bipartisan group of investigators questioned the source of material in detail. No question was raised about the authenticity of the materials. On the contrary, when the joint staff shortly thereafter interviewed the author of the document, she confirmed the source had full access to them.

The material was then distributed by each side to each member. After reviewing the documents, the minority requested that a bipartisan investigation be conducted. That investigation was to begin July 15, with calls to the association's former finance director and executive director. Until then, not a single document had been disseminated outside the committee.

However, on that day, the majority gave the documents to the nominee and to the Justice Department. Someone on the Republican side gave them to a strongly pro Pryor columnist on the Mobile Register newspaper. The columnist called the former finance director, a close Pryor ally and former campaign director. That call was made before the investigators could reach her, warning her that she could expect a call from the committee staff. Although the call to her did produce some useful information, it also marked the beginning of a consistent effort by the majority investigators to interfere with the investigation.

After the interviewee stated that she might well have the files of the association, the Democratic investigator requested she provide them to the committee. The Republican investigator told her not to comply with the request and not even to comply with the request to at least begin searching for association materials in her possession.

The Mobile Register columnist disclosed and discussed the documents on July 16, and others in the press wrote about them on the 17th. The committee had a brief discussion of the documents on the 17th with the expectation that the just started investigation would continue on a bipartisan basis in accordance with an investigative plan provided to the majority.

However, at that point, the Republican investigative staff began informing the interviewees that the calls to them were not part of an official committee investigation, implying that they did not have to cooperate.

Between July 17 and July 23, many calls were made in accordance with the plan. Many of these calls did not reach the parties called.

By the time of the committee's meeting scheduled for July 23rd, the investigators had just begun accumulating significant information in accordance with the investigation plan. The day before the meeting, all nine Democrats, having considered the information available up to that point, wrote to the chairman and informed him that the investigation was producing serious and disturbing information, that it would require substantial additional time, that his investigators were interfering with it, and that after it was complete, we would want to question the nominee under oath.

The Republican staff had offered interviews with the nominee before that time, but the Democratic investigators had declined to participate until the basic investigative work had been done, and in any event, the Democratic members wanted to question the nominee in person under oath at the appropriate time.

At the meeting on July 23, the chairman rejected the minority's request out of hand. He insisted on a vote on the nomination without completion of the investigation and without further questioning of the nominee under oath. That was the situation when Senator LEAHY invoked the committee's Rule 4 to prevent a premature vote on the nomination. The chairman refused to follow Rule 4 and insisted on an immediate vote.

The nine Democrats on the committee voted against reporting the nomination, and the 10 Republicans voted to report it, with one member of the majority noting that his vote to report did not mean he would necessarily vote for the nominee on the floor. He also noted that he would want to review the results of the investigation with the nominee before any floor vote.

Despite the lack of co-operation from the majority staff, the investigation has continued. It has developed new information which expands both the scope and the gravity of the original concerns. It tends to show not only that the nominee was not candid with the committee, but that his statements may have been intended to obscure facts that would raise extremely serious ethical or legal questions about the nominee's activities.

I raise these points because the chairman has suggested that these issues are not serious. They are very, very serious. I do not know how it will ultimately come out after the investigation is complete, but as I said in committee, the nomination comes to the floor with a ticking ethical time bomb which might explode at any moment.

There is no doubt that this nomination is not ripe for a vote of the full Senate. The committee majority was not willing to finish its job before reporting the nomination to the Senate. But that is no reason for the Senate to allow the nomination to be voted on, before these matters are thoroughly reviewed, and the nominee has responded.

On the issue of the merits, Mr. Pryor is simply too ideological to serve as a Federal court judge. The concern is not simply that Mr. Pryor is a conservative. The question is not whether all of us agree with his views. Mr. Pryor's litigation positions, public statements and his writings leave little doubt that he is committed to using the law not simply to advance a "conservative" agenda, but a narrow and extreme, ideological agenda.

Mr. Pryor's record is clear. He is an aggressive supporter of rolling back the power of Congress to remedy violations of civil rights; he is a vigorous opponent of the constitutional right to privacy and a woman's right to choose; he is an aggressive advocate of the death penalty, even for individuals who are mentally retarded. He is contemptuously dismissive of claims of racial bias in the application of the death penalty. He is an ardent opponent of gay rights.

More than just disagreeing with much of the Supreme Court's jurisprudence over the last 50 years on issues such as privacy, the death penalty, criminal justice, and the separation of church and state, Mr. Pryor has dedicated his advocacy and litigation to rolling back widely accepted legal principles and laws. What we know about Mr. Pryor leaves little doubt that he will try to advance that agenda if he's confirmed as a Federal judge.

At his hearing and in answers to written questions, Mr. Pryor, for the most part, adhered to his past, extreme, views. He did not renounce his view that the Supreme Court's decisions in Miranda v. Arizona and Roe v. Wade were the worst examples of judicial activism or that the Roe decision was an abomination. What are we expected to believe? That despite the intensity with which he holds these views and the years he has devoted to dismantling these legal rights, he will still "follow the law" if he is confirmed to the Eleventh Circuit? Repeating that mantra again and again in the face of his extreme record does not make it credible that he will do so.

We know the cases that Mr. Pryor has won at the Supreme Court to narrow Federal rights, and the effect of these cases on the lives of disabled workers—of breast cancer victims like Patricia Garrett—and of the many older workers who face discrimination by State agencies.

Mr. Pryor's agenda is more far-reaching. He has consistently advocated views to narrow individual rights far beyond what any court in this land has been willing to hold.

Just this term, his radical views were rejected by the Supreme Court. In its recent term, the Supreme Court rejected his argument that States could not be sued for money damages for violating the Family and Medical Leave Act. The Court rejected his argument that States should be able to criminalize private sexual conduct between consenting adults. The Court also rejected his far-reaching argument that counties should have the same immunity from lawsuits that States have.

What is more disturbing, Mr. Pryor has plans for narrowing Federal power far beyond the Supreme Court's current case law. The Supreme Court has held that Congress has broad power under the spending clause, but Mr. Pryor's agenda would restrict Congress's power under that clause. He has praised a district court's decision to limit the ability of individuals to enforce spending clause statutes. That decision would have reversed more than 60 years of Supreme Court precedents, and it was rejected unanimously by the Sixth Circuit. Seventy-five constitutional law scholars had joined a brief opposing the decision. Yet, Mr. Pryor said that the District Court decision was "sublime" and "brilliant."

He has even argued in a race discrimination case that Alabama should not be subject to a lawsuit under title VII of the Civil Rights Act of 1964. That argument was unanimously rejected by the Eleventh Circuit, because it would have reversed decades of settled Supreme Court law. It shows how far he would go—trying even to limit Federal power to address race discrimination under the 14th amendment, even though combating race discrimination is the amendment's very purpose.

These examples rebut the notion, repeatedly urged by Mr. Pryor's supporters, that Mr. Pryor is simply "following the law" or that his views are within the mainstream. Again and again his statements and litigation positions make clear that his agenda to "make the law", and again and again his radical views to change decades of Supreme Court jurisprudence are rejected by the Federal courts.

Mr. Pryor even seems to resist the application of Supreme Court decisions with which he disagrees. In 2002, Mr. Pryor authored a friend-of-the-court brief to the Supreme Court arguing that it did not violate the eighth amendment to execute people who are mentally retarded. The Court rejected his argument by a 6 to 3 vote in Atkins v. Virginia. Yet this past May, Mr. Pryor attempted to prevent a prisoner with an IQ of 65—and whom even the prosecution had noted was mentally retarded—from raising a claim under Atkins. The Eleventh Circuit unanimously rejected Mr. Pryor's arguments, and stayed the execution of the Alabama prisoner.

Do you call that mainstream? Judicial mainstream?

Mr. Pryor does not simply advocate these views in public life. He has used his position as Attorney General to advance his own ideolgical agenda. His State was one of only three States to submit an amicus brief in support of Texas in the Lawrence case on gay rights. His restrictive view of the constitutional right of privacy and his argument that States should be allowed to criminalize homosexual activity were rejected by the Supreme Court in its decision last month.

He was the only State attorney general—with 37 on the other side—to submit an amicus brief opposing the remedy in the Violence Against Women Act. He was the only attorney general to argue to the Supreme Court that Congress has no power to make provisions of the Clean Water Act enforceable against the States.

Do we understand now? He was the only State attorney general, with 37 on the other side, to submit an amicus brief opposing the remedy in the Violence Against Women Act; the only attorney general to argue to the Supreme Court that Congress has no power to make provisions of the Clean Water Act enforceable against the States. He had ridiculed the Supreme Court of the United States for granting a temporary stay of execution of a prisoner in a capital case who even the prosecution had noted was mentally retarded. The Eleventh Circuit unanimously rejected his arguments and stayed the execution of the Alabama prisoner, and the proponents of this nominee say he is in the mainstream? The mainstream of thinking?

Mr. Pryor has vigorously opposed gun control laws. He says the victims of violence who sue gun dealers or manufacturers failing to follow the Federal law are "leftist bounty hunters."

He filed an amicus brief for the State of Alabama opposing a law limiting possession of firearms.

In this case, a Federal district court judge dismissed an indictment against a man in Texas who had possessed a firearm while under a restraining order for domestic violence, in violation of Federal law. The judge ruled that the law violated the second amendment. Alabama was the only State to file an amicus brief in the Fifth Circuit. The brief broadly argued that the Federal Government's interpretation of the statute was so broad that it constituted a "sweeping and arbitrary infringement on the second amendment right to keep and bear arms."

Mr. Pryor's argument went far beyond what the Fifth Circuit or any other court has held. The concern is that here again Mr. Pryor was using the attorney general's office in Alabama to advance his own personal ideological agenda in a Texas case, and that he will continue this mission if his nomination is confirmed.

What he was trying to intervene on was the fact that you have a law that restricts the ability for someone to bear an arm who is under a restraining order for domestic violence. Do we understand this? State law has said people who are under restraining orders for domestic violence should not bear arms. Attorney General Pryor is saying, "Wait a minute. That violates the second amendment." And we are saying that this is in the mainstream of judicial thinking? A State law says that when you have domestic violence and an individual is under a restraining order, that individual can't bear arms. He is trying to override it and you say that is in the mainstream?

Mr. Pryor has ridiculed the Supreme Court of the United States for granting a temporary stay of execution in a capital punishment case. Alabama is one of only two States in the Nation that uses the electric chair as its sole method of execution. The Court granted review to determine whether the use of the electric chair was cruel and unusual punishment. For Mr. Pryor, however, the Court should not have even paused to consider this eighth amendment question.

Listen to this. He stated that the issue "should not be decided by nine octogenarian lawyers who happen to sit on the Supreme Court."

He stated that the issue "should not be decided by nine octogenarian lawyers who happen to sit on the Supreme Court" of the United States.

Talk about respect for the law and respect for the Supreme Court. All of us know that the courts may support our views at times. We may differ with the other courts. We just saw this in recent times when they made a decision on the outcome of an election. Many had concerns about it. It was supported by the American people because of the great respect that we have for the Supreme Court. And he is talking about "nine octogenarian lawyers who happen to sit on the Supreme Court."

Mr. Pryor's many inflammatory statements suggest that he lacks the temperament to serve as a judge. He is dismissive of concerns about fairness and racial bias in capital punishment. He has stated: "make no mistake about it, the death penalty moratorium movement is headed by an activist minority with little concern for what is really going on in our criminal justice system."

Many of his statements reflect an alarmingly politicized view of the judiciary—hardly appropriate for someone who wants to serve as a Federal judge. In a speech to the Federalist Society, he praised the election of George Bush as the "last best hope for federalism" and ended his speech with these words a "prayer for the next administration: Please God, no more Souters."

That is obviously a derogatory remark about a very distinguished jurist, Justice Souter.

He was thankful for the Bush v. Gore decision because, as he said, "I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter."

I hope that his nomination will be rejected.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, is the Senator from New Mexico recognized?

The PRESIDING OFFICER. Yes, the Senator is recognized.

Mr. DOMENICI. Madam President, I conferred with the majority leader, and he is thinking about the situation we are in. I would like to chat for a little bit as one who greatly appreciates the Senate, the committees, and the jobs we all have and the job I have.

While the majority leader is thinking about matters and deciding what to do, I want to talk a little bit about the situation.

First of all, let me say there is no question that the United States of America needs an Energy bill and needs an Energy bill sooner rather than later. We have already passed the time to have an Energy bill. As far as I am concerned, whatever this interference of a judge and a judge's vote and Senators on the other side of the aisle wanting to speak, the way I look at it, I would let them all do it. In fact, I would say to the Democratic Members of that committee, why don't you all speak? I would set up the vote on the judge at the earliest possible time under the rules, and let them speak if we have to stay here all night. Let them all speak. Then we will have the judge out of the way sooner than later. Then we would just say to everybody, fine. One day we were supposed to be debating the Energy bill and we debated the judge, so we will stay here an extra day. I would just say, let's start tomorrow, and after you talk for the next 9 hours, instead of working on the Energy bill, let us go to work and let us do the Energy bill. That might mean instead of Friday we would be here Saturday. We would just substitute one day called Saturday for a day called Wednesday. Wednesday was the day we ought to be working on the Energy bill, but there has been a decision to speak to a very important subject which the other side of the aisle has thought to be very important, and that is their privilege. They think it is important to talk about a judge. I think it is important that we in fact get an Energy bill. I think there is only one way to do both of them. That is to let the Democrats talk as long as they would like. If they want to talk now, or want to talk for the rest of the night, or want to talk right up until the time we are supposed to vote, then sooner or later that vote will be over. That will be one of the jobs we have in front of us.

Then I would turn to the next job we have, and that is the Energy bill. If we don't get to that until tomorrow morning, we will then be on the Energy bill. Then we will decide how much time we want to take on the Energy bill. Then the public will know where we are.

Everything will have been done: Democrats will have gotten to talk all they wanted on a judge and the Republican leader will have brought up the judge and the Senate having voted on the judge—whatever happens, a cloture vote, approval, nonapproval, but the vote will be over, and we will be back on the Energy bill. Then we will have nothing else before us.

Straightforward, looking out to the public of America, looking across the aisle to our friends and saying: You had it your way. Now, are we ready? Are we ready to go and finish the Energy bill the American way? You can't have both of them. You can have one or the other. You can have one at a time but you can't have both at the same time.

So I think it is pretty easy. I don't think it is the only way, though. I think the majority and minority leaders can, in fact, reach an agreement. That is not the business of the Senator from New Mexico but I believe they could reach an agreement.

Let me repeat, if nobody wants to agree, and the Democrats want to talk—and they have told us absolutely they have the right to talk, not about the Energy bill, about a judge. And I am not being critical. There is a judge nominee who they claim they want to talk about. I think they ought to talk about it. I think they ought to talk right up until the time we vote. But sooner or later we will vote on that judge and then we ought to come back to the Energy bill. Then we can tell the public, clear and simple, there is no judge in the way, there is nothing in the way. Here we are, full speed ahead.

We have as many days as we need. We have Friday—well, that would still only be Thursday. We have the rest of Thursday. We have Friday. We have Saturday. Then certainly some people would not want to work on Sunday but then we could come back Monday. If the Democrats think we need 4 more days, we could have 4 more days.

I, frankly, believe, without any doubt, you can finish this Energy bill in a day and a half, and people can have all the time they want on important matters—maximum, 2 but you can finish it in 1½ to 2 days.

So from this Senator's standpoint—I repeat, I do not speak for anyone but myself as the chairman of the Energy Committee and someone who has worked pretty hard to get a bill I think is pretty good but that I would like to take to conference someday with the House and get an Energy bill for the country. This bill does not please everybody but it is pretty good.

I have been pondering it, but I think probably the best thing to do is to make arrangements to do them both, to do the judge and to do the bill. If that is what the other side wants, to take the time that I think belongs to the Energy bill so they can speak, I would say, let them do it. But that time will end. When that time ends, we go to the Energy bill and then there will not be any excuses—that will be it.

Whatever are the amendments—my friend, the whip, has told me there are three or four more on the electricity section—let's have them. We can do them whenever that time comes that I have just described, one after another, just like we have done. None have passed yet. That is not to say some will not in the future.

Then we will go to the other ones, three of which are important to people but that do not even belong on this bill. And they are important. They are going to take a lot of time. They literally do not belong on this bill.

So I have spent a lot of time so far. I am willing to spend a lot more. I don't think it needs 3 more days of the time of the Senator from New Mexico. I think it needs 2 days. But I can't do that so long as the other side wants to talk about a judge. I can't do both. The public ought to know that. It just can't be done.

Having said that, let me repeat, let's do both. But let's have an understanding that when we are finished with the judge—and the Democrats will have had all the time they needed to talk about the judge; and that is fine; we have the ranking member here; he might want to talk about him—then we will go to the Energy bill, and we will stay here Friday and Saturday and Sunday and Monday and finish the Energy bill.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Nevada.

Mr. REID. Mr. President, as the distinguished Senator from New Mexico said, the public should know. The public should know the following: The last 4 weeks the distinguished majority leader has been saying we are going to complete the Energy bill in 1 week. For 4 weeks, the minority has said: We cannot do that. There is not enough time to do that.

Last year, when we worked our way through this bill, there were 140-some odd amendments. This year, we have had stops and starts on this bill. The majority leader said we have been on it 16 days. Everyone knows that is simply not factual. We have been on it days but these were Fridays and Mondays when nothing was going on here.

Now, the public should know that in addition to having a difficult time finishing this bill in 1 week, the majority leader has made the decision to schedule votes on judges.

The public should know that the vote we took today on Miguel Estrada was the seventh time we have voted on this judge. There has not been a single vote change all seven votes but yet the valuable time of the Senate was taken on this wasteful exercise.

We also voted, for the third time, on Justice Owen from Texas. Votes have not changed on that. Also, another waste of time.

My friend from New Mexico says: Well, let's finish the debate on Pryor and then go to energy. The problem with that is, we have been told there is going to be another cloture motion filed on a judge. There has been no time spent on the floor on her, either, a woman from California by the name of Kuhl. So using the logic of the Senator from New Mexico, then we would take and debate all day Thursday, and some of Friday, prior to the vote on that.

We have not caused the stops and starts on this bill. Not only have we had stops and starts dealing with judges, which have slowed this up immensely, but we also have had thrown in here two trade bills, the Singapore and Chile trade bills. We still have 6 hours to complete on that debate.

The public should know there is not a single Democrat who opposes an Energy bill. We think this Energy bill is imperfect and there should be amendments filed on it. We have not filed a single amendment that has been, in any way, an effort to slow down this bill. There have been meaningful and important debates, and every vote has been extremely close. Had there been not arm-twisting on the other side on the Cantwell amendment and the Feingold amendment—people in the well wanted to vote with us but did not. As we know what happens down here in close votes, they were unable to vote with us.

These are not meaningless amendments. They have been very important amendments. As I have explained on several occasions, we have other amendments that are just as meaningful as these that have been filed.

We have also heard my friend from New Mexico say: We want to do this the American way. I don't know what that means. But that is what this is. We are in the Senate and we are doing things the American way, as established by the U.S. Constitution. That is how we are going to do things.

We did not make the decision to have the parliamentary posture as it is. That has been made by the majority leader. He has a right to do that, but he also has the obligation to know that the stops and starts on this Energy bill has made it virtually impossible to pass this bill.

Now, to have threats made—and that is what they are: You are going to be here Friday afternoon; you are going to be here Saturday, Sunday, Monday, Tuesday—well, that is the way it is. But always remember, any inconvenience that is caused to the Democrats will be caused to the Republicans also. Remember, there are two more of them than there are of us, so they will have a little extra inconvenience.

But this Senator and all 48 other Senators who are here in the minority are willing to work to complete whatever work needs to be done. But we are not going to be rushed into voting for a judge such as the man from Alabama who has been hustled out of the Committee of the Judiciary without proper debate in the committee itself. We are going to have proper debate in the Senate. We are going to have the American people know because the public should know. We are going to do it the American way.

We are going to hear the ranking member of the committee, who, by the way, has been responsible for our approving, during this administration, 140 Federal judges.

We have turned down two. The American public should know that. That is the American way. One-hundred and forty to two isn't that bad. Anybody who has a basic knowledge of math understands those are pretty good odds.

There is also a complaint that the distinguished ranking member has requested votes on some of these judges. Well, yes, and we have six judges now who could have been approved during the 4 hours we are going to be wasting on these cloture votes. In fact, we probably could have done all of them in the 4 hours set aside. Of course we could have.

The plaintive cries create no pity on our side. We are here ready to work on the Energy bill. If they don't want Senators from the Judiciary Committee and others speaking about Pryor, then let's not have a cloture vote tomorrow. Let's not have a cloture vote on Kuhl on Friday. We can spend more time on the Energy bill.

Until the majority leader understands that he is his own worst enemy, we are going to continue what we are doing to protect the rights of the American people because the public should know.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I must say I completely agree with the senior Senator from Nevada on this. The senior Senator from New Mexico, who was in the Chamber, expressed concern about time being taken talking about William Pryor's nomination. We are not the ones who scheduled William Pryor's nomination in the middle of the Energy bill.

The distinguished senior Senator from Utah, chairman of the Senate Judiciary Committee, is in the Chamber. He knows the concerns expressed by members of the committee that this nomination was voted out of committee before investigations underway involving Mr. Pryor were completed.

It is passingly strange that when we say that after the nomination has been moved prematurely out of the Senate Judiciary Committee with pending questions, very serious questions involving the conduct of that nominee unresolved, but it gets sort of rocketed onto the floor. Then we are asked to lie down and just let it go through without even saying why we object.

First, the rules of the Senate Judiciary Committee itself were violated. Rule 4 was violated. The matter is still coming up. The distinguished majority leader and the distinguished Democratic leader had a conversation in which the distinguished majority leader assured us that this would never happen again. Within a few weeks of that assurance, it happens again, an assurance that no nomination of this nature would come up if it was sent out in violation of rule 4 of the Senate Judiciary Committee. It was. The nomination is up. And we don't ask questions about it?

Then we hear some on the other side say: Our judges are being blocked. Well, it is true: 2 out of 140 have been. But at the same time, they want to quietly voice vote all these other judges through so that nobody will notice that we are passing judges. One of the reasons we have asked for rollcall votes on a number of them is to show how easy it is to pass a judge where there is a consensus.

In those rare instances where people have actually been consulted about a judge and where a judge has been nominated who is not going to be an ideological arm of either political party but, rather, be an independent judge, they go through easily.

In this case, the Republican leadership—not the Democratic leadership, the Republican leadership—filed a cloture motion on the nomination of William Pryor to the Eleventh Circuit. So we are going to have this premature debate.

I hope there is one aspect on which we can get closure in the Senate. In connection with this nomination, supporters of the administration have leveled the unfounded charges that Democratic Senators are anti-Catholic. This charge is despicable. I have waited patiently for more than 2 years for Republican Senators to disavow such charges. So far, only one has, the distinguished Presiding Officer. This is a despicable, slanderous charge. It is one calculated to throw us back into a time that maybe some in this Chamber may not remember. Some of us have parents who do remember when anti-Catholic bias ran rampant in this country.

It is outrageous, of course, that Republicans will not knock down these slanderous charges of anti-Catholicism and allow them to go forward. This slander and the ads recently run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and the President's family are personally offensive. They have no place in this debate or anywhere else.

For a charge of anti-Catholicism to be leveled against any Member of this Chamber, Republican or Democratic, is wrong. But for those who stay silent and allow it to go forward, who take part in it, the only way for a lie to get traction is for people to remain silent. And those who could stop this lie in a hurry remain silent.

I challenged the Republican Senators on the Judiciary Committee who are so fond of castigating special interest groups and condemning every critical statement of a Republican nominee as being somehow a partisan sneer, to condemn this ad campaign and the injunction of religion into these matters. Only the junior Senator from Georgia now presiding responded to that challenge. Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the face of these obnoxious and disgusting and scurrilous charges or, worse, they have fed the flames.

Today, Republican Senators have another chance to do what they have not yet done and what this administration has not yet done—disavow this campaign of division and those who have played wedge politics with religion. I hope the Republican leadership of the Senate and of the Judiciary Committee will finally disavow the contention that any Senator is being motivated in any way by religious bigotry, just as I and others on this side of the aisle have defended members of the Republican side of the aisle when they have been attacked on their religion. We find it so painful that not only do they remain silent when people on this side of the aisle are attacked on their religion but in some instances have even continued the attack in statements they have made outside this Chamber.

When we began debate on the nomination of Miguel Estrada in February, I made a similar request with respect to the charges that Senators were being anti-Hispanic. The other side never withdrew that ridiculous charge. Instead, the special interest groups and others trying to intimidate the Senate into voting on that nomination broadened the attack to include Hispanic members of the Congressional Hispanic Caucus, MALDEF, the Puerto Rican Legal Defense and Education Fund, past presidents of the Hispanic National Bar Association, and many other Hispanic and civil rights organizations that opposed the Estrada nomination. It was so bad that one Hispanic organization that supported Miguel Estrada issued a statement that the charge was wrong, that they certainly didn't believe it applied to any Member of the Senate, and urged the Republicans to stop it.

They didn't, but they were urged by other Hispanic groups to stop it. The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop. There are at least five judicial nominations on the Executive Calendar on which we can join as Democrats and Republicans. I would be willing to bet that they would be confirmed by an overwhelming vote.

I remember when we had a circuit court of appeals judge nominated by President Bush. For a month, the Democrats tried to get a vote on that nominee. For a month, one Republican had an anonymous hold and refused a vote to go forward. There are people we could vote on. Why don't they? We took a month to get the Republicans to release the anonymous hold on Judge Edward Prado, who was nominated by President Bush. Interestingly enough, I finally found out why. They didn't want a vote. They wanted to attack us for not voting on him, even though we were the ones asking to vote on him. It is Alice in Wonderland to the tenth power.

Now, the assistant minority leader suggested going to these matters and making progress. I have suggested scheduling rollcall votes on these nominees and making further bipartisan progress. Instead, we waste time on cloture motion after cloture motion after another cloture motion in connection with the most controversial of this President's nominees. Now I find out why. I am told by members of the press that the Republicans said this was supposed to be our issue this week. We are not getting appropriations bills done, we are not going to finish the Energy bill, or do anything else, so we are going to tie up the Senate with a number of cloture votes. Then they all went out with their talking points with members of the press to tell them how terrible it was that we were having these votes, which they scheduled.

Mr. DORGAN. Will the Senator from Vermont yield for a question?

Mr. LEAHY. Yes.

Mr. DORGAN. I listened to some of the complaints on the floor recently while I was in my office. They were concerned about not moving ahead on energy. I guess the obvious question is—we didn't bring up the judge; we are not requiring a vote on the judge; we are not requiring a vote on the trade agreements; and there is no requirement to vote on the trade agreements this week. There is no requirement to vote on this judge this week. So isn't the proposition that those who are scheduling this place, who insist on a vote on a judge, insist on bringing up trade agreements in the middle of the discussion on energy, isn't that what is causing the delay?

Mr. LEAHY. Mr. President, the Senator is absolutely right. The distinguished assistant Democratic leader pointed out just a short while ago that we have had a number of votes on the Energy bill, which were very close votes, which could have gone either way. We had a good debate going and we were actually voting. Now, instead we spend more time in quorum calls and bringing up judicial votes that are not going anywhere.

I must say to my friend from North Dakota, as ranking member of the Judiciary Committee, if we would have taken the time that has been wasted on things not going anywhere, if we had taken time to vote through some of the judges, where I believe we could get consensus of both Democrats and Republicans, and vote and confirm them and let them go to the bench, that would be a better way. We spent a whole month, as I mentioned, trying to get the Republicans to allow a vote on Judge Edward Prado for a circuit court of appeals position. He had been nominated by President Bush and was strongly supported by President Bush. For a month, they blocked it from going to a vote. We found out afterward it was because they went to the same members of the press they have gone to this week and they said: This is terrible. The Democrats aren't allowing us to vote.

Democrats, time after time, came on the Senate floor and said we can have unanimous consent to go to a vote, and they objected.

Mr. DORGAN. Mr. President, further inquiring of the Senator from Vermont, is it the case, then, that there are judge candidates that could be brought to the Senate floor without any controversy at all, which would require very little time? Those are not the ones brought to the floor. Very controversial nominations are brought to the Senate floor, and complaints arise because someone wants to debate it. Isn't it the point that we didn't bring this judgeship to the floor for a cloture vote?

Mr. LEAHY. No. In fact, I say to my friend that the one time we did try to bring one of President Bush's circuit court nominees to the floor and ask to have him considered, for a month we were not allowed to because the Republicans objected. I have not done a whip check, but I am willing to bet that if we brought them to a vote, and they are on the calendar now, they would get confirmed. Even in the time we have had quorum calls and discussions on this today, we could have brought them up and had a series of 10-minute rollcall votes. And I am willing to bet we would have passed them all.

Mr. DORGAN. The Senator indicated we were dealing with very important issues today. Indeed we were. I mention the Cantwell amendment, which lost by two votes. It was a very significant amendment which I think, in the rear view mirror of public policy, will turn out to be one of the most important amendments turned down by the Senate dealing with energy.

We know what is happening on the west coast. Firms bilked people out of billions of dollars. There is substantial criminal investigation still ongoing and the proposition today on the Energy bill was important: Will there be adequate protections for consumers, and will we do something about the scandals that occurred on the west coast and stand up and support the interests of consumers and prevent manipulation of energy markets? That amendment failed by two votes. There was a significant debate, a big amendment. These are big, important issues.

The question is, Why are we not continuing to work on the Energy bill? What interrupted it? Have we done that or has someone else brought something else to the floor of the Senate?

Mr. LEAHY. Mr. President, I answer my friend from North Dakota that we have been willing to move forward on amendments on the Energy bill. We are not the ones who brought up the extraneous cloture votes which are not going anywhere. Maybe some want to get off the Energy bill. I note that the distinguished Senator mentioned Senator CANTWELL's amendment. I was very proud to support that amendment. It was excellent and, as the Senator said, it would protect the consumers.

It was interesting because, at one point, she had the amendment won, and you heard the snap, crackle, and pop, not of Rice Crispies but the arms being twisted and snapped as votes were being changed. Most of the power company lobbyists were saying to the leadership on the other side that you cannot allow that to go through, and votes were being changed. It came within two votes.

I agree with the Senator from North Dakota that people are going to look in the rear view mirror and say Senator CANTWELL was right, and that should have been allowed to go through.

Mr. DORGAN. If the Senator will yield further, and I am sorry to continue to inquire, at this point, is there a cloture vote that is now scheduled on Mr. Pryor? Is there a vote scheduled and, if so, when is it scheduled?

Mr. LEAHY. Mr. President, it is scheduled for tomorrow under the normal circumstances, unless there has been an agreement entered into otherwise. That would be an hour after we come into session. Unless the established quorum is waived, we could go to a vote.

Mr. DORGAN. Mr. President, I inquire further, if a cloture motion has been filed and it ripens tomorrow and we presumably would have a cloture vote on this nomination tomorrow, for those tonight who are concerned about not moving ahead on energy, we could resolve that by vitiating the cloture motion vote tomorrow.

I was sitting in my office listening to those complaining that we are not moving ahead on energy, understanding it was not us who brought this judgeship forward. We did not put forward the proposal that we have to do two free-trade agreements this week.

It seems to me, at least with respect to the judgeships, perhaps what ought to be done is unanimous consent ought to be entertained to vitiate the cloture vote tomorrow on this judge and move on. After all, there is no reason that we have to vote on this judge tomorrow. This nomination has not been waiting a great length of time. It can be done in September. For those who are worried about moving ahead on energy—and we should—it seems to me what we probably ought to do is join together and vitiate this cloture vote, move on, and continue with the Energy bill tonight. Does the Senator think that is an appropriate course?

Mr. LEAHY. Mr. President, I tell my friend from North Dakota, not only would it be an appropriate course because cloture is not going to be invoked primarily because, for one major reason because of his qualifications, but also because the rules of the Judiciary Committee were not followed in having this nomination go out.

We could very well at that time, if we want to get judges through, not have this cloture vote, which is not going to go anywhere. We have James Cohn, of Florida. During this time we could have voted on him to be a judge. We could have voted on Frank Montalvo, of Texas. These are nominees I would support and I think a majority of us would support. Xavier Rodriguez, of Texas, could have been voted on. The Republicans have made no effort to bring them up, even though we told them they could. H. Brent McKnight, of North Carolina—these are people we would allow to being brought up. We would allow the home State Senators to take a few minutes to speak about them. In fact, they could bring them all up and do them in a stack of 10-minute rollcall votes. They would have gone through in the amount of time of some our quorum calls today.

Mr. DORGAN. Mr. President, if I may address the Senator from Vermont with one final inquiry, it seems to me if the issue in the Senate is we have limited time and we have a substantial amount of work to do on energy—I was at the White House yesterday. President Bush called a number of us down to the White House to talk about the urgent need to pass this Energy bill. If that is, in fact, the case—and I believe it is and the majority leader has said it is—in order to get back on this Energy bill, it seems to me what we should do—and I encourage the majority leader to do this—is vitiate the cloture vote on the judgeship. We do not need to do it this week. We all know we do not. He can decide we do not have to bring up the two free-trade agreements this week. There is nothing urgent about those agreements. That need not be done this week.

If the President is correct—and I believe he is—and if the majority leader is correct—and I believe he is—that this Energy bill ought to move, it is urgent public business, then let's move back to the Energy bill and do it now. I encourage the majority leader to make that decision.

Mr. SANTORUM. Will the Senator from Vermont yield?

Mr. DORGAN. The Senator from Vermont has the time. I thank the Senator from Vermont for yielding to me. I, again, say to the majority leader, I do not want to hear people complaining about the fact that we are not on the Energy bill. We are not making progress on the bill because the majority leader and others said we have to move to the judgeships and then move to the trade agreements.

The fact is, they are the ones taking us off the Energy bill, not us. We ought to offer the next amendment right now on the Energy bill and vitiate the cloture vote tomorrow morning on the judgeship. That will solve the problem.

The PRESIDING OFFICER. The Senator may yield for questions but not for comments. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, the distinguished Senator from Pennsylvania has asked if I will yield for a question. I will yield without losing my right to the floor or my right to reclaim the floor within 1 minute.

Mr. SANTORUM. Mr. President, I ask if the Senator from North Dakota and the Senator from Vermont will agree to a unanimous consent request that we have a final vote on the Energy bill by noon on Friday and in exchange for that, we will vitiate the cloture votes on the two judges that are in the queue right now. I think we can probably get unanimous consent on that on our side fairly quickly.

If the Senator from North Dakota agrees with that, we will be happy to move forward.

Mr. LEAHY. Mr. President, I have the floor. I am not on the Energy Committee.

Mr. SANTORUM. I think that is what the Senator from North Dakota suggested.

Mr. DORGAN. Mr. President, if the——

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, let me respond this way. I have been in the Senate for 29 years. I love the Senate. I love following our normal course of doing business. The Senator from Pennsylvania has raised an appropriate question. I suggest that is a question that should be directed to the Republican leader and the Democratic leader and the chairman and the ranking member of the committee, which is the normal course of doing business, the way we have always done it. Naturally, I would be guided by the direction of the Republican and Democratic leaders, not only in the Senate but in the committee.

Obviously, I am not in a position to speak for the Republican or Democratic leaders or the Republican chairman or Democratic ranking member on this issue. The Senator from Pennsylvania is perfectly within his rights in raising the issue, and I hope that might prompt a discussion with them.

Mr. DORGAN. Mr. President, I ask the Senator to yield for one more question.

Mr. LEAHY. I yield.

Mr. DORGAN. Mr. President, I ask the Senator, would it make the most sense to have a final vote on the Energy bill when we have finished our work on the Energy bill? And wouldn't that best be accommodated by not going off and on to come up with judgeships and trade agreements? Wouldn't the best approach to reaching a final vote on the Energy bill be to stop bringing to the floor of the Senate other business, business that need not be done now?

Mr. LEAHY. Mr. President, I will answer this way: We have diverted some 6 to 10 hours off the Energy bill now. I see my friend, the senior Senator from Nevada. I know over the years he has worked very closely with his counterpart on the Republican side and usually tried to work out a finite list of amendments to the Energy bill. Again, based on my experience, my years in the Senate—almost three decades—I find usually if we stay on a bill that is your important bill, if you do not keep going off it for the trade agreements about which the Senator from North Dakota spoke, or these various cloture motions, if we keep going off these bills, then nobody feels the pressure to work things out.

On the other hand, if we just stay on the bill and people bring up amendments, we will find which ones are close amendments and actually have a chance of being adopted and which ones are not going to be adopted. Usually the Republican and Democratic leadership get together and whittle down the finite number. Then, as the Senator from Pennsylvania suggested, we are usually in the position to find a time for a final vote.

My suggestion is that we use what he has suggested but stay on the Energy bill, work toward a finite list of amendments. We will then know when they are going to take place and how much time they are going to take. And then we will know when we are going to have final passage. We can do that and then go back to anything else they want.

If we are going to keep going back to these judges—as I said, we so far stopped two of President Bush's judges and confirmed 140, unlike the 60 of President Clinton's judges who were stopped by the Republicans, usually because someone objected anonymously. We have done it out here on the floor where we stood up on the nomination.

I am one Senator who actually takes seriously the role of the Senate. There are only 100 of us, and we are given the privilege to represent 270 million Americans. But we also have a very unique place. There is no other parliamentary body in the world quite like the Senate. We have this unique spot where we have checks and balances, especially on confirmations. The Constitution does not say advise and rubberstamp; it says advise and consent.

Nobody should underestimate our commitment to the independence of the Federal judiciary and to our constitutional duty to advise and consent on these lifetime appointments. Nobody should underestimate our commitment to the protection of the rights of all Americans—Republicans and Democrats, Independents—in every part of this Nation.

The Senate was intended to serve as a check and balance in our unique system of Government. We fail our oaths of office as Senators if we allow the Federal judiciary to be politicized, if we cast votes that would remove their independence.

Mr. President, I ask unanimous consent that it be in order to yield to the distinguished senior Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. LEAHY. Mr. President, then I will continue my speech.

Mr. HATCH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Objection has been heard.

Does the Senator from Pennsylvania withdraw his objection?

Mr. SANTORUM. No, I do not.

Mr. LEAHY. Mr. President, then I would——

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. HATCH. Could I ask how much time the distinguished Senator from California desires?

Mrs. FEINSTEIN. I do not think more than 10 or 12 minutes.

Mr. HATCH. My personal belief is we ought to let her go ahead, and I would encourage my colleague to do that.

Mr. LEAHY. Mr. President, I would renew my——

Mr. HATCH. I ask unanimous consent that we——

Mr. LEAHY. I have the floor. I would renew my request.

Mr. HATCH. Would the Senator add that I be given time?

Mr. LEAHY. Along with the distinguished senior Senator from Utah, I renew my request that I be allowed to yield now to the distinguished senior Senator from California.

Mr. HATCH. I add to that, when the distinguished Senator from California is finished I would be granted the floor for my remarks.

Mr. LEAHY. For how long?

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

Mr. HATCH. I have no idea.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. The Senator from Illinois objects.

Mr. DURBIN. I reserve the right to object, Mr. President. I inquire of the Senator from Utah how much time he would want to be recognized.

Mr. HATCH. I do not have an exact time, but I would hope not too long.

Mr. DURBIN. Well, if the Senator from Utah would give me a fair approximation so I can request to follow him in speaking order, that is all I am asking for.

Mr. HATCH. I would estimate up to an hour.

Mr. REID. Objection.

The PRESIDING OFFICER. The objection is heard.

Mr. HATCH. Then I will ask for the floor when the distinguished Senator from Vermont ends his remarks.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. REID. Will the Senator from Vermont yield for a question?

Mr. LEAHY. I yield to the distinguished senior Senator from Nevada for a question.

Mr. REID. I say to the Senator from Vermont, it is my understanding that the Senator has approximately 15 or 20 minutes on his speech. What the Senator wanted to do is yield to the Senator from California for 10 or 12 minutes, I think she said. Then it is my understanding that the request was the Senator from Utah be recognized for up to an hour, and then following that I would like to modify the request that the Senator from Illinois be recognized for up to 45 minutes

Mr. SANTORUM. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Nevada cannot propound a unanimous consent request. He does not have the floor. The Senator from Vermont does.

Mr. LEAHY. Mr. President, on behalf of both myself and the Senator from Utah, Mr. HATCH, I ask unanimous consent that the distinguished Senator from California be recognized for no more than 15 minutes; the distinguished Senator from Utah be recognized for up to an hour; and then the distinguished senior Senator from Illinois be recognized for up to 40 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. The objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, I tried to accommodate the Senator from Utah.

Mr. HATCH. Who is trying to accommodate the Senator from Vermont.

Mr. LEAHY. Who is trying to accommodate the Senator from Vermont. I will try to do that even though the Senator from Utah wants to speak longer than I thought. But he is, after all, the chairman of the committee. I was willing to stop my speech at this point to accommodate him. We have probably taken longer in making these unanimous consent requests.

Mr. HATCH. I have a suggestion. Why does not the distinguished Senator end his speech and we will go to the distinguished Senator from California before me, and then I will try to be less than an hour?

Mr. LEAHY. Mr. President, I ask that that be the order: that I complete my speech, yield to the Senator from California, and then the Senator from Utah be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the distinguished junior Senator from Pennsylvania. He said the reason he objected is because he felt it was an unequal distribution of time. If that is the case, we want to make sure there is an equal distribution of time. Through the chair, to the Senator from Utah, I am wondering who wants to speak after the Senator from Utah. I am trying to figure out how to balance this out fairly.

We recognize that Senator KENNEDY spoke for 20 minutes or so.

Mr. HATCH. He spoke for half an hour.

Mr. LEAHY. Mr. President, I suggest to my colleagues that we do this, as we have offered before: We allow the Senator from California to speak, and then the Senator from Utah, and then, as we have done before, we go back and forth.

Mr. REID. I do not think we should go back and forth. Whoever gets recognized should speak after the Senator from Utah.

Mr. SANTORUM. That is fine.

Mr. LEAHY. I ask unanimous consent that it be in order to recognize the Senator from California, and then be in order to recognize the Senator from Utah, Mr. HATCH.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I understand the unanimous consent request, we are now moving forward to debate this judgeship so that we can have a cloture vote in the morning, much to the angst of many who believe we should be on the electricity title of the Energy bill. So I ask when is it in order for us to ask unanimous consent to vitiate the cloture vote in the morning so we might do what every one of us in this Chamber knows we should be doing, and that is be back on the energy title to try to finish the Energy bill?

I ask the Presiding Officer when might it be in order for me to seek unanimous consent to vitiate the cloture vote tomorrow morning so we can get back to the Energy bill now?

The PRESIDING OFFICER. The Senator can make a unanimous consent at any time he gains the floor in his own right.

Mr. DORGAN. Would that include the time during a reservation of another unanimous consent request?

The PRESIDING OFFICER. No, it would not.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I would renew any request.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say for the purpose of edification of the Senator from North Dakota, the two leaders have met and talked and our leader went to the Democratic leader and actually suggested to do just that, vitiate in exchange for a time certain this week to finish this bill, which is what I know the Senator from North Dakota was looking to do.

Mr. DORGAN. No, that is not the case.

Mr. SANTORUM. As a result, that was not accomplished. The Senator from South Dakota said that was not acceptable, so as a result we are now stuck on what seemingly some Members of this Chamber would like to talk about.

Mr. DORGAN. Mr. President, continuing to reserve the right to object.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I continue my reservation to object. Let me just say that I speak fairly well for myself on this floor, and I have never suggested that in exchange for anything we have a time certain. What I suggested is that if we want to finish this Energy bill, we be able to offer the amendments on the title and debate the amendments. We are not going to get to that point if we keep interrupting the Energy bill with judges and trade agreements.

If we believe this is urgent—and the President says it is, I believe it is, others believe it is—let's get back to it this moment. Let's vitiate the cloture vote tomorrow on the judgeship. Let's hold over the free-trade agreements until September and decide this is important, as we have always said it was, and move to finish this Energy bill. I am not talking about a time certain. The time for finishing it is when we finish the amendments, have debate on the amendments, and have votes on the amendments.

We can do that if I ask unanimous consent to vitiate the cloture vote tomorrow, but I guess I cannot do that under a reservation of objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Vermont?

Mr. LEAHY. Mr. President, I will withhold my request for the moment without losing my right to the floor so that the Senator from Utah might make a point.

The PRESIDING OFFICER. Without objection.

Mr. HATCH. Reserving my right to object, Mr. President, it is not unusual to have multiple matters heard by the Senate. It is certainly not unusual to have cloture votes on judges, especially under the current situation. I would be happy to quit debating General Pryor tonight, even though there has been probably close to an hour of the Senate's time utilized on this debate, and just go to the cloture vote tomorrow, quit playing around with the Energy bill that we know is being slow-walked, and try to finish the Energy bill before the end of this week.

There is no excuse for not having a cloture vote on Judge Pryor or Judge Kuhl on Friday.

Mr. LEAHY. Mr. President, regaining my right to the floor, I probably could have completed my speech during this time, but I was trying to save everybody some time. I was trying to accommodate the distinguished senior Senator from Utah, who is the chairman. I think everybody has agreed now to the request I have made.

I would renew my request that the distinguished Senator from California be recognized, the ball then goes back to the distinguished Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I am prompted to do this by the statement of the chairman of the Judiciary Committee.

It is outrageous you should suggest you would schedule the judge for tomorrow on a cloture vote and not provide time for debate, which is the issue that is at stake here. We need the debate on the judge, and then you say, well, you are interfering with the progress of the Energy bill.

Who was it who scheduled the judge for tomorrow? That is where the intrusion came in terms of the process of dealing with the Energy bill.

Mr. HATCH. People have a right to schedule the judge.

Mr. SARBANES. And at the same time assert that you have to pass the Energy bill.

Mr. HATCH. This is the first time we have ever——

The PRESIDING OFFICER. The Senator from Vermont has the floor. Is there an objection to the unanimous consent?

Mr. DORGAN. I object.

The PRESIDING OFFICER (Mr. COLEMAN). The objection is heard.

Mr. LEAHY. Well, Mr. President, I know everyone stands riveted to hear the rest of my speech. I was trying to complete the speech so the Senator from California could be recognized.

Mr. President, sometimes after all this work, the Senate actually does work. Those who are watching someday will explain what exactly has happened.

To continue, the Senate has already confirmed 140 of this President's judicial nominees, including 27 circuit court nominees. We could have confirmed at least five more this week if the Republican leadership would have worked with us to schedule votes on them. That stands in sharp contrast to the treatment of President Clinton's nominees by a Republican-controlled Senate from 1995 through 2001, when judicial vacancies on the Federal courts were more than doubling from 16 to 33.

Opposition to Mr. Pryor's nomination is shared by a wide spectrum of objective observers. Mr. Pryor's record is so out of the mainstream that, even before last month's hearing, a number of editorial boards and others weighed in with significant opposition.

Last April, even the Washington Post, which has been exceedingly generous to the administration's efforts to pack the courts, termed Mr. Pryor "unfit". Both the Tuscaloosa News and the Hunstville Times wrote in early May against the nomination. Other editorial boards across the country spoke out, including the San Jose Mercury News and the Pittsburgh Post-Gazette. Since the hearing, that chorus of opposition has only grown and now includes the New York Times, the Charleston Gazette, the Arizona Daily Star and the Los Angeles Times. I ask unanimous consent to print the full package of these editorials and op-eds in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, April 11, 2003]

Unfit To Judge

President Bush must have worked hard to dream up an escalation of the judicial nomination wars as dramatic as his decision this week to nominate Alabama Attorney General Bill Pryor to the U.S. Court of Appeals for the 11th Circuit. A protege of Alabama Republican Sen. Jeff Sessions, Mr. Pryor is a parody of what Democrats imagine Mr. Bush to be plotting for the federal courts. We have argued strongly in favor of several of Mr. Bush's nominees—and urged fair and swift consideration of all. And we have criticized Democratic attacks on nominees of substance and quality. But we have also urged Mr. Bush to look for common ground on judicial nominations, to address legitimate Democratic grievances and to seek nominees of such stature as defies political objection. The Pryor nomination shows that Mr. Bush has other ideas.

Mr. Pryor is probably best known as a zealous advocate of relaxing the wall between church and state. He teamed up with one of Pat Robertson's organizations in a court effort to defend student-led prayer in public schools, and he has vocally defended Alabama's chief justice, who has insisted on displaying the Ten Commandments in state court facilities. But his career is broader. He has urged the repeal of a key section of the Voting Rights Act, which he regards as "an affront to federalism and an expensive burden." He has also called Roe v. Wade "the worst abomination of constitutional law in our history." Whatever one thinks of Roe, it is offensive to rank it among the court's most notorious cases, which include Dred Scott and Plessy v. Ferguson, after all.

Mr. Pryor's speeches display a disturbingly politicized view of the role of courts. He has suggested that impeachment is an appropriate remedy for judges who "repeatedly and recklessly . . . overturn popular will and . . . rewrite constitutional law." And he talks publicly about judging in the vulgarly political terms of the current judicial culture war. He concluded one speech, for example, with the following prayer: "Please, God, no more Souters"—a reference to the betrayal many conservatives feel at the honorable career of Supreme Court Justice David H. Souter.

Mr. Pryor has bipartisan support in Alabama, and he worked to repeal the provisions in that state's constitution that forbade interracial marriage. But this is not a nomination the White House can sell as above politics. Mr. Bush cannot at once ask for apolitical consideration of his nominees and put forth nominees who, in word and deed, turn federal courts into political battlegrounds. If he sends the Senate nominees such as Mr. Pryor, he cannot complain too loudly when his nominees receive the most researching scrutiny.

[From the Tuscaloosanews.com, May 4, 2003]

Pryor's Opinion Goes Beyond Mainstream

Attorney General Bill Pryor's opinion that lumps homosexuality in with abusive crimes such as child pornography, bestiality, incest and pedophilia puts him well within the camp of recent nominees to the federal bench but well outside the mainstream of American life.

Pryor was nominated by President Bush to a seat on the U.S. Court of Appeals for the 11th Circuit, which has jurisdiction over Alabama, Georgia and Florida. A legal argument Pryor wrote earlier this year, which just came to light last week, parallels comments by Sen. Rick Santorum, that landed the Pennsylvania Republican in hot water recently.

The amicus brief, penned by Pryor and signed by attorneys for South Carolina and Utah, declared that states' support for the Texas sodomy law in the Supreme Court case of Lawrence vs. Texas, which the court is expected to decide in June or July. Pryor argues the Texas law should be upheld, otherwise constitutional protections "must logically extend to activities like prostitution, adultery, necrophilia, bestiality, possession of child pornography, and even incest and pedophilia (if the child should credibly claim to be 'willing')."

Hardly so.

It is a long step from sanctioning, or even tolerating, consensual private activity between two adults to permitting abusive crimes such as pedophilia. The law is perfectly capable of drawing such distinctions in theory and in practice.

We have cautiously supported Pryor's nomination, while taking issue with a number of his controversial positions. These include his defense of state Supreme Court Chief Justice Roy Moore's decision to display the Ten Commandments in the state Judicial Building, his opposition to multistate lawsuits against tobacco companies and his defense of utility companies in upgrading their coal-fired power plants without adding new pollution control devices.

Several of Bush's nominees for federal bench hold extreme anti-gay views. Timony Tymkovich, confirmed to an appeals court last month, has compared homosexuality to cockfighting, bestiality, prostitution and suicide.

Pryor's confirmation hearings have not yet been set. The Judicial Committee will certainly want an explanation of his incendiary comments, which unfortunately are typical of the nominees they will be asked to consider.

[From the Huntsville Times, May 4, 2003]

Pryor's Preaching

Churches promote faith; courtrooms promote justice.

Attorney General Bill Pryor usually has been what few Alabama politicians seem to know how to be: principled. Though unabashedly a conservative Republican, Pryor has usually been more nonpartisan than partisan.

More than once, he has ignored the prevailing political winds to do what he thought was right. Trying to reform the state's sentencing system is a prime example. One that he thought was right again. But this time Pryor has gotten it wrong.

In a "friend of the court" brief filed almost three months ago regarding the Texas sodomy case before the U.S. Supreme Court, Pryor compared homosexual acts to "prostitution, adultery, necrophilia, bestiality, possession of child pornography, and even incest and pedophilia."

This is the same case, of course, the Pennsylvania Sen. Rick Santorum, another conservative Republican, made similarly troubling remarks about.

The problem here is neither that Pryor has a certain point of view that others may not share, nor that he expressed it. In the United States, we all have a right to think and speak freely.

The problem is that as the attorney general of Alabama—and President Bush's nominee to the 11th Circuit Court of Appeals—Pryor did not separate his personal moral views from his public role as a promoter of justice.

Bill Pryor has championed causes that many Republicans and not a few Democrats would probably have walked away from: such as the removal of the interracial marriage ban from the state constitution and the recruitment of mentors for underprivileged children, to mention a few.

Alabama has benefited from having him as attorney general, and would probably benefit if he decided to seek an even higher elected office one day.

Perhaps the nation would too, but not if Pryor plans to use a judicial appointment as an opportunity to give his moral points of view the heft of the law's brief seems to be a part of a trend to infuse public policy and the law with morality of an abashedly religious strain.

Until God—or whoever or whatever it is you do or do not worship—decides to clarify the myriad matters of faith that have caused us to separate into different churches, temples, mosques, sects, and beliefs, it would be best for those who believe to enjoy their beliefs in a way that allows others to enjoy theirs—or to enjoy not having any beliefs at all.

Churches are supposed to promote faith, and courtrooms, justice. If Pryor is confirmed to the 11th Circuit, he would do well to honor this distinction.

[From the San Jose Mercury News, May 21, 2003]

COUP IN THE COURTS

President Bush has treated judicial nominations like tax cuts: Declare, with a straight face, that the extreme is reasonable and that any opponent is obstructionist.

In the case of judgeships, that means nominating one conservative ideologue after another, knowing that Democrats in a Republican Senate have neither the will nor a way to challenge and defeat most of them.

Instead, the Democrats have picked their shots—and they should continue to do that.

Contrary to his protestations, Bush has had tremendous success. In his first 28 months of office, the Senate has approved 121 of his nominations—better than President Clinton averaged over his administration. Bush has named one out of seven active federal judgeships.

What's at stake is whether Bush will be able to stuff the federal courts with judges narrow in their view of minority and women's rights, staunch in opposition to abortion, and intent on overturning decisions that have been long accepted by the courts and the public.

Individuals like James Leon Holmes, nominated to a federal court in Arkansas, who has written that the role of a woman "is to place herself under the authority of the man." And Alabama Attorney General Bill Pryor, who characterized Roe v. Wade, the decision establishing a right to an abortion, as "the worst abomination of constitutional law in our history."

The latest troubling nomination is that of Los Angeles Superior Court Judge Carolyn Kuhl to the 9th Circuit Court of Appeals. That court is the ultimate authority, save for the U.S. Supreme Court, for a huge swath of the West, including California.

As an eager young lawyer in the Reagan administration, Kuhl fought the IRS to retain a tax-exempt status for Bob Jones University despite its record of religious and racial discrimination. The Supreme Court later overturned that decision 8–1. As a deputy attorney general, she co-wrote a brief calling on the Supreme Court to overturn Roe. v. Wade. Three years ago, she dismissed the suit of a breast-cancer patient who claimed a violation of privacy after a drug-company salesman watched her examination without her permission. That appallingly insensitive ruling was also overturned.

Kuhl has plenty of supporters among lawyers, including Democrats, who say she's a good trial judge. If so, that's where she should stay—not placed on an appeals court where decisions are binding an all lower courts.

Both home state senators, Barbara Boxer and Dianne Feinstein, oppose Kuhl's appointment; traditionally, that's been enough to sink a nomination. But Senate Republicans are pushing ahead, after slipping by the Judiciary Committee on a party-line vote.

Democrats have used the filibuster to delay two nominations to federal appeals courts, that of Washington attorney Miguel Estrada and Texas Supreme Court Justice Priscilla Owen.

Bush deserves the right to appoint capable, smart, conservative judges. But senators must exercise their constitutional veto over nominees whose values and judicial philosophy are way out of the mainstream.

[From the Pittsburgh Post-Gazette, July 20, 2003]

NOT FIT FOR THE BENCH

ALABAMA'S PRYOR IS A WALKING STEREOTYPE

The problem with Senate Republicans during the Clinton administration was that they too often assumed the president's nominations to the federal bench were wild-eyed liberals. Now that a Republican president is in the White House, the Democrats and their friends are playing tit-for-tat by viewing Mr. Bush's nominations as reactionary by definition.

The Post-Gazette has deplored these tendencies, which have made it difficult to sort out the slanderous caricatures from the solid characters. It is why we rose strongly to the defense last year of Western Pennsylvania's D. Brooks Smith, a Republican nominee who was eventually confirmed for an appeals court seat after seeing his record distorted by liberal special-interest groups.

One trouble with crying wolf is that, just as in the old story, sometimes a real wolf turns up. Such a one is Alabama Attorney General Bill Pryor, whom The Washington Post observed in an editorial "is a parody of what Democrats imagine Bush to be plotting for the federal courts."

If Mr. Pryor is confirmed for a seat on the 11th U.S. Circuit Court of Appeals, he will be well placed to begin preying on a number of settled legal precedents and doctrines. Roe v. Wade? "The worst abomination in the history of constitutional law" in the United States, he said. Separation of church and state? He's cozy with the religious right, so he looks favorably on such things as the display of the Ten Commandments on public property. Protect the environment? Mr. Pryor thinks the feds should get out of that business and leave it to the states.

And so it goes with this reactionary's reactionary, who would be in the mainstream only if it were far to the right.

On Thursday, the Senate Judiciary Committee put off voting on Mr. Pryor's nomination amid concerns raised about his fund-raising activities for the Republican Attorneys General Association, specifically focusing on how accurately he answered the committee's questions.

This is no small matter, but it was dismissed as "pure politics, pure and simple" by Committee Chairman Sen. Orrin Hatch, R-Utah. In a sense, he was right, except that the process began in the White House. This nomination is entirely political, meant to curry favor with President Bush's right-wing constituency.

The delay represents an opportunity for Pennsylvania's Sen. Arlen Specter, who has a reputation for reason and moderation but has been fretting for days about exposing his flank to a right-wing challenger in the primary. Whatever happens with the fund-raising questions. Sen. Specter and the others have before them a self-confirming stereotype who should be opposed.

[From the New York Times, July 23, 2003]

AN EXTREMIST JUDICIAL NOMINEE

The Senate Judiciary Committee could vote as early as today on the nomination of the Alabama attorney general, William Pryor, to a federal appeals court judgeship. Mr. Pryor is among the most extreme of the Bush administration's far-right judicial nominees. If he is confirmed, his rulings on civil rights, abortion, gay rights and the separation of church and state would probably do substantial harm to rights of all Americans. Senators from both parties should oppose his confirmation.

Mr. Pryor, who has been nominated for a seat on the Federal Court of Appeals for the 11th Circuit, based in Atlanta, has views that fall far outside the political and legal mainstream. He has called Roe v. Wade, the landmark abortion-rights ruling, "the worst abomination" of constitutional law in our history. He recently urged the Supreme Court to uphold laws criminalizing gay sex, a position the court soundly rejected last month. He has defended the installation of a massive Ten Commandments monument in Alabama's main judicial building, which a federal appeals court recently held violated the First Amendment. And he has urged Congress to repeal an important part of the Voting Rights Act.

Moderates in the Senate and in the legal community have repeatedly called on the Bush administration to stop trying to stack the federal judiciary with far-right partisans like Mr. Pryor. But the White House and its supporters have chosen instead to lash out at these reasonable critics. In a shameful bit of demagoguery, a group founded by Böyden Gray, a White House counsel under the first President George Bush, has run newspaper ads accusing Mr. Pryor's critics in the Senate of opposing him because he is Catholic.

At today's committee meeting, much of the attention will be on Arlen Spector, the Pennsylvania Republican who could cast the deciding vote. Mr. Specter owes it to his constituents to break with the White House and vote against Mr. Pryor, whose extremist views are out of step with most Pennsylvanians'. Standing up for an independent, nonideological judiciary is an urgent cause, and one that should find support on both sides of the aisle.

[From the Charleston Gazette, June 30, 2003]

EXTREMIST FAR-RIGHT NOMINEE

President Bush hopes to pack the federal judiciary with numerous ultraconservative appointees who eventually will revoke women's right to choose abortion—a goal of the Republican national platform—and make other legal changes desired by the party's "religious right" wing.

Many of the White House appointees are evasive about their personal views when questioned at Senate confirmation hearings. But one of them, Alabaman William Pryor, nominated to the Atlanta circuit court, has such an inflammatory record that he can't hide his extreme beliefs.

He told the senators that allowing women to choose abortion is "morally wrong" and this freedom has caused "the slaughter of millions of unborn children." He said he once refused to take his family to Disney World on a day that gays attended, because his personal "value judgment" dictated it.

In the past, he has sneered at the U.S. Supreme Court as "nine octogenarian lawyers" because the justices delayed an execution that Pryor desired.

The New York Times commented:

"As Alabama attorney general, Mr. Pryor has turned his office into a taxpayer-financed right-wing law firm. He has testified to Congress in favor of dropping a key part of the Voting Rights Act. In a Supreme Court case challenging the Violence Against Women Act, 36 state attorneys general urged the court to uphold the law. Mr. Pryor was the only one to argue that the law was unconstitutional. This term, he submitted a brief in favor of a Texas law that makes gay sex illegal, comparing it to necrophilia, bestiality, incest and pedophilia. . . .

"If a far-right legal group needs a lawyer to argue extreme positions against abortion, women's rights, gay rights and civil rights, Mr. Pryor may be a suitable candidate. But he does not belong on the federal bench."

Where on Earth does Bush find such narrow-minded nominees—from TV evangelist shows? It will be tragic if America's federal courts become dominated by one-sided, puritanical judges far out of step with the majority of people.

Senate Democrats are threatening filibusters to block the worst of Bush's judicial appointees. Republicans want to change Senate rules, banning filibusters when judges are up for confirmation. We hope that West Virginia's senators, Robert C. Byrd and Jay Rockefeller, do their utmost to hold the line against extremist judges.

[From the Arizona Daily Star, June 14, 2003]

DENY THE IDEOLOGUE

President Bush continues his quest to pack the American judicial system with ideologically driven, conservative activists who simply are unfit to take a seat on the nation's appellate courts. The latest is William H. Pryor, the Alabama Attorney General.

Pryor's nomination to the 11th Circuit Court of Appeals is outrageous. It is designed, as are the president's other ideological nominations, to appeal to the base instincts of the right-wing, conservative Christian element of the Republican Party.

Pryor makes no attempt to distance himself from his outlandish comments. He has said that if a Texas law outlawing homosexual sex were overturned, it would open the door to legalized "prostitution, adultery, necrophilia, bestiality, possession of child pornography and even incest and pedophilia."

That statement is breathtakingly bigoted.

But Pryor is a multi-dimensional ideologue. Here's his stance on Roe v. Wade, the Supreme Court decision allowing abortion: The law is "an abominable decision" and "the worst abomination in the history of constitutional law." He opposes abortion even in the case of rape.

Though these are his personal opinions about legal decisions, he says, he would uphold the law as an appellate court judge. That is disingenuous, at best. He admitted during a Senate hearing that in a meeting with a conservative group, he ended by saying a "prayer for the next administration: Please, God, no more Souters."

David Souter, a Supreme Court justice appointed by the first President Bush, is widely scourned by conservatives because he is a moderate rather than a conservative Supreme Court justice.

Only once during questioning before the Senate Judiciary hearing on his nomination did Pryor backtrack on previous remarks. He admitted he made an inappropriate remark when he referred to the Supreme Court as "nine octogenarian lawyers who happen to sit on the Supreme Court." He made the comment after the Court issued a stay of execution in his state. The stay was issued in order to determine whether the use of the electric chair was unconstitutional.

His background also includes efforts to allow students-led prayers in schools; defense of an Alabama judge who displays the 10 Commandments in his courtroom; and support of Alabama prison guards who handcuff prisoners to hitching posts during the summer.

Civil rights activists signed a letter arguing against Pryor's confirmation. The letter said the group was alarmed that Pryor ". . . is not only an avowed proponent of the modern states rights movement, now called federalism, but he has also asked Congress to 'repeal or amend' Section 5 of the Voting Rights Act, which he said is an 'affront to federalism.'" The section requires Justice Department approval to changes in voting procedures made by states.

This ideologue is also delusional. Pryor believes that only guilty people are executed in this country. The judicial system, he said, has "extraordinary safeguards, many safeguards." Further, he said, "the system catches errors."

One of the benefits of nominating a right-winger like Pryor is that the president gets valuable political points for it. Even if Pryor is not confirmed by the Senate, and he should not be, the president still wins. In this age of cynical politics, Bush will get credit among the most distasteful elements of his party for nominating one of their own for a seat on the bench. It will serve him well when he runs for re-election.

[From the Los Angeles Times, June 30, 2003]

SKEWED PICTURE OF AMERICA

By nominating William H. Pryor Jr. to the federal appeals court, George Bush has declared that the Alabama attorney general is not only qualified to sit on the nation's second-highest court but is the kind of judge most Americans want. Senators should reject this implausible assessment.

Even though the Senate has already confirmed 132 judges, pushing court vacancies to a 13-year low, the White House still complains about delays. Go-along-to-get-along Republicans may want to approve Pryor rather than buck their president.

But the appointment of Pryor, 41, to a lifetime seat on the U.S. Court of Appeals would be an endorsement of an ominous view of American law. At this month's Senate Judiciary Committee hearing, he defended—even amplified on—his disturbing views. His candor is refreshing but it leaves squirming senators no cover.

"Congress . . . should not be in the business of public education nor the control of street crime," he has argued, a position at odds with Bush's education initiative and support for beefed-up law enforcement and tougher criminal penalties.

Pryor contends that the Constitution does not grant the federal government power to protect the environment. He regards Roe vs. Wade, the 1973 Supreme Court decision upholding the legal right to an abortion, as "the worst abomination of constitutional law in our history" and hopes that the landmark ruling will be overturned.

He would urge repeal of the 1965 Voting Rights Act requirement that the federal government review state and local changes to voting procedures that may affect minorities. It's "an affront to federalism and an expensive burden," Pryor believes.

Before the Supreme Court last week struck down Texas' anti-sodomy statute, he argued for upholding that law and another like it in Alabama. If the Constitution protects the choice of a sexual partner, he contends, it also permits "prostitution, adultery, necrophilia, bestiality . . . and even incest and pedophilia." He also believes that the 1st Amendment's establishment clause should permit a two-ton granite representation of the Ten Commandments to sit in an Alabama courthouse.

These views and Pryor's lack of judicial experience caused the American Bar Assn. to splinter over his fitness for the appeals seat.

With the Senate already having confirmed so many of Bush's picks for the federal bench, there's no argument for this unqualified nominee.

Mr. LEAHY. We have also heard from a number of organizations and individuals concerned about justice before the Federal courts. The Log Cabin Republicans, the Leadership Conference on Civil Rights, the Alliance for Justice, NARAL and many others have provided the committee with their concerns and the basis for their opposition. We have received letters of opposition from organizations that rarely take positions on nominations but feel so strongly about this one that they are compelled to write, including the National Senior Citizens' Law Center, the Anti-Defamation League and the Sierra Club. I ask unanimous consent to print a list of the letters of opposition we have received in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF OPPOSITION TO THE NOMINATION OF BILL PRYOR, TO THE 11TH CIRCUIT COURTS OF APPEAL

ELECTED OFFICIALS

Congressional Black Caucus.

PUBLIC INTEREST ORGANIZATIONS

Ability Center of Greater Toledo, Access Now, Inc., ADA Watch, AFL-CIO, AFSCME, Alliance for Justice, Americans for Democratic Action, American Association of University Women, Americans United for Separation of Church and State, Anti-Defamation League, B'nai B'rith International, California Council of the Blind, California Foundation for Independent Living Centers.

Citizens for Consumer Justice of Pennsylvania letter also signed by: PennFuture, Sierra Club, NARAL-Pennsylvania, National Women's Political Caucus, PA, United Pennsylvanians.

Coalition For Independent Living Options, Inc., Coalition To Stop Gun Violence, Disabled Action Committee, Disability Resource Agency for Independent Living, Stockton, CA, Disability Resource Center, North Charleston, SC, Eastern Paralyzed Veterans Association, Jackson Heights, NY, Eastern Shore Center for Independent Living, Cambridge, MD.

Environmental Coalition Letter signed by: American Planning Association, Clean Water Action, Coast Alliance, Community Rights Counsel, Defenders of Wildlife, EarthJustice, Endangered Species Coalition, Friends of the Earth, National Resources Defense Council, The Ocean Conservancy, Oceana, Physicians for Social Responsibility, Sierra Club, U.S. Public Interest Research Group, The Wilderness Society, Alabama Environmental Council, Alliance for Affordable Energy, Buckeye Forest Council, Capitol Area Greens, Citizens Coal Council, Committee for the Preservation of the Lake Purdy Area, Dogwood Alliance, Foundation for Global Sustainability, Friends of Hurricane Creek, Friends of Rural Alabama, Kentucky Resources Council, Inc., Landwatch Monterey County, Sand Mountain Concerned Citizens, Southern Appalachian Biodiversity Project, Tennessee Environmental Enforcement Fund, Waterkeepers Northern California, Wisconsin Forest Conservation Task Force.

Feminist Majority, Heightened Independent & Progress, Houston Area Rehabilitation Association, Human Rights Campaign, Independent Living Center of Southern California, Inc., Independent Living Resource Center, Ventura, CA, Interfaith Alliance.

Justice for All letter signed by the following California organizations: Southern California Americans for Democratic Action, California Abortion and Reproductive Rights

Action League, California Women's Law Center, Committee for Judicial Independence, Democrats.Com of Orange County, San Diego Democratic Club, National Center for Lesbian Rights, National Council of Jewish Women/Los Angeles, California National Organization for Women, Planned Parenthood Los Angeles County Advocacy Project, Progressive Jewish Alliance, Public Advocates, Inc., Rock the Vote Educational Fund, Stonewall Democratic Club, Unitarian Universalist Project Freedom of Religion, Workmen's Circle/Arbeter Ring, Lake County Center for Independent Living, IL, Leadership Conference on Civil Rights, Log Cabin Republicans, MALDEF, NAACP, NARAL Pro-Choice America, National Abortion Federation, National Association of Criminal Defense Lawyers, National Council of Jewish Women, National Council of Jewish Women Chapter in Florida, Alabama and Georgia, National Disabled Students Union, National Employment Lawyers Association, National Family Planning & Reproductive Health Association, National Partnership for Women & Families, National Resource Defense Council, National Senior Citizens Law Center, National Women's Law Center, New Mexico Center on Law and Poverty, Albuquerque, NM. Options Center for Independent Living, People for the American Way, Pennsylvania Council of the Blind, Placer Independent Resource Services, Planned Parenthood Federation of America, Protect All Children's Environment, Marion, NC, Religious Action Center of Reform Judaism, SEIU, Sierra Club, Society of American Law Teachers, Summit Independent Living Center, Inc., Missoula, MT, Tennessee Disability Coalition, Nashville, TN, Vermont Coalition for Disability Rights.

LETTERS FROM THE 11TH CIRCUIT

Joseph Lowery, Georgia Coalition for the Peoples' Agenda, NAACP, Alabama State Conference, Alabama Chapter of the National Conference of Black Lawyers, Alabama Hispanic Democratic Caucus, Hispanic Interest Coalition of Alabama, Latinos Unidos De Alabama, Jefferson County Progressive Democratic Council, Inc., Morris Dees, Co-Founder and Chief Trial Counsel, Southern Poverty Law Center, Bryan Fair, Professor of Constitutional Law at University of Alabama, Tricia Benefield, Cordova, AL, Judy Collins Cumbee, Lanett, AL, Michael and Becky Pardoe, Mobile, AL, Harold Sorenson, Rutledge, AL, Patricia Cleveland, Munford, AL, Larry Darby, Montgomery, AL, Sisters of Mercy letter signed by Sister Dominica Hyde, Sister Alice Lovette, Sister Suzanne Gwynn, Ms. Cecilia Street and Sister Magdala Thompson, Mobile, AL.

LETTER SUBMITTED BY CIVIL RIGHTS MOVEMENT VETERANS

Rev. Fred Shuttlesworth, Leader, Birmingham Movement; Rev. C.T. Vivian, Executive Staff for Dr. Martin Luther King, Jr.; Dr. Bernard LaFayette, Executive Staff for Dr. Martin Luther King, Jr.; Rev. Kim Lawson, Jr., Advisor to Dr. Martin Luther King, Jr.; President of Southern Christian Leadership Conference (Los Angeles); Rev. James Bevel, Executive Staff or Dr. Martin Luther King, Jr.; Rev. James Orange, Organizer for National Southern Christian Leadership Conference; Claud Young, M.D., National Chair, Southern Christian Leadership Conference; Rev. E. Randel T. Osbourne, Executive Director, Southern Christian Leadership Foundation.

Rev. Joseph Ellwanger, Alabama Movement Activist and Organizer; Dorothy Cotton, Executive Staff for Dr. Martin Luther King, Jr.; Rev. Abraham Woods, Southern Christian Leadership Conference; Thomas Wrenn, Chair, Civil Rights Activist Committee, 40th Year Reunion; Sherrill Marcus, Chair, Student Committee for Human Rights (Birmingham Movement, 1963); Dick Gregory, Humorist and Civil Rights Activist; Martin Luther King, III, National President, Southern Christian Leadership Conference; Mrs. Johnnie Carr, President, Montgomery Improvement Association (1967–Present) (Martin Luther King, Jr. was the Association's first President. The Association was established in December, 1955 in response to Rosa Park's arrest.)

OTHER

H.J. Bobb, Defiance, OH; Davis Budd, Sr, Defiance, OH; Don Beryl Fago, Evansville, WI; Daily Dupre, Jr., Lafayette, LA; Greg Jones, Parsons, KS; Catherine Koliha, Boulder, CO; Ashley Lemmons, Defiance, OH; Rebecca Lindemann, Defiance, OH; Patricia Murphy, Juneau, AK; Randy Wagoner, location unknown; Rabbi Zev-Hayyim Feyer, Murrieta, CA.

Mr. LEAHY. The ABA's evaluation also indicates concern about this nomination. Their Standing Committee on the Federal Judiciary gave Mr. Pryor a partial rating of "not qualified" to sit on the Federal bench. Of course this is not the first "not qualified" rating or partial "not qualified" rating that this administration's judicial nominees have received. As of today, 20 of President Bush's nominees have received some form of "not qualified" rating. Perhaps that is a reflection of the ideological basis for so many of these nominations, and the concern on the part of some on what has been a rather compliant ABA committee that these nominees cannot be fair to every litigant who may come before them.

Like Jeff Sutton, Bill Pryor has been a crusader for the federalist revolution, but Mr. Pryor has taken an even more prominent role. Having hired Mr. Sutton to argue several key federalism cases in the Supreme Court, Mr. Pryor is the principal leader of the federalist movement, promoting State power over the Federal Government.

A leading proponent of what he refers to as the "federalism revolution," Mr. Pryor seeks to revitalize State power at the expense of Federal protections, seeking opportunities to attack Federal laws and programs designed to guarantee civil rights protections. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

He has argued that the Federal courts should cut back on the protections of important and well-supported federal laws including the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Civil Rights Act of 1964, the Clean Water Act, the Violence Against Women Act, and the Family and Medical Leave Act. He has repudiated decades of legal precedents that permitted individuals to sue States to prevent violations of Federal civil rights regulations. Mr. Pryor's aggressive involvement in this "federalist revolution" shows that he is a goal-oriented, activist conservative who has used his official position to advance his "cause." Alabama was the only State to file an amicus brief arguing that Congress lacked authority to enforce the Clean Water Act. He argued that the Constitution's commerce clause does not grant the Federal Government authority to prevent destruction of waters and wetlands that serve as a critical habitat for migratory birds. While this is a sign to most people of the extremism, Mr. Pryor trumpets his involvement in these cases and is proud of his work to limit Congress's authority.

Bill Pryor's passion is not some obscure legal theory but something in which he has believed deeply since he was a student and something that guides his actions as a lawyer. Mr. Pryor's speeches and testimony before Congress demonstrate just how deeply-rooted his views are, how much he seeks to effect a fundamental change in the country, and how far outside the mainstream his views are. Mr. Pryor's judicial ideology is something in which he deeply believes, not just an argument that he makes as a lawyer.

Mr. Pryor is candid about the fact that his view of federalism is different from the current operation of the Federal Government—and that he is on a mission to change the Government to fit his vision. His goal is to continue to limit Congress's authority to enact laws under the 14th amendment and the commerce clause—laws that protect women, ethnic and racial minorities, senior citizens, the disabled, and the environment—in the name of sovereign immunity. Is there any question that he would pursue his agenda as a judge on the Eleventh Circuit Court of Appeals—reversing equal rights progress and affecting the lives of millions of Americans for decades to come?

His strong views against providing counsel and fair procedures for death row inmates have led Mr. Pryor to doomsday predictions about the relatively modest reforms in the Innocence Protection Act to create a system of competent counsel. When the U.S. Supreme Court questioned the constitutionality of Alabama's method of execution in 2000, Mr. Pryor lashed out at the Supreme Court, saying "[T]his issue should not be decided by nine octogenarian lawyers who happen to sit on the U.S. Supreme Court." Aside from the obvious disrespect this comment shows for this Nation's highest Court, it shows again how results-oriented Mr. Pryor is. Of course an issue about cruel and unusual punishment ought to be decided by the Supreme Court. It is addressed in the eighth amendment, and whether or not we agree on the ruling, it is an elementary principle of constitutional law that it be decided by the Supreme Court, no matter how old its members.

Mr. Pryor has also vigorously opposed an exemption for persons with mental retardation from receiving the death penalty, exhibiting more certainty than compassion. He authored an amicus curiae brief to the Supreme Court arguing that the Court should not declare that executing mentally retarded persons violated the eighth amendment. After losing on that issue, Mr. Pryor made an unsuccessful argument to the eleventh circuit that an Alabama death-row defendant is not mentally retarded.

Mr. Pryor has spoken harshly about the moratorium imposed by former Illinois Governor George Ryan, calling it a "spectacle," and saying that it will "cost innocent lives." How can someone so sure of his position be relied upon to hear these cases fairly? Over the last few years, many prominent Americans have begun raising concerns about the death penalty, including current and former supporters of capital punishment. For example, Justice O'Connor recently said there were "serious questions" about whether the death penalty is fairly administered in the United States, and added: "[T]he system may well be allowing some innocent defendants to be executed." In response to this uncertainty, Mr. Pryor offers us nothing but his steadfast belief that there is no problem with the application of the death penalty. This is a position that cannot possibly offer a fair hearing to a defendant on death row.

Mr. Pryor's troubling views on the criminal justice system are not limited to capital punishment. He has advocated that counsel need not be provided to indigent defendants charged with an offense that carries a sentence of imprisonment if the offense is classified as a misdemeanor. The Supreme Court nonetheless ruled that it was a violation of the sixth amendment to impose a sentence that included a possibility of imprisonment if indigent persons were not afforded counsel.

Like Carolyn Kuhl, Priscilla Owen, and Charles Pickering, Bill Pryor is hostile to a woman's right to choose. There is every indication from his record and statements that he is committed to reversing Roe v. Wade. Mr. Pryor describes the Supreme Court's decision in Roe v. Wade as the creation "out of thin air [of] a constitutional right," and opposes abortion even in cases of rape or incest.

Mr. Pryor does not believe Roe is sound law, neither does he give credence to Planned Parenthood v. Casey. He has said that, "Roe is not constitutional law," and that in Casey, "the court preserved the worst abomination of constitutional law in our history." When Mr. Pryor appeared before the committee, he repeated the mantra of those who desire confirmation, saying that he would "follow the law." But his deeply held and intense commitment to overturning established Supreme Court precedent that protects fundamental privacy rights makes it impossible to give his promises any credence.

Bill Pryor has expressed his opposition to fair treatment of all people regardless of their sexual orientation. The positions he took in a brief he filed in the recent Supreme Court case of Lawrence v. Texas were entirely repudiated by the Supreme Court majority just a few weeks ago when it declared that the "The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private conduct a crime." Mr. Pryor's belief is the opposite. He would deny certain Americans the equal protection of the laws, and would subject the most private of their behaviors to public regulation.

Mr. Pryor's comments have revealed an insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system.

In testimony before Congress, Bill Pryor has urged repeal of Section 5 of the Voting Rights Act the centerpiece of that landmark statute because, he says, it "is an affront to federalism and an expensive burden that has far outlived its usefulness." That testimony demonstrates that Mr. Pryor is more concerned with preventing an "affront" to the States' dignity than with guaranteeing all citizens the right to cast an equal vote. It also reflects a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that Section 5 is an "affront" to our system of federalism. Whether under Earl Warren, Warren Burger, or William Rehnquist, the United States Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy not a "burden" that has "outlived its usefulness."

On all of these issues, the environment, voting rights, women's rights, gay rights, federalism, and more, William Pryor's record of activism and advocacy is clear. That is his right as an American citizen, but it does not make him fit to be a judge or likely to be fair on such issues. I think the length and level of his devotion to these issues creates a situation in which his impartiality on such issues would reasonably be questioned by litigants in his court. He should not be confirmed to the United States Court of Appeals for the Eleventh Circuit.

Mr. HATCH. I yield to the distinguished Senator from California, and I intend to take the floor as soon as she is through.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object.

Mr. DOMENICI. Object to what?

Mr. HATCH. You cannot object.

Mr. DORGAN. Does the Senator from Utah, does the chairman of the committee, have the opportunity to yield the floor to another Member of the Senate?

The PRESIDING OFFICER. He does not.

Mr. DORGAN. What did the Senator from Utah just try to do?

Mrs. FEINSTEIN. It was a nice thing.

Mr. HATCH. I ask unanimous consent that the distinguished Senator from California be recognized for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

Mr. DOMENICI. Reserving the right to object, I want to say to everyone who is listening, in case you are confused, we are not on the Energy bill.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mrs. FEINSTEIN. Mr. President.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Is there an objection to the unanimous consent request of the Senator from Utah?

Mr. DORGAN. I object.

The PRESIDING OFFICER. There is an objection.

Mr. HATCH. Mr. President, let me take the floor. I am going to yield the floor in just a second.

I expect the distinguished Senator from California to be recognized so she can take 15 minutes. Then I am going to warn the Senate, right now, the minute she is through, I want the floor back, and I have a right to have it as the leader on the majority side. Am I right, parliamentarily?

The PRESIDING OFFICER. The Senator from Utah is seeking recognition. He has priority of recognition as the majority manager.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his parliamentary inquiry.

Mr. DORGAN. Mr. President, the Senator from Utah stated that when he finishes his presentation, he expects the Senator from California to be recognized, after which he expects to be recognized.

Does the Senator from Utah have a right to yield the floor to the Senator from California?

Mr. HATCH. I didn't do that.

The PRESIDING OFFICER. He does not have the right to yield the floor, but he did not propose that as a unanimous consent request.

Mr. DORGAN. Mr. President, the Senator from Utah has priority recognition as manager of the bill. He may seek the floor on that basis following the presentation by the Senator from California, not by prearrangement, however; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Thank you.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, thank you very much. I thank the chairman of the committee and I thank the ranking member.

I have served on this committee for 10 years. I love this committee. The Presiding Officer serves on this committee. It is a challenging committee. It is particularly challenging for me because I am a nonlawyer. I have had a great opportunity to work across the aisle on any number of different proposals with the chairman of the committee, with the Senator from Arizona, Mr. KYL, with Senator LINDSEY GRAHAM, with others. I have enjoyed it. There has always been a spirit of collegiality.

However, that spirit of collegiality is at a crossroads. Something very ugly has been injected. It has to do with this nominee, and it has to do with circumstances around this nominee. I will spend a few moments discussing them. This kind of thing that has been going on has to stop.

Last week, the Democratic members of the committee were accused by outside groups, and even some of our colleagues on the committee, of applying an anti-Catholic religious litmus test on the nomination of William Pryor. These charges are false. They are baseless. They are offensive. And they are beneath the dignity of a Senate committee tasked with making very important decisions on the future of the Federal judiciary.

We have heard a lot about the ad. I never thought I would see an ad like this. It is a rather insidious ad. I will not show it, but I will describe it. It is two courtroom doors. Atop it says "Judicial Chambers." On the doorknob hangs a sign that says "Catholics Need Not Apply." When I saw this ad, I thought we were going back decades. When I saw this ad, I thought: Uh-oh, if there is one thing I know—and I have watched cities polarized, I have seen assassinations result from the polarization—I know what happens when people seek to divide. One of the easiest ways to divide is to use race or religion in an adverse manner. That is what this ad sought to do. It sought to divide.

Then I watched C–SPAN the other night. I saw clergy discussing the ad. I saw them beginning to believe that religious litmus tests were being used by the Judiciary Committee. Now, in fact, that has never been the case.

Senator SCHUMER pointed out during Mr. Pryor's markup in the committee that this kind of thing is becoming somewhat of a pattern. Once it becomes a pattern, no one really knows where it goes.

We have not opposed a lot of nominees. The ranking member has made that clear: 140 nominations have gone through. Just today we had a hearing in the morning. I introduced two California judges who were going through in a 4-month period of time, new judges produced because the chairman and the ranking member agreed there was a very heavy caseload in San Diego and there should be a number of new judges. They were nominated in May. Already these judges have had their hearing. So good things do happen.

However, each time we have opposed a nominee, there has been bias used as a rationale for those who do not agree with us, to purport that bias is part of our rationale. It happened with an anti-Hispanic charge with Miguel Estrada, an anti-woman charge with Priscilla Owen, an anti-Baptist charge with Charles Pickering, and now with William Pryor an anti-Catholic charge.

You have no idea what happens when this begins to circulate throughout the electorate. People do not know exactly what goes on. It is a dastardly thing to do. In a sense it is scurrilous, because it caters to the basic insecurity of all of us who share a religion that may be different from someone else's. So it has a truly insidious quality to it.

To call us antiwoman—I don't have to tell you how bizarre it is for me to be called antiwoman. And to say we have set a religious litmus test is really equally false.

Many of us have concerns about nominees sent to the Senate who feel so very strongly, and sometimes stridently, and often intemperately about certain political beliefs and who make intemperate statements about those beliefs. So we raise questions about whether those nominees can be truly impartial, particularly when the law conflicts with those beliefs.

It is true that abortion rights can often be at the center of these questions. As a result, accusations have been leveled that any time reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice. But pro-choice Democrats on this committee have voted for many nominees who are anti-choice and who believe that abortion should be illegal, some of whom may even have been Catholic. I do not know because I have never inquired.

So this truly is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. I think when a nominee such as William Pryor makes inflammatory statements and evidences such strongly held beliefs on a whole variety of core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge—particularly because he is very young, 41; particularly because this is a lifetime appointment; and particularly because we have seen so many people who have received lifetime appointments then go on and do just what they want, regardless of what they said. So it is of some concern to us.

I hope these accusations will stop. I hope we can focus on the merits of each nominee, not on baseless allegations against Members of the Senate who are trying to do their constitutional duties.

I am very concerned because, to date, not a single Member on the other side has said they believe these ads are baseless, have said they know we do not practice this kind of decisionmaking. No one has disavowed these ads.

So I call on the committee to disavow these ads. I call on the administration to disavow these ads. And I call on them to set the record straight.

There was a time in our history when the phrase "Catholics need not apply" was used to keep countless qualified Americans from pursuing the American dream. The same can be said for "no Jews need apply" and "no Irish need apply." And, much like Justice Sandra Day O'Connor, when she first looked for her first job and I first looked for my first job, really "women need not apply."

In fact, I lost my first job to a man who was less qualified than I, but I was a woman and I had a small child and at that time that was not much coin of the realm to get a job. So I was beaten out many times by men who were less qualified—had less academic experience, less graduate experience, et cetera.

These were dark times in American history and many of us in this body remember those times. But every one of us should be absolutely committed to preventing those days from ever recurring. What this is a sign of is that those days are beginning to occur again.

I hope we do not see political cheapshot artists bringing painful phrases back for the purposes of intimidating Senators and stacking Federal courts. We should be above that in this debate. This is the Senate, as the distinguished Senator from Nevada has said, and our constitutional duty should not be marred by false allegations or intimidating political tactics. Our Nation's history in fighting bigotry of all kinds must continue. I urge my colleagues very sincerely to condemn these tactics and move on to debating the merits of controversial nominees.

Now a second event at the Pryor markup also disturbed me greatly and was especially troubling because we faced a repeated refusal to acknowledge the clear application of a longstanding committee rule on ending debate. Without the violation of the rule, Mr. Pryor would still be before the Judiciary Committee, as I deeply believe he should be.

The Judiciary Committee rules contain a clause known as Rule 4 that prevents closing off debate on a nominee unless at least one member of the minority agrees to do so.

It isn't used a lot but it has been used before when I have been on the committee.

During debate on the Pryor nomination, the Ranking Member attempted to invoke this rule because members of the minority did not believe that an ongoing investigation into Mr. PRYOR's nomination had been given sufficient time.

Serious allegations were made about Mr. Pryor's truthfulness to the committee during the hearing, and staff had been looking into those allegations. Put simply, the job has not been completed.

But, as Chairman HATCH did earlier this Congress with regard to the nomination of Deborah Cook and John Roberts, he chose to ignore this rule and force through a vote over the objections of every member of the minority on the committee.

We thought the issue had been resolved during discussions over what happened last time, but apparently we were wrong.

The rule contains the following language:

> The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bringing the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.

That is a reading on its face. It stands on its face. It is what it is.

Over the last few decades, it has clearly meant that unless one member of the minority agrees to cut off debate and move straight to a vote, no vote can occur. This is one of the only protections the minority party has in the Judiciary Committee. Without it, there might never be debate at all. A chairman could convene a markup, demand a vote, and the entire process would take 2 minutes. This is not how a deliberative body should function, and more importantly, it is contrary to the rules. Either the rules are observed or we have chaos on the committee. If we do not like the rules, we should change the rules. But we should follow the rules.

As I understand it, this rule was first instituted in 1979. Senator KENNEDY was chairman of the committee at the time. It has been followed ever since.

Senator HATCH, our current chairman, has also followed the rule. I make no bones about the fact that I am very fond of the chairman, but he has been going through some kind of a change lately, and I don't quite know what it is.

During the markup of Bill Lann Lee to be the Assistant Attorney General for the civil rights division, there was some fear that Republicans, who had the votes to defeat the nomination would move directly to a vote and prevent any debate on the issue at the markup. Democrats, on the other hand, wanted the chance to explain their position, and maybe even try to change some minds on the other side.

During that markup, then, there was significant discussion about what rule 4, the rule about cutting off debate, really means. At one point, it is interesting to note, Chairman HATCH himself commented that:

> At the appropriate time, I will move to proceed to a vote on the Lee nomination. I assume there will be no objection. It seems to me he deserves a vote. People deserve to know where we stand on this issue. Then we will, pursuant to Rule IV, vote on whether to bring the Lee nomination to a vote. In order to vote on the nomination, we need at least one Democrat to vote to do so.

That is precisely what we are discussing. The situation then was the same as the situation regarding Mr. Pryor. In order to vote on the nomination, we need at least one Democrat to vote to do so. But we never even had the chance to vote on cutting off debate.

I don't need to lecture this body that we are a nation of laws. We know that. We expect these laws to be obeyed. This is a Senate of rules. Our rule book is 1,600 pages long. There is no greater expert on rules than the senior Senator from the great State of West Virginia. Rules have always been observed. Some of them are complicated. This happens to be pretty simple, and we all understand it.

I want to spend a moment on the materials that have been before us that are being investigated. The materials in question came to the Judiciary Committee just 2 or 3 weeks ago.

Those materials raise real questions about whether Mr. Pryor misled the committee about his activities on behalf of the Republican Attorneys General Association, a fundraising organization that I believe raises serious concerns about conflicts of interest.

For instance, questions have been raised about whether Mr. Pryor raised money from tobacco companies, while at the same time arguing against pursuing those companies through litigation. I don't know whether this allegation is true or not true. None of us do. I wasn't really prepared to vote. But we should look into it and we should be able to match his statements to the committee with the facts.

There are other areas where the documents given to the committee suggest that Mr. Pryor may not have been completely forthcoming at his hearing.

We will never get past the partisan bad-feelings that are increasingly apparent in the Judiciary Committee if we cannot even rely on having our rules followed to the extent of carrying out an investigation with materials about which none of us knew existed when we had the hearing on the nominee.

On the merits, this is a nominee who has been before us for just a few months.

I mentioned the investigation. I mentioned rule 4. But let me go into a couple of the merits from our side and from our point of view.

He used his position as Attorney General to limit the scope of crucial civil rights laws like the Violence Against Women's Act, the Age Discrimination In Employment Act, the American with Disabilities Act, the Fair Labor Standards Act, and the Family Medical Leave Act.

He said that he doesn't believe that the Federal Government should be involved in "education or street crime."

Mr. SESSIONS. Will the Senator yield for a question?

Mrs. FEINSTEIN. I beg your pardon?

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. SESSIONS. Will the Senator yield for a question?

Mrs. FEINSTEIN. No. I would rather finish my remarks. If I have time left, I will yield.

Mr. SESSIONS. I wanted to clear up a misstatement.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. Mr. Pryor calls Roe v. Wade "the worst abomination of constitutional law in our history." He has written that he could "never forget January 22, 1973, the day seven members of our highest court ripped out the life of millions of unborn children." That is a quote. It is a very strong statement.

He has lobbied for the repeal of section V of the Voting Rights Act.

After the Bush v. Gore decision, Pryor made the astounding statement, "I'm probably the only one who wanted [the decision] 5–4 . . . I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter."

This is a sitting attorney general taking on a Justice of the U.S. Supreme Court by name. I have never heard of that before. Of course, there is always a first time. It was also an attack on a Justice who was well known as being more moderate than he was expected to be and who does not simply toe a party line.

So is Mr. Pryor saying he would want only those judges who remain completely faithful to the ideology of those who choose them? Is he saying that Justice Souter is simply not conservative enough? I think he is.

Mr. Pryor has taken positions so extreme that they are at odds with the rest of the Nation's attorneys general. For example, he was the only attorney general to argue against a key provision in the Violence Against Women Act on federalism grounds.

So there is a reason we feel strongly about it.

My experience is that in appointing someone to the trial bench when that individual has never been a judge is probably a good idea, even if they are an attorney general. One can make some judgments about people who hold political office and who are strong advocates as to whether in fact they can separate themselves from their ideology, whatever that ideology may be. I believe people can do this. I voted for Jeffrey Sutton because I had that belief. In this case, I am not so sure because the rhetoric is so strident and so very intemperate.

The Senator from Alabama, who is present on the floor, believes he can, and there are people who believe he can. But I think the jury is out because there is a venture into an attack on a sitting U.S. Supreme Court Justice, there is a characterization of a landmark Supreme Court case as "an abomination," and other things as well. There is an attack on many significant—significant to those of us on this side of the aisle—pieces of Federal legislation.

Truly, this is a nomination that deserves and merits debate—an open debate. But I would like the debate to take place with the observation of the rules of the committee and after the investigation that is ongoing is finished.

I hope the Senator from North Dakota's importuning to leadership is taken. We don't need to have a cloture vote at this time on this nominee. That cloture vote can come after the results of the investigation are finished—certainly after the Energy bill—because I think if a cloture vote is taken, these arguments I have made on the merits of the case are really going to be dispositive as far as votes on our side are concerned.

I thank the Chair. I yield the floor. I thank very much the chairman of the committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from California as well. I feel very deeply toward her. I think she is a wonderful person, and I think she is a fine Senator who works very hard on the Judiciary Committee. And I appreciate her kind remarks about me.

Mr. President, let me make something clear. I keep hearing that we are going to vote on judges. Well, I certainly wish that were the case. What we are talking about is a cloture vote tomorrow, and one on Friday. It is not unusual at all, in fact it is a matter of course, for the Senate to double track various items in the interests of the body to keep on top of matters.

The two trade bills are extremely important for this country, with two of our greatest allies and supporters, Chile and Singapore. It needs to be done. There is no reason to have hours of debate on it. There are some hard feelings about it, and so forth, but it can be done.

We could have debated this in the hour before the cloture vote, which is what the rule calls for. If we invoke cloture, there will be ample opportunity to devote time to the total debate on General Pryor.

But now let me just make another point or two. The distinguished Senator from California is very upset at him because he actually took up to the Supreme Court an issue on the Violence Against Women Act. She takes great umbrage at that. Unfortunately, he won. So to indicate that he may be outside the mainstream or somebody who should not be supported because he wins in front of the Supreme Court—and almost everything they criticize, as far as Supreme Court matters are concerned, he has won on, until this last term when he lost on a couple of issues. And in every case he followed what he believed the law was regardless of his own personal beliefs. By the way, I am one of the coauthors in the Congress of the Violence Against Women Act.

So to criticize him for something that the Supreme Court agrees with him on gives an indication who is outside the mainstream. It isn't General Pryor. And there is case after case after case where he wins that has been criticized by our colleagues over there as though somehow or other he has been off the charts when it comes to the law. He has been on the charts. I admit, he has lost some, too. But I don't know of anybody who has taken multiple cases to the Supreme Court who has won everything. I know a few who have had pretty good records—and he has one of the better records as an attorney general in this country.

My Democratic colleagues assert, in laundry list format, that General Pryor is basically against everything they are for. He is "out of the mainstream." We hear that over and over again. Pryor is against civil rights, disability rights, minorities and women themselves, the environment—the whole thing, presumably, and of course—abortion rights.

I am paraphrasing just one Democratic Senator's statement during the markup on July 23, 2003, but it is a fair representation of the types of assertions against General Pryor that are designed not to debate his fitness for the Federal bench but, rather, to strangle debate before it begins. To paint this excellent nominee as so "extreme" as to be not worth discussing.

By the way, we did not bring this debate up tonight. I did not want to stand here tonight and answer these so-called allegations. My friends on the other side did. They are the ones who interrupted the Energy bill, which is being slow-walked. And we all understand that—as almost everything has been this year.

These are what you call obstructionist tactics. And that is what is going on here. For them to come out here on the Senate floor and act like, well, we are interrupting the energy debate—it is almost more than I can take.

This energy debate is very important. It should be over. And I would be happy to end it right now, have the cloture vote tomorrow. I will even give up the hour before cloture, if they want to, to keep working on the Energy bill. But, no, that is not what they are doing. This is all a slow-walk to try to make this Congress look as if it isn't a good one, even though, in spite of these slow-walks, we have done bill after bill after bill, some of them extremely important pieces of legislation.

Let me provide you with a succinct but very different, and much more realistic picture of General Pryor.

General Pryor has been criticized as insensitive to the rights of the disabled because he argued in the Garrett case that the Americans with Disabilities Act could not, under section 5 of the 14th amendment, validly abrogate States' 11th amendment immunity and authorize money damage suits against States in Federal court.

But the Supreme Court agreed with General Pryor. He is being criticized by others on the Senate floor for cases that he has won in the Supreme Court.

He has also been criticized as insensitive to age-based discrimination because he and a bipartisan group of 23 other State attorneys general—23 other bipartisan State attorneys general—argued in the Kimel v. Florida Board of Regents case that the provision of the Age Discrimination in Employment Act that allowed money damage suits against States in Federal courts was invalid under the 11th amendment, something that they should have argued because it is an important issue.

But, again, the Supreme Court agreed with General Pryor. He is being criticized for winning cases in the Supreme Court as though he is the one who is out of the mainstream. I don't think it takes any brains to realize who is out of the mainstream. It is not General Pryor.

And we have heard criticism that he is insensitive to women's rights because he argued in the case of U.S. v. Morrison that neither the commerce clause nor the 14th amendment provided Congress with the authority to enact one civil remedies provision of the Violence Against Women Act. But the Supreme Court agreed with him again.

Further, General Pryor has been criticized as anti-environment because of his argument in Solid Waste Agency of Northern Cook County that the Army Corps of Engineers did not have the authority, under the Federal Clean Water Act, to exercise Federal jurisdiction over entirely intrastate bodies of water—in this case, an abandoned gravel pit.

He was arguing for his State, which is what attorneys general are obligated to do. He even urged the Court not to reach the issue of whether the Commerce Clause allowed Congress to regulate entirely intrastate bodies of water. The Court did not reach the Commerce Clause issue and again agreed with General Pryor's statutory interpretation argument.

So I guess those who oppose Pryor are saying when the Supreme Court agrees with you that an environmental statute should be interpreted in accordance with its actual language, rather than expanded through bureaucratic fiat, that makes you extreme and anti-environment, especially when you win the case in front of the Supreme Court. Talk about turning the world upside down.

General Pryor has even been criticized as insensitive to civil rights concerns because of his argument in Alexander v. Sandoval that there is no private right of action under title VI of the Federal Civil Rights Act to challenge Alabama's policy of issuing drivers' licenses only to English speakers—a policy that I understand is no longer in effect. Once again, the Supreme Court agreed with his argument, holding that Congress, not Federal courts, should create causes of action to enforce Federal laws. That proposition should not be controversial, nor should supporting it be held against General Pryor, who again won in the Supreme Court.

Finally, let me just give one more example. The Supreme Court, including Justice Souter, agreed with General Pryor's argument in the Scheidler v. NOW case that Federal antiracketeering laws could not properly be applied to pro-life protest groups who admittedly had not engaged in any activities covered by those laws with respect to the targets of their protests. So while General Pryor may have criticized Justice Souter, they do not always disagree when it comes down to interpreting the law.

Let me say this. A nominee is not an extremist—or should I put the word "extremist" in quotes because it seems to be a special word that is used so often by our colleagues—a nominee is not an extremist when the positions he has taken have been consistently supported by Supreme Court majorities. We know who the extremists are, and it isn't General Pryor.

We will hear more about these cases, and I'm not saying Bill Pryor has won all of these arguments at the Supreme Court. Not even the best lawyers can win them all, and he did lose a couple in this last session. But to say that Bill Pryor is "out of the mainstream," when he has been such a successful advocate for his State in the Nation's highest Court, is plainly wrong.

Anybody who makes that argument should think twice before they make that type of argument.

We are in the middle of a slow walk here, trying to make the Senate look bad—not by Republicans but by the other side. Frankly, to complain about double-tracking important things like a circuit court of appeals judgeship, the third branch of Government in our society, I think is hitting a little bit below the belt.

It is certainly not unusual for cloture votes on judgeship nominees when the other side is filibustering for the first time in history Federal judicial nominees. I made the mistake of saying the Fortas nomination was the only filibuster up until now. I was wrong. I was corrected by none other than former Senator Robert Griffin who led the fight against Fortas. He said: We weren't filibustering, and they knew it. They knew we had the votes to beat them up and down and they are the ones who called for the cloture vote, which they barely won. They only had 45 votes, and there were 12 who weren't there, many of whom were going to vote against Fortas for justifiable reasons.

So these filibusters going on now are the only ones we've ever had in the Senate. My colleagues on the other side are fond of saying: There have been 140 Bush judges confirmed by us and only two have been filibustered. That is two too many. Constitutionally, that is two too many. One is one too many. I have to admit there were a few on our side during the Clinton years who wanted to filibuster some of those judges. I personally stopped them with the help of the leadership and others who thought it through that we should not be filibustering judges. It is the wrong thing to do. It should not be done, but it is being done here.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. HATCH. If the Senator will just wait for a few more minutes, I want to make a point on Rule 4. For the life of me, I can't understand how anybody reading the Judiciary Committee's Rule 4 would interpret it any differently than the way I did. I was surprised to see my comments during the Bill Lan Lee nomination used against me. What happened there was, I was Chairman. We had the votes to stop the nomination. The Democrats didn't want us to stop the nomination because it would have been embarrassing and might have made it more difficult for them to recess-appoint Lee, who I would have supported for any other job in Government but not that one. Because I knew he would get there and he would use the power of the civil rights office to bring litigation against communities, municipalities who would have to give in rather than spend millions of dollars in defense fees and accept full scale racial quotas. My fears were confirmed. Because they recess-appointed him and he did bring that kind of litigation.

But with the Lee nomination, the Democrats started a filibuster of their own nominee. There was no reason for them to make any arguments. I would have given them a vote up or down right there. They started the filibuster. I, in graciousness, agreed not to have a vote. I have to admit I myself was in error by making some of the statements I did because I didn't realize the importance of this, nor had I even looked at Rule 4. But let's look at this Rule.

It says: "The chairman shall entertain. . . ." That means this is a rule that forces the chairman to entertain a nondebatable motion to bring a matter before the committee to a vote. It is a way of forcing the chairman to give a vote that you could not otherwise give if the chairman decided not to do it.

"The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote if there is objection to bringing the matter to a vote without further debate"—a rollcall vote, in other words. If the chairman refuses, they can then demand a rollcall vote of the committee to be taken. It is nondebatable. It has to happen. And "debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes in the affirmative, one of which must be cast by the minority."

Anybody with brains can read that and say: That is a rule that forces a recalcitrant chairman to have to call a vote. But any competent person reading that can also conclude, as have I, having consulted with the two Parliamentarians beforehand, that a chairman cannot be foreclosed from his right to call a vote. Because if that were the rule, that means the minority would always control whether there would ever be a vote on a judge. That can't possibly be the rule, though that is what Democrats now are trying to say it is, with regard to the Committee's vote on General Pryor.

We are all well aware by now that Democrats invoked the Judiciary Committee's rule 4 to try to block a committee vote on General Pryor's nomination. Their interpretation of this rule was and is simply incorrect, and let me explain why.

Rule 4, entitled "Bringing a Matter to a Vote," was clearly intended to serve as a tool by which a determined majority of the committee could force a recalcitrant chairman to bring a matter to vote. In fact, the rule provides, "The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote." On July 23, there was no motion to bring a matter before the committee to a vote. In fact, there was an objection to voting, which I overruled. Thus, on its face, rule 4 was inapplicable to the Pryor nomination.

If we followed the interpretation that Democratic members of the committee urged, it would mean that the committee minority would essentially control the committee's agenda. Essentially, the committee's chairman, on behalf of the majority, could not bring any nomination or piece of legislation to a vote without the affirmative vote of at least one member of the minority. So the chairman would have no right to call for a vote—the minority could restrict that right at their discretion.

No chairman would suffer such limitations on his power. The limitation that exists in rule 4 as properly interpreted is entirely reasonable: that all members of the committee's majority, plus one minority member, can force the committee to have a vote over the objection of the chairman—who, in that case, clearly would not be representing his committee's majority. Rule 4 does not, as Democrats, would currently, expediently, have it allow the minority to prevent a vote. Rule 4 does not authorize filibusters in the Judiciary Committee.

Despite claims to the contrary, there has been no inconsistency in the interpretation of this rule: During the Clinton administration, in an effort to prevent the defeat in committee of a controversial Justice Department nominee and spare both committee Democrats and the administration considerable embarrassment, I chose not to exercise the inherent power that I and all committee chairmen have to bring a matter to a vote. President Clinton ultimately made a recess appointment of the nominee. In retrospect, my graciousness to the other side, and my reliance on rule 4 to accomplish this was admittedly not the best course of action. I nevertheless believe that I had the power to bring that matter to a vote, and that I used the discretion of the chairman to decide not to do so.

In short, there was no violation of committee rules or process in bringing the Pryor nomination to a vote on July 23, and any argument to the contrary was merely a last-ditch effort to prevent the full Senate from considering it.

Unfortunately, that effort continues, in a manner equally offensive to the ultimate rules that govern the Senate, the U.S. Constitution.

The fact is, this was the fifth markup that General Pryor was on, having had his confirmation hearing on June 11. And there were continual Democratic efforts to try and thwart these markups every time. I went along with a number of those efforts just out of graciousness. But on July 23 everybody knew we were going to vote because at the prior markup they invoked the two-hour rule, the Democrats did, so that we couldn't possibly, during the time the Senate was in session, vote on Mr. Pryor.

I said: Well, then we will meet after the Senate goes out, which would get around the two-hour rule. That meant about 9 o'clock at night that night, the Thursday before we finally voted. Everybody knew I had the votes. Everybody knew I was going to go ahead. We gave them all day to resolve any problems they had in this so-called "investigation" which is as phony as any investigation I have ever seen. By the time we got ready, nobody told me about this, but by the time we got ready for the vote or for the Senate to go out of session and for us to meet—and we worked all day to make sure we would have a quorum—I was informed that there was a personal exigency that existed, a legitimate personal exigency, that was known about earlier in the day, and I agreed to not continue the markup.

I put it over then until the next Wednesday, a full week, and said: Get the staffs together, interview the four witnesses you want to, interview General Pryor in the process, but next Wednesday we are going to vote. There have been comments that our staff stalled that. That is not true. I believe the distinguished Senator from Massachusetts tried to make that point. That is not true.

As a matter of fact, the Democrats' staff refused to interview or ask questions of Mr. Pryor who could have easily answered them all, and would have, and in fact already had answered all of these questions at his hearing and in writing. It was a phony "gotcha" type of a situation which Democrats on the Judiciary Committee are putting nominees through.

Let me talk about the religious problem. I am getting a little tired of this. The outside groups have been outrageous with the smears they have brought upon Republican judicial nominees. If you made one mistake in your life or what they perceive to be a mistake, you are going to be smeared because of it. That perceived mistake is going to be enough for these groups to try to ruin your whole career. The tactics used against Judge Kuhl are a perfect illustration. Her whole career she has had the support of Democratic and Republican judges and everybody else in California who really counts, it seems to me, as far as judges are concerned. They found one thing they can beat into the ground, they think. I don't think even that is valid. I think we can rebut that case. And yet they are going to stop this brilliant woman who has a well-qualified rating, their gold standard, from the American Bar Association.

What is particularly offensive is what the outside groups have done against some of our nominees because of religious beliefs. By the way, throughout the extensive, lengthy, one-of-a-kind hearing on Judge Pryor, there were consistent questions about his deeply held beliefs. This has caused a lot of people to become very upset.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. SANTORUM. Will the Senator from Utah yield for a question?

Mr. HATCH. I am sorry. I am happy to yield for a question without losing my right to the floor.

Mr. SANTORUM. I thank the Senator from Utah because he has hit on a point that is deeply disturbing to me as a member of the Senate. I understand the Constitution talks about, we shall establish no religion, and that is generally termed, in many cases, the separation of church and State, although the words "separation of church and State" do not appear in the Constitution.

What appears to be going on in the Judiciary Committee by Members of the other side of the aisle is not a separation of church and State, but a separation of anybody who believes in church and faith from any public role. I do not believe that is what the Constitution was founded to do. I listened to the comments of the Senator from California who said because of General Pryor's "strongly held beliefs" basically he cannot be impartial.

So if you have strongly held religious beliefs, because of your strongly held religious beliefs——

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I will not. Because of those beliefs that are referred to continually, the "strongly held beliefs"——

Mr. DURBIN. Mr. President, I have a——

The PRESIDING OFFICER. The Senator from Utah has the floor and the Senator has yielded for a question to the Senator from Pennsylvania.

Mr. DURBIN. Mr. President, parliamentary inquiry.

Mr. SANTORUM. Are the beliefs that are referred to—

Mr. DURBIN. Mr. President, parliamentary inquiry.

Mr. SANTORUM. Mr. President, the Senator yielded to me for a question, which I am about to ask.

Mr. DURBIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURBIN. If a Member of the Senate characterizes the words of another Member of the Senate incorrectly, can those words be taken down?

The PRESIDING OFFICER. There is no such right.

Mr. DURBIN. I thank the Chair.

Mr. SANTORUM. I ask the Senator from Utah, when the other side uses the term "deeply held beliefs" over and over again, which we have heard on certain issues, would the Senator from Utah characterize what those "deeply held beliefs" might pertain to, and on what issues, and what they might tie to from the perspective of religious beliefs?

Mr. HATCH. At least in one instance over and over it was on the issue of abortion. Several Democrats asked questions about that.

Mr. SANTORUM. With respect to abortion and Mr. Pryor's beliefs, if the Senator from Utah will allow me, I would like him to comment on a letter just received today, written by Carl Anderson, who is with the Knights of Columbus. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KNIGHTS OF COLUMBUS,
New Haven, CT, July 30, 2003.

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee,
U.S. Senate.

DEAR SENATOR HATCH: I am writing to express concerns as to the way the nomination of Alabama Attorney General Bill Pryor for the federal appeals court in Atlanta is being handled in the Senate.

Many have questioned Mr. Pryor's fitness for this position because of his "deeply held beliefs," in particular his opposition to abortion. Yet this "deeply held belief" is grounded in Mr. Pryor's adherence to his Catholic faith, which unequivocally declares abortion to be a grave evil.

Raising Mr. Pryor's "deeply held beliefs" in terms of his qualifications to serve on the federal bench thus suggests a de facto religious test for public office, something clearly prohibited by the Constitution. Of even more concern, it comes perilously close to suggesting that Catholics who faithfully adhere to their church's teaching on abortion, and perhaps other public moral issues, are unfit to serve their country in the federal judiciary.

Those who fault Mr. Pryor's ability to serve on the federal bench argue that his deeply held beliefs preclude him from judging and applying the law impartially. In effect, they are trying to put Mr. Pryor in the very uncomfortable and very unjust position of choosing between following his faith or serving his country. No candidate for any public office should be put in such a position. As Attorney General of Alabama, Mr. Pryor has already demonstrated an unquestioned record of applying the law impartially. He has already shown that one can be a faithful Catholic, with "deeply held beliefs" and still render unimpeachable service to his country and fellow citizens.

Perhaps it is worth remembering on this occasion that many distinguished jurists have dissented from the Supreme Court's decision in Roe v. Wade including the current Chief Justice of the United States and former Justice Byron White. To suggest that such jurists are unfit to serve on the Federal Bench does a disservice to the confirmation process itself. Moreover, it is worth reiterating that the Catholic Church teaches that abortion is unjust, not as a matter of faith, but as a matter of natural justice which obligates all citizens regardless of religious belief or lack thereof. This is attested to by the many persons of diverse religious belief or none at all who find abortion to be gravely unjust.

As head of the world's largest Catholic fraternal organization and as a former member of the United States Commission on Civil Rights, I am dismayed that the course of Mr. Pryor's nomination compels me to make a point which by now should be obvious: a good Catholic can also be a good public servant. Much as I would wish otherwise, a continuation of the trend that critics of Mr. Pryor's nomination have set in motion will compel American Catholics to face religious bigotry of a kind many of us thought to be extinct in this nation. I urge that Mr. Pryor be judged solely on his ability, his qualifications and his judicial temperament.

Respectfully,

CARL A. ANDERSON,
Supreme Knight.

Mr. SANTORUM. I want to refer to a couple of paragraphs and I want the Senator to comment, because this is the point that I think is very important. There is a code word going on here—code words. When you hear the term "deeply held beliefs"—I know the Senator from Illinois was upset when I used the term "religious" as a characterization. I think it is a completely accurate characterization of exactly what is going on. I am not alone. I will read a portion of the letter:

> Many have questioned Mr. Pryor's fitness for this position because of his "deeply held beliefs," in particular his opposition to abortion. Yet, this "deeply held belief" is grounded in Mr. Pryor's adherence to his Catholic faith, which unequivocally declares abortion to be a grave evil.

I am ending the quotation from Mr. Anderson's letter, and I just suggest that it is obvious to anyone that this code word is an antireligious bias—not an antireligious bias if you don't hold your faith deeply, but only if you do. Would the Senator from Utah care to comment on this letter I just quoted briefly from?

Mr. HATCH. First, I have seen the letter dated July 30, 2003, which I believe the Senator has put into the RECORD. The first time I have seen it is tonight.

Mr. SANTORUM. Yes, the July 30 letter.

Mr. HATCH. Right. I am concerned about this. I know some of these outside groups have been doing this regularly. I personally do not believe the distinguished Senator from California is—and I hope none of the other Democrat Senators on the committee are—against Mr. Pryor because of his religious beliefs. But I have to admit that people all over the country have been calling me and talking to me and saying, how could it be anything else? People are drawing that conclusion, and I will be honest with you, I am concerned about it.

Mr. SANTORUM. If the Senator will yield for a further question, I want to read the next paragraph and get his comment:

> Raising Mr. Pryor's "deeply held beliefs" in terms of his qualifications to serve on the Federal bench thus suggests a de facto religious test for public office, something clearly prohibited by the Constitution.

Would the Senator from Utah agree that the religious test for holding an office with the Government of the United States of America would be unconstitutional?

Mr. HATCH. There is no question about that. We all have to agree that our Constitution states no religious test shall ever be required as a qualification to any office of public trust in the United States. I don't believe any Senator would intentionally impose a religious test on the President's judicial nominees. I do not think any Senators are guilty of anti-religious bias. However, I am deeply concerned that some are indirectly putting at issue the religious beliefs of several judicial nominees.

I will give you one illustration. During the Pryor hearing, General Pryor's religion was an issue—and this is why I have raised it, which I have never done before. One Senator accused General Pryor during the hearing of "asserting an agenda of your own, a religious belief of your own." In his opening statement, another Senator stated:

> "In General Pryor's case, his beliefs are so well known, so deeply held that it is very hard to believe that they are not going to deeply influence the way he comes about saying 'I will follow the law,' and that would be true of anybody who had very deeply held views."
>
> The only deeply held views that I know outside of belief in the law would be his own personal religious beliefs. I will just say this on another point. On the subject of Roe v. Wade, Senator SCHUMER said, "I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose. But for a justice to set aside his or her personal views, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on the subject, I have some real concerns that he cannot because he feels these views so deeply and so passionately."

I don't know how you read it any other way.

Another Senator told General Pryor:

> I think the very legitimate issue at question with your nomination is whether you have an agenda, and that many of the positions you have taken do not reflect just an advocacy, but a very deeply held view and a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

As you know, General Pryor is openly pro-life.

Mr. SANTORUM. If the Senator will yield, does the Senator from Utah, who I know is not Catholic, know that as part of the Catholic faith, one of the central teachings with respect to faith and morals is that it is not an option under the Catholic church doctrine to be a faithful Catholic and not be pro-life. It is a core teaching of the church. It is not an optional teaching or a recommended teaching; it is a core teaching of the church. So to be a faithful

Catholic, according to the church, someone has to embrace this opposition to abortion. Is the Senator aware of that?

Mr. HATCH. Yes. I am so advised. I have studied the Catholic faith and I respect it deeply, as I do all religions.

Mr. SANTORUM. So according to what the Senator has just said, someone who considers oneself a faithful Catholic, faithful to the core teachings of the Catholic church, which leaves no leeway on the issue of abortion, under that understanding, someone who has a deep faith and understands that with deep faith as a Catholic comes the requirement to be against abortion, that as a result of that deep faith and as a result of that deep faith in Catholicism, having to subscribe to the church's teaching on abortion, would that not lead, in a sense, to a prohibition by some Members of having anybody who is a faithful Catholic as a member of the judiciary?

Mr. HATCH. I cannot speak to that. All I can say is that I will take the Senator's statement at face value, as I know he is a practicing member of the Catholic faith, and I respect him for that. I know he is very sincere, and I know he has even written about it. But I am concerned.

Three of the people we have been told will be filibustered are traditional pro-life, Catholic conservatives. Certainly, Pryor is one of them. Kuhl is another. Holmes is another. It is a matter of great concern. I have to say that these inside-the-Beltway outside groups will use anything; they will distort a person's record. It is abysmal what they are doing, and they are well heeled to the tune of millions of dollars, which they spend spreading this bile all over the Senate. Unfortunately, I believe there are some in this body who do not decry what they are doing.

Mr. SANTORUM. Mr. President, will the Senator yield for another question?

Mr. HATCH. I will be happy to yield for another question without losing my right to the floor.

Mr. SANTORUM. Mr. President, I just described what is my understanding as a Catholic of what the teachings of the church are and what the responsibilities as a faithful Catholic are as a member of the church. I also understand the oath of office you take and the role that you play as a civil servant in a government and that you have an obligation to serve and to adhere to the law, particularly when you are sworn to uphold that law.

Are there any examples where Attorney General Pryor upheld the law even though he, as a Catholic, as a person of deep beliefs, went ahead and followed the law even though his personal viewpoints may have been different?

Mr. HATCH. I think there are all kinds of examples. Let me go through a few, if I can. Hopefully, this will be helpful in what the good Senator has asked for.

General Pryor's record speaks with far more authority and with much greater eloquence than the fulminations against him. His record of enforcing the Supreme Court dictates on abortion is unquestioned. He has enforced them all. Despite criticizing them all as a traditional pro-life, Catholic conservative, he has criticized abortion but he has upheld the law.

Although he has been attacked for his federalism arguments before the Supreme Court, the Supreme Court sided with him in most of those cases. Arguing that Congress does not have the power that it has assumed through certain legislative acts is not activist or radical. It is principled, entirely consistent with our constitutional separation of powers, and it is General Pryor's duty as State attorney general.

In all the federalism cases he has argued, he advocated that only certain portions of Federal laws were unconstitutional. In all cases, remedies remained available for aggrieved parties or the Federal Government. I cited some of these cases earlier.

Let me give another illustration. His critics have also attempted to portray him as an official without the respect for the separation of church and State. Again, it is simply beyond dispute that his record proves his repeated ability to enforce the law regardless of his strong personal religious beliefs.

In an effort to defeat challenges to school prayer and the display of the Ten Commandments in the Alabama Supreme Court, both the government that appointed General Pryor and Alabama Chief Justice Roy Moore urged General Pryor to argue that the Bill of Rights does not apply to the States.

General Pryor refused, even though his personal beliefs were different, and he argued the case on much narrower grounds despite his own deeply held Catholic faith and personal support for both of those issues.

General Pryor has always been attacked for his statements urging modification or repeal of section 5 of the Voting Rights Act. However, despite General Pryor's well-documented concerns about section 5 of the Voting Rights Act, he has vigorously enforced all provisions of the act. He successfully defended before the Supreme Court several majority-minority voting districts approved under section 5 from a challenge by a group of white Alabama voters. He feels deeply about these issues.

He also issued an opinion that the use of stickers to replace one candidate's name for another on a ballot requires preclearance under section 5. Again, General Pryor enforced the law despite its conflicts with his beliefs.

Despite the distortions, half-truths, and outright falsehoods we have heard about him from the usual leftist inside-the-Beltway interest groups, General Pryor is a diligent, honorable, faithful man whose loyalties as a public servant have been to the law and its impartial administration.

He has told us under oath he will continue to follow the law, just as he has demonstrated in his distinguished career in Alabama. We should be proud to give his nomination an up-or-down vote.

Throughout his hearing, it was one question after another on abortion—one question after another—and he made it clear that as much as he thinks that the outcome of the case of Roe v. Wade is an abomination, because it has resulted in the death of millions of unborn children—and he was very straightforward about it, very honest about it, and was complimented by my colleagues for his honesty, yet they will not accept his honesty on this topic—he said he would enforce Roe v. Wade, which is the law.

Mr. SANTORUM. Mr. President, isn't there a case of the partial-birth abortion law in Alabama where he actually gave advice that would be contrary to what his personal beliefs are with respect to the issue of abortion?

Mr. HATCH. After the Supreme Court's decision in Stenberg v. Carhart, he upheld that law by ordering state officials not to enforce the conflicting Alabama partial-birth abortion law. Earlier, he had enforced Alabama's partial-birth abortion law narrowly, to ensure consistency with Supreme Court's dictates in Planned Parenthood v. Casey. Even though he disagrees violently with both of those cases from a personal religious standpoint, but he enforced and upheld those laws, in the face of criticism from many of his conservative friends in Alabama.

Let me read one other item. At his hearing, I asked him this question:

> So even though you disagree with Roe v. Wade, you would act in accordance with Roe v. Wade on the Eleventh Circuit Court of Appeals?

This was his answer:

> Mr. PRYOR. Even though I strongly disagree with Roe v. Wade, I have acted in accordance with it as attorney general and would continue to do so as a Court of Appeals judge.
>
> Chairman HATCH. Can we rely on that?
>
> Mr. PRYOR. You can take it to the bank, Mr. Chairman.

To be honest with you, that is the way he is, and he is being condemned for that.

I have to say that some of my colleagues on the other side have become tremendously annoyed and hurt by the issue of religion being brought up in this matter, but the attacks on personal beliefs came originally from these inside-the-Beltway groups. They are well heeled, with money coming out of their ears, hiring all kinds of far left liberal lawyers to make these smear attempts and, frankly, that is what is distorting this whole process.

I suggest to my friends on the other side, they are going to have to start some day standing up to these people, but they do not seem to be able to do it.

Frankly, during the Clinton years, I stood up to some of the right wing groups that were occasionally trying to distort somebody's record. We did not see anywhere near what we are seeing today but I stood up. I am not asking them to do something I did not do.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. HATCH. I will be glad to yield without losing my right to the floor.

Mr. SESSIONS. I remember a conservative group demanded of Senator HATCH, with regard to Clinton nominees, that he sign a Hatch pledge. I ask the Senator how he handled outside conservative pressure groups at that time?

Mr. HATCH. Mr. President, as my colleague knows, I had to stand up to some in my own caucus. Not many. There were some, one or two, who wanted to filibuster President Clinton's nominees. As the Senator will recall, I stood up to that and said we are not going to filibuster judicial nominees. It is not right, and I believe it is constitutionally unsound.

Some of the outside groups were sincere but they wanted to—I believed them to be sincere but wrong—distort some of these matters, and I refused to allow them to do it. They demanded to testify in a variety of cases, and I told them no, we are not going to denigrate the judicial process with that type of stuff.

Mr. SESSIONS. If the Senator will yield for a further question?

Mr. HATCH. I am happy to yield without losing my right to the floor.

Mr. SESSIONS. I note that the Senator made quite clear that elected Senators have the responsibility to decide matters, and they cannot be driven by forces outside. We have to do it on the facts and the law, and he has been honorable and consistent on that. He deserves great praise. Some of the criticism that has come his way from those who are now altering the historic ground rules of confirmation is unjust and wrong.

As a former attorney general of Alabama and knowing that the attorney general had the power in Alabama to direct district attorneys on how to enforce certain Alabama laws, I ask the distinguished chairman of the Judiciary Committee is he aware that even though Attorney General Pryor strongly believes that partial-birth abortion is one of the worst forms of abortion of all, that he wrote a letter directing district attorneys to narrowly construe an Alabama partial-birth abortion statute because he had concluded under the Supreme Court law that parts of it was unconstitutional?

Mr. HATCH. Well, the Senator is right.

He is a very serious practicing Catholic. He despises Roe v. Wade. He makes very strong and principled arguments against it. He did not mince any words when he was asked, Did you call it an abomination? And he said: Yes, I did, sir.

When they asked why, he said he called it an abomination because, words to the effect, he believes that it led to the deaths of millions of unborn children. Yet when it came down to enforcing the law on partial-birth abortion, that he despises, he enforced the law, and he directed his prosecutors in the State to do likewise.

I do not know whether we can find any better people than that. There are a lot of politicians who have been attorneys general who I do not think would have done that in the face of their personal beliefs, but he did because he is dedicated to the law. He knows if one does not uphold the law, even if they disagree with it, it would not be long until we would not have any laws. The Constitution would go itself, and he understands that. He is a brilliant man, graduated magna cum laude from Tulane, which is a fine law school, and was editor in chief of the Law Review, something that very few people have the privilege of doing, and that is because he was one of the best students in his class.

Frankly, he has more than shown an aptitude to the law and an ability to follow the law.

Mr. SESSIONS. If the Senator will yield for another question.

Mr. HATCH. Without losing my right to the floor, I will be happy to yield.

Mr. SESSIONS. Is the Senator aware, being an Alabama official myself and keeping up with these things, that when Attorney General Pryor, not required to do so but following what he believed was the proper procedure, directed the district attorneys who would be enforcing this partial-birth abortion law to construe the statute narrowly, that he was criticized by pro-life groups, sincere, wonderful people, and one went so far as to say that his decision had gutted the partial-birth abortion law?

Mr. HATCH. That is exactly right. He took a lot of flack for it and he believed the way they did, but he also made it clear that that is the law and that he was going to follow it. He followed it as an elected political official.

Now, if he can follow the law impartially as an elected political official, imagine the honor he would bring to the bench, where it's his job to be impartial. He did not have to do it as an elected political official, although I would not have respected him had he not, but as a judge, I think we have more than ample evidence that this man would follow the law regardless of his personal beliefs. Yet he has been smeared by the outside groups on his personal beliefs. It is just that simple.

Mr. SESSIONS. Mr. President, one more question.

Mr. HATCH. Without losing my right to the floor.

Mr. SESSIONS. I have researched his record and background. I find that even though he does firmly believe that abortion is an immoral practice, that other than the matter I just raised about directing on partial-birth abortion not to enforce parts of the law, he has not taken any action in any way to use the power of his office to undermine the law of the Supreme Court on that matter. I just wonder if the Senator would agree with that?

Mr. HATCH. I do agree with that. The Senator knows Bill Pryor better than anybody. He worked for the distinguished Senator when he was attorney general. I am absolutely amazed at how many Democrats and people of diversity and others in Alabama are supportive of him. The people who knew him best are the people who support him. The people of Alabama know him best. Yet we are going to second-guess that, for political reasons?

Mr. SANTORUM. Will the Senator yield?

Mr. HATCH. I am happy to yield, without losing my right to the floor.

Mr. SANTORUM. To get to the rest of this letter by Carl Anderson, who is the head of the Knights of Columbus nationwide, I want to read the concluding paragraph and ask the Senator to comment as to whether he agrees with Mr. Anderson in his conclusion as to what is going on with this nomination. He says this:

> As head of the world's largest Catholic fraternal organization and as a former member of the United States Commission on Civil Rights, I am dismayed that the course of Mr. Pryor's nomination compels me to make a point which by now should be obvious: a good Catholic can also be a good public servant. Much as I would wish otherwise, a continuation of the trend that critics of Mr. Pryor's nomination have set in motion will compel American Catholics to face religious bigotry of a kind many of us thought to be extinct in this nation.

Does the Senator agree that such continuation of activity could lead to such bigotry?

Mr. HATCH. Well, I believe it can be, and I believe there is some from the outside groups. I do not think there is any question. I would not want to attribute that to any of my colleagues on the Judiciary Committee, although I have to admit this issue of abortion is becoming a litmus test issue to Democrats, that is pro-abortion. I think that is wrong. I remember what the media did to Republicans during the Reagan administration, continually trying to say there was a litmus test. I know there was not because the person who vetted all the judges is a former staffer of mine who is now on the Michigan Supreme Court. I know it is not being done by this administration. But literally, Democrats are making abortion a litmus test issue.

The Democrats are fond of saying, yes, but we have passed all kinds of

Bush judges, 140 of them so far. Well, they cannot stop them all. So they selectively pick people like General Pryor who clearly has very strongly held views but who clearly has abided by the law. They ignore that he abided by the law and attack him on his strongly held views. In large measure, it comes down to the issue of abortion because he differs with them on the policy issue of abortion.

Mr. SANTORUM. If the Senator will yield for an additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. SANTORUM. Is the Senator familiar with a letter written by Austin Ruse, president of the Catholic Family and Human Rights Institute, which was sent yesterday?

Mr. HATCH. I just saw it tonight, so I am familiar. I have not read it in detail, but I am familiar with it.

Mr. SANTORUM. Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

Mr. SANTORUM. I say to the Senator from Utah that I wanted to bring up this letter. This is not the only Catholic group that has expressed concern about what is code worded as "deeply held beliefs" but seems to be a little stronger than that. I will read the second paragraph of this letter and ask the Senator to comment again on this:

> I think of the young mother, struggling to raise her children in what is a challenging culture. She raises them to be good citizens and good Catholics. What should this mother tell her children? "Sorry, in order to serve our government, you will have to shed your Catholic beliefs." Putting Catholics in this position is shameful and not a proper measure of our great land?

I ask the Senator if he has any thoughts on this issue?

Mr. HATCH. This is the first time I have seen this letter. To him, this is a very important issue. The views he expresses are drawn from what he's heard at the hearing and the markup. Reasonable people can draw these conclusions from the markup, from the debate.

It is coming down to where abortion is the be-all and end-all issue to my colleagues on the other side. Sure, they cannot vote against everyone. I don't know how many of these people are pro-life or pro-choice. I never ask anyone that.

The fact is, I can see why people are drawing this conclusion. I will give a few other reasons they are drawing that conclusion before we are through here tonight.

Mr. SANTORUM. If the Senator will yield for another question, I ask unanimous consent to have printed an article by Bishop Charles J. Chaput, Archbishop of Denver, written as a result of this nomination. The article talks about a friend of his in Alabama and the fact there were not very many Catholics in Alabama in the 1960s when he was growing up and how Alabama has changed to the point where they can elect a Catholic as their attorney general.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From www.archden.org, July 30, 2003]

SOME THINGS CHANGE, SOME THINGS REALLY DON'T

Some things change, and some things don't.

In the summer of 1963, a friend of mine—she was just 11 at the time—drove with her family to visit her sister, who had married and moved away to Birmingham, Ala. Stopping for gas in a small Alabama town on a Sunday morning, her father asked where they could find the local Catholic church.

The attendant just shrugged and said, "We don't have any of them here."

The family finished gassing up, pulled out of the station—and less than two blocks away, they passed the local Catholic church.

Most people my age remember the '60s in the South as a time of intense struggle for civil rights. Along with pervasive racial discrimination, Southern culture often harbored a suspicion of Catholics, Jews and other minorities. Catholics were few and scattered. In the Deep South, like Alabama, being Catholic often meant being locked out of political and social leadership.

Today, much of the old South is gone. Cities like Atlanta and Raleigh-Durham are major cosmopolitan centers. Time, social reform and migration have transformed the economy along with the political system. The South today is a tribute both to the courage of civil rights activists 40 years ago, and to the goodness of the people of the South themselves.

Most people, most of the time, want to do the right thing. And when they change, they also change the world they inhabit, which is one of the reasons why the Archdiocese of Atlanta can now draw thousands of enthusiastic Catholic participants to its Eucharistic Congress each year in a state where Catholics were once second-class citizens. It also explains how a practicing Catholic, William H. Pryor, can become Alabama's attorney general—something that was close to inconceivable just four decades ago.

I've never met Mr. Pryor, but his political life is a matter of public record. He has served the State of Alabama with distinction, enforcing its laws and court decisions fairly and consistently. This is why President Bush nominated him to the 11th U.S. Circuit Court of Appeals, and why the Senate Judiciary Committee approved him last Wednesday for consideration by the full Senate.

But the committee debate on Pryor was ugly, and the vote to advance his nomination split exactly along party lines. Why? Because Mr. Pryor believes that Catholic teaching about the sanctity of life is true; that the 1973 Supreme Court Roe v. Wade decision was a poorly reasoned mistake; and that abortion is wrong in all cases, even rape and incest. As a result, Americans were treated to the bizarre spectacle of non-Catholic Senators Orrin Hatch and Jeff Sessions defending Mr. Pryor's constitutionally protected religious rights to Mr. Pryor's critics, including Senator Richard Durbin, an "abortion-rights" Catholic.

According to Senator Durbin (as reported by EWTN), "Many Catholics who oppose abortion personally do not believe the laws of the land should prohibit abortion for all others in extreme cases involving rape, incest and the life and the health of the mother." This kind of propaganda makes the abortion lobby proud, but it should humiliate any serious Catholic. At a minimum, Catholic members of Congress like Senator Durbin should actually read and pray over the "Catechism of the Catholic Church" and the encyclical "Evangelium Vitae" before they explain the Catholic faith to anyone.

They might even try doing something about their "personal opposition" to abortion by supporting competent pro-life judicial appointments. Otherwise, they simply prove what many people already believe—that a new kind of religious discrimination is very welcome at the Capitol, even among elected officials who claim to be Catholic.

Some things change, and some things don't. The bias against "papism" is alive and well in America. It just has a different address. But at least some people in Alabama now know where the local Catholic church is—and where she stands—even if some people in Washington apparently don't.

Mr. HATCH. This article reads in part:

> I have never met Mr. Pryor, but his political life is a matter of public record. He has served the State of Alabama with distinction, enforcing its laws and court decisions fairly and consistently. This is why President Bush nominated him to the 11th U.S. Circuit Court of Appeals, and why the Senate Judiciary Committee approved him last Wednesday for consideration by the full Senate.
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He concludes with:

> Some things change, and some things don't. The bias against "papism" is alive and well in America. It just has a different address. But at least some people in Alabama now know where the local Catholic church is—and where she stands—even if some people in Washington apparently don't.

I ask the Senator from Utah if he has seen that article.

Mr. HATCH. I had not seen it before tonight, that I was aware of. I had been told the Catholic bishop had written this article. I can see why he has drawn this conclusion. I can see why anyone would.

I hear the moaning and groaning and scheming, but I happen to be a member of the Church of Jesus Christ of Latter-day Saints. I belong to the only church in the history of this country that had an extermination order out against it, where our people were brutally murdered and driven from State to State leaving trails of blood.

I don't like religious discrimination in any way. I can see why people are drawing these conclusions from this debate. I can see why people draw such conclusions when you start attacking a man because he has deeply held beliefs. Earlier, I read one statement from Pryor's hearing, questioning his religious beliefs. It was made; and anyone with brains would say, what are his deeply held beliefs? He is a traditional pro-life Catholic conservative. And I guess that is not a good thing to be if you're before this body seeking confirmation to the federal bench.

I think it is a good thing to be. I don't think it is bad to be a liberal pro-life Catholic. I think it is important to live your religion, regardless of what religious persuasion you are. I understand religious discrimination. The name of my church is the Church of Jesus Christ of Latter-day Saints, yet I am unacceptable in certain groups because they don't think we are Christians. I will match my Christianity up against anyone's. I read the Bible all the time. I try to read it from beginning to end every year. I pretty well do that. It is the greatest book in the world. And it is the greatest literature. But I understand discrimination. Some people will not handle the music I write because they don't think I am Christian. I don't mean to bring that up here except that it applies. I understand that. I understand why people feel this way. If my colleagues on the other side don't understand it, I say shame on them.

When abortion becomes the be-all and end-all in the judicial nomination process—which is what these outside groups, almost every one of them, are committed to on the Democratic side—it is a serious issue. There are serious decent people on both sides of that issue. But when it becomes the be-all and end-all litmus test whether a person can serve—that's wrong. And don't give me the argument we have approved all kinds of people who may be pro-life. Of course, Members cannot vote against everybody.

But we are filibustering, for the first time in history, good people, judicial nominations to the Federal courts of the United States of America, for the first time in history. I know a lot of it comes down to abortion. I did not let that happen when I was chairman during the Clinton years. I don't think it should happen right now, especially somebody such as Pryor who has a reputation for obeying and standing up for the law even though he disagrees with it.

As a politician he has that reputation. I imagine if he can do it as a politician, he can do it and we can take his word on it that he would abide by the law and sustain the law of the land as a judge. Yet the principal argument against him is that he won't enforce the law regarding abortion. There are other arguments used, all of which are false, in my opinion. This abortion issue is becoming the be-all and end-all issue for Democrats in the Senate. There is always somebody who wants to enforce an abortion litmus test, but we stopped it on our side. It ought to be stopped on their side.

Mr. SANTORUM. If the Senator will yield for another question, I sincerely thank the Senator from Utah for his yielding to me for these questions and for his very articulate defense of this nominee and the principle which I believe and I think the Senator believes in.

One of the reasons I brought the article up was, many people outside of this Chamber—not just Catholic, not just Christian, but of all faiths—are deeply concerned about what is going on in this Chamber. I thank the Senator for his willingness to stand up and to have the courage to articulate that. I make the point that he is not alone in coming to the conclusion he has come to, that many people in this Chamber have come to, that this litmus test that is being applied ultimately is a religious one.

Mr. HATCH. The practical application.

Mr. SANTORUM. Which is a very threatening thing.

I say for the record, as a pro-life Catholic, I voted for hundreds of Clinton nominees who I knew were not pro-life—hundreds of them—never voted against one of them, never filibustered any of them. I will match up my fervor in defense of human life against anyone in this Chamber. But not once did I vote against one.

Why? Because that is not my role as a Senator, as a civil servant. I know my duties under the Constitution. I know my role. I know what I am supposed to do. What we are experiencing here now is not, again, the separation of church and state but the separation from anybody who is faithful to their church from the state. That is turning separation of church and state that would cause any of the Founders to be spinning in their grave today. It is exactly what—you can call it anything you want—but that is exactly what is going on.

The greatest of the freedoms we have in this country, the greatest that any country can have, is the freedom to believe the freedom to think. Because if you don't have the freedom to think what you want and the freedom to do what you want, the freedom to speak, to assemble—the freedom to do anything else is meaningless. It is the first of all freedoms. That is under assault in this process.

I commend the Senator from Utah for standing up in defense of this.

Mr. HATCH. If my colleague will stay a few minutes longer, because I want to make one more point in this area and it needs to be made—a couple maybe.

I believe the Senator has put the letters and op-ed piece from the Catholic Leader into the RECORD.

I also ask unanimous consent to have printed in the RECORD—because these are people who are good people writing these letters. And they are just starting. An avalanche is coming. This is from the Union of Orthodox Jewish Congregations of America, July 23:

DEAR SENATOR HATCH: We write to you with regard to the Judiciary Committee's consideration of the nomination of William Pryor, the current Attorney General of the State of Alabama, to the U.S. Court of Appeals for the Eleventh Circuit.

The Union of Orthodox Jewish Congregations of America, the nation's largest Orthodox Jewish umbrella organization representing nearly 1,000 congregations nationwide, is a non-partisan, religious organization and—like most other organizations in the American Jewish community—it has been the UOJCA's longstanding policy neither to endorse nor oppose judicial nominees in the confirmation process. However, to our dismay, we have witnessed several of our community's organizations deviate from this shared policy in recent weeks and oppose the confirmation of Mr. Pryor.

Moreover, we are profoundly troubled by the manner in which this opposition has been framed. We thus feel compelled, unlike our fellow communal organizations, to remain faithful to our non-endorsement policy but express our view on a critical issue that has been raised in connection with this nomination—Mr. Pryor's personal religious faith and his capacity to serve as a federal judge in light of that personal faith.

As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. We urge you and your colleagues to emphatically reject this aspersion and send a clear message that such suggestions, whether explicit or implied, are beyond the pale of our politics. In our view, Mr. Pryor's record as Alabama's Attorney General demonstrates his ability to faithfully enforce the law, even when it may conflict with his personal beliefs.

The role of religion and of religious citizens in American life was much discussed during the last presidential campaign. To our nation's credit, it was discussed in a serious and meaningful way, which revealed a national consensus favoring a society where citizens of many faiths are not only welcome in our society, but encouraged to bring their faith into our nation's "public square." We urge you to ensure that the deliberations over William Pryor's nomination do not undermine the great progress we have seen on this issue so critical to America's civil society.

We pray your committee's deliberations will be fair and serve the nation well.

There are a lot of people concerned about this around here. Let me make this point. I want to respond to the concerns of my dear friend, Senator FEINSTEIN. She is one of my dearest friends in this body. I think the world of her.

She made comments about an ad that used the slogan, "Catholics need not apply." I don't have a copy of it here on a poster.

She used that because she wants us to decry this ad.

Well, I am not happy with this ad.

But I can see why people have done this, because they believe that this—these debates are devolving to the point of attacking a person for his or her personal beliefs, in the case of Pryor, Kuhl, Holmes, others.

Let me respond to Senator FEINSTEIN's concerns about the ad that used the slogan "Catholics need not apply." In fact, it was the liberal groups, the liberal inside-the-beltway groups, that used the slogan "Catholics need not apply" to argue against Republicans for supporting the Charitable Choice legislation in 2001.

Let me put one of these ads up, along with the words of the Americans United for Separation of Church and State. Here is the paragraph down here:

> Ashcroft's Charitable Choice provisions allow a government-funded program to hang a sign that says "Catholics need not apply."

I will not read the rest of it. We will put it into the RECORD.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICANS UNITED URGES SENATE TO REJECT ASHCROFT NOMINATION FOR ATTORNEY GENERAL

BUSH NOMINEE'S VIEWS ARE 'OUTSIDE THE MAINSTREAM,' SAYS AU'S BARRY LYNN

In written testimony submitted to the U.S. Senate Judiciary Committee, Americans United for Separation of Church and State today urged senators to reject the nomination of John Ashcroft for attorney general.

"[W]e at Americans United have come to the conclusion that Senator Ashcroft's policy positions and legal opinions are so far outside the mainstream that it is doubtful he could enforce the very laws and rights that the attorney general must protect and uphold," said Barry W. Lynn, executive director of Americans United. "We call on this committee to reject his confirmation."

In his statement to the Senate panel, Lynn noted that Ashcroft has frequently expressed contempt and disdain for the Supreme Court and its legal precedents. (Hearings on the nomination begin today.)

For example, Lynn pointed to Ashcroft's comments to the Christian Coalition in 1998, where the former Missouri Senator said, "A robed elite have taken the wall of separation designed to protect the church and they have made it a wall of religious oppression."

Responded AU's Lynn, "Ashcroft's characterization of the Supreme Court as a 'robed elite' shows a lack of respect unbefitting a candidate for attorney general. It is a phrase more commonly associated with religious extremists and anti-government militias than our nation's chief law enforcer and protector of civil rights and liberties."

Lynn also told the Senate committee that Ashcroft's legislative efforts reflect a disregard for constitutional principles.

"Senator Ashcroft's contempt for First Amendment case law is not merely rhetorical, but also took legislative form," Lynn said. "During his sole Senate term, Ashcroft developed legislation called 'charitable choice,' a plan that allows religious groups to receive taxpayer funds to perform government services and then discriminate in the employment of staff people to run the program.

"Ashcroft's Charitable Choice provisions allow a government funded-program to hang a sign that says 'Catholics Need Not Apply' or 'Unwed Mothers Need Not Apply,'" Lynn added. "Such a scheme amounts to no less than unconstitutional government-funded employment discrimination."

Lynn found Ashcroft's comments to students at Bob Jones University in 1999 particularly revealing about the attorney general nominee's commitment to government neutrality on religion. In the speech, Ashcroft said that America has "no king but Jesus."

"Such a statement shows a total lack of regard for the principle that it is the U.S. Constitution that serves as the basis for our laws and national life, not one faith tradition," said Lynn. "Our Constitution guarantees unqualified religious liberties for each of us, regardless of our beliefs."

Ultimately, Lynn argues that Ashcroft's hostility for our constitutional principles disqualify him for the position of attorney general.

"As the nation's top law enforcement officer, the attorney general must represent all Americans," Lynn noted. "He must stand for the rights of Christians, Jews, Muslims, Buddhists, and Hindus. He must advocate for those who are completely devout about religion as well as those who are totally indifferent toward it. He must understand certain things about America—that the nation was not founded on any one particular set of religious beliefs but rather was deliberately designed to extend freedom to them all. Our nation guarantees this freedom to all faiths by erecting a wall of separation between church and state.

"Senator Ashcroft views this wall as one that fosters oppression, not freedom," Lynn concluded. "By taking this position, he puts himself at odds with both the early American statesmen who built that wall—men like Thomas Jefferson and James Madison—and more importantly, the decisions of the U.S. Supreme Court. For these reasons, we respectfully ask this committee to reject John Ashcroft's confirmation as attorney general of the United States."

Americans United is a religious liberty watchdog group based in Washington, D.C. Founded in 1947, the organization represents 60,000 members and allied houses of worship in all 50 states.

Mr. HATCH. Let's go to People for the American Way. It is estimated that People for the American Way have between $12 and $30 million given to them, mainly by the Hollywood crowd and big business people, to do what they do in this town, which is to distort Republican nominees' records. This is People for the American Way. I will not read it all:

> Charitable Choice, a bad choice for government and religion.

Here is the paragraph.

> An Evangelical church running a government-funded welfare program could state that "Catholics need not apply," in a help wanted ad.

I do not recall any Democratic Senators expressing outrage about that. I did not see one comment about the fact that the liberals have used this language against the Charitable Choice legislation.

Whether you agree with that or whether you agree with General Pryor, or not——

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. HATCH. I am happy to yield without losing my right to the floor.

Mr. MCCONNELL. I ask the chairman of the committee if he is aware of any time in which the Senate, having set a precedent, tended to unset it lately?

Mr. HATCH. I have no doubt that we have unset precedents in this body.

Mr. MCCONNELL. My fear, I say to my friend from Utah, is that we crossed the Rubicon on the issue of filibustering judges.

Mr. HATCH. No question about that.

Mr. MCCONNELL. I can recall as recently as the last year of the Clinton administration, the chairman of the Judiciary Committee and others and myself voting for cloture on judges that we personally opposed and subsequently did oppose, even though we knew there was a chance of killing them on filibuster. I think of Paez and I think of Berzon.

Does the chairman of the committee share my view that we may have gone so far now that this would be the pattern forever in the Senate, denying judges up-or-down votes because we find them unacceptably liberal or conservative or too steeped in personal beliefs that they are willing to express before the committee?

Mr. HATCH. I have no doubt, to answer the Senator's question, if we continue down this pathway we are going to devolve to where people with strongly held religious beliefs are not going to be able to serve in this country. That is what it comes down to. I have no doubt that if we continue to violate the Constitution by allowing filibusters against—under our advise and consent mandate in the Constitution, we are going to wind up with a mess on our hands that we will not be able to repair. So we have to get out of this. I call on our colleagues on the other side to get real here.

Mr. MCCONNELL. Further, I inquire of the Senator from Utah, the chairman of the committee, whether he thinks it will now be routine for every nominee to be asked their personal beliefs on a whole range of issues, personal and religious beliefs on a whole range of issues, and be expected to answer those kinds of questions.

Mr. HATCH. I do not think we will go that far. At least while I am chairman of the committee we are not going to do that. I did ask him what his religion was, after all of these questions that were asked in a very extensive hearing where religion was put squarely in issue by the other side. I did ask him that because I wanted to establish that this had gone too far.

I don't intend to ever ask that question again. I don't think my colleagues will. The distinguished Senator from

Vermont said he will never ask that question, and he criticized me for doing so. But I think it was highly justified under the circumstances, and I think we made a pretty good case tonight that it was justified, although I am sure some of my colleagues will take umbrage.

But let them take umbrage. People all over this country are starting to say there is litmus test arising. Certainly there are outside groups that are trying to smear our nominees—especially Attorney General Pryor, Judge Kuhl, and Mr. Holmes.

Mr. MCCONNELL. Mr. President, I further ask the chairman of the committee. He may well have received—I know I did and other Members of the Senate did—a letter today from William Donohue, Ph.D., who is president of the Catholic League For Religious and Civil Rights. He said, among other things, in his letter:

> Some of Pryor's critics are themselves Catholic and thus resist the contention that is being opposed because of his religion. But they do so by falsely claiming that on the subject of abortion, there is more than one acceptable position for Catholics to take. They are dead wrong. Catholic teaching on abortion is unequivocal: It is gravely sinful. This is not a matter of dispute—it is a matter of doctrine that all Catholics are expected to uphold. Especially public officials.
>
> The danger, then, is that Bill Pryor may be rejected because of his religious convictions.

I think what is so disturbing here to many of us—I am personally not a Catholic—is that you could adhere to the teachings of your church and then in effect be penalized for it even though there is no evidence that in carrying out your duties as a public official you wouldn't follow the law.

I ask the chairman: Are we being penalized for our own personal religious convictions in seeking public positions?

Mr. HATCH. There are people all over this country who are coming to the conclusion that Bill Pryor is being treated that way. Personally, if you are going to apply abortion as a litmus test, and that is his deeply held personal belief, even though he has exhibited more than an effort to obey the laws no matter what they are. I can see why people arrived at that conclusion.

I see why Mr. Donohue feels that way. This is getting to be an avalanche. The new code words for some are that, well, I don't personally believe in abortion but I believe a woman ought to have a right to choose.

Give me a break. That is a nice excuse. But that certainly is not acceptable, it seems to me, to many religions, including the Catholic faith, as has been said by these letters.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that this letter to which I referred from Dr. Donohue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CATHOLIC LEAGUE
FOR RELIGIOUS AND CIVIL RIGHTS,
New York, NY, July 25, 2003.

DEAR SENATOR: You will soon be voting on the candidacy of Alabama Attorney General Bill Pryor for the federal appeals court in Alabama. As president of the nation's largest Catholic civil rights organization, I ask that you subject him to the same standards as you would any candidate. I am also asking that you challenge any colleague of yours who may attempt to subject Pryor to a de facto religious test.

I have plainly said there are no anti-Catholics in the U.S. Senate. But I have also said that this does not empty the issue.

Bill Pryor's deeply held opposition to abortion as a moral issue, as well as his deeply held opposition to the jurisprudential reasoning as evidenced in Roe v. Wade, have made him a lightning rod for abortion-rights advocates. In other words, it is precisely Pryor's religious convictions that are bring scrutinized. Given the cast of mind of some of his critics, it makes it virtually impossible for practicing Catholics to ascend to the federal bench.

Some of Pryor's critics are themselves Catholic and thus resist the contention that he is being opposed because of his religion. But they do so by falsely claiming that on the subject of abortion, there is more than one acceptable position for Catholics to take. They are dead wrong. Catholic teaching on abortion is unequivocal: it is gravely sinful. This is not a matter of dispute—it is a matter of doctrine that all Catholics are expected to uphold. Especially public officials.

The danger, then, is that Bill Pryor may be rejected because of his religious convictions. This would be outrageous and that is why I am asking you to do what you can to prevent this from happening.

Sincerely,

WILLIAM A. DONOHUE, Ph.D.,
President.

Mr. MCCONNELL. Mr. President, I ask the chairman of the committee, isn't the important thing whether there is demonstrable evidence that a nominee has been unwilling to follow established law and it is my understanding—I ask the chairman whether it is his understanding—that Attorney General Pryor has followed the law when it was very tough to do so as an elected official in Alabama.

I believe our friend from Alabama, the junior Senator from Alabama, Mr. SESSIONS, cited a number of cases upon which Attorney General Pryor, as an elected official and not insulated from the wishes of the voters, took very tough positions on various issues because he was following the law. Isn't that the fundamental question that we ought to ask of nominees, whether to the left or to the right? Will you follow the law? And if they have demonstrated examples where they have done so, that would be relevant to whether or not they ought to be confirmed.

Mr. HATCH. It certainly would. We have reached a point on the Judiciary Committee where a person who has always had an honorable reputation such as General Pryor is immediately told by my Democratic colleagues that he cannot follow the law because of his deeply held beliefs. Come on. He has more than shown that he follows the law even though sometimes it is totally in conflict with his religious beliefs because he is a great lawyer. He realizes that if you do not follow the law, pretty soon we will not have any laws. The quickest way to get rid of the Constitution is to not abide by it. Even though there are decisions by the Supreme Court that I abhor, and that I think are bad decisions to start with, the fact is that when it is the law, I believe we ought to abide by it.

He has more than amply shown that he would, even under severe criticism by his supporters—by his own Governor who appointed him, by the Supreme Court Chief Justice who begged him to make certain arguments, he abides by the law. Yet his assertions and his word as a man of integrity and honor all his life are given short shrift.

Democrats are playing this phony "gotcha politics" game, in which they "investigate" unauthenticated—and many believe, stolen documents—and we object but participate only to keep our side informed. After weeks of their "investigation," they didn't find one thing inconsistent with Pryor's testimony. They called almost everyone named in these documents. I don't know if they got all of them on the phone. But they didn't find one thing wrong. Pryor made himself available twice, so they could ask any question they wanted to ask, but twice, they didn't ask a single question. Then they come here and said they haven't had the full investigation. Give me a break.

It is getting to be where it is hard for people of devout beliefs to not be criticized if those beliefs contradict abortion rights.

Look. We have people on our side who feel very deeply about that. Some of them—very few—wanted to filibuster. We stopped it because we knew it would be terrible for this body to go through filibustering nominees to the Federal judiciary.

But now Democrats are filibustering nominees. When a person of the integrity of Bill Pryor is constantly called into question because of deeply held beliefs, I can see why people from all over the country are starting to ask what his deeply held beliefs are. They are religious beliefs because he is a traditional pro-life Catholic—and God forbid conservative—and that is, frankly, behind this in the eyes of many people.

I don't want to attribute that to my colleagues on the committee but I believe they are letting this happen. I call on them to help stop it.

The reason I bring up these two posters tonight is because these liberal groups use these slogans that "Catholics need not apply" to argue against Republicans for supporting Charitable Choice legislation. When that slogan was used against Republicans, I did not hear any outcry from my friends on the other side. I did not hear any outcry. Specifically, Americans United for Separation of Church and State argued against John Ashcroft's nomination for Attorney General. Their press release stated that Ashcroft's Charitable Choice provisions allow a government-funded program to hang a sign that says "Catholics Need Not Apply."

That is ridiculous. But that is what they did. I did not hear any screaming about that. I did not hear any of this righteous indignation from our colleagues over here about that. We didn't dignify it; at least I didn't.

People for the American Way, which I think has a very checkered reputation in this town—I am getting so I don't believe anything they do—criticized the Bush administration for supporting Charitable Choice legislation. They said:

> Charitable Choice opens the door to government approved discrimination. . . . An evangelical church running a government-funded welfare program could state that "Catholics need not apply."

I am sure some will say maybe they will do that. Maybe they will. I don't know. But they are saying a lot of the best welfare programs in this country, a lot of the best programs in this country—from the taking care of people standpoint—are done by religious organizations, including the Catholic Church.

Where was the outrage back in 2001 when the liberals were using the slogan "Catholics Need Not Apply" against the Bush administration and John Ashcroft?

My friends on the other side of the aisle were silent. I did not hear one of them complain about that.

I met with some 50 people yesterday from all over the country who believe we are devolving into an antireligious body because of what is going on here.

Again, it is all coming down to abortion.

All we have asked is for Senators not to filibuster judges. We think it is a dangerous, unconstitutional thing to do. Judicial nominees of any President deserve an up-and-down vote, especially once they are brought to the floor. There are all kinds of ways of stopping them before they get to the floor, and colleagues on both sides of the aisle understand those ways.

But I can tell you this, we can match the decency of our approach any day of the week to what went on during the Reagan and Bush 1 administrations, and now what is going on in this administration—any day of the week—statistically, number-wise, fairness, from a dignity standpoint.

All we want are up-and-down votes for these nominees, especially once they are brought to the floor. What is really bothering our friends on the other side is, we do have a right to bring people to the floor because we have this one-person majority. Can you imagine how much good work we could do if we had a few more in the majority? It would not be nearly this screaming and shouting and this bitterness that sometimes does arise, coming primarily from outside.

I think the public has a right to know exactly where their Senators stand on these issues. If you do not like Bill Pryor, vote against him. If you think that his religious views are going to color his decisions on the bench, vote against him. If I thought that, I would vote against him.

The public needs to know, how are you going to vote on these issues? Some of our colleagues are afraid to take on these outside groups. We did. I did. I have been condemned by some of them, even to this day, for having done so. And I put through a lot of Clinton judges. The all-time champion was Ronald Reagan: 382 judges in his 8 years. He had 6 years of a Republican Senate to help him, only 2 years with Democrat opposition, and he got 382. It was remarkable. Guess how many Clinton got, with only 2 years of his own party in control of the Senate? In 6 years, where I was chairman, 377—5 less than Reagan. Had it not been for some of the holds on the other side—one Senator was not getting his, so he stopped another from getting his—I think Bill Clinton would have been the all-time confirmation champion, with 6 years of a Republican Senate. We treated him fairly. Now, you can always find something to complain about on both sides, but he was treated fairly under the circumstances. And I know it, and I know he knows it.

These people deserve an up-and-down vote, at least once they come to the floor. Justice delayed is justice denied. There are many of these cases, among the litany of people the Democrats have indicated they are going to filibuster—it is not just two. Pryor looks like he is going to be filibustered. Kuhl looks like she is going to be filibustered. Holmes looks like he is going to be filibustered. We have talked about Pickering being filibustered. You can go down through some others as well—Boyle from North Carolina, et cetera.

Our courts cannot work if we don't have judges to run them. What is really bothering some of our colleagues on the other side is that in relation to the American Bar Association, their gold standard during all my 6 years as chairman of the Judiciary Committee during the Clinton years has suddenly not been a gold standard but a tin standard to them, because people like Miguel Estrada, with the unanimously well-qualified highest rating of the American Bar Association, are stopped. For what reason? They do not even have a good reason.

The first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia, and not even a valid reason—at least I have not heard one yet, and I have heard everything they have said.

Priscilla Owen, you can't find a better woman. Priscilla Owen became a top-flight partner in one of the major law firms, broke through the glass ceiling for women, has been a mentor for women, is unanimously well qualified, and a justice on the Texas Supreme Court. She has all kinds of Democrat support from Democrat co-justices right on through the State—the people who know her the best. And she is being filibustered.

Bill Pryor is as good a man as I have seen come before the committee; yes, a person with very deeply held views. He might be filibustered.

Judicial nominees' qualifications should matter most. And a person's judicial qualifications ought to be the sole criteria by which we judge them. You cannot find better people than the ones I have been mentioning. I don't understand it. I don't understand why the other side is doing this. But they are doing it. And I think they are hurting this process tremendously.

All I want—and all any reasonable person should want—and all the public wants—is to have an up-and-down vote. Let these people be voted upon. If they are defeated, I can live with that. But if they are not defeated, they should be able to serve without having their reputation smeared, which is what these outside groups are doing. I don't think outside groups of the left or the right should be doing that. And they are distorting this process like I have never seen it distorted before.

Now, Senator FEINSTEIN was not here when I showed that the left used this slogan "Catholics Need not apply." I don't think it is a good idea, whether these "Catholics need not apply" signs or ads come from the left or from the right. And I would prefer them to be stopped.

I don't like my colleague from Vermont thinking that I think he has even an ounce of religious bigotry. I do not. He needs to know that. But he can't just slide off and not recognize that this is where we are being taken by some of the attitudes and some of the approaches that are going on in the Senate Judiciary Committee—at least that is what the people outside think, religious people.

I have to tell you something, some of the greatest judges in this country are Catholics—and from every other religion. And some of the greatest ones have deeply held beliefs. But they are honorable, decent, honest people, just like Bill Pryor.

Now, look, what really has offended me and got me going here today—and I knew we were not going to go any further on energy tonight because the Democrats brought this up. We have an hour scheduled for the debate early in the morning tomorrow for a cloture vote. They don't want this cloture vote. Why not? It takes 15 minutes. And they are trying to say that we are tossing energy over the hill. They brought it up. And I am not going to let them get away with it anymore.

I care a lot for my colleagues on the other side. There is not one I do not like. That is not the usual BS around here. I do like my colleagues, and they know it. I don't feel good pointing out to them that what they are doing is dangerous for this process, and that people all over this land are starting to get some wrong ideas—maybe right ideas. I think these church leaders are not too far off. In fact, they may very well be right. They took the time to let us know how they feel.

But to come out here tonight and start this mess, and make these points, and then say that we are not willing to get the Energy bill done—come on. We have been doing a slow-walk around here for weeks now on the Energy bill. My colleagues on the other side know that Senator DOMENICI has had some health problems and that it has been very difficult for him, but he is a gutsy, strong Senator, one of the greatest ones who has ever sat here. And he is never going to let you know that he has been hurting. But they know.

We can do this bill by the end of this week, and we can still have our votes on cloture, which need to be done because the Senate is capable of doing multiple things. If we were not, we would not have lasted for over 200 years. And we can do those trade bills, too, if we just have a modicum of cooperation from the other side. But, no, there is a slow-walk here. And some on our side—in fact, it is a growing number—are starting to believe that slow-walk is to try to make the Senate look bad. You can't make it look bad because we have had a lot of legislation go through this year. And we are going to keep plugging away until we get more that this country needs. But it sure is a chore every step of the way.

I don't want to hear these phony arguments that we can't have 15 minutes for a cloture vote, or even an hour debate beforehand. We can start at any time in the morning.

Most people do not even get moving around here until 10 o'clock. We can do that without interfering with the energy debate. Senator DOMENICI was willing to be here all night long, if he had to, to take amendments and move this along. I think we Republicans were ready to be here for as long as it took to support him and others on the Democrat side who believe we need an Energy bill.

But to come out here and make these points against Bill Pryor that are not only false but demeaning to this body is wrong.

I am going to yield the floor. I know my colleague would like to speak. I am tired of hearing these arguments how holy some on the other side are. But I tell you this, there are people all over this land who are starting to think this system is not fair to people of belief, to people who have deeply held beliefs. I want you to know I am one of them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank so much the distinguished chairman of the Judiciary Committee. He has been a consistent defender of an independent judiciary. He takes those issues exceedingly seriously. He has defended them when there was a Democratic President and he was Chairman of the majority-Republican Judiciary Committee. He defended the President's legitimate prerogatives in nominations. He has been consistent on that and everybody knows it. There is no basis to criticize him.

Bill Pryor is a friend of mine. He is one of the finest, most decent people I have ever known. There is not a Member of this body or a member of any of these outside groups that has any more integrity, any more decency, any more character than Bill Pryor. He is a sterling individual, an honest man. He tells the truth.

When asked, "if you disagree with a law or a court opinion that goes against your values, will you enforce it?", he said: "Senator, you can take it to the bank." Not only did he say that, as so many of our nominees have and as we have accepted, he has demonstrated it time and time again as Attorney General of Alabama.

It is really extraordinary to me. I don't think there is a politician in America who has so consistently taken very difficult positions in a political environment—positions most people would say a politician was crazy to take—than Bill Pryor. He did it, and there is only one principle guiding him. What is that principle? It was required by the law. He is a man of the law.

Yes, he is a Christian gentleman. When he makes a statement, part of his religion teaches that it ought to be an honest statement. So when he said, "if the courts rule on something I don't agree with, if it contradicts my views on abortion, I will follow the law," you can take it to the bank. That is the kind of man Bill Pryor is.

There has been an awful lot of railing about this ad by the Committee for Justice. It has a courthouse chambers with a little sign on it, and the sign says "Catholics need not apply." Isn't this a legitimate commentary on how people feel about what is happening here? You can agree or disagree, and say it is not a really an accurate statement if you want to. I say it is legitimate commentary.

My colleagues went into a conniption fit about it. The ranking member twice, in two separate hearings, called this ad despicable. Let me read for you what it says.

> As Alabama Attorney General, Bill Pryor regularly upheld the law even when it was at odds with his personal beliefs. Raised a Catholic, those personal beliefs are shared by Mainers all across the Pine Tree State. But some in the U.S. Senate are attacking Bill Pryor for having "deeply held" Catholic beliefs to prevent him from becoming a Federal judge. Don't they know the Constitution prohibits religious tests for public office? Bill Pryor is a loving father, a devout Catholic, and an elected Attorney General who understands the law. The job of a judge is to uphold the law, not legislate from the bench. It's time for his political opponents to put his religion aside and give him an up-or-down vote. It is the right thing to do. Thanks Senators Snowe and Collins for making sure that the Senate stops playing politics with religion.

I think that is a legitimate ad. It represents the view of a lot of Americans. There is nothing despicable about that. But I will tell you what is despicable. It is despicable to lie and distort and misrepresent this fine man's reputation, to impugn his integrity, to suggest he did one thing wrong when he and a group of attorneys general raised money for the Republican Attorneys General Association. They are candidates for office. They raise money all the time. There is nothing wrong with that. But the Democrats insisted there be an investigation, even though they had the records for many weeks.

Parenthetically, let me just talk about how they got those records. The records came to Senator KENNEDY, not to the chairman of the committee, myself, or the senior Senator from Alabama. Senator KENNEDY had them for some time before anyone else knew they existed. The lady who gave them to him had been an associate of a certain Lannie Young in Alabama, who recently pled guilty to a bribery scheme investigated by the United States Attorney's Office and Attorney General Bill Pryor. So she leaks those documents to Senator KENNEDY, and then, at his staff's suggestion, to Senator LEAHY. And then the Democrats want to have an investigation. So the chairman's staff says, OK, let's get the attorney general on the phone. You can interview him, ask him any questions you want to ask him about this effort to raise funds for the committee.

The bipartisan investigative staff had the phone call. The chairman's staff asked many detailed questions, and Attorney General Pryor's answers corroborated his testimony before the committee during his hearing and in written questions. The Democrats refused to ask Attorney General Pryor any questions. Why? Because they wanted to stall his vote in committee. It was already the fourth time his hearing had been set. The time had come up for a vote to be cast on his nomination in committee. The Democrats didn't want a vote. So they dragged it out, partly by invoking a rarely used two-hour rule, cut off debate, and obstructed a vote.

The chairman then said we were going to continue the investigation again that night. He gave the Democrats another chance to call Attorney General Pryor on the phone. They again turned down this opportunity. So the investigation dragged on for over another week. They were given yet another chance to get Attorney General Pryor on the phone and ask him any questions they had about this alleged issue. Instead, they called 20 of the alleged contributors on the list. They called employees of the Republican Attorneys General Association. Not one contradiction was found. Nothing unethical was found. Yet the Democrats continue to sully his reputation by implying that the investigation proved that Pryor misled the Committee. This is wrong, because not one person in this body has the integrity of Bill Pryor, I would say. This is a fine, decent man who has lived his life doing the right thing. I feel strongly about that. I won't back down.

I will tell you some other things that are despicable in the attack on Bill Pryor. One of our Senators just said recently on this floor, with regard to Bill Pryor's participation in a certain Supreme Court case: He used his power as attorney general to obstruct the enforcement of the Violence Against Women Act in Alabama.

Now that is the kind of thing People for the American Way do. That is the kind of attack the Alliance for Justice puts out. I am sure some staff person put that language together for the Senator, and perhaps she made her speech and didn't really understand what she was saying.

That is a false and unfair statement. Let me tell you what he argued with respect to the Violence Against Women Act. He participated as amicus in an appeal to the Supreme Court questioning whether the part of that act creating a federal civil remedy for a purely intrastate act violated the Commerce Clause. Pryor argued his position to the Supreme Court, and the Supreme Court agreed with him.

This falsehood about Bill Pryor's indifference to violence against women is also ironic, because he has a tremendous reputation in the State of Alabama for standing up for the victims of domestic violence. Kathryn Coumanis is one of the leaders in the State in the movement to protect women against domestic violence. She heads the Penelope House. She has written on Bill Pryor's behalf and noted that the women's groups in the State involved in the issue of violence against women put Bill Pryor in their Hall of Fame. Yet we have people on this floor and we have outside groups saying Bill Pryor does not care about violence against women. That is flat-out wrong.

We have seen some outside groups attack Bill Pryor, saying that he was against the disabled. These groups should have been ashamed of themselves. Who are they? The ACLU, the People for the American Way, the National Abortion Rights Action League, Alliance For Justice. They work together and they have a tremendous amount of money. They created this supposed issue, sent out information to newspaper editors and made these allegations that Bill Pryor had gutted the Americans With Disabilities Act, and he didn't care about people with disabilities. They said so directly.

But what did he really do? He argued in the Garrett case against the constitutionality of one small part of the Americans With Disabilities Act that said a State employee could sue the State of Alabama, or any other State, for money damages in federal court for violations of the Act. It was a suit against the University of Alabama, a State institution; and the Attorney General of Alabama, charged with the responsibility of defending the State, said this in his brief: I believe in the Disabilities Act. I believe people with disabilities should be treated fairly. The State of Alabama believes that under the Federal statute this person can get his or her job back. The Federal court can issue an injunction against the State of Alabama to remedy a violation. But the Congress could not allow this State employee to sue the State for money damages because, under the Eleventh Amendment principle of sovereign immunity, a state cannot be sued for money damages in federal court. This is because the power to sue is the power to destroy. A State always controls and limits the power of a suit against itself.

Bill Pryor took this argument to the Supreme Court. What did the Supreme Court do? The Supreme Court ruled Attorney General Pryor was correct. And in any event, this affected only 4 percent of all the cases that might be brought, because only 4 percent of the employees in America work for States. Most States have disability rights protections, anyway. They don't need to file under the Federal Act.

This is why it is wrong and despicable and dishonest to say Bill Pryor lacks sensitivity for the disabled simply because he legitimately defended the State of Alabama and won in the Supreme Court. This attack should not have been made.

Some say Bill Pryor is an activist. I would say he is an active attorney general. He is constantly working to preserve the rule of law and protect the legitimate interests of the people of Alabama. That is what he is paid to do. He is absolutely not an activist in the way Chairman ORRIN HATCH defines it. As Chairman HATCH defines it, an activist is a nominee for the bench who will not restrain himself or herself to the law, but in fact seeks to carry out and further their personal ideological agenda by twisting the meaning of words in statutes and the Constitution, and to otherwise act in a way that allows their personal views to dominate their legal requirements. An activist who seeks to be on the bench is someone who ought to be scrutinized carefully.

Bill Pryor is no activist. In fact, he is absolutely committed to the rule of law. His whole life and whole political philosophy has been built on the fact that judges should be true to the law whether they agree with it or not. That is the whole purpose of the rule of law. That is why this Nation is so wonderful, why we have so much freedom. We follow the law to an extraordinary degree. A lot of countries that have great potential never reach it because they don't have a rule of law that ensures predictability and justice.

As attorney general, Bill Pryor had to be an advocate. He proved to be a great one. As attorney general, he consistently has followed the law courageously, even when he knew he might face complaints from friends and allies. Members of the Senate should study his testimony carefully and evaluate his real record, not the trumped-up charges, not the bogus attack sheets being produced by outisde groups, and not mischaracterizations by these groups, some of which themselves have very out-of-the-mainstream positions.

Let me say, parenthetically, that a number of these groups have extreme views on the separation of church and State. Some of these groups believe there can be no drug laws, that we ought to legalize drugs. Some believe there can be no laws against pornography. The ACLU opposes laws against child pornography. Who is out of the mainstream here?

And let me ask you this: Why would leading African-American Democrats like our Congressman ARTUR DAVIS, a Harvard graduate and a lawyer himself, former U.S. Attorney; why would Representative Joe Reed, chairman of the Alabama Democratic Conference, a member of the Democratic National Committee, one of the most powerful political figures in Alabama for 30 years; why would Representative Alvin Holmes, Representative Holmes, a lieutenant with Dr. Martin Luther King, who has been beaten for his commitment to civil rights, all speak up for him? Why does the former Democratic Governor of Alabama speak so highly of him? Why does the Speaker of the Alabama House speak so admiringly of him?

All these people support him because he is not as Beltway attack groups have caricatured him. He has been a champion of liberty and of civil rights. Much has been changed in Alabama over the years. We have the highest number of elected African-American officeholders in the United States. On the day we had General Pryor's nomination hearing, it marked the anniversary of a sad day in which Governor

Wallace stood in a schoolhouse door. But you must know that Bill Pryor was not part of that. He was a mere child at that time. Secondly, his parents were John F. Kennedy Catholic Democrats. I suspect this hearing might change some of their views. When he gave his inaugural speech after winning election as attorney general, with 59 percent of the votes, he opened that speech with these very telling words:

> Equal under the law today; equal under the law tomorrow; equal under the law forever.

Not segregation today, tomorrow, and forever, but equality. That is how he led off his speech, and that is the kind of man Bill Pryor is. Those words were a fitting response 40 years after a promise of another kind.

Bill Pryor is one of the good guys. He does the right thing. He frequently has refused pleas from his Republican friends when he thought the law didn't support their position. For example, those friends rightly believed the legislative district lines had been gerrymandered in the State, making it very difficult for Republicans to win legislative seats.

In fact, although we had in Alabama two Republican Senators, five Republican Congressmen, and a Republican Governor, only a third of the state legislature was Republican. Some Republicans felt that this was a redistricting problem. So they filed a voting rights suit arguing that the majority-minority legislative districts were improper. They asked for support from the Republican Attorney General. He would not take their side. He courageously led the case, as it turned out, for the African-American Democratic position.

He lost before the three-judge district court—and backed up by an amicus brief from the NAACP—won in the U.S. Supreme Court. His argument was plain and simple. He said the plaintiffs did not have standing to file a lawsuit. Whether the lawsuit had been meritorious or not, it was not a legitimate lawsuit because they did not have standing. Attorney General Pryor took it to the Supreme Court, and the Supreme Court ruled with him. Some of my friends and some of Bill's friends are still mad about that situation, but he believed that was the right thing to do under the law, and he made that call as the attorney general for the State of Alabama.

He had taken an oath to defend the State of Alabama. These gerrymandered districts were the laws of the State of Alabama, endorsed by the legislature. So he defended the districts even when it went against the interest of his political allies.

That is why Joe Reed and Alvin Holmes speak highly of Bill Pryor. They have seen him in action.

On one of the church-and-state issues that came up not long after he was appointed Attorney General by our former Governor, the Governor had a firm view about separation of church and State. Basically, he did not think there was much separation. He read the Constitution pretty plainly. The First Amendment says Congress shall make no law respecting the establishment of a religion, and the Governor thought that meant the United States Congress, not the State of Alabama. He did not adhere to the view that the 14th amendment incorporates the First and applies it to the States.

Then-Governor James said: What is wrong with coaches leading the players in prayer? He wanted Bill Pryor to file a lawsuit to vindicate him. Shortly after having been appointed Attorney General—at a very intense and emotional time in the State, with the Governor of the State speaking up for prayer in schools—Bill Pryor had to make a tough decision. He had to review the law carefully.

What did he do? He filed a respectable brief in court. He would not file the brief the Governor wanted, so the Governor got his own lawyer and he also filed a brief. As I know as a former Attorney General of Alabama, only the Attorney General is legally allowed to speak for the State in court. So Bill Pryor, as Attorney General, filed a brief saying that the Governor—who had just appointed him—did not speak for the State of Alabama.

Opponents said that Bill Pryor somehow is a tool of the chief justice of the Alabama Supreme Court, Roy Moore, who has deep convictions about how the Constitution and the laws ought to be applied with regard to separation of church and State, and who put in a monument in the court recently that had the Ten Commandments on it. The judge did not think anything was wrong with that. He met with the Attorney General, and they discussed legal actions against him to remove the monument. They did not reach an accord. The attorney general did not agree with the Chief Justice on his views of what the law was. So eventually, the Chief Justice had to hire his own lawyer and file his own brief, and Attorney General Pryor filed a more limited brief pointing out that if you go to the Supreme Court of the United States, there are several different depictions of the Ten Commandments on the walls of the U.S. Supreme Court. He basically said: What is good for the U.S. Supreme Court ought to be good for the Alabama Supreme Court.

Opponents say Bill Pryor is extreme on religious issues. That is not true. For example, I mentioned earlier how he stood up and did what was right with regard to the pressure from the Governor on school prayer. After that decision, there was much confusion in the State. School boards did not know what to do; teachers were leading prayer; others said you cannot do that. What was the law?

To answer that question, Attorney General Pryor wrote guidelines for school systems in Alabama advising them on what they could legally do as teachers, principals, and coaches, and what they could not do, and what children could do and what they could not do.

The Atlanta Journal Constitution wrote an editorial praising him for stepping up in a tough, emotional time and providing good leadership. And, indeed, the Clinton Administration basically adopted verbatim Bill Pryor's guidelines, and sent them around the country to other schools.

This idea that he is some sort of extremist is absolutely false. This is a courageous lawyer who does the right thing day after day, time after time to a degree I have never seen before by any politician in my life.

On abortion, they say he has deeply held beliefs about abortion; he cannot be trusted to be a judge. The distinguished Senator from Kentucky a few moments ago hit it exactly correctly. When a nominee has taken a view that they believe abortion is wrong, then it is perfectly proper for the Senate to inquire about that. What should the inquiry be? Senators should not say: Mr. Pryor, we want you to grovel down here on the floor; we want you to renounce your views about abortion; we want you to say, "I don't believe that anymore," as a price for being confirmed—that is absolutely wrong.

What should Senators say? They should say: Mr. Pryor, you have expressed your view that abortion is bad, that you do not think Roe v. Wade was rightly decided; but will you follow it? Then see what he says. Senators do not have to accept what he says; they can inquire further. To those inquiries, Bill Pryor said "Of course, I will follow the law, Senator. You can take it to the bank." What is significant is that Bill Pryor has a record showing that he will live up to that answer.

As far as I can tell, there have been only two instances in his public life in which he has dealt with abortion. The first had to do with Alabama's partial-birth abortion statute, that severely restricted partial-birth abortion. Partial-birth abortion is a very horrible procedure. Overwhelmingly, Americans reject it. The American Medical Association said it is never justified as a medical procedure. And Alabama passed legislation to virtually eliminate it.

As Attorney General, he superintended the State's district attorneys who enforced this law. He sent them a directive in 1997 stating that parts of the partial-birth abortion bill were unconstitutional and could not be enforced. Isn't that proof that he will follow the law even if he disagrees with it?

The other example involving abortion was when Attorney General Pryor issued stern warning that those who threatened violence against abortion clinics, or against those who sought to exercise the constitutional right to abortion at those clinics, would be fully prosecuted.

So outside groups attack him on his deeply held beliefs, even deeply held religious beliefs, and they suggest that somehow he is an extremist because he personally thinks that abortion is a taking of innocent human life.

Bill is a thoughtful person. He is not some automaton for any church or any person. He thinks about these issues carefully. He has shared his views about it. He believes that the life that is in the womb has all the characteristics of what that life will be as an adult. There is no doubt that it is going to become a human being. He believes that we ought not to withdraw the law's protection from that life. That is his view.

But the Supreme Court has not bought it. In Roe v. Wade and Planned Parenthood v. Casey they held differently. Bill Pryor said: I understand that. I will follow the Supreme Court precedents.

How do we know he will? Because he did it even with respect to the partial-birth abortion statute in Alabama. So I do not know what more a person can do to prove his fidelity to the rule of law.

Bill has gained great support in the State. He is a man who is respected across party lines, across racial lines. Representative Alvin Holmes wrote this powerful letter on his behalf, and he told the story about Alabama's old constitutional provision that prohibited interracial marriages. Of course, that had been struck down some time ago by the United States Supreme Court. It was unconstitutional, but it remained in the constitution.

Alvin Holmes, as a lieutenant for Dr. Martin Luther King, and still a vibrant battler for civil rights in Alabama, said it ought to come out of the constitution. Attorney General Bill Pryor, as Alvin Holmes said, was the only white politician in the State, Democrat or Republican, who supported him. They got it out of the legislature, put it on the ballot, and the people of Alabama eliminated it from our constitution. Bill Pryor campaigned for that elimination throughout the State because he thought it was wrong that our constitution would have those words still in it.

This is a man of quite extraordinary character, a man of great skill and ability, who has taken cases to the Supreme Court and won them to an extraordinary degree.

So I submit there is nothing wrong with the ad that that group put out to defend Bill Pryor. It is basically an honest evaluation of the situation. Somebody might disagree with it, but it is honest.

In contrast, many of the attacks on Bill Pryor have not been honest. Outside groups have been unfair and have deliberately twisted his record. What they have done is not right.

Some in this chamber say we need collegiality. They say Republicans should renounce this outside ad about "Catholics need not apply." I would say this to my friends: Let's see you renounce some of these ridiculous, obscene, despicable misrepresentations of Bill Pryor's record and his character. I would like to see that.

Yes, we do have a problem with collegiality, but I do not think it is the result of Chairman HATCH's leadership. When he was Chairman of the Committee, we moved 377 Clinton nominees. Only one was voted down. When he was Chairman of the Committee, not one time did we vote down a Clinton nominee on a party-line vote. During that short time, a year and a half or so, that the Democrats had a majority in the Senate Judiciary Committee, they voted down in committee, on a party-line vote, two President Bush nominees.

In May, President Bush nominated 11 judges for the court of appeals. He renominated one Democrat who had been nominated by President Clinton, but not confirmed, and two Democrats overall. The Democratic Judiciary Committee promptly moved the 2 Democrats and confirmed them. Almost 2 years later, several of the remaining nine had not even had a hearing in committee. This was an unprecedented slowdown of the confirmation process.

The Democrats met and decided deliberately and consciously to change the ground rules for confirmation. There is no doubt about that. Who is changing the ground rules? I submit it is the Democratic members of the Judiciary Committee, by some of their tactics. They started an effective filibuster in the committee, creating a situation in which 9 out of the 19 members of the committee could withhold a vote by relying on a misinterpretation of Rule IV. I have never heard of that.

The chairman properly ruled under Rule IV that the chairman has the prerogative to bring a matter up for a vote.

Their citation of rule IV ignores what it says is the purpose of that rule. The first sentence says to bring a matter up for a vote and to deal with a recalcitrant chairman who will not allow a matter to be voted on, if you get one member of the other party and a majority vote, then you can bring a matter up for a vote even if the chairman does not agree. But the rule does not give a group a right to filibuster and keep a vote from occurring, which is what they wanted to do.

We have had two open, notorious and unprecedented filibusters on the floor against superb circuit court nominees, Miguel Estrada and Priscilla Owen. Both received the highest rating by ABA, and both have extraordinary records. In the history of this country, we have never had filibusters of circuit and district judges, but the Democrats have started two now because they decided to change the ground rules.

Now we have these Members come down on the Senate floor and act all upset that somehow collegiality is being upset here. They do not know why the chairman has determined to move nominations forward and not let them be obstructed and delayed. I call on the Democratic leader, Senator DASCHLE who speaks for this party. There would not be a filibuster of these nominations if he did not approve it. He needs to remember the history of this body. It is a mistake for him to lead the Democrats into an unprecedented period in which we filibuster Presidential nominees for the federal courts.

I firmly believe a fair reading of the Constitution is that nominations for judgeships should be confirmed based on a majority vote. Any fair reading of the Constitution will show that. That is why we have never filibustered in the history of the country, but the Democrats have now created what in effect is a supermajority requirement to block the right of nominees to an up-or-down vote.

There are many more things I could say about Bill Pryor. But I will not do that tonight. I appreciate the indulgences of my colleagues and the staff. This battle to allow people to have honest personal views, so long as those views do not influence their official interpretations of existing law, is an important battle for America. I intend to be a part of it and a lot of others do, too. It is not going away. We are not backing down.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, to those of us who have been given this great honor to serve in the Senate, there is a moment when we are asked to take the oath of office. In taking that oath of office, we swear to uphold one document. That document, of course, is the Constitution of the United States of America.

We are not asked our religion, nor our beliefs in our religion. We are only asked if we will take an oath to God that we will uphold this Constitution. All of us take it very seriously and all of us take the wording of this Constitution very seriously because within this small document are words that have endured for more than two centuries. There was wisdom in that Constitutional Convention which America has relied on ever since.

Sometimes people say, times have changed. And we do amend the Constitution from time to time. By and large the principles that guided those men who wrote this Constitution have guided this Nation to greatness. I am honored to be a small part of this Nation's history and to serve in the Senate.

I looked to this Constitution for guidance for this debate tonight, and I find that guidance in Article 6 of the Constitution. Let me read a few words from that book.

> . . . no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Most of the men who wrote this Constitution were religious people. They had seen the abuse of religion. They had seen leaders in other countries using religion for political purposes and against other people. They came to this land and said, it will be different in America. We are going to protect your right to believe. We are not going to establish a government church and we will say in our Constitution that no religious test will ever be required of a person seeking a nomination for public office in our land.

Those are very absolute and clear words. I am a Catholic, born and raised. My mother and father were Catholics. My children have been raised in the Catholic faith. In my lifetime, I have seen some amazing things happen. In 1960, I was about 15 or 16 years old. There was a Presidential race with a candidate by the name of John Fitzgerald Kennedy of Massachusetts. That may be the first Presidential election I followed closely. I remember watching the Los Angeles convention on my black-and-white television at home in East St. Louis. I took a special interest because I had a stake. The John Fitzgerald Kennedy candidacy was the first opportunity since Alfred Smith for the election of a Catholic to be President of the United States. We do not think twice about that now, but in 1960 it was a big deal. And a big problem for John Kennedy. So much so that he feared he might lose the election over that issue.

He did something that was historic and I guess unprecedented. He went to Texas and addressed a Baptist convention to explain his view of the relation of church and State because there were real concerns. Many people felt that those who were believers of the Catholic church were so connected and so committed to the teachings of the church and to the leader of the church, the Pope in Rome, that they could not make objective decisions on behalf of the United States; they would be clouded in their judgment because of the demands of their faith.

John Kennedy, a Catholic, went to Texas to a Baptist convention to tell those gathered that his first allegiance as President was to the United States and not to any religion. He said: I believe in America where the separation of church and State is absolute.

Many people think that statement and that visit turned the election for John Kennedy, an election which he won by just a very small margin. It dispelled the fears and concerns of many people across the country that a Catholic would be first loyal to Rome and then loyal to the United States.

It is an interesting thing to reflect on the view of Catholics in public life in 1960 and the debate which is taking place tonight. The issue has come full circle. Now there are those who argue that because a nominee comes before the Senate and professes to be a Catholic that we cannot ask that nominee questions about his political beliefs. There are many religious beliefs that are also political beliefs. There are some religious beliefs that are not. You can be an adherent to the Jewish religion, keep kosher, and I cannot imagine how that becomes a political issue. What is the purpose of asking a question about that? But whether you are Jewish, Catholic, Protestant, or Muslim, it is appropriate to ask any nominee for a judicial position, Where do you stand on the death penalty? That is a political issue. It is a social issue. And yes, it is also a religious issue.

Some have argued tonight if a person comes before the Senate with strong religious convictions that somehow we are disqualified from asking questions about political issues. I see it much differently. I think the Constitution makes it very clear we should never ask a person their religious affiliation. Article 6 of the Constitution says that is not a qualification for public office.

So what business do we have asking that question? But to say that because a person's political beliefs also happen to be their religious beliefs, that for some reason we cannot ask questions about them, goes entirely too far.

Consider a so-called church in my State, the World Church of the Creator in Pekin, IL. A deranged individual named Matt Hale—who could not be approved by the committee on character and fitness after he had passed law school and therefore was never licensed to practice law—decided to create a church and an Internet Web site in the name of that church, the World Church of the Creator, and started peddling the most venomous beliefs imaginable—bigoted, hateful, racist, anti-Semitic beliefs in the name of religion. This church and its so-called teachings drew some demented followers. It culminated one day when one of those followers went on a shooting spree, killing a basketball coach of Northwestern University, Ricky Birdsong, and then driving over to the University of Indiana and gunning down an Asian student, and was finally apprehended.

When Matt Hale was asked about the activities of this individual, he said, that is just our religion. Their religion.

If someone who comes before us with unusual beliefs and political issues says, stop, you cannot ask me about those beliefs because they are my deeply held personal religious convictions, are we then disqualified? If we are, imagine where that can lead.

In this case we have an individual, William Pryor, Attorney General of Alabama, who is a Catholic. The reason I know that is the chairman of the Senate Judiciary Committee, ORRIN HATCH, asked him. That is the first time I can recall in the 4½ years I have served on this committee that it has ever been asked of any nominee. Tonight Senator HATCH said he would never do it again. I am glad to hear him say that. I hope he never does that again and I hope no committee chairman of any committee ever asks any nominee for office their religion. The Constitution makes it clear we should not. But the exception was made by Senator HATCH and he asked Mr. Pryor his religion.

That triggered this ad campaign which we have discussed tonight and this heated debate which many have followed in the Senate. We have had Members come to the Senate, one who is a Catholic, saying, This is what good Catholics believe.

I guess I was raised in a little different branch of the Catholic church, maybe a branch that believes there ought to be a little more humility in religious belief. I don't like to stand in judgment of my peers as to whether they are good people or not; let their lives speak for themselves. And I certainly would never stand in judgment of someone's adherence to a certain religious belief. That is personal, as far as I am concerned. But not personal to some of my colleagues.

They come to the floor and make pronouncements about who is a good religious person and who is not. I am not comfortable with that. In fact, I am a little bit uncomfortable discussing this issue of religion in the Senate, but I have no choice. It has been brought before us.

What I believe is this: Within the Catholic church there are many differences of opinion, even within the church members who serve in the Congress. I know of one or two who I think are really close to adhering to all of the church's beliefs in the way that they vote, but only one or two, because although those who come to the floor want to argue to you that the Catholic Church is only about one issue, abortion, there are many of us who believe it is about a lot of issues.

It is about the death penalty—the death penalty, where the church has been fairly clear in its position. Again, I am troubled that I would even read this and put it into the CONGRESSIONAL RECORD, but I have no choice, based on what has been said over the last 3 hours. This is a statement by Pope John Paul II, St. Louis, MO, January 22, 1999:

> The new evangelization calls for followers of Christ who are unconditionally pro-life, who will proclaim, celebrate, and serve the

> Gospel of life in every situation. A sign of hope is the increasing recognition that the dignity of human life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself without definitively denying criminals the chance to reform. I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary.

The words of Pope John Paul II. You didn't hear much reference to the Catholic Church's position on the death penalty tonight by those who were saying that William Pryor is being discriminated against because of his Catholic beliefs. Perhaps it is because Mr. Pryor not only supports capital punishment, he fought State legislation in Alabama which sought to replace the electric chair with lethal injection.

I am not going to stand in judgment as to whether or not he is a good Catholic. That is not my place. But I bring this issue before my colleagues so they can understand that the Catholic Church is about more than one issue. There are those who hold beliefs which may or may not agree with all the teachings of that church, and that is within their conscience and their right to do. It is not mine to judge.

But for us to be told repeatedly by the other side of the aisle that to oppose William Pryor, is to be against him because he is Catholic is just plain wrong, and I resent it. I resent it because, frankly, there are many reasons to oppose his nomination—because of his political beliefs.

Oh, yes, some relate to his religion and some don't. But what we are told in the Constitution is that distinction makes no difference; whether they are religious or not, stick to political beliefs. And I believe my colleagues have really tried to do that on the committee.

Let me also say I was disappointed that the Senator from Pennsylvania, Mr. SANTORUM, earlier quoted, I believe out of context, the statement made by Senator FEINSTEIN of California. It was unfair to her because she had left the floor and he characterized some of her remarks in ways that I don't believe she intended. To make certain that the record is clear, I asked her staff to provide me with a copy of the speech which she gave, and I would like to read an excerpt of that speech given on the floor this evening by Senator FEINSTEIN to clarify and make certain the Senate understands that the quote which was referred to earlier by the Senator from Pennsylvania was inaccurate.

I quote what Senator FEINSTEIN said:

> Each time the Democrats oppose a nominee, we are accused of some sort of bias unrelated to the merits. With Miguel Estrada, we were accused of being anti-Hispanic. With Priscilla Owen, anti-woman. With Charles Pickering, anti-Baptist. And now, with William Pryor, anti-Catholic.
>
> These charges have been described by some as "scurrilous," and I agree. To describe Democrats as anti-Hispanic after the many Hispanic Clinton nominees that were stopped in their tracks by a Republican majority is disingenuous at best.
>
> To call us anti-woman, well, [as Senator Feinstein said] I don't have to tell you how bizarre it is for me to be called anti-woman.
>
> And to say we have set a religious litmus test is equally false.
>
> Many of us have concerns about nominees sent to the Senate who feel so very strongly about certain political beliefs, and who make intemperate statements about those beliefs that we raise questions about whether those nominees can be truly impartial.
>
> And it is true that abortion rights are often at the center of those questions. As a result, accusations have been leveled that anytime reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice.
>
> But pro-choice Democrats have voted for many nominees who are anti-choice and who believe that abortion should be illegal—some of whom may have even been Catholic. I don't know, because I have never inquired.
>
> So this is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. And when a nominee like William Pryor makes some fairly inflammatory statements and evidences such strongly held beliefs on such core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge.

Somehow, that was characterized as questioning General Pryor's religious beliefs. I do not think any fair reading would reach that conclusion. In fact, I think Senator FEINSTEIN was as careful as we all have been to draw that clear and bright line that the Constitution requires us to draw.

She said at one point there—and it may come as curious to people following the debate—that she is not certain about how many Catholics we voted for because, you see, that is not one of the required questions when a person applies for a judgeship in this country. We do know, though, just by taking a look at some of their resumes, that they belong to some organizations which suggest that they might be Catholic. So I would like to say for the record that the argument that we have somehow discriminated against Catholics who are opposed to abortion is not supported by the evidence.

We have, for example, confirmed a circuit judge who was active in the Knights of Columbus and the Serra Club and sits on the board of a Catholic school—Michael Melloy.

We confirmed a district court judge who is a member of the parish council of his Catholic church, the president's advisory board of a Jesuit High School Parents' Club, the St. Thomas More Society for Catholic lawyers, and his State's chapter of Lawyers for Life—Jay Zainey.

We confirmed a district court judge who was the former president of Catholic Charities of her city's diocese and a member of both the Catholic League and of the St. Thomas More Society—Joy Flowers Conti.

This serves as clear evidence that Democrats do not have an abortion litmus test for judicial nominees. There have been many we have confirmed who were opposed to Roe v. Wade and have made it very clear that they are opposed to it.

Some names that I can refer to very quickly: John Roberts, DC Circuit; Jeffrey Howard, First Circuit; John Rogers, Sixth Circuit; Deborah Cook, Sixth Circuit; Lavenski Smith, Eighth Circuit; Timothy Tymkovich, Tenth Circuit; Michael McConnell, Tenth Circuit; and the list goes on.

So for colleagues to stand before us and say we discriminate against Catholics, the record doesn't show it. There are people who clearly have Catholic affiliations in their background who have been approved by this committee and are supported by Democrats. For them to argue that we have a litmus test and turn down judges just because they oppose abortion denies over 140 nominees coming out of the Bush White House, most of whom are pro-life and most of whom disagree with Roe v. Wade personally and still have won our approval. I read a partial list.

In my own situation, I am pro-choice. I have personal feelings against abortion but believe that in my public capacity women should have the right to choose. And yet in my own home State of Illinois, of the 12 judges I have had the privilege to appoint to the Federal bench, at least 3 I have come to learn afterward were pro-life. I learned it afterward because I didn't ask them in advance. It really wasn't a condition for their appointment as far as I was concerned. I just want them to be fair minded and balanced. Whether they disagree with me on that issue or one other issue is really secondary.

So what we have before us today is an effort by the proponents of William Pryor to ask us to look beyond his political beliefs and really turn this into a debate about religion. I hope we don't do that. I hope we don't do it for his sake and I hope we don't do it for the sake of the Senate.

The Senate Judiciary Committee meeting of last week was one of the saddest times I have spent as a Senator. I saw things happen in that committee that I hope will never be repeated. I saw members of the committee raise the issue of religion in a way which the Constitution has never countenanced and I hope and pray has never happened before in that committee. I hope it never happens again.

The nomination of William Pryor is fraught with controversy. This whole question about his involvement with the Republican Attorneys General Association—we haven't even completed that investigation. This man's nomination comes to the floor before questions have been asked and answered that are serious questions about possible ethical considerations.

I won't prejudge the man as to whether he will be cleared of any suspicion or not. But in fairness to him, in fairness to the process, in fairness to the Senate, should not we have completed that investigation before he was reported from committee?

When it comes to critical issues involving Mr. Pryor's background, a lot of different groups have raised questions about him. The argument is being made on the other side that the only reason you can possibly oppose William Pryor is if you are anti-Catholic.

How then do you explain the editorials in opposition to his nomination? Editorials from Tuscaloosa, AL; editorials from Huntsville, AL; the Washington Post; Charleston, SC; St. Petersburg, FL; Arizona; the Atlanta Journal-Constitution; Honolulu Adviser; Pittsburgh newspapers—the list goes on.

Are we to suggest that all these newspapers that oppose his nomination are anti-Catholic? Not if you read the editorials. They have gone to his record and they have come to the conclusion that he is not the appropriate person to serve in this circuit court capacity.

Let me tell you some of the issues they raise. Mr. Pryor's zeal to blur the lines between church and state, a line that was clearly drawn in our Constitution and clearly drawn by John Kennedy, Presidential candidate, is a problem. He is so ideological about the issue that he has confessed, "I became a lawyer because I wanted to fight the ACLU." He then derided that organization as standing for "the American 'Anti-Civil' Liberties Union." I asked him if he would recuse himself in cases involving the ACLU. He said no, but he pledged:

> As a judge, I could fairly evaluate any case brought before me in which the ACLU was involved.

Mr. Pryor and I are just going to have to disagree on that particular statement.

He has been a staunch supporter of Alabama Chief Justice Roy Moore and his midnight installation of a 6,000-pound granite Ten Commandments monument in the middle of the State courthouse. The Eleventh Circuit Court recently ruled that the display was patently unconstitutional and had to be removed.

At his confirmation hearing, Senator FEINSTEIN asked him to explain his statement that:

> . . . the challenge of the next millennium will be to preserve the American experiment by restoring its Christian perspective.

He ducked the question.

I think if you are going to serve this Nation and you are going to serve this Constitution, you have to have some sensitivity to the diversity of religious belief in this country. To argue that this is a Christian nation—it may have been in its origin but today it is a nation of great diversity. That diversity is protected by this Constitution. Obviously, Mr. Pryor has some problems in grasping that concept.

On the issue of judicial activism, not only does Mr. Pryor have problems with separation of church and state, he also has problems separating law and politics. He believes that it is the job of a Federal judge to carry out the political agenda of the President. How else could you interpret his comments about the Bush v. Gore case in the year 2000 when he said:

> I'm probably the only one who wanted it 5 to 4. I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have not more appointments like Justice Souter.

That is a statement by William Pryor.

On another occasion, he said:

> [O]ur real last hope for federalism is the election of Gov. George W. Bush as President of the United States, who has said his favorite Justices are Antonin Scalia and Clarence Thomas. Although the ACLU would argue that it is unconstitutional for me, as a public official, to do this in a government building, let alone at a football game, I will end my prayer for the next administration: Please God, no more Souter.

I ask Mr. Pryor, a member of the Federalist Society, whether he agrees with the following statement from the Federalist Society mission: "Law schools and the legal profession are currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society." I have asked this question of almost every Federalist Society member that has been nominated by President Bush. Mr. Pryor is the only person who gave me a one word answer. He said, "Yes."

On the issue of federalism, Mr. Pryor has been a predictable, reliable voice for entities seeking to limit the rights of Americans in the name of States' rights. He has filed brief after brief with the Supreme Court arguing that Congress has virtually no power to protect State employees who are victims of discrimination.

Under his leadership, Alabama was the only State in the Nation to challenge the constitutionality of parts of the Violence Against Women Act, while 36 States filed briefs urging that this important law be upheld in its entirety—the exact opposite position of one Attorney General William Pryor.

He also filed a brief in the recently decided case of Nevada v. Hibbs. He argued that Congress has no power to ensure that State employees have the right to take unpaid leave from work under the Family and Medical Leave Act. A few months ago the Supreme Court rejected his argument and said:

> Mr. Pryor, you have gone too far this time.

The issue of women's rights has been well documented. I will not go into those again.

On the issue of voting rights, Mr. Pryor urged Congress to eliminate a key provision in the Voting Rights Act which protects the right to vote for African Americans and other racial minorities. While testifying before this committee in 1997, Mr. Pryor urged Congress to "seriously consider . . . the repeal or amendment of section 5 of the Voting Rights Act" which he labeled "an affront to federalism and an expensive burden that has far outlived its usefulness."

Given the importance of section 5 of the Voting Rights Act to the ability of African Americans and other racial minorities to achieve equal opportunity in voting, this call for its repeal is deeply disturbing. Thankfully, the Supreme Court and Congress disagreed with Mr. Pryor about the importance of section 5 of the Voting Rights Act.

There was one case involving inmates' rights which I thought was particularly noteworthy. He has been a vocal opponent of the right of criminal defendants. In Hope v. Pelzer, Attorney General Pryor vigorously defended Alabama's practice of handcuffing prison inmates to outdoor hitching posts for hours without water or access to bathrooms. The Supreme Court rejected Mr. Pryor's arguments citing the "obvious cruelty inherent in the practice," and calling the practice "antithetical to human dignity" and circumstances "both degrading and dangerous."

In a July 2000 speech, Attorney General Pryor was outspoken in his disdain for the Supreme Court's reaffirmation in Dickerson v. United States of the constitutional protection of self-incrimination first articulated in Miranda. He called the Dickerson decision, authored by Chief Justice Rehnquist an "awful ruling that preserved the worst example of judicial activism."

The list goes on.

In the case called United States v. Emerson, Attorney General Pryor filed an amicus brief to argue that a man who was the subject of a domestic violence restraining order should be allowed to possess a firearm.

Let me repeat that.

The man who was the subject of a domestic restraining order should be allowed to own a firearm.

Mr. Pryor called the Government's position a "sweeping and arbitrary infringement on the second amendment right to keep and bear arms." He was the only State attorney general in the United States of America to file a brief in support of that position.

When it comes to tobacco, he has been one of the Nation's foremost opponents of a critical public health issue—compensation for the harms caused by tobacco companies. He has ridiculed litigation against companies stating:

> This form of litigation is madness. It is a threat to human liberty, and it needs to stop.

Mississippi Attorney General Michael Moore said:

> Bill Pryor was probably the biggest defender of tobacco companies of anyone I know. He did a better job of defending the tobacco companies than their own defense attorneys.

Arizona Attorney General Grant Woods, a Republican, said of William Pryor:

> He's been attorney general for about five minutes, and already he's acted more poorly than any other attorney general.

On the issue of environmental protection, time and again he has looked the other way when it comes to protecting our environment.

For people to argue that the only position against William Pryor is based on his religion ignores the obvious. When it comes to his political beliefs, when it comes to his actions as attorney general of Alabama, time and time again he has taken extreme positions.

Should this man be entrusted to a lifetime appointment to the second highest court of the land? I think not. Many others agree with that conclusion.

I certainly hope that when this debate ends, however it ends, that we will call an end to the involvement of religion in this debate.

It has been a sad night for me to listen to what some of my colleagues have said in an effort to promote the political agenda of a certain part of America in an effort to promote the candidacy of an individual. I am afraid many of my colleagues have crossed a line they should never have crossed.

I hope and pray that before we utter the next sentence in relation to the Pryor nomination that each of us who has taken an oath to uphold this Constitution will stop and read article VI:

> No religious test shall ever be required as a qualification to any office or public trust in the United States.

Those words have guided our Nation for over 200 years. They should guide each of us in good conscience.

I yield the floor.

Mr. REID. Mr. President, I served in the Congress since 1972. I have had the good fortune to listen to some brilliant statements made on various subjects over 21 years. But I have to say that the statement by the senior Senator from Illinois tonight is the finest statement I have ever heard in some 21 years. I hope the people of Illinois know what pride we have in DICK DURBIN.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

ENERGY POLICY ACT OF 2003—Continued

Mr. FRIST. Mr. President, obviously we have not had the progress we had hoped for on the Energy bill over the course of the last several days. I know that Senators have indicated they still have amendments to the electricity amendment. And it is clear to me there is not a definite sign as to when we might finish that issue.

Members have the ability to slow down this bill. With the lengthy amendment list that is before us, there are many options to do that. After numerous discussions today, it is clear to me we are not on a course to complete this bill over the next couple of days.

It is important to do. I set out several weeks ago—actually 2 months ago—stating that the objective would be to work aggressively over the course of this final week, having had the bill before us in May, spending a number of days before this week on this bill.

In spite of that commitment on my part to plow ahead, it appears to me now—Wednesday night at 10 o'clock—that the writing is on the wall: We are not going to be able to complete the bill.

Having said that, I think it is important that Members have an opportunity to really prove their commitment to this underlying bill. Again and again, I have heard: Yes, we want to pass a comprehensive national energy policy. Although I hear that, and I express this willingness—and I think that is probably right—it is important, before we leave for this August recess, to see what that commitment really represents. Thus, I will shortly file cloture, and the Senate will have the opportunity to go on record for completing a bill which will accomplish just that—establishing a national energy policy.

Mr. President, in that regard, I now ask unanimous consent to set aside the pending amendments in order for me to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

MOTION TO COMMIT

Mr. FRIST. Mr. President, I send to the desk a motion to commit the pending legislation with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

> The Senator from Tennessee [Mr. FRIST] moves to commit S. 14 to the Committee on Energy and Natural Resources with instructions to report back forthwith with the following amendment numbered 1432.

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENT NO. 1433

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 1433 to instructions of the motion to commit S. 14.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the amendment add the following: "All provisions of Division A and Division B shall take effect one day after enactment of this act."

AMENDMENT NO. 1434 TO AMENDMENT NO. 1433

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 1434 to amendment No. 1433.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On line 3 of the amendment strike "one day" and insert "two days."

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion.
>
> Bill Frist, Pete Domenici, Orrin G. Hatch, Rick Santorum, Saxby Chambliss, Larry E. Craig, Jon Kyl, Craig Thomas, Charles Grassley, Sam Brownback, Lamar Alexander, Norm Coleman, Mike DeWine, John Cornyn, Mitch McConnell, Gordon H. Smith.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR NO. 169

Mr. FRIST. Mr. President, I now ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Calendar No. 169, the nomination of Carolyn Kuhl, to be U.S. Circuit Judge for the Ninth Circuit; further, that there be 4 hours of debate equally divided in the usual form, and that following that debate, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; finally, I ask consent that following that vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. The Senator from Nevada objects.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. I would ask if the request were modified to 10 or 12 hours, would it be agreed to?

Mr. REID. At this time, it would not.

EXECUTIVE SESSION

NOMINATION OF CAROLYN B. KUHL, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate proceed to executive session for the consideration of Calendar No. 169, the Kuhl nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read the nomination of Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 169, the nomination of Carolyn Hill, of California, to be United States Circuit Judge for the Ninth Circuit.

Bill Frist, Orrin G. Hatch, Ben Nighthorse Campbell, Craig Thomas, Charles Grassley, John Cornyn, Chuck Hagel, Jim Talent, Thad Cochran, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, Larry E. Craig, Jeff Sessions, Lindsey Graham of South Carolina, and Rick Santorum.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum provided for under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that we resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCIAL AIRLINE HIJACKINGS

Mr. NELSON of Florida. Madam President, I have been trying to find the appropriate wrinkle in this important debate on the Energy bill to share with the Senate something that I heard on the radio this morning that almost caused me to drive off the road.

Given the fact that we have, over the last couple of weeks, just gone through and passed an important bill with regard to the Department of Homeland Defense, given the fact that former Senators Warren Rudman and Gary Hart have compiled a major report continuing to warn us that we are dangerously unprepared to prevent and respond to a catastrophic terrorist attack in the U.S., and given the fact that we are all, every day, reminded of the war on terror and how we are going to protect ourselves, something I heard on the radio this morning makes me wonder that we must not be listening.

According to intelligence reports made public yesterday, terrorists may be plotting suicide missions by hijacking commercial airliners, most likely in the United States, but clearly it could be anywhere in the world. Such a plot is detailed in a memo from our own Transportation Security Administration. I want to quote from it:

> The plan may involve the use of five-man teams, each of which would attempt to seize control of a commercial aircraft either shortly after takeoff or shortly before landing at a chosen airport. This type of operation would preclude the need for flight-trained hijackers.

Madam President, the threat that we face from terrorist organizations is still with us ever since we were rudely awakened on September 11. And interestingly, at the same time that we are informed of these potential new terrorist plots, the Transportation Security Administration, in a shocking disclosure that I heard on the radio today, reportedly intends to cancel air marshals on some of our most vulnerable commercial flights.

And if that is not enough, they are reportedly also cutting back on the training for new air marshals. In the wake of these reports, the agency says it has every available air marshal deployed right now and additional resources are being directed to this critical program. I certainly hope so.

The air marshal program was instituted as the front line of defense against would-be hijackers. Just knowing there is someone trained and armed who is usually sitting in the first-class section if somebody is trying to bust forward into the cockpit is a great comfort. What is the reasoning behind these reported cuts I heard on the radio that almost caused me to run off the road? It is that the Transportation Security Administration does not want to pay for the hotel rooms for the air marshals for overnight stays.

What price do we pay for security? That is almost like saying, while we are at it, we are going to get rid of the x-ray machines in security lines at the airports because we want to save on electricity, which, of course, is a ridiculous argument.

The Transportation Security Administration, according to the news reports, says it is trying to save $104 million. That might be a laudable goal, but I suggest we ought to start looking at the $8 million program that has already been spent in the Pentagon that has recently come to the fore and has caused such a flap. That is the program that would allow people to gamble on on the likelihood of terrorist attacks and assassinations, on which we have all joined in mutual disgust—that there was such a program.

Now having been denied that program, it will not continue, said the Deputy Secretary of Defense in testimony yesterday before the Senate Foreign Relations Committee, and yet that was an $8 million program.

I have been waiting all day to say—and I thank the Senators for their indulgence—that when it comes to the defense of our citizens, we cannot afford to cut corners. If we do, we will have forgotten the lessons of September 11. I hope the radio report I heard this morning that they are seriously considering cutting back on the air marshals program is not true. Clearly, let's not forget the lessons of September 11.

I thank the Chair.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through July 28, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $1.833 billion in budget authority and by $2.985 billion in outlays in 2003. Current level for revenues is $1 million below the budget resolution in 2003.

Since my last report, dated July 3, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues: the Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29), the Welfare Reform Extension Act of 2003 (P.L. 108–40), and the Burmese Freedom and Democracy Act (P.L. 108–61).

I ask unanimous consent to print a cover letter and attached tables in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effect of Congressional action on the 2003 budget and are current through July 28, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last report, dated June 2, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues: the Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29), the Welfare Reform Extension Act of 2003 (P.L. 108–40), and the Burmese Freedom and Democracy Act (P.L. 108–61). The effects of these new laws are identified in Table 2.

Sincerely,

ROBERT A. SUNSHINE
(for Douglas Holtz-Eakin, Director).

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JULY 28, 2003

[In billions of dollars]

	Budget resolution	Current level[1]	Current level over/under (-) resolution
On-Budget:			
Budget Authority	1,874.0	1,875.8	1.8
Outlays	1,826.1	1,829.1	3.0
Revenues	1,310.3	1,310.3	(2)
Off-Budget:			
Social Security Outlays	366.3	366.3	0
Social Security Revenues	531.6	531.6	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

[2] Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JULY 28, 2003

[In millions of dollars]

	Budget Authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,359,834
Permanents and other spending legislation	1,013,810	977,842	n.a.
Appropriation legislation	1,133,856	1,160,341	n.a.
Offsetting receipts	−369,104	−369,106	n.a.
Total, enacted in previous sessions	1,778,562	1,769,077	1,359,834
Enacted this session:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	79,190	42,024	2
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	3,479	3,479	0
Gila River Indian Community Judgment Fund Distribution Act of 2003 (P.L. 108–22)	1	1	0
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	3,165	3,165	0
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	11,347	11,347	−49,489
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	(2)
Welfare Reform Extension Act of 2003 (P.L. 108–40)	64	26	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−1
Total	97,246	60,042	−49,488
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	0	0	n.a.
Total Current Level[1]	1,875,808	1,829,119	1,310,346
Total Budget Resolution[1]	1,873,975	1,826,134	1,310,347
Current Level Over Budget Resolution	1,833	2,985	n.a.
Current Level Under Budget Resolution	n.a.	n.a.	1

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[2] Less than $500,000.

Source: Congressional Budget Office.

Note: n.a.=not applicable; P.L.=Public Law.

HONORING OUR ARMED FORCES

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to Private First Class Wilfredo Perez, Jr., United States Army, of Norwalk, CT. Private Perez's loyalty, patriotism, and selflessness has served to further the legacy of our great Nation's principles of freedom and justice. His service to our Nation is an example of the powerful spirit that permeates American history. His country, his family, his Army, his brothers-in-arms, and his friends from home will keenly miss Private Perez.

A mortarman in the 1st Battalion, 67th Armor Regiment, 4th Infantry Division, PVT Perez and members of his unit were guarding a hospital where wounded comrades were being treated. In a contemptible and cowardly act, a grenade was lobbed from the upper floors of the hospital, killing PVT Perez and two other gallant soldiers.

PVT Perez, or "Junior," as his family called him, was an outgoing and charming person, well liked and remembered fondly by both staff and classmates of Norwalk High School as someone who had found focus and was pursuing his dreams. He cared about his family, and had a propensity for the simple things in life, like playing golf with his dad, working on his car or skiing. He worked with his dad as a remodeling contractor prior to going into the Army and his family had high hopes for him as he started to plan for his future.

I am both proud and grateful that our military is made up of young men and women whose values are exemplified by PVT Perez's service to the United States Army and his country. PVT Perez was a messenger of high justice and idealism in the best tradition of American principles and patriotism.

I join a grateful Nation in extending my heartfelt condolences to his family. Thank you for sharing this outstanding soldier with us. His country, his Army, his brothers-in-arms and his friends at home will keenly miss PVT Perez. You may be justifiably proud of his contributions to a noble cause and a people in need.

ANTHONY G. FREEMAN

Mr. HATCH. Mr. President, at the end of this week, Anthony G. Freeman will leave the post of Director of the Washington Office of the International Labor Organization, or ILO, after almost a decade serving this specialized agency of the United Nations in its liaison with the executive and federal branches of the U.S. Government. These last 9 years spent in this important role follow his 33-year career as a U.S. Foreign Service Officer.

In that career, Mr. Freeman represented our country all over the world: in Valencia, Spain and Rome, Italy; in Buenos Aires, Sao Paulo and La Paz. From 1983 to 1992, he served as Coordinator for International Labor Affairs and the Agency for International Development. In that capacity, he was Special Assistant to three Secretaries of State.

Tony Freeman's professional focus has been advancing the role of freedom of labor around the world, promoting the dignity and safety of workers wherever they toiled. He was a labor specialist who served as labor officer in many of his posts around the world. This experience was developed over three decades, culminating in his last assignment at the State Department as Deputy Assistant Secretary of State for Democracy, Human Rights and Labor. No one understands better than Tony Freeman that true democracy cannot exist without human rights and neither exist without the freedom of the working man and woman.

Some may not be aware of the importance that American labor has played in U.S. foreign policy through the decades. Some may not appreciate the role that the American worker has played in building alliances with workers around the world, conveying and supporting traditions of freedom—freedom to work and to organize and to be free of oppression—that are an essential aspect of American society. American unions, working through the State Department and working independently, have done great work advancing freedom around the planet, and continue to do so today.

American unions were some of the greatest forces fighting communism during the cold war. The great Irving Brown, who I am pleased to say became my mentor and friend early in my career, when he introduced me to a fledgling Polish union named Solidarity, made his reputation immediately after World War II, when he worked tirelessly with Italian and French labor movements to prevent those nations from succumbing to Soviet influence.

Lane Kirkland, the president of the AFL–CIO from 1979–1995, was a staunch anti-communist who played an important role in defending Solidarity in its early years. I was happy to work with these great men. I come from the working class. I worked as a lather to support my young family while I went to school, and I am proud to this day that I was a union member. It was easy and natural for me to work with other anti-communists from the labor movement to help defeat Soviet tyranny. In later years, Lane Kirkland would say to me, "Orrin, if only your domestic policy was as good as your foreign policy." "Well, Lane," I would retort, "I could pay you the same compliment!"

After 33 years working labor issues at the Department of State, Tony Freeman accepted the position of Director of the Washington Office of the International Labor Organization in late 1994. I first worked closely with Tony in 1995 and 1996, when a misguided congressional initiative threatened to defund U.S. participation in the ILO. It was a time when the ILO needed to make itself relevant to U.S. audiences, particularly Congress. Irving Brown's legacy with the ILO, when we all worked together to fight Soviet communism, was a great historical achievement, but that did not move policy-makers in Washington searching for new roles for international organizations in the post-Cold War era.

I joined with the late senator from New York, Daniel Patrick Moynihan, who, incidentally, did his doctoral dissertation on the ILO, to defend continued U.S. support for this organization. Supporters of the ILO came to our offices, including representatives from the Labor Department, unions and U.S. businesses. The beauty and strength of the ILO is that it is the only tripartite international organization of its type in the world, where workers and employers from all member nations join to address labor questions alongside their governments. We made our case that the ILO's relevance in an era of expanding trade and globalization, as well as spreading transnational challenges like child labor exploitation, was greater than ever.

And we prevailed, and the U.S. continues to play a role in that important body. All of the coordination to preserve that role was organized by Tony Freeman, and today I want to express my personal gratitude for that important work in 1996.

Tony's efforts did not peak then, and he spent the following years raising the ILO's visibility, and its new missions, before new audiences in the U.S. He developed closer ties between the ILO and human rights groups in the U.S. He drew their attention to the basic human right of working people around the world to have a voice in the workplace, and to the work of the ILO to free people trapped in slavery and bondage, including the forced laborers in Burma. He strengthened the common bond between the ILO and organizations and policy makers fighting to end abusive child labor and saw large increases in U.S. funding for the ILO's child labor programs. In addition, Tony Freeman worked tirelessly to gain U.S. ratification of ILO conventions, and, during his tenure at the ILO, he made a signal contribution to the efforts that led to U.S. ratification of Convention No. 176 on Safety and Health in Mines in 2001.

I understand that Tony will be teaching in Washington in the coming years, as well as continuing to offer his lifetime of experience and counsel. I am relieved to hear this, because we still need Tony Freeman's experience. He has lived a great life of service to the working man and woman, across all borders, and he has served the American public well. Today, I wish to honor the work of Tony Freeman all these years. I thank him for his 33 years in the State Department. I thank him for the critical leadership he provided the International Labor Organization. I thank him for putting up with all my Irving Brown stories. I thank him for his friendship. Most of all, I wish to thank Tony Freeman for his service to his country.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Portland, OR. On November 13, 1988, Mulugeta Seraw was savagely beaten to death by three white supremacists. Seraw had been visiting with two other Ethiopian males and was on his way home when he was attacked. Three members of the East Side White Pride jumped out of their car and beat 27-year-old Seraw to death with steel baseball bats.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

POSTWAR IRAQ

Mr. EDWARDS. Mr. President, President Bush did the right thing today by taking personal responsibility for the inclusion of misleading intelligence information in this year's State of the Union. But he has yet to turn his full attention to the more urgent matter at hand, winning the peace in Iraq.

To finish the fight and help build a free Iraq, President Bush must create a new national and international consensus for the benefit of our Nation's security, the future of the Middle East and the well-being of America's fighting men and women.

A new consensus is only possible, however, if the administration is honest enough to admit what is not working in Iraq and courageous enough to design a new approach that will.

The President must acknowledge a plain truth that everybody knows. This war is not over, and his administration declared a premature victory. Our military did a superb job toppling Saddam; now they need the support, the resources, and the right troops to defeat the significant pockets of guerilla opposition that remain.

Unfortunately, unless we adjust our course, the management of postwar Iraq may well be viewed by history as the most consequential mismanagement of an international crisis by any U.S. administration since Vietnam.

Notwithstanding the deaths of Qusai and Odai Hussein, the joint U.S.-UK mission is in deep trouble. Nine months ago, I called for the administration to enlist NATO in comprehensive planning for postwar Iraq. What we are seeing now is the costs of failing to plan and refusing to internationalize our approach.

The departure of Saddam Hussein from power is an opportunity to change the course of history in the Middle East. That is one reason I supported and celebrated Iraq's liberation. It could have been, should have been, and still might prove a victory for people everywhere who respect human rights, cherish freedom, seek to halt the spread of weapons of mass destruction, and believe that peace between Arabs and Israel is both achievable and essential.

To succeed, we will need all the help we can get—from NATO and other allies, the U.N., and friends within the Arab and Muslim communities. The President apparently believes that we can succeed largely on our own.

The American people are starving for some straight talk. There is no reason except failed Presidential leadership that 90 percent of the foreign troops in Iraq are American. As commander in chief, he should be able to assure the families of our Armed Forces in Iraq that absolutely everything is being done to help them achieve their mission and come home safely and soon. He could not honestly provide such an assurance today.

Our troops won't get the help or protection they need unless the administration offers to share authority and responsibility for reconstruction efforts in Iraq. The President should not let past disagreements or misguided ideology stand in the way. The administration has little patience for diplomacy, so they argue that a U.N. framework means a loss of American control.

That is simply untrue. Like we did in Kosovo, we should ask the U.N. to provide a mandate for a coalition-led force that will work in consultation with, but not under the control of, the U.N. civilian administration. That will preserve the absolutely essential American control of our forces, but create a framework in which many nations can participate comfortably.

The Bush administration must level with the world and with the American people. A new consensus must be built on the truth. Winning the peace in Iraq will require many months, probably several years. It will cost tens of billions of dollars more than can be accounted for by Iraqi oil revenues. It will entail grave, ongoing risks to our Armed Forces. But it is a necessary, even noble, mission in which every law-abiding and freedom-loving country has a stake, and to which each should be invited to contribute not as a favor to America, but as a gift to our common future.

EXECUTIVE NOMINEES TO DOJ

Mr. GRASSLEY. Mr. President, I rise today to state that I object to proceeding to the consideration of two executive nominees to the Department of Justice. The first nominee is Mr. Christopher A. Wray, who is nominated to be the assistant attorney general of the criminal division at the Department of Justice. The second nominee to which I object is Mr. Jack Landman Goldsmith III, who is nominated to be assistant attorney general, office of legal counsel at the Department of Justice.

I have placed holds on these individuals because I have numerous outstanding issues that have yet to be resolved by the Department of Justice. More specifically, I have several outstanding written requests before the Department of Justice. Some of these requests are more than 6 months overdue. In addition, I am presently working with the Department of Justice to overcome a number of procedural issues directly affecting my ability, as a member of the Judiciary Committee to, among other things, conduct oversight of the Department of Justice, and the Federal Bureau of Investigations.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS BILL

Mr. HATCH. Mr. President, I rise in support of the Fiscal Year 2004 Department of Homeland Security appropriations bill. As chairman of the Senate Judiciary Committee, I want to congratulate the members of the new Appropriations Subcommittee on successfully completing the first annual appropriations bill providing funding for the new Department of Homeland Security.

Just as the Department of Homeland Security has made momentous progress in protecting our citizens while simultaneously creating a new government agency, the members of the Homeland Security Subcommittee have moved expeditiously to recommend funding in a responsible manner. There is no bill more important to the citizens of Utah, and we recognize the committee's important efforts.

The bill's appropriation of $28.5 billion accomplishes many things. One of the most important is continued support of the Office for Domestic Preparedness. This office, which awards grants to State and local agencies to assist them in preparing our first responders, has had a 1,500 percent increase in funding since September 11, 2001. Today's recommendation of $3.6 billion will bring the total amount spent on first responder preparedness to $8.8 billion since that fateful day.

Our Nation's airports are infinitely more protected than they were just one year ago. The bill continues this important work by providing $4.5 billion for passenger and baggage screening and airport security. It also provides $4.9 billion for securing our borders. The bill funds the US VISIT system development with $380 million. This new system will allow our Nation to collect, maintain and share appropriate information in order to determine the eligibility of foreign citizens wishing to visit the United States.

I appreciate that the committee has decided not to earmark funding for specific Congressional requests and to leave these decisions to the appropriate agencies. The defense of our Nation and in particular the protection of our citizens will never be achieved by purely political decisions, but through diligent hard work and strategic planning.

However, I would like to bring to the Senate's attention a program that has already proven its effectiveness in protecting our citizens and was initiated by the Office for Domestic Preparedness. Last year, the Office for Domestic Preparedness asked Dugway Proving Ground to develop and teach a Ph.D driven chemical and biological emergency responder course. Dugway Proving Ground is our Nation's chemical and biological defense proving ground. The result of these classes has been an unparalleled success and the student responses were overwhelmingly positive. Participants in the class were unanimous in their praise and the Chief of the Chicago HAZMAT Unit categorized the program as "one that all first responders should attend." A student commented further that "This was the best use of time in my 25 year career." The courses focused on agent characteristics, sampling, protection, detection, decontamination and chem/bio production recognition, such as the difference between clandestine drug laboratories, industrial accidents or chemical/biological production capabilities. Students also learned to assess a situation in order to determine the proper course of action. Clearly, these first responder training courses at Dugway are a national resource and though the Committee did not recommend funding for individual programs, I hope that the Office for Domestic Preparedness will continue to sponsor this important program.

I congratulate the committee on its fine work and urge the Senate's approval of the bill.

CULTURAL BRIDGES

Mr. KENNEDY. Mr. President, next week 54 high school students from the Islamic and Arab world will arrive in the United States for a year of study under a new exchange program to help bridge the cultural divide between America and the Islamic and Arab nations of the world. Secretary Powell will welcome the students at a ceremony at the State Department on Wednesday, August 5.

An initial $10 million for the Cultural Bridges Program was approved last year by Congress for the coming academic year. I commend the State Department for moving so quickly to organize the program and bring the first group of high school students to the United States. By the end of the summer as the new academic year begins, 135 high school students will be here for a year of study in high schools in 23 States under the program.

The students are coming from many nations throughout the Islamic world—Egypt, Indonesia, Jordan, Kuwait, Lebanon, Nigeria, Pakistan, Syria, Tunisia, Turkey, and Yemen, and from the West Bank and the Gaza strip as well. Each student will live with an American host family, attend a local high school, learn first hand about our society and values, and enable our students to learn about them.

Officials in the State Department are already preparing their recruitment and outreach efforts for the 2004–2005 academic year, when they hope to double the size of the program. If all goes well, that number will double again in the following year.

The terrorist attacks on September 11 and the war in Iraq have brought into sharp focus the many negative images and perceptions of our Nation abroad. Many Muslims believe our country is at war with Islam, not terrorism. With nearly 1.5 billion people living in the Islamic world today, we ignore these pervasive anti-American sentiments at our peril.

If the United States is to win a genuine victory in the war against terrorism, we must respond on many levels. We must ensure that our defenses are strong, our intelligence is accurate, and our borders are secure. But we must also do all we can to dispel the disturbing trend of anti-American rhetoric and beliefs. An effective way to do so is to engage Islamic peoples in the realm of values and ideas.

In a May 3, 2002 speech to the World Affairs Council in California, Deputy Secretary of Defense Paul Wolfowitz spoke of the need to strengthen voices of moderation in the Islamic world and to bridge the "dangerous gap" between that world and the West. There is "no time for delay," he said.

As we have seen in Afghanistan, Pakistan, and the Middle East, some individuals and factions and even governments have supported terrorist organizations, while others have condemned terrorism and pledged to help the United States in combating it. By reaching out in friendship to those who oppose terrorism we can reduce the breeding grounds for terrorism and begin to eliminate the sentiments that terrorist recruiters exploit.

One of the most effective ways to engage the Islamic world is through educational exchange programs, which promote people-to-people contacts between Americans and other peoples.

Exchange programs help to build strong personal relationships and combat the misperceptions about the United States that threaten our security. Unfortunately, exchanges between the Islamic world and the United States are very limited today. Of the more than 500,000 foreign students in the United States, less than 5 percent are from the Arab Middle East.

There are many benefits in reaching out to students while they are young and open-minded. Today's high school students are tomorrow's leaders. Working with them now can improve their attitudes about our country and build future relationships based on trust and understanding. As Secretary of State Colin Powell said in his August 2001 statement on International Education Week: "I can think of no more valuable asset to our country than the friendship of future world leaders who have been educated here."

What makes the Cultural Bridges Program unique is that it enables high school students from other lands to obtain firsthand knowledge of our country, our way of life, and our people. Our Government sponsors many exchange programs for professionals, educators, journalists and academics, but, until now, there has been no Federal program to bring high school students from the Islamic world to the United States.

After September 11, many Muslim countries condemned the terrorist attacks and pledged to help the United States fight terrorism. But in the wake of the war in Iraq, anti-American sentiment is on the rise again.

A June 2003 poll by the Pew Charitable Trust found strong public support for Osama bin Laden's views in Arab countries whose governments are friendly to the United States. According to the poll, 55 percent of those in Jordan, 58 percent of those in Indonesia, 45 percent of those in Pakistan, and 49 percent of those in Morocco said they had confidence in Osama bin Laden to "do the right thing regarding world affairs," and so did 71 percent of those in the areas controlled by the Palestinian Authority.

Our military action in Iraq has led to widespread fears throughout the region that we will launch other aggressive action. Majorities of those interviewed in Indonesia, Nigeria, Pakistan, Turkey, Lebanon, and Jordan worried that their country might be attacked by the United States. Even in Kuwait—where the public has a generally favorable view of the United States—53 percent expressed concern that the United States could someday pose a threat.

Especially disturbing is the finding of little support in the Islamic world for the war against terrorism—23 percent in Indonesia, 16 percent in Pakistan, 22 percent in Turkey, and 2 percent in Jordan and the Palestinian Authority. In Morocco, only one in 10 back the effort, while in Lebanon, 30 percent support the war. Only in Kuwait and Nigeria do majorities of the population now support the war against terrorism.

Clearly, we need to redouble our efforts to win the hearts and minds of peoples in the Arab and Muslim world, and change their negative perceptions about our country and values.

There are no better ambassadors for America than Americans themselves, and this new high school exchange program is an important way to begin reaching out more effectively to the next generation of leaders in that world.

Jordan's King Abdullah is an excellent example of what can be achieved. He is a friend of the United States, a partner in the war against terrorism, and a voice of tolerance and moderation in the Muslim world.

In 1977, as a young Jordanian, he enrolled in a high school in Massachusetts and later came to Washington to study at a university. He is living proof of the value of building bridges of understanding and tolerance with other cultures.

We need to create as many opportunities as possible for young people throughout the Islamic world to spend time in the United States and with our citizens, and we should begin to do so now. I have been delighted to work with Senators LUGAR, LEAHY, CHAFEE, DODD, HAGEL, SMITH, COCHRAN, BROWNBACK, JEFFORDS, DURBIN, and FEINGOLD on the Cultural Bridges Program, and I am hopeful that it marks a new beginning in our efforts to build forward lasting relationships with the future leaders in the Muslim world.

FY 2004 ENERGY AND WATER APPROPRIATIONS

SILVERY MINNOW PROVISION

Mr. BINGAMAN. Mr. President, I want to begin by commending my friend and colleague from New Mexico and the Chairman of both the Energy and Natural Resources Committee, and the Energy and Water Appropriations Subcommittee, for addressing a difficult situation on the Rio Grande River.

The provision at issue is Section 205 of the Energy and Water Appropriations bill and I would like to take this opportunity to engage Senator DOMENICI on that legislative language as part of the Senate's consideration of the bill.

We worked on Section 205 together, and it concerns water use in the Middle Rio Grande and compliance with the Endangered Species Act (ESA). More specifically, Section 205 addresses the June 12, 2003 decision of the Tenth Circuit Court of Appeals in the case of Rio Grande Silvery Minnow v. Keys, and does the following:

Recognizing that importing San Juan-Chama project water from the San Juan River basin to the Rio Grande basin does not jeopardize endangered species in the Middle Rio Grande, Section 205(a) clarifies that the Bureau of Reclamation may not use discretion, if any, to unilaterally reduce or reallocate water to be delivered under San Juan-Chama project contracts for endangered species purposes in the Rio Grande River Basin.

Section 205(b) also expressly recognizes that compliance with the March 17, 2003 biological opinion concerning water operations in the Middle Rio Grande, as well as activities being conducted pursuant to P.L. 106–377, P.L. 107–66, and P.L. 108–7, constitute compliance with all ESA requirements as related to those actions, both federal and non-federal, that are incorporated as the proposed action in the biological opinion. Notwithstanding Section 205, the Secretary is to continue pursuing recovery of listed species in the Middle Rio Grande, including support for the Middle Rio Grande ESA collaborative program.

I believe we are in agreement on the effect of Section 205. Moreover, I think the legislation is an appropriate response to the Tenth Circuit's decision and strikes a proper balance by providing certainty for all water users in the Middle Rio Grande basin while still maintaining the policy that all water users have a shared interest and responsibility to comply with the requirements of the ESA. Given the benefits of this approach I would ask my colleague, as Chairman of Energy and Water Appropriations Subcommittee, to maintain this approach in the conference with the House of Representatives and to include this interpretive language as part of the conference report.

Mr. DOMENICI. I appreciate that my colleague and fellow New Mexican worked with me to help alleviate the current situation with the silvery minnow. I concur with his understanding of the language which is designed to narrowly address the silvery minnow situation in the Rio Grande. It is intended to prohibit the use of San Juan-Chama water in the Rio Grande for endangered species purposes and to implement the March 17, 2003 Biological Opinion. I also concur with his view of the benefits of Section 205 in general, and will strongly advocate for its retention in conference, as well as inclusion of this interpretive language in the conference report.

Mr. BINGAMAN. I thank the distinguished Chairman for his consideration and explanation of this important matter. I believe that this language offers hope for the minnow and protection for the people of New Mexico.

MAKAN DELRAHIM

Mr. HATCH. Mr. President, I would like to take a moment today to express in public my thanks and appreciation to the Judiciary Committee's Chief Counsel and Staff Director, Makan Delrahim. Makan's departure is a tremendous loss for the Senate and for me personally. But, we are fortunate that he will continue to serve our country in his new position in the Bush administration as Deputy Assistant Attorney General for the Justice Department's Antitrust Division.

Makan is, in my opinion, a fine example of a great American success story. Makan's family fled from Iran when he was eight years old, and he quickly learned English and immersed himself in American life.

After learning business fundamentals at his father's gas station, Makan unleashed his newfound American entrepreneurial spirit and pursued several successful business enterprises before receiving a bachelor of science in physiology from UCLA. Later, he earned a law degree from George Washington University and also a Master of Science in biotechnology from Johns Hopkins. On top of it all, he became a registered patent attorney.

Clearly, his wide range of abilities and interests explain in part why he has served the Judiciary Committee and the Congress so exceptionally well. He is a brilliant thinker with the rare ability to quickly grasp a wide variety of complex issues.

It was a stroke of good fortune for me when, back in 1995, Makan joined my Judiciary Committee health staff for a term as an intern. As an intern, Makan distinguished himself as an exceptional talent, and after spending a few years practicing law at Patton, Boggs, I convinced him to come back to the Judiciary staff as counsel handling e-commerce, antitrust and emerging technologies policy. I was once again so impressed with his dedication and ability that in 2001, I asked Makan to serve as Chief Counsel and Staff Director for the Judiciary Committee.

As Chief Counsel, Makan has been my right hand, providing valuable counsel on all matters that come before the Committee. I am particularly proud of his leadership in the development and passage of Hart Scott Rodino reform, the TEACH Act, the PATRIOT Act and the PROTECT Act, to name just a few. He has proved himself to be a skillful negotiator with the ability to bring parties together on divisive issues. It is no wonder that Makan is widely respected on both sides of the aisle.

Makan has worked tirelessly and capably, and I am afraid that his office in the Dirksen Building has become his virtual home as he has worked late into the night and many weekends over these past years. If he had stayed in private law practice and worked these hours, he would probably be a billionaire by now.

As Staff Director, Makan has demonstrated the extraordinary ability to find the greatest strengths in each staff member and to foster those strengths. And I am especially proud of Makan for helping me recruit a brilliant and impeccably qualified staff, and in doing so, bringing an unprecedented level of diversity to the Committee.

We will miss Makan's charismatic style and his ready sense of humor. And, we will miss his extraordinary ability to multitask. He is the only person I know who is capable of carrying on an intelligent conversation while simultaneously checking his e-mail and talking on his cell phone.

Since Makan won't be here to ignore my advice anymore, let me offer it once again: He should get married. And, on a serious note, Makan has not only been a trusted adviser, he has been a friend. He has made us proud and we will miss him.

ADDITIONAL STATEMENTS

HONORING MONICA AND BERNARD BENNING

• Mr. BURNS. Mr. President, today I rise in honor of Monica Conter Benning and Bernard Floyd Benning, Barney, on the celebration of their 61st wedding anniversary on August 20, 2003. Monica and Barney are the only surviving couple of the Pearl Harbor attack who both were in the immediate Pearl Harbor area at the time of the bombing. As the courtship between these two officers evolved in the setting of World War II, their experiences during the attack on America, December 7, 1941, are an important part of American history.

Barney, a college ROTC 2nd Lt. from Niles, MI, was ordered to active duty to Hawaii in May 1941. Barney joined an anti-aircraft battery in Fort Kamehameha at the entrance of the Pearl Harbor channel.

Army nurse 2nd Lt. Monica Conter of Apalachicola, FL served at Walter Reed General Hospital in 1940–1941, and was the official model for the Army Nurse Corps Recruiting Program. Monica was later assigned to the new Hickam Field Hospital, adjacent to Pearl Harbor and separated by a lone chain link fence. Monica is the only nurse still living today who was on duty at Hickam Field Hospital at the time of the attack. During the attack on December 7th, a bomb fell on the hospital lawn about 60 feet from the building, leaving a large crater. A banyan tree sapling was planted in the crater several days after the attack. Today, beside the huge tree is a granite monument and plaque, honoring Monica's service as an Army nurse on duty that fateful day.

Monica and Barney Benning first met on a prearranged "blind date" in September 1941; the beginning of a lifetime together. Their courtship continued with regularity until that "Day of Infamy," December 7, 1941—the first terrorist attack on America. The following Wednesday, when Barney appeared at Hickam Hospital in a dirty, wrinkled uniform, it was quite an emotional moment when they found each other alive.

"Off Duty" time was infrequent and often they were miles apart and usually on some kind of alert status until the American victory at the Battle of Midway in May.

They wed on August 20, 1942, in the temporarily camouflaged Hickam Field Chapel; the original chapel was destroyed on December 7.

On August 20, 2003, they will celebrate their 61st wedding anniversary. I congratulate and praise this couple, members of our Greatest Generation, for serving America to protect our precious democracy. I applaud your bravery and dedication to preserving freedom for all Americans.

Monica and Barney currently reside in Fort Myers, FL. They have two sons, Phil Benning and Gregory Benning and a daughter, Veronica Benning, as well as two grandchildren, Melanie and Lauren Benning.•

OREGON HEALTH CARE HERO

• Mr. SMITH. Mr. President, Vail Blackwell Horton is a self-described "man with a vision on a mission." Vail was born 25 years ago without legs and has since dedicated himself to enabling people with disabilities to become active members of their communities.

As the founder and CEO of Keen Mobility, Vail and his team of outstanding employees are developing new technologies and services to empower people with disabilities. Innovative assistive devices like the "Keen Krutch" and "Sure Foot Forearm" are engineered to significantly reduce the onset of painful conditions and ailments like osteoarthritis. Vail's products have helped improve the quality of life for many with disabilities. One client raved: "I can't find the words to tell you what your invention has done for my life . . . I am not as embarrassed to walk with my crutch because I think it is a real looker. It has given me a badly needed boost to keep on fighting the fight to live and walk in this world."

In addition to Keen Mobility, Vail founded Incight, a nonprofit organization that focuses on employment and education issues for people with disabilities. Appearing frequently as a motivational speaker, Vail aims to "educate and encourage individuals to acknowledge their handicap, but not let it dictate their life."

Vail's tireless spirit serves as an inspiration to us all. Today, I am proud to honor Vail Blackwell Horton as a Health Care Hero for the great State of Oregon.•

WINCHESTER CELEBRATES ITS 250TH BIRTHDAY

• Mr. GREGG. Mr. President, I rise today in honor of Winchester, New Hampshire. This great American community is celebrating the 250th anniversary of its founding, and I am proud to recognize this historic event.

Over 4,000 people call themselves citizens of Winchester. From the town's incorporation in 1753 through today, they have had an enormous impact on the economic and cultural development of not only New Hampshire but our country as well. Winchester has long been a center for commerce and manufacturing. Companies like the Ashuelot Manufacturing Corporation, Thayer & Turner's Woolen Mill and Robertson Brothers' Paper Mill were early leaders in powering the expansion of the United States. The A.C. Lawrence Leather Company is another notable example of this proud heritage. It made thousands of boots and shoes which our troops needed during World War II. I know there are many residents still living in town who used to work at A.C. Lawrence at this time and I want to thank them for the vital contributions they made to supporting our troops during that conflict.

The town's people have made significant contributions to the security of our country in many other ways. Colonel Samuel Ashley commanded a regiment of soldiers in the American Revolution. Major General Leonard Wood, another Winchester native, became Chief of Staff for the Army just prior to the start of World War I. He was one of the first men to see the war in Europe as a challenge to the American military establishment. In response, he led a crusade for a larger and better prepared armed force. This effort involved an intensive speaking tour throughout the United States and the launching of summer training camps for college students in Pennsylvania, Vermont, North Carolina and Michigan. One can certainly conclude that our victory in World War I was possible in large part because of General Wood's vision.

This town has also played an important role in the political history of New Hampshire. Francis Parnell Murphy, elected Governor of the State in 1937, was born here. Today, Tom Magee, Gus Ruth, Bill Kelly, Ken Berthiaume and Brian Moser, the current members of the Board of Selectmen, are carrying on this tradition of public service.

These people, and so many others, highlight the rich history for which the people of Winchester can justifiably be proud. As they celebrate the Town's 250th birthday, I am honored to salute this great community.•

ONE SMALL SLICE OF THE AMERICAN DREAM

• Mr. LEVIN. Mr. President, on June 10, 1903, 26-year-old Giovanni Castellano married 21-year-old Santa Basile in Milazzo, Italy. Less than 2 months later, on July 24, the newlyweds boarded the SS *Lahn* steamship headed for the United States of America. On August 5, 1903, Giovanni and Santa Castellano set foot on American soil at Ellis Island, starting a new chapter in the American dream.

The story of the Castellano family in many ways reflects the typical American immigrant experience. Giovanni and Santa settled in New York City and presided over the development of a large family. The first generation born in America included Joseph, Jenny, Vincent, Florence, Faye, Steve, and Anthony. The members of this generation in turn had families of their own, and so on. As the new century gets underway, the fourth generation of American Castellanos begins grade school.

The first generation of the Castellano family tended to marry other Italian Americans, the likes of Carizzo, Cambria, and Fidele. Reflecting U.S. immigration patterns, there was the occasional McElligot. Over time, the genealogy of the Castellano family came to reflect the diversity of America. Ullmann, Cinotti, Burk, Garcia, Anchustegui, and Pray are just some of the names that may be found on the family tree now.

Many members of the Castellano family have stayed in New York but others have moved throughout the United States. One hundred years of history have brought the Castellano family literally from sea to shining sea—from New York, Maryland and Washington, DC, to Colorado, New Mexico, and California.

While many in the first generation of the Castellano family received only a grade school education, succeeding generations have graduated from community colleges, State universities, private colleges, and the Ivy League. The Castellano family has spawned teachers, stockbrokers, delivery drivers, restaurateurs, soldiers, lawyers, doctors, dentists, bricklayers, and other professions; some have worked in business, some have worked in public service. They have served their country in both peace and in World War II, Vietnam, and Somalia.

Next week is the 100th anniversary of Giovanni and Santa's entry into the United States through Ellis Island—the beginning of the American dream for one family. Congratulations to the Castellano family; may the dream go on for all Americans.•

RECOGNITION FOR NATIONAL HEALTH CENTER WEEK 2003

• Mr. JOHNSON. Mr. President, I recognize the National Health Center Week that will be celebrated from August 10 to 16, 2003. Health centers provide services to over 10 million people living in underserved areas through the United States, with about 50 percent of the users being from rural areas such as South Dakota.

Community health centers have a longstanding history of providing quality primary health care services to medically underserved populations. Providing care to one of every 12 rural Americans and tending to needs of the increasing number of uninsured individuals, health centers provide medical attention to those who would otherwise lack access to health care. A unique aspect of community health centers allows them to individualize their center to meet the specific needs of a particular community. By partnering with community organizations, schools and businesses, health centers are able to best meet the health care needs of individuals in each respective community.

I want to pay special recognition to the Community HealthCare Association in South Dakota, and all of the staff at the association for the fine work they do on behalf of South Dakota. Furthermore, I want to commend all of the dedicated health care professionals in the health centers throughout South Dakota who work day in and day out devoting their lives to delivering critical health care to those most in need.

At this time, there are 25 community health centers serving individuals across my State and I am working with my colleagues in Congress and the administration to greatly increase the number of these centers nationwide. As a member of the Senate Appropriations Committee, I am pleased to have recently voted in committee to increase funding by $122 million over last year's funding, for a total of $1.62 billion for the Nation's community health centers next year. I will continue to work with my colleagues to see that we are able to double funding for these medical centers by 2006.

Once again, it gives me great pleasure to recognize the National Health Care Center Week on behalf of the South Dakota Community HealthCare Association and the many thousands of South Dakotans who may continue to benefit through this important program.•

TRIBUTE TO COLONEL CHARLES J. FIALA, JR., COMMANDER, BALTIMORE ENGINEER DISTRICT, U.S. ARMY CORPS OF ENGINEERS

• Mr. SARBANES. Mr. President, I want to pay tribute today to Colonel Charles Fiala, Commander and District Engineer of the Baltimore District, U.S. Army Corps of Engineers. COL Fiala is retiring after a distinguished 25-year career in the U.S. Army, and I would like to take this opportunity to congratulate him and commend him for his many years of service to our Nation.

Chuck Fiala graduated from West Point in 1978 and has served in numerous staff and command positions here in the United States and abroad. Beginning as combat engineer platoon leader with the 194th Armored Brigade in Fort Knox, KY he quickly rose through the ranks. Among other assignments he commanded C Company, 11th Engineer Battalion at Fort Belvoir; served as Executive Officer in U.S. Army Headquarters Europe in Heidelberg, Germany; and worked in the Pentagon for the Office of the Chief of Staff and the Deputy Chief of Staff. During the course of his career, Chuck earned a master's degree in civil engineering from Purdue University and was also awarded a master's degree in National Security and Strategic Studies from the National War College.

I came to know COL Fiala 3 years ago when he was first selected as Commander and District Engineer of the Baltimore District, U.S. Army Corps of Engineers, and have had the privilege of working closely with him on a number of water resource, environmental restoration, and military construction initiatives in Maryland and the mid-Atlantic region. Chuck has continued the tradition of outstanding leadership that has been the hallmark of the Baltimore District. Under his leadership, numerous military construction and civil works projects were initiated or completed including the Baltimore Harbor Anchorages Project, the straightening of the Tolchester Channel "S" Turn, the improvements to the Brewerton Channel and the construction of military housing at Fort Meade, to name only a few. Similarly, he directed and oversaw several critical environmental restoration projects including the cleanup of Fort Detrick's chemical and biological waste landfill, the restoration of the north end of Assateague Island National Seashore, the Chesapeake Bay oyster recovery effort, and 10 habitat restoration sites in the Anacostia River.

During his 25-year career in the Army, COL Fiala repeatedly demonstrated exceptional abilities and dedication that have earned him recognition and acclaim by his peers. He has been the recipient of many awards and decorations including the Legion of Merit, the Meritorious Service Medal, the Army Commendation medal, and the Parachute Badge. His work ethic and principles of responsibility, reliability, and dedication will continue to serve as a standard for others who follow him as District Engineer.

It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career Chuck Fiala has exemplified a steadfast commitment to meeting this demand.

I want to extend my personal congratulations and thanks for his hard work and dedication and wish him and his family the best of luck in the future.•

MONT VERNON CELEBRATES 227TH BIRTHDAY

• Mr. GREGG. Mr. President, I rise today in honor of Mont Vernon, NH. This year, while the United States observed the 227th anniversary of our independence, the citizens of Mont Vernon have been planning the celebration of the town's 200th birthday. It is therefore timely and appropriate that we recognize this quintessential American community.

From its first settlement in the early 1700s through today, Mont Vernon has represented all that is great about the United States. Although it may not share the industrial or commercial legacy of its sister cities of Nashua or Manchester, the town's impact on our country has been just as vital. This impact is best symbolized by the sacrifices the residents here have made in times of conflict. Fifty men from what was to become Mont Vernon served in the War of Independence; five of them lost their lives. During the Civil War, 35 men enlisted in the Union Army and, tragically, seven of them died. The whole community demonstrated their support for these soldiers and for the cause for which they were fighting by voting at a special town meeting to provide wages and outfits for those men who volunteered to serve.

The town's dedication to protecting the ideals of this country was also clear during both World War I and World War II. In the First World War, nine residents fought in that conflict. In the Second World War, twenty-three of them served including Mildred Coggin, Eleanor Carlton and Mary Holt Smith. These three women were nurses whose care of injured soldiers was critical to the war effort.

Of course, Mont Vernon continues to stand for those qualities which make New Hampshire such a special place to live: a dedication to public service and the spirit of volunteerism. The town's representatives to the New Hampshire General Court, Timothy Allen, Pam Coughlin and Margaret Hallyburton, are continuing in the path of the town's first elected official to that body, Major William Bradford. The members of the current Board of Selectmen, Mike Fimbel, John Koch and Peter Savage are honorably serving in the tradition the first Board of Selectmen, whose members included John Carlton, Joseph Langdell and Jacob Kendall, set in 1804.

So, on this the 200th anniversary of Mont Vernon, we salute its citizens and honor their accomplishments, their love of country and their overwhelming spirit of independence.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

S. 1504. A bill to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3481. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the voluntary national guidelines on ballast water management; to the Committee on Commerce, Science, and Transportation.

EC–3482. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation entitled "The Passenger Rail Investment Reform Act"; to the Committee on Commerce, Science, and Transportation.

EC–3483. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to funds for protection, control, and accounting of fissle materials in Russia; to the Committee on Energy and Natural Resources.

EC–3484. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the status of the Exxon and Stripper Well Oil Exchange Funds; to the Committee on Energy and Natural Resources.

EC–3485. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants in California and Southern Oregon" (RIN1018–AI26) received on July 28, 2003; to the Committee on Energy and Natural Resources.

EC–3486. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, a report relative to the Little Calumet River Local Flood Control and Recreation Project; to the Committee on Environment and Public Works.

EC–3487. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, a report relative to Small Drinking Water Systems; to the Committee on Environment and Public Works.

EC–3488. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Control of Emission of Oxides of Nitrogen From Cement Kilns" (FRL#7536–8) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3489. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion" (FRL#7537–5) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3490. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards" (FRL#7537–4) received on July 25, 2003; to the Committee on Environment and Public Works.

EC–3491. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled the "New Freedom Initiative Medicaid Demonstrations Act of 2003"; to the Committee on Finance.

EC–3492. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Respiratory Therapy Study"; to the Committee on Finance.

EC–3493. A communication from the Regulations Coordinator, Center for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program: Third Party Liability Insurance Regulations" (RIN0938–AM65) received on July 25, 2003; to the Committee on Finance.

EC–3494. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Note/Purchase Contract Units" (Rev. Rul. 2003–97) received on July 28, 2003; to the Committee on Finance.

EC–3495. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a draft of proposed legislation relative to the Foreign Relations Authorization Act; to the Committee on Foreign Relations.

EC–3496. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to the International Waters, Pacific Ocean; to the Committee on Foreign Relations.

EC–3497. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–3498. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–3499. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment in the amount of $25,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–3500. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles and defense services in the amount of $50,000,000 or more to Brazil, Russia, Ukraine, and Norway; to the Committee on Foreign Relations.

EC–3501. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3502. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Brazil; to the Committee on Foreign Relations.

EC–3503. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the

Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to India; to the Committee on Foreign Relations.

EC–3504. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles sold commercially under contract in the amount of $100,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–3505. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to the International Waters, Pacific Ocean; to the Committee on Foreign Relations.

EC–3506. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Pacific Ocean/International Waters or Kourou, French Guiana; to the Committee on Foreign Relations.

EC–3507. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions list sold commercially under a contract in the amount of $1,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–3508. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3509. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3510. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–3511. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel and Singapore; to the Committee on Foreign Relations.

EC–3512. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC–3513. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–3514. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacture license for the manufacture of significant military equipment abroad or defense services in the amount of $50,000,000 or more to Taiwan; to the Committee on Foreign Relations.

EC–3515. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad to Sweden; to the Committee on Foreign Relations.

EC–3516. A communication from the Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, transmitting, pursuant to law, the report of a rule entitled "Certificates for Certain Health Care Workers" (RIN1615–AA10) received on July 25, 2003; to the Committee on the Judiciary.

EC–3517. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Appeals, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals Title Change" (RIN2900–AL15) received on July 28, 2003; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1125. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes (Rept. No. 108–118).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009.

Air Force nominations beginning Brigadier General Kenneth M. DeCuir and ending Brigadier General Mark A. Volcheff, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2003.

Air Force nomination of Col. Bruce E. Burda.

Air Force nomination of Lt. Gen. Teed M. Moseley.

Air Force nomination of Gen. Gregory S. Martin.

Air Force nomination of Gen. Richard B. Myers.

Air Force nomination of Maj. Gen. Roger A. Brady.

Air Force nomination of Lt. Gen. Richard E. Brown III.

Air Force nomination of Lt. Gen. Steven R. Polk.

Army nomination of Gen. Peter J. Schoomaker (Retired).

Army nomination of Lt. Gen. Bryan D. Brown.

Army nomination of Col. Charles S. Rodeheaver.

Army nomination of Brig. Gen. David T. Zabecki.

Marine Corps nomination of Gen. Peter Pace.

Marine Corps nomination of Maj. Gen. Robert M. Shea.

Navy nominations beginning Rear Adm. (lh) Roger T. Nolan and ending Read Adm. (lh) Robert O. Passmore, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2003.

Navy nomination of Rear Adm. Kirkland H. Donald.

Navy nomination of Rear Adm. (lh) Louis V. Iasiello.

Navy nomination of Rear Adm. (Select) Eric T. Olson.

Navy nomination of Rear Adm. Gary Roughead.

Navy nomination of Vice Adm. James. C. Dawson, Jr.

Navy nomination of Rear Adm. Rodney P. Rempt.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Patrice L. Pye.

Air Force nomination of *Rebekah F. Friday.

Air Force nomination of Dennis Hutson.

Army nominations beginning William R. Gladbach and ending Malcolm K. Wallace, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 19, 2003.

Army nomination of Regina M. Curtis.

Army nomination of Nancy M. Prickett.

Army nominations beginning Stephen J. Demski and ending Joseph F. Maranto, which nominations were received by the Senate and appeared in the Congressional Record on June 26, 2003.

Army nominations beginning Andrew S. Kantner and ending Daniel A. Tanabe, which nominations were received by the Senate and appeared in the Congressional Record on June 26, 2003.

Army nominations beginning David A. Archer and ending Debra A. Spear, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Nathan E. Baker and ending Frederick V. Wright, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Lisa M* Anderson and ending James W* Turonis, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Brett T* Ackermann and ending Michael J* Zapor, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Adio Abdu and ending Ricardo M Young, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning David A Barr and ending Samuel R Young, which nominations were received by the Senate and appeared in the Congressional Record on July 7, 2003.

Army nominations beginning Wilfredo A. Colonmartines and ending Jeffery L. Lewis, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nominations beginning Thomas B. Howe and ending Michael J. Veasey, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nominations beginning James G. Lynch and ending Rafael A. Roldan, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Army nomination of Evan L. Williams II.

Marine Corps nomination of Thomas D. Gore.

Marine Corps nomination of Adam L. Musoff.

Marine Corps nomination of Jason K. Fettig.

Navy nominations beginning Chad F Acey and ending Frank A Shaul, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Conrad K Alejo and ending Carl B Weicksel, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Barbara M Burgett and ending Robert C Weitzman, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Robert J Allen and ending Harold E Williams, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Eric J Buch and ending Robin D Tyner, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Lee K Allred and ending Donald L Zwick, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Allan D Andrew and ending Johnny R Wolfe, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Angela D Albergottie and ending Joseph B Spegelee, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Charles J Chan and ending Matthew A Webber, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Christopher A Adams and ending Richard J Zins, which nominations were received by the Senate and appeared in the Congressional Record on June 25, 2003.

Navy nominations beginning Steven S Hartzell and ending Stanley D. Rhoades, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2003.

Navy nomination of James P. Driscoll.

By Ms. COLLINS for the Committee on Governmental Affairs.

*Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget.

*Joe D. Whitley, of Georgia, to be General Counsel, Department of Homeland Security.

*Penrose C. Albright, of Virginia, to be an Assistant Secretary of Homeland Security.

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Howard Radzely, of Maryland, to be Solicitor for the Department of Labor.

*Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008.

*Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2009.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1489. A bill to authorize the burial of Bob Hope at Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. McCONNELL (for himself, Mrs. DOLE, Mr. BUNNING, Mr. HOLLINGS, Mr. EDWARDS, Mr. MILLER, Mr. FRIST, Mr. WARNER, Mr. ALLEN, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mr. BAYH):

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes; read the first time.

By Mr. CORNYN:

S. 1491. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 1492. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS:

S. 1493. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1494. A bill to amend the Internal Revenue Code of 1986 to extend the special 5-year carryback of certain net operating losses to losses for 2003, 2004, and 2005; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. HARKIN):

S. 1496. A bill to provide for the expansion and coordination of activities of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to research and programs on cancer survivorship, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 1497. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Ms. LANDRIEU, and Mr. KERRY):

S. 1498. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1499. A bill to adjust the boundaries of Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself, Mr. ROCKEFELLER, and Mr. DASCHLE):

S. 1500. A bill to amend the Internal Revenue Code of 1986 to modify the tax credit for holders of qualified zone academy bonds; to the Committee on Finance.

By Mr. McCAIN (by request):

S. 1501. A bill to amend title 49, United States Code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1502. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1503. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. KENNEDY):

S. 1504. A bill to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States; read the first time.

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BURNS, and Ms. SNOWE):

S. 1505. A bill to establish a National Passenger Rail Office, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN:

S. Res. 205. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued on the subject of autism awareness; to the Committee on Governmental Affairs.

By Mr. BROWNBACK (for himself and Mrs. DOLE):

S. Res. 206. A resolution honoring the memory of Dr. William R. ("Bill") Bright and commending his life as an example to succeeding generations; considered and agreed to.

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 52, a bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 317

At the request of Mr. GREGG, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 317, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs for work and family, and for other purposes.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 537

At the request of Mr. CRAPO, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 537, a bill to ensure the availability of spectrum to amateur radio operators.

S. 656

At the request of Mr. REED, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 835

At the request of Ms. LANDRIEU, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 835, a bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation, to provide notice regarding loan consolidation, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 875

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 971

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1143

At the request of Mrs. HUTCHISON, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1190

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1190, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 1252

At the request of Mr. DAYTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1252, a bill to provide benefits to domestic partners of Federal employees.

S. 1283

At the request of Mr. GRAHAM of Florida, the name of the Senator from

Washington (Ms. CANTWELL) was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1296

At the request of Ms. MURKOWSKI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1296, a bill to exempt seaplanes from certain transportation taxes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1331

At the request of Mr. SANTORUM, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1363

At the request of Mr. REID, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1363, a bill to prohibit the study or implementation of any plan to privatize, divest, or transfer any part of the mission, function, or responsibility of the National Park Service.

S. 1460

At the request of Mr. KENNEDY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1460, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S.J. RES. 17

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S.J. Res. 17, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. CON. RES. 40

At the request of Mr. HAGEL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. RES. 30

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Virginia (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Louisiana (Mr. BREAUX), the Senator from Kentucky (Mr. BUNNING), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. DEWINE), the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. MILLER), the Senator from Alabama (Mr. SESSIONS), the Senator from Missouri (Mr. TALENT), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 30, a resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

S. RES. 98

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 98, a resolution expressing the sense of the Senate that the President should designate the week of October 12, 2003, through October 18, 2003, as "National Cystic Fibrosis Awareness Week".

S. RES. 170

At the request of Mr. DODD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 170, a resolution designating the years 2004 and 2005 as "Years of Foreign Language Study".

S. RES. 201

At the request of Mr. SESSIONS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 201, a resolution designating the month of September 2003 as "National Prostate Cancer Awareness Month".

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 204

At the request of Mr. BIDEN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 204, a resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 1416

At the request of Mr. BROWNBACK, his name was added as a cosponsor of amendment No. 1416 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1416

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 1416 proposed to S. 14, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1489. A bill to authorize the burial of Bob Hope at Arlington National Cemetery; to the Committee on Veterans' Affairs.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the "Bob Hope Arlington Honors Act of 2003," legislation authorizing the burial of Bob Hope at Arlington National Cemetery, be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bob Hope Arlington Honors Act of 2003".

SEC. 2. AUTHORIZATION OF BURIAL OF BOB HOPE AT ARLINGTON NATIONAL CEMETERY.

The Secretary of the Army shall permit the burial of Leslie Townes (Bob) Hope of California, an honorary veteran of the Armed Forces of the United States, in Arlington National Cemetery, Virginia, upon the request therefor by the family of Leslie Townes Hope.

By Mr. MCCONNELL (for himself, Mrs. DOLE, Mr. BUNNING, Mr. HOLLINGS, Mr. EDWARDS, Mr.

MILLER, Mr. FRIST, Mr. WARNER, Mr. ALLEN, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mr. BAYH):

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes, read the first time.

Mr. EDWARDS. Mr. President, the introduction of the Tobacco Market Transition Act is an important milestone for tens of thousands of farmers. I am proud to have been part of the bipartisan working group that crafted this bill.

For decades, thousands of farmers in my state have depended on their tobacco quotas. They made significant investments in equipment and land. They paid into the no-net cost assessment program knowing that the quota system they were locked into would provide for them. They didn't get rich—most of the farmers in my State will tell you that their tobacco profits allowed them to send their children to college or just pay the bills.

But that financial security has been eroded. The Federal quota is at an all-time low. In fact, just in the past five years tobacco farmers have seen their quotas cut in half. That same time has been particularly difficult for my farmers, who have had to adjust to the dwindling quota while losing their crops and in some cases their entire farms to three hurricanes, a massive ice storm and a severe drought.

It is time to end the Federal quota system. It is time to give these hard working men and women a chance to transition to other crops or to retire with dignity. And for those who want to continue to grow tobacco, we must end the antiquated quota system and give them a chance to compete with foreign producers just as if they were growing any other crop like corn or sweet potatoes.

Of course, this isn't just another crop. This is tobacco and the tobacco leaf is used to make addictive, deadly products. We must address that fact. I am certain that before the year is out, the Senate Health, Education and Labor Committee, of which I am a member, will consider relevant legislation to protect public health. I welcome that committee's efforts. But in the debate surrounding the tobacco industry, we cannot lose sight of the fact that thousands of honest, hard working people depend on the leaf for their economic livelihood.

People like Blythe and Gwendolyn Casey of Kinston, NC. Mr. and Ms. Casey began farming tobacco decades ago. They made a decent living doing what they loved. As the years passed, they increased their production and made substantial investments in equipment and regulation barns. They paid into the no-net cost assessment program and played by the rules. They never got rich, but they were confident their investments would allow them to one day retire and remain on their farm.

Through no fault of their own, they've watched the value of their quota essentially disappear. When they began farming, they never thought they would reach retirement age mired in debt. The Caseys, and thousands of tobacco farming families in eastern North Carolina face a bleak financial future unless Congress acts.

The Federal quota system has reached a crisis point and we must intervene. The Tobacco Market Transition Act is our best chance to stave off economic disaster for tens of thousands of farmers.

This bill represents a compromise literally years in the making. This bill is not perfect. But this bill could be the last hope for farmers.

Mr. ALEXANDER. Mr. President, I am proud to cosponsor the Tobacco Market Transition Act of 2003, which is a vital piece of legislation to farmers in Tennessee and other tobacco producing States. As our citizens and government respond to the dangers of cigarettes and tobacco, farmers and farm communities that have depended on this crop are contending with challenges greater than just the decrease in demand. Tobacco growing quotas, the leasing of those quotas, and the Federal price support system have combined with decreasing demand to form the "perfect storm" to afflict tobacco farmers.

I grew up in east Tennessee, and small family tobacco farms were a part of the lifestyle and economic vitality in our region. Tobacco farmers are currently suffering because of government programs and declining demand for their crops. The number of tobacco farmers in Tennessee has decreased from more than 35,000 farms in 1980 to fewer than 15,000 today. Revenue from tobacco in Tennessee has declined by $25 million over the same period.

This bill will provide a short term bridge to tobacco growers and quota holders, and the communities in which they live. Tennesseans who own quotas will receive a fair transition away from lease income they have received. Growers will receive transition payments as well. The buyout would last over six years and mean roughly $2 billion to the family farmers, quota lease owners, and communities in Tennessee.

Tobacco farming will continue to be faced with challenges, but successful passage of this legislation will provide a safety net to farmers and their communities. I applaud the work of Senator MCCONNELL on this important legislation and will work with him and our other cosponsors to provide the transition our tobacco farming communities desperately need.

By Mr. CORNYN:

S. 1491. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

Mr. CORNYN. Mr. President, over the past few months, the Medicare debate has focused our attention on a range of issues related to the future of health care in America. Central to our debate has been how to pay for the dramatically rising costs of health care and whether we can afford a prescription drug benefit to treat the disease of an aging population.

The Medicare and Medicaid programs currently spend $84 billion annually on five major chronic diseases, diabetes, heart disease, depression, cancer and arthritis. We have discussed options for paying for the treatment of these diseases, but have spent far less time exploring ways to prevent them in the first place.

I believe that disease prevention and the promotion of healthier lifestyles offers us an excellent opportunity to begin reversing the steep rise in health care costs we are facing today. Public health experts unanimously agree that people who maintain active healthy lifestyles dramatically reduce their risk of contracting chronic diseases. A physically fit population results in a decrease in health care costs, reduced government spending, fewer illnesses and improved worker productivity.

Given the tremendous benefits exercise provides, I believe we have a duty to create as many incentives as possible to get Americans off the coach and up and moving. With this in mind, I have introduced the Workforce Health Improvement Program, WHIP Act. The WHIP Act mirrors similar legislation introduced by Representative PAT TOOMEY, in the House of Representatives and would allow for the favorable tax treatment of health club memberships as an employee benefit.

Specifically, it would clarify an employer's right to deduct the cost of subsidizing or providing health club benefits for their employees. In addition, this legislation would exclude the wellness benefit from being considered income for the employees, i.e., employer contributions to the cost of health club fees would not be taxable income for employees.

Current law already permits businesses to deduct the cost of on-site workout facilities, which are provided for the benefit of employees on a pretax basis. However, if a business wants, or needs, to outsource these health benefits, they and/or their employees are required to bear the full cost.

The WHIP Act would correct this inequity in the current Tax Code to the benefit of many smaller businesses and their employees. It also would be an important step in reversing the devastating health trend that our country is facing by promoting physical activity, reducing obesity and preventing disease.

According to the Surgeon General's "Call to Action to Prevent Disease Overweight and Obesity," published in 2001, there are 300,000 deaths a year in the United States that are associated with overweight and obesity. Repair physical activity reduces the risk of developing or dying from some of the leading causes of illness and death in the United States.

Further, physical activity can: reduce the risk of dying prematurely; reduce the risk of dying prematurely of heart disease; reduce the risk of developing diabetes; reduce the risk of developing high blood pressure; help reduce blood pressure in people who already have high blood pressure; reduce the risk of developing colon and other types of cancer; reduce feelings of depression and anxiety; help control weight; help build and maintain healthy bones, muscles, and joints; help older adults become stronger and better able to move about without falling; promote psychological well-being.

Public Health experts unanimously agree that active lifestyles result in decreased health care costs, reduced governmental spending, fewer illnesses, and improved worker productivity.

I ask you to join me in supporting this preventive health and fitness bill.

By Mr. CHAMBLISS:

S. 1492. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding; to the Committee on Health, Education, Labor, and Pensions.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Multi-employer Pension Security Act of 2003. This bill will strengthen and protect the defined pension benefits of thousands of workers. These workers have no other choice than to participate in the pension fund that their employer offers. However, it is not just the employees who need these plans to be reformed, but many employers realize that to be fiducially responsible that these reforms need to be made as well.

Nearly 44 million working Americans participate in defined benefit pension plans. Of that amount, almost ten million people, approximately 25 percent of all those who have defined pensions, participate in multi-employer plans. Single-employer plans are completely managed under a different system. Although recent policy debate has focused primarily on single-employer plans, my reasoning in introducing this legislation today is to broaden the pension plan debate by dealing with the myriad of problems facing multi-employer pension plans.

This bill, the "Multi-employer Pension Security Act," will provide millions of active and retired workers who participate in these plans with the long-term security of knowing their promised benefits will be funded and safeguarded. This reform legislation is necessary and long overdue.

The funding levels in single-employer pension plans have been greatly affected by stock market losses, a sluggish economy and record-low interest rates. These events have impacted multi-employer plans also. However, the issues affecting multi-employer plans are much broader than that. These plans operate under a fundamentally different structure. The main difference between single and multi-employer plans is that there is no minimum funding level required in multi-employer plans. Losses can mount until simply there is no more money and benefits cannot be paid to the participants in multi-employer pension plans. My bill will correct his deficiency in current law.

This proposed legislation would address the lack of adequate funding standards existing within the multi-employer pension plan system. Also hardworking employees who participate in these multi-employer pension funds do not currently have the guarantee of insurance. When a multi-employer pension plan is defunct or goes bankrupt, there is no Pension Benefit Guaranty Corporation (PBGC) to rely on—because multi-employer plans do not fall under the guise of the PBGC structure. My bill will address that and give the folks participating in a multi-employer plan the same governmental oversight as provided to participants of single-employer plans.

Again, I introduce the Multi-employer Pension Security Act today because we, as a nation, must tackle these issues now to prevent further deterioration of these plans and we must be willing to assure our constituents that their promised pensions are available to them as retirees currently and in the future. Single-employer plans must not be the only pension plan that Congress considers changes to because we are also responsible to the almost ten million Americans participating in multi-employer pension plans as well. I urge my colleagues to consider this legislation. We must engage in a discussion that will lead to positive changes in multi-employer pension plans now.

By Mr. CHAMBLISS:

S. 1493. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Fair Tax Act of 2003. This bill will promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax.

The Fair Tax, commonly referred to as a national sales tax, is a necessary piece of tax reform that, should it pass, upon its inception would uproot our current unjust progressive tax code and replace it with a simpler, fairer one.

I believe our antiquated tax code, that was implemented in 1913, and has since been modified numerous times, is overly complicated and desperately in need of an overhaul. We are well beyond rectifying the unfairness in our current system by tinkering around the edges. All Americans are in dire need of unbiased sweeping tax reform—and the fair tax is just that.

The Fair Tax Act of 2003 would repeal the individual income tax, the corporate tax, capital gains taxes, all payroll taxes, the self-employment tax and the estate and gift taxes in lieu of a 23 percent tax on the final sale of all goods and services. The eradication of these taxes will not only bring about equality within our tax system, it will also bring about simplicity.

This bill will also provide for tax relief for business-to-business transactions. These transactions, including used product transactions which have already been taxed, are not subject to the sales tax, thereby abrogating any double taxation.

Social Security and Medicare benefits would remain untouched under the Fair Tax bill. There would be no financial reductions to either one of these vital programs. Instead, the source of the trust fund revenue for these two programs would be replaced simply by a sales tax revenue instead of a payroll tax revenue.

And lastly, under this bill, every American would receive a monthly rebate check equal to spending up to the Federal poverty level according to the Department of Health and Human Services guidelines. This rebate would ensure that no American pays taxes on the purchase of necessities.

The Fair Tax creates a fairer, simpler code that allows every American the freedom to determine his or her own priorities and opportunities.

Ronald Reagan once said, "I believe we really can, however, say that God did give mankind virtually unlimited gifts to invent, produce and create. And for that reason alone, it would be wrong for governments to devise a tax structure or economic system that suppresses and denies those gifts."

I couldn't agree more.

And as long as we continue to operate under our current skewed tax code, we will continue to suppress and deny these unlimited gifts to the American people who would otherwise thrive boundlessly under the Fair Tax.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1494. A bill to amend the Internal Revenue Code of 1986 to extend the special 5-year carryback of certain net operating losses to losses for 2003, 2004, and 2005; to the Committee on Finance.

Mr. BUNNING. Mr. President, today, Senator CONRAD and I are introducing legislation that would greatly benefit our domestic economy. Our legislation would increase the cash flow of many struggling American companies, thus helping them hire and retain workers and fund capital investments.

The legislation involves the "net operating loss" ("NOL") rules under the Internal Revenue Code. The NOL carryback and carryover rules are designed to allow taxpayers to smooth out swings in business income that result from business cycle fluctuations and unexpected financial losses.

Last year's economic stimulus bill, the "Job Creation and Worker Assistance Act of 2002," allowed NOLs arising in 2001 and 2002 to be carried back five years, rather than two years, as otherwise would be provided under the tax law. The 2002 Act also removed a limitation that the corporate alternative minimum tax ("AMT") unfairly places on these carrybacks. The 2002 Act thus gave taxpayers in many sectors of the economy an enhanced ability to increase their cash flow through refunds of income taxes paid in prior years.

Unfortunately, the same uncertain economic conditions that led to the enactment of last year's stimulus bill have continued. Many taxpayers are continuing to incur unexpected financial losses in 2003.

The legislation that we are introducing today would simply extend the 2002 Act's NOL carryback rules to cover NOLs arising in 2003 and to NOLs that may arise in 2004 and 2005.

I urge my colleagues to support this important legislation, which would give much needed relief to U.S. employers and would provide an additional jump start to our economy.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce legislation with my colleague, Senator CONRAD, which will allow affiliated life and non-life insurance companies to file consolidated tax returns. The rules currently on the books do not allow such consolidation, for reasons that are outdated and no longer applicable.

In general, consolidated return provisions under current law were enacted so that the members of an affiliated group of corporations could file a single tax return. The right to file a "consolidated" return is generally available irrespective of the nature or variety of the businesses conducted by the affiliated corporations. The purpose behind consolidated returns is simply to tax a complete business entity rather than its component parts individually. Whether an enterprise's businesses are operated as divisions within one corporation or as subsidiary corporations with a common parent company, a business entity should generally be taxed as a single entity and be allowed to file its return accordingly.

Corporate groups that include life insurance companies, however, are denied the ability to file a single consolidated return until they have been affiliated for a least five years. Even after this five-year period, they are subject to two additional limitations that do not apply to any other type of group: first, non-life insurance companies must be members of the affiliated group for five years before their losses may be used to offset life insurance company income, and second, non-life insurance affiliated losses, including current year losses and any carryover losses, that may offset life insurance company taxable income are limited to the lesser of 35 percent of life insurance company's taxable income or 35 percent of the non-life insurance company's losses.

There are no sound reasons to deny affiliated groups that include life insurance companies the same unrestricted ability to file consolidated returns that is available to other financial intermediaries, and corporations in general. Allowing the members of an affiliated group of corporations to file a consolidated return prevents the business enterprise's structure from obscuring the fact that the true gain or loss of the business enterprise is the aggregate of each of the members of the affiliated group. The limitations contained in present law are so clearly without policy justification that they should be repealed.

Our legislation will repeal the two five-year limitations for taxable years beginning after this year, and it will phase out the 35 percent limitation over seven years. The staff of the Joint Committee on Taxation has recommended repeal of two of the three limitations addressed by my bill—on the grounds of needless complexity. The third limitation is, in effect, merely a minimum tax on life insurance company income. That limitation should have been repealed when the alternative minimum tax was enacted, and certainly has no place in the tax laws today.

We hope our colleagues will join us as cosponsors of this bipartisan, much-needed legislation.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. HARKIN):

S. 1496. A bill to provide for the expansion and coordination of activities of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to research and programs on cancer survivorship, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, today I would like to pay tribute to a great Texan and a great American, Lance Armstrong. Last weekend, Lance sailed to his fifth consecutive victory in the Tour de France. On the heels of his stunning victory, I am pleased to introduce the Cancer Survivorship Research and Quality of Life Act of 2003.

To some, Lance's victories might begin to seem routine, winning year after year after year. But when you dig beneath the surface, past the hype and drama of the Tour de France, you find that there's nothing routine about Lance Armstrong.

By now, nearly everyone knows that Lance is a cancer survivor. It has become common knowledge, not because Lance uses it as an excuse or to seek sympathy. We know it because Lance has used his megaphone as a sports hero to raise awareness of cancer research and survivorship. He has dedicated himself to helping others and turning his personal devastation into a legacy of hope for those afflicted with cancer. When he was diagnosed, he was given a 40 percent chance of living. His survival and amazing comeback have proved that cancer is not a death sentence.

Sixty-two percent of adults and 77 percent of children diagnosed with cancer this year will be alive 5 years from now. There are more than 9 million cancer survivors living today. These numbers are improving because of advances in detection and early diagnosis, effective treatments, and healthier lifestyles by survivors and those at risk.

We must continue our commitment to research so fewer people will experience cancer.

The bill I am introducing today expands cancer research by authorizing the Office of Cancer Survivorship within the National Cancer Institutes to study the long- and short-term physical, psychological, social and economic effects of cancer. Research has shown that cancer survivors are often susceptible to other diseases. Expanding on this research will allow scientists and physicians to improve patients' quality of life and help prevent other diseases and disabilities.

Additionally, the bill expands the Centers for Disease Control programs to improve cancer survivorship. For example, the CDC will track the status of survivors to identify what health risks they face and the successful course of treatment they have utilized. Other programs will demonstrate how to prevent and control cancer, especially in medically underserved populations.

This legislation has the support of CDC and NCI. It also has the support of Lance Armstrong.

I have been privileged to meet with Lance on several occasions. He has never boasted of his athletic feats or touted his ability to master the world's toughest bicycle race. He speaks with passion of the Lance Armstrong Foundation and the work it does on behalf of cancer survivors and their families. When he mounts his bike each summer it is a symbol of hope for cancer survivors the world over.

This year's Tour de France was no exception. Many predicted Lance's defeat and he had to overcome illness, fatigue and crashes to reach the finish line. But he never gave up. The trademark dedication and perseverance that characterize him as an athlete and a survivor kicked in once again. He pedaled to victory over the course of 3 weeks, more than 2,100 miles and 84 hours of cycling, winning with a lead of 1 minute and 1 second.

It was truly a stunning end to a remarkable race.

The record-tying fifth consecutive win places Lance among cycling's elite. Only four others can claim five-time winner of the Tour de France among their accolades. Only one other man has won it consecutively. If Lance wins the yellow jersey next year, it would be a world record. But whether he breaks the record or not, he is a hero to all of us.

I ask my colleagues to join me in congratulating Lance Armstrong on a great victory and signing on as cosponsors to this important legislation to help carry his message of survivorship to the Nation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cancer Survivorship Research and Quality of Life Act of 2003".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) There are more than 9,600,000 individuals in the United States today who are cancer survivors (living with, through, and beyond cancer).

(2) 61 percent of cancer survivors are 65 years of age and older.

(3) 62 percent of adults diagnosed with cancer today will be alive 5 years from now.

(4) In 1960, 4 percent of children with cancer survived more than 5 years.

(5) 77 percent of children (age 0 through 14) diagnosed with cancer today will be living five years from now.

(6) Three out of every four American families will have at least one family member diagnosed with cancer.

(7) 24 percent of adults with cancer are parents who have a child 18 years or younger living in the home.

(8) One of every four deaths in the United States is from cancer. In 2002, 556,500 Americans will die of cancer—more than 1,500 people a day.

(9) The annual cost of cancer in the United States is $180,000,000,000 in direct and indirect costs.

(10) In fiscal year 2001 the National Institutes of Health invested $38,000,000 in survivorship—less than $4.25 per survivor.

SEC. 3. CANCER CONTROL PROGRAMS.

Section 412 of the Public Health Service Act (42 U.S.C. 285a–1) is amended—

(1) in the first sentence, by inserting ", for survivorship," after "treatment of cancer";

(2) in paragraph (1)(B), by striking "cancer patients" and all that follows and inserting the following: "cancer patients, families of cancer patients, and cancer survivors, and"; and

(3) in paragraph (3), by inserting "and concerning cancer survivorship programs," after "control of cancer".

SEC. 4. EXPANSION AND COORDINATION OF ACTIVITIES OF NATIONAL INSTITUTES OF HEALTH WITH RESPECT TO CANCER SURVIVORSHIP RESEARCH.

(a) In General.—

(1) Technical amendment.—Section 3 of Public Law 107–172 (116 Stat. 541) is amended by striking "section 419C" and inserting "section 417C".

(2) New section.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.), as amended pursuant to paragraph (1) of this subsection, is amended by adding at the end the following:

"SEC. 417E. EXPANSION AND COORDINATION OF ACTIVITIES WITH RESPECT TO CANCER SURVIVORSHIP RESEARCH.

"(a) In General.—

"(1) Expansion of activities.—The Director of NIH shall expand and coordinate the activities of the National Institutes of Health with respect to cancer survivorship research.

"(2) Administration of program; collaboration among agencies.—The Director of NIH shall carry out this section acting through the Director of the National Cancer Institute and in collaboration with any other agencies that the Director determines appropriate.

"(b) Office on Survivorship.—

"(1) In general.—The Director of NIH shall establish an Office on Cancer Survivorship within the National Cancer Institute through which the activities under subsection (a)(1) shall be implemented and directed.

"(2) Associate director for cancer survivorship; appointment; function.—There shall be in the National Cancer Institute an Associate Director for Cancer Survivorship to coordinate and promote the programs in the Institute concerning cancer survivorship research. The Associate Director shall be appointed by the Director of the Institute from among individuals who, because of their professional training or experience, are equipped to address the breadth of needs associated with cancer survivorship.".

(b) Funding.—Section 417B of the Public Health Service Act (42 U.S.C. 285a–8) is amended by adding at the end the following:

"(e) Office of Cancer Survivorship.—Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute shall reserve an amount for the Office of Cancer Survivorship under section 417E(b)(1).".

SEC. 5. EXPANSION OF CDC COMPREHENSIVE CANCER PROGRAMS; PROGRAMS TO IMPROVE CANCER SURVIVORSHIP.

(a) In General.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the Director of the Centers for Disease Control and Prevention, shall—

(1) expand and update the National Comprehensive Cancer Control Program;

(2) assist States, territories, tribal organizations, and the District of Columbia in developing and implementing a cancer prevention and control program so that each entity will have an active plan in place and so that States, territories, tribal organizations, and the District of Columbia will conduct activities to prevent and control cancer and so that disparities in specific populations will be addressed;

(3) establish programs that demonstrate how to prevent and control cancer and improve access to and the quality of cancer care among racial and ethnic minority and medically underserved populations with disproportionate incidence of or death from cancer;

(4) promote cancer education, prevention, and early detection of cancer; and

(5) award grants to public and nonprofit organizations for cancer control and prevention.

(b) Certain Studies and Programs.—

(1) In general.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in collaboration with the Director of the Office of Cancer Survivorship within the National Cancer Institute, shall study the unique health challenges associated with cancer survivorship and carry out projects and interventions to improve the long-term health status of cancer survivors. Such projects shall be carried out directly and through the awards of grants or contracts.

(2) Certain activities.—Activities under paragraph (1) include—

(A) the expansion, in collaboration with the Surveillance, Epidemiology, and End Results Program (SEER) at the National Cancer Institute and with the Agency for Healthcare Research and Quality, of current cancer surveillance systems to track the health status of cancer survivors and determine whether cancer survivors are at-risk for other chronic and disabling conditions;

(B) assess the unique public health challenges associated with cancer survivorship; and

(C) the development and implementation of a national public health cancer survivorship action plan, in partnership with health organizations focused on cancer survivorship, to be carried out in coordination with the State-based comprehensive cancer control program of the Centers for Disease Control and Prevention, in collaboration with the Office of Cancer Survivorship at the National Cancer Institute, and in consultation with other appropriate entities, to support and advance cancer survivorship through—

(i) surveillance and research;

(ii) communication, education, and training;

(iii) program, policies, and infrastructure; and

(iv) access to quality care and services.

(c) Coordination of Activities.—The Secretary shall assure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service.

(d) Report to Congress.—Not later than October 1, 2004, the Secretary shall submit to the Congress a report describing the results of the evaluation under subsection (a), and as applicable, the strategies developed under such subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

SEC. 6. MONITORING AND EVALUATING QUALITY CANCER CARE AND CANCER SURVIVORSHIP.

(a) IN GENERAL.—Part M of title III of the Public Health Service Act (42 U.S.C. 280e et seq.) is amended by inserting after section 399E the following:

"SEC. 399E–1. MONITORING AND EVALUATING QUALITY CANCER CARE AND CANCER SURVIVORSHIP.

"(a) IN GENERAL.—The Secretary shall make grants to eligible entities for the purpose of enabling such entities to monitor and evaluate quality cancer care, develop information concerning quality cancer care, and monitor cancer survivorship. The Secretary shall carry out this section jointly through the Director of the Centers for Disease Control and Prevention and the Director of the National Cancer Institute.

"(b) ELIGIBLE ENTITIES.—For purposes of this section, an entity is an eligible entity for a fiscal year if the entity—

"(1) operates a statewide cancer registry with funds from a grant made under section 399B for such fiscal year;

"(2) is certified by the North American Association of Central Cancer Registries;

"(3) has personnel scientifically qualified to conduct population-based epidemiology or analyze health services or outcomes research; and

"(4) has access to a broad-based clinical research cohort or an established clinical case base.

"(c) CONTRACTING AUTHORITY.—In carrying out the purpose described in subsection (a), an eligible entity may expend a grant under such subsection to enter into contracts with academic institutions, cancer centers, and other entities, when determined appropriate by the Secretary.

"(d) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) AUTHORITY OF SECRETARY REGARDING USE OF GRANT.—The Secretary shall determine the appropriate uses of grants under subsection (a) to achieve the purpose described in such subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.".

(b) CONFORMING AMENDMENT REGARDING AUTHORIZATION OF APPROPRIATIONS.—Section 399F(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) is amended in the first sentence by striking "this part," and inserting "this part (other than section 399E–1),".

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator HUTCHISON, Senator HARKIN and Senator FEINSTEIN in introducing the Cancer Survivorship and Quality of Life Act. It is fitting that we are introducing this important legislation today. Just three days ago, as the world knows, Lance Armstrong, the champion cyclist from Texas, won his 5th consecutive Tour de France. His triumph is an extraordinary achievement in and of itself, and it is even more extraordinary, because just 6 years ago, he was diagnosed with a form of cancer—testicular cancer—that is often curable when detected early, but that in his case had already spread to his abdomen, his lungs, and brain. Twenty-five years ago, he probably would not have survived. But with the treatment and therapy now available and the same fighting spirit that made him a winner yesterday, he won the battle against cancer and became a worldwide symbol of courage and achievement.

His success is also a vivid symbol of the rapid progress being made in the ongoing battle against cancer. Never before have there been such high rates of survival for what used to be an overwhelmingly deadly disease. Cancer research has brought new and more sensitive screening tests and more accurate and less invasive diagnostic procedures. Greater arrays of treatments are available that can cure cancer completely or keep it at bay for many years.

As a result of these medical and technological advances, over half of all adults and over three-quarters of all children diagnosed with cancer today will be living five years from now and often far longer. Experts now refer to many forms of cancer as "chronic diseases" illnesses that never go away, but can be treated in ways enabling patients to focus on living instead of preparing for death.

In the United States today, there are almost 10 million cancer survivors, and 40 percent of them are younger than 65. The financial cost is large. Direct costs for cancer care and the indirect costs to the economy are now estimated at $180 billion dollars per year. But more important than the financial costs are the devastating personal and emotional costs to the patients, their families and loved ones, and their caregivers as well. Almost a quarter of adults with cancer are parents who have a child 18 years old or younger living at home. Nearly 1.3 million people will be diagnosed with cancer this year—3,500 persons each and every day.

The National Cancer Institute and other federal agencies now devote the majority of their funds to diagnosing and treating cancer, and we need to continue strong federal support for these purposes. Greater support is clearly needed to deal with the issues affecting survivors. Many cancer survivors say that equally important is the "non-medical" care that they have received, and that is the purpose of the bill we are introducing today.

The Cancer Survivorship Research and Quality of Life Act creates a Cancer Survivorship Office in the National Institutes of Health and a Cancer Control Center in the Centers for Disease Control and Prevention to develop effective ways to improve the quality of life for patients with cancer and their families. Such efforts include education of patients about their cancer, their options for treatment, and how and when to ask for a second opinion. They also include information about support networks and other services in their community.

Under our bill, the Centers for Disease Control and the National Cancer Institute will work together to expand their data collection to include information about survivors and improvements in the care of individuals newly diagnosed with cancer, such as successful treatments, rehabilitation, and nutritional and exercise programs. Currently, there is no effective way for new information to be widely shared. Patients who are cancer survivors or who have family members or loved ones with cancer understand the importance of this information. We introduce this bill with the full support of the Lance Armstrong Foundation, which has brought the issue of cancer survivorship to our national attention. I urge the Senate to give our legislation the priority it deserves.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 1497. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the "Our Democracy, Our Airwaves Act." This legislation is designed to increase the flow of political information in broadcast media and to reduce the cost to candidates of educating the electorate on their candidacy.

Consistent with broadcasters' obligations to serve the public interest in exchange for being licensed to use the public airwaves, the bill would require broadcast licensees to air a minimum of two hours per week of candidate-centered or issue-centered programming before a primary or general Federal election. This legislation also would establish a program to provide candidates and national committees of political parties vouchers that they may use for political advertisements on radio and television broadcast stations. An annual spectrum use fee paid by broadcasters would fund the voucher system. Finally, the bill would require broadcast television and radio stations to provide candidates and parties with non-preemptible advertising time at the lowest rate provided to any other advertiser.

At a recent Committee hearing I chaired on the public interest obligations of broadcasters, it became apparent that local broadcasters are not adequately covering political campaigns as part of their local newscasts. The hearing examined the results of a study prepared by the Lear Center Local News Archive, which found that over a seven-week period from September 18, 2002 through November 4, 2002, 56 percent of the top-rated half-hour news broadcasts did not contain a single political campaign story. In the 44 percent of broadcasts that did contain campaign coverage, the average campaign story was 89 seconds long. When campaigned stories did air, only 28 percent contained stories where candidates spoke with the average sound bit being 12 seconds long.

This study illustrates the pressures on political candidates to raise money because they are forced to gain the public's attention through the use of costly advertisements. Our democracy is stronger when a candidate's success is achieved by ideas, not by dollars, and when an electorate is informed by facts, not 12-second sound bites. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.1497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Our Democracy, Our Airwaves Act of 2003".

SEC. 2. MEDIA RATES.

(a) LOWEST UNIT CHARGE; NATIONAL COMMITTEES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking "to such office" in paragraph (1) and inserting "to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,"; and

(2) by inserting "for pre-emptible use thereof" after "station" in subparagraph (A) of paragraph (1).

(b) PREEMPTION; AUDITS.—

(1) IN GENERAL.—Section 315 of such Act (47 U.S.C. 315) is amended—

(A) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively and moving them to follow the existing subsection (e);

(B) by redesignating the existing subsection (e) as subsection (c); and

(C) by inserting after subsection (c) the following:

"(d) PREEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding the requirements of subsection (b)(1)(A), a licensee shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

"(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated in the same fashion as a comparable commercial advertising spot.

"(e) AUDITS.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.

(2) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of 2002 is amended by striking "315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and" and inserting "315) is amended by".

(c) STYLISTIC AMENDMENTS.—Section 315 of such Act (47 U.S.C. 315) is amended—

(1) by striking "For purposes of this section—" in subsection (e), as redesignated by subsection (b)(1)(A) of this section, and inserting "DEFINITIONS.—In this section:";

(2) by striking "the" in paragraph (1) of that subsection and inserting "BROADCASTING STATION.—The";

(3) by striking "the" in paragraph (2) of that subsection and inserting "LICENSEE; STATION LICENSEE.—The"; and

(4) by inserting "REGULATIONS.—" in subsection (f), as so redesignated, before "The Commission".

SEC. 3. MINIMUM TIME REQUIREMENTS FOR CANDIDATE-CENTERED OR ISSUE-CENTERED BROADCASTS BY BROADCASTING STATIONS.

(a) IN GENERAL.—

(1) PROGRAM CONTENT REQUIREMENTS.—In the administration of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission may not determine that a broadcasting station has met its obligation to operate in the public interest unless the station demonstrates to the satisfaction of the Commission that—

(A) it broadcast at least 2 hours per week of candidate-centered programming or issue-centered programming during each of the 6 weeks preceding a Federal election, including at least 4 of the weeks immediately preceding a general election; and

(B) not less than 1 hour of such programming was broadcast in each of those weeks during the period beginning at 5:00 p.m. and ending at 11:35 p.m. in the time zone in which the primary broadcast audience for the station is located.

(2) NIGHTOWL BROADCASTS NOT COUNTED.—For purposes of paragraph (1), any candidate-centered programming or issue-centered programming broadcast between midnight and 6:00 a.m. in the time zone in which the primary broadcast audience for the station is located shall not be taken into account.

(3) NONPARTISAN VOTER REGISTRATION AND GET-OUT-THE-VOTE BROADCASTS.—For purposes of paragraph (1), programming that constitutes nonpartisan activity designed to encourage individuals to vote or to register to vote, within the meaning of section 301(9)(B)(ii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)(ii)), is deemed to be issue-centered programming to the extent it does not exceed—

(A) 30 minutes per week for purposes of paragraph (1)(A); and

(B) 15 minutes per week for purposes of paragraph (1)(B).

(b) DEFINITIONS.—In this section:

(1) BROADCASTING STATION.—The term "broadcasting station"—

(A) has the meaning given that term by section 315(e)(1) of the Communications Act of 1934.

(2) CANDIDATE-CENTERED PROGRAMMING.—The term "candidate-centered programming"—

(A) includes debates, interviews, candidate statements, and other program formats that provide for a discussion of issues by the candidate; but

(B) does not include paid political advertisements.

(3) FEDERAL ELECTION.—The term "Federal election" has the meaning given that term in section 315A(g)(2) of the Communications Act of 1934.

(4) ISSUE-CENTERED PROGRAMMING.—The term "issue-centered programming"—

(A) includes debates, interviews, statements, and other program formats that provide for a discussion of any ballot measure which appears on a ballot in a forthcoming election; but

(B) does not include paid political advertisements.

SEC. 4. POLITICAL ADVERTISEMENTS VOUCHER PROGRAM.

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

"SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.

"(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcast stations for political advertisements in accordance with the provisions of this section.

"(b) CANDIDATES.—

"(1) DISBURSEMENT OF VOUCHERS.—Beginning no earlier than January of each even-numbered year after 2003, the Commission shall disburse vouchers at least once each month for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each individual certified by the Federal Election Commission under paragraph (2) as an eligible candidate.

"(2) FEC TO CERTIFY ELIGIBLE CANDIDATES.—The Commission may not disburse vouchers under paragraph (1) to an individual, until the Federal Election Commission has made the following certifications with respect to that individual:

"(A) QUALIFICATION.—The individual is a legally-qualified candidate in a Federal election.

"(B) AGREEMENT.—The individual has agreed in writing—

"(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

"(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the individual violated any term of the agreement.

"(C) HOUSE OF REPRESENTATIVES CANDIDATES.—For candidates for election to the House of Representatives, that—

"(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual;

"(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $125,000; and

"(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

"(D) Senate candidates.—For candidates for election to the Senate, that—

"(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual, multiplied by the number of Representatives from the State in which the individual seeks election;

"(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the Senate in excess of, in the aggregate, $500,000; and

"(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 multiplied by the number of Representatives from the State in which the individual seeks election or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

"(E) Presidential candidates.—For candidates for nomination for election, or election, to the Office of President—

"(i) the term 'Federal election' includes a primary election (as defined in section 9032(7) of the Internal Revenue Code of 1986 (26 U.S.C. 9032(7))); and

"(ii) in order to be eligible to receive vouchers under this section, the candidate shall—

"(I) execute the agreement described in subparagraph (B); and

"(II) certify in writing under penalty of perjury that the candidate has qualified to receive payments under section 9006 or 9037 of the Internal Revenue Code of 1986.

"(3) Certification process.—In carrying out its duties under paragraph (2), the Federal Election Commission shall—

"(A) provide the requested certification, if the individual meets the requirements for certification, within 7 days after it receives the information necessary therefor; and

"(B) shall comply with the requirements of chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) and take other appropriate steps to minimize the paperwork burden on candidates seeking certification under this subsection.

"(c) Political parties.—

"(1) Disbursement of vouchers.—In January, 2004, and January of each even-numbered year thereafter, the Commission shall disburse vouchers for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each political party committee certified by the Federal Election Commission under paragraph (2) as an eligible committee.

"(2) FEC to certify eligible committees.—The Commission may not disburse vouchers under paragraph (1) to a political party committee, until the Federal Election Commission has made the following certifications with respect to that committee:

"(A) National party committees.—The committee is the national committee of a political party or the national congressional campaign committee of a political party (as those terms are used in section 323(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i(a)(1))).

"(B) Minor party committees.—In the case of a political party committee that is not described in subparagraph (A), the committee meets the candidate base requirement of subparagraph (C).

"(C) Candidate base.—The committee has candidates—

"(i) for election to the House of Representatives who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in at least 22 districts; or

"(ii) for election to the Senate in at least 5 States who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates.

"(D) Agreement.—The committee agrees in writing—

"(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

"(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the committee violated any term of the agreement.

"(d) Amounts.—

"(1) Calendar year 2004 aggregates.—For calendar year 2004, the Commission shall disburse vouchers in the aggregate amount of not more than $750,000,000, of which—

"(A) not more than $650,000,000 shall be available for disbursement to candidates under subsection (b); and

"(B) not more than $100,000,000 shall be available for disbursement to political parties under subsection (c).

"(2) Per-candidate amount.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the Commission shall disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election equal, in the aggregate, to $3 multiplied by the contributions received by that individual with respect to that election, not counting any amount in excess of $250 received from any individual.

"(B) Maximum.—Except as provided in subparagraph (C), the Commission may not disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election of more than—

"(i) $375,000, for a candidate for election to the House of Representatives; or

"(ii) $375,000 multiplied by the number of Representatives from the State from which the individual seeks election, for a candidate for election to the Senate.

"(C) Special rule for presidential candidates.—The Commission shall disburse vouchers to a candidate for nomination for election, or election, to the Office of President who receives payments under section 9037 or 9006 of the Internal Revenue Code of 1986 (26 U.S.C. 9037 or 9006), respectively, equal to—

"(i) $1 for each dollar received under section 9037 of such Code; and

"(ii) 50 cents for each dollar received under section 9006 of such Code.

"(3) Per-committee amount.—

"(A) In general.—The $100,000,000 available to be disbursed to political parties shall disbursed as follows:

"(i) The Commission shall reserve a percentage, determined by the Commission on the basis of the Commission's good faith estimate of demand by minor party committees, of the amount available for disbursement as provided in subparagraph (B) to political party committees described in subsection (c)(2)(B) that have been or will be certified by the Federal Election Commission as eligible political party committees.

"(ii) The Commission shall disburse the remainder of the amount available for disbursement in equal amounts among political party committees described in subsection (c)(2)(A) that have been or will be certified by the Federal Election Commission as eligible political party committees.

"(B) Minor party committee amount.—From the amount reserved under subparagraph (A)(i), the Commission shall disburse to political party committees described in subsection (c)(2)(B) certified by the Federal Election Commission as eligible political party committees—

"(i) the same amount as the Commission disburses to each political party committee under subparagraph (A)(ii) if the political party with which the political committee is affiliated has—

"(I) candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 218 or more districts; or

"(II) candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 17 or more of the States in which elections for United States Senator are being held; and

"(ii) a percentage of such amount, determined under subparagraph (C), if the political party with which the political committee is affiliated does not qualify for the full amount under clause (i).

"(C) Proportionate amount determination.—The amount the Commission shall disburse to a political party committee described in subparagraph (B)(ii) is a percentage of the amount disbursed to a political party committee under subparagraph (A)(2) equal to the greater of the following percentages:

"(i) A percentage—

"(I) the numerator of which is the number of districts in which the party has candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

"(II) the denominator of which is 435.

"(ii) A percentage—

"(I) the numerator of which is the number of States in which the party has candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

"(II) the denominator of which is 33 (or 34 in any year in which there are 34 Senators for election).

"(e) Inflation Adjustment.—Each dollar amount in this section shall be adjusted for even-numbered years after 2003 in the same manner as the limitations in section 315(b) and (d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(b) and (d)) are adjusted under section 315(c) of that Act (2 U.S.C. 441a(c)), except that, for the purpose of applying section 315(c)—

"(1) '(commencing in 2005)' shall be substituted for '(commencing in 1976)' in paragraph (1) of that section; and

"(2) '2003' shall be substituted for '1974' in paragraph (2)(B) of that section.

"(f) Use.—

"(1) Exclusive use.—Vouchers disbursed by the Commission under this section may be used exclusively for the purpose described in subsection (b) by the candidate or political party committee to which the vouchers were disbursed, except that—

"(A) a candidate may exchange vouchers with a political party under paragraph (2); and

"(B) a political party may use vouchers to purchase broadcast airtime for political advertisements for its candidates in a general election for any Federal, State, or local office if it discloses the value of the voucher used as an expenditure under section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(d)).

"(2) EXCHANGE WITH POLITICAL PARTY COMMITTEE.—

"(A) IN GENERAL.—A individual who receives a voucher under this section may transfer the right to use all or a portion of the value of the voucher to a committee, described in subsection (c)(2)(A), of the political party of which the individual is a candidate in exchange for money in an amount equal to the cash value of the voucher or portion exchanged.

"(B) CONTINUATION OF CANDIDATE OBLIGATIONS.—The transfer of a voucher, in whole or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

"(C) PARTY COMMITTEE OBLIGATIONS.—Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

"(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

"(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

"(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

"(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the committee, and from the committee to the candidate, for purposes of sections 302 and 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 and 434);

"(ii) the committee may, in exchange, provide to the candidate only funds subject to the prohibitions, limitations, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.); and

"(iii) the amount, if identified as a 'voucher exchange' shall not be considered a contribution for the purposes of section 315 of that Act (2 U.S.C. 441a).

"(g) VALUE; ACCEPTANCE; REDEMPTION.—

"(1) VOUCHER.—Each voucher disbursed by the Commission under this section shall have a value in dollars, redeemable upon presentation to the Commission, together with such documentation and other information as the Commission may require, for the purchase of broadcast airtime for political advertisements in accordance with this section.

"(2) ACCEPTANCE.—A broadcasting station shall accept vouchers in payment for the purchase of broadcast airtime for political advertisements in accordance with this section.

"(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (h) to redeem vouchers presented under this subsection.

"(4) EXPIRATION.—

"(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

"(B) EXCEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of the odd-numbered year following the year in which the voucher was issued by the Commission.

"(5) VOUCHER AS EXPENDITURE UNDER FECA.—

"(A) CONGRESSIONAL CAMPAIGNS.—Except as provided in subparagraph (B), for purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), the use of a voucher to purchase broadcast airtime constitutes an expenditure as defined in section 301(9)(A) of that Act (2 U.S.C. 431(9)(A)).

"(B) PRESIDENTIAL CAMPAIGNS.—Notwithstanding any provision of the Federal Election Campaign Act of 1971 or chapter 95 or 96 of the Internal Revenue Code of 1986 to the contrary, the use of a voucher by a candidate for nomination for election, or election, to the Office of President does not constitute an expenditure for purposes of that Act or chapter.

"(h) POLITICAL ADVERTISING VOUCHER ACCOUNT.—

"(1) IN GENERAL.—The Commission shall establish an account to be known as the Political Advertising Voucher Account, which shall be credited with commercial television and radio spectrum use fees assessed under this subsection, together with any amounts repaid or otherwise reimbursed under this section.

"(2) SPECTRUM USE FEE.—

"(A) IN GENERAL.—The Commission shall assess, and collect annually, a spectrum use fee based on a percentage of a broadcasting station's gross revenues in an amount necessary to carry out the provisions of this section.

"(B) LIMITATIONS.—The percentage under subparagraph (A) may not be—

"(i) greater than 1 percent; nor

"(ii) less than .05 percent.

"(C) AVAILABILITY.—Any amount assessed and collected under this paragraph shall be retained by the Commission as an offsetting collection for the purposes of making disbursements under this section, except that—

"(i) the salaries and expenses account of the Commission shall be credited with such sums as are necessary from those amounts for the costs of developing and implementing the program established by this section; and

"(ii) the Commission may reimburse the Federal Election Commission for any expenses incurred by the Commission under this section.

"(D) FEE DOES NOT APPLY TO PUBLIC BROADCASTING STATIONS.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

"(3) ADMINISTRATIVE PROVISIONS.—Except as otherwise provided in this subsection, section 9 of this Act applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

"(i) DEFINITIONS.—In this section:

"(1) BROADCASTING STATION.—The term 'broadcasting station' has the meaning given that term by section 315(e)(1) of this Act.

"(2) FEDERAL ELECTION.—The term 'Federal election' means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

"(3) FEDERAL OFFICE.—The term 'Federal office' has the meaning given that term by section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

"(4) LEGALLY-QUALIFIED CANDIDATE.—The term 'legally-qualified candidate' means a legally qualified candidate within the meaning of section 315 of this Act.

"(5) POLITICAL PARTY.—The term 'political party' means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

"(6) OTHER TERMS.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by section 301 of that Act.

"(j) REGULATIONS.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regulations, the Commission shall consult with the Federal Elections Commission.".

(b) DELAYED EFFECTIVE DATE FOR PRESIDENTIAL CANDIDATES.—The provisions of subsections (b)(2)(E) and (d)(2)(C) of section 315A of the Communications Act of 1934, as added by subsection (a), shall take effect on January 1, 2008.

SEC. 5. FCC TO PRESCRIBE STANDARDIZED FORM FOR REPORTING CANDIDATE CAMPAIGN ADS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a rulemaking proceeding to establish a standardized form to be used by broadcasting stations (as defined in section 315(e)(1) of the Communications Act of 1934; 47 U.S.C. 315(e)(1)) to record and report the purchase of advertising time by or on behalf of a candidate for nomination for election, or for election, to Federal elective office.

(b) CONTENTS.—The form prescribed by the Commission shall require, broadcasting stations to report, at a minimum—

(1) the station call letters and mailing address;

(2) the name and telephone number of the station's sales manager (or individual with responsibility for advertising sales);

(3) the name of the candidate who purchased the advertising time, or on whose behalf the advertising time was purchased, and the Federal elective office for which he or she is a candidate;

(4) the name, mailing address, and telephone number of the person responsible for purchasing broadcast political advertising for the candidate;

(5) notation as to whether the purchase agreement for which the information is being reported is a draft or final version; and

(6) the following information about the advertisement:

(A) The date and time of the broadcast.

(B) The program in which the advertisement was broadcast.

(C) The length of the broadcast airtime.

(c) INTERNET ACCESS.—In its rulemaking, the Commission shall require any broadcasting station reporting under this section that maintains an Internet website to make available a link to reports under this section on that website.

Mr. FEINGOLD. Mr. President, I am pleased to once again join with the Senator from Arizona, Senator McCAIN, in introducing legislation that we believe will significantly improve media coverage of elections and reduce the negative impact that skyrocketing TV advertising costs have on Federal campaigns. And I am very glad that the Senator from Illinois, Senator DURBIN, has again joined us as an original cosponsor of this bill.

Although broadcast advertising is one of the most effective forms of communication in our democracy, it also diminishes the quality of our electoral process in two ways. First, broadcasters often fail to provide adequate coverage to the issues in elections, focusing instead on the horse race, if they cover elections at all. Second, the extraordinarily high cost of advertising time fuels the insatiable need for candidates to spend more and more time fundraising instead of talking with voters. These two problems interact to undermine the great promise that television has for promoting democratic discourse in our country.

It need not be this way. The public owns the airwaves and licenses them to broadcasters. Broadcasters pay nothing for their use of this scarce and very valuable public resource. Their only "payment" is a promise to serve the public interest, a promise that often goes unfulfilled. A study by the Committee for the Study of the American Electorate found that only 18 percent of gubernatorial, senatorial and congressional debates held in 2000 were televised by network TV and an additional 18 percent were covered by PBS or small independent TV stations. More than 63 percent were not televised at all. This is shocking in a democracy that depends on information and open debate.

The bill we introduce today addresses these problems by requiring broadcast stations to devote a reasonable amount of air time to election programming. It would also direct the FCC to create a voucher system in which candidates and parties would receive vouchers they could use for paid radio or TV advertising time, financed by a broadcast spectrum usage fee. Candidates would qualify for vouchers based on a ratio matched to the amount of small dollar donations they raise.

Our proposal would allow candidates to leverage their grassroots fundraising and would provide greater campaign resources to candidates without requiring them to become more beholden to special interests. The proposal would also make air time available to political parties, which could be directed to underfunded candidates and challengers who have a harder and harder time getting their message out under the current system as the costs of advertising continue to rise.

Senator McCAIN and I remain devoted to improving the way our electoral process functions and reducing the impact of big money on our democracy. This bill will advance that cause in a very significant and necessary way. I look forward to working with my colleagues to fine tune this bill and enact it into law. Together we can make campaigns less expensive, and more informative, using the public airwaves as a tool to improve our democracy.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, Ms. LANDRIEU, and Mr. KERRY):

S. 1498. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators COCHRAN, LANDRIEU, and KERRY entitled "The Health Workforce Advisory Commission Act of 2003" is designed to create a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies.

In my own State of New Mexico, over 9 percent of our total workforce is employed in the health sector. The New Mexico work force is not dissimilar to the rest of the Nation, where the total health workforce comprises 10.5 percent of the total U.S. labor force.

By 2020, the total population of New Mexico is projected to grow 32 percent and the population over 65 is projected to grow 80 percent, compared to national growth projections of 18 percent and 53 percent, respectively. But who will care for these burgeoning populations? New Mexico ranks 33rd among States in physicians per capita, and we graduate fewer new physicians per 1,000,000 population than the entire United States.

The problem is not simply one of too few physicians however. New Mexico ranks 7th lowest among the States in per capita employment of Licensed Practical/Vocational Nurses and we have 7 nurse anesthetists per 100,000 population, while the national average is close to 9 per 100,000 population. New Mexico ranks 49th in the Nation in then number of dentists per capita. In fact, while the State's population grew in the 1990s by 12 percent, the number of dentists in New Mexico declined 7 percent in the same time period. Among the 50 States, New Mexico ranks 42nd in the number of pharmacists per 100,000 population.

We are reflection of a crisis occurring in States across the Nation: a critical shortage in multiple areas of the health workforce in the face of a changing population whose health care needs are only going to grow and increase in complexity.

It is estimated that by 2050 the U.S. will need to more than triple its number of long-term care workers; enrollment in nursing education programs has been declining of the last 8 years; vacancy rates for pharmacists in Federal facilities is up to 18 percent and 11 percent in public hospitals. At the same time, the number of practitioners other than physician grew rapidly in the 1990s. How does this growth interact with the simultaneous shortages in other areas? How should the workforce of the future best be structured to meet the rise in baby boomers and how should we prepare for this?

These are the issues that health workforce policies attempt to address. There has been, and continues to be, a significant investment on the part of Federal and State governments in measuring, monitoring, and analyzing the numbers and types of health professionals who are trained and practice in the U.S. but despite such efforts, there remain significant problems in determining the appropriate number, type, and distribution of such personnel needed to provide access to appropriate care for Americans. The underlying problem is that health workforce policies developed by various State and Federal entities tend to be profession or position specific. What is lacking is a perspective on health workforce policies that is both interactive and global in nature. As health care becomes increasingly complex, and as the health needs of the Nation changes, it is imperative to have a means with which the dynamics of a changing health care market and health care workforce can be assessed and addressed.

We are all aware of the critical nursing shortages so many areas face now, the increasing difficulty in recruiting and retaining rural based physicians, the shortages of pharmacists and pharmacy techs, and of skilled laboratory technicians. And there are organizations focused on each of these specific issues; but these issues overlap in the marketplace and impact each other in ways we cannot currently define. It is as if there were a giant health care workforce machine with 500 interacting mechanisms and while there is a specific mechanic for each of these components, there is no mechanic looking at the machine as a whole. The health workforce is more than the sum of its individual parts, and in order to enact effective Federal workforce policies, this must be reflected in the analysis and creation of such policies. HWAC is designed to do that.

For these reasons, we have introduced legislation that will create a new health workforce commission, or HWAC for short. This legislation requires the creation of a national advisory commission to review and make recommendations pertaining to Federal health workforce policies. Specifically, it will: Review federal health workforce policy under the following Acts and their titles: Social Security Act, titles 18 & 19; Public Health Service Act Titles 7 & 8, NIH, DOD, and VA and other pertinent Acts and titles; Analyze and make recommendations to improve the methods used to measure and monitor the U.S. health workforce and the relationship between numbers and mix of such personnel and access to appropriate health care; Review health workforce policies and other factors and their impact on the ability of the health care system to provide optimal medical and health care services; Analyze and make recommendations pertaining to federal incentives, financial, regulatory, and otherwise, and federal programs currently in place to promote the education of an appropriate number and mix of health professionals to provide access to appropriate health care for U.S. citizens; Analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely, equitable, and efficient; Analysis of the role(s) and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the U.S. workforce; Analyze and make recommendations about achieving the appropriate diversity of the U.S. health workforce.

The Commission will be represented by national experts in health workforce issues, the commissioned corps of the Public Health Service, a wide spectrum of health professionals and personnel, and be geographically balanced in its representation. The Commission will work closely with other state and Federal advisory panels that deal with professional or work specific issues of health workforce policy. Membership in the Commission will be chosen by the Comptroller General, with representation from a diverse group of fields in health care, including members who are recognized for their policy expertise in health workforce measurement, monitoring, and analysis, health services, economic and other workforce related research and technology assessments. At least 25 percent of the members are to be health care providers from rural areas, in order to ensure a geographic balance in representation. Through the creation of HWAC, a nodal focus of information gathering, sharing, analysis, and implementation of the knowledge created about the dynamics of the U.S. health workforce will be put into place.

This legislation was created with significant input and assistance from a variety of national organizations representing a cross section of the spectrum of the U.S. health workforce. Organizations that have expressed support for this bill include: American College of Physicians—American Society of Internal Medicine, the American Clinical Laboratory Association, the National Organization of Nurse Practitioner Faculties, the American Society of Health-System Pharmacists, the American Chiropractic Association, the National Rural Health Association, the Commissioned Officers Association of the USPHS, and the Therapeutic Communities of America.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Workforce Advisory Commission Act of 2003".

SEC. 2. HEALTH WORKFORCE ADVISORY COMMISSION.

(a) Establishment.—The Comptroller General shall establish a commission to be known as the Health Workforce Advisory Commission (referred to in this Act as the "Commission").

(b) Membership.—

(1) In general.—The Commission shall be composed of 18 members to be appointed by the Comptroller General not later than 90 days after the date of enactment of this Act.

(2) Qualifications.—In appointing members to the Commission under paragraph (1), the Comptroller General shall ensure that—

(A) the Commission includes individuals with national recognition for their expertise in health care workforce issues, including workforce forecasting, undergraduate and graduate training, economics, health care and health care systems financing, public health policy, and other fields;

(B) the members are geographically representative of the United States and maintain a balance between urban and rural representatives;

(C) the members includes a representative from the commissioned corps of the Public Health Service:

(D) the members represent the spectrum of professions in the current and future healthcare workforce, including physicians, nurses, and other health professionals and personnel, and are skilled in the conduct and interpretation of health workforce measurement, monitoring and analysis, health services, economic, and other workforce related research and technology assessment;

(E) at least 25 percent of the members who are health care providers are from rural areas; and

(F) a majority of the members are individuals who are not currently primarily involved in the provision or management of health professions education and training programs.

(3) Terms and vacancies.—

(A) Terms.—The term of service of the members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for members initially appointed under paragraph (1).

(B) Vacancies.—Any member who is appointed to fill a vacancy on the Commission that occurs before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(4) Chairperson.—

(A) Designation.—The Comptroller General shall designate a member of the Commission, at the time of the appointment of such member—

(i) to serve as the Chairperson of the Commission; and

(ii) to serve as the Vice Chairperson of the Commission.

(B) Term.—A member shall serve as the Chairperson or Vice Chairperson of the Commission under subparagraph (A) for the term of such member.

(C) Vacancy.—In the case of a vacancy in the Chairpersonship or Vice Chairpersonship, the Comptroller General shall designate another member to serve for the remainder of the vacant member's term.

(c) Duties.—The Commission shall—

(1) review the health workforce policies implemented—

(A) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395, 1396 et seq.);

(B) under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292, 296 et seq.);

(C) by the National Institutes of Health;

(D) by the Department of Health and Human Services;

(E) by the Department of Veterans Affairs; and

(F) by other departments and agencies as appropriate;

(2) analyze and make recommendations to improve the methods used to measure and monitor the health workforce and the relationship between the number and make up of such personnel and the access of individuals to appropriate health care;

(3) review the impact of health workforce policies and other factors on the ability of the health care system to provide optimal medical and health care services;

(4) analyze and make recommendations pertaining to Federal incentives (financial, regulatory, and otherwise) and Federal programs that are in place to promote the education of an appropriate number and mix of health professionals to provide access to appropriate health care in the United States;

(5) analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely equitable, and efficient;

(6) analyze the role and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the United States health workforce;

(7) analyze and make recommendations about achieving appropriate diversity in the United States health workforce;

(8) conduct public meetings to discuss health workforce policy issues and help formulate recommendations for Congress and the Secretary of Health and Human Services;

(9) in the course of meetings conducted under paragraph (8), consider the results of staff research, presentations by policy experts, and comments from interested parties;

(10) make recommendations to Congress concerning health workforce policy issues;

(11) not later than April 15, 2004, and each April 15 thereafter, submit a report to Congress containing the results of the reviews conducted under this subsection and the recommendations developed under this subsection;

(12) periodically, as determined appropriate by the Commission, submit reports to Congress concerning specific issues that the Commission determines are of high importance; and

(13) carry out any other activities determined appropriate by the Secretary of Health and Human Services.

(d) Ongoing Duties Concerning Reports and Reviews.—

(1) Commenting on reports.—

(A) Submission to commission.—The Secretary of Health and Human Services shall transmit to the Commission a copy of each report that is submitted by the Secretary to Congress if such report is required by law and relates to health workforce policy.

(B) Review.—The Commission shall review a report transmitted under subparagraph (A) and, not later than 6 months after the date on which the report is transmitted, submit to the appropriate committees of Congress written comments concerning such report. Such comments may include such recommendations as the Commission determines appropriate.

(2) Agenda and additional reviews.—

(A) In general.—The Commission shall consult periodically with the chairman and ranking members of the appropriate committees of Congress concerning the agenda and progress of the Commission.

(B) Additional reviews.—The Commission may from time to time conduct additional reviews and submit additional reports to the appropriate committees of Congress on topics relating to Federal health workforce-related programs and as may be requested by the chairman and ranking members of such committees.

(3) Availability of reports.—The Commission shall transmit to the Secretary of Health and Human Services a copy of each report submitted by the Commission under this section and shall make such reports available to the public.

(e) Powers of the Commission.—

(1) General powers.—Subject to such review as the Comptroller General determines to be necessary to ensure the efficient administration of the Commission, the Commission may—

(A) employ and fix the compensation of the Executive Director and such other personnel as may be necessary to carry out its duties;

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements as may be necessary for the conduct of the work of the Commission.

(D) make advance, progress, and other payments that relate to the work of the Commission;

(E) provide transportation and subsistence for personnel who are serving without compensation; and

(F) prescribe such rules and regulations at the Commission determined necessary with respect to the internal organization and operation of the Commission.

(2) Information.—To carry out its duties under this section, the Commission—

(A) shall have unrestricted access to all deliberations, records, and nonproprietary data maintained by the General Accounting Office;

(B) may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under this section, on a schedule that is agreed upon between the Chairperson and the head of the department or agency involved;

(C) shall utilize existing information (published and unpublished) collected and assessed either by the staff of the Commission or under other arrangements;

(D) may conduct, or award grants or contracts for the conduct of, original research and experimentation where information available under subparagraphs (A) and (B) is inadequate;

(E) may adopt procedures to permit any interested party to submit information to be used by the Commission in making reports and recommendations under this section; and

(F) may carry out other activities determined appropriate by the Commission.

(f) Administrative Provisions.—

(1) Compensation.—While serving on the business of the Commission a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for under level IV of the Executive Schedule under title 5, United States Code.

(2) Meetings.—The Commission shall meet at the call of the Chairperson.

(3) Executive director and staff.—The Comptroller General shall appoint an individual to serve as the interim Executive Director of the Commission until the members of the Commission are able to select a permanent Executive Director under subsection (e)(1)(A).

(4) Ethical disclosure.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

(5) Audits.—The Commission shall be subject to periodic audit by the Comptroller General.

(g) Funding.—

(1) Requests.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits such requests. Amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

(2) Authorization of appropriations.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year, of which—

(A) 80 percent of such appropriated amount shall be made available from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i); and

(B) 20 percent of such appropriation shall be made available for amounts appropriated to carry out title XIX of such Act (42 U.S.C. 1396 et seq.).

(h) Definition.—In this Act, the term "appropriate committees of Congress" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

By Mr. LEAHY:

S. 1499. A bill to adjust the boundaries of Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, today I am introducing a bill to expand the boundaries of the Green Mountain National Forest. This will allow for the inclusion of lands that have already been purchased using Land and Water Conservation Fund dollars to be brought into the boundaries of the national forest providing them full statutory protection. The Forest Service supports this administrative action and has been extremely helpful in providing the information needed for this legislation.

It is with pride that I can say that since I came to Congress in 1975 and began to seek funding for land acquisition in 1977 we Vermonters have seen the Green Mountain National Forest expand from approximately 264,100 acres to over 387,500 acres in size. This 123,400 acre expansion will provide unmeasured opportunities for the American public.

While there is much debate over the future management of our Nation's national forests today, this should not diminish their importance. In Vermont, where approximately five percent of land base is in federal ownership, these lands are treasured for the opportunities they provide not only to Vermonters, but to all who enjoy the Green Mountain National Forest. This includes recreational activities from camping, hiking, mountain biking, and skiiing to job opportunities provided through timber management activities, the ski industry, and other support services, as well as for their intrinsic value by providing that certain lands are set aside for in their natural state through wilderness protection and other special designations.

I am concerned that some will argue that we need to reduce our land acquisition dollars and to better manage what we already have. I do not dispute the need for better management, but I wholeheartedly disagree with reducing our land acquisition efforts. At one time this Nation believed that our boundaries were limitless. Today we realize that land is a finite resource and as more is acquired for development less will available for the American public to acquire for Federal ownership. There will come a time when the only land one can freely access, thereby avoiding the "No Trespassing" signs, will be our Federal, State, and county lands. Visionaries see what tomorrow will bring and prepare for that today—those who are still building upon our public land base have that vision.

At the turn of the century, the 20th century that is, there existed that vision, between then Chief of the Forest Service Gifford Pinchot and President Theodore Roosevelt who together expanded the boundaries of the national forests immensely. We continue to need that vision, as seen by the efforts by those on the Green Mountain National Forest, in continuing to fund land acquisition into the future.

This need, for providing the American public with unfettered access to open lands, is of significant importance to those who live east of the Mississippi; where more than 50 percent of the American public are within three hours of their national forests, but only have access to approximately one-quarter of the national forest land. I hope that my colleagues will join me in supporting this bill and continue to carry that vision on the future to build upon our national forest system as we start the 21st century.

By Mr. McCAIN (by request):

S. 1501. A bill to amend title 49, United States code, to provide for stable, productive, and efficient passenger rail service in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, today, by request, I am introducing the Passenger Rail Investment Reform Act, the Administration's long-awaited legislative proposal for restructuring Amtrak and the intercity passenger rail program. In doing so, I want to express my appreciation to Transportation Secretary Mineta and departing Deputy Secretary Michael Jackson for meeting their commitment to me in April to deliver the Administration's proposal before the August recess. I also want to credit the work of the Amtrak Reform Council, the basis for several elements of the Administration's plan.

Amtrak began operation in 1971 as a for-profit corporation and was to be free of all Federal support by 1973. Throughout its history, including between 1997 and 2001, Amtrak led Congress to believe that profitability, or at least operational self-sufficiency was achievable. But 32 years after its establishment, Amtrak is running annual deficits exceeding $1 billion; has run up a debt of nearly $5 billion; continues to operate trains that lose over $400 per passenger; and yet still has less than 1 percent of the intercity travel market. Clearly, reform is needed.

I hope the legislation I am introducing today will serve as the basis for developing a consensus about the future of Amtrak and intercity rail passenger service. Even Amtrak supporters should admit that without significant restructuring, the passenger rail program cannot be entrusted with billions of dollars of additional financial support from the taxpayers, as some are proposing, particularly financing outside of the annual appropriations process, which at least gives Congress the ability to adjust Amtrak's funding based on its performance and use of taxpayer dollars. Nor, in my view, should high-speed rail projects go forward until the Amtrak problem is solved.

My priority is to establish a network of train service that makes economic sense, minimizes subsidies at all levels of government, and provides fair and open competition for Amtrak. The Administration's proposal is a good start. Federal support for intercity passenger rail service would be modeled after the existing transit program and consist of capital funding matched by the States and managed through a "full funding grant agreement" process. States, rather than the Federal Government, would be responsible for funding operating losses after a transition period.

Following the recommendation of the Amtrak Reform Council, the legislation would divide Amtrak into an operating company which would operate train services, and an infrastructure company which would maintain the Northeast Corridor (NEC). After a transition period, the services provided by both companies would be subject to competition through competitive bidding. The NEC would be restored to a state of good repair, and leased to and managed by an interstate compact. Amtrak would not be privatized but would have to compete with companies in the private sector, ensuring a lower-cost solution for the taxpayers.

I intend to hold a hearing on the Administration's bill and the bill being introduced today by Senator HUTCHISON, the Chairman of the Subcommittee on Surface Transportation and Merchant Marine. If a consensus can be reached on a responsible proposal to fund and reform Amtrak and provide for an improved rail passenger program, the Committee will mark up legislation in the fall.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Passenger Rail Investment Reform Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes: Definitions.

TITLE I—NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING

Sec. 101. Board of directors of Amtrak.
Sec. 102. Passenger rail service restructuring.
Sec. 103. Northeast Corridor Compact.
Sec. 104. Assistance to address capital needs.
Sec. 105. Employee transition assistance; authorization.
Sec. 106. Limit on operating assistance for long-distance routes.
Sec. 107. Definitions.
Sec. 108. Repeal of obsolete and executed provisions of law; other.

TITLE II—FINANCIAL REFORM

Sec. 201. Limitations on availability of grants.
Sec. 202. Spending plans for capital backlog reduction.
Sec. 203. Redemption of common stock.
Sec. 204. Retirement of preferred stock; transfer of assets.
Sec. 205. Real estate and asset sales.
Sec. 206. Management and transfer of secured debt.
Sec. 207. Transition assistance.

TITLE III—GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE

Sec. 301. Capital assistance for intercity passenger rail service.
Sec. 302. Final regulations on applications by States for corridor development grants.
Sec. 303. Authority for interstate compacts for corridor development.

SEC. 2. PURPOSES; DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are to—

(1) preserve an intercity passenger rail service system in the United States that is driven by sound economics;

(2) provide a transition from the existing structure for providing such service to a structure that is more aligned with existing and emerging transportation needs;

(3) develop a system that provides high quality passenger rail service at a reasonable cost;

(4) establish a long-term partnership among the states and the Federal government to support intercity passenger rail service; and

(5) create an effective public-private partnership, after a reasonable transition, to manage the capital assets of the Northeast Corridor.

(b) DEFINITIONS.—In this Act:

(1) YEAR 1.—The term "year 1" means the earlier of—

(A) the fiscal year in which this Act is enacted if the fiscal year began less than 61 days before such date; or

(B) the first fiscal year beginning after the date of enactment of this Act.

(2) YEARS 2, 3, 4, 5, AND 6.—The terms "year 2", "year 3", "year 4", "year 5", and "year 6", mean, respectively, the first, second, third, fourth, and fifth fiscal years following year 1.

TITLE I—NATIONAL PASSENGER RAIL SERVICE RESTRUCTURING

SEC. 101. BOARD OF DIRECTORS OF AMTRAK.

Section 24302 of title 49, United States Code, is amended to read as follows:

"§ 24302. Board of directors

"(a) MEMBERSHIP.—

"(1) IN GENERAL.—Until the board of directors provided for in subsection (f) assumes operational responsibility and control, the board of directors of Amtrak shall be the transition board provided for by this subsection.

"(2) TRANSITION BOARD.—The transition board of directors of Amtrak shall consist of 11 voting members, including—

"(A) the Secretary of Transportation, or an officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary; and

"(B) 10 other members appointed by the President, by and with the advice and consent of the Senate.

"(3) PRESIDENT OF AMTRAK.—The President of Amtrak shall serve as an ex officio, nonvoting, member of the transition board of directors.

"(b) COMPENSATION.—Members of the transition board of directors shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

"(c) TERM OF OFFICE.—Members serving un-expired terms on the date of enactment of the Passenger Rail Investment Reform Act may continue to serve until the earlier of the expiration of their terms or the date on which the restructuring mandated under section 24310 of this title is implemented. Members appointed by the President under subsection (a)(1)(B) shall serve for a term that expires on the date the restructuring mandated in section 24310 of this title is implemented. At the expiration of their terms, members of the Board shall be eligible to serve as members of the boards of successor corporations to Amtrak.

"(d) Quorum.—At any time after the date of enactment of the Passenger Rail Investment Reform Act, a majority of the transition board members who have been lawfully appointed shall constitute a quorum for purposes of conducting board meetings and making all necessary decisions regarding the operations, structure, and business affairs of Amtrak.

"(e) Asset Transition Committee.—

"(1) In general.—The transition board of directors shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

"(2) Powers and duties.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

"(A) the contractual right of access of Amtrak to rail lines of other railroads;

"(B) Amtrak secured debt;

"(C) Northeast Corridor real property and assets; and

"(D) rolling stock.

"(3) Approval required.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit an Amtrak management action with regard to those assets, that is not approved by the asset transition committee.

"(f) Board after Restructuring Completed.—

"(1) In general.—Upon the commencement of operations of the Passenger Rail Service Provider and the Passenger Rail Infrastructure Manager established under section 24310 of this title, the board of directors of Amtrak shall consist of—

"(A) the Secretary of Transportation;

"(B) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

"(C) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

"(2) Transition board directors shifted.—When the board of directors provided for in paragraph (1) takes office, the members of the transition board of directors, with the exception of the Secretary of Transportation, shall—

"(A) cease to serve as appointees of the President to the transition board of directors; and

"(B) become members of the board of directors of the Passenger Rail Service Provider or the Passenger Rail Infrastructure Manager established under section 24310 of this title.".

SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) In General.—Chapter 243 of title 49, United States Code, is amended by inserting after section 24309 the following:

"§ 24310. Amtrak restructuring mandate

"(a) In General.—Within 6 months after year 1 begins, and notwithstanding any other provision of this title, the transition board of directors shall prepare a plan to restructure Amtrak management, personnel, assets, operations, and other activities and relationships to conform to the requirements of this section. The board shall transmit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the House of Representatives and Senate.

"(b) Minimum Requirements.—At a minimum, the restructuring plan shall provide for the following:

"(1) Article of incorporation for 2 new entities.—The filing of appropriate articles of incorporation under State law for 2 business corporations that are entirely independent of Amtrak, 1 of which shall be known as the 'Passenger Rail Service Provider' and the other of which shall be knows as the 'Passenger Rail Infrastructure Manager', and referred to collectively as the 'successor corporations'.

"(2) Trifurcation of amtrak.—The division of Amtrak into 3 functionally independent entities as follows:

"(A) A corporation, hereinafter referred to as 'Amtrak', that shall provide overall supervision of Amtrak restructuring and subsequent management of residual responsibilities, including succeeding to the legal rights of the National Railroad Passenger Corporation, and including specifically Amtrak's legal right of access to other railroads, following transfer of rail operations and infrastructure management to the successor corporations established under paragraph (1).

"(B) A corporation that shall provide passenger rail operating services nationwide, including operation of the reservation centers and ownership and management of existing rolling stock and its maintenance.

"(C) A corporation that shall provide passenger rail infrastructure management.

"(3) Assignment of amtrak personnel.—The assignment of all Amtrak personnel by name to one of the entities specified in paragraph (2), with no loss of pay or benefits, including seniority rights to employment within any entity, except that an employee who elects employment with the corporation described in paragraph (2)(A) shall become an employee of that corporation, with only such rights regarding pay and benefits as the corporation shall determine.

"(4) The division of accounting, finance, budget, assets, and personnel to provide for the operation and funding of each entity independently.

"(5) A transition schedule that provides for completion of the restructuring not later than the last day of year 1.

"(c) Successor Corporations.—

"(1) Consistent with the business corporation law of the State of incorporation of the successor corporations under subsection (b)(1), each of the successor corporations shall be qualified to undertake railroad activities of an operational or infrastructure nature on a contractual basis with Amtrak or any other entity.

"(2) The Passenger Rail Service Provider—

"(A) shall have the exclusive right, until the last day of year 3, to continue to provide the intercity passenger service that is being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of year 1, may operate such passenger rail service only under a contract; and

"(B) shall provide interline reservations services to any other provider of intercity passenger rail services on the same basis and rates as services are provided to the operational entities that provide service within Amtrak on the date of enactment of that Act.

"(3) The Passenger Rail Infrastructure Manager—

"(A) shall have the exclusive right, until the last day of year 6, to continue to provide the dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Passenger Rail Investment Reform Act, but after the last day of year 1, may provide these services only under a contract; and

"(B) shall carry out the multi-year infrastructure plan prepared by Amtrak to the extent that funds are made available.

"(4)(A) The successor corporations are not a department, agency, or instrumentality of the United States Government nor are they Government corporations (as defined in section 103 of title 5).

"(B) Chapter 105 of this title does not apply to the successor corporations, except that—

"(i) laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to chapter 105 apply to the successor corporations; and

"(ii) the employee retirement, annuity, and unemployment systems that apply to a rail carrier providing transportation subject to chapter 105 apply to the corporation described in subsection (b)(2)(A).

"(C) Subsections (c) through (l) of section 24301 of this title shall apply to the successor corporations.

"(5) Subject to further action by the board of directors, the president of Amtrak on the date of enactment of the Passenger Rail Investment Reform Act shall be offered the position of chief executive officer of the Passenger Rail Service Provider.

"(6) The contractual rights of successor corporations to provide services may not be extended beyond the dates set forth in paragraphs (2) and (3), as applicable, without competitive bid.

"(7) The Passenger Rail Service Provider shall provide to the Secretary of Transportation not later than the end of year 2, recommendations on the feasibility, advantages, and disadvantages of separation of the reservation centers into a free-standing entity that can become an element of an intermodal reservations service.

"(8) The corporation described in subsection (b)(2)(A) shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

"(d) Rolling Stock and Shops.—

"(1) With respect to any route on which intercity passenger rail service is provided on the date of enactment of the Passenger Rail Investment Reform Act, the Passenger Rail Service Provider shall make available to any replacement operator the legacy equipment that is associated with the service on the route.

"(2) Such equipment and services shall be made available on such terms as Amtrak determines are fair, reasonable, and in the public interest.

"(e) Freight and Commuter Operations.—

"(1) Amtrak shall ensure that the implementation of the restructuring prescribed in this section gives due consideration to the needs of freight and commuter rail operations that, as of the effective date of the Passenger Rail Investment Reform Act, operate in the Northeast Corridor on Amtrak right of way.

"(2) Notwithstanding paragraph (1), commuter services headquartered in a State or Commonwealth that is not a member of the Northeast Corridor Compact after the last day of year 2, shall pay the fully allocated costs incurred by the successor corporation or any successor entity for access to and use of the Northeast Corridor for such services.

"(3) The right of access by Amtrak to rail lines owned by other carriers is, as of the date of enactment of the Passenger Rail Investment Reform Act, restricted as follows:

"(A) The terms and conditions for operation of an intercity passenger rail route or frequency to be added after that date shall be determined by negotiation and mutual agreement between the host railroad and the operator of the route or frequency sought to be added, with no preferential right of access.

"(B) If not utilized by Amtrak, Amtrak's right of access to any segment of rail line owned by another rail carrier may be assigned to no more than 1 intercity passenger rail operator during the term of the assignment, except by agreement among Amtrak, its assignee, and the owner of the rail line.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by inserting the following after the item relating to section 24309:

"24310. Amtrak restructuring mandate".

SEC. 103. NORTHEAST CORRIDOR COMPACT.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to provide passenger rail service and to conduct related activities in the Northeast Corridor.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the "participating States"); and

(ii) the mayor of the District of Columbia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—

(1) The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(A) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as operator of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation;

(B) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions;

(C) responsibility for Corridor maintenance and improvement;

(D) operation of intercity passenger rail service;

(E) arrangements for operation of freight railroad operations and commuter operations;

(F) assumption of financial responsibility for Northeast Corridor functions;

(G) authority to make use of the Corridor for non-rail purposes; and

(H) participation by the Department of Transportation, as the non-voting representative of the United States.

(2) The compact terms shall, at a minimum, conform to the requirements of subsections (e) through (i) of this section.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than the last day of year 1.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation as an ex officio member participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for its management of rail services in the Northeast Corridor.

(f) EMPLOYEE INTEREST REQUIREMENTS FOR COMPACT.—The employee provisions of the compact shall, at a minimum, provide the following with regard to employees in the Northeast Corridor if the Compact chooses to replace the successor corporations for operation and maintenance of the physical plant or operation of passenger trains, or both:

(1) Payment of any labor protection payments owed and not paid by the successor corporations established under section 24310(b) of title 49, United States Code.

(2) In the case of an employee who is employed by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act and who accepts employment by a successor corporation, a right of first refusal to accept a substantially similar position with the replacement operator when the successor corporation is replaced.

(g) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(h) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(i) ADOPTION OF COMPACT; TURNOVER.—

(1) The participating States and the District of Columbia shall adopt a final compact agreement not later than the last day of year 2, and the Compact shall thereafter assume responsibility for all Northeast Corridor operations from the successor corporations on a date that is not later than 8 months following adoption of the Compact.

(2) In the event that the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation shall assume control of the corporation described in section 24310(b)(2)(A) of title 49, United States Code, and shall make such legislative recommendations as the President judges necessary and expedient to Congress that address the monetary contributions by Northeast Corridor states and the District of Columbia that would be necessary to provide continued intercity passenger rail service in the Northeast Corridor.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the purposes of this section.

SEC. 104. ASSISTANCE TO ADDRESS CAPITAL NEEDS.

(a) In General.—There are authorized to be appropriated to the Secretary of Transportation, for capital expenditures in compliance with capital spending plans developed under section 202 of this Act, including the Secretary's expenses related thereto, the following amounts:

(1) Such sums as may be necessary for year 3.

(2) Such sums as may be necessary for year 4.

(3) Such sums as may be necessary for year 5.

(4) Such sums as may be necessary for year 6.

(b) Obligation Options.—

(1) Subject to paragraph (2), the Secretary may obligate the funds authorized by this section through grants to or cooperative agreements with States, the Passenger Rail Service Provider, the Northeast Corridor Compact or another qualified Compact, or through contracts with private companies.

(2) Funds appropriated under this section shall not be obligated and not be disbursed from the Treasury for the Northeast Corridor Compact until it has been established and is empowered and qualified to enter into contracts for the expenditure of the funds.

(c) Eligibility of Expenditures.—

(1) The Federal share of expenditures for capital improvements under this section may be not more than 100 percent and is solely authorized for the purpose of funding deferred maintenance, safety, and security projects. Expenditures for capacity expansion are not authorized by this section.

(2) Funds appropriated under this section may be obligated for an expenditure only if the Secretary has determined in writing that the expenditure on any railroad infrastructure investments is limited to a route or routes with a useful life of at least 5 years.

SEC. 105. EMPLOYEE TRANSITION ASSISTANCE; AUTHORIZATION.

(a) Provision of Financial Incentives.—To facilitate the restructuring required by this title, the Secretary is authorized to develop a program under which the Secretary may, at the Secretary's discretion, provide grants for financial incentives to be provided to employees of the National Railroad Passenger Corporation who voluntarily terminate their employment with the Corporation or the successor corporations (as such term is used in section 24310(b)(1) of title 49, United States Code) and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation or the successor corporations.

(b) Conditions for Financial Incentives.—As a condition for receiving financial assistance grants under this section, the Corporation or the successor corporations shall certify that—

(1) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(2) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(3) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(c) Amount of Financial Incentives.—The financial incentives authorized under this section may not exceed $50,000 per employee.

(d) Authorization of Appropriations.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to the National Railroad Passenger Corporation or the successor corporations to fund termination-related payments to employees under existing contractual agreements from the first day of year 1 through the last day of year 4.

SEC. 106. LIMIT ON OPERATING ASSISTANCE FOR LONG-DISTANCE ROUTES.

(a) In General.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Limit on operating assistance for long-distance routes

"(a) General Authority.—

"(1) Grant authority.—After the last day of year 1, the Secretary of Transportation may make grants for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of long-distance routes and corridor feeder routes for the operating expenses incurred in operating those routes to provide intercity passenger rail transportation.

"(2) Conditions.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement and documentation of eligible operating losses on a quarterly basis.

"(b) Federal Share of Operating Expenses.—

"(1) In general.—No funds appropriated to carry out this section may be used to fund operating expenses of a long-distance route after the last day of year 1, except as provided in paragraph (2).

"(2) Reimbursable amount for years 2, 3, and 4.—The Secretary may reimburse an operator of a long-distance route or a corridor feeder route for operating expenses on that route that do not exceed the operating losses on that route and are not more than—

"(A) $0.40 per-passenger mile during year 2;

"(B) $0.20 per-passenger mile during year 3; or

"(C) $0.10 per-passenger mile during year 4.

"(3) Termination after year 4.—The Secretary may not reimburse an operator of a long-distance route or a corridor feeder route for operating expenses under this section after year 4.

"(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, including administrative costs.".

(b) Conforming Amendments.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"24316. Limit on operating assistance for long-distance routes".

SEC. 107. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively;

(2) by inserting after paragraph (4) the following:

"(5) 'corridor feeder route' means a portion of a long distance train or route that provides services between regional corridors by connecting to endpoints of the corridors.";

(3) by redesignating paragraphs (7) through (10), as redesignated, as paragraphs (9) through (12), respectively;

(4) by inserting after paragraph (6), as redesignated, the following:

"(7) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act.

"(8) 'long distance train' or 'long distance route' means all or a portion of the following trains or routes operated by the National Railroad Passenger Corporation on the date of enactment of the Passenger Rail Investment Reform Act:

"(A) The Silver Star.

"(B) The Three Rivers.

"(C) The Cardinal.

"(D) The Silver Meteor.

"(E) The Empire Builder.

"(F) The Capitol Limited.

"(G) The California Zephyr.

"(H) The Southwest Chief.

"(I) The City of New Orleans.

"(J) The Texas Eagle.

"(K) The Sunset Limited.

"(L) The Coast Starlight.

"(M) The Lake Shore Limited.

"(N) The Palmetto.

"(O) The Crescent.

"(P) The Pennsylvanian.

"(Q) The Auto Train.; and

(5) by adding at the end the following:

"(13) 'year 1' means the earlier of—

"(A) the fiscal year in which the Passenger Rail Investment Reform Act is enacted if the fiscal year began less than 61 days before such date; or

"(B) the first fiscal year beginning after the date of enactment of that Act.

"(14) 'year 2', 'year 3', 'year 4', 'year 5', and 'year 6', mean, respectively, the first, second, third, fourth, and fifth fiscal years following year 1.".

SEC. 108. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) In General.—Title 49, United States Code, is amended by repeal of the following sections:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) Amendment of Section 24305.—Section 24305 of title 49, United States Code, is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2);

(2) by striking paragraph (4) of subsection (b) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(3) by inserting "With regard to items acquired with funds provided by the Federal Government," before "Amtrak" in subsection (f)(2).

(c) Conforming Amendments.—The chapter analyses for chapters 243, 247, and 249 or title 49, United States Code, are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

(d) Effective Date.—The amendments made by this section shall take effect on the first day of year 1.

TITLE II—FINANCIAL REFORMS

SEC. 201. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) In General.—Chapter 43 of title 49, United States Code, is amended by inserting after section 24313 the following:

“§24314. Transitional limitations on availability of grants

“(a) REQUIREMENTS PRIOR TO RESTRUCTURING.—A grant made to the National Railroad Passenger Corporation under the authority of this part between the first day of year 1, and the establishment and commencement of operations by the successor corporations under section 24310 of this title may only be made subject to the following limitations:

“(1) The Secretary of Transportation shall not disburse funding to cover operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

“(2) Each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

“(3) The Secretary of Transportation and the board of directors of the Corporation shall ensure that, of the amount made available by appropriations for capital and operating assistance to the Corporation in a fiscal year, sufficient sums are reserved to satisfy the contractual obligations of the Corporation to provide commuter and intrastate passenger rail service.

“(4) Not later than December 31 prior to each fiscal year in which grants are made to the Corporation, the Corporation shall transmit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) of this title 49.

“(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

“(6) Each month of each fiscal year in which grants are made to the Corporation, the Corporation shall submit to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

“(7) A grant that is not approved by the Secretary of Transportation and an element of the Corporation's current fiscal year business plan may not be used for operating expenses or capital projects, and may not be obligated or expended unless the Corporation certifies, as part of the grant agreement, that it has complied with and will abide by the following requirements:

“(A) The Corporation's management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report—

“(i) all revenue and expenses associated with rail operations by route; and

“(ii) budgeted and actual expenditures for all capital investments.

“(B) The Corporation's management will provide a monthly performance report to the board of directors, the Secretary of Transportation, and the committees of Congress described in paragraph (6). The Corporation shall also make available to the Secretary the same details and reports on its financial performance that it makes available to Amtrak management, at the same time that it provides those reports and details to Amtrak management.

“(C) The Corporation shall expend funds only for the continuation of existing plants and services. With the exception of expenditures for which it obtains written approval from the Secretary of Transportation, the Corporation will not use of any of its funds for expansion or planning for expansion of rail service, including high speed rail service.

“(D) The Corporation has negotiated with its employees substantial operating cost reductions needed to make its operations competitive with private-sector service providers.

“(b) REQUIREMENTS FOLLOWING RESTRUCTURING.—Any grant made directly to a successor corporation (as such term is used in section 24310(b)(1)) under the authority of this part may only be made subject to the following limitations:

“(1) The Secretary of Transportation shall not disburse funding to cover operating losses on a long-distance train route without first receiving and approving a grant request for that specific train route.

“(2) Each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the Federal support to the Secretary's satisfaction.

“(3) The Secretary shall ensure that, of the amount made available by appropriations for capital and operating assistance in a fiscal year, sufficient sums are reserved to satisfy the successor corporation's contractual obligations, if any, with respect to commuter and intrastate passenger rail service.

“(4) Not later than December 31 prior to each fiscal year in which grants are made, the successor corporations shall each transmit to the Secretary of Transportation a business plan for operating and capital improvements to be funded in the fiscal year.

“(5) The business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

“(6) Each month of each fiscal year in which grants are made, the successor corporations shall each submit to the Secretary a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes.

“(7) A grant that is not approved by the Secretary of Transportation and an element of the Corporation's current fiscal year business plan may not be used for operating expenses or capital projects, and may not be obligated or expended unless the Corporation certifies, as part of the grant agreement, that it has complied with and will abide by the following requirements:

“(A) Management will maintain financial controls and accounting transparency to the satisfaction of the Secretary, including developing or enhancing any existing capacity separately to report—

“(i) all revenue and expenses associated with rail operations by route; and

“(ii) budgeted and actual expenditures for all capital investments.

“(B) Management of each successor corporation shall make available to the Secretary the same details and reports on its financial performance that it makes available internally, at the same time that it provides those reports and details internally.

“(C) Funds will be spent only on existing plants and services.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by inserting after the item relating to section 24313 the following:

“24314. Transitional limitations on availability of grants”.

SEC. 202. SPENDING PLANS FOR CAPITAL BACKLOG REDUCTION.

(a) IN GENERAL.—Within 6 months after year 1 begins, and as a condition of grants to the National Railroad Passenger Corporation between that date and the implementation of the restructuring required under section 24310 of title 49, United States Code, the Corporation shall prepare a capital spending plan that addresses capital needs, consistent with the funding levels authorized to be provided for year 1 and each fiscal year thereafter through year 6, for—

(1) Northeast Corridor capital assets;

(2) capital assets on long-distance routes other than on the Northeast Corridor; and

(3) capital assets on short-distance routes other than the NortheastCorridor.

(b) APPROVAL BY THE SECRETARY AND THE COMPACT.—

(1) IN GENERAL.—The Corporation shall submit the capital spending plan prepared under subsection (a) to the Secretary of Transportation for review and approval. The plan shall be implemented only after approval by the Secretary, and with any modifications specified by the Secretary.

(2) ANNUAL UPDATES.—The plan shall be updated and resubmitted at least annually.

(3) NO PLAN NO GRANT.—After creation of Northeast Corridor Compact, the Secretary may not make a grant to the Compact for capital investments except in accordance with a capital spending plan prepared by the Compact and approved by both the Compact and the Secretary. The same requirements shall apply to grants made to States and other Compacts under this section.

SEC. 203. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all assets and liabilities of the Corporation to be performed by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with criteria and requirements to be determined by the Secretary in the Secretary's discretion and shall be completed within 6 months after year 1 begins.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 204 of this Act, and within 9 months after year 1 begins, the Corporation shall redeem all common stock in the Corporation issued prior to the date of enactment of this Act at the value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of the Corporation.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the Corporation and the owners of its common stock have not completed the redemption of such stock by a date that is within 9 months after year 1 begins, the Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The valuation performed under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311(a)(1) of title 49, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking "Amtrak." in subparagraph (B) and inserting "Amtrak; or"; and

(3) by adding at the end the following:

"(C) necessary to redeem the Corporation's common stock from any holder thereof, including a rail carrier.".

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the Corporation retained under section 204 of this Act for 10 shares of common stock in the Corporation.

(2) The Corporation shall not issue any other common stock without the express written consent of the Secretary.

SEC. 204. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.— Not later than 30 days after the redemption or acquisition of stock under section 203 of this Act, the Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to the following assets:

(1) The portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels and all other improvements owned by Amtrak between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline).

(2) Chicago Union Station and rail-related assets in the Chicago metropolitan area.

(3) All other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—(1) With regard to any assets described in subsection (a) that the Corporation has provided as security or collateral for a debt entered into prior to the date of enactment of this Act, the Corporation shall transfer its underlying legal interest in such asset to the Secretary, but the Corporation shall remain liable for the debt secured by the asset.

(2) The obligation of the National Railroad Passenger Corporation to repay in full any indebtedness to the United States incurred since January 1, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (b), the Secretary shall—

(1) deliver to the Corporation all but 1 share of the preferred stock of the Corporation held by the Secretary and forgive the Corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) Release the Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into an agreement with the Corporation under which the Corporation will exercise on behalf of the Secretary care, custody, and control of the assets to be transferred. The agreement shall identify in detail the specific functions of the Corporation's employees and equipment, and the specific numbers and locations of the employees and equipment associated with each function, that would be needed for continuation of commuter and freight rail service in the event that the Corporation were to cease operation, and identify those actions that would be required to ensure that such functions can be continued on an interim basis to avoid any interruption in commuter or freight rail service on the Northeast Corridor.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(4) All financial consideration determined by the Secretary to be appropriate consideration for the transfer of the assets described in paragraphs (1) through (3) shall be used exclusively to reduce the Corporation's long-term debt that exists on the date of enactment.

SEC. 205. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—The Amtrak board of directors shall undertake and complete not later than the last day of year 3, the disposition of all stations, track, and other facilities outside the Northeast Corridor mainline, including property conveyed to the Secretary of Transportation under section 204 of this Act.

(b) PROCEEDS OF LIQUIDATION.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the liquidation of assets under this section shall—

(1) be credited as an offsetting collection to the account that finances grants for debt and interest payments under section 206 of this Act to the Passenger Rail Service Provider established under section 24310 of title 49, United States Code; and

(2) remain available until expended.

SEC. 206. MANAGEMENT AND TRANSFER OF SECURED DEBT.

(a) NEW DEBT PROHIBITION.—Except as approved by the Secretary of Transportation to refinance existing secured debt, the Corporation shall not enter into any obligation secured by assets of the Corporation after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used by the Corporation or any subsidiary for working capital purposes.

(b) SECURED DEBT TRANSFER.—

(1) Upon establishment of the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, and the transfer of ownership of the existing rolling stock, all debt secured by the rolling stock shall be transferred to and become a liability solely of, the Passenger Rail Service Provider.

(2) Upon establishment of the Northeast Corridor Compact under section 103 of this Act, the secured debt associated with fixed assets in the Northeast Corridor shall be transferred to, and become a liability solely of, the Northeast Corridor Compact.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for grants to the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, to pay principal and interest payments on secured debt existing on the date of enactment of this Act the following amounts:

(A) Such sums as may be necessary in year 2.

(B) Such sums as may be necessary in year 3.

(C) Such sums as may be necessary in year 4.

(D) Such sums as may be necessary in year 5.

(E) Such sums as may be necessary in year 6.

(2) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under paragraph (1) on funding authorized by this section shall not—

(A) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(B) change the private nature of Amtrak's or its successors' liabilities; or

(C) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 207. TRANSITION ASSISTANCE.

(a) YEAR 1 ASSISTANCE.—There are authorized to be appropriated to the Secretary of Transportation for grants to the National Railroad Passenger Corporation for operating and capital expenses such sums as may be necessary in year 1.

(b) YEAR 2 SUCCESSOR CORPORATION OPERATING ASSISTANCE.—There are authorized to be appropriated to the Secretary such sums as may be necessary for grants to—

(1) the Passenger Rail Service Provider established under section 24310 of title 49, United States Code, for operating expenses of all services except long-distance trains and routes in year 2; and

(2) the Passenger Rail Infrastructure Manager established under that section for capital expenses in year 2.

(c) ADMINISTRATIVE EXPENSES OF COMPACTS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of interstate compacts in years 1 through 3.

(d) EXPENSES OF AMTRAK.— There are authorized to be appropriated to the Secretary such sums as may be necessary for grants for the administrative expenses of Amtrak in years 2 through 6.

(e) GRANTS MADE AFTER YEAR 2.—After the last day of year 2, the Secretary may not enter into a grant agreement under this Act, other than section 206(c), or part C of title V of title 49, United States Code, unless each other party to the grant agreement is a State, regional compact, or other public entity.

TITLE III—GRANTS AND OTHER ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE

SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by inserting after chapter 243 the following:

"CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

"Sec.
"24401. Definitions; effective date
"24402. Capital investment grants to support intercity passenger rail service
"24403. Project management oversight
"24404. Use of capital grants to finance first-dollar liability of grant project
"24405. Authorization of appropriations

"§24401. Definitions; effective date.

"(a) DEFINITIONS.—In this chapter:

"(1) APPLICANT.—The term 'applicant' means a State, an Interstate Compact (including the Northeast Corridor Compact as specified in section 103 of the Passenger Rail Investment Reform Act), or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

"(2) CAPITAL PROJECT.—The term 'capital project' means a project within a corridor plan or program for—

"(A) acquiring, constructing, supervising or inspecting equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service; or

"(C) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service.

"(3) INTERCITY PASSENGER RAIL SERVICE.—The term 'intercity passenger rail service' means transportation services with the primary purpose of passenger transportation between towns, cities, and metropolitan areas by rail, including high-speed rail.

"(b) EFFECTIVE DATE.—This chapter is effective on the first day of year 2.

"§24402. Capital investment grants to support intercity passenger rail service

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide intercity passenger rail transportation.

"(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

"(3) LIMITATION.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

"(b) PROJECT AS PART OF APPROVED PROGRAM.—

"(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 5303 of this title and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

"(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

"(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

"(4) RAIL AGREEMENT.—An applicant shall demonstrate that it has agreed with the railroad over which the intercity passenger rail service will operate concerning the applicant's operating and capital plans.

"(c) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

"(1) LETTER OF INTENT.—

"(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

"(D) An obligation or administrative commitment may be made only when amounts are appropriated.

"(2) FULL FUNDING AGREEMENT.—

"(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

"(i) establish the terms of participation by the United States Government in a project under this section;

"(ii) establish the maximum amount of Government financial assistance for the project;

"(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

"(iv) make timely and efficient management of the project easier according to the law of the United States.

"(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(3) EARLY SYSTEMS WORK AGREEMENT.—

"(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

"(i) a full funding grant agreement for the project will be made; and

"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

"(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the amount authorized under section 24405 of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

"(d) Federal Share of Net Project Cost.—

"(1) In general.—

"(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

"(B) A grant for the project shall not exceed the specified percentage of the project net capital cost established for the year the grant is approved, as follows:

"(i) 100 percent in the case of approval for year 2.

"(ii) 80 percent in the case of approval for year 3.

"(iii) 60 percent in the case of approval for year 4.

"(iii) 50 percent in the case of approval for year 5, and thereafter.

"(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower federal share of the project net capital cost.

"(2) Additional funding.—Up to an additional 30 percent of project net capital cost may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

"(e) Undertaking Projects in Advance.—

"(1) In general.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

"(A) the applicant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

"(2) Interest costs.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(3) Use of cost indices.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

"§ 24403. Project management oversight

"(a) Project Management Plan Requirements.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

"(1) adequate recipient staff organization with well-defined reportingrelationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriateconsultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

"(3) a construction schedule for the project;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure that includes a documented, systematicapproach to handling the construction change orders;

"(6) organizational structures, management skills, and staffing levelsrequired throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

"(8) material testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operationalsystem or its major components;

"(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

"(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

"(b) Secretarial Oversight.—

"(1) In general.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

"(2) Use of funds.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

"(3) Federal share.—The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

"(c) Access to Sites and Records.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

"(d) Regulations.— The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

"(1) a definition of 'major capital project' for this section;

"(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

"(3) a deadline by which all grant applications for a fiscal year shall be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

"(4) a formula based on population, track miles of railroad, and passenger miles traveled in the prior fiscal year by which one-half of the funds appropriated for capital grants for each fiscal year are to be allocated among the States;

"(5) a requirement that, if a State does not timely apply for its share of formula grant funds under paragraph (4) of this subsection, those funds will be made available to other States under paragraph (6) of this subsection; and

"(6) criteria by which the Secretary will allocate one-half of the funds appropriated for capital grants for each fiscal year, including at least projected ridership, passenger rail and intermodal connections, congestion and air quality mitigation, underserved communities, and the effect of the grant on whether existing service will continue.

"§ 24404. Use of capital grants to finance first-dollar liability of grant project.

"Notwithstanding the requirements of section 24402 of this title, the Secretary of Transportation may approve the use of capital assistance under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

"§ 24405. Authorization of appropriations.

"There are authorized to be appropriated to the Secretary of Transportation to make capital financial assistance grants under this chapter, including administrative expenses, the following amounts:

"(1) Such sums as may be necessary in year 2.

"(2) Such sums as may be necessary in year 3.

"(3) Such sums as may be necessary in year 4.

"(4) Such sums as may be necessary in year 5.

"(5) Such sums as may be necessary in year 6.".

(b) Conforming Amendments.—

(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

"244. INTERCITY PASSENGER RAIL SERVICE CAPITAL ASSISTANCE .... 24401".

(2) The chapter analysis for subtitle V of title 49, United States Code, is amended by inserting the following after the item relating to chapter 243:

"244. Intercity Passenger Rail Service Capital Assistance .... 24401".

SEC. 302. FINAL REGULATIONS ON APPLICATIONS BY STATES FOR DEVELOPMENT GRANTS.

Not later than June 1 of year 1, the Administrator of the Federal Railroad Administration shall issue final regulations setting forth procedures for application and minimum requirements for the award of grants on and after the first day of year 2, under chapter 244 of title 49, United States Code.

SEC. 303. AUTHORITY FOR INTERSTATE COMPACTS FOR CORRIDOR DEVELOPMENT.

(a) Consent to Compacts—

(1) 2 or more States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) may enter into interstate compacts to implement the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including-

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of rolling stock; and

(iii) operational improvements, including communications, signals, and other systems.

(2) A compact entered into under the authority of this section shall be submitted to Congress for its consent. It is the sense of Congress that rapid consent to the Compact is a priority for the Congress.

(b) Financing.—

(1) An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(2) Bonds and other indebtedness incurred under the authority of this subsection shall under no circumstances be backed by the full faith and credit of the United States.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1502. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1503. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing two bills today with Senator DOMENICI to address a technical problem with H.R. 2854 that potentially causes problems for the State of New Mexico. We continue to believe that New Mexico meets the definition of a "qualifying state" under the legislative language but introduce these two bills to clarify that New Mexico is such a State. I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25, 2003, is amended by inserting before the period ", and includes New Mexico".

S. 1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25, 2003, is amended by inserting "(as determined by rounding to nearest whole percentage)" after "percent" the first place it appears.

By Mrs. HUTCHISON (for herself, Mr. LOTT Mr. BURNS, and Ms. SNOWE):

S. 1505. A bill to establish a National Passenger Rail Office, and for other purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I support Amtrak and believe we can have a viable national passenger rail system. Unfortunately, we are far from realizing that goal. Outside the Northeast Corridor (NEC), trains seldom run on time, and service is abysmal. Lateness is often measured in days, not hours. Several years ago, when the airlines on-time rate fell below 75 percent it was considered a national emergency. At Amtrak, on-time records under 50 percent are business as usual. Rail critics point to low ridership as the reason why we starve the national system. I contend that starvation is the reason for low ridership.

In the Northeast, a passenger can board a train here at Union Station and reasonably expect to be in New York City, about 225 miles away, in less than three hours. If one of my constituents buy a ticket from Austin to Fort Worth, a trip thirty-eight miles shorter than DC to New York, the best he can expect is that it will take four and one-half hours. Of course, the Texas Eagle makes its schedule only 35 percent of the time, so my constituent will likely waste even more time on this short trip. An Austin businessman may prefer not to deal with airport hassles for such a short flight, and he may want to avoid the traffic on I–35, but the train is not a reasonable option if he has a meeting in fort worth at a time certain.

This inequity cannot continue. Either we commit to building a rail transportation alternative for the entire Nation, or we abandon the pretense of Amtrak and turn it over to the States and private companies. Our motto for Amtrak is "National or Nothing!"

Improving service on the national system will require creative thinking and innovative financing. We cannot continue to fund Amtrak just enough to keep it going until the next crisis. That is a road map for failure. Private investment, State participation, and the cooperation of the freight railroads are all essential to achieving service upgrades.

In Texas, most passenger trains are forced to operate at less than thirty miles per hour due to track conditions and freight operations. The national system needs at least $38 billion in capital improvements to allow trains to meet a reasonable schedule. Safety improvements alone will cost $13.8 billion. The Northeast Corridor needs roughly $10 billion to avoid an increased risk of accidents and a systemwide slowdown. Postponing these upgrades and repairs will only make them more expensive.

In the 1950s, President Eisenhower convinced the Nation to pay for the construction of the National Highway System. Fiscal realities have changed since then, and we must find a way to creatively finance the rail infrastructure needs of the nation without draining resources from alternative modes of transportation and other federal priorities. Municipal bonding and private investment are necessary components of any plan to restore and improve rail infrastructure.

Making this investment will not only improve passenger service, but also upgrade freight operations throughout the country. Outside the NEC, freight and passenger trains must run on the same tracks. In exchange for an investment in upgrading those tracks, the freight must agree to allow Amtrak to meet its schedule. I realize the critical role played by freight railroads in the American economy, and I know this industry has seen better days. That is why I urge them to work with us to achieve a mutually beneficial agreement. If we cooperate, freight railroads will enjoy capital improvements they could not otherwise hope to afford, as we secure the future of passenger rail in this country. It can be a win-win situation.

I was deeply disappointed to see Amtrak's proposed 5-year capital plan call for $9.1 billion in Federal funding, with more than $8 billion spent in the Northeast Corridor. The national system must receive more than the crumbs left over after the needs of the NEC have been met.

We will never have a better opportunity to accomplish this goal than right now. That is why I am introducing legislation along with Senators LOTT, BURNS, SNOWE and SMITH to begin to bring the national system up to Northeast Corridor standards. My bill will strengthen the Federal role by creating a National Passenger Rail Office at DOT, responsible for coordinating with States and the railroads to assure the national system receive the improvements necessary to operate an effective inter-city passenger rail system. The legislation authorizes $12 billion for Amtrak in operating assistance. Amtrak will be required to bring the national system up to an 80 percent on-time arrival rate. Once a route has enjoyed reasonable on-time performance, it can be fairly evaluated from a cost-benefit perspective. 80 percent is a modest goal, but it is not going to be easy to attain. If Amtrak is unable to meet performance requirements on a route, that route should be opened for bidding by other operators.

If we fail to enact real change in this reauthorization bill, we may run out of chances to obtain the elusive intermodal transportation system we profess to seek. We must decide whether we want to create a viable national system, or settle for a single rail corridor providing ever-deteriorating service to only one sector of the country. I will not support any proposal that does not put the national system on par with the Northeast Corridor. Today marks a new beginning, or the beginning of the end. It's national or nothing.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Rail Equity Act of 2003".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

TITLE I—NATIONAL PASSENGER RAIL OFFICE

Sec. 101. Establishment of National Passenger Rail Office.

TITLE II—NATIONAL PASSENGER RAIL SYSTEM

SUBTITLE A—NATIONAL PASSENGER RAIL SYSTEM

Sec. 201. National passenger rail system.

SUBTITLE B—HIGH-SPEED CORRIDORS FOR PASSENGER RAIL

Sec. 211. Interstate railroad passenger high-speed transportation policy.
Sec. 212. High-speed rail corridor planning.
Sec. 213. Assistance for establishment of corridors for high-speed rail service.

TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT

SUBTITLE A—RAIL INFRASTRUCTURE FINANCE CORPORATION

Sec. 301. Establishment of corporation.
Sec. 302. Board of directors.
Sec. 303. Officers and employees.
Sec. 304. Nonprofit and nonpolitical nature of the corporation.
Sec. 305. Purpose and activities of corporation.
Sec. 306. Report to Congress.
Sec. 307. Administrative matters.
Sec. 308. Rail infrastructure finance trust.

SUBTITLE B—RAIL DEVELOPMENT GRANT PROGRAM

Sec. 311. National system improvement grant program.
Sec. 312. Grant program requirements and limitations.

SUBTITLE C—RAIL INFRASTRUCTURE TAX CREDIT BONDS

Sec. 321. Credit to holders of qualified rail infrastructure bonds.
Sec. 322. Annual report by Treasury on rail infrastructure trust account.
Sec. 323. Issuance of regulations.
Sec. 324. Effective date.

TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL TRANSPORTATION

Sec. 401. Intermodal transportation policy.
Sec. 402. State rail plans.

TITLE I—NATIONAL PASSENGER RAIL OFFICE

SEC. 101. ESTABLISHMENT OF NATIONAL PASSENGER RAIL OFFICE.

(a) ESTABLISHMENT.—(1) Chapter 1 of title 49, United States Code, is amended by inserting after section 107 the following new section:

"§ 107A. National Passenger Rail Office

"(a) IN GENERAL.—The National Passenger Rail Office is an office in the Department of Transportation.

"(b) HEAD OF OFFICE.—The head of the Office is the Director of the National Passenger Rail Office who is appointed by the President, by and with the advice and consent of the Senate.

"(c) ADMINISTRATIVE MATTERS.—

"(1) ADMINISTRATIVE LOCATION.—The Office is located within the Federal Transit Administration for administrative purposes.

"(2) SUPERVISION.—The Director of the National Passenger Rail Office reports directly to the Administrator of the Federal Transit Administration.

"(d) DUTIES.—The duties of the Office are as follows:

"(1) To carry out the responsibilities of the Office with respect to the national passenger railroad system under chapter 251 of this title, including—

"(A) the allocation of funds to the National Passenger Rail Corporation for the operations of the Corporation under section 25005 of this title;

"(B) the responsibilities for the national passenger railroad system set forth under section 25006 of this title;

"(C) the responsibilities for the national passenger railroad system route map set forth under section 25007 of this title; and

"(D) the quarterly identification of infrastructure improvement projects for the national passenger railroad system under section 25008 of this title.

"(2) To carry out such other responsibilities as may be provided by the Secretary of Transportation or by law.

"(e) FUNDING OF ADMINISTRATIVE EXPENSES.—The amount available under section 25010(c)(1) of this title each fiscal year shall be available for the administrative costs of the Office in such fiscal year.".

(2) The table of section at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

"107A. National Passenger Rail Office.".

(b) RATE OF PAY OF DIRECTOR OF OFFICE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, National Passenger Rail Office.".

TITLE II—NATIONAL PASSENGER RAIL SYSTEM

Subtitle A—National Passenger Rail System

SEC. 201. NATIONAL PASSENGER RAIL SYSTEM.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 251—NATIONAL PASSENGER RAIL SYSTEM

"Sec.
"25001. Purpose.
"25002. National passenger rail system.
"25003. Designation of Amtrak as National Passenger Rail Corporation.
"25004. National Passenger Rail Corporation: responsibility for national passenger rail system; status.
"25005. National Passenger Rail Office: allocation of operating funds to National Passenger Rail Corporation.
"25006. National Passenger Rail Office: responsibility for national passenger rail system.
"25007. National Passenger Rail Office: responsibility for national passenger rail system route map.
"25008. National Passenger Rail Office: identification of rail infrastructure improvement projects for national passenger rail system.
"25009. Rail infrastructure improvements grant program.
"25010. Construction with other law; preservation and allocation of authorities.
"25011. Authorizations.

"§ 25001. Purpose

"The purpose of this chapter is to improve rail passenger service in the United States by—

"(1) redesignating Amtrak as the National Passenger Rail Corporation; and

"(2) reallocating the responsibilities of Amtrak for intercity and commuter rail passenger transportation (and related transportation) among the National Passenger Rail Corporation and the National Rail Passenger Office so that—

"(A) the National Passenger Rail Corporation retains the responsibilities of Amtrak for the provision of such transportation; and

"(B) the National Rail Passenger Office assumes the responsibilities of Amtrak for the equipment and facilities of Amtrak and for the route map of the national passenger rail system.

"§ 25002. National passenger rail system

"(a) IN GENERAL.—The system of intercity rail passenger transportation (and related transportation), known as the national passenger rail system, includes—

"(1) the segment of the Northeast Corridor between Boston, Massachusetts, and Washington, D.C.;

"(2) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors, but only after they have been improved to permit operation of high-speed service;

"(3) long-distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the American Rail Equity Act of 2003; and

"(4) short-distance corridors or routes operated by Amtrak.

"(b) TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.—

"(1) CONTRACTS FOR TRANSPORTATION.—Amtrak and a State, a regional or local authority, or another person may enter into a contract for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

"(2) DISCONTINUANCE.—Upon termination of a contract entered into under this subsection, or the cessation of financial support under such a contract, Amtrak may discontinue such service or route, notwithstanding any other provision of law.

"§ 25003. Designation of Amtrak as National Passenger Rail Corporation

"Effective as of the date of the enactment of the American Rail Equity Act of 2003, the portion of Amtrak that is responsible for the operations relating to intercity rail passenger transportation and commuter rail passenger transportation (and related transportation) specified in section 25004(b) of this title is hereby redesignated as the National Passenger Rail Corporation.

"§25004. National Passenger Rail Corporation: responsibility for national passenger rail system; status

"(a) TERMINATION OF FOR-PROFIT STATUS.—The National Passenger Rail Corporation shall not be required to be operated or managed as a for-profit corporation.

"(b) LIMITATION OF RESPONSIBILITIES TO TRANSPORTATION AND CERTAIN MAINTENANCE FACILITIES.—The Corporation shall have responsibility only for the following:

"(1) Operations relating to the provision of intercity rail passenger transportation.

"(2) Operations relating to the provision of commuter rail passenger transportation.

"(3) Operations relating to the transportation of mail and express.

"(4) Operations relating to auto-ferry transportation.

"(5) Marketing relating to transportation provided under paragraphs (1) through (4).

"(6) Facilities for the maintenance of the rolling stock necessary to provide transportation under paragraphs (1) through (4).

"(c) TRANSFER OF OTHER ASSETS AND RESPONSIBILITIES TO NATIONAL PASSENGER RAIL OFFICE.—The Corporation shall transfer to the National Passenger Rail Office jurisdiction of all equipment and facilities of the Corporation as of the date of the enactment of the American Rail Equity Act of 2003 that are not the responsibility of the Corporation under subsection (b).

"§25005. National Passenger Rail Office: allocation of operating funds to National Passenger Rail Corporation

"(a) IN GENERAL.—The National Passenger Rail Office shall, from amounts available for a fiscal year under section 25010(c)(2)(A) of this title, allocate amounts to the National Passenger Rail Corporation in order to permit the Corporation carry out operations for the provision of transportation under section 25004(b) of this title.

"(b) ALLOCATION ON ROUTE-BY-ROUTE BASIS.—The Office shall allocate amounts to the Corporation under subsection (a) on a route-by-route basis.

"(c) OVERSIGHT OF EXPENDITURES.—The Office shall oversee and review expenditures of amounts allocated to the Corporation under subsection (a) in order to ensure that the Corporation is utilizing amounts so allocated in an appropriate manner.

"§25006. National Passenger Rail Office: responsibility for national passenger rail system

"(a) NORTHEAST CORRIDOR EQUIPMENT AND FACILITIES.—The National Passenger Rail Office shall have responsibility for all equipment and facilities relating to the Northeast Corridor route that are transferred to the Office under section 25003(c) of this title.

"(b) PENNSYLVANIA STATION, NEW YORK.—The Office shall treat Pennsylvania Station, New York, and the electric power generation facilities at Pennsylvania Station for the Northeast Corridor route, as a part of the Northeast Corridor route under subsection (a).

"(c) OTHER EQUIPMENT AND FACILITIES.—

"(1) OPERATION THROUGH LEASE REQUIRED.—The Office shall provide for the operation of any equipment and facilities transferred to the Office under section 25004(c) of this title that are not the responsibility of the Office under subsections (a) and (b) through the lease of such equipment and facilities to 1 or more appropriate persons or entities.

"(2) FULL AND OPEN COMPETITION.—The Office shall identify any lessee of equipment and facilities under paragraph (1) utilizing procedures for full and open competition.

"§25007. National Passenger Rail Office: responsibility for national passenger rail system route map

"(a) IN GENERAL.—The National Passenger Rail Office shall have responsibility for the modification of routes of the National Passenger Rail Corporation.

"(b) FAILURE OF ON-TIME PERFORMANCE.—

"(1) SURVEYS OF ON-TIME PERFORMANCE.—Not later than 12 months after the date of the enactment of this American Rail Equity Act of 2003 and every year thereafter, the Office shall determine for each route of the Corporation whether the Corporation met the on-time performance goal for such route during the most recent performance period.

"(2) CONTINGENT REQUIREMENT TO PRESERVE ROUTES.—The Office may not discontinue a route of the Corporation as in effect on the date of the enactment of that Act unless the Office determines under paragraph (1) in any year that the Corporation did not meet the on-time performance goal for such route in 3 out of the 5 years immediately preceding the year in which the determination is made.

"(3) TRANSPORTATION RIGHTS FOLLOWING FAILURE ON ON-TIME PERFORMANCE.—

"(A) FORFEITURE OF RIGHTS.—If the Office determines (in the determination under paragraph (2) that is required to be completed 5 years after the date of the enactment of the American Rail Equity Act of 2003) that the Corporation did not meet the on-time performance goal for a route of the Corporation during the most recent performance period, the Corporation shall forfeit to the Office the right to provide passenger rail transportation on such route (including the right to use the tracks of such route to provide such transportation).

"(B) LEASE OF FORFEITED RIGHTS.—The Office shall lease to an appropriate person or entity the right to provide passenger rail transportation on a route (including the right to use the tracks of such route to provide such transportation) that is forfeited under subparagraph (A). The Office shall identify any lessee of such right to provide rail passenger transportation on a route utilizing procedures for full and open competition.

"(C) TRANSPORTATION.—A person or entity leasing the right to provide rail passenger transportation on a route under subparagraph (B) shall provide such rail passenger transportation on the route as is specified by the Office in the lease under subparagraph (B). The rail passenger transportation so specified for a route shall be equivalent to the rail passenger transportation scheduled to provided by the Corporation on the route before the forfeiture of the right to provide transportation on the route under subparagraph (A).

"(D) ASSISTANCE.—A person or entity providing rail passenger transportation on a route under subparagraph (B) shall be entitled to such assistance under this part, and under any other provision of law, for the provision of such rail passenger transportation as would otherwise have been provided to the Corporation if the Corporation had provided such rail passenger transportation on such route.

"(E) BONUS.—If the Office determines that a person or entity providing rail passenger transportation on a route under subparagraph (B) has met the on-time performance goal for that route during the most recent performance period, the Office may pay such person or entity a bonus in an amount determined appropriate by the Office.

"(4) FAILURE OF ON-TIME PERFORMANCE BASED ON LACK OF ACCESS.—

"(A) NOTICE.—The Corporation shall notify the Office of each allegation of the Corporation that the failure of the Corporation to meet the on-time performance goal for a route is due to the denial of access to the tracks of the route by the rail carrier owning the route.

"(B) TRANSMITTAL.—Amtrak shall transmit to the Surface Transportation Board each allegation received by the Office under subparagraph (A).

"(C) INVESTIGATION.—The Board shall investigate each allegation transmitted under subparagraph (B).

"(D CIVIL PENALTIES.—If as a result of an investigation under subparagraph (C) the Board verifies an allegation under subparagraph (A), the Board may impose a civil penalty on the rail carrier that is the subject of the allegation in such amount as the Board considers appropriate.

"(5) DEFINITIONS.—In this subsection:

"(A) ON-TIME PERFORMANCE GOAL.—Within 12 months after the date of enactment of the American Rail Equity Act of 2003, the National Rail Office, after consulation with Amtrak, shall establish criteria for determining what attributes characterize an 'on-time performance goal'. In the case of a route, the criteria shall be based upon at least 80 percent of the trains scheduled to provide passenger rail transportation on the route during the most recent performance period arriving not later than their scheduled arrival time.

"(B) PERFORMANCE PERIOD.—The term 'performance period' means the 12-month period ending on the date a determination is made regarding whether the trains scheduled to provide passenger rail transportation on a route met their on-time performance goal.

"(c) ADDITIONAL ROUTES.—

"(1) ADDITIONAL ROUTES.—The Office may establish 1 or more additional routes for the national rail passenger system if the Office determines pursuant to the study under section 502 of the American Rail Equity Act of 2003 that the establishment of such route or routes is feasible and advisable.

"(2) CORRIDORS FOR HIGH-SPEED RAIL SERVICE.—The Office may add to the national passenger rail system any corridor for high-speed rail service established pursuant to section 26104 of this title.

"§25008. National Passenger Rail Office: identification of rail infrastructure improvement projects for national passenger rail system

"(a) IDENTIFICATION OF RAIL INFRASTRUCTURE IMPROVEMENT PROJECTS.—

"(1) IN GENERAL.—The National Passenger Rail Office shall, on a quarterly basis, identify the rail infrastructure improvement projects that are advisable to improve or enhance the operations of the national passenger rail system, including operations in the Northeast Corridor.

"(2) NATURE OF IMPROVEMENTS.—The infrastructure improvements covered by rail infrastructure improvement projects under paragraph (1) may include—

"(A) track and other capital improvements;

"(B) the acquisition of rights-of-way; and

"(C) such other improvements as the Office considers advisable to improve or enhance the operations of the national passenger rail system.

“(3) State input.—Recommendations of States for projects for identification under paragraph (1) shall be submitted to the National Passenger Rail Office in accordance with such requirements as the Director of the Office may prescribe.

“(b) Information on Potential Projects.—A rail carrier seeking to carry out a rail infrastructure improvement project for purposes of subsection (a) shall submit to the Office such information on the project as the Director of the Office shall require, including—

“(1) the nature of the infrastructure improvements under the project;

“(2) the cost of the infrastructure improvements; and

“(3) an assessment of the extent to which the infrastructure improvements will improve or enhance the operations of the national passenger rail system.

“(c) Reports to National Rail Transportation Financing Corporation.—

“(1) In general.—The Director of the Office shall, on a quarterly basis, submit to the National Rail Transportation Financing Corporation a report setting forth the rail infrastructure improvement projects identified under subsection (a) during the preceding quarter.

“(2) Report elements.—Each report under paragraph (1) shall contain such information as the Director of the Office and the Corporation jointly consider appropriate in order—

“(A) to fully inform the Corporation of the nature, cost, benefits, and priority of each rail infrastructure improvement project identified in such report; and

“(B) to permit the Corporation to evaluate the advisability of making a grant for each such rail infrastructure improvement project under 306 of the American Rail Equity Act of 2003.

“§ 25009. Rail infrastructure improvements grant program

“The National Passenger Rail Office may make grants for rail infrastructure improvement projects identified under section 25008 of this title.

“§ 25010. Construction with other law; preservation and allocation of authorities

“(a) Construction.—The provisions of this chapter supersede any provisions of this part, and any other provisions of law, that are inconsistent with the provisions of this chapter.

“(b) Preservation of Authorities.—

“(1) National passenger rail office.—For purposes of carrying out its responsibility under this chapter, including the operation and maintenance of facilities under section 25005(c) of this title, the National Passenger Rail Office may utilize any power or authority of Amtrak under this part, or under any other provision of law, to the extent that such power or authority is not inconsistent with a provision of this chapter, as if the Office were Amtrak.

“(2) National passenger rail authority.—For purposes of carrying out its responsibilities under section 25004(b) of this title, the National Passenger Rail Corporation may utilize any power or authority of Amtrak under this part, or under any other provision of law, to the extent that such power or authority is not inconsistent with a provision of this chapter, as if the Corporation were Amtrak.

“(c) Memorandum of Understanding.—The Office and the Corporation shall, subject to the supervision and concurrence of the Administrator of the Federal Transit Administration, enter into a memorandum of understanding allocating among the Office and the Corporation the authorities, powers, and responsibilities of Amtrak under this part, and under any other provision of law, in a manner consistent with the provisions of this chapter.

“(d) References.—

“(1) National passenger rail authority.—Any reference to Amtrak in any law, regulation, map, document, record, or other paper of the United States with respect to the performance of any function or activity that is retained by the National Passenger Rail Corporation under this chapter shall be considered to be a reference to the National Passenger Rail Corporation.

“(2) National passenger rail office.—Any reference to Amtrak in any law, regulation, map, document, record, or other paper of the United States with respect to the performance of any function or activity that is assumed by the National Passenger Rail Office under this chapter shall be considered to be a reference to the National Passenger Rail Office.

“§ 25011. Authorizations

“(a) In General.—There are authorized to be appropriated $2,000,000,000 for each of fiscal years 2004 through 2009 for the operations of the National Passenger Rail Corporation under this chapter.

“(b) Allocations.—To the extent provided in appropriations Acts, $3,000,000 of the amount appropriated pursuant to the authorization of appropriations in subsection (a) in any fiscal year shall be available for the National Passenger Rail Office for the administrative expenses of the Office in such fiscal year.”.

(b) Clerical Amendment.—The table of chapters at the beginning of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 249 the following new item:

“251. NATIONAL PASSENGER RAILROAD SYSTEM .... 25001”.

Subtitle B—High-Speed Corridors for Passenger Rail

SEC. 211. INTERSTATE RAILROAD PASSENGER HIGH-SPEED TRANSPORTATION POLICY.

(a) In General.—Chapter 261 is amended by inserting before section 26101 the following:

“§ 26100. Policy.

“The Congress declares that it is the policy of the United States that designated high-speed railroad passenger transportation corridors are the building blocks of an interconnected interstate railroad passenger system that serves the entire Nation.”.

(b) Conforming Amendment.—The chapter analysis for chapter 261 is amended by inserting before the item relating to section 26101 the following:

“26100. Policy”.

SEC. 212. HIGH-SPEED RAIL CORRIDOR PLANNING.

(a) In General.—Section 26101(a) is amended to read as follows:

“(a) Planning.—

“(1) In general.—The Secretary of Transportation shall provide planning assistance to States or group of States and other public agencies promoting the development of high-speed rail corridors designated by the Secretary under section 104(d) of title 23.

“(2) Secretary may provide direct or financial assistance.—The Secretary may provide planning assistance under paragraph (1) directly or by providing financial assistance to a public agency or group of public agencies to undertake planning activities approved by the Secretary. Not less than 20 percent of the publicly financed planning costs associated with projects assisted under this chapter shall come from non-Federal sources. State matching contributions may not be derived, directly or indirectly, from Federal funds.”.

(b) Conforming and Other Amendments to Section 26101.—Section 26101 is further amended—

(1) by striking subsection (c)(2) and inserting the following:

“(2) the extent to which the proposed planning focuses on high-speed rail systems, giving a priority to systems which will achieve sustained speeds of 125 miles per hour or greater and projects involving dedicated rail passenger rights-of-way;”;

(2) by inserting “and” after the semicolon in subsection (c)(12);

(3) by striking “completed; and” in subsection (c)(13) and inserting “completed.”; and

(4) by striking subsection (c)(14).

(c) Conforming Amendment.—Section 26105(2)(A) is amended by striking “more than 125 miles per hour;” and inserting “90 miles per hour or more;”.

(d) Financial Assistance To Include Loans and Loan Guarantees.—Section 26105(1) is amended by inserting “loans, loan guarantees,” after “contracts,”.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for each of fiscal years 2004 through 2008 to provide planning assistance under section 26101(a) of title 49, United States Code, as amended by subsection (a).

SEC. 213. ASSISTANCE FOR ESTABLISHMENT OF CORRIDORS FOR HIGH-SPEED RAIL SERVICE.

(a) In General.—Chapter 261 of title 49, United States Code, is amended—

(1) by redesignating sections 26104 and 26105 as sections 26105 and 26106, respectively; and

(2) by inserting after section 26103 the following new section 26104:

“§ 26104. Additional support for establishment of high-speed rail corridors

“(a) Purpose.—The purpose of this section is to facilitate the establishment of a national network of corridors for high-speed rail service.

“(b) Corporation To Make Grants.—The National Rail Transportation Financing Corporation under title III of the American Rail Equity Act of 2003 may make grants of financial assistance to individual States or compacts of States for the establishment of corridors for high-speed rail service.

“(c) Application.—A State or compact of States seeking a grant under this section shall submit to the Corporation an application therefor in such form, and including such information, as the Corporation shall require.

“(d) Matching Requirement.—A State or compact of States receiving a grant under this section for activities relating to the establishment of a corridor for high-speed rail service shall bear not less than 80 percent of the costs of the activities funded by the grant.

“(e) Use of Grant.—A State or compact of States receiving a grant under this section shall use the grant amount for purposes of the establishment of 1 or more corridors for high-speed rail service, including the purchase of rights-of-way for the provision of such service.

"(f) TREATMENT OF CORRIDORS.—The National Passenger Rail Office may treat a corridor established pursuant to this section as part of the national passenger rail system under chapter 251 of this title.

"(g) CONSTRUCTION WITH OTHER ASSISTANCE CORPORATION.—The authority to make grants under this section for the establishment of corridors for high-speed rail service is in addition to any other authority in this chapter, or under any other provision of law, relating to the provision of assistance for the establishment of corridors for high-speed rail service.

"(h) FUNDING.—Amounts derived from the issuance of qualified rail transportation bonds under title III of the American Rail Equity Act of 2003 and section 54 of the Internal Revenue Code of 1986 shall be available for grants under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 261 of such title is amended by striking the items relating to section 26104 and 26105 and inserting the following new items:

"26104. Additional support for establishment of high-speed rail corridors.
"26105. Authorization of appropriations.
"26106. Definitions.".

TITLE III—RAIL INFRASTRUCTURE IMPROVEMENT

Subtitle A—Rail Infrastructure Finance Corporation

SEC. 301. ESTABLISHMENT OF CORPORATION.

There is established a nonprofit corporation, to be known as the "Rail Infrastructure Finance Corporation". The Rail Infrastructure Finance Corporation is not an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 302. BOARD OF DIRECTORS.

(a) APPOINTMENT.— The Rail Infrastructure Finance Corporation shall have a Board of Directors consisting of 9 members appointed by the President, by and with the advice and consent of the Senate. Not more than 5 members of the Board may be members of the same political party.

(b) MEMBERSHIP QUALIFICATIONS.—

(1) IN GENERAL.—The 9 members of the Board shall be appointed from among citizens of the United States (not regular full-time employees of the United States) who are eminent in the fields of rail transportation, rail financing, and intermodal transportation planning, and the financing and management of large-scale, long-term public-private cooperative projects.

(2) REPRESENTATION OF SPECIFIC INTERESTS.—Of the 9 members of the Board, 8 of the members shall be selected as follows:

(A) Two members from among individuals who represent the interests of freight rail transportation.

(B) One member from among individuals who represent the interests of passenger rail transportation.

(C) One member from among individuals who represent the interests of the States.

(D) One member from among individuals who represent the interests of intercity passenger rail users.

(E) One member from among individuals who represent the interests of organized labor.

(F) Two members from among persons who are involved in finance.

(c) INCORPORATION.—The members initially appointed to the Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of Delaware.

(d) TERMS OF OFFICE.—Members of the Board shall be appointed for terms of 6 years, except that of the members first appointed, the President shall designate 2 to serve a term of 1 year and 2 to serve a term of 3 years. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.

(e) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall serve only for the remainder of the term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed.

(f) ATTENDANCE REQUIRED.—Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill the resulting vacancy not later than 30 days after such vacancy is determined by the Chairman of the Board.

(g) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—Members of the Board shall annually elect 1 of their members to be Chairman and elect 1 or more of their members as a Vice Chairman or Vice Chairmen.

(h) COMPENSATION.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this title, be entitled to receive compensation at the rate of $150 per day, including traveltime. No Board member shall receive compensation of more than $10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.

(i) MEETINGS OPEN TO PUBLIC.—All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as the Board may establish.

SEC. 303. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Rail Infrastructure Finance Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay that exceeds the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code. No individual other than a citizen of the United States may be an officer of the Corporation. Subject to section 302(h), no officer of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers shall serve at the pleasure of the Board.

(b) NONPARTISAN NATURE OF APPOINTMENTS.—Except as provided in the second sentence of section 302(a), no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

SEC. 304. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) STOCK.—The Rail Infrastructure Finance Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) NO PRIVATE BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) POLITICAL ACTIVITY PROHIBITED.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(d) CONFLICTS OF INTEREST.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested. Board members shall recuse themselves from Board decisions that directly affect either them or entities they represent regarding grants and other assistance provided to States by the Board.

SEC. 305. PURPOSE AND ACTIVITIES OF CORPORATION.

(a) PURPOSE.—The Rail Infrastructure Finance Corporation shall, through the issuance of qualified rail infrastructure bonds in accordance with section 54 of the Internal Revenue Code of 1986 and this title, provide financial support for rail transportation capital projects under subtitle B.

(b) BOND ISSUANCE CORPORATION.—

(1) IN GENERAL.—In order to carry out its purposes, the Corporation is authorized to issue qualified rail infrastructure bonds (as defined in section 54(e) of the Internal Revenue Code of 1986) during the 6-year period beginning October 1, 2003.

(2) LIMITATION.—The total face amount of the bonds outstanding under paragraph (1) at any time may not exceed $48,000,000,000.

(3) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(B) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(C) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(4) AUTHORITY.—To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation under the laws of the State of Delaware.

(c) FEDERAL ASSISTANCE.—The Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any department or agency of the Federal Government, but only to the extent permitted by law and to the extent necessary to carry out the purpose set forth in subsection (a) and the activities described in subsection (b).

SEC. 306. REPORT TO CONGRESS.

(a) IN GENERAL.—On or before May 15 of each year, the Rail Infrastructure Finance Corporation shall submit an annual report for the fiscal year ending on September 30 of the preceding year to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this title and such recommendations as the Corporation deems appropriate.

(b) AVAILABILITY FOR TESTIMONY.—The officers and directors of the Corporation shall be available to testify before those committees with respect to such report, the report of any audit made by the Comptroller General pursuant to section 307(d)(3), or any other matter which such committees may determine.

SEC. 307. ADMINISTRATIVE MATTERS.

(a) BUDGET.—The Rail Infrastructure Finance Corporation shall establish an annual budget for the Corporation, including the Rail Infrastructure Investment Account under subsection (c).

(b) IMPLEMENTATION PLAN.—

(1) REQUIREMENT FOR PLAN.—The Corporation shall conduct a study and prepare a plan on how the Corporation can best achieve the purposes and fulfill the requirements of this title.

(2) CONSULTATION.—In preparing the plan, the Corporation may consult with the Secretary of Transportation, the Secretary of the Treasury, and representatives of State and local governments.

(3) OTHER REQUIREMENTS.—The plan, which shall be based on the conclusions resulting from the study conducted under paragraph (1), shall be submitted by the Corporation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than January 31, 2004. Unless directed otherwise by law, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.

(c) RAIL INFRASTRUCTURE INVESTMENT ACCOUNT.—

(1) ESTABLISHMENT.—The Board of Directors for the Corporation shall establish an account to be known as the Rail Infrastructure Investment Account.

(2) DEPOSIT OF BOND PROCEEDS.—The Corporation shall deposit the proceeds of sales of any bonds issued under section 54 of the Internal Revenue Code of 1986 into the Account.

(3) DEPOSIT OF NON-FEDERAL CONTRIBUTIONS.—The Board shall deposit all contributions received under section 304(a) into the Account.

(4) DISBURSEMENTS.—The Board shall make available and may disburse, at the beginning of fiscal year 2004 and of each succeeding fiscal year thereafter, such funds as may be available for obligation and expenditure from the Account.

(5) USE OF ACCOUNT FUNDS.—Funds in the Account—

(A) shall be used by the Corporation for investment purposes through the trust established under section 308 to generate an amount sufficient—

(i) to repay the principal of the bonds at their maturity; and

(ii) to pay the administrative costs of the Corporation and the Rail Infrastructure Finance Trust under section 308; and

(B) shall, to the extent of the net spendable proceeds in the account, be held in the Rail Infrastructure Finance Trust established under section 308 and be available for distribution as grants of financial assistance under subtitle B.

(6) NET SPENDABLE PROCEEDS DEFINED.—In this subsection, the term "net spendable proceeds", with respect to the Rail Infrastructure Investment Account, means the amount equal to the excess of—

(A) the total amount in such Account, over

(B) the amount in such Account that is needed for uses under paragraph (5)(A).

(d) RECORDS AND AUDIT.—

(1) IN GENERAL.—The account of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(2) AUDIT REPORT.—The report of each such independent audit shall be included in the annual report required by section 306. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(3) AUDIT BY COMPTROLLER GENERAL.—The financial transactions of the Corporation may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(4) GAO REPORT TO CONGRESS.—A report of each audit under paragraph (3) shall be made by the Comptroller General to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall contain such comments and information as the Comptroller General considers necessary to inform the committees of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(5) ACCOUNTING PRINCIPLES.—

(A) APPLICABLE PRINCIPLES.—Not later than 1 year after the date of the enactment of this Act, the Corporation shall develop accounting principles which shall be used uniformly by all entities receiving funds under this title, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for purposes of this title by such entities.

(B) CONSULTATION.—The Corporation may consult with the Comptroller General and, as appropriate, with others in the development of the accounting principles under subparagraph (A).

(6) REQUIREMENTS FOR RECIPIENTS.—Each entity receiving funds under this title shall—

(A) keep its books, records, and accounts in such form as may be required by the Corporation;

(B) either—

(i) undergo a biennial audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Comptroller General; or

(ii) submit a financial statement in lieu of the audit required by subparagraph (A) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and

(C) furnish biennially to the Corporation a copy of the audit report required pursuant to the subparagraph (B), as well as such other information regarding finances (including an annual financial report) as the Corporation may require.

(7) ADDITIONAL RECORDKEEPING.—Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, that total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the projects or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(8) ACCESS TO RECORDS.—The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records of any recipient of assistance for the purpose of auditing and examining all funds received from the Corporation. The Comptroller General of the United States or any of his duly authorized representatives also shall have access to such books, documents, papers, and records for the purpose of auditing and examining all funds received from the Corporations during any fiscal year for which Federal funds are available to the Corporation.

(9) PUBLIC INSPECTION.—The Corporation shall maintain the information described in paragraphs (6), (7), and (8) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be updated regularly.

SEC. 308. RAIL INFRASTRUCTURE FINANCE TRUST.

(a) ESTABLISHMENT.—The Board of Directors of the Rail Infrastructure Finance Corporation shall establish the Rail Infrastructure Finance Trust (hereafter in this section referred to as the "Trust") as a trust domiciled in the State of Delaware. The Trust shall, to the extent not inconsistent with this Act, be subject to the laws of the State of Delaware that are applicable to trusts. The Trust shall manage and invest the assets of the Rail Infrastructure Account described in section 307(c) that are transferred to it by the Board in the manner set forth in this section.

(b) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or other instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

(c) BOARD OF TRUSTEES.—

(1) ESTABLISHMENT.—The Trust shall have a Board of Trustees.

(2) COMPOSITION.—

(A) APPOINTMENT.—The Board of Trustees shall consist of 5 members each of whom (hereafter in this title referred to as a "Trustee") is appointed by a unanimous vote of the Board of Directors of the Rail Infrastructure Finance Corporation. The Board of Directors, by unanimous vote, may remove any member of the Board of Trustees.

(B) REPRESENTATION OF PARTICULAR INTERESTS.—The 5 members of the Board of Trustees shall be selected as follows:

(i) One from among persons who represent the interests of the States.

(ii) One from among persons who represent the interests of freight railroads.

(iii) One from among persons who represent the interests of passenger railroads.

(iv) One from among persons who represent the interests of holders of qualified rail infrastructure bonds issued by the Rail Infrastructure Finance Corporation.

(v) One from among persons whose interests are independent of interests referred to in the other clauses of this subparagraph.

(3) MEMBERS NOT UNITED STATES OFFICIALS.—The members of the Board of Trustees may not be considered officers or employees of the Government of the United States.

(4) QUALIFICATIONS.—The Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments. No member of the Board of Directors of the Rail Infrastructure Finance Corporation is eligible to be a Trustee.

(5) TERMS.—Each member of the Board of Trustees shall be appointed for a 3-year term. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the member whose departure caused the vacancy. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

(d) POWERS.—The Board of Trustees shall—

(1) establish investment policies, including guidelines, and retain independent advisers to assist in the formulation and adoption of the investment guidelines;

(2) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

(3) invest assets in the Trust, pursuant to the policies adopted in paragraph (1);

(4) pay administrative expenses of the Trust from the assets in the Trust; and

(5) transfer money to the Rail Infrastructure Investment Account, upon request of the Board of Directors of the Rail Infrastructure Finance Corporation, for bond repayment and administrative expenses, and for grants under subtitle B.

(e) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

(1) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge the duties of the Trust and the duties of the Trustee, respectively (including the voting of proxies), with respect to the assets of the Trust solely in the interests of the Rail Infrastructure Finance Corporation and the programs funded under this title—

(A) for the exclusive purposes of—

(i) providing sufficient funds to repay qualified rail infrastructure bonds issued by the Rail Infrastructure Finance Corporation, to fund the administrative costs of the Rail Infrastructure Finance Corporation and to provide grants for rail capital projects under subtitle B; and

(ii) defraying reasonable expenses of administering the Trust;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

(2) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—A member of the Board of Trustees may not—

(A) deal with the assets of the Trust in the Trustee's own interest or for the Trustee's own account;

(B) in an individual or in any other capacity, act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust and the Rail Infrastructure Finance Corporation; or

(C) receive any consideration for the Trustee's own personal account from any party dealing with the assets of the Trust.

(3) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a Trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void. Nothing in this paragraph shall be construed to preclude—

(A) the Trust from purchasing insurance for its Trustees or for itself to cover liability or losses occurring by reason of the act or omission of a Trustee, if such insurance permits recourse by the insurer against the Trustee in the case of a breach of a fiduciary obligation by such Trustee;

(B) a Trustee from purchasing insurance to cover liability under this section from and for his own account; or

(C) an employer or an employee organization from purchasing insurance to cover potential liability of 1 or more Trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

(4) TRUSTEES BONDS.—

(A) REQUIREMENT.—Each Trustee and every person who handles funds or other property of the Trust (hereafter in this section referred to as "Trust official") shall be bonded. The bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others.

(B) AMOUNT.—The amount of a bond for a Trustee under this paragraph shall be fixed at the beginning of each fiscal year of the Trust by the Board of Directors of the Rail Infrastructure Finance Corporation. The amount may not be less than 10 percent of the amount of the funds administered by the Trust. In no case may such bond be less than $1,000 nor more than $500,000, except that the Board of Directors, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 percent minimum requirement in the preceding sentence.

(C) UNLAWFUL CONDUCT.—It shall be unlawful for—

(i) any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection;

(ii) any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met; and

(iii) any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

(f) AUDIT AND REPORT.—

(1) REQUIREMENT FOR ANNUAL AUDIT.—The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

(2) ANNUAL MANAGEMENT REPORT.—The Trust shall submit an annual management report to be included in the annual report of the Corporation required under section 306. The management report under this paragraph shall include the following matters:

(A) A statement of financial position.

(B) A statement of operations.

(C) A statement of cash flows.

(D) A statement on internal accounting and administrative control systems.

(E) The report resulting from an audit of the financial statements of the Trust conducted under paragraph (1).

(F) Any other comments and information necessary to inform Congress about the operations and financial condition of the Trust.

(3) ADDITIONAL COPIES.—The Trust shall provide the President and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

(g) ENFORCEMENT.—The Rail Infrastructure Finance Corporation may commence a civil action—

(1) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

(2) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

(h) ADMINISTRATIVE MATTERS.—

(1) AUTHORITY.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers (including the Rail Infrastructure Finance Corporation) to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this section. In the case of a contract for investment advisory services, compensation for such services may be provided on a fixed fee basis or on such other terms and conditions as are customary for such services.

(2) QUORUM AND PROCEEDINGS.—Three members of the Board of Trustees shall constitute a quorum for the Board to conduct business. Investment guidelines shall be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

(3) COMPENSATION OF TRUSTEES AND EMPLOYEES.—The salaries of the Trustees and the employees of the Trust are subject to the limitations in section 303.

(4) FUNDING.—The expenses of the Trust and the Board of Trustees that are incurred under this section shall be paid from the Trust.

(i) EXEMPTION FROM TAX FOR RAIL INFRASTRUCTURE FINANCE TRUST.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(29) The Rail Infrastructure Finance Trust established under section 308 of the American Rail Equity Act of 2003.".

Subtitle B—Rail Development Grant Program

SEC. 311. NATIONAL SYSTEM IMPROVEMENT GRANT PROGRAM.

(a) GRANTS TO STATES.—The Board of Directors of the Rail Infrastructure Finance Corporation may, by grant, provide financial assistance to a State, group of States, or the National Railroad Passenger Corporation, for, or in connection with, intercity passenger rail capital projects that are—

(1) designated as National System Improvement Projects under section 22506 of title 49, United States Code; and

(2) as determined by the Board, will significantly benefit the National System, as designated under section 25002(a) of title 49, United States Code, of intercity passenger rail infrastructure or services.

(b) PROJECT SELECTION CRITERIA.—The Board, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

(1) give preference to projects that most significantly improve intercity passenger rail service on routes of the National System through increased frequency of on-time performance, reduced trip time, higher ridership, increased service frequency, or other service measures as defined under section 22506 of title 49, United States Code;

(2) give preference to projects that effect multiple routes or the entire National System;

(3) require that each proposed project meet all safety requirements that are applicable to the project under law, and give a preference to any project determined by the Board as having provided for particularly high levels of safety;

(4) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

(5) ensure a general balance across geographic regions of the United States in providing such assistance and avoid a concentration of a disproportionate amount of such financial assistance in a single project or region of the country;

(6) favor projects that are expected to have a significant favorable impact on air or highway traffic congestion;

(7) encourage projects that also improve freight or commuter rail operations;

(8) favor projects that either—

(A) have significant environmental benefits; or

(B) are—

(i) at a stage of preparation that all precommencement compliance with environmental protection requirements has already been completed; and

(ii) ready to be commenced;

(9) favor projects with positive economic and employment impacts;

(10) encourage the use of positive train control technologies;

(11) favor projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required under section 315(a);

(12) ensure that each project is compatible with, and is operated in conformance with—

(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23, United States Code;

(B) State rail plans under chapter 225 of title 49, United States Code; and

(C) the national rail plan; and

(13) favor projects that enhance national security.

(c) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on an approved State rail plan's ranked list of priority freight and passenger rail capital projects developed under section 22504(5) of title 49, United States Code, or may submit an independent application for a grant for any project designated as a National System Improvement Project under section 22506 of title 49, United States Code. Any such independent grant request shall be subject to the same selection criteria as apply under subsection (b) to projects of States, except the criteria set forth in subparagraphs (A) and (B) of subsection (b)(12).

(e) LIMITATIONS.—

(1) TWO-YEAR AVAILABILITY.—If any amount provided as a grant to a State or the National Railroad Passenger Corporation under this section is not obligated or expended for the purposes described in subsections (a) and (b) within 2 years, such sums shall be returned to the Board for other national system improvement projects under this section at the discretion of the Board.

(2) SINGLE PROJECT AMOUNT.—In awarding grants to States for eligible projects under this section, the Board shall limit the amount of any grant made for a particular project in a fiscal year to not more than 30 percent of the total amount of the funds available for grants under this section for that fiscal year.

(3) AMTRAK.—The total amount of grants made under this section to the National Railroad Passenger Corporation in a fiscal year may not exceed 50 percent of the total amount available under this section for all grants in that fiscal year.

(4) NORTHEAST CORRIDOR PROJECTS.—The total amount of grants made under this section for the Northeast Corridor in a fiscal year may not exceed 25 percent of the total amount available under this section for all grants under this section in that fiscal year.

(5) OTHER PROJECTS.—The total amount of grants made under this section for projects other than projects for the Northeast Corridor in any fiscal year may not exceed 75 percent of the total amount available under this section for all grants under this section in that fiscal year.

(6) NORTHEAST CORRIDOR DEFINED.—In this section, the term "Northeast Corridor" has the meaning given that term in section 24102(6) of title 49, United States Code.

(f) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for fiscal years 2004 through 2009 such sums as may be necessary to carry out subsections (a) through (e) of this section.

(2) NORTHEAST CORRIDOR FREIGHT-ONLY TRACK.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, there are authorized to be appropriated to the Secretary of Transportation for the construction of a freight-only track on the Northeast Corridor for fiscal year 2005 $125,000,000, including capital improvements, improvements to signal systems, high-speed interlockings, track, and bridges, such sum to remain available until expended.

(B) FINANCIAL CONTRIBUTION FROM OTHER USERS.—The Secrtary shall consider the feasibility of seeking a financial contribution to the construction of the track and capital improvements related thereto from other users.

(C) PROJECT CONSTRUCTION.—The Secretary shall coordinate construction of the track with the owner of the freight easement on the Northeast Corridor to ensure that current service commitments for both passenger and freight rail transportation are maintained.

SEC. 312. GRANT PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) AUTHORIZED USES.—The proceeds of a grant made for a project under this subtitle may be used to defray the costs of the project or to reimburse the recipient for costs of the project paid by the recipient.

(b) NON-FEDERAL CONTRIBUTION.—The proceeds of a grant for 1 or more projects under this subtitle may be released upon receipt by the Board of Directors of the Rail Infrastructure Finance Corporation of cash payment by a non-Federal Government source, or 1 or more such sources jointly, in an amount not less than the amount equal to 20 percent of the amount of the grant disbursed. The cash payment may not be derived, directly or indirectly, from Federal funds. Amounts received under this subsection shall be credited to the Rail Infrastructure Investment Account established under section 307(c).

(c) PREFERENCE INVOLVING DONATED PROPERTY INTERESTS AND SERVICES.—In selecting projects for grant funding under this subtitle, the Board may give preference to projects that involve donated right-of-way, property, or in-kind services by a public sector or private sector entity. The value of a donation under subsection (c) may not be counted toward satisfaction of the requirement in subsection (b).

(d) FLEXIBILITY.—Notwithstanding any other provision of this subtitle, amounts made available under section 316 may be combined and used for projects that significantly benefit both freight rail service and intercity passenger rail service.

(e) SUBALLOCATION; PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this subtitle.

(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

(B) cost-sharing of any project expense;

(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Board.

(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

(f) APPLICATIONS.—To seek a grant under this subtitle, a State or, in the case of a grant under section 311, the National Railroad Passenger Corporation shall submit an application for the grant to the Board. The application shall be submitted at such time and contain such information as the Board requires.

(g) PROCEDURES FOR GRANT AWARD.—The Board shall prescribe procedures for the awarding of grants under this subtitle, including application and qualification procedures and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the applicant and the Board. The Board shall initiate rulemaking for the purpose of this subsection not later than 90 days after the date of the enactment of this Act.

Subtitle C—Rail Infrastructure Tax Credit Bonds

SEC. 321. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds

"Sec. 54. Credit to holders of qualified rail infrastructure bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified rail infrastructure bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) QUALIFIED RAIL INFRASTRUCTURE BOND.—For purposes of this part, the term 'qualified rail infrastructure bond' means any bond issued as part of an issue if—

"(1) the bond is issued by the Rail Infrastructure Finance Corporation and is in registered form,

"(2) the term of each bond which is part of such issue does not exceed 20 years,

"(3) the payment of principal with respect to such bond is the obligation of the Rail Infrastructure Finance Corporation and not an obligation of the United States,

"(4) all proceeds from the sale of the issue are used for the purposes set forth in section 307(c)(5) of the American Rail Equity Act of 2003, and

"(5) 95 percent or more of the net spendable proceeds from the sale of such issue are to be used for expenditures incurred after the date of enactment of the American Rail Equity Act of 2003 for any project described in section 311, 312, 313, or 314 of that Act.

"(f) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

"(A) to award grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 in a total amount that is at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

"(B) to incur a binding commitment with a third party—

"(i) to spend at least 10 percent of the net spendable proceeds of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

"(ii) to proceed with due diligence to complete such projects, and

"(C) to expend the total amount of the net spendable proceeds of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the net spendable proceeds of the issue is not awarded as grants to be expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of paragraph (1) if either the requirement under subparagraph (A) or the requirements under subparagraph (B) are met, as follows:

"(A) The issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period and disburses any remaining net spendable proceeds to the Secretary of Transportation within 30 days after the end of such 3-year period.

"(B) The issuer—

"(i) awards in grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 at least 75 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance, and

"(ii) either—

"(I) awards in grants under sections 311, 312, 313, and 314 of the American Rail Equity Act of 2003 at least 95 percent of the net spendable proceeds of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

"(II) pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

"(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a qualified rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55(19).

"(h) Rail Infrastructure Finance Trust.—

"(1) In general.—The following amounts shall be held in a trust account by the Rail Infrastructure Finance Corporation:

"(A) An amount of the proceeds from the sale of all bonds designated for purposes of this section that, when combined with amounts described in subparagraphs (B), (C), and (D), is sufficient—

"(i) to ensure the Corporation's ability to redeem all bonds upon maturity; and

"(ii) to pay the administrative expenses of the Corporation and the Rail Infrastructure Finance Trust.

"(B) The amount of any non-Federal contributions required under section 304(a) of the American Rail Equity Act of 2003.

"(C) The temporary period investment earnings on proceeds from the sale of such bonds.

"(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

"(2) Use of funds.—Amounts in the trust account may be used only for investment purposes to generate sufficient funds to redeem qualified rail infrastructure bonds at maturity and pay the administrative expenses of the Corporation and the Trust, and for funding grants as provided for in section 307(c)(5)(B) of the American Rail Equity Act of 2003.

"(3) Use of remaining funds in trust account.—If the Corporation determines that the amount in the trust account exceeds the amount required to comply with paragraph (2), the Corporation shall transfer the excess to the Rail Infrastructure Finance Trust.

"(i) Other Definitions and Special Rules.—For purposes of this section—

"(1) Bond.—The term 'bond' includes any obligation.

"(2) Net spendable proceeds.—The term 'net spendable proceeds' has the meaning give such term in section 307(c)(6) of the American Rail Equity Act of 2003.

"(3) Qualified project.—The term 'qualified project' means any project that is eligible for grant funding under section 311, 312, 313, or 314 of the American Rail Equity Act of 2003.

"(4) Partnership; S corporation; and other pass-thru entities.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(5) Bonds held by regulated investment companies.—If any qualified rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(6) Reporting.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).".

(b) Amendments to Other Code Sections.—

(1) Reporting.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) Reporting of credit on qualified rail infrastructure bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) Treatment for estimated tax purposes.—

(A) Individual.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Special Rule for Holders of Qualified Rail Infrastructure Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) Corporate.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

"(5) Special rule for holders of qualified rail infrastructure bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) Clerical Amendments.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

SEC. 322. ANNUAL REPORT BY TREASURY ON RAIL INFRASTRUCTURE TRUST ACCOUNT.

The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the Rail Infrastructure Finance Corporation under section 54(i) of the Internal Revenue Code of 1986, as added by section 321, is sufficient to fully repay at maturity the principal of any outstanding qualified rail infrastructure bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the Rail Infrastructure Finance Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

SEC. 323. ISSUANCE OF REGULATIONS.

The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section 321) not later than 90 days after the date of the enactment of this Act.

SEC. 324. EFFECTIVE DATE.

The amendments made by section 321 shall apply to obligations issued after the date of enactment of this Act.

TITLE IV—RAIL INFRASTRUCTURE AND INTERMODAL TRANSPORTATION

SEC. 401. INTERMODAL TRANSPORTATION POLICY.

Section 302(e) is amended by striking "system" and inserting "system, including freight and passenger rail service and maritime transportation, including such transportation via inland waterways,".

SEC. 402. STATE RAIL PLANS.

(a) In General.—Part B of subtitle V is amended by adding at the end the following:

"CHAPTER 225—STATE RAIL PLANS

"Sec.
"22501. Authority.
"22502. Purposes and coordination.
"22503. Transparency and review.
"22504. Content.
"22505. High priority projects.
"22506. Approval.
"22507. Definitions.

"§ 22501. Authority

"(a) In General.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) Requirements.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) submit the approved plan to the Secretary of Transportation for approval; and

"(4) revise and resubmit an approved plan no less frequently than once every 7 years for reapproval by the Secretary.

"§ 22502. Purposes and coordination

"(a) Purposes.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy for all freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To establish the period covered by the State rail plan.

"(3) To present priorities and strategies to preserve, enhance, or expand rail service in the State.

"(4) To serve as the basis for Federal and State rail investments within the State.

"(b) Coordination.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

"§ 22503. Transparency and review

"(a) Preparation.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

"(b) ANNUAL REVIEWS.—Each State shall transmit an annual report on its plan to the Secretary of Transportation. The report shall included, for the year preceding the year in which submitted, the following matters:

"(1) A review of progress made, and actions taken, under the plan during the year.

"(2) A schedule of actions to be taken during the current year.

"(3) Any modifications made in the plan after approval of the plan by the Secretary or after the submission of the most recent annual report on the plan to the Secretary, including any modifications made to the priority freight or passenger rail capital project list required by section 22504(a)(5) of this title.

"(c) APPROVAL OF MODIFIED PLANS.—Each modification of a State rail plan that is determined substantive by the Secretary, including any modification to a priority freight or passenger rail capital project list required by section 22504(a)(5) of this title, is subject to approval (for the purposes of this chapter) by the Secretary.

"§ 22504. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An evaluation of the existing overall rail transportation system and rail services and facilities within the State, a prioritization of such services and facilities in terms of their contributions to the State's rail and transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service, containing an analysis of the transportation services provided by those lines, their ownership, operating characteristics, the state of their infrastructure (including capital and maintenance requirements), and the economic and environmental impact of those lines.

"(3) A statement of freight and passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

"(4) A general analysis and quantification of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(5) A long-range rail service and investment program for current and future freight and passenger services in the State that meets the requirements of subsection (b).

"(6) A statement of rail financing issues in the State, including a list of current and prospective capital and operating funding resources, public subsidies, State and Federal taxation, and other financial policies relating to rail service and rail infrastructure development.

"(7) A statement of rail service issues within the State, such as congestion and capacity, and current system deficiencies on a regional, intrastate, and interstate basis, that reflects consultation with neighboring States and describes any coordination of regional rail service.

"(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and options to maximize service integration and efficiency between rail and other modes of transportation within the State.

"(9) A description of new technology that relates to rail transportation within the State, including logistics and process improvements.

"(10) A review of plans and projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

"(11) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

"(12) A description of activities by regional planning agencies, regional transportation authorities, and municipalities in the State on freight and passenger rail service within the State, or in the region in which the State is located, including a presentation of any recommendations made by such agencies, authorities, and municipalities.

"(13) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

"(14) A statement that the State is in compliance with the requirements of section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail service and investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

"(A) Two ranked lists for rail capital projects, one for priority freight rail capital projects and one for priority passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The ranked list of priority freight and passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) private funding contributions for the projects; and

"(ii) the private benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the ranked list of priority freight and passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal Government and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Highway and transportation system congestion mitigation.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Competitive and service impact for rail carriers and shippers.

"(G) Preservation of rail service.

"(H) Economic and employment impacts.

"(I) Projected ridership for passenger projects.

"(c) WAIVER.—The Secretary may waive the any requirement of subsection (a), except the requirement in paragraph (5) of such subsection, upon application under circumstances that the Secretary determines appropriate.

"§ 22505. High priority projects

"(a) DESIGNATION OF PROJECTS.—The Secretary of Transportation may designate as a high priority project any project that meets both of the following criteria:

"(1) The project is on a ranked list of priority freight and passenger rail capital projects that is included in a State rail plan under section 22504(5).

"(2) The project focuses on key rail congestion points that are selected by the Secretary—

"(A) on the basis of national benefits to the rail transportation system; and

"(B) coordinated with the national rail plan.

"(b) PREFERRED PROJECTS.—The Secretary, in designating high priority projects, shall give preference to—

"(1) projects that have national significance for—

"(A) improving the national rail network and the Nation's transportation system;

"(B) ensuring particularly high levels of safety;

"(C) increasing intermodal connectivity by providing or improving direct connections between rail facilities and other modes of transportation;

"(D) significantly affecting highway, aviation, or maritime capacity, congestion, or safety;

"(E) improving both intercity passenger rail an freight rail services;

"(F) enhancing rail completion or freight rail service for shippers;

"(G) causing positive economic and employment results;

"(H) producing significant environmental or community benefits;

"(I) having received financial commitments and other support from numerous entities such as States, local governments, or private entities;

"(J) enhancing international trade;

"(K) enhancing national security; or

"(L) employing positive train control technologies; and

"(2) projects that are at the stage of preparation that all precommencement compliance with environmental protection requirements has been completed and the projects are ready to commence.

"(c) REGIONAL BALANCE AND COMPATIBILITY.—The Secretary, in designating high priority projects, shall ensure that—

"(1) the geographic distribution of the projects designated as high priority projects is generally balanced among the geographic regions of the United States and a disproportionate number of such projects is not concentrated in a single region or State; and

"(2) all projects are compatible with, and carried out in conformance with—

"(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23; and

"(B) the national rail plan.

"§ 22506. Approval

"(a) CRITERIA.—The Secretary may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each project listed on the ranked list of priority freight and passenger rail capital projects under the plan—

"(A) the project meets all safety requirements that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure directly affected by the project that provides for the State to proceed with the project; and

"(3) the content of the plan is coordinated with—

"(A) plans developed pursuant to the requirements of sections 134 and 135 of title 23; and

"(B) the national rail plan and any other transportation plan of the Federal Government that is required by law.

"(b) PROCEDURES FOR STATE RAIL PLAN SUBMISSION AND APPROVAL.—The Secretary shall prescribe procedures for States to submit State rail plans for review under this subtitle, including application and qualification procedures. The procedures shall provide for the Secretary to review a State rail plan and issue a record of decision of approval or disapproval, with comment, on such plan within 180 days after the plan is submitted.

"§ 22507. Definitions

"In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit' means a benefit accrued to a person or private entity that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary.

"(2) PUBLIC BENEFIT.—The term 'public benefit' means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V is amended by inserting after the item relating to chapter 223 the following:

"225. STATE RAIL PLANS ....22501.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 205—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED ON THE SUBJECT OF AUTISM AWARENESS

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 205

Resolved, That it is the sense of the Senate that—

(1) a commemorative postage stamp should be issued by the United States Postal Service on the subject of autism awareness; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a postage stamp be issued.

Mr. BURNS. Mr. President, I would like to show my support for the autism awareness resolution submitted today by my colleague, Senator COLEMAN. Autism is a developmental disability which typically appears during the first 3 years of life and impairs the communication and social skills in those affected. The result of a neurological disorder affecting the functioning of the brain, autism and its associated behaviors occur in as many as 1 in 500 individuals, in a rate of 5 boys to every girl. Because autism is difficult to recognize and diagnose, it is important that families seek an evaluation by a medical professional experienced in diagnosing and treating the disorder.

This disability is about 10 times more prevalent today than it was in the 1980s, with over 500,000 people in the U.S. today with some form of this pervasive developmental disorder. Its frequency rate makes autism one of the most common developmental disabilities. However, most of the public, including many medical, educational, and vocational professionals, are still unaware of how autism affects people and how they can effectively work with individuals with this diagnosis. I encourage my colleagues to join me in my efforts to increase autism awareness, and support this resolution.

SENATE RESOLUTION 206—HONORING THE MEMORY OF DR. WILLIAM R. ("BILL") BRIGHT AND COMMENDING HIS LIFE AS AN EXAMPLE TO SUCCEEDING GENERATIONS

Mr. BROWNBACK (for himself and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 206

Whereas Dr. Bright died on July 19, 2003, at age 81 in Orlando, Florida from complications related to pulmonary fibrosis, a lung disease for which there is no known cure or effective treatment;

Whereas Dr. Bright was an agnostic humanist and materialist, and successful Hollywood businessman, until he became "overcome by the love of our great Creator God and Savior" in 1945, whereupon he spent 5 years in theological studies at Princeton and Fuller Theological Seminaries;

Whereas Dr. Bright, with his wife Vonette, in 1951 founded Campus Crusade for Christ International, which now serves people in 191 countries through a staff of 27,000 full-time employees and up to 500,000 trained volunteers;

Whereas his life focus was on students and laypersons, and from the first he emphasized the role of women as full partners in leadership in the various ministries;

Whereas Dr. Billy Graham, a long-time friend of the Brights, has said: "He is a man whose sincerity and integrity and devotion to our Lord have been an inspiration and a blessing to me ever since the early days of my ministry";

Whereas Dr. Bright lived simply, owning neither houses nor land, and receiving no honoraria or donations for his thousands of appearances across the world, and the scores of writings and video presentations he developed;

Whereas when the Berlin Wall came down in 1989, he fulfilled a dream of more than 40 years of praying for Russia by donating his entire pension to establish a ministry to the students of Moscow State University;

Whereas Campus Crusade for Christ International operates more than 70 ministries and projects which offer hope and spiritual enlightenment across the globe to students on hundreds of campuses, urban residents, including minorities, the well-known Athletes-in-Action ministry, leaders of governments, inmates of prisons, aid to families, aid to health and education programs, aid to families of military personnel, executives, entertainers and musicians, and many others;

Whereas in 1979, Dr. Bright commissioned the JESUS film, a feature-length documentary on the life of Christ, directed by John Heyman, which has since been viewed by more than 5,100,000,000 people in 234 countries and has become the most widely viewed, as well as most widely translated, in 786 languages, film in history;

Whereas Dr. Bright is author of more than 100 books and booklets, as well as thousands of articles and pamphlets that have been distributed by the millions in most major languages, including the widely regarded Four Spiritual Laws of which 2,500,000,000 copies have been distributed;

Whereas Dr. Bright received 8 honorary degrees from universities in the United States and other nations, and numerous awards and honors from higher education, his home state of Oklahoma, and his peers in religious, radio, and television broadcasting;

Whereas, Dr. Bright was awarded the unique and prestigious Templeton Prize for Progress in Religion in 1996, presented by Prince Phillip at Buckingham Palace in London, and was received by Pope John Paul II in Rome where he addressed world spiritual leaders in accepting its $1,100,000 prize, which he directed be given to worldwide fasting for peace and spiritual enlightenment;

Whereas Dr. Bright sought ecumenical and trans-denominational cooperation throughout the world by building more than 1,000 partnerships with other ministries, and in 1983, he and former President Ronald Reagan, along with Jewish, Catholic, and Protestant members of the clergy, informed Congress which voted to establish The Year of the Bible to help focus on timeless truths for the Nation;

Whereas he helped create what media reports describe as the largest non-denominational Christian ministry in the world, and he rejected appeals to establish a single religious denomination and would not allow his name to be attached to any single denominational enterprise;

Whereas he urged followers to be "salt and light," to seek civility in society, and to be active in ministry to prisons, hospitals, orphanages, and he declared the duties of citizenship to be reliably informed, active in the study of issues, voter registration and get-out-the-vote drives, and personal voting;

Whereas he never endorsed individual candidates or parties, and encouraged laypersons to seek public service and often called upon people in all lands to study American History, declaring President George Washington as his secular hero after Jesus of Nazareth and the Apostle Paul;

Whereas in response to a suggestion from a Member of the United States Senate, he helped establish the Evangelical Council for Financial Accountability to set high standards and monitor their compliance, setting an example for all charitable organizations;

Whereas Money magazine has often cited Campus Crusade for Christ International as best or one of the top 5 non-profit ministries for effective stewardship of donor dollars; and

Whereas in his last months he co-founded the Global Pastors Network, a separate ministry to pastors worldwide with helpful resources and a goal to start 5,000,000 home-based studies of the attributes of God: Now, therefore, be it

Resolved, That the Senate—

(1) sends its condolences to Mrs. Vonette Zachary Bright, their grandchildren, their sons, Zac and Brad, and their wives, Terry and Katherine, all of whom are also in full-time Christian ministry; and

(2) does hereby honor the memory of Dr. William R. (''Bill'') Bright, an ambassador of spiritual goodwill, whose 58 years of dedicated and effective service stand as an outstanding example of selfless leadership to all humankind.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1419. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. WYDEN, Mrs. BOXER, Mrs. MURRAY, Mr. HARKIN, and Mr. ROCKEFELLER) proposed an amendment to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 1420. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1421. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1422. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1423. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1424. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1425. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1426. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1427. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) and intended to be proposed to the bill S. 14, supra; which was ordered to lie on the table.

SA 1428. Mr. INHOFE (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1429. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1430. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1431. Mr. GRASSLEY (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1432. Mr. FRIST proposed an amendment to the bill S. 14, supra.

SA 1433. Mr. FRIST proposed an amendment to the bill S. 14, supra.

SA 1434. Mr. FRIST proposed an amendment to amendment SA 1433 proposed by Mr. FRIST to the bill S. 14, supra.

SA 1435. Mr. FRIST (for Mr. CAMPBELL) proposed an amendment to the bill S. 523, to make technical corrections to law relating to Native Americans, and for other purposes.

TEXT OF AMENDMENTS

SA 1419. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. WYDEN, Mrs. BOXER, Mrs. MURRAY, Mr. HARKIN, and Mr. ROCKEFELLER) proposed an amendment to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

In the pending amendment,

Strike section 1172 and insert the following:

SEC. 1172. MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (as amended by section 1171) is amended by adding at the end the following:

"SEC. 219. PROHIBITION ON MARKET MANIPULATION.

''It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.''.

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after ''not just and reasonable'' the following: ''or that result from a manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219''.

(c) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219, the Commission shall, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.''.

SA 1420. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 19 strike line 6 through line 18 and insert:

(a) NET METERING.—

(1) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

(2) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

SA 1421. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle I—System Benefits

SEC. 1192. SYSTEM BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term ''Board'' means the Board established under this section.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) FUND.—The term ''Fund'' means the System Benefits Trust Fund established by this section.

(5) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), or biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic source. For purposes of this paragraph, a farm system is an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste

produced by farming that is located on the farm where substantially all of the waste used is produced.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) BOARD.—

(1) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund Board to carry out the functions and responsibilities described in this section.

(2) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission;

(B) 2 representatives of the Secretary of Energy appointed by the Secretary of Energy;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissioners and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person nominated by the National Energy Assistance Directors' Association and appointed by the Secretary; and

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at one or more financial institutions, which account or accounts shall be known as the System Benefits Trust Fund consisting of amounts deposited in the fund under subsection (d).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States;

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUNDS.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs relating to—

(A) energy conservation and efficiency;

(B) renewable energy sources;

(C) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) In general.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUNDS SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States and Indian tribes shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the Nation's aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—A State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary of Energy.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2002, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how System Benefit Trust Fund funds from the previous calendar year (if any) were spent by the State and what the State accomplished as a result of these expenditures.

(e) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than August 1 of each year, the Board shall determine and inform the Federal Energy Regulatory Commission of the aggregate amount of wires charges that will be necessary to be paid into the Fund to pay matching funds to States and Indian tribes and pay the operating costs of the Board in the following fiscal year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Federal Energy Regulatory Commission shall impose a nonbypassable, competitively neutral wires charge, to be paid directly into the Fund by the operator of the wire, on electricity carried through the wire (measured as it exits the busbar at a generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator's system) in interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of

(i) 2.0 mills per kilowatt hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the Board under subsection (c).

(4) PENALTIES.—The Federal Energy Regulatory Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(e) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary of Energy and the Federal Energy Regulatory Commission shall have access to all books, accounts, reports,'files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary of Energy, the Federal Energy Regulatory Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set for the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary of Energy or the Federal Energy Regulatory Commission may have.

SA 1422. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

"(6) ELECTRIC UTILITY.—The term 'electric utility' does not include—

"(A) the United States;

"(B) a State or political subdivision of a State;

"(C) an agency, authority, or instrumentality of the United States, a State, or political subdivision of a State; or

"(D) an electric cooperative.

SA 1423. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, between lines 18 and 19, insert the following:

Subtitle D—Growth of Nuclear Energy

SEC. 4 . COMBINED LICENSE PERIODS.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking "c. Each such" and inserting the following:

"c. LICENSE PERIOD.—

"(1) IN GENERAL.—Each such"; and

(2) by adding at the end the following:

"(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.".

Subtitle E—NRC Regulatory Reform

SEC. 4 . ANTITRUST REVIEW.

(a) IN GENERAL.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

"d. ANTITRUST LAWS.—

"(1) NOTIFICATION.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.

"(2) ACTION BY THE ATTORNEY GENERAL.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.

"(3) INFORMATION.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).

"(4) APPLICABILITY.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.".

(b) CONFORMING AMENDMENT.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.".

SEC. 4 . DECOMMISSIONING.

(a) AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

(b) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

"(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

"(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

"(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.".

Subtitle F—NRC Personnel Crisis

SEC. 4 . ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

"y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.".

SEC. 4 . NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section **$1,000,000** for each of fiscal years 2004 through 2007.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

SA 1424. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION B—ENERGY TAX INCENTIVES

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Energy Tax Incentives Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; etc.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Extension and expansion of credit for electricity produced from certain renewable resources.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.
Sec. 202. Modification of credit for qualified electric vehicles.
Sec. 203. Credit for installation of alternative fueling stations.
Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 205. Small ethanol producer credit.
Sec. 206. Increased flexibility in alcohol fuels tax credit.
Sec. 207. Incentives for biodiesel.
Sec. 208. Alcohol fuel and biodiesel mixtures excise tax credit.
Sec. 209. Sale of gasoline and diesel fuel at duty-free sales enterprises.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 307. Three-year applicable recovery period for depreciation of qualified water submetering devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of delay rental payments.
Sec. 508. Amortization of geological and geophysical expenditures.
Sec. 509. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 510. Natural gas distribution lines treated as 15-year property.
Sec. 511. Credit for Alaska natural gas.
Sec. 512. Certain Alaska natural gas pipeline property treated as 7-year property.
Sec. 513. Arbitrage rules not to apply to prepayments for natural gas.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 601. Modifications to special rules for nuclear decommissioning costs.
Sec. 602. Treatment of certain income of cooperatives.
Sec. 603. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

TITLE VII—ADDITIONAL PROVISIONS

Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
Sec. 704. Expansion of research credit.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 801. Penalty for failing to disclose reportable transaction.
Sec. 802. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 803. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 804. Disclosure of reportable transactions.
Sec. 805. Modifications to penalty for failure to register tax shelters.
Sec. 806. Modification of penalty for failure to maintain lists of investors.
Sec. 807. Penalty on promoters of tax shelters.

Subtitle B—Provisions to Discourage Corporate Expatriation

Sec. 821. Tax treatment of inverted corporate entities.
Sec. 822. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 823. Reinsurance of United States risks in foreign jurisdictions.

Subtitle C—Other Revenue Provisions

Sec. 831. Extension of Internal Revenue Service user fees.
Sec. 832. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 833. Individual expatriation to avoid tax.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) biomass (other than closed-loop biomass),

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power,

"(G) biosolids and sludge, and

"(H) municipal solid waste.".

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) BIOMASS.—

"(A) IN GENERAL.—The term 'biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

"(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.

"(6) BIOSOLIDS AND SLUDGE.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

"(7) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED FACILITIES.—For purposes of this section—

"(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) CLOSED-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility" means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of the Energy Tax Incentives Act of 2003,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

"(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

"(B) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before the date of the enactment of such Act—

"(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

"(ii) the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

"(A) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(B) SPECIAL RULE.—In the case of any facility described in subparagraph (A), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(6) BIOSOLIDS AND SLUDGE FACILITY.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007. Such term shall not include any property described in section 48(a)(6) the basis of which is taken into account for purposes of the energy credit under section 46.

"(7) Municipal solid waste facility.—

"(A) In general.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(B) Special rule.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) Credit eligibility.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.".

(2) No credit for certain production.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

"(6) Operations inconsistent with solid waste disposal act.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).".

(3) Conforming amendment.—Section 45(e), as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) Credit Rate for Electricity Produced From New Facilities.—

(1) In general.—Section 45(a) is amended by adding at the end the following new flush sentence:

"In the case of electricity produced after 2003 at any qualified facility originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.".

(2) New rate not subject to inflation adjustment.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.".

(d) Elimination of Certain Credit Reductions.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).", and

(5) by striking "TAX-EXEMPT BONDS," in the heading and inserting "CERTAIN".

(e) Treatment of Persons Not Able To Use Entire Credit.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(8) Treatment of persons not able to use entire credit.—

"(A) Allowance of credit.—

"(i) In general.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) Persons described.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) Transfer of credit.—

"(i) In general.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(D) Credit not income.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) Treatment of unrelated persons.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(f) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) Certain biomass facilities.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) Credit rate for new facilities.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(4) Nonapplication of amendments to preeffective date poultry waste facilities.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service on or before such date of enactment.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) New Qualified Fuel Cell Motor Vehicle Credit.—

"(1) In general.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) Increase for fuel efficiency.—

"(A) In general.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	**The increased credit amount is:**
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2003	$7.750
2004	$6,500
2005	$5.250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(i) which draws propulsion energy from onboard sources of stored energy which are both—

"(I) an internal combustion or heat engine using consumable fuel, and

"(II) a rechargeable energy storage system,

"(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

"(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

"(iv) the original use of which commences with the taxpayer,

"(v) which is acquired for use or lease by the taxpayer and not for resale, and

"(vi) which is made by a manufacturer.

"(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 40 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the

Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) Reduction in basis.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) Property used outside United States, etc., not qualified.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) Election to not take credit.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) Interaction with air quality and motor vehicle safety standards.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) Regulations.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) Coordination in prescription of certain regulations.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) Termination.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) Conforming Amendments.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(4).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) Amount of Credit.—

(1) In general.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) Limitation of credit according to type of vehicle.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) Limitation according to type of vehicle.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $3,500,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) Conforming amendments.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(B) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) Qualified Battery Electric Vehicle.—

(1) In general.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) Leased vehicles.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) Conforming amendments.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "Battery" after "Qualified".

(C) The heading of section 30 is amended by inserting "battery" after "qualified".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) Additional Special Rules.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Carryback and carryforward allowed.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) YEAR CREDIT ALLOWED.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—

"(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	The applicable amount is—
2003	30 cents
2004	40 cents
2005 and 2006	50 cents

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) No Double Benefit.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) No carryback of section 10A credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) Effective Date.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) Allocation of Alcohol Fuels Credit to Patrons of a Cooperative.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

"(6) Allocation of small ethanol producer credit to patrons of cooperative.—

"(A) Election to allocate.—

"(i) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) Treatment of organizations and patrons.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

"(C) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Improvements to Small Ethanol Producer Credit.—

(1) Definition of small ethanol producer.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) Small ethanol producer credit not a passive activity credit.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) Allowing credit against entire regular tax and minimum tax.—

(A) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for small ethanol producer credit.—

"(A) In general.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) Small ethanol producer credit.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii) are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) Small ethanol producer credit not added back to income under section 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) Conforming Amendment.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) Cross Reference.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) Alcohol Fuels Credit May Be Transferred.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

"(i) Credit May Be Transferred.—

"(1) In general.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

"(2) Qualified assignee.—For purposes of this subsection, the term 'qualified assignee' means any person who—

"(A) is liable for taxes imposed under section 4081,

"(B) is registered under section 4101, and

"(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

"(3) Regulations.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.".

(b) Effective Date.—The amendment made by this section shall apply on and after the date of the enactment of this Act.

SEC. 207. INCENTIVES FOR BIODIESEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) Definition of Biodiesel Mixture Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) Biodiesel mixture rate.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

"(i) in the case of a mixture with only agri-biodiesel, 1 cent for each whole percentage point (not exceeding 20 percentage points) of agri-biodiesel in such mixture, and

"(ii) in the case of a mixture with recycled biodiesel, or a combination of agri-biodiesel and recycled biodiesel, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

"(2) QUALIFIED BIODIESEL MIXTURE.—

"(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel fuel and biodiesel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel in a diesel-powered engine, or

"(ii) is used as a fuel in a diesel-powered engine by the taxpayer producing such mixture.

"(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

"(i) IN GENERAL.—The production of a qualified biodiesel mixture shall be taken into account—

"(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(II) for the taxable year in which such sale or use occurs.

"(ii) CERTIFICATION FOR AGRI-BIODIESEL.—Agri-biodiesel used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the agri-biodiesel which identifies the product produced.

"(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any agri-biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such agri-biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids for use in diesel-powered engines which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) RECYCLED BIODIESEL.—The term 'recycled biodiesel' means biodiesel derived from nonvirgin vegetable oils or nonvirgin animal fats.

"(4) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

"(A) IMPOSITION OF TAX.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.".

(2) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 208. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' is a mixture which—

"(A) consists of alcohol and a taxable fuel, and

"(B) is sold for use or used as a fuel by the taxpayer producing the mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of agri-biodiesel used by the taxpayer in producing any qualified biodiesel mixture containing only agri-biodiesel, except that the number of gallons of agri-biodiesel taken into account in determining the credit shall not exceed 1 gallon for each 5 gallons of qualified biodiesel mixture produced.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.

"(3) DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2005.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or agri-biodiesel used in the production of any alcohol fuel mixture or qualified biodiesel mixture, respectively, and

"(B) any person—

"(i) separates such alcohol or agri-biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or agri-biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40(c) is amended by striking "section 4081(c), or section 4091(c)" and inserting "section 4091(c), section 6426, section 6427(e), or section 6427(f)".

(2) Section 40(d)(4)(B) is amended by striking "or 4081(c)".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Paragraph (1) of section 4041(k) is amended to read as follows:

"(1) In general.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).".

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 6426(b)(4)(A)), and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) Gasoline, Diesel Fuel, and Kerosene Used To Produce Certain Alcohol Fuel and Biodiesel Mixtures.—

"(1) In general.—Except as provided in subsection (k), if any gasoline, diesel fuel, or kerosene on which tax was imposed by section 4081 is used by any person in producing a mixture described in section 6426 which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such gasoline, diesel fuel, or kerosene.

"(2) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or kerosene with respect to which an amount is payable under subsection (b), (d), or (l) or under section 6416(b)(2), 6420, 6421, or 6426.

"(3) Termination.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2010, and

"(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) sold or used after December 31, 2005.".

(10) Subsection (f) of section 6427 is amended to read as follows:

"(f) Aviation Fuel Used To Produce Certain Alcohol Fuels.—

"(1) In general.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Regular tax rate.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) Incentive tax rate.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

"(4) Termination.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.".

(11) Paragraphs (1) and (2) of section 6427(i) are amended by inserting "(f)," after "(d),".

(12) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(D) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(E) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(13) Section 6427(o) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) any tax is imposed by section 4081, and",

(B) by striking "such gasohol" in paragraph (2) and inserting "the alcohol fuel mixture (as defined in section 6426(b)(3))",

(C) by striking "gasohol" both places it appears in the matter following paragraph (2) and inserting "alcohol fuel mixture", and

(D) by striking "Gasohol" in the heading and inserting "Alcohol Fuel Mixture".

(14) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(15) Section 9503(b)(4) is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) is amended by inserting "(other than subsection (e) thereof)" after "section 6427".

(17) Section 9503(e)(2) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

(d) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (b)(12)(D)) not later than September 30, 2003.

SEC. 209. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) Prohibition.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.".

(b) Construction.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) In General.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) Limitations.—

"(1) Maximum credit.—

"(A) In general.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,000, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- or 50-percent home.—For purposes of subparagraph (A)—

"(i) 30-percent home.—The term '30-percent home' means—

"(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or

"(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(ii) 50-percent home.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

"(C) Prior credit amounts on same home taken into account.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

"(2) Coordination with certain credits.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

"(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

"(c) Definitions.—For purposes of this section—

"(1) Eligible contractor.—The term 'eligible contractor' means—

"(A) the person who constructed the qualifying new home, or

"(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

"(2) Energy efficient property.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

"(3) Qualifying new home.—

"(A) In general.—The term 'qualifying new home' means a dwelling—

"(i) located in the United States,

"(ii) the construction of which is substantially completed after the date of the enactment of this section, and

"(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(B) Manufactured home included.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(4) Construction.—The term 'construction' includes reconstruction and rehabilitation.

"(5) Building envelope component.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(d) Certification.—

"(1) Method of certification.—

"(A) In general.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) Component-based method.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

"(C) Performance-based method.—

"(i) In general.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

"(I) heated by the same fuel type, and

"(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) Provider.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

"(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

"(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

"(3) Form.—

"(A) In general.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

"(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

"(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) Form provided to buyer.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

"(C) Ratings label affixed in dwelling.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(e) Application.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after the date of the enactment of this section and purchased during the period beginning on such date and ending on—

"(1) in the case of any 30-percent home, December 31, 2005, and

"(2) in the case of any 50-percent home, December 31, 2007.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the new energy efficient home credit determined under section 45G(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) New Energy Efficient Home Expenses.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).".

(d) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) No carryback of new energy efficient home credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.".

(e) Deduction for Certain Unused Business Credits.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45G(a).".

(f) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45G. New energy efficient home credit.".

(g) Effective Date.—The amendments made by this section shall apply to homes the construction of which is substantially completed after the date of the enactment of this Act.

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) Allowance of Credit.—

"(1) In general.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) Amount.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

"(b) Applicable Amount; Eligible Production.—For purposes of subsection (a)—

"(1) Applicable amount.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

"(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

"(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

"(2) Eligible production.—

"(A) In general.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

"(B) Categories.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii),

"(iv) refrigerators described in paragraph (1)(B)(ii), and

"(v) refrigerators described in paragraph (1)(C).

"(c) Limitation on Maximum Credit.—

"(1) In general.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

"(2) Limitation based on gross receipts.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) Gross receipts.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) Definitions.—For purposes of this section—

"(1) Qualified energy efficient appliance.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

"(2) Clothes washer.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) Refrigerator.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) Special Rules.—

"(1) In general.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) Verification.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) Termination.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the energy efficient appliance credit determined under section 45H(a).".

(c) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of energy efficient appliance credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45H. Energy efficient appliance credit.".

(e) Effective Date.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

"(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

"(C) for property described in subsection (d)(6)—

"(i) $75 for each electric heat pump water heater,

"(ii) $250 for each electric heat pump,

"(iii) $250 for each advanced natural gas, oil, or propane furnace,

"(iv) $250 for each central air conditioner,

"(v) $75 for each natural gas, oil, or propane water heater, and

"(vi) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) an advanced natural gas, oil, or propane furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

"(v) a natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

"(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25C," after "sections 23".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is

amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) In General.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) Qualified Fuel Cell Property; Qualified Microturbine Property.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Qualified fuel cell property; qualified microturbine property.—For purposes of this subsection—

"(A) Qualified fuel cell property.—

"(i) In general.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) Limitation.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(iii) Fuel cell power plant.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(iv) Termination.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

"(B) Qualified microturbine property.—

"(i) In general.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(I) has a capacity of less than 2,000 kilowatts, and

"(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(ii) Limitation.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(iii) Stationary microturbine power plant.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) Termination.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.".

(c) Energy Percentage.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) In general.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) Conforming Amendments.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) In General.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

"(b) Maximum Amount of Deduction.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) Energy Efficient Commercial Building Property Expenditures.—For purposes of this section—

"(1) In general.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) which is the type of structure to which the Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) Energy efficient property.—For purposes of paragraph (1)—

"(A) In general.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

"(B) Methods of calculation.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

"(C) Computer software.—

"(i) In general.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

"(ii) Qualified computer software.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) Allocation of deduction for public property.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

"(4) Notice to owner.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) Certification.—

"(A) In general.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

"(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

"(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(d) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(e) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(f) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179B(d).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 306. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—

"(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—

"(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

"(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

"(i) to measure and record water usage data, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(a) (relating to energy credit), as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

"(v) which is placed in service before January 1, 2007.

"(B) SPECIAL RULES.—

"(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the primary fuel source for the system.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

"(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(iv) PUBLIC UTILITY PROPERTY.—

"(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

"(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (i), (iii), and (iv) thereof.

"(C) Extension of depreciation recovery period.—If a taxpayer is allowed a credit under this section for a combined heat and power system property which has a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.".

(c) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) No carryback of energy credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(e) Effective Date.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) Limitation.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Qualified Energy Efficiency Improvements.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling which—

"(A) is located in the United States,

"(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) Certification.—

"(1) Methods of certification.—

"(A) Component-based method.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) Performance-based method.—

"(i) In general.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) Provider.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) Form.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) Building envelope component.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) Manufactured homes included.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) Termination.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) Limitation based on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) Additional Conforming Amendments.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25D," after "sections 25C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25D," after "25C,".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting "; and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) Credit for Production From a Qualifying Clean Coal Technology Unit.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) General Rule.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) Applicable Amount.—

"(1) In general.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) Inflation adjustment.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualifying clean coal technology unit.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on the date of the enactment of this section—

"(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

"(ii) had a nameplate capacity rating of not more than 300 megawatts,

"(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

"(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) Clean coal technology unit.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

"(B) uses coal to produce 75 percent or more of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) Pollution control requirements.—

"(A) In general.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) Specific levels.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) Design net heat rate.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

“(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

“(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [1 − {((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

“(C) shall be corrected for the site reference conditions of—

“(i) elevation above sea level of 500 feet,

“(ii) air pressure of 14.4 pounds per square inch absolute (psia),

“(iii) temperature, dry bulb of 63°F,

“(iv) temperature, wet bulb of 54°F, and

“(v) relative humidity of 55 percent, and

“(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

“(5) HHV.—The term ‘HHV’ means higher heating value.

“(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

“(7) INFLATION ADJUSTMENT FACTOR.—

“(A) IN GENERAL.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

“(B) GDP IMPLICIT PRICE DEFLATOR.—The term ‘GDP implicit price deflator’ means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

“(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

“(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

“(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

“(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

“(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

“(A) to carry out the purposes of this subsection,

“(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

“(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

“(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

“(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

“(I) a site,

“(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

“(III) filings for all necessary preconstruction approvals,

“(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

“(V) such other factors that the Secretary determines are appropriate,

“(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

“(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

“(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the qualifying clean coal technology production credit determined under section 45I(a).”.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of such section.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45I. Credit for production from a qualifying clean coal technology unit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following new paragraph:

“(4) the qualifying advanced clean coal technology unit credit.”.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

“SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

“(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the term ‘qualifying advanced clean coal technology unit’ means an advanced clean coal technology unit of the taxpayer—

“(A)(i) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

“(ii) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

“(B) which is depreciable under section 167,

“(C) which has a useful life of not less than 4 years,

“(D) which is located in the United States,

“(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

“(F) which is not a qualifying clean coal technology unit, and

“(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

“(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

“(A) is originally placed in service by a person, and

“(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

“(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) Advanced Clean Coal Technology Unit.—For purposes of this section—

"(1) In general.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) Eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

"(3) Eligible pressurized fluidized bed combustion technology unit.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

"(4) Eligible integrated gasification combined cycle technology unit.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

"(5) Eligible other technology unit.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) Carbon emission rate requirements.—

"(A) In general.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) Eligible other technology unit.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) General Definitions.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) National Limitation on the Aggregate Capacity of Advanced Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts in the case of units placed in service before 2009), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45I(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) Selection criteria.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) Qualified Investment.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) Qualified Progress Expenditures.—

"(1) Increase in qualified investment.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) Progress expenditure property defined.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) Qualified progress expenditures defined.—For purposes of this subsection—

"(A) Self-constructed property.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) Nonself-constructed property.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) Other definitions.—For purposes of this subsection—

"(A) Self-constructed property.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) Nonself-constructed property.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) Construction, etc.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) Only construction of qualifying advanced clean coal technology unit to be

TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting "(2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0060	$.0038
Less than 40.6 but not less than 40 percent	$.0025	$.0010
Less than 40 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent	$.0105	$.0090
Less than 43.6 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent	$.0120	$.0090.

"(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN placed in service.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) Inflation Adjustment.—For calendar years after 2004, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) In general.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

"(2) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) No carryback of section 45J credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Denial of Double Benefit.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) Denial of double benefit.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) Effective Date.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In General.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) Treatment of Person Not Able To Use Entire Credit.—

"(1) Allowance of credits.—

"(A) In general.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) Persons described.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) Transfer of credit.—

"(A) In general.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) Use by TVA.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) Treatment of credits.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) Credit carryover.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) Credit not income.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) Treatment of unrelated persons.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.".

(b) Effective Date.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) General Rule.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) Reduction as oil and gas prices increase.—

"(A) In general.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(C) Reference price.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) Qualified Crude Oil and Natural Gas Production.—For purposes of this section—

"(1) In general.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

"(2) Limitation on amount of production which may qualify.—

"(A) In general.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) Proportionate reductions.—

"(i) Short taxable years.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) Wells not in production entire year.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) Noncompliance with pollution laws.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

"(4) Definitions.—

"(A) Qualified marginal well.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) Crude oil, etc.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) Barrel equivalent.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) Domestic natural gas.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45M(c)(1)).

"(d) Other Rules.—

"(1) Production attributable to the taxpayer.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) Operating interest required.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) Production from nonconventional sources excluded.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the marginal oil and gas well production credit determined under section 45K(a).".

(c) No Carryback of Marginal Oil and Gas Well Production Credit Before Effective Date.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) No carryback of marginal oil and gas well production credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Coordination With Section 29.—Section 29(a) (relating to allowance of credit) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Credit for producing oil and gas from marginal wells.".

(f) Effective Date.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) Natural Gas Gathering Line.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) Natural gas gathering line.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the pqint at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .... 10".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) Treatment as Expense.—

"(1) In general.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) Limitation.—

"(A) In general.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

"(B) Applicable percentage.—For purposes of subparagraph (A)—

"(i) In general.—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) Reduced percentage.—In the case of a small business refiner with average daily refinery runs or average retained production for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (but not below zero) by the product of—

"(I) such percentage (before the application of this clause), and

"(II) the ratio of such excess to 50,000 barrels.

"(b) Definitions.—For purposes of this section—

"(1) Qualified capital costs.—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) Small business refiner.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year, and

“(B) the average daily refinery run or average retained production of which for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

“(c) Coordination With Other Provisions.—Section 280B shall not apply to amounts which are treated as expenses under this section.

“(d) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.”.

(b) Conforming Amendments.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking “or” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, or”, and by inserting after subparagraph (I) the following new subparagraph:

“(J) expenditures for which a deduction is allowed under section 179C.”.

(2) Section 263A(c)(3) is amended by inserting “179C,” after “section”.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking “or 179B” each place it appears in the heading and text and inserting “179B, or 179C”.

(4) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, and”, and by adding at the end the following new paragraph:

“(34) to the extent provided in section 179C(d).”.

(5) Section 1245(a), as amended by this Act, is amended by inserting “179C,” after “179B,” both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

“Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.”.

(c) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45L. ENVIRONMENTAL TAX CREDIT.

“(a) In General.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of low-sulfur diesel fuel produced at a facility by such small business refiner during such taxable year.

“(b) Maximum Credit.—

“(1) In general.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) with respect to such facility for any preceding year.

“(2) Applicable percentage.—For purposes of paragraph (1)—

“(A) In general.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

“(B) Reduced percentage.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179C(a)(2)(B)(ii).

“(c) Definitions.—For purposes of this section—

“(1) In general.—The terms ‘small business refiner’ and ‘qualified capital costs’ have the same meaning as given in section 179C.

“(2) Low-sulfur diesel fuel.—The term ‘low-sulfur diesel fuel’ means diesel fuel containing not more than 15 parts per million of sulfur.

“(3) Applicable period.—The term ‘applicable period’ means, with respect to any facility, the period beginning on the day after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

“(4) Applicable EPA regulations.—The term ‘applicable EPA regulations’ means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

“(d) Certification.—

“(1) Required.—Not later than the date which is 30 months after the first day of the first taxable year in which a credit is allowed under this section with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer’s qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

“(2) Contents of application.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

“(3) Review period.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

“(4) Statute of limitations.—With respect to the credit allowed under this section—

“(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the period described in paragraph (3) ends with respect to the taxpayer, and

“(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

“(f) Cooperative Organizations.—

“(1) Apportionment of credit.—

“(A) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

“(B) Form and effect of election.—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(2) Treatment of organizations and patrons.—

“(A) Organizations.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

“(B) Patrons.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(3) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(A) such reduction, over

“(B) the amount not apportioned to such patrons under paragraph (1) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting “, plus”, and by adding at the end the following new paragraph:

“(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).”.

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding at the end the following new subsection:

“(e) Environmental Tax Credit.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).”.

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45L. Environmental tax credit.”.

(e) Effective Date.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking "2004" and inserting "2007".

SEC. 507. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Amortization of Delay Rental Payments for Domestic Oil and Gas Wells.—

"(1) In general.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) Half-year convention.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) Exclusive method.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) Treatment upon abandonment.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) Delay rental payments.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 508. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Amortization of Geological and Geophysical Expenditures.—

"(1) In general.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) Special rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) Conforming Amendment.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) Extension for Other Facilities.—

"(1) Oil and gas.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

"(3) Wells producing viscous oil.—

"(A) In general.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

"(B) Viscous oil.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) Waiver of unrelated person requirement.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) Facilities producing refined coal.—

"(A) In general.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) Refined coal.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) Covered facilities.—

"(i) In general.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) Qualified emission reduction.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

"(iii) Qualified enhanced value.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) Qualifying advanced clean coal technology units excluded.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

"(5) Coalmine gas.—

"(A) In general.—This section shall apply to coalmine gas—

"(i) captured or extracted by the taxpayer during the period beginning after the date of the enactment of this subsection and ending before January 1, 2007, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

"(B) Coalmine gas.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

"(i) liberated during or as a result of coal mining operations, or

"(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

"(C) Special rule for advanced extraction.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

"(D) Noncompliance with pollution laws.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

"(6) Special rules.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) Fuels treated as qualified fuels.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

"(B) Daily limit.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

"(C) Credit amount.—The dollar amount applicable under subsection (a)(1) shall be $3 (and the inflation adjustment under subsection (b)(2) shall not apply to such amount).".

(b) Clarification of Placed in Service Date for Certain Landfill Gas Facilities.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) Clarification of placed in service date for certain landfill gas facilities.—

"(A) In general.—In the case of a landfill placed in service on or before the date of the enactment of this paragraph—

"(i) a facility for producing qualified fuel from such landfill shall include all wells, pipes, and related components used to collect landfill gas, and

"(ii) production of landfill gas from such landfill attributable to wells, pipes, and related components placed in service after such date of enactment shall be treated as produced from a facility placed in service on the date such wells, pipes, and related components were placed in service.

"(B) Landfill gas.—The term 'landfill gas' means gas described in subsection (c)(1)(B)(ii) and derived from the biodegradation of municipal solid waste.".

(c) Extension for Certain Fuel Produced at Existing Facilities.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2006, in the case of any coke, coke gas, or natural gas and by-products produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(d) Study of Coalbed Methane.—

(1) In general.—The Secretary of the Treasury shall conduct a study regarding the effect of section 29 of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) Contents of study.—The study under paragraph (1) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) Effective Date.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 510. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .... 20".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. CREDIT FOR ALASKA NATURAL GAS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) In General.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) Alaska natural gas the production of which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

"(2) Reduction as gas prices increase.—

"(A) In general.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $0.83, bears to

"(ii) $0.52.

"(B) Applicable reference price.—For purposes of this paragraph—

"(i) In general.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

"(ii) Reference price.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

"(C) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(c) Alaska Natural Gas.—For purposes of this section—

"(1) In general.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(18) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

"(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

"(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

"(2) Natural gas.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

"(d) Special Rules.—For purposes of this section—

"(1) Production attributable to the taxpayer.—

"(A) In general.—In the case of a well in which there is more than 1 person or entity—

"(i) entitled to production of Alaska natural gas, or

"(ii) at the election of the taxpayer, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all operating interest owners and royalty interest owners in the production or the value of production.

"(B) Partnership properties.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

"(2) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Application of Section.—This section shall apply to Alaska natural gas during the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) ending with the date which is 15 years after the date described in paragraph (1).".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) The Alaska natural gas credit determined under section 45M(a).".

(c) Allowing Credit Against Entire Regular Tax and Minimum Tax.—

(1) In general.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Special rules for Alaska natural gas credit.—

"(A) In general.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) Alaska natural gas credit.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

SEC. 512. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any Alaska natural gas pipeline, and".

(b) Alaska Natural Gas Pipeline.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) Alaska natural gas pipeline.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

"(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

"(B) is placed in service after December 31, 2014.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.".

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(ii) the following new item:

"(C)(iii) .... 10".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2014, in taxable years ending after such date.

SEC. 513. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) In General.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) Safe harbor for prepaid natural gas.—

"(A) In general.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) Qualified natural gas supply contract.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) Natural gas used to generate electricity.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) Adjustments for changes in customer base.—

"(i) New business customers.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) Overall limitation.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) Ruling requests.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) Adjustment for natural gas otherwise on hand.—

"(i) In general.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

"(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

"(ii) Applicable share.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) Intentional acts.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

"(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) Testing period.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

"(I) Service area.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) Private Loan Financing Test Not To Apply to Prepayments for Natural Gas.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) Effective Date.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.".

(c) Treatment of Certain Decommissioning Costs.—

(1) In general.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Transfers Into Qualified Funds.—

"(1) In general.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

"(2) Deduction for amounts transferred.—

"(A) In general.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) Denial of deduction for previously deducted amounts.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) Transfers of qualified funds.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter, any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

"(D) Special rules.—

"(i) Gain or loss not recognized.—No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) Transfers of appreciated property.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) New ruling amount required.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) No basis in qualified funds.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) New ruling amount to take into account total costs.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(d) Technical Amendment.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 602. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

“(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

“(II) the megawatt hours of electric energy sold during the base year to such members.

“(v) For purposes of clause (iv)(II), the term ‘base year’ means—

“(I) the calendar year preceding the start-up year, or

“(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

“(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

“(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

“(I) the first year that such electric company offers nondiscriminatory open access, or

“(II) the first year in which at least 10 percent of such electric company’s sales are not to members of such electric company.

“(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

“(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

“(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.”.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

“(c) CROSS REFERENCE.—

“For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 603. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

“(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

“(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

“(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

“(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

“(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term ‘qualifying electric transmission transaction’ means any sale or other disposition before January 1, 2008, of—

“(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

“(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

“(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term ‘independent transmission company’ means—

“(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

“(B) a person—

“(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission’s rules applicable to regional transmission organizations, and

“(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

“(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

“(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

“(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination) is amended by striking “2004” and inserting “2005”.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination) is amended by striking “2004” and inserting “2005”.

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government’s forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 703. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking “or a diesel-powered train” each place it appears and by striking “or train”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows “section 6421(e)(2)” and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

“(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

“(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.”

(D) Subsection (f) of section 4082 is amended by striking “section 4041(a)(1)” and inserting “subsections (d)(3) and (a)(1) of section 4041, respectively”.

(E) Paragraph (3) of section 4083(a) is amended by striking “or a diesel-powered train”.

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

“(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.”

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

“(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term ‘nontaxable use’ includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.”

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding “and” at the end of subparagraph (A), by striking “, and” at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 704. EXPANSION OF RESEARCH CREDIT.

(a) Credit for Expenses Attributable to Certain Collaborative Energy Research Consortia.—

(1) In general.—Section 41(a) (relating to credit for increasing research activities) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.”.

(2) Energy research consortium defined.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

“(6) Energy research consortium.—

“(A) In general.—The term ‘energy research consortium’ means any organization—

“(i) which is—

“(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

“(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

“(ii) which is not a private foundation,

“(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

“(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

“(B) Treatment of persons.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).”.

(3) Conforming amendment.—Section 41(b)(3)(C) is amended by inserting “(other than an energy research consortium)” after “organization”.

(b) Repeal of Limitation on Contract Research Expenses Paid to Small Businesses, Universities, and Federal Laboratories.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

“(D) Amounts paid to eligible small businesses, universities, and federal laboratories.—

“(i) In general.—In the case of amounts paid by the taxpayer to—

“(I) an eligible small business,

“(II) an institution of higher education (as defined in section 3304(f)), or

“(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting ‘100 percent’ for ‘65 percent’.

“(ii) Eligible small business.—For purposes of this subparagraph, the term ‘eligible small business’ means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

“(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

“(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

“(iii) Small business.—For purposes of this subparagraph—

“(I) In general.—The term ‘small business’ means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

“(II) Startups, controlled groups, and predecessors.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

“(iv) Federal laboratory.—For purposes of this subparagraph, the term ‘Federal laboratory’ has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.”.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 801. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

“(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

“(b) Amount of Penalty.—

“(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

“(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

“(3) Increase in penalty for large entities and high net worth individuals.—

“(A) In general.—In the case of a failure under subsection (a) by—

“(i) a large entity, or

“(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

“(B) Large entity.—For purposes of subparagraph (A), the term ‘large entity’ means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

“(C) High net worth individual.—For purposes of subparagraph (A), the term ‘high net worth individual’ means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

“(c) Definitions.—For purposes of this section—

“(1) Reportable transaction.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

“(2) Listed transaction.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

“(d) Authority To Rescind Penalty.—

“(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

“(A) the violation is with respect to a reportable transaction other than a listed transaction,

“(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

“(C) it is shown that the violation is due to an unintentional mistake of fact;

“(D) imposing the penalty would be against equity and good conscience, and

“(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

“(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) Penalty Reported to SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction, or

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 802. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to compromise of penalty.—

"(A) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Cross reference.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.".

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d) is amended—

(A) by striking subparagraphs (C) and (D) of paragraph (2), and

(B) by adding at the end the following:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 803. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 804. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 805. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 806. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 807. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Discourage Corporate Expatriation

SEC. 821. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

"(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

"(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

"(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

"(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

"(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

"(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

"(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

"(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

"(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

"(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

"(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

"(E) TAX COURT REVIEW.—

"(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

"(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

"(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,".

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking "or (D)" and inserting ", (D), or (E)".

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) Conforming Amendment.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(e) Transition Rule for Certain Regulated Investment Companies and Unit Investment Trusts.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 822. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any, inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) Value.—For purposes of subsection (a)—

"(1) In general.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) Date for determining value.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) Tax To Apply Only If Shareholder Gain Recognized.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

"(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

"(e) Definitions.—For purposes of this section—

"(1) Disqualified individual.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

"(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

"(2) Inverted corporation; inversion date.—

"(A) Inverted corporation.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A). Such term includes any predecessor or successor of such a corporation.

"(B) Inversion date.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) Specified stock compensation.—

"(A) In general.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) Exceptions.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) Special Rules.—For purposes of this section—

"(1) Cancellation of restriction.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) Payment or reimbursement of tax by corporation treated as specified stock compensation.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) Certain restrictions ignored.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) Property transfers.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) Other administrative provisions.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Denial of Deduction.—

(1) In general.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 limit on deductible compensation reduced by payment of excise tax on specified stock compensation.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) Coordination with excise tax on specified stock compensation.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) Conforming Amendments.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) Effective Date.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 823. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) In General.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) Effective Date.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle C—Other Revenue Provisions

SEC. 831. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

"(a) General Rule.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) Program Criteria.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	**Average fee**
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 832. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "April 2, 2003".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 843. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

"(B) the net worth of the individual as of such date is $2,000,000 or more, or

"(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

"(c) EXCEPTIONS.—

"(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

"(2) DUAL CITIZENS.—

"(A) IN GENERAL.—An individual is described in this paragraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

"(ii) the individual has had no substantial contacts with the United States.

"(B) SUBSTANTIAL CONTACTS.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

"(i) was never a resident of the United States (as defined in section 7701(b)),

"(ii) has never held a United States passport, and

"(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

"(3) CERTAIN MINORS.—An individual is described in this paragraph if—

"(A) the individual became at birth a citizen of the United States,

"(B) neither parent of such individual was a citizen of the United States at the time of such birth,

"(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

"(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.".

(3) CONFORMING AMENDMENT.—Section 2107(a) is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).".

(b) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

"(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

"(2) provides a statement in accordance with section 6039G.".

(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR MORE THAN 30 DAYS.—Section 877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

"(g) PHYSICAL PRESENCE.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present (within the meaning of section

7701(b)(7) without regard to subparagraphs (B), (C), and (D) thereof) in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.".

(d) Transfers Subject to Gift Tax.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

"(6) Transfers of certain stock.—

"(A) In general.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

"(B) Valuation.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

"(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

"(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation,

then the portion of the fair market value of the stock of such foreign corporation transferred by such donor which is included for purposes of subparagraph (A) shall be the amount which bears the same ratio to such value as the fair market value of any assets owned by such foreign corporation and situated in the United States at the time of such transfer bears to the total fair market value of all assets owned by such foreign corporation at such time. For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.".

(e) Enhanced Information Reporting From Individuals Losing United States Citizenship.—

(1) In general.—Subsection (a) of section 6039G is amended to read as follows:

"(a) In General.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).".

(2) Information to be provided.—Subsection (b) of section 6039G is amended to read as follows:

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) information detailing the income, assets, and liabilities of such individual,

"(6) the number of days that the individual was present in the United States during the taxable year, and

"(7) such other information as the Secretary may prescribe.".

(3) Increase in penalty.—Subsection (d) of section 6039G is amended to read as follows:

"(d) Penalty.—If—

"(1) an individual is required to file a statement under subsection (a) for any taxable year, and

"(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.".

(4) Conforming amendment.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) Effective Date.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SA 1425. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1141 and insert the following:

SEC. 1141. NET METERING.

(a) Adoption of Standard.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) Net metering.—

"(A) In general.—On the request of any electric consumer served by an electric utility, the electric utility shall make available to the electric consumer net metering as provided in section 115(i).

"(B) Consideration by state regulatory authorities.—Notwithstanding subsections (b) and (c) of section 112, not later than 1 year after the date of enactment of this paragraph, a State regulatory authority may consider and make a determination concerning whether it is in the public interest to decline to implement subparagraph (A) in the State.

"(C) Incentives.—Nothing in this paragraph precludes a State from establishing incentives to encourage on-site generating facilities and net metering in addition to the requirement under this subsection.

"(D) Reports.—Not later than 1 year after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to Congress a report that—

"(i) describes the status of implementation by the States of subparagraph (A);

"(ii) contains a list of pre-approved systems and equipment eligible for uniform interconnection treatment; and

"(iii) describes the public benefits that have been derived from net metering and interconnection standards.".

(b) Special Rules for Net Metering.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(i) Net Metering.—

"(1) Definitions.—In this subsection:

"(A) Eligible on-site generating facility.—The term 'eligible on-site generating facility' means—

"(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 25 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; and

"(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 1000 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high-efficiency system.

"(B) High efficiency system.—The term 'high efficiency system' means a system that is comprised of—

"(i) fuel cells; or

"(ii) combined heat and power.

"(C) Net metering service.—The term 'net metering service' means service to an electric consumer, as provided in section 111(d)(11), under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(D) Renewable energy resource.—The term 'renewable energy resource' means solar, wind, biomass, micro-freeflow-hydro, or geothermal energy.

"(2) Net metering service.—For the purposes of undertaking the consideration and making the determination with respect to the standard concerning net metering established by section 111(d)(11), the term 'net metering service' means a service provided in accordance with this subsection.

"(3) Charges by an electric utility.—An electric utility—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(4) Measurement of quantities.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period with a single bi-directional meter or otherwise in accordance with reasonable metering practices.

"(5) Quantity sold in excess of quantity supplied.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

"(6) Quantity supplied in excess of quantity sold.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (5); and

"(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period with—

"(i) a kilowatt-hour credit appearing on the bill for the following billing period; or

"(ii) a cash refund.

"(7) COMPLIANCE WITH STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(8) REQUIREMENTS.— The Commission, after consideration of all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, and consultation with State regulatory authorities and unregulated electric utilities, and after notice and opportunity for comment, shall promulgate additional control, testing, and interconnection requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.".

SA 1426. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 5 and 6, insert the following:

SEC. 6__. NATIONWIDE MEDIA CAMPAIGN TO DECREASE OIL CONSUMPTION.

(a) IN GENERAL.—The Secretary of Energy, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy (referred to in this section as the "Secretary"), shall develop and conduct a national media campaign for the purpose of decreasing oil consumption in the United States over the next decade.

(b) CONTRACT WITH ENTITY.—The Secretary shall carry out subsection (a) directly or through—

(1) contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements; or

(2) collective agreements with 1 or more nationally recognized institutes, businesses, or nonprofit organizations for the funding, development, and distribution of monthly television, radio, and newspaper public service announcements.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts made available to carry out this section shall be used for the following:

(A) ADVERTISING COSTS.—

(i) The purchase of media time and space.

(ii) Creative and talent costs.

(iii) Testing and evaluation of advertising.

(iv) Evaluation of the effectiveness of the media campaign.

(v) The negotiated fees for the winning bidder on requests from proposals issued either by the Secretary for purposes otherwise authorized in this section.

(vi) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(B) ADMINISTRATIVE COSTS.—Operational and management expenses.

(2) LIMITATIONS.—In carrying out this section, the Secretary shall allocate not less than 85 percent of funds made available under subsection (e) for each fiscal year for the advertising functions specified under paragraph (1)(A).

(d) REPORTS.—The Secretary shall annually submit to Congress a report that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished, including—

(A) determinations concerning the rate of change of oil consumption, in both absolute and per capita terms; and

(B) an evaluation that enables consideration whether the media campaign contributed to reduction of oil consumption;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts or cooperative agreements entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2004 through 2008.

SA 1427. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) and intended to be proposed to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, after line 18, insert:

SEC. __. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SA 1428. Mr. INHOFE (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 145, between lines 18 and 19, insert the following:

Subtitle D—Nuclear Infrastructure Security

SEC. 436. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) by redesignating subsection jj. as subsection ii.; and

(2) by adding at the end the following:

"jj. DESIGNATED NUCLEAR FACILITY.—The term 'designated nuclear facility' means a facility that the Commission classifies as a designated nuclear facility under section 170C(b).

"kk. PRIVATE SECURITY FORCE.—The term 'private security force', with respect to a designated nuclear facility, means personnel hired or contracted by the licensee or certificate holder of the designated nuclear facility to provide security at the designated nuclear facility.".

SEC. 436A. DESIGNATED NUCLEAR FACILITY SECURITY.

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 170C. PROTECTION OF DESIGNATED NUCLEAR FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) CERTIFICATE HOLDER.—The term 'certificate holder' means the holder of a certificate of compliance issued by the Commission under this Act.

"(2) FEDERAL SECURITY COORDINATOR.—The term 'Federal security coordinator' means a Federal security coordinator as assigned under this Act.

"(3) DESIGN BASIS THREAT.—The term 'design basis threat' means the threat components or capability of an adversary against which a nuclear facility is responsible for defending under regulations, orders, or other directives of the Commission.

"(4) LICENSEE.—The term 'licensee' means the holder of a license issued by the Commission.

"(b) CLASSES OF DESIGNATED NUCLEAR FACILITY.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Commission shall, by regulation, establish classes of designated nuclear facility.

"(2) CLASSIFICATION.—The Commission shall classify facilities licensed by the Commission or issued a certificate by the Commission, including—

"(A) commercial nuclear power plants;

"(B) independent spent fuel storage installations;

"(C) decommissioned nuclear power plants;

"(D) fuel processing facilities;

"(E) gaseous diffusion facilities; and

"(F) any other facility that the Commission determines should be classified as a designated nuclear facility.

"(3) FACTORS.—In determining whether to classify a facility as a designated nuclear facility, the Commission shall consider—

"(A) the nature or type of facility;

"(B) the nature or type of potential radiological release from the facility; and

"(C) other factors relating to protecting public health and safety, the environment, and the common defense and security.

"(c) SECURITY EXAMINATION.—

"(1) IN GENERAL.—The Commission and the Secretary of Homeland Security, in consultation with other agencies and State and local governments as appropriate, shall examine—

"(A) potential threats to nuclear facilities, as appropriate, including consideration of—

“(i) threats comparable to the events of September 11, 2001;

“(ii) cyber threats, chemical threats, and biological threats;

“(iii) attacks on nuclear facilities by multiple coordinated teams of a large number of individuals;

“(iv) attacks by several persons, including persons employed at the nuclear facility, some of whom may have sophisticated knowledge of the operations of the nuclear facility;

“(v) attacks by individuals willing to commit suicide to carry out the attacks;

“(vi) intrusions originating from water or from the air; and

“(vii) fire, especially fire of a long duration;

“(B) classification of threats against nuclear facilities, as appropriate, as—

“(i) a type of threat falling under the responsibilities of the Federal Government, including an act by an enemy of the United States, whether a foreign government or any other person;

“(ii) a type of threat falling under the responsibility of a State or local government; or

“(iii) a type of threat the defense against which should be the responsibility of a licensee or certificate holder;

“(C) the national security response capability, including—

“(i) identification of the obligations and authorities of the United States for protection of areas (including waterways, ports, roadways, airspace, or facilities in the vicinity of a nuclear facility) in the event of a terrorist threat or a terrorist attack against a nuclear facility, as appropriate;

“(ii) identification of the Federal, State, and local agencies responsible for carrying out the obligations and authorities of the United States identified under clause (i); and

“(iii) coordination between the Federal, State and local agencies identified under clause (ii), the Commission, and licensees or certificate holders of nuclear facilities, for protection of nuclear facilities and adjacent areas in the event of a terrorist threat or a terrorist attack;

“(D) coordination of Federal, State, and local security efforts to protect against terrorist or other criminal attacks at nuclear facilities, as appropriate;

“(E) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility, including—

“(i) matters relating to the adequacy of emergency planning zones;

“(ii) matters relating to the adequacy and coordination of Federal, State, and local emergency planning and other measures; and

“(iii) matters relating to the adequacy of security plans for those nuclear facilities;

“(F) the system of threat levels, consistent with the Homeland Security Advisory System, used to categorize the threats pertinent to nuclear facilities, as appropriate, including—

“(i) procedures to ensure coordinated Federal, State, and local responses to changing threat levels for those nuclear facilities;

“(ii) monitoring of threats against those nuclear facilities; and

“(iii) procedures to notify licensees and certificate holders of those nuclear facilities of changes in threat levels;

“(H) the hiring and training standards for members of private security forces at nuclear facilities, as appropriate;

“(I) the coordination of Federal resources to expedite and improve the process of conducting background checks under section 149;

“(J) the establishment by the Secretary of Homeland Security of a program to provide technical assistance and training for the National Guard, State law enforcement agencies, and local law enforcement agencies to respond, as appropriate, to threats against nuclear facilities, as appropriate, including recommendations for the establishment of a grant program to assist State and local governments in carrying out any recommendations under paragraph (3); and

“(K) options for protecting spent fuel storage areas, such as dry cask storage, and associated infrastructure.

“(2) Completion.—The Commission and the Secretary of Homeland Security shall complete the security examination under paragraph (1) not later than 1 year after the date of enactment of this section.

“(3) Report.—Not later than 180 days after completion of the security examination under paragraph (1), the Commission and the Secretary of Homeland Security shall submit to the President and Congress, in classified and unclassified form, a report with recommendations and findings.

“(d) Revision of Design Basis Threats.—

“(1) In general.—Not later than 180 days after completion of the report under subsection (c)(3), the Commission shall by regulation revise the design basis threats promulgated before the date of enactment of this section as the Commission determines to be appropriate based on the security examination.

“(2) Applicability.—A revised design basis threat under paragraph (1) shall apply to such classes of designated nuclear facility as the Commission determines to be appropriate.

“(3) Protection of safeguards information.—

“(A) In general.—In promulgating any regulations under this subsection, the Commission shall ensure protection of information in accordance with chapter 12, section 181, and any other applicable law.

“(B) Effect of section.—Nothing in this section supersedes any law governing the disclosure of classified information or safeguards information.

“(C) Reports to congress on withheld information.—

“(i) Report.—Not later than 60 days after the effective date of the regulations required by this subsection, the Commission shall submit to Congress a report, in classified and unclassified form, describing any classified information, safeguards information, or other information that the Commission considered in promulgating the regulations but did not make available to the public because of the sensitive nature of the information.

“(ii) Orders to licensees or certificate holders.—Periodically, but not less than once every 6 months, the Commission shall submit to Congress a report, in classified and unclassified form, identifying any orders or instructions to operators, licensees, or certificate holders issued under the regulations required by this subsection that were not made public because of their classified content, safeguards content, or sensitive content.

“(e) Threat Levels.—Not later than 150 days after the date of submission of the report under subsection (c)(3), the Commission shall establish a system for the determination of threat levels pertinent to—

“(1) such classes of designated nuclear facility as the Commission determines to be appropriate; and

“(2) materials subject to this Act as designated by the Commission.

“(f) Security Plans.—

“(1) In general.—Pursuant to any action taken by the Commission under subsection (d)(1) to revise a design basis threat, not later than 30 days after the revised design basis threat under subsection (d) becomes effective, the Commission shall require each licensee or certificate holder of a designated nuclear facility that is subject to the revised design basis threat to—

“(A) revise the security plan of that designated nuclear facility to ensure that that designated nuclear facility protects against the appropriate design basis threats; and

“(B) submit the security plan to the Commission for review.

“(2) Review schedule.—The Commission shall establish a priority schedule for conducting reviews of security plans based on—

“(A) the proximity of the designated nuclear facility to large population areas; and

“(B) other critical factors identified by the Commission.

“(3) Upgrades to security.—The Commission shall ensure that the licensee or certificate holder of each designated nuclear facility that is subject to the revised design basis threat makes any changes to security and the security plan required from the Commission review on a schedule established by the Commission, but not to exceed 18 months after completion of the review.

“(g) Emergency Response Plans and Preparedness.—

“(1) In general.—The Commission and the Secretary of Homeland Security, in consultation with other Federal, State, and local government agencies, as appropriate, shall review and update the requirements in effect on the date of enactment of this section for on-site and off-site emergency response plans and preparedness for response to an emergency involving a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate to ensure that the requirements—

“(A) are adequate to protect public health and safety;

“(B) provide reasonable assurance that the plans can and will be implemented; and

“(C) provide reasonable assurance that adequate protective measures can and will be taken in the event of such an emergency.

“(2) Requirements.—At a minimum, the updated requirements applicable to a designated nuclear facility under paragraph (1) shall provide for—

“(A) the establishment of, clear definition of, assignment of, and assurance of the ability to carry out, responsibilities of emergency response organizations and personnel among the licensee or certificate holder, State and local organizations, and other supporting organizations;

“(B) methods and procedures for the clear and prompt notification of State and local response organizations and the public by the licensee or certificate holder;

“(C) methods and procedures for prompt communication and coordination among emergency response organizations and personnel and the public;

“(D) dissemination of information to the public, including pre-emergency education on a periodic basis and in the event of an actual emergency;

“(E) adequate emergency facilities and equipment at and around the designated nuclear facility;

“(F) the use of appropriate methods, systems, and equipment for assessing and monitoring actual and potential impacts of an emergency, including a radiological emergency;

"(G) a range of protective actions for the public, including appropriate evacuation and sheltering and the prophylactic use of potassium iodide;

"(H) means for controlling radiological exposures and other hazardous exposures;

"(I) appropriate medical services;

"(J) recovery and reentry plans; and

"(K) radiological emergency response training.

"(3) FACTORS.—The updated requirements under paragraph (1) shall address relevant factors, including—

"(A) population density, topography, land characteristics, access routes, and jurisdictional boundaries;

"(B) unique aspects of an emergency resulting from a terrorist attack;

"(C) available technology and technical innovations; and

"(D) other factors, as determined by the Commission or the Secretary of Homeland Security.

"(4) STAKEHOLDER INVOLVEMENT.—In updating requirements under paragraph (1), the Commission and the Secretary of Homeland Security shall include requirements for appropriate stakeholder involvement in the planning and exercise process, including the involvement of—

"(A) local governments;

"(B) large employers;

"(C) facilities such as schools, hospitals, nursing homes, and prisons;

"(D) advocacy groups; and

"(E) other interested groups and individuals near a designated nuclear facility.

"(5) REGULATIONS.—

"(A) IN GENERAL.—The Commission and the Secretary of Homeland Security shall promulgate regulations implementing this subsection not later than 180 days following the completion of the report under subsection (c)(3).

"(B) EFFECTIVE DATE.—The regulations shall take effect not later than 90 days after the date of promulgation.

"(6) REVIEWS.—

"(A) IN GENERAL.—Not later than 60 days after the effective date of the regulations under paragraph (5), the Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local government agencies, shall begin reviewing on-site and off-site emergency response plans and preparedness capabilities for compliance with the regulations.

"(B) REVIEW SCHEDULE.—The Commission, in coordination with the Secretary of Homeland Security, shall establish a priority schedule for conducting reviews of emergency response plans and preparedness capabilities under subparagraph (A) based on the relative vulnerability of the designated nuclear facilities that are subject to the regulations and the proximity of the designated nuclear facilities to high population density areas.

"(C) REPORT.—The Commission, in coordination with the Secretary of Homeland Security, shall submit to Congress a report, in classified and unclassified form, describing the results of each review conducted under subparagraph (A).

"(7) EFFECT OF SUBSECTION.—Nothing in this subsection limits the authority of the Commission or the Secretary of Homeland Security to take other actions for protection of the public health and safety, the environment, or the common defense and security under any other authority of the Commission or the Secretary of Homeland Security.

"(h) EMPLOYEE SECURITY.—

"(1) REVIEW.—Not later than 180 days after the date of enactment of this section, the Commission shall review and update as appropriate the access and training standards for employees of nuclear facilities.

"(2) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Commission shall establish qualifications and procedures, in addition to fingerprinting for criminal history record checks conducted under section 149, to ensure that no individual who presents a threat to national security is employed at a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate.

"(i) FEDERAL SECURITY COORDINATORS.—

"(1) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this section, the Commission shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

"(2) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

"(A) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against a designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate;

"(B) ensuring that a designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate maintains security consistent with the security plan in accordance with the appropriate threat level; and

"(C) assisting in the coordination of security measures among—

"(i) the private security force at a designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate; and

"(ii) Federal, State, and local authorities, as appropriate.

"(3) ADDITIONAL FEDERAL SECURITY COORDINATORS.—

"(A) IN GENERAL.—The Commission may assign an additional Federal security coordinator, as the Commission considers appropriate, to a Commission office on the site of a designated nuclear facility.

"(B) REQUEST BY GOVERNOR.—The Governor of any State that contains a designated nuclear facility may request the assignment of an additional Federal security coordinator to 1 or more designated nuclear facilities in that State.

"(j) NATIONAL SECURITY CAPABILITY.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the President shall identify the national security support capability to protect designated nuclear facilities against terrorist threats and attacks.

"(2) ELEMENTS.—The national security support capability shall use capabilities of such Federal agencies identified in the report under subsection (c)(3), or of other Federal, State, and local agencies, as the President determines to be appropriate.

"(3) CAPABILITIES.—

"(A) IN GENERAL.—The national security support capability shall provide assistance to the private security force at each designated nuclear facility in such classes of designated nuclear facilities as the Commission determines to be appropriate, appropriate State and local agencies including emergency response and law enforcement agencies, and where appropriate, the National Guard, in accordance with the obligations and authorities of the United States, as identified in the report to Congress required under subsection (c)(3).

"(B) COORDINATION.—The President shall ensure that effective coordination exists between Federal agencies, the Commission, and State and local governments in planning and deployment for prevention, deterrence, and response to actual or potential terrorist attacks against such classes of designated nuclear facility as the Commission considers appropriate.

"(4) TRAINING PROGRAM.—

"(A) IN GENERAL.—The President shall establish a program to provide technical assistance and training to Federal agencies, the National Guard, and State and local law enforcement and emergency response agencies in responding to threats against a designated nuclear facility.

"(B) GRANTS.—The President may provide grants to State and local governments to assist in carrying out subparagraph (A).

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

"(k) CLASSIFIED INFORMATION.—Nothing in this section supersedes any law governing the disclosure of classified information or safeguards information.".

(b) FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.—Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) is amended—

(1) in subsection a.—

(A) by striking "a. The Nuclear" and all that follows through "section 147." and inserting the following:

"a. IN GENERAL.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The Commission shall require—

"(i) each licensee, certificate holder, or applicant for a license or certificate to operate a utilization facility under section 103 or 104(b); and

"(ii) each licensee or applicant for a license to possess or use radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks;

to fingerprint each individual described in subparagraph (B).

"(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

"(i) is permitted unescorted access to—

"(I) a utilization facility; or

"(II) radioactive material or other property identified by the Commission under subparagraph (A)(ii); or

"(ii) is permitted access to safeguards information under section 147.";

(B) by striking "All fingerprints" and inserting the following:

"(2) SUBMISSION TO THE ATTORNEY GENERAL.—All fingerprints";

(C) by striking "The costs" and inserting the following:

"(3) COSTS.—The costs";

(D) by striking "Notwithstanding" and inserting the following:

"(4) PROVISION TO LICENSEE, CERTIFICATE HOLDER, OR APPLICANT.—Notwithstanding"; and

(E) by striking "licensee or applicant" each place it appears and inserting "licensee, certificate holder, or applicant for a license or certificate";

(2) by redesignating subsection d. as subsection e.; and

(3) by inserting after subsection c. the following:

“d. Use of Other Biometric Methods.—Any requirement for a person to conduct fingerprinting under this section may be satisfied by using any other biometric method for identification approved for use by the Attorney General.”.

SEC. 436B. OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.

(a) In General.—Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following:

“SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE.

“(a) Definitions.—In this section:

“(1) Certificate holder.—The term ‘certificate holder’ has the meaning given the term in section 170C(a) of the Atomic Energy Act of 1954.

“(2) Designated nuclear facility.—The term ‘designated nuclear facility’ has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

“(3) Director.—The term ‘Director’ means the Director of Nuclear Security and Incident Response appointed under subsection (c) to head the Office.

“(4) Licensee.—The term ‘licensee’ has the meaning given the term in section 170C(a) of the Atomic Energy Act of 1954.

“(5) Office.—The term ‘Office’ means the Office of Nuclear Security and Incident Response established by subsection (b).

“(b) Establishment of Office.—There is established in the Commission the Office of Nuclear Security and Incident Response.

“(c) Director.—

“(1) Appointment.—The Commission may appoint and remove from office a Director of Nuclear Security and Incident Response.

“(2) Duties.—

“(A) In general.—The Director shall perform such functions as the Commission delegates to the Director.

“(B) Functions.—The functions delegated to the Director may include—

“(i) carrying out security, safeguards, and incident responses relating to—

“(I) any facility subject to the jurisdiction of the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

“(II) any property subject to the jurisdiction of the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) that—

“(aa) is significant to the common defense and security; or

“(bb) is being transported to or from a facility described in clause (i); and

“(III) any other activity of a licensee or certificate holder, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), that is significant to the common defense and security;

“(ii) for a facility or material licensed or certified under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)—

“(I) developing contingency plans for dealing with threats, thefts, and sabotage; and

“(II) monitoring, reviewing, and evaluating security and safeguards;

“(iii) recommending upgrades to internal accounting systems for special nuclear and other materials licensed or certified under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

“(iv) developing and recommending standards and amendments to the standards of the Commission relating to the duties described in clauses (i) through (iii); and

“(E) carrying out such other duties of the Commission regarding safeguards and physical security functions and incident response functions as the Commission determines to be appropriate.

“(3) Consultation.—In carrying out the duties under paragraph (2), the Director shall, to the extent practicable, consult and coordinate with other Federal agencies.

“(d) Security Response Evaluations.—

“(1) In general.—Not later than 1 year after the date of enactment of this section, the Commission shall establish a security response evaluation program to assess the ability of each designated nuclear facility that is part of a class of designated nuclear facilities that the Commission considers appropriate to defend against threats in accordance with the security plan for the designated nuclear facility.

“(2) Frequency of evaluations.—Not less than once every 3 years, the Commission shall conduct and document security response evaluations at each designated nuclear facility that is part of a class of designated nuclear facilities that the Commission considers appropriate to assess the ability of the private security force of the designated nuclear facility to defend against applicable design basis threats.

“(3) Security exemption.—The Commission may suspend activities under this section if the Commission determines that the security response evaluations would compromise security at any designated nuclear facility in accordance with a heightened threat level.

“(4) Activities.—The security response evaluation shall include force-on-force exercises that simulate the security threats consistent with the design basis threats applicable to the designated nuclear facility.

“(5) Performance criteria.—The Commission shall establish performance criteria for judging the security response evaluations.

“(6) Corrective action.—

“(A) In general.—When any of the performance criteria established under paragraph (5) are not satisfied—

“(i) the licensee or certificate holder shall promptly correct any defects in performance identified by the Commission in the security response evaluation; and

“(ii) the Commission shall conduct an additional security response evaluation within 9 months to confirm that the licensee or certificate holder satisfies the performance criteria established under paragraph (5).

“(B) 2 consecutive failures to satisfy performance criteria.—

“(i) In general.—If a designated nuclear facility fails to satisfy the performance criteria established under paragraph (5) in 2 consecutive security response evaluations, the Commission shall issue an order specifying the corrective actions that must be taken by the licensee or certificate holder of the designated nuclear facility.

“(ii) Failure to take corrective action.—If the licensee or certificate holder of a designated nuclear facility does not take the corrective action specified by the Commission within 30 days after the date of issuance of an order under clause (i), the Commission shall assess a civil penalty under section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282).

“(C) Effect.—Nothing in this paragraph limits any enforcement authority of the Commission to take action in response to deficiencies identified through security evaluations.

“(7) Reports.—Not less often than once every year, the Commission shall submit to Congress and the President a report, in classified form and unclassified form, that describes the results of each security response evaluation under this paragraph for the previous year.

“(e) Emergency Response Exercises.—

“(1) In general.—Not less than once every 2 years, the Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local response agencies and stakeholders, shall observe and evaluate emergency response exercises to determine whether—

“(A) on-site and off-site emergency response plans for, and capabilities for response to an emergency involving, each designated nuclear facility in such classes of designated nuclear facility as the Commission determines to be appropriate are adequate to protect public health and safety; and

“(B) there is reasonable assurance that—

“(i) those plans and capabilities can and will be implemented; and

“(ii) adequate protective measures can and will be taken in the event of an emergency.

“(2) Assessment of ability to respond.—Exercises under paragraph (1) shall assess the ability of Federal, State, and local emergency response agencies and emergency response personnel of a licensee or certificate holder to respond adequately to an emergency involving the designated nuclear facility.

“(3) High population density areas.—The Commission, in coordination with the Secretary of Homeland Security and, as appropriate, in consultation with other Federal, State, and local agencies and stakeholders, may observe and evaluate exercises more frequently at designated nuclear facilities located in high population density areas.

“(4) Performance-based approach.—The Commission, in cooperation with the Secretary of Homeland Security, shall promptly establish performance criteria for use in evaluating the results of the exercises under paragraph (1), including criteria relating to—

“(A) response times and capabilities;

“(B) coordination and communication among response personnel and organizations;

“(C) emergency equipment, public notification systems, and communications networks;

“(D) feasible evacuation of individuals; and

“(E) other matters determined by the Commission or the Secretary of Homeland Security.

“(5) Scenarios.—The evaluations under paragraph (1) shall assess the ability of the emergency response plans to protect public health and safety and provide reasonable assurance that adequate protective measures can and will be taken in responding to a broad range of accident scenarios, including—

“(A) fast-breaking events that occur with little or no warning;

“(B) radiological releases of significant magnitude;

“(C) significant spontaneous evacuations;

“(D) significant shadow evacuations;

“(E) terrorist attacks; and

“(F) other scenarios determined by the Commission or the Secretary of Homeland Security.

“(6) Deficiencies.—

“(A) Notification.—The Commission, in coordination with the Secretary of Homeland Security, shall promptly notify licensees or certificate holders, the Governor of any State that may be affected, and any other appropriate Federal, State, or local agencies or stakeholders of any weaknesses or deficiencies in an emergency response plan or in emergency preparedness capabilities identified as the result of an evaluation under paragraph (1).

"(B) Failure to correct.—If weaknesses or deficiencies in emergency response plans or in preparedness capabilities are not promptly corrected, the Commission shall take appropriate action under section 107 or other enforcement authorities available to the Commission to—

"(i) ensure adequate protection of public health and safety; and

"(ii) provide reasonable assurance that plans can and will be implemented and that adequate protective measures can and will be taken in the event of an emergency.

"(7) Report.—Not less than once annually, the Commission and the Secretary of Homeland Security shall submit to the President and Congress a report, in classified and unclassified form, that describes—

"(A) the results of each exercise evaluated in the previous year; and

"(B) each revision of an emergency response plan or emergency preparedness capabilities made under paragraph (6) in the previous year that is substantive in nature.

"(8) Maintenance.—The Commission shall take such action as is necessary to ensure that adequate emergency response plans and capabilities are maintained during the intervals between exercises.

"(9) Effect of subsection.—Nothing in this subsection limits the authority of the Commission or the Secretary of Homeland Security to take other actions for protection of the public health and safety, the environment, or the common defense and security under any other authority of the Commission or the Secretary of Homeland Security.

"(f) Effect.—Nothing in this section limits any authority of the Secretary of Energy relating to the security and safeguarding of special nuclear materials, high-level radioactive waste, and nuclear facilities resulting from all activities under the jurisdiction of the Secretary.".

(b) Conforming Amendments.—Title II of the Energy Reorganization Act of 1974 is amended—

(1) in section 203(b) (42 U.S.C. 5843(b))—

(A) in paragraph (1), by striking "licensing and regulation involving" and inserting "licensing, regulation, and, except as otherwise provided under section 212, carrying out safety reviews, safeguards, and physical security of"; and

(B) in paragraph (2), by striking "and safeguards"; and

(2) in section 204(b) (42 U.S.C. 5844(b))—

(A) in paragraph (1)—

(i) by striking "including" and inserting "not including"; and

(ii) by striking "and materials." and inserting "and materials, to the extent that the safeguards and security functions are delegated to the Office of Nuclear Security and Incident Response under section 212.";

(B) in paragraph (2)—

(i) by striking "and safeguards"; and

(ii) by striking ", as amended," and all that follows through the period and inserting "(42 U.S.C. 2011 et seq.)".

SEC. 436C. GUARDING OF NUCLEAR FACILITIES, EQUIPMENT, AND MATERIAL.

(a) Transporting of Short-Barreled Shotgun or Rifle.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking "or licensed collector," and inserting the following: "licensed collector, or a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that holds the license or certificate for the purpose of establishing and maintaining an on-site physical protection system and security organization required by Federal law or for the purpose of licensee-authorized or certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),"; and

(2) in subsection (o)(2)—

(A) in subparagraph (A), by striking "or" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(C) a transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of the licensee or certificate holder on-site for such purposes or off-site for purposes of licensee-authorized or certificate holder-authorized training or transportation of nuclear materials or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).".

(b) Authorization for Importation of Firearm or Ammunition.—Section 925(d)(1) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "is being"; and

(2) by inserting after the semicolon the following: "or

"(B) is being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;".

(c) Interstate Transportation of Firearms.—Section 926A of title 18, United States Code, is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) In General.—Notwithstanding"; and

(2) by adding at the end the following:

"(b) Licensees and Certificate Holders of the Nuclear Regulatory Commission.—Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision of a State, a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that is not otherwise prohibited by this chapter from transporting, shipping, receiving, or possessing a firearm shall be entitled to transport and possess a firearm for purposes of establishing and maintaining an onsite physical protection system and security organization required by Federal law, and for purposes of licensee-authorized or certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).".

(d) Importation of Firearms.—Section 5844 of the Internal Revenue Code of 1986 (26 U.S.C. 5844) is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by inserting "or" after the semicolon; and

(3) by inserting after paragraph (3) the following:

"(4) a machinegun or short-barreled shotgun being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;".

(e) Semiautomatic Assault Weapons; Large Capacity Ammunition Feeding Devices.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (v)(4)(B)—

(A) by inserting "or certificate holder" after "licensee" each place that term appears;

(B) by inserting "or certificate holder-authorized" after "licensee-authorized"; and

(C) by inserting "or equipment" after "materials"; and

(2) in subsection (w)(3)(B)—

(A) by inserting "or certificate holder" after "licensee" each place that term appears;

(B) by inserting "or certificate holder-authorized" after "licensee-authorized"; and

(C) by inserting "or equipment" after "materials".

SEC. 436D. SENSITIVE RADIOACTIVE MATERIAL SECURITY.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 436A) is amended by adding at the end the following:

"SEC. 170D. SENSITIVE RADIOACTIVE MATERIAL SECURITY.

"(a) Definitions.—In this section:

"(1) Sensitive radioactive material.—

"(A) In general.—The term 'sensitive radioactive material' means—

"(i) a material—

"(I) that is a source material, by-product material, or special nuclear material; or

"(II) that is any other radioactive material (regardless of whether the material is or has been licensed or otherwise regulated under this Act) produced or made radioactive before or after the date of enactment of this section; and

"(ii) that is in such a form or quantity or concentration that the Commission determines should be classified as 'sensitive radioactive material' that warrants improved security and protection against loss, theft, or sabotage,

"(B) Exclusion.—The term 'sensitive radioactive material' does not include nuclear fuel or spent nuclear fuel.

"(2) Security threat.—The term 'security threat' means—

"(A) a threat of sabotage or theft of sensitive radioactive material;

"(B) a threat of use of sensitive radioactive material in a radiological dispersal device; and

"(C) any other threat of terrorist or other criminal activity involving sensitive radioactive material that could harm the health or safety of the public due primarily to radiological properties of the sensitive radioactive material, as determined by the Commission.

"(b) Duties.—

"(1) In general.—The Commission, in consultation with Secretary of Homeland Security, Secretary of Energy, Director of Central Intelligence, Director of the Federal Bureau of Investigation, Director of the Customs Service, and Administrator of the Environmental Protection Agency, shall—

"(A) evaluate the security of sensitive radioactive material against security threats; and

"(B) recommend administrative and legislative actions to be taken to provide an acceptable level of security against security threats.

“(2) Considerations.—In carrying out paragraph (1), the Commission shall consider actions, as appropriate to—

“(A) determine the radioactive materials that should be classified as sensitive radioactive materials;

“(B) develop a classification system for sensitive radioactive materials that—

“(i) is based on the potential for use by terrorists of sensitive radioactive material and the extent of the threat to public health and safety posed by that potential; and

“(ii) takes into account—

“(I) radioactivity levels of sensitive radioactive material;

“(II) the dispersibility of sensitive radioactive material;

“(III) the chemical and material form of sensitive radioactive material;

“(IV) the need to maintain access by physicians and other medical professionals to sensitive radioactive material and pharmaceuticals containing sensitive radioactive material for use in connection with medical diagnosis or treatment; and

“(V) other appropriate factors;

“(C) develop a national system for recovery of sensitive radioactive material that is lost or stolen, taking into account the classification system established under subparagraph (B);

“(D) provide for the storage of sensitive radioactive material that is not currently in use in a safe and secure manner;

“(E) develop a national tracking system for sensitive radioactive material, taking into account the classification system established under subparagraph (B);

“(F) develop methods to ensure the return or proper disposal of sensitive radioactive material;

“(G) consider export controls on sensitive radioactive materials so that, to the extent feasible, exports from the United States of sensitive radioactive materials are made to foreign recipients that are willing and able to control the sensitive radioactive materials in a manner that is not inimical to the common defense and security of the United States; and

“(H) establish procedures to improve the security of sensitive radioactive material in use, transportation, and storage.

“(3) Procedures to improve security.—The procedures to improve the security of sensitive radioactive material under paragraph (2)(H) may include—

“(A) periodic audits or inspections by the Commission to ensure that sensitive radioactive material is properly secured and can be fully accounted for;

“(B) evaluation by the Commission of security measures taken by persons that possess sensitive radioactive material;

“(C) imposition of increased fines for violations of regulations relating to security and safety measures applicable to persons that possess sensitive radioactive material;

“(D) conduct of background checks on individuals with access to sensitive radioactive material;

“(E) measures to ensure the physical security of facilities in which sensitive radioactive material is stored; and

“(F) screening of shipments of sensitive radioactive material to facilities that are particularly at risk for sabotage to ensure that the shipments do not contain explosives.

“(c) Report.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 3 years thereafter, the Commission shall submit to the President and Congress a report in unclassified form (with a classified annex, if necessary) describing the administrative and legislative actions recommended under subsection (b)(1).

“(d) Administrative Action.—Not later than 60 days after the date of submission of the report under subsection (c), the Commission shall take such actions as are appropriate to—

“(1) revise the system for licensing sensitive radioactive materials; and

“(2) delegate the authority of the Commission to implement regulatory programs and requirements to States that enter into agreements with the Commission to perform inspections and other functions on a cooperative basis as the Commission considers appropriate.”.

SEC. 436E. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting “or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act” before the period at the end.

SEC. 436F. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in the first sentence, by striking “or who intentionally and willfully attempts” and inserting “or who attempts or conspires”;

(2) in paragraph (2), by striking “storage facility” and inserting “storage, treatment, or disposal facility”;

(3) in paragraph (3)—

(A) by striking “such a utilization facility” and inserting “a utilization facility licensed under this Act”; and

(B) by striking “or” at the end;

(4) in paragraph (4)—

(A) by striking “facility licensed” and inserting “uranium conversion or nuclear fuel fabrication facility licensed or certified”; and

(B) by striking the period at the end and inserting a semicolon; and

(5) by inserting after paragraph (4) the following:

“(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

“(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

“(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;”.

SEC. 436G. EVALUATION OF ADEQUACY OF ENFORCEMENT PROVISIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General and the Nuclear Regulatory Commission shall submit to Congress a report that assesses the adequacy of the criminal enforcement provisions in chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 221 et seq.).

SEC. 436H. PROTECTION OF WHISTLEBLOWERS.

Section 211(a)(2) of the Energy Reorganization Act (42 U.S.C. 5851) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(E) a contractor or subcontractor of the Commission.”.

SEC. 436I. TECHNICAL AND CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec.
“170B. Uranium supply.
“170C. Protection of designated nuclear facilities.102. Section 102 head.
“170D. Sensitive radioactive material security.”.

SEC. 436J. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated such sums as are necessary to carry out the amendments made by this title.

(b) Aggregate Amount of Charges.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and” and

(3) by adding at the end the following:

“(iii) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.”.

SA 1429. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, line 24, insert “(including roofing)” after “system”.

On page 91, line 11, strike “and”.

On page 91, line 15, strike the period and insert “, and”.

On page 91, between lines 15 and 16, insert the following:

“(III) which has a roof which meets the requirements for reflective roofs under the Energy Star program of the Environmental Protection Agency.

On page 104, line 19, strike “and”.

On page 104, between lines 19 and 20, insert the following:

“(5) 30 percent of the qualified energy efficient reflective metal roof expenditures made by the taxpayer during such year, and

On page 104, line 20, strike “(5)” and insert “(6)”.

On page 106, line 5, strike “or a wind energy property” and insert “a wind energy property, or a reflective metal roof”.

On page 106, line 9, strike “(d)(6)” and insert “(d)(7)”.

On page 108, between lines 22 and 23, insert the following:

“(6) Qualified energy efficient reflective metal roof expenditure.—The term ‘qualified energy efficient reflective metal roof expenditure’ means an expenditure for pigmented coated metal roofs which meet or exceed solar reflectivity standards established for reflective roof products under the Energy Star program of the Environmental

Protection Agency and which are installed on a dwelling unit located in the United States and used as a residence by the taxpayer.

On page 108, line 23, strike "(6)" and insert "(7)".

On page 110, line 8, strike "(7)" and insert "(8)".

On page 110, line 11, strike "or (6)" and insert "(6), or (7)".

On page 110, line 15, strike "(8)" and insert "(9)".

On page 139, line 8, insert ", or, in the case of roofs, in accordance with the requirements for reflective roof products under the Energy Star program of the Environmental Protection Agency" before the comma.

On page 145, line 19, insert "(including roofing)" after "system".

SA 1430. Mr. BREAUX submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of Division B, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM WIND ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) Special rules for credit for electricity produced from wind.—

"(A) In general.—In the case of the wind electricity credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) in applying paragraph (1) to such credit—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind electricity credit).

"(B) Wind electricity credit.—For purposes of this subsection, the term 'wind electricity credit' means the credit determined under sections 45 to the extent that such credit is attributable to electricity produced—

"(i) at a facility using wind to produce electricity which is originally placed in service after the date of the enactment of this paragraph, and

"(ii) during the 4-year period beginning on the date that such facility was originally placed in service.".

(b) Conforming Amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, and subclause (II) of section 38(c)(5)(A)(ii), as added by this Act, are each amended by inserting "or the wind electricity credit" after "Alaska natural gas credit".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 1431. Mr. GRASSLEY (for himself and Mr. Baucus) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, beginning on page 66, line 4, strike all through page 67, line 9.

Beginning on page 67, line 16, strike all through page 69, line 25, and insert the following:

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—

"(A) In general.—Subject to subparagraph (B), in the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(B) Certification for agri-biodiesel.—Subparagraph (A) shall apply only if the taxpayer described in paragraph (1)(A) or (2)(A) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

On page 70, line 11, insert "derived from plant or animal matter" after "acids".

On page 71, strike lines 1 through 3.

On page 71, line 4, strike "(4)" and insert "(3)".

On page 71, lines 17 through 19, strike "biodiesel mixture rate applicable under subsection (b)(1)(B)" and insert "rate applicable under subsection (b)(1)(A)".

On page 72, line 3, strike "(5)" and insert "(4)".

On page 73, between lines 3 and 4, insert the following:

(2)(A) Section 87, as amended by this Act, is amended—

(i) by striking "and" at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting ", and",

(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).", and

(iv) by striking "fuel credit" in the heading and inserting "and biodiesel fuels credits".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

On page 73, line 4, strike "(2)" and insert "(3)".

On page 73, line 11, strike "(3)" and insert "(4)".

On page 76, strike lines 1 through 11 and insert the following:

"(1) In general.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any qualified biodiesel mixture.

"(2) Applicable amount.—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) Amount for agri-biodiesel.—

"(i) In general.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(ii) Certification for agri-biodiesel.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

On page 76, line 21, strike "agri-biodiesel" and insert "biodiesel".

On page 77, lines 1 and 2, strike "agri-biodiesel" and insert "biodiesel".

On page 77, line 8, strike "agri-biodiesel" and insert "biodiesel".

On page 77, between lines 14 and 15, insert the following:

(b) Registration Requirement.—Section 4101(a) (relating to registration) is amended by inserting "and every person producing biodiesel (as defined in section 40B(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4091".

On page 77, line 15, strike "(b)" and insert "(c)".

Beginning on page 79, line 16, strike all through page 80, line 17, and insert the following:

"(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40B(d)(1)) or agri-biodiesel (as defined in section 40B(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40B(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2005.".

On page 82, line 4, strike "(e)" and insert "(e)(1)".

On page 84, line 8, strike "(c)" and insert "(d)".

On page 84, line 11, strike "(d)" and insert "(e)".

Beginning on page 86, line 25, strike "with the" and all that follows through page 87, line 2, and insert the following: "with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment,".

On page 88, between lines 11 and 12, insert the following:

"(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

On page 89, line 2, insert "or system" after "cooling equipment".

On page 90, line 10, strike "or" and insert a comma.

On page 90, line 11, insert "or a guarantee-based method," after "method,".

On page 91, strike lines 12 through 15 and insert the following:

"(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

On page 91, line 22, strike "Such" and all that follows through page 92, line 2.

On page 92, between lines 2 and 3, insert the following:

"(D) GUARANTEE-BASED METHOD.—

"(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

"(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

On page 92, line 9, insert "or a guarantee-based method" after "method".

On page 94, line 13, insert "and guarantee-based" after "based".

On page 105, strike lines 6 through 19 and insert the following:

"(C) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

"(iii) $150 for each advanced natural gas, oil, or propane water heater,

"(iv) $50 for each natural gas, oil, or propane water heater,

"(v) $50 for an advanced main air circulating fan,

"(vi) $150 for each advanced combination space and water heating system,

"(vii) $50 for each combination space and water heating system, and

"(viii) $250 for each geothermal heat pump.

On page 106, line 18, insert "for property described in subsection (d)(6)(B)(viii)" after "(EER)".

On page 109, strike lines 12 through 17.

On page 109, line 18, strike "(iii)" and insert "(ii)".

On page 109, lines 18 and 19, strike "or propane furnace" and insert "propane furnace, or hot water boiler".

On page 109, strike lines 22 through 25.

On page 110, strike lines 1 through 7 and insert the following:

"(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

"(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

"(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

"(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

On page 139, strike lines 7 and 8 and insert the following: "meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component,".

On page 141, line 10, strike "Such" and all that follows through line 15.

On page 141, line 19, strike "by".

On page 146, strike lines 17 through 19 and insert the following:

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) DOLLAR AMOUNT.—The credit", and

(B) by adding at the end the following new paragraph:

On page 146, line 20, strike "(3)" and insert "(2)".

On page 147, line 9, strike "(b)(3)" and insert "(b)(2)".

On page 153, strike lines 13 and 14 and insert the following:

"(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

On page 157, line 2, strike "section 45(d)" and insert "section 45(e)".

On page 177, line 21, strike "(2), and (6)" and insert ", (2), and (6)".

On page 180, after line 10, strike "40.6" both places it appears and insert "40.2".

On page 180, after line 10, strike "40" both places it appears and insert "39".

On page 181, between lines 3 and 4, strike "43.6" both places it appears and insert "43.9".

On page 181, between lines 6 and 7, strike "44.2" both places it appears and insert "46.3".

On page 181, between lines 6 and 7, strike "43.9" and insert "44.2".

On page 182, line 11, strike "section 45(d)" and insert "section 45(e)".

On page 198, line 25, insert "with respect to any facility" after "taxable year".

On page 199, line 2, insert "with respect to such facility" after "taxable year".

On page 199, line 9, strike "a small business refiner" and insert "any facility".

On page 200, line 16, insert "for all facilities of the taxpayer" after "of which ".

On page 200, line 18, strike "205,000" and insert "410,000".

On page 219, line 24, insert ", as amended by this Act," after "rules)".

On page 220, line 1, strike "(9)" and insert "(10)".

On page 222, strike lines 1 through 4 and insert the following:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (c) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

On page 227, line 1, strike "the taxpayer" and insert "such person or entity".

On page 227, beginning on line 10, strike "operating" and all that follows through "production." on line 12, and insert the following: "such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.".

On page 228, line 7, strike "15 years" and insert "25 years".

On page 231, strike lines 4 and 5 and insert the following:

"(B) is—

"(i) placed in service after December 31, 2012, or

"(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

On page 231, strike lines 14 through 17 and insert the following:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

On page 237, between lines 18 and 19, insert the following:

SEC. 514. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) IN GENERAL.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

"(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

"(ii) prepares Alaska natural gas (as defined in section 45M(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

"(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2003.

SA 1432. Mr. FRIST proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; (instructions on pending motion to commit) as follows:

Strike all after the first word and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as "The Energy Policy Act of 2003".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—OIL AND GAS

Subtitle A—Production Incentives

Sec. 101. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 102. Study on inventory of petroleum and natural gas storage.
Sec. 103. Program on oil and gas royalties in kind.
Sec. 104. Marginal property production incentives.
Sec. 105. Comprehensive inventory of OCS oil and natural gas resources.
Sec. 106. Royalty relief for deep water production.
Sec. 107. Alaska offshore royalty suspension.
Sec. 108. Orphaned, abandoned, or idled wells on Federal lands.
Sec. 109. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 110. Alternate energy-related uses on the Outer Continental Shelf.
Sec. 111. Coastal impact assistance.
Sec. 112. National Energy Resource Database.
Sec. 113. Oil and gas lease acreage limitation.
Sec. 114. Assessment of dependence of State of Hawaii on oil.

Subtitle B—Access to Federal Lands

Sec. 121. Office of Federal Energy Permit Coordination.
Sec. 122. Pilot Project to improve Federal permit coordination.
Sec. 123. Federal onshore leasing programs for oil and gas.
Sec. 124. Estimates of oil and gas resources underlying onshore Federal lands.
Sec. 125. Split-Estate Federal oil and gas leasing and development practices.
Sec. 126. Coordination of Federal agencies to establish priority energy transmission rights-of-way.

Subtitle C—Alaska Natural Gas Pipeline

Sec. 131. Short title.
Sec. 132. Definitions.
Sec. 133. Issuance of certificate of public convenience and necessity.
Sec. 134. Environmental reviews.
Sec. 135. Pipeline expansion.
Sec. 136. Federal coordinator.
Sec. 137. Judicial review.
Sec. 138. State jurisdiction over in-state delivery of natural gas.
Sec. 139. Study of alternative means of construction.
Sec. 140. Clarification of ANGTA status and authorities.
Sec. 141. Sense of Congress.
Sec. 142. Participation of small business concerns.
Sec. 143. Alaska pipeline construction training program.
Sec. 144. Loan guarantee.
Sec. 145. Sense of Congress on natural gas demand.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 201. Authorization of appropriations.
Sec. 202. Project criteria.
Sec. 203. Reports.
Sec. 204. Clean Coal Centers of Excellence.

Subtitle B—Federal Coal Leases

Sec. 211. Repeal of the 160-acre limitation for coal leases.
Sec. 212. Mining plans.
Sec. 213. Payment of advance royalties under coal leases.
Sec. 214. Elimination of deadline for submission of coal lease operation and reclamation plan.
Sec. 215. Application of amendments.

Subtitle C—Powder River Basin

Sec. 221. Resolution of Federal resource development conflicts in the Powder River Basin.

TITLE III—INDIAN ENERGY

Sec. 301. Short title.
Sec. 302. Office of Indian energy policy and programs.
Sec. 303. Indian energy.

"TITLE XXVI—INDIAN ENERGY

"Sec. 2601. Definitions.
"Sec. 2602. Indian tribal energy resource development.
"Sec. 2603. Indian tribal energy resource regulation.
"Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Indian mineral development review.
"Sec. 2607. Wind and hydropower feasibility study."

Sec. 304. Four Corners transmission line project.
Sec. 305. Energy efficiency in federally assisted housing.
Sec. 306. Consultation with Indian tribes.

TITLE IV—NUCLEAR

Subtitle A—Price-Anderson Amendments

Sec. 401. Short title.
Sec. 402. Extension of indemnification authority.
Sec. 403. Maximum assessment.
Sec. 404. Department of energy liability limit.
Sec. 405. Incidents outside the United States.
Sec. 406. Reports.
Sec. 407. Inflation adjustment.
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SEC. 101. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) Amendment to Title I of the Energy Policy and Conservation Act.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

"Authorization of Appropriations

"Sec. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.";

(2) by striking section 186 (42 U.S.C. 6250(e)); and

(3) by striking part E (42 U.S.C. 6251); relating to the expiration of title I of the Act).

(b) Amendment to Title II of the Energy Policy and Conservation Act.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

"(g) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.";

(2) by inserting before section 273 (42 U.S.C. 6283) the following:

"Part C—Summer Fill and Fuel Budgeting Programs";

(3) by striking section 273(e) (42 U.S.C. 6283(e)); relating to the expiration of summer fill and fuel budgeting programs); and

(4) by striking part D (42 U.S.C. 6285); relating to the expiration of title II of the Act).

(c) Technical Amendments.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by amending the items relating to part D of title I to read as follows:

"PART D—NORTHEAST HOME HEATING OIL RESERVE

"Sec. 181. Establishment.
"Sec. 182. Authority.
"Sec. 183. Conditions for release; plan.
"Sec. 184. Northeast Home Heating Oil Reserve Account.
"Sec. 185. Exemptions.";

(2) by amending the items relating to part C of title II to read as follows:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

"Sec. 273. Summer fill and fuel budgeting programs.";

and

(3) by striking the items relating to part D of title II.

(d) Northeast Home Heating Oil.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250(b)(1)) is amended by striking all after "increases" through to "mid-October through March" and inserting "by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)".

SEC. 102. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) Definition.—For purposes of this section "petroleum" means crude oil, motor gasoline, jet fuel, distillates and propane.

(b) Study.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) Contents.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet U.S. demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) Report to Congress.—Not later than one year from enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 103. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) Applicability of Section.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalties-in-kind accepted by the Secretary (referred to in this section as "Secretary") under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law beginning on the date of the enactment of this Act through September 30, 2013.

(b) Terms and Conditions.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in kind.

(4) The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(6) Notwithstanding the provisions of paragraph 5, the Secretary may use a portion of the revenues from the sale of oil royalties taken in kind, without fiscal year limitation, to pay transportation costs, salaries, and other administrative costs directly related to filling the Strategic Petroleum Reserve.

(c) Reimbursement of Cost.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) Benefit to the United States Required.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those likely to have been received had royalties been taken in value.

(e) Report to Congress.—

(1) No later than September 30, 2005, the Secretary shall provide a report to Congress that addresses—

(A) actions taken to develop business processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind business operation plans and objectives.

(2) For each of the fiscal years 2004 through 2013 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsections (h), the Secretary shall provide a report to Congress describing—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d) , including performance standard for comparing amounts received by the United States derived from such royalties-in-kind to amount likely to have been received had royalties been taken in value;

(B) an explanation of the evaluation that led the Secretary to take royalties-in-kind from a lease or group of leases, including the expected revenue effect of taking royalties-in-kind;

(C) actual amounts received by the United States derived from taking royalties-in-kind and cost and savings incurred by the United States associated with taking royalties-in-kind, including but not limited to administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties-in-kind.

(f) Deduction of Expenses.—

(1) Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) Consultation With States.—The Secretary shall consult—

(1) with a State before conducting a royalty-in-kind program under this section within the State, and may delegate management of any portion of the Federal royalty in-kind program to such State except as otherwise prohibited by Federal law; and

(2) annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty-in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in value.

(h) Provisions for Small Refineries.—

(1) If the Secretary determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) In disposing of oil under this subsection, the Secretary may prorate such oil among such refineries in the area in which the oil is produced.

(i) Disposition to Federal Agencies.—

(1) Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than market price to any department or agency of the United States.

(2) Any royalty oil or gas taken in kind from Federal oil and gas leases on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) Preference for Federal Low-Income Energy Assistance Programs.—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 104. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) Marginal Property Defined.—Until such time as the Secretary of the Interior issues rules under subsection (e) that prescribe a different definition, for purposes of this section, the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the three most recent production months, including only those wells that produce more than half the days in the three most recent production months.

(b) Conditions for Reduction of Royalty Rate.—Until such time as the Secretary of the Interior promulgates rules under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) when the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) Reduced Royalty Rate.—

(1) When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) The reduced royalty rate under this subsection shall be effective on the first day of the production month following the date on which the applicable price standard prescribed in subsection (b) is met.

(d) Termination of Reduced Royalty Rate.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) on oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a); and

(2) on gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days, or

(B) the property no longer qualifies as a marginal property under subsection (a).

(e) Rules Prescribing Different Relief.—

(1) The Secretary of the Interior, after consultation with the Secretary of Energy, may by rule prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) The Secretary of the Interior, after consultation with the Secretary of Energy, and within 1 year after the date of enactment of this Act, shall, by rule,—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) In promulgating rules under this subsection, the Secretary of the Interior may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and their effects on production economics;

(E) other royalty relief programs; and

(F) other relevant matters.

(f) Savings Provision.—Nothing in this section shall prevent a lessee from receiving royalty relief or a royalty reduction pursuant to any other law or regulation that provides more relief than the amounts provided by this section.

SEC. 105. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) In General.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf ("OCS"). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the federal government and coastal states, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) Reports.—The Secretary of Interior shall submit a report to the Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within six months of the date of enactment of the section. The report shall be publically available and updated at least every five years.

SEC. 106. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) In General.—For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than—

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters; and

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

SEC. 107. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337), is amended with the following: add "and in the Planning Areas offshore Alaska" after "West longitude" and before "the Secretary".

SEC. 108. ORPHANED, ABANDONED OR IDLED WELLS ON FEDERAL LANDS.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program within 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on lands administered by the land management agencies within the Department of the Interior and Agriculture. The program shall—

(1) include a means of ranking orphaned, abandoned, or idled well sites for priority in remediation, reclamation and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(b) COOPERATION AND CONSULTATIONS.—In carrying out this program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located and consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(c) PLAN.—Within 1 year after the date of enactment of the section, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a) and transmit copies of the plan to the Congress.

(d) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LANDS.—

(1) The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private lands.

(2) The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned abandoned oil or gas wells on State and private lands.

(3) The program shall include—

(A) mechanisms to facilitate identification, if possible, of the persons or other entities currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities; and

(C) information and training programs on best practices for remediation of different types of sites.

(e) DEFINITION.—For purposes of this section, a well is idled if it has been non-operational for 7 years and there is no anticipated beneficial use of the well.

(f) AUTHORIZATION.—To carry out this section there is authorized to be appropriated to the Secretary of the Interior $25,000,000 for each of the fiscal years 2004 through 2008. Of the amounts authorized, $5,000,000 is authorized for activities under subsection (d).

SEC. 109. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS.—Not later than 90 days after enactment, the Secretary of the Interior shall promulgate final regulations providing royalty incentives for natural gas produced from deep wells, as defined by the Secretary, on oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and issued prior to January 1, 2001, in shallow waters of the Gulf of Mexico wholly west of 87 degrees, 30 minutes West longitude that are less than 200 meters deep.

(b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA-DEEP GAS WELLS.—

(1) No later than 90 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior shall promulgate new regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from 'ultra deep wells' on leases issued prior to January 1, 2001, in shallow waters less than 200 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes West longitude. For purposes of this subsection, the term 'ultra deep wells' means wells drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(2) The Secretary shall not grant the royalty incentives outlined in this subsection if the average annual NYMEX natural gas price exceeds for one full calendar year the threshold price of $5 per million Btu, adjusted from the year 2000 for inflation.

(3) This subsection shall have no force or effect after the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 110. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following new subsection:

"(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

"(1) The Secretary may grant an easement or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when such activities—

"(A) support exploration, development, or production of oil or natural gas, except that such easements or rights-of-way shall not be granted in areas where oil and gas preleasing, leasing and related activities are prohibited by a Congressional moratorium or a withdrawal pursuant to section 12 of this Act;

"(B) support transportation of oil or natural gas;

"(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

"(D) use facilities currently or previously used for activities authorized under this Act.

"(2) The Secretary shall promulgate regulations to ensure that activities authorized under this subsection are conducted in a manner that provides for safety, protection of the environment, conservation of the natural resources of the outer Continental Shelf, appropriate coordination with other Federal agencies, and a fair return to the Federal government for any easement or right-of-way granted under this subsection. Such regulations shall establish procedures for—

(A) public notice and comment on proposals to be permitted pursuant to this subsection;

(B) consultation and review by State and local governments that may be impacted by activities to be permitted pursuant to this subsection;

(C) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455); and

(D) consultation with the Secretary of Defense and other appropriate agencies prior to the issuance of an easement or right-of-way under this subsection concerning issues related to national security and navigational obstruction.

(3) The Secretary shall require the holder of an easement or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary may deem necessary to protect the interests of the United States.

"(4) This subsection shall not apply to any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

"(5) Nothing in this subsection shall be construed to amend or repeal, expressly by implication, the applicability of any other law, including but not limited to, the Coastal Zone Management Act (16 U.S.C. 1455 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

(b) CONFORMING AMENDMENT.—The text of the heading for section 8 of the Outer Continental Shelf Lands Act is amended to read as follows: "Leases, Easements, and Rights-of-Way on the Outer Continental Shelf.".

SEC. 111. COASTAL IMPACT ASSISTANCE.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end:

"SEC. 32. COASTAL IMPACT ASSISTANCE FAIRNESS PROGRAM.

"(a) DEFINITIONS.—When used in this section:

"(1) The term 'coastal political subdivision' means a county, parish, or any equivalent subdivision of a Producing Coastal State in all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1))) and within a distance of 200 miles from the geographic center of any leased tract.

"(2) The term 'coastal population' means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. 1451 et seq.).

"(3) The term 'Coastal State' has the same meaning as provided by subsection 304(4) of the Coastal Zone Management Act (16 U.S.C. 1453(4)).

"(4) The term 'coastline' has the same meaning as the term 'coast line' as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

"(5) The term 'distance' means the minimum great circle distance, measured in statute miles.

"(6) The term 'leased tract' means a tract maintained under section 6 or leased under section 8 for the purpose of drilling for, developing, and producing oil and natural gas resources.

"(7) The term 'Producing Coastal State' means a Coastal State with a coastal seaward boundary within 200 miles from the geographic center of a leased tract other than a leased tract within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002 unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

"(8) The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of this Act, or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any Producing Coastal State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term shall only apply to leases issued after January 1, 2003 and revenues from existing leases that occurs after January 1, 2003. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

"(9) The term 'Secretary' means the Secretary of Interior."

"(b) AUTHORIZATION.—For fiscal years 2004 through 2009, an amount equal to not more than 12.5 percent of qualified Outer Continental Shelf revenues is authorized to be appropriated for the purposes of this section.

"(c) IMPACT ASSISTANCE PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—The Secretary shall make payments from the amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

"(1) Of the amounts appropriated, the allocation for each Producing Coastal State shall be calculated based on the ratio of qualified Outer Continental Shelf revenues generated off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues generated off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State's allocation for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary.

"(2) Thirty-five percent of each Producing Coastal State's allocable share as determined under paragraph (1) shall be paid directly to the coastal political subdivisions by the Secretary based on the following formula:

"(A) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions in the Producing Coastal State.

"(B) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastline miles to the coastline miles of a coastal political subdivision in the Producing Coastal State except that for those coastal political subdivisions in the State of Louisiana without a coastline, the coastline for purposes of this element of the formula shall be the average length of the coastline of the remaining coastal subdivisions in the state.

"(C) Fifty percent shall be allocated based on the relative distance of such coastal political subdivision from any leased tract used to calculate the Producing Coastal State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary, except that in the State of Alaska, the funds for this element of the formula shall be divided equally among the two closest coastal political subdivisions. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2002.

"(3) Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold a Producing Coastal State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.

"(4) For purposes of this subsection, calculations of payments for fiscal years 2004 through 2006 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003, and calculations, of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2006.

"(d) COASTAL IMPACT ASSISTANCE PLAN.—

"(1) The Governor of each Producing Coastal State shall prepare, and submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts received by Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Producing Coastal State's Coastal Impact Assistance Plan.

"(2) The Secretary shall approve a plan under paragraph (1) prior to disbursement of amounts under this section. The Secretary shall approve the plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (f) of this section and if the plan contains—

"(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

"(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

"(C) a contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section;

"(D) certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan; and

"(E) measures for taking into account other relevant Federal resources and programs.

"(3) The Secretary shall approve or disapprove each plan or amendment within 90 days of its submission.

"(4) Any amendment to the plan shall be prepared in accordance with the requirements of this subsection and shall be submitted to the Secretary for approval or disapproval.

"(e) AUTHORIZED USES.—Producing Coastal States and coastal political subdivisions shall use amounts provided under this section, including any such amounts deposited in a State or coastal political subdivision administered trust fund dedicated to uses consistent with this subsection, in compliance with Federal and State law and only for one or more of the following purposes—

"(1) projects and activities for the conservation, protection or restoration of coastal areas including wetlands;

"(2) mitigating damage to fish, wildlife or natural resources;

"(3) planning assistance and administrative costs of complying with the provisions of this section;

"(4) implementation of federally approved marine, coastal, or comprehensive conservation management plans; and

"(5) mitigating impacts of Outer Continental Shelf activities through funding onshore infrastructure and public service needs.

(f) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a Producing Coastal State or coastal political subdivision is not consistent with the uses authorized in subsection (e) of this section, the Secretary shall not disburse any further amounts under this section to that Producing Coastal State or coastal political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

SEC. 112. NATIONAL ENERGY RESOURCE DATABASE.

(a) SHORT TITLE.—This section may be cited as the "National Energy Data Preservation Program Act of 2003".

(b) PROGRAM.—The Secretary of the Interior (in this section, referred to as "Secretary") shall carry out a National Energy Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data and samples related to energy resources including oil, gas, coal, and geothermal resources;

(2) to provide a national catalog of such archival material; and

(3) to provide technical assistance related to the archival material.

(c) ENERGY DATA ARCHIVE SYSTEM.—

(1) The Secretary shall establish, as a component of the Program, an energy data archive system, which shall provide for the storage, preservation, and archiving of subsurface, and in limited cases surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop guidelines relating to the energy data archive system, including the types of data and samples to be preserved.

(2) The system shall be comprised of State agencies and agencies within the Department of the Interior that maintain geological and geophysical data and samples regarding energy resources and that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) The Secretary may not designate a State agency as a component of the energy data archive system unless it is the agency that acts as the geological survey in the State.

(4) The energy data archive system shall provide for the archiving of relevant subsurface data and samples obtained during energy exploration and production operations on Federal lands—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(5)(A) Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under paragraph (2) for providing facilities to archive energy material.

(B) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall establish procedures for providing assistance under this paragraph. The procedures shall be designed to ensure that such assistance primarily supports the expansion of data and material archives and the collection and preservation of new data and samples.

(d) NATIONAL CATALOG.—

(1) As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) energy data and samples available in the energy data archive system established under subsection (c);

(B) the repository for particular material in such system; and (C) the means of accessing the material.

(2) The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

(3) The Secretary may carry out the requirements of this subsection by contract or agreement with appropriate persons.

(e) TECHNICAL ASSISTANCE.—

(1) Subject to the availability of appropriations, as a component of the Program, the Secretary shall provide financial assistance to any State agency designated under subsection (c)(2) to provide technical assistance to enhance understanding, interpretation, and use of materials archived in the energy data archive system established under subsection (c).

(2) The Secretary, in consultation with the Association of American State Geologists and interested members of the public, shall develop a process, which shall involve the participation of representatives of relevant Federal and State agencies, for the approval of financial assistance to State agencies under this subsection.

(f) COSTS.—

(1) The Federal share of the cost of an activity carried out with assistance under subsections (c) or (e) shall be no more than 50 percent of the total cost of that activity.

(2) The Secretary—

(A) may accept private contributions of property and services for technical assistance and archive activities conducted under this section; and (B) may apply the value of such contributions to the non-Federal share of the costs of such technical assistance and archive activities.

(g) REPORTS.—

(1) Within year after the date of the enactment of this Act, the Secretary shall submit an initial report to the Congress setting forth a plan for the implementation of the Program.

(2) Not later than 90 days after the end of the first fiscal year beginning after the submission of the report under paragraph (1) and after the end of each fiscal year thereafter, the Secretary shall submit a report to the Congress describing the status of the Program and evaluating progress achieved during the preceding fiscal year in developing and carrying out the Program.

(3) The Secretary shall consult with the Association of American State Geologists and interested members of the public in preparing the reports required by this subsection.

(h) DEFINITIONS.—As used in this section, the term:

(1) "Association of American State Geologists" means the organization of the chief executives of the State geological surveys.

(2) "Secretary" means the Secretary of the Interior acting through the Director of the United States Geological Survey.

(3) "Program" means the National Energy Data Preservation Program carried out under this section.

(4) "Survey" means the United States Geological Survey.

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2003 through 2007 for carrying out this section.

SEC. 113. OIL AND GAS LEASE ACREAGE LIMITATION.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after "acreage held in special tar sands area" the following: "as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement, or for which royalty, including compensatory royalty or royalty-in-kind, was paid in the preceding calendar year,".

SEC. 114. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT. The Secretary of Energy shall assess the economic implication of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2) including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary of Energy may carry out the assessment under subsection (a) directly or, in whole or in part, through one or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, a report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Access to Federal Lands

SEC. 121. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION.

(a) Establishment.—The President shall establish the Office of Federal Energy Permit Coordination (in this section, referred to as "Office") within the Executive Office of the President in the same manner and mission as the White House Energy Projects Task Force established by Executive Order 13212.

(b) Staffing.—The Office shall be staffed by functional experts from relevant federal agencies and departments on a nonreimbursable basis to carry out the mission of this office.

(c) Reporting.—The Office shall provide an annual report to Congress, detailing the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the federal decision making process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient federal permitting process.

SEC. 122. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) Creation of Pilot Project.—The Secretary of the Interior (in this section, referred to as "Secretary") shall establish a Federal Permit Streamlining Pilot Project. The Secretary shall enter into a Memorandum of Understanding with the Secretary of Agriculture, Administrator of the Environmental Protection Agency, and the Chief of the Corps of Engineers within 90 days after enactment of this Act. The Secretary may also request that the Governors of Wyoming, Montana, Colorado, and New Mexico be signatories to the Memorandum of Understanding.

(b) Designation of Qualified Staff.—Once the Pilot Project has been established by the Secretary, all Federal signatory parties shall assign an employee on a nonreimbursable basis to each of the field offices identified in section (c), who has expertise in the regulatory issues pertaining to their office, including, as applicable, particular expertise in Endangered Species Act section 7 consultations and the preparation of Biological Opinions, Clean Water Act 404 permits, Clean Air Act regulatory matters, planning under the National Forest Management Act, and the preparation of analyses under the National Environmental Policy Act. Assigned staff shall report to the Bureau of Land Management (BLM) Field Managers in the offices to which they are assigned, and shall be responsible for all issues related to the jurisdiction of their home office or agency, and participate as part of the team of employees working on proposed energy projects, planning, and environmental analyses.

(c) Field Offices.—The following BLM Field Offices shall serve as the Federal Permit Streamlining Pilot Project offices:

(1) Rawlins, Wyoming;
(2) Buffalo, Wyoming;
(3) Miles City, Montana;
(4) Farmington, New Mexico;
(5) Carlsbad, New Mexico; and
(6) Glenwood Springs, Colorado.

(d) Reports.—The Secretary shall submit a report to the Congress 3 years following the date of enactment of this section, outlining the results of the Pilot Project to date and including a recommendation to the President as to whether the Pilot Project should be implemented nationwide.

(e) Additional Personnel.—The Secretary shall assign to each of the BLM Field Offices listed in subsection (c) such additional personnel as is necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by such offices, including inspection and enforcement related to energy development on federal lands, pursuant to the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(f) Savings Provision.—Nothing in this section shall affect the operation of any federal or state law or any delegation of authority made by a Secretary or head of an Agency whose employees are participating in the program provided for by this section.

(g) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 123. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

(a) Timely Action on Leases and Permits.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—

(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) Improved Enforcement.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) Authorization of Appropriations.—For each of the fiscal years 2004 through 2007, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b).

SEC. 124. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LANDS.

Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by striking "(a) In General" and all thereafter and inserting:

"(a) In General.—The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands and take measures necessary to update and revise this inventory. The inventory shall identify for all federal lands—

"(1) the United States Geological Survey estimates of the oil and gas resources underlying these lands;

"(2) the extent and nature of any restrictions or impediments to the exploration, production and transportation of such resources, including—

"(A) existing land withdrawals and the underlying purpose for each withdrawal;

"(B) restrictions or impediments affecting timeliness of granting leases;

"(C) post-lease restrictions or impediments such as conditions of approval, applications for permits to drill, applicable environmental permits;

"(D) permits or restrictions associated with transporting the resources; and

"(E) identification of the authority for each restriction or impediment together with the impact on additional processing or review time and potential remedies; and

"(3) the estimates of oil and gas resources not available for exploration and production by virtue of the restrictions identified above.

"(b) Reports.—The Secretary shall provide a progress report to the Congress by October 1, 2006 and shall complete the inventory by October 1, 2010.

"(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 125. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) Review.—In consultation with affected private surface owners, oil and gas industry and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1304) concerning surface mining of federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) Report.—The Secretary of the Interior shall report the results of such review to the Congress no later than 180 days after enactment of this section.

SEC. 126. COORDINATION OF FEDERAL AGENCIES TO ESTABLISH PRIORITY ENERGY TRANSMISSION RIGHTS-OF-WAY.

(a) Definitions.—For purposes of this section:

(1) The term "utility corridor" means any linear strip of land across Federal lands of approved width, but limited by technological, environmental, and topographical factors for use by a utility facility.

(2) The term "Federal authorization" means any authorization required under Federal law in order to site a utility facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, issued by a Federal agency.

(3) The term "Federal lands" means all lands owned by the United States, except—

(A) lands in the National Park System;

(B) lands held in trust for an Indian or Indian tribe; and

(C) lands on the Outer Continental Shelf.

(4) The term "Secretary" means the Secretary of Energy.

(5) The term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system (A) for the transportation of oil and natural gas, synthetic liquid or gaseous fuels, any refined product produced therefrom, or for transportation of products in support of production, or for storage and terminal facilities in connection therewith; or (B) for the generation, transmission and distribution of electric energy.

(b) Utility Corridors.—

(1) No later than 24 months after the date of enactment of this section, the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, in consultation with the Secretary, shall—

(A) designate utility corridors pursuant to section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) in the eleven contiguous Western States, as identified in section 103(o) of such Act (43 U.S.C. 1702(o)); and

(B) incorporate the utility corridors designated under paragraph (A) into the relevant departmental and agency land use and resource management plans or their equivalent.

(2) The Secretary shall coordinate with the affected Federal agencies to jointly identify potential utility corridors on Federal lands in the other States and jointly develop a schedule for the designation, environmental review and incorporation of such utility corridors into relevant departmental and agency land use and resource management plans or their equivalent.

(c) FEDERAL PERMIT COORDINATION.—The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense, shall develop a memorandum of understanding ("MOU") for the purpose of coordinating all applicable Federal authorizations and environmental reviews related to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary shall coordinate the process developed in the MOU with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility to ensure timely review and permit decisions. The MOU shall provide for—

(1) the coordination among affected Federal agencies to ensure that the necessary Federal authorizations are conducted concurrently with applicable State siting processes and are considered within a specific time frame to be identified in the MOU;

(2) an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(3) a process to expedite applications to construct or modify utility facilities within utility corridors.

Subtitle C—Alaska Natural Gas Pipeline

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Alaska Natural Gas Pipeline Act".

SEC. 132. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term "Alaska natural gas" means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) The term "Alaska natural gas transportation project" means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 133.

(3) The term "Alaska natural gas transportation system" means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's decision.

(4) The term "Commission" means the Federal Energy Regulatory Commission.

(5) The term "President's decision" means the decision and report to Congress on the Alaska natural gas transportation system issued by the President on September 22, 1977, pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(e) and approved by Public Law 95 158 (91 Stat. 1268)).

SEC. 133. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—

(1) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 134.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTES.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 135, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons; promote competition in the exploration, development, and production of Alaska natural gas; and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations not later than 120 days after the date of enactment of this Act.

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State's royalty gas for local consumption needs within the State; except that the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 134. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 133 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 133. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 133 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

SEC. 135. PIPELINE EXPANSION.

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.

(b) REQUIREMENTS.—Before ordering an expansion, the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.

(d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(e) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 136. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) for a term equal to the period required to design, permit and construction the project plus one year; and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

(1) All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the project.

(3) Unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of, or an expansion of, the project.

(4) The Federal Coordinator's authority shall not include the ability to override—

(A) the implementation or enforcement of regulations issued by the Commission pursuant to Section 133(e); or

(B) an order by the Commission to expand the project pursuant to Section 135.

(5) Nothing in this section shall give the Federal Coordinator the authority to impose additional terms, conditions or requirements beyond those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary of Energy pursuant to section 3012(b) of Public Law 102–486 (15 U.S.C. 719e(b)), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36,927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

SEC. 137. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court of the United States on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle;

(2) the constitutionality of any provision of this subtitle, or any decision made or action taken under this subtitle; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by inserting after paragraph (1) the following:

"(2) The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.".

SEC. 138. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)), and therefore not subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section 133(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. In exercising such authority, the Commission, pursuant to section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall confer with the State of Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

SEC. 139. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission not later than 18 months after the date of enactment of this Act, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) Report.—If the Secretary of Energy is required to conduct a study under subsection (a), the Secretary shall submit a report containing the results of the study, the Secretary's recommendations, and any proposals for legislation to implement the Secretary's recommendations to Congress.

SEC. 140. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) Savings Clause.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g)) or any Presidential findings or waivers issued in accordance with that Act.

(b) Clarification of Authority To Amend Terms and Conditions To Meet Current Project Requirements.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g)) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(c) Updated Environmental Reviews.—The Secretary of Energy shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

SEC. 141. SENSE OF CONGRESS.

It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 142. PARTICIPATION OF SMALL BUSINESS CONCERNS.

(a) Sense of Congress.—It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(b) Study.—

(1) The Comptroller General shall conduct a study on the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report containing the results of the study.

(3) The Comptroller General shall update the study at least once every 5 years and transmit to Congress a report containing the results of the update.

(4) After the date of completion of the construction of an Alaska natural gas transportation project, this subsection shall no longer apply.

(c) Small Business Concern Defined.—In this section, the term "small business concern" has the meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 143. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) Establishment of Program.—The Secretary of Labor (in this section referred to as the "Secretary") may make grants to the Alaska Department of Labor and Workforce Development to—

(1) develop a plan to train, through the workforce investment system established in the State of Alaska under the Workforce Investment Act of 1998 (112 Stat. 936 et seq.), adult and dislocated workers, including Alaska Natives, in urban and rural Alaska in the skills required to construct and operate an Alaska gas pipeline system; and

(2) implement the plan developed pursuant to paragraph (1).

(b) Requirements for Planning Grants.—The Secretary may make a grant under subsection (a)(1) only if—

(1) the Governor of Alaska certifies in writing to the Secretary that there is a reasonable expectation that construction of an Alaska gas pipeline will commence within 3 years after the date of such certification; and

(2) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (1).

(c) Requirements for Implementation Grants.—The Secretary may make a grant under subsection (a)(2) only if—

(1) the Secretary has approved a plan developed pursuant to subsection (a)(1);

(2) the Governor of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of an Alaska gas pipeline system will commence within 2 years after the date of such certification; and

(3) the Secretary of the Interior concurs in writing to the Secretary with the certification made under paragraph (2) after considering—

(A) the status of necessary State and Federal permits;

(B) the availability of financing for the pipeline project; and

(C) other relevant factors and circumstances.

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000, to carry out this section.

SEC. 144. LOAN GUARANTEES.

(a) Authority.—

(1) The Secretary may enter agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 133(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

(b) Conditions.—

(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 133(b) of this Act or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) has been issued for the project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.

(c) Limitations on Amounts.—

(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, $18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.

(d) Loan Terms and Fees.—

(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) Regulations.—The Secretary may issue regulations to carry out this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall remain available until expended.

(g) Definitions.—In this section, the following definitions apply:

(1) The term "Consumer Price Index" means the Consumer Price Index for all-

urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) The term "eligible lender" means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c)) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.

(3) The term "Federal guarantee instrument" means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) The term "qualified infrastructure project" means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

(5) The term "Secretary" means the Secretary of Energy.

SEC. 145. SENSE OF CONGRESS ON NATURAL GAS DEMAND.

It is the sense of Congress that:

(1) North American demand for natural gas will increase dramatically over the course of the next several decades.

(2) Both the Alaska Natural Gas Pipeline and the McKenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America.

(3) Federal and state officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion.

(4) Federal and state officials should acknowledge that the smaller scope, fewer permitting requirements and lower cost of the McKenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline.

(5) Lower 48 and Canadian natural gas production alone will not be able to meet all domestic demand in the coming decades.

(6) As a result, natural gas delivered from Alaska's North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the McKenzie Delta nor production from the Lower 48.

TITLE II—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Clean Coal Power Initiative.—There is authorized to be appropriated to the Secretary of Energy (in this subtitle, referred to as "Secretary") to carry out the activities authorized by this subtitle $200,000,000 for each of the fiscal years 2003 through 2011, to remain available until expended.

SEC. 202. PROJECT CRITERIA.

(a) In General.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) Technical Criteria for Gasification.—In allocating the funds made available under section 201, the Secretary shall ensure that at least 80 percent of the funds are used for coal-based gasification technologies or coal-based projects that include gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion. The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able to—

(1) remove 99 percent of sulfur dioxide;

(2) emit no more than .05 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(c) Technical Criteria for Other Projects.—For projects not described in subsection (b), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able to—

(1) remove 97 percent of sulfur dioxide;

(2) emit no more than .08 lbs of NOx per million BTU;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(d) Existing Units.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraphs (b)(4) and (c)(4), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(e) Permitted Uses.—In allocating funds made available in this section, the Secretary may allocate funds to projects that include, as part of the project, the separation and capture of carbon dioxide.

(f) Consultation.—Before setting the technical milestones under subsections (b) and (c), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(g) Financial Criteria.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(h) Financial Assistance.—The Secretary shall provide financial assistance to projects that meet the requirements of this section and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(i) Federal Share.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(j) Applicability.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SEC. 203. REPORTS.

(a) Ten-Year Plan.—By September 30, 2004, the Secretary shall transmit to Congress a report, with respect to section 202(a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under section 201 are appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(b) Technical Milestones.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Congress, a report describing—

(1) the technical milestones set forth in section 212 and how those milestones ensure progress toward meeting the requirements of subsections (b) and (c) of section 212; and

(2) the status of projects funded under this title.

SEC. 204. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 211, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

Subtitle B—Federal Coal Leases

SEC. 211. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended by striking all the text in the first sentence after "upon" and inserting the following: "a finding by the Secretary that it (1) would be in the interest of the United States, (2) would not displace a competitive interest in the lands, and (3) would not include lands or deposits that can be developed as part of another potential or existing operation, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed 320 acres, or add acreage larger than that in the original lease.".

SEC. 212. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) The Secretary may establish a period of more than forty years if the Secretary determines that the longer period will ensure the maximum economic recovery of a coal deposit, or the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.".

SEC. 213. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended by striking all after "Secretary)." through to "a lease." and inserting: "The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed twenty. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.".

SEC. 214. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking "and not later than three years after a lease is issued,".

SEC. 215. APPLICATION OF AMENDMENTS.

The amendments made by this Act apply with respect to any coal lease issued on or after the date of enactment of this Act, and, with respect to any coal lease issued before the date of enactment of this Act, upon the date of readjustment of the lease as provided for by section 7(a) of the Mineral Leasing Act, or upon request by the lessee, prior to such date.

Subtitle C—Powder River Basin Shared Mineral Estates

SEC. 221. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall—

(1) undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana; and

(2) not later than 6 months after the enactment of this Act, report to the Congress on alternatives to resolve these conflicts and identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE III—INDIAN ENERGY

SEC. 301. SHORT TITLE.

This title may be cited as the "Indian Tribal Energy Development and Self-Determination Act of 2003".

SEC. 302. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

"SEC. 217. (a) ESTABLISHMENT.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office'). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) DUTIES OF DIRECTOR.—The Director shall in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

"(1) promote Indian tribal energy development, efficiency, and use;

"(2) reduce or stabilize energy costs;

"(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

"(4) electrify Indian tribal land and the homes of tribal members.

"COMPREHENSIVE INDIAN ENERGY ACTIVITIES

"SEC. 218. (a) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

"(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

"(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal consortium for use in carrying out—

"(A) energy, energy efficiency, and energy conservation programs;

"(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

"(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

"(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

"(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

"(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

"(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

"(5) There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2004 through 2011.

"(b) LOAN GUARANTEE PROGRAM.—

"(1) Subject to paragraph (3), the Secretary may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

"(2) A loan guaranteed under this subsection shall be made by—

"(A) a financial institution subject to examination by the Secretary; or

"(B) an Indian tribe, from funds of the Indian tribe.

"(3) The aggregate outstanding amount guaranteed by the Secretary at any time under this subsection shall not exceed $2,000,000,000.

"(4) The Secretary may promulgate such regulations as the Secretary determines are necessary to carry out this subsection.

"(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

"(6) Not later than 1 year from the date of enactment of this section, the Secretary shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

"(c) INDIAN ENERGY PREFERENCE.—

"(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

"(2) In carrying out this subsection, a Federal agency or department shall not—

"(A) pay more than the prevailing market price for an energy product or byproduct; and

"(B) obtain less than prevailing market terms and conditions.".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "Section" and inserting "Sec."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs.
"Sec. 218. Comprehensive Indian Energy Activities.".

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 303. INDIAN ENERGY.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY

"SEC. 2601. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe;

"(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

"(iii) by a dependent Indian community; and

"(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment;

"(C) a former reservation in the State of Oklahoma;

"(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) a dependent Indian community located within the borders of the United States,

regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

"(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(8) The term 'Secretary' means the Secretary of the Interior.

"(9) The term 'tribal consortium' means an organization that consists of 2 or more entities, at least 1 of which is an Indian tribe.

"(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

"(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) In General.—To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

"(b) Grants and Loans.—In carrying out the Program, the Secretary shall

"(1) provide development grants to Indian tribes and tribal consortia for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land;

"(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

"(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

"SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

"(a) Grants.—The Secretary may provide to Indian tribes and tribal consortia, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

"(b) Use of Funds.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

"(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

"(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

"(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

"(4) the training of employees that—

"(A) are engaged in the development of energy resources on Indian land; or

"(B) are responsible for protecting the environment.

"(c) Other Assistance.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal consortia scientific and technical data for use in the development and management of energy resources on Indian land.

"SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) Leases and Agreements.—Subject to the provisions of this section—

"(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

"(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

"(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

"(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(b) Rights-of-Way for Pipelines or Electric Transmission or Distribution Lines.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

"(c) Renewals.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) Validity.—No lease, business agreement, or right-of-way under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal energy resource agreements approved by the Secretary under subsection (e).

"(e) Tribal Energy Resource Agreements.—

"(1) On promulgation of regulations under paragraph (9), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

"(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address consideration for the lease, business agreement, or right-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

"(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation;

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

"(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

"(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1).

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(9), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(6) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of the terms of any lease, business agreement or right-of-way by any other party to the lease, business agreement, or right-of-way.

"(7)(A) The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal energy resource agreements approved under this subsection.

"(B) On approval of a tribal energy resource agreement of an Indian tribe under paragraph (1), the Indian tribe shall be stopped from asserting a claim against the United States on the grounds that the Secretary should not have approved the Tribal energy resource agreement.

"(8)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(9), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

"(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

"(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

"(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

"(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

"(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(E)(i) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

"(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

"(9) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

"(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

"(1) any Federal environmental law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

"SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term 'power marketing administration' means

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

"(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

"(d) Assistance for Transmission System Use.—

"(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

"(e) Power Allocation Study.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

"(2) identifies—

"(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

"SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

"(a) In General.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

"(b) Report.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

"(1) the results of the review;

"(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

"(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

"SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

"(a) Study.—The Secretary, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

"(b) Scope of Study.—The study shall—

"(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

"(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

"(5) include an independent tribal engineer as a study team member.

"(c) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

"(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal consortium to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

"(4) an identification of—

"(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

"(B) the manner in which such a partnership could contribute to the energy security of the United States.

"(d) Funding.—

"(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

"(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

SEC. 304. FOUR CORNERS TRANSMISSION LINE PROJECT.

The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 302 of this title and section 2602 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

SEC. 305. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) In General.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) Amendment.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting 'improvement to achieve greater energy efficiency,' after 'planning,'.

SEC. 306. CONSULTATION WITH INDIAN TRIBES.

In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

TITLE IV—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Price-Anderson Amendments Act of 2003".

SEC. 402. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) Indemnification of Nuclear Regulatory Commission Licensees.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "Licenses" and inserting "Licensees";

(2) by striking "licenses issued between August 30, 1954, and December 31, 2003" and inserting "licenses issued after August 30, 1954"; and

(3) by striking "With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2003, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2003."

(b) Indemnification of Department of Energy Contractors.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ", until December 31, 2004,".

(c) Indemnification of Nonprofit Educational Institutions.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking "licenses issued between August 30, 1954, and August 1, 2002" and replacing it with "licenses issued after August 30, 1954"; and

(2) by striking "With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 2002, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 2002."

SEC. 403. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking "$63,000,000" and inserting "$94,000,000"; and

(B) by striking "$10,000,000 in any 1 year" and inserting "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)"; and

(2) in subsection t.(1)—

(A) by inserting "total and annual" after "amount of the maximum";

(B) by striking "the date of the enactment of the Price-Anderson Amendments Act of 1988" and inserting "July 1, 2003"; and

(C) by striking "such date of enactment" and inserting "July 1, 2003".

SEC. 404. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) Indemnification of Department of Energy Contractors.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

"(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

"(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.".

(b) Contract Amendments.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

"(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.".

(c) Liability Limit.—Section 170e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended by:

(1) striking "the maximum amount of financial protection required under subsection b. or"; and

(2) striking "paragraph (3) of subsection d., whichever amount is more" and inserting "paragraph (2) of subsection d.".

SEC. 405. INCIDENTS OUTSIDE THE UNITED STATES.

(a) Amount of Indemnification.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) Liability Limit.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 406. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2013".

SEC. 407. INFLATION ADJUSTMENT.

Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) that date, in the case of the first adjustment under this paragraph; or

"(B) the previous adjustment under this paragraph.".

SEC. 408. TREATMENT OF MODULAR REACTORS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

"(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

"(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.".

SEC. 409. APPLICABILITY.

The amendments made by sections 403, 404, and 405 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 410. CIVIL PENALTIES.

(a) Repeal of Automatic Remission.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) Limitation for Not-for-Profit Institutions.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

"d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

"(2) For purposes of this section, the term "not-for-profit" means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.".

(c) Effective Date.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

Subtitle B—Deployment of New Nuclear Plants

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Nuclear Energy Finance Act of 2003."

SEC. 422. DEFINITIONS.

For purposes of this subtitle:

(1) The term "advanced reactor design" means a nuclear reactor that enhances safety, efficiency, proliferation resistance, or waste reduction compared to commercial nuclear reactors in use in the United States on the date of enactment of this Act.

(2) The term "eligible project costs" means all costs incurred by a project developer that are reasonably related to the development and construction of a project under this subtitle, including costs resulting from regulatory or licensing delays.

(3) The term "financial assistance" means a loan guarantee, purchase agreement, or any combination of the foregoing.

(4) The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal and interest on a loan or other debt obligation issued by a project developer and funded by a lender.

(5) The term "project" means any commercial nuclear power facility for the production of electricity that uses one or more advanced reactor designs.

(6) The term "project developer" means an individual, corporation, partnership, joint venture, trust, or other entity that is primarily liable for payment of a project's eligible costs.

(7) The term "purchase agreement" means a contract to purchase the electric energy produced by a project under this subtitle.

(8) The term "Secretary" means the Secretary of Energy.

SEC. 423. RESPONSIBILITIES OF THE SECRETARY.

(a) Financial Assistance.—Subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may, subject to appropriations, make available to project developers for eligible project costs such financial assistance as the Secretary determines is necessary to supplement private-sector financing for projects if he determines that such projects are needed to contribute to energy security, fuel or technology diversity, or clean air attainment goals. The Secretary shall prescribe such terms and conditions for financial assistance as the Secretary deems necessary or appropriate to protect the financial interests of the United States.

(b) Requirements.—Approval criteria for financial assistance shall include—

(1) the creditworthiness of the project;

(2) the extent to which financial assistance would encourage public-private partnerships and attract private-sector investment;

(3) the likelihood that financial assistance would hasten commencement of the project; and,

(4) any other criteria the Secretary deems necessary or appropriate.

(c) Confidentiality.—The Secretary shall protect the confidentiality of any information that is certified by a project developer to be commercially sensitive.

(d) Full Faith and Credit.—All financial assistance provided by the Secretary under this subtitle shall be general obligations of the United States backed by its full faith and credit.

SEC. 424. LIMITATIONS.

(a) Financial Assistance.—The total financial assistance per project provided by this subtitle shall not exceed fifty percent of eligible project costs.

(b) Generation.—The total electrical generation capacity of all projects provided by this subtitle shall not exceed 8,400 megawatts.

SEC. 425. REGULATIONS.

Not later than 12 months from the date of enactment of this Act, the Secretary shall issue regulations to implement this subtitle.

Subtitle C—Advanced Reactor Hydrogen Co-Generation Project

SEC. 431. PROJECT ESTABLISHMENT.

The Secretary is directed to establish an Advanced Reactor Hydrogen Co-Generation Project.

SEC. 432. PROJECT DEFINITION.

The project shall conduct the research, development, design, construction, and operation of a hydrogen production co-generation testbed that, relative to the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This testbed shall be constructed so as to enable research and development on advanced reactors of the type selected and on alternative approaches for reactor-based production of hydrogen.

SEC. 433. PROJECT MANAGEMENT.

(a) Management.—The project shall be managed within the Department by the Office of Nuclear Energy Science and Technology.

(b) Lead Laboratory.—The lead laboratory for the program, providing the site for the reactor construction, shall be the Idaho National Engineering and Environmental Laboratory ("INEEL").

(c) Steering Committee.—The Secretary shall establish a national steering committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science and Technology on technical and program management aspects of the project.

(d) Collaboration.—Project activities shall be conducted at INEEL, other national laboratories, universities, domestic industry, and international partners.

SEC. 434. PROJECT REQUIREMENTS.

(a) Research and Development.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(1) The project shall utilize, where appropriate, extensive reactor test capabilities resident at INEEL.

(2) The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(3) The industrial lead for the project must be a United States-based company.

(b) International Collaboration.—The Secretary shall seek international cooperation, participation, and financial contribution in this program.

(1) The project may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be coordinated with the Generation IV International Forum.

(3) The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(c) Demonstration.—The overall project, which may involve demonstration of selected project objectives in a partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable tests of alternative reactor core and cooling configurations.

(d) Partnerships.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction and operation of the demonstration facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership while maximizing cost sharing opportunities and minimizing federal funding responsibilities.

(e) Target Date.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen production or electricity generation by 2010 or provide a report to Congress why this date is not feasible.

(f) Waiver of Construction Timelines.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Co-Generation Project without the constraints of DOE Order 413.3 as deemed necessary to meet the specified operational date.

(g) Competition.—The Secretary may fund up to two teams for up to one year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall define the format of the competitive evaluation of proposals.

(h) Use of Facilities.—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the demonstration facility. Utilization of domestic university-based testbeds shall be encouraged to provide educational opportunities for student development.

(i) Role of Nuclear Regulatory Commission.—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar reactor architecture.

(j) Report.—A comprehensive project plan shall be developed no later than April 30, 2004. The project plan shall be updated annually with each annual budget submission.

SEC. 435. AUTHORIZATION OF APPROPRIATIONS.

(a) Research, Development and Design Programs.—The following sums are authorized to be appropriated to the Secretary for all activities under this subtitle except for reactor construction:

(1) For fiscal year 2004, $35,000,000;

(2) For each of fiscal years 2005–2008, $150,000,000; and

(3) For fiscal years beyond 2008, such funds as are needed are authorized to be appropriated.

(b) Reactor Construction.—The following sum is authorized to be appropriated to the Secretary for all project-related construction activities, to be available until expended, $500,000,000.

Subtitle D—Miscellaneous Matters

SEC. 441. URANIUM SALES AND TRANSFERS.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1)(A) The aggregate annual deliveries of uranium in any form (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) sold or transferred for commercial nuclear power end uses by the United States Government shall not exceed 3,000,000 pounds U_3O_8 equivalent per year through calendar year 2009. Such aggregate annual deliveries shall not exceed 5,000,000 pounds U_3O_8 equivalent per year in calendar years 2010 and 2011. Such aggregate annual deliveries shall not exceed 7,000,000 pounds U_3O_8 equivalent in calendar year 2012. Such aggregate annual deliveries shall not exceed 10,000,000 pounds U_3O_8 equivalent per year in calendar year 2013 and each year thereafter. Any sales or transfers by the United States Government to commercial end users shall be limited to long-term contracts of no less than 3 years duration.

"(B) The recovery and extraction of the uranium component from contaminated uranium bearing materials from United States Government sites by commercial entities shall be the preferred method of making uranium available under this subsection. The uranium component contained in such contaminated materials shall be counted against the annual maximum deliveries set forth in this section, provided that uranium is sold to end users.

"(C) Sales or transfers of uranium by the United States Government for the following purposes are exempt from the provisions of this paragraph—

"(i) sales or transfers provided for under existing law for use by the Tennessee Valley Authority in relation to the Department of Energy's high-enriched uranium or tritium programs;

"(ii) sales or transfers to the Department of Energy research reactor sales program;

"(iii) the transfer of up to 3,293 metric tons of uranium to the United States Enrichment Corporation to replace uranium that the Secretary transferred, prior to privatization of the United States Enrichment Corporation in July 1998, to the Corporation on or about June 30, 1993, April 20, 1998, and May 18, 1998, and that does not meet commercial specifications;

"(iv) the sale or transfer of any uranium for emergency purposes in the event of a disruption in supply to end users in the United States;

"(v) the sale or transfer of any uranium in fulfillment of the United States Government's obligations to provide security of supply with respect to implementation of the Russian HEU Agreement; and

"(vi) the sale or transfer of any enriched uranium for use in an advanced commercial nuclear power plant in the United States with nonstandard fuel requirements.

"(D) The Secretary may transfer or sell enriched uranium to any person for national security purposes, as determined by the Secretary.

"(2) Except as provided in subsections (b) and (c), and in paragraph (1)(B), clauses (i) through (iii) of paragraph (1)(C), and paragraph (1)(D) of this subsection, no sale or transfer of uranium in any form shall be made by the United States Government unless—

"(A) the President determines that the material is not necessary for national security needs;

"(B) the price paid to the Secretary, if the transaction is a sale, will not be less than the fair market value of the material, as determined at the time that such material is contracted for sale;

"(C) prior to any sale or transfer, the Secretary solicits the written views of the Department of State and the National Security Council with regard to whether such sale or transfer would have any adverse effect on national security interests of the United States, including interests related to the implementation of the Russian HEU Agreement; and

"(D) neither the Department of State nor the National Security Council objects to such sale or transfer.

The Secretary shall endeavor to determine whether a sale or transfer is permitted under this paragraph within 30 days. The Secretary's determinations pursuant to this paragraph shall be made available to interested members of the public prior to authorizing any such sale or transfer.

"(3) Within 1 year after the date of enactment of this subsection and annually thereafter the Secretary shall undertake an assessment for the purpose of reviewing available excess Government uranium inventories, and determining, consistent with the procedures and limitations established in this subsection, the level of inventory to be sold or transferred to end users.

"(4) Within 5 years after the date of enactment of this subsection and biennially thereafter the Secretary shall report to the Congress on the implementation of this subsection. The report shall include a discussion of all sales or transfers made by the United States Government, the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States, and any steps taken to remediate any adverse impacts of such sales or transfers.

"(5) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.".

SEC. 442. DECOMMISSIONING PILOT PROGRAM.

(a) Pilot Program.—The Secretary shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

TITLE V—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2004 through 2008.

SEC. 502. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking "and which satisfies" and all that follows through "Secretary shall establish." and inserting ". If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to the Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.".

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting "a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government of subdivision thereof,"; and

(2) by inserting "landfill gas," after "wind, biomass,".

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section" and inserting "after October 1, 2003, and before October 1, 2013".

(d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting "landfill gas," after "wind, biomass,".

(e) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking "the expiration of" and all that follows through "of this section" and inserting "September 30, 2023".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.".

SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.

(a) REPORT.—Within 24 months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall develop and report to the Congress recommendations on opportunities to develop renewable energy on public lands under the jurisdiction of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary of Agriculture. The report shall include—

(1) 5-year plans developed by the Secretary of the Interior and the Secretary of Agriculture, respectively, for encouraging the development of renewable energy consistent with applicable law and management plans; and

(2) an analysis of—

(A) the use of rights-of-way, leases, or other methods to develop renewable energy on such lands;

(B) the anticipated benefits of grants, loans, tax credits, or other provisions to promote renewable energy development on such lands; and

(C) any issues that the Secretary of the Interior or the Secretary of Agriculture have encountered in managing renewable energy projects on such lands, or believe are likely to arise in relation to the development of renewable energy on such lands;

(3) a list, developed in consultation with the Secretary of Energy and the Secretary of Defense, of lands under the jurisdiction of the Department of Energy or Defense that would be suitable for development for renewable energy, and any recommended statutory and regulatory mechanisms for such development; and

(4) any recommendations pertaining to the issues addressed in the report.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) Not later than 90 days after the date of the enactment of this section, the Secretary of the Interior shall contract with the National Academy of Sciences to—

(A) study the potential for the development of wind, solar, and ocean (tidal and thermal) energy on the Outer Continental Shelf;

(B) assess existing Federal authorities for the development of such resources; and

(C) recommend statutory and regulatory mechanisms for such development.

(2) The results of the study shall be transmitted to the Congress within 24 months after the date of the enactment of this section.

SEC. 504. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy—

(1) not less than 3 percent in fiscal years 2005 through 2007,

(2) not less than 5 percent in fiscal years 2008 through 2010, and

(3) not less than 7.5 percent in fiscal year 2011 and each fiscal year thereafter.

(b) DEFINITION.—For purposes of this section—

(1) the term "biomass" means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled; or

(C) agriculture wastes, including orchard tree crops, vineyard, grain. legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) the term "renewable energy" means electric energy generated from solar, wind, biomass, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) CALCULATION.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) REPORT.—Not later than April 15, 2005, and every 2 years thereafter, the Secretary of Energy shall provide a report to the Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 505. INSULAR AREA RENEWABLE AND ENERGY EFFICIENCY PLANS.

The Secretary of Energy shall update the energy surveys, estimates, and assessments for the insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the

Republic of Palau undertaken pursuant to section 604 of Public Law 96-597 (48 U.S.C. 1492) and revise the comprehensive energy plan for the insular areas to reduce reliance on energy imports and increase use of renewable energy resources and energy efficiency opportunities. The update and revision shall by undertaken in consultation with the Secretary of the Interior and the chief executive officer of each insular area and shall be completed and submitted to Congress and to the chief executive officer of each insular area by December 31, 2005.

Subtitle B—Hydroelectric Licensing

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Federal Reservations.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after "adequate protection and utilization of such reservation." at the end of the first proviso the following: "The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such conditions.".

(b) Fishways.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after "and such fishways as may be prescribed by the Secretary of Commerce." the following: "The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect to such fishways.".

(c) Alternative Conditions and Prescriptions.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

"SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

"(a) Alternative Conditions.—

"(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the Department under whose supervision such reservation falls (referred to in this subsection as 'the Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant may propose an alternative condition.

"(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant or otherwise available to the Secretary, that such alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) will either—

"(i) cost less to implement; or

"(ii) result in improved operation of the project works for electricity production, as compared to the condition initially deemed necessary by the Secretary.

"(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

"(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

"(b) Alternative Prescriptions.—

"(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway. The alternative may include a fishway or an alternative to a fishway.

"(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

"(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

"(B) will either—

"(i) cost less to implement; or

"(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

"(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

"(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a nonbinding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.".

Subtitle C—Geothermal Energy

SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.

(a) In General.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended by striking the text and inserting the following:

"(a) Nominations.—The Secretary shall accept nominations at any time from companies and individuals of lands to be leased under this Act.

"(b) Competitive Lease Sale Required.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State in which there are nominations pending under subsection (a) where such lands are otherwise available for leasing.

"(c) Noncompetitive Leasing.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in the competitive lease sale.".

(b) Pending Lease Applications.—It shall be a priority for the Secretary of the Interior and, with respect to National Forest lands, the Secretary of Agriculture, to ensure timely completion of administrative actions necessary to conduct competitive lease sales for lands with pending applications for geothermal leasing as of the date of enactment of this section where such lands are otherwise available for leasing.

SEC. 522. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.—Not later than 180 days after the date of the enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to the Congress a memorandum of understanding in accordance with this section regarding leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.—The memorandum of understanding shall—

(1) identify known geothermal resources areas on lands included in the National Forest System and, when necessary, require review of management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; and

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing.

(c) Data Retrieval System.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with interested states, counties, representatives of the geothermal industry, and interested members of the public, shall submit to the Congress a joint report concerning leasing and permitting activities for geothermal energy on Federal lands withdrawn for military purposes. Such report shall—

(1) describe any differences, including differences in royalty structure and revenue sharing with states and counties, between—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2689 of title 10, United States Code, by the Secretary of Defense;

(2) identify procedures for interagency coordination to ensure efficient processing and administration of leases or contracts for geothermal energy on federal lands withdrawn for military purposes, consistent with the defense purposes of such withdrawals; and

(3) provide recommendations for legislative or administrative actions that could facilitate program administration, including a common royalty structure.

SEC. 524. REINSTATEMENT OF LEASES TERMINATED FOR FAILURE TO PAY RENT.

Section 5(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(c)), is amended in the last sentence by inserting "or was inadvertent," after "reasonable diligence,".

SEC. 525. ROYALTY REDUCTION AND RELIEF.

(a) RULEMAKING.—Within one year after the date of enactment of this Act, the Secretary shall promulgate a final regulation providing a methodology for determining the amount or value of the steam for purposes of calculating the royalty due to be paid on such production pursuant to section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004). The final regulation shall provide for a simplified methodology for calculating the royalty. In undertaking the rulemaking, the Secretary shall consider the use of a percent of revenue method and shall ensure that the final rule will result in the same level of royalty revenues as the regulation in effect on the date of enactment of this provision.

(b) LOW TEMPERATURE DIRECT USE.—Notwithstanding the provisions of section 5(a) of the Geothermal Steam Act of 1979 (30 U.S.C. 1004(a)), with respect to the direct use of low temperature geothermal resources for purposes other than the generation of electricity, the Secretary shall establish a schedule of fees and collect fees pursuant to such schedule in lieu of royalties based upon the total amount of geothermal resources used. The schedule of fees shall ensure that there is a fair return to the public for the use of the low temperature geothermal resource. With the consent of the lessee, the Secretary may modify the terms of a lease in existence on the date of enactment of this Act in order to reflect the provisions of this subsection.

Subtitle D—Biomass Energy

SEC. 531. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "eligible operation" means a facility that is located within the boundaries of an eligible community and uses biomass from federal or Indian lands as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products.

(2) The term "biomass" means pre-commercial thinnings of trees and woody plants, or non-merchantable material, from preventative treatments to reduce hazardous fuels, or reduce or contain disease or insect infestations.

(3) The term "green ton" means 2,000 pounds of biomass that has not been mechanically or artificially dried.

(4) The term "Secretary" means—

(A) with respect to lands within the National Forest System, the Secretary of Agriculture; or

(B) with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands, the Secretary of the Interior.

(5) The term "eligible community" means any Indian Reservation, or any county, town, township, municipality, or other similar unit of local government that has a population of not more than 50,000 individuals and is determined by the Secretary to be located in an area near federal of Indian lands which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) The term "person" includes—

(A) an individual;

(B) a community;

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; or

(E) a nonprofit organization.

SEC. 532. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an eligible operation to offset the costs incurred to purchase biomass for use by such eligible operation with priority given to operations using biomass from the highest risk areas.

(b) LIMITATION.—No grant provided under this subsection shall be paid at a rate that exceeds $20 per green ton of biomass delivered.

(c) RECORDS.—Each grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of any eligible operation receiving grant funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 533. IMPROVED BIOMASS UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to persons in eligible communities to offset the costs of developing or researching proposals to improve the use of biomass or add value to biomass utilization.

(b) SELECTION.—Grant recipients shall be selected based on the potential for the proposal to—

(1) develop affordable thermal or electric energy resources for the benefit of an eligible community;

(2) provide opportunities for the creation or expansion of small businesses within an eligible community;

(3) create new job opportunities within an eligible community, and

(4) reduce the hazardous fuels from the highest risk areas.

(c) LIMITATION.—No grant awarded under this subsection shall exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated $12,500,000 each to the Secretary of the Interior and the Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

SEC. 534. REPORT.

Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Agriculture shall jointly submit to the Congress a report that describes the interim results of the programs authorized under this subtitle.

Subtitle E.—General Provisions Relating to Renewable Fuels

SEC. 534. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

"(o) RENEWABLE FUEL PROGRAM.—

"(1) DEFINITIONS.—In this section:

"(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

"(B) RENEWABLE FUEL.—

"(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) INCLUSION.—The term 'renewable fuel' includes—

"(I) cellulosic biomass ethanol; and

"(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

"(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) RENEWABLE FUEL PROGRAM.—

"(A) REGULATIONS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

"(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

“(I) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict cases in geographic areas in which renewable fuel may be used; or

“(bb) impose any per-gallon obligation for the use of renewable fuel.

“(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

“Calendar year:	**Applicable volume of renewable fuel (in billions of gallons):**
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 5,000,000,000 gallons of renewable fuel; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refiners, blenders, and importers, as appropriate;

“(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

“(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

“(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

“(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

“(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

“(ii) for the generation of an appropriate amount of credits for biodiesel; and

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

“(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

“(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

“(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

“(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

“(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

“(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

“(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

“(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) PERIODS.—The 2 periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

“(7) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

“(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

“(i) supplies and prices;

“(ii) blendstock supplies; and

“(iii) supply and distribution system capabilities.

“(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

“(D) WAIVER.—

“(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

"(ii) No effect on waiver authority.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

"(9) Small refineries.—

"(A) Temporary exemption.—

"(i) In general.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

"(ii) Extension of exemption.—

"(I) Study by Secretary of Energy.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

"(II) Extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

"(B) Petitions based on disproportionate economic hardship.—

"(i) Extension of exemption.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

"(ii) Evaluation of petitions.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

"(iii) Deadline for action on petitions.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

"(C) Credit program.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

"(D) Opt-in for small refineries.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

"(10) Ethanol market concentration analysis.—

"(A) Analysis.—

"(i) In general.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

"(ii) Scoring.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

"(B) Report.—Not later than December 1, 2004, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

"(p) Renewable Fuel Safe Harbor.—

"(1) In general.—

"(A) Safe harbor.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

"(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

"(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

"(B) Safe harbor not applicable.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

"(2) Exception.—This subsection does not apply to ethers.

"(3) Applicability.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.".

(b) Penalties and Enforcement.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" each place it appears and inserting "(n), or (o)"; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

(c) Exclusion From Ethanol Waiver.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) Exclusion from ethanol waiver.—

"(A) Promulgation of regulations.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

"(B) Deadline for promulgation.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) Effective date.—

"(i) In general.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) Extension of effective date based on determination of insufficient supply.—

"(I) In general.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) Deadline for action on petitions.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 535. RENEWABLE FUEL.

(a) In General.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

"SEC. 212. RENEWABLE FUEL.

"(a) Definitions.—In this section:

"(1) Municipal solid waste.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

"(2) RFG state.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

"(3) Secretary.—The term 'Secretary' means the Secretary of Energy.

"(b) Survey of Renewable Fuel Market.—

"(1) Survey and report.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

"(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

"(i) conventional gasoline containing ethanol;

"(ii) reformulated gasoline containing ethanol;

"(iii) conventional gasoline containing renewable fuel; and

"(iv) reformulated gasoline containing renewable fuel; and

"(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

"(2) Recordkeeping and reporting requirements.—

"(A) In general.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

"(B) Reliance on existing requirements.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

"(3) Confidentiality.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

"(c) Commercial Byproducts From Municipal Solid Waste Loan Guarantee Program.—

“(1) Establishment of program.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

“(2) Requirements.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

“(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

“(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

“(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

“(4) Criteria.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

“(A) meet all applicable Federal and State permitting requirements;

“(B) are most likely to be successful; and

“(C) are located in local markets that have the greatest need for the facility because of—

“(i) the limited availability of land for waste disposal; or

“(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

“(5) Maturity.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

“(6) Terms and conditions.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

“(7) Assurance of repayment.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

“(8) Guarantee fee.—The recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

“(9) Full faith and credit.—

“(A) In general.—The full faith and credit the United States is pledged to the payment of all guarantees made under this subsection.

“(B) Conclusive evidence.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

“(C) Validity.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

“(10) Reports.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

“(11) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(12) Termination of authority.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

“(d) Authorization of Appropriations for Resource Center.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, $4,000,000 for each of fiscal years 2004 through 2006.

“(e) Renewable Fuel Production Research and Development Grants.—

“(1) In general.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

“(2) Eligibility.—

“(A) In general.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

“(B) Application.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

“(4) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2004 through 2008.

“(f) Cellulosic Biomass Ethanol Conversion Assistance—

“(1) In general.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

“(2) Eligible production facilities.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

“(A) is located in the United States; and

“(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

“(3) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection—

“(A) $100,000,000 for fiscal year 2004;

“(B) $250,000,000 for fiscal year 2005; and

“(C) $400,000000 for fiscal year 2006.”.

(b) Conforming Amendment.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

“212. Renewable fuels.”.

SEC. 536. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

“(m) Survey of Renewable Fuels Consumption.—

“(1) In general.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

“(2) Elements of survey.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

“(A) the quantity of renewable fuels produced;

“(B) the cost of production;

“(C) the cost of blending and marketing;

“(D) the quantity of renewable fuels blended;

“(E) the quantity of renewable fuels imported; and

“(F) market price data.”.

Subtitle F—Federal Reformulated Fuels

SEC. 537. SHORT TITLE.

This subtitle may be cited as the “Federal Reformulated Fuels Act of 2003”.

SEC. 538. LEAKING UNDERGROUND STORAGE TANKS.

(a) Use of LUST Funds for Remediation of Contamination From Ether Fuel Additives.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraphs (1), (2), and (12)”; and

(B) by inserting “and section 9010” before “if”; and

(2) by adding at the end the following:

“(12) Remediation of contamination from ether fuel additives.—

“(A) In general.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

“(B) Applicable authority.—Subparagraph (A) shall be carried out—

“(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

“(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).”.

(b) Release Prevention and Compliance.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

“SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

“Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

“(1) by a State (pursuant to section 9003(h)(7)) acting under—

“(A) a program approved under section 9004; or

“(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

“(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

“SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

“In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

"(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended; and

"(2) to carry out section 9010—

"(A) $50,000,000 for fiscal year 2003; and

"(B) $30,000,000 for each of fiscal years 2004 through 2008.".

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

"Sec. 9010. Release prevention and compliance.
"Sec. 9011. Authorization of appropriations.".

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking "sustances" and inserting "substances".

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

SEC. 539. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) RESTRICTIONS ON USE OF MTBE.—

"(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

"(I) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

"(II) any other fuel additive that meets the criteria specified in subparagraph (B).

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

"(i) use of the fuel additive is consistent with this subsection;

"(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

"(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

"(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2004 through 2007.".

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 540. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) Maintenance of Toxic Air Pollutant Emission Reductions.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) In general.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) Maintenance of toxic air pollutant emissions reductions from reformulated gasoline.—

"(i) Definition of PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) Regulations concerning emissions of toxic air pollutants.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

"(iii) Standards applicable to specific refineries or importers.—

"(I) Applicability of standards.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

"(II) Applicability of other standards.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) Credit program.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) Regional protection of toxics reduction baselines.—

"(I) In general.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) Effect of failure to maintain aggregate toxics reductions.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

"(vi) Regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).".

(c) Commingling.—

(1) In general.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

"(11) Commingling.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

"(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

"(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.

(d) Consolidation in Reformulated Gasoline Regulations.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) Savings Clause.—

(1) In general.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) Adjustment of standards.—

(A) Applicability.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 541. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) Study on certain fuel additives and blendstocks.—

"(A) In general.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether;

"(II) tertiary amyl methyl ether;

"(III) di-isopropyl ether;

"(IV) tertiary butyl alcohol;

"(V) other ethers and heavy alcohols, as determined by then Administrator;

"(VI) ethanol;

"(VII) iso-octane; and

"(VIII) alkylates; and

"(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

"(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

"(B) Contracts for study.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

"(i) the national energy laboratories; and

"(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).".

SEC. 542. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 5 1(a)) is amended by inserting after subsection (p) the following:

"(q) Analyses of Motor Vehicle Fuel Changes and Emissions Model.—

"(1) Anti-backsliding analysis.—

"(A) Draft analysis.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

"(B) Final analysis.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) Emissions model.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.".

SEC. 543. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) Opt-in areas.—(A) Upon" and inserting the following:

"(6) Opt-in areas.—

"(A) Classified areas.—

"(i) In general.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) Effect of insufficient domestic capacity to produce reformulated gasoline.—If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) Ozone transport region.—

"(i) Application of prohibition.—

"(I) In general.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

"(II) Publication of application.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

"(ii) Period of applicability.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

"(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

"(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

"(iii) Extension of commencement date based on insufficient capacity.—

"(I) In general.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

"(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) Deadline for action on petitions.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 544. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking "(C) A State" and inserting the following:

"(C) Authority of State to control fuels and fuel additives for reasons of necessity.—

"(i) In general.—A State"; and

(2) by adding at the end the following:

"(ii) Enforcement by the Administrator.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.".

SEC. 545. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) Study.—

(1) In general.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) Required elements.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary to promote cleaner burning motor vehicle fuel.

(b) Report.—

(1) In general.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) Recommendations.—

(A) In general.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) Required considerations.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) Consultation.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 601. ENERGY MANAGEMENT REQUIREMENTS.

(a) Energy Reduction Goals.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking "its Federal buildings so that" and all that follows through the end and inserting "the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2004 through 2013 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:

"Fiscal Year	Percentage reduction
2004	2
2005	4
2006	6

"Fiscal Year	Percentage reduction
2007	8
2008	10
2009	12
2010	14
2011	16
2012	18
2013	20.".

(b) Effective Date.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act, as amended by subsection (a) of this section, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(c) Review of Energy Performance Requirements.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

"(3) Not later than December 31, 2011, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2014 through 2022.".

(d) Exclusions.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking "An agency may exclude" and all that follows through the end and inserting—

"(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

"(i) compliance with, those requirements would be impracticable;

"(ii) the agency has completed and submitted all federally required energy management reports;

"(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law; and

"(iv) the agency has implemented all practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

"(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

"(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

"(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.".

(e) Review by Secretary.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking "impracticability standards" and inserting "standards for exclusion"; and

(2) by striking "a finding of impracticability" and inserting "the exclusion".

(f) Criteria.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

"(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).".

(g) Retention of Energy Savings.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

"(e) Retention of Energy Savings.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.".

(h) Reports.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting "The President and" before "Congress"; and

(2) by inserting "President and" before "Congress".

(i) Conforming Amendment.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking "the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a))." and inserting "each of the energy reduction goals established under section 543(a).".

SEC. 602. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

"(e) Metering of Energy Use.—

"(1) Deadline.—By October 1, 2010, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

"(2) Guidelines.—

"(A) In general.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

"(B) Requirements for guidelines.—The guidelines shall—

"(i) take into consideration—

"(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

"(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

"(III) the measurement and verification protocols of the Department of Energy;

"(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

"(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

"(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

"(3) Plan.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including—

"(A) how the agency will designate personnel primarily responsible for achieving the requirements; and

"(B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.".

SEC. 603. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking "CABO Model Energy Code, 1992" and inserting "the 2000 International Energy Conservation Code"; and

(2) by adding at the end the following:

"(3) Revised Federal building energy efficiency performance standards.—

"(A) In general.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective, for new Federal buildings—

"(i) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the most recent version of the International Energy Conservation Code, as appropriate; and

"(ii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

"(B) Additional revisions.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

"(C) Statement on compliance of new buildings.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include

"(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

"(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.".

SEC. 604. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Permanent Extension.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) Replacement Facilities.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced life-cycle costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced, established through a methodology set forth in the contract.

"(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.".

(c) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

"(2) The term 'energy savings' means—

"(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

"(ii) the increased efficient use of existing energy sources by co-generation or heat recovery, excluding any co-generation process for other than a federally owned building or buildings or other federally owned facilities; or

"(iii) the increased efficient use of existing water sources; or

"(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned facilities by reason of the construction and operation of the replacement building or facility.".

(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

"(A) the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

"(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities. Such contracts shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).".

(e) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

"(4) The term 'energy or water conservation measure' means—

"(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

"(B) a water conservation measure that improves water efficiency, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.".

(f) PILOT PROGRAM FOR NON-BUILDING APPLICATIONS.—

(1) The Secretary of Defense, and the heads of other interested Federal agencies, are authorized to enter into up to 10 energy savings performance contracts under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) for the purpose of achieving energy or water savings, secondary savings, and benefits incidental to those purposes, in non-building applications, provided that the aggregate payments to be made by the Federal government under such contracts shall not exceed $100,000,000.

(2) The Secretary of Energy, in consultation with the Secretary of Defense and the heads of other interested Federal agencies, shall select projects that demonstrate the applicability and benefits of energy savings performance contracting to a range of non-building applications.

(3) For the purposes of this subsection:

(A) The term "non-building application" means—

(i) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(ii) any Federally owned equipment used to generate electricity or transport water.

(B) The term "secondary savings", means additional energy or cost savings that are a direct consequence of the energy or water savings that result from the financing and implementation of the energy savings performance contract, including, but not limited to, energy or cost savings that result from a reduction in the need for fuel delivery and logistical support, or the increased efficiency in the production of electricity.

(4) Not later than 3 years after the date of enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of the projects funded pursuant to this section. Such report shall include a description of projects undertaken; the energy, water and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized permanently as a part of the program authorized under Title VIII of the National Energy Conservation Policy act (42 U.S.C. 8287 et seq.).

(5) Section 546(c)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by striking the word "facilities", and inserting the words "facilities, equipment and vehicles", in lieu thereof.

(g) REVIEW.—Within 180 days after the date of the enactment of this section, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 605. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

"SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

"(2) The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

"(3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

"(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

"(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure an Energy Star product or a FEMP designated product.

"(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the executive agency finds in writing that—

"(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

"(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

"(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

"(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy

Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

"(d) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

"(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to the end of the items relating to part 3 of title V the following:

"Sec. 552. Federal procurement of energy efficient products.".

SEC. 606. CONGRESSIONAL BUILDING EFFICIENCY.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is further amended by adding at the end:

"SEC. 553. CONGRESSIONAL BUILDING EFFICIENCY.

"(a) IN GENERAL.—The Architect of the Capitol—

"(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

"(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

"(b) PLAN REQUIREMENTS.—The plan shall include—

"(1) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

"(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

"(3) a strategy for installation of life-cycle cost-effective energy and water conservation measures;

"(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

"(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

"(c) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

"(1) energy expenditures and savings estimates for each facility;

"(2) energy management and conservation projects; and

"(3) future priorities to ensure compliance with this section.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

"Sec. 553. Energy and water savings measures in congressional buildings.".

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), not more than $2,000,000 for fiscal year 2004.

SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following new section:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to fuller realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations, Committee on Energy and Commerce, and Committee on Transportation and Infrastructure of the House of Representatives a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, within 1 year of the release of the report in accordance with subsection (c)(3), take additional actions authorized under this section to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section

6002 (including the guidelines and specifications for implementing those requirements).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

SEC. 608. UTILITY ENERGY SERVICE CONTRACTS.

Section 546(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended to read as follows:

“(1) Agencies are authorized and encouraged to participate in programs, including utility energy services contracts, conducted by gas, water and electric utilities and generally available to customers of such utilities, for the purposes of increased energy efficiency, water conservation or the management of electricity demand.”.

SEC. 609. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this section, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report of the Academy to the Congress.

Subtitle B—State and Local Programs

SEC. 611. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative, renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2006.

SEC. 612. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary for each of fiscal years 2003 through 2012. Not more than 30 percent of appropriated funds shall be used for administration.

SEC. 613. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) The term “eligible State” means a State that meets the requirements of subsection (b).

(2) The term “Energy Star program” means the program established by section 324A of the Energy Policy and Conservation Act.

(3) The term “residential Energy Star product” means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) The term “State energy office” means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) The term “State program” means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 2004 through 2008.

Subtitle C—Consumer Products

SEC. 621. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in subparagraph (30)(S), by striking the period and adding at the end the following: “but does not include any lamps specifically designed to be used for special purpose applications, and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule.”; and

(2) by adding at the end the following:

“(32) The term ‘battery charger’ means a device that charges batteries for consumer products.

“(33) The term ‘commercial refrigerator, freezer and refrigerator-freezer’ means a refrigerator, freezer or refrigerator-freezer that—

“(A) is not a consumer product regulated under this Act; and

“(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

“(34) The term ‘external power supply’ means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

“(35) The term ‘illuminated exit sign’ means a sign that—

“(A) is designed to be permanently fixed in place to identify an exit; and

“(B) consists of an electrically powered integral light source that illuminates the legend ‘EXIT’ and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

“(36)(A) Except as provided in subparagraph (B), the term ‘low-voltage dry-type transformer’ means a transformer that—

“(i) has an input voltage of 600 volts or less;

“(ii) is air-cooled;

“(iii) does not use oil as a coolant; and

“(iv) is rated for operation at a frequency of 60 Hertz.

“(B) The term ‘low-voltage dry-type transformer’ does not include—

“(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

“(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

“(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

“(37)(A) Except as provided in subsection (B), the term ‘distribution transformer’ means a transformer that—

“(i) has an input voltage of 34.5 kilovolts or less;

“(ii) has an output voltage of 600 volts or less; and

“(iii) is rated for operation at a frequency of 60 Hertz.

“(B) The term ‘distribution transformer’ does not include—

“(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 15 percent more than the lowest voltage tap;

“(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application, and are unlikely to be used in general purpose applications; or

“(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application, is unlikely to be used in general purpose applications, and the application of standards to the transformer would not result in significant energy savings.

“(38) The term ‘standby mode’ means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

“(39) The term ‘torchiere’ means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

“(40) The term ‘transformer’ means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

“(41) The term ‘unit heater’ means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

“(42) The term ‘traffic signal module’ means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.”

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

“(9) Test procedures for illuminated exit signs shall be based on the test method used under Version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

“(10) Test procedures for low voltage dry-type distribution transformers shall be based on the ‘Standard Test Method for Measuring the Energy Consumption of Distribution Transformers’ prescribed by the National Electrical Manufacturers Association (NEMA TP 2-1998). The Secretary may review and revise this test procedure.

“(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

“(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001 version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 325(bb). However, covered products may be marketed prior to completion of lamp life and lumen maintenance at 40 percent of rated life testing provided manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp life time.”; and

(2) by adding at the end the following:

“(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.”.

(c) NEW STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

“(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

“(1) INITIAL RULEMAKING.—

“(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

“(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

“(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

“(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

“(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—

“(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any non-covered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; except that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

“(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

“(i) standby mode power consumption compared to overall product energy consumption; and

“(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

“(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

“(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of paragraph (2) of this subsection.

“(4) RULEMAKING.—

“(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in this section and the criteria set forth in subparagraph (B) of paragraph (2) of this subsection.

"(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

"(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

"(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

"(6) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 36 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

"(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

"(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

"(1) shall consume not more than 190 watts of power; and

"(2) shall not be capable of operating with lamps that total more than 190 watts.

"(y) DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for distribution transformers specified in Table 4-2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP-1-2002).

"(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.

"(aa) UNIT HEATERS.—Unit heaters manufactured on or after the date that is three years after the date of enactment of the Energy Policy Act of 2003 shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

"(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—Bare lamp and covered lamp (no reflector) medium base compact fluorescent lamps manufactured on or after January 1, 2005 shall meet the following requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40 percent of rated life; rapid cycle stress test; and lamp life. The Secretary may, by rule, establish requirements for color quality (CRI); power factor; operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001 version of the Energy Star Program Requirements for CFLs. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

"(cc) EFFECTIVE DATE.—The provisions of section 327 shall apply—

"(1) to products for which standards are to be set pursuant to subsection (v) of this section on the date on which a final rule is issued by the Department of Energy, except that any state or local standards prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standard set pursuant to subsection (v) for that product takes effect; and

"(2) to products for which standards are set in subsections (w) through (bb) of this section on the date of enactment of the Energy Policy Act of 2003, except that any state or local standards prescribed or enacted prior to the date of enactment of the Energy Policy Act of 2003 shall not be preempted until the standards set in subsections (w) through (bb) take effect.".

SEC. 622. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 2 years after the date of enactment of this subparagraph.".

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

"(5) The Secretary or the Commission, as appropriate, may for covered products referred to in subsections (u) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set pursuant to section 323. In the case of products to which TP-1 standards under section 325(y) apply, labeling requirements shall be based on the "Standard for the Labeling of Distribution Transformer Efficiency" prescribed by the National Electrical Manufacturers Association (NEMA TP-3) as in effect upon the date of enactment of this Act.".

SEC. 623. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 et. seq.) is amended by inserting the following after section 324:

"SEC. 324A. ENERGY STAR PROGRAM.

"There is established at the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

"(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

"(3) preserve the integrity of the Energy Star label;

"(4) solicit the comments of interested parties in establishing a new Energy Star product category, specifications, or criteria, or in revising a product category, and upon adoption of a new or revised product category, specifications, or criteria, publish a notice of any changes in product categories, specifications or criteria along with an explanation of such changes, and, where appropriate, responses to comments submitted by interested parties; and

"(5) unless waived or reduced by mutual agreement between the Administrator, the Secretary, and the affected parties, provide not less than 12 months lead time prior to implementation of changes in product categories, specifications, or criteria as may be adopted pursuant to this section.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

"Sec. 324A. Energy Star program.".

SEC. 624. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Program, and the Department of Agriculture.".

Subtitle D—Public Housing

SEC. 631. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

SEC. 632. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the semicolon at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

SEC. 633. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated and indented paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting "or paragraph (10)" before the first comma; and

(2) by striking "20 percent" and inserting "30 percent".

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking "20 per centum" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 per centum" and inserting "30 percent".

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

SEC. 634. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generations, advanced energy savings technologies, including renewable energy generation, and other such retrofits.".

SEC. 635. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multi-family Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.".

SEC. 636. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m 290m-3) is amended by adding at the end the following:

"SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

"Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.".

SEC. 637. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Policy and Conservation Act (as amended by this Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 638. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2003";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development."; and

(B) in paragraph (2), by striking "Council of American" and all that follows through "90.1-1989')" and inserting "2000 International Energy Conservation Code";

(2) in subsection (b)—

(A) by striking "1 year after the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2003"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code"; and

(3) in subsection (c)—

(A) in the heading, by striking "MODEL ENERGY CODE" and inserting "INTERNATIONAL ENERGY CONSERVATION CODE"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code".

SEC. 639. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than one year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every two years thereafter on progress in implementing the strategy.

TITLE VII—TRANSPORTATION FUELS

Subtitle A—Alternative Fuel Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

"(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area where—

"(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

"(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

"(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to the Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.".

SEC. 702. FUEL USE CREDITS.

(a) In General.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13220) is amended to read as follows:

"SEC. 312. FUEL USE CREDITS.

"(a) Allocation.—

"(1) The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of alternative fuel or biodiesel purchased for use in an on-road motor vehicle operated by the fleet that weighs more than 8,500 pounds gross vehicle weight rating.

"(2) No credits shall be allocated under this section for purchase of an alternative fuel or biodiesel that is required by Federal or State law.

"(3) A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under this section.

"(b) Use.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

"(c) Treatment.—A credit provided to a fleet or covered person under this section shall be considered a credit under section 508.

"(d) Issuance of Rule.—Not later than 6 months after the date of enactment of this section, the Secretary shall issue a rule establishing procedures for the implementation of this section.

"(e) Definitions.—For the purposes of this section

"(1) the term 'biodiesel' means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

"(2) the term 'qualifying volume' means—

"(A) in the case of biodiesel, when used as a component of fuel containing at least 20 percent biodiesel by volume, 450 gallons, or if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use; or

"(B) in the case of an alternative fuel, the amount of such fuel determined by the Secretary to have an equivalent energy content to the amount of biodiesel defined as a qualifying volume pursuant to subparagraph (A).".

(b) Table of Contents Amendment.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

"Sec. 312. Fuel use credits."

SEC. 703. NEIGHBORHOOD ELECTRIC VEHICLES.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (3), by striking "or a dual fueled vehicle" and inserting ", a dual fueled vehicle, or a neighborhood electric vehicle";

(2) by striking "and" at the end of paragraph (13);

(3) by striking the period at the end of paragraph (14) and inserting "; and"; and

(4) by adding at the end the following:

"(15) the term 'neighborhood electric vehicle' means a motor vehicle—

"(A) which meets the definition of a low-speed vehicle, as such term is defined in part 571 of title 49, Code of Federal Regulations;

"(B) which meets the definition of a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations;

"(C) which meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

"(D) which has a top speed of not greater than 25 miles per hour.".

SEC. 704. CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:

"(e) Credit for Purchase of Medium and Heavy Duty Dedicated Vehicles.—

"(1) Definitions.—In this subsection:

"(A) The term 'medium duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

"(B) The term 'heavy duty dedicated vehicle' means a dedicated vehicle that has a gross vehicle weight rating of more than 14,000 pounds.

"(2) Credits for medium duty vehicles.—The Secretary shall issue 2 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a medium duty dedicated vehicle.

"(3) Credits for heavy duty vehicles.—The Secretary shall issue 3 full credits to a fleet or covered person under this title, if the fleet or covered person acquires a heavy duty dedicated vehicle.

"(4) Use of credits.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.".

SEC. 705. ALTERNATIVE FUEL INFRASTRUCTURE.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is further amended by adding at the end the following:

"(f) Credit for Investment in Alternative Fuel Infrastructure.—

"(1) Definitions.—In this subsection, the term 'qualifying infrastructure' means—

"(A) equipment required to refuel or recharge alternative fueled vehicles;

"(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

"(C) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

"(2) Issuance of credits.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

"(3) Amount.—For the purposes of credits under this subsection—

"(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or equivalent expenditure, as determined by the Secretary; and

"(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

"(4) Use of credits.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.".

SEC. 706. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c) is amended by striking "may" and inserting "shall".

SEC. 707. REVIEW OF ALTERNATIVE FUEL PROGRAMS.

(a) In General.—Not later than 1 year after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on the development of alternative fueled vehicle technology, its availability in the market, and the cost of light duty motor vehicles that are alternative fueled vehicles.

(b) Topics.—As part of such study, the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the amount, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the amount of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the cost of compliance with vehicle acquisition requirements by fleets or covered persons; and

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons.

(c) Report.—Upon completion of the study, the Secretary shall submit to the Congress a report that describes the results of the study conducted under this section and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.). Such study shall be updated on a regular basis as deemed necessary by the Secretary.

SEC. 708. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a)(1) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

SEC. 709. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 is amended by adding at the end the following:

"SEC. 515. ALTERNATIVE COMPLIANCE.

"(a) APPLICATION FOR WAIVER.—Any covered person subject to the requirements of section 501 and any State subject to the requirement of section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

"(b) GRANT OF WAIVER.—The Secretary may grant a waiver of the requirements of section 501 or 507(o) upon a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

"(1) will achieve a reduction in its annual consumption of petroleum fuels equal to the reduction in consumption of petroleum that would result from compliance with section 501 or 507(o); and

"(2) is in compliance with all applicable vehicle emission standards established by the Administrator under the Clean Air Act.

"(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with the requirements of subsection (b).".

(b) CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.—Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) (as amended by section 705) is amended by adding at the end the following:

"(r) CREDITS FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—

"(1) DEFINITIONS.—In this subsection:

"(A) 2000 MODEL YEAR CITY FUEL EFFICIENCY.—The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

"(B) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(C) ENERGY STORAGE DEVICE.—The term 'energy storage device' means an onboard rechargeable energy storage system or similar storage device.

"(D) FUEL EFFICIENCY.—The term 'fuel efficiency' means the percentage increased fuel efficiency specified in table 1 in paragraph (2)(C) over the average 2000 model year city fuel efficiency of vehicles in the same weight class.

"(E) MAXIMUM AVAILABLE POWER.—The term 'maximum available power', with respect to a new qualified hybrid motor vehicle that is a passenger vehicle or light truck, means the quotient obtained by dividing—

"(i) the maximum power available from the electrical storage device of the new qualified hybrid motor vehicle, during a standard 10-second pulse power or equivalent test; by

"(ii) the sum of—

"(I) the maximum power described in clause (i); and

"(II) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.

"(F) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

"(G) NEW QUALIFIED HYBRID MOTOR VEHICLE.—The term 'new qualified hybrid motor vehicle' means a motor vehicle that—

"(i) draws propulsion energy from both—

"(I) an internal combustion engine (or heat engine that uses combustible fuel); and

"(II) an energy storage device;

"(ii) in the case of a passenger automobile or light truck—

"(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the standard established by a qualifying California standard described in section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

"(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the level established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

"(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

"(H) VEHICLE INERTIA WEIGHT CLASS.—The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(2) ALLOCATION.—

"(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

"(B) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

"(i) the partial credits determined under table 1 in subparagraph (C); and

"(ii) the partial credits determined under table 2 in subparagraph (C).

"(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

"Table 1

"Partial credit for increased fuel efficiency:	**Amount of credit:**
At least 125% but less than 150% of 2000 model year city fuel efficiency.	0.14
At least 150% but less than 175% of 2000 model year city fuel efficiency.	0.21
At least 175% but less than 200% of 2000 model year city fuel efficiency.	0.28
At least 200% but less than 225% of 2000 model year city fuel efficiency.	0.35
At least 225% but less than 250% of 2000 model year city fuel efficiency.	0.50.

"Table 2

"Partial credit for 'Maximum Available Power':	**Amount of credit:**
At least 5% but less than 10%	0.125
At least 10% but less than 20%	0.250
At least 20% but less than 30%	0.375
At least 30% or more	0.500.

"(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

"(3) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

"(s) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEDICATED VEHICLE.—The term 'dedicated vehicle' includes—

"(i) a light, medium, or heavy duty vehicle; and

"(ii) a neighborhood electric vehicle.

"(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—

"(i) operates solely on alternative fuel; and

"(ii)(I) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

"(II) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

"(C) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' (equal to 1 full credit) means not less than $15,000 in cash or in kind services, as determined by the Secretary.

"(2) Issuance of credits.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

"(3) Multiple credits for medium and heavy duty dedicated vehicles.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

"(4) Use of credits.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

"(5) Limitation.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

"(t) Credit for Substantial Investment in Alternative Fuel Infrastructure.—

"(1) Definitions.—In this section, the term 'qualifying infrastructure' means—

"(A) equipment required to refuel or recharge alternative fueled vehicles;

"(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

"(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

"(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

"(2) Issuance of credits.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

"(3) Amount.—For the purposes of credits under this subsection—

"(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

"(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

"(4) Use of credits.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.".

(c) Lease Condensate Fuels.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;" after "liquified petroleum gas;";

(2) in paragraph (15), by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;" after "liquified petroleum gas;"; and

(3) by adding at the end the following:

"(16) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, which is recovered as a liquid from natural gas in lease separation facilities.".

Subtitle B—Automobile Fuel Economy

SEC. 711. AUTOMOBILE FUEL ECONOMY STANDARDS.

(a) Title 49 Amendment.—Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) Considerations.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) technological feasibility;

"(2) economic practicability;

"(3) the effect of other motor vehicle standards of the Government on fuel economy;

"(4) the need of the United States to conserve energy;

"(5) the effects of fuel economy standards on motor vehicle and passenger safety; and

"(6) the effects of compliance with average fuel economy standards on levels of employment in the United States.".

(b) Clarification of Authority.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: "or such other number as the Secretary prescribes under subsection (c)".

(c) Environmental Assessment.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 712. DUAL-FUELED AUTOMOBILES.

(a) Manufacturing Incentives.—Section 32905 of title 49, United States Code, is amended—

(1) in subsections (b) and (d), by striking "1993-2004" and inserting "1993-2008";

(2) in subsection (f), by striking "2001" and inserting "2005";

(3) in subsection (f)(1), by striking "2004" and inserting "2008"; and

(4) in subsection (g), by striking "September 30, 2000" and inserting "September 30, 2004".

(b) Maximum Fuel Economy Increase.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "the model years 1993–2004" and inserting "model years 1993–2008"; and

(2) in subparagraph (B), by striking "the model years 2005–2008" and inserting "model years 2009–2012".

SEC. 713. FEDERAL FLEET FUEL ECONOMY.

Section 32917 of title 49, United States Code, is amended to read as follows:

"§32917. Standards for executive agency automobiles

"(a) Baseline Average Fuel Economy.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

"(b) Increase of Average Fuel Economy.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

"(c) Calculation of Average Fuel Economy.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

"(d) Definitions.—In this section:

"(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

"(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

"(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.".

SEC. 714. RAILROAD EFFICIENCY.

(a) Establishment.—The Secretary of Energy, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall establish a cost-shared, public-private research partnership to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation. Such partnership shall involve the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads.

(b) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2004, $35,000,000 for fiscal year 2005, and $50,000,000 for fiscal year 2006.

SEC. 715. REDUCTION OF ENGINE IDLING IN HEAVY-DUTY VEHICLES.

(a) Identification.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall commence a study to analyze the potential fuel savings and emissions reductions resulting from use of idling reduction technologies as they are applied to heavy-duty vehicles. Upon completion of the study, the Secretary of Energy shall, by rule, certify those idling reduction technologies with the greatest economic or technical feasibility and the greatest potential for fuel savings and emissions reductions, and publish a list of such certified technologies in the Federal Register.

(b) Vehicle Weight Exemption.—Section 127(a) of Title 23, United States Code, is amended by adding at the end the following: "In order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any motor vehicle equipped with an idling reduction technology certified by the U.S. Department of Energy will be increased by an amount necessary to compensate for the additional weight of the idling reduction system, provided that the weight increase shall be no greater than 400 pounds."

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "idling reduction technology" means a device or system of devices utilized to reduce long-duration idling of a vehicle.

(2) The term "heavy-duty vehicle" means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

(3) The term "long-duration idling" means the operation of a main drive engine, for a period greater than 30 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.

SEC. 716. PROVISION NOT TO TAKE EFFECT.

Section 711 shall not take effect.

SEC. 717. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) Technological feasibility.

"(2) Economic practicability.

"(3) The effect of other motor vehicle standards of the Government on fuel economy.

"(4) The need of the United States to conserve energy.

"(5) The desirability of reducing United States dependence on imported oil.

"(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

"(7) The effects of increased fuel economy on air quality.

"(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

"(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

"(10) The cost and lead time necessary for the introduction of the necessary new technologies.

"(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

"(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

"(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.".

SEC. 718. INCREASED FUEL ECONOMY STANDARDS.

(a) NEW REGULATIONS REQUIRED.—

(1) NON-PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for non-passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the non-passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section. The new regulations under this paragraph shall apply for model years after the 2007 model year, subject to subsection (b).

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than April 1, 2006.

(2) PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than 2½ years after the date of the enactment of this Act.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: "or such other number as the Secretary prescribes under subsection (c)".

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008 for carrying out this section and for administering the regulations issued pursuant to this section.

SEC. 719. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 719 or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: "A bill to establish new average fuel economy standards for certain motor vehicles.".

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

"That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

"'( ) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:

"That, section 32902(b) of title 49, United States Code, is amended to read as follows:

"'(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed under this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

Subtitle C—Advanced Clean Vehicles

SEC. 731. HYBRID VEHICLES RESEARCH AND DEVELOPMENT.

(a) RECHARGEABLE ENERGY STORAGE SYSTEMS AND OTHER TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and

2006 in the amount $50,000,000 for research and development activities under this section.

SEC. 732. DIESEL FUELED VEHICLES RESEARCH AND DEVELOPMENT.

(a) Diesel Combustion and After Treatment Technologies.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) Goals.—The Secretary shall carry out subsection (a) with a view to achieving the following goals:

(1) Compliance with certain emission standards by 2010.—Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier-2 emission standards.—The tier 2 emission standards.

(B) Heavy-duty emission standards of 2007.—The heavy-duty emission standards of 2007.

(2) Post-2010 highly efficient technologies.—Developing the next generation of low emissions, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(c) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount of $75,000,000 for research and development of advanced combustion engines and advanced fuels.

SEC. 733. PROCUREMENT OF ALTERNATIVE FUELED PASSENGER AUTOMOBILES.

(a) Vehicle Fleets Not Covered by Requirement in Energy Policy Act of 1992.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only alternative fueled vehicles are procured by or for each agency fleet of passenger automobiles that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(b) Waiver Authority.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of alternative fueled vehicles in subsection (a) to—

(1) the procurement for such agency of any vehicles described in subparagraphs (A) through (F) of section 303(b)(3) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(3)); or

(2) a procurement of vehicles for such agency if the procurement of alternative fueled vehicles cannot meet the requirements of the agency for vehicles due to insufficient availability of the alternative fuel used to power such vehicles.

(c) Applicability to Procurements After Fiscal Year 2004.—This subsection applies with respect to procurements of alternative fueled vehicles in fiscal year 2005 and subsequent fiscal years.

SEC. 734. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.

(a) Vehicle Fleets Not Covered by Requirement in Energy Policy Act of 1992.—

(1) Hybrid vehicles.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) Waiver authority.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) Applicability to procurements after fiscal year 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) Inapplicability to Department of Defense.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 735. DEFINITIONS.

In this subtitle:

(1) Alternative fueled vehicle.—The term "alternative fueled vehicle" means—

(A) an alternative fueled vehicle, as defined in section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3));

(B) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) biodiesel, as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(C) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) bioderived hydrocarbons (including aliphatic compounds) produced from agricultural and animal waste.

(2) Heavy-duty emission standards of 2007.—The term "heavy-duty emission standards of 2007" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

(3) Hybrid vehicle.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from on board sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) Motor vehicle.—The term "motor vehicle" means any vehicle that is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and that has at least four wheels.

(5) Tier 2 emission standards defined.—The term "tier 2 emission standards" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under section 202 of the Clean Air Act (42 U.S.C. 7521) to apply to passenger automobiles, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

(6) Terms defined in EPA regulations.—The terms "passenger automobile" and "light truck" have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

TITLE VIII—HYDROGEN

Subtitle A—Basic Research Programs

SEC. 801. SHORT TITLE.

This subtitle may be cited as the "George E. Brown, Jr. and Robert S. Walker Hydrogen Future Act of 2003".

SEC. 802. MATSUNAGA ACT AMENDMENT.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.) is amended by striking sections 102 through 109 and inserting the following:

"SEC. 102. DEFINITIONS.

"In this Act—

"(1) the term 'advisory committee' means the Hydrogen and Fuel Cell Technical Advisory Committee established under section 107;

"(2) the term 'Department' means the Department of Energy;

"(3) the term 'fuel cell' means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process;

"(4) the term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen; and

"(5) the term 'Secretary' means the Secretary of Energy.

"SEC. 103. HYDROGEN RESEARCH AND DEVELOPMENT.

"(a) In General.—The Secretary shall conduct a research and development program on technologies related to the production, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

"(b) Goal.—The goal of such program shall be to enable the safe, economic, and environmentally sound use of hydrogen energy, fuel cells, and related infrastructure for transportation, commercial, industrial, residential, and electric power generation applications.

"(c) Focus.—In carrying out activities under this section, the Secretary shall focus on critical technical issues including, but not limited to—

"(1) the production of hydrogen from diverse energy sources, with emphasis on cost-effective production from renewable energy sources;

"(2) the delivery of hydrogen, including safe delivery in fueling stations and use of existing hydrogen pipelines;

"(3) the storage of hydrogen, including storage of hydrogen in surface transportation;

"(4) fuel cell technologies for transportation, stationary and portable applications, with emphasis on cost-reduction of fuel cell stacks; and

"(5) the use of hydrogen energy and fuel cells, including use in—

"(A) isolated villages, islands, and areas in which other energy sources are not available or are very expensive; and

``(B) foreign markets, particularly where an energy infrastructure is not well developed.

``(d) CODES AND STANDARDS.—The Secretary shall facilitate the development of domestic and international codes and standards and seek to resolve other critical regulatory and technical barriers preventing the introduction of hydrogen energy and fuel cells into the marketplace.

``(e) SOLICITATION.—The Secretary shall carry out the research and development activities authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

``(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects. The Secretary may reduce or eliminate the cost sharing requirement—

``(1) if the Secretary determines that the research and development is of a basic or fundamental nature, or

``(2) for technical analyses, outreach activities, and educational programs that the Secretary does not expect to result in a marketable product.

“SEC. 104. DEMONSTRATION PROGRAMS.

``(a) REQUIREMENT.—In conjunction with activities conducted under section 103, the Secretary shall conduct demonstrations of hydrogen energy and fuel cell technologies in order to evaluate the commercial potential of such technologies.

``(b) SOLICITATION.—The Secretary shall carry out the demonstrations authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

``(c) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

“SEC. 105. TECHNOLOGY TRANSFER.

``The Secretary shall conduct programs to—

``(1) transfer critical hydrogen energy and fuel cell technologies to the private sector in order to promote wider understanding of such technologies and wider use of research progress under this Act;

``(2) accelerate wider application of hydrogen energy and fuel cell technologies in foreign countries in order to increase the global market for the technologies and foster global development without harmful environmental effects;

``(3) foster the exchange of generic, nonproprietary information and technology developed pursuant to this Act, among industry, academia, and the Federal agencies; and

``(4) inventory and assess the technical and commercial viability of technologies related to production, distribution, storage, and use of hydrogen energy and fuel cells.

“SEC. 106. COORDINATION AND CONSULTATION.

``The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary—

``(1) shall establish a central point for the coordination of all hydrogen energy and fuel cell research, development, and demonstration activities of the Department;

``(2) in carrying out the Secretary's authorities pursuant to this Act, shall consult with other Federal agencies as appropriate, and may obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency; and

``(3) shall attempt to ensure that activities under this Act do not unnecessarily duplicate any available research and development results or displace or compete with privately funded hydrogen and fuel cell energy activities.

“SEC. 107. ADVISORY COMMITTEE.

``(a) ESTABLISHMENT.—There is hereby established the Hydrogen and Fuel Cell Technical Advisory Committee, to advise the Secretary on the programs under this Act.

``(b) MEMBERSHIP.—The advisory committee shall be comprised of not fewer than 12 nor more than 25 members appointed by the Secretary based on their technical and other qualifications from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate. The advisory committee shall have a chairperson, who shall be elected by the members from among their number.

``(c) TERMS.—Members of the advisory committee shall be appointed for terms of 3 years, with each term to begin not later than 3 months after the date of enactment of the Energy Policy Act of 2003, except that one-third of the members first appointed shall serve for 1 year, and one-third of the members first appointed shall serve for 2 years, as designated by the Secretary at the time of appointment.

``(d) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

``(1) implementation and conduct of programs under this Act;

``(2) economic, technological, and environmental consequences of the deployment of technologies related to production, distribution, storage, and use of hydrogen energy, and fuel cells;

``(3) means for resolving barriers to implementing hydrogen and fuel cell technologies; and

``(4) the coordination plan and any updates thereto prepared by the Secretary pursuant to section 108.

``(e) RESPONSE.—The Secretary shall consider any recommendations made by the advisory committee, and shall provide a response to the advisory committee within 30 days after receipt of such recommendations. Such response shall either describe the implementation of the advisory committee's recommendations or provide an explanation of the reasons that any such recommendations will not be implemented.

``(f) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the advisory committee to carry out its functions. In carrying out activities pursuant to this section, the advisory committee may also obtain the assistance of any Federal agency, on a reimbursable basis or otherwise and with the consent of such agency.

“SEC. 108. COORDINATION PLAN.

``(a) PLAN.—The Secretary, in consultation with other Federal agencies, shall prepare and maintain on an ongoing basis a comprehensive plan for activities under this Act.

``(b) DEVELOPMENT.—In developing such plan, the Secretary shall—

``(1) consider the guidance of the National Hydrogen Energy Roadmap published by the Department in November 2002 and any updates thereto;

``(2) consult with the advisory committee; and

``(3) consult with interested parties from domestic industry, automakers, universities, professional societies, Federal laboratories, financial institutions, and environmental and other organizations as the Secretary deems appropriate.

``(c) CONTENTS.—At a minimum, the plan shall provide—

``(1) an assessment of the effectiveness of the programs authorized under this Act, including a summary of recommendations of the advisory committee for improvements in such programs;

``(2) a description of proposed research, development, and demonstration activities planned by the Department for the next five years;

``(3) a description of the role Federal laboratories, institutions of higher education, small businesses, and other private sector firms are expected to play in such programs;

``(4) cost and performance milestones that will be used to evaluate the programs for the next five years;

``(5) any significant technical, regulatory, and other hurdles that stand in the way of achieving such cost and performance milestones, and how the programs will address those hurdles; and

(6) to the extent practicable, an analysis of Federal, State, local, and private sector hydrogen research, development, and demonstration activities to identify areas for increased intergovernmental and private-public sector collaboration.

``(d) REPORT.—Not later than January 1, 2005, and biennially thereafter, the Secretary shall transmit to Congress the comprehensive plan developed for the programs authorized under this Act, or any updates thereto.

“SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

``There are authorized to be appropriated to carry out the purposes of this Act—

``(1) such sums as may be necessary for fiscal years 1992 through 2003;

``(2) $105,000,000 for fiscal year 2004;

``(3) $150,000,000 for fiscal year 2005;

``(4) $175,000,000 for fiscal year 2006;

``(5) $200,000,000 for fiscal year 2007; and

``(6) $225,000,000 for fiscal year 2008.``.

SEC. 803. HYDROGEN TRANSPORTATION AND FUEL INITIATIVE.

(a) VEHICLE TECHNOLOGIES.—The Secretary shall carry out a research, development, demonstration, and commercial application program on advanced hydrogen-powered vehicle technologies. Such program shall address—

(1) engine and emission control systems;

(2) energy storage, electric propulsion, and hybrid systems;

(3) automotive materials;

(4) hydrogen-carrier fuels; and

(5) other advanced vehicle technologies.

(b) HYDROGEN FUEL INITIATIVE.—In coordination with the program authorized in subsection (a), the Secretary of Energy, in partnership with the private sector, shall conduct a research, development, demonstration and commercial application program designed to enable the rapid and coordinated introduction of hydrogen-fueled vehicles and associated infrastructure into commerce. Such program shall address—

(1) production of hydrogen from diverse energy resources, including—

(A) renewable energy resources;

(B) fossil fuels, in conjunction with carbon capture and sequestration;

(C) hydrogen-carrier fuels; and

(D) nuclear energy;

(2) delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) safe, convenient, and economic refueling of vehicles, either at central refueling stations or through distributed on-site generation;

(3) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid or solid forms at refueling facilities or onboard vehicles;

(4) development of advanced vehicle technologies, such as efficient fuel cells and direct hydrogen combustion engines, and related component technologies such as advanced materials and control systems; and

(5) development of necessary codes, standards, and safety practices to accompany the production, distribution, storage and use of hydrogen or hydrogen-carrier fuels in transportation.

(c) MATSUNAGA ACT.—In carrying out programs and projects under subsections (a) and (b), the Secretary shall ensure that such programs and projects are consistent with, and do not unnecessarily duplicate, activities carried out under the programs authorized under the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.).

(d) ADVISORY COMMITTEE.—The Hydrogen and Fuel Cell Technical Advisory Committee authorized under section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408), as amended in this title, shall also advise the Secretary on the programs and activities carried out under this section.

(e) SOLICITATION.—The Secretary shall carry out the programs authorized under this section through solicitation of proposals, and evaluation using competitive merit review.

(f) COST SHARING.—The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary—

(1) for activities pursuant to subsection (a), to remain available until expended—

(A) $100,000,000 for each of fiscal years 2004 and 2005;

(B) $110,000,000 for each of fiscal years 2006 and 2007; and

(C) $120,000,000 for fiscal year 2008; and

(2) for activities pursuant to subsection (b), to remain available until expended—

(A) $125,000,000 for fiscal year 2004;

(B) $150,000,000 for fiscal year 2005;

(C) $175,000,000 for fiscal year 2006; and

(D) $200,000,000 for each of fiscal years 2007 and 2008.

SEC. 804. INTERAGENCY TASK FORCE AND COORDINATION PLAN.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an interagency task force to coordinate Federal hydrogen and fuel cell energy activities.

(b) COMPOSITION.—The task force shall be chaired by a designee of the Secretary, and shall include representatives of—

(1) the Office of Science and Technology Policy;

(2) the Department of Transportation;

(3) the Department of Defense;

(4) the Department of Commerce (including the National Institute for Standards and Technology);

(5) the Environmental Protection Agency;

(6) the National Aeronautics and Space Administration;

(7) the Department of State; and

(8) other Federal agencies as the Director considers appropriate.

(c) COORDINATION PLAN.—The task force shall prepare a comprehensive coordination plan for Federal hydrogen and fuel cell energy activities, which shall include a summary of such activities.

(d) REPORT.—Not later than one year after it is established, the task force shall report to Congress on the coordination plan in subsection (c) and on the interagency coordination of Federal hydrogen and fuel cell energy activities.

SEC. 805. REVIEW BY THE NATIONAL ACADEMIES.

Not later than two years after the date of enactment of this Act, and every four years thereafter, the Secretary shall enter into a contract with the National Academies. Such contract shall require the National Academies to perform a review of the progress made through Federal hydrogen and fuel cell energy programs and activities, including the need for modified or additional programs, and to report to the Congress on the results of such review. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the requirements of this section.

Subtitle B—Demonstration Programs

SEC. 811. DEFINITIONS.

For the purposes of this subtitle and subtitle C—

(1) the term "fuel cell" means a device that directly converts the chemical energy of a fuel into electricity by an electrochemical process;

(2) the term "hydrogen-carrier fuel" means any hydrocarbon fuel that is capable of being thermochemically processed or otherwise reformed to produce hydrogen;

(3) the term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen or hydrogen-carrier fuels;

(4) the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(5) the term "Secretary" means the Secretary of Energy.

SEC. 812. HYDROGEN VEHICLE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen-powered vehicles and associated hydrogen fueling infrastructure in a variety of transportation-related applications, including—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles, including mass transit buses;

(3) use of hydrogen-powered vehicles and hydrogen fueling infrastructure (including multiple hydrogen refueling stations) along major transportation routes or in entire regions; and

(4) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use for transportation.

(b) ELIGIBILITY.—Federal, state, tribal, and local governments, academic and other nonprofit organizations, private entities, and consortia of these entities shall be eligible for these projects.

(c) SELECTION.—In selecting projects under this section, the Secretary shall—

(1) consult with Federal, State, local and private fleet managers to identify potential projects where hydrogen-powered vehicles may be placed into service;

(2) identify not less than 10 sites at which to carry out projects under this program, 2 of which must be based at Federal facilities; and

(3) select projects based on the following factors—

(A) geographic diversity;

(B) a diverse set of operating environments, duty cycles, and likely weather conditions;

(C) the interest and capability of the participating agencies, entities, or fleets;

(D) the availability and appropriateness of potential sites for refueling infrastructure and for maintenance of the vehicle fleet;

(E) the existence of traffic congestion in the area expected to be served by the hydrogen-powered vehicles;

(F) proximity to non-attainment areas as defined in section 171 of the Clean Air Act (42 U.S.C. 7501); and

(G) such other criteria as the Secretary determines to be appropriate in order to carry out the purposes of the program.

(d) INFRASTRUCTURE.—In funding projects under this section, the Secretary shall also support the installation of refueling infrastructure at sites necessary for success of the project, giving preference to those infrastructure projects that include co-production of both—

(1) hydrogen for use in transportation; and

(2) electricity that can be consumed on site.

(e) OPERATION AND MAINTENANCE PERIOD.—Vehicles purchased for projects under this section shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(f) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in—

(1) the installation, operation, and maintenance of fueling infrastructure;

(2) the operation and maintenance of fuel cell vehicles; and

(3) data collection necessary to monitor project performance.

(g) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 813. STATIONARY FUEL CELL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program for demonstration and commercial application of hydrogen fuel cells in stationary applications, including—

(1) fuel cells for use in residential and commercial buildings;

(2) portable fuel cells, including auxiliary power units in trucks;

(3) small form and micro fuel cells of 20 watts or less;

(4) distributed generation systems with fuel cells using renewable energy; and

(5) other similar projects as the Secretary may deem necessary to contribute to the rapid demonstration and deployment of hydrogen-based technologies in widespread use.

(b) COMPETITIVE EVALUATION.—Proposals submitted in response to solicitations issued pursuant to this section shall be evaluated on a competitive basis using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposal.

(c) PREFERENCE.—The Secretary shall give preference, in making an award under this section, to proposals that—

(1) are submitted jointly from consortia that include two or more participants from institutions of higher education, industry, State, tribal, or local governments, and Federal laboratories; and

(2) reflect proven experience and capability with technologies relevant to the projects proposed.

(d) TRAINING AND TECHNICAL SUPPORT.—In funding proposals under this section, the Secretary shall also provide funding for training and technical support as may be necessary to assure the success of such projects, including training and technical support in the installation, operation, and maintenance of fuel cells and the collection of data to monitor project performance.

(e) COST-SHARING.—Except as otherwise provided, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section. The Secretary may reduce such non-Federal requirement if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $50,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS.

(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

(1) the energy needs and uses at National Parks; and

(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

(b) PILOT PROJECTS.—Based on the results of the study conducted under subsection (a), the Secretary of the Interior shall fund not fewer than 3 pilot projects in national parks to provide for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use in National Parks has been identified. Such pilot projects shall be geographically distributed throughout the United States.

(c) DEFINITION.—For the purpose of this section, the term "National Parks" means those areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.

SEC. 815. INTERNATIONAL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the U.S. Agency for International Development, shall conduct demonstrations of fuel cells and associated hydrogen fueling infrastructure in countries other than the United States, particularly in areas where an energy infrastructure is not already well developed.

(b) ELIGIBLE TECHNOLOGIES.—The program may demonstrate—

(1) fuel cell vehicles in light-duty vehicle fleets;

(2) heavy-duty fuel cell on-road and off-road vehicles;

(3) stationary fuel cells in residential and commercial buildings; or

(4) portable fuel cells, including auxiliary power units in trucks.

(c) PARTICIPANTS.—

(1) ELIGIBILITY.—Foreign nations, non-profit organizations, and private companies shall be eligible for these pilot projects.

(2) COOPERATION.—Eligible entities may perform the projects in cooperation with United States non-profit organizations and private companies.

(3) COST-SHARING.—The Secretary may require a commitment from participating private companies and from participating foreign countries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For activities conducted under this section, there are authorized to be appropriated to the Secretary $25,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 816. TRIBAL STATIONARY HYBRID POWER DEMONSTRATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with Indian tribes, shall develop and transmit to Congress a strategy for a demonstration and commercial application program to develop hybrid distributed power systems on Indian lands that combine—

(1) one renewable electric power generating technology of 2 megawatts or less located near the site of electric energy use; and

(2) fuel cell power generation suitable for use in distributed power systems.

(b) DEFINITION.—For the purposes of this section, the terms "Indian tribe" and "Indian land" have the meaning given such terms under Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.), as amended by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—For activities under this section, there are authorized to be appropriated to the Secretary of Energy $1,000,000 for fiscal year 2005, and $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 817. DISTRIBUTED GENERATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a demonstration program to, develop, deploy, and commercialize distributed generation systems to significantly reduce the cost of producing hydrogen from renewable energy for use in fuel cells. Such program shall provide the necessary infrastructure to test these distributed generation technologies at pilot scales in a real-world environment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this section—

(1) $10,000,000 for fiscal year 2004;

(2) $15,000,000 for fiscal year 2005; and

(3) $20,000,000 for each of fiscal years 2006 through 2008.

Subtitle C—Federal Programs

SEC. 821. PUBLIC EDUCATION AND TRAINING.

(a) EDUCATION.—The Secretary shall conduct a public education program designed to increase public interest in and acceptance of hydrogen energy and fuel cell technologies.

(b) TRAINING.—The Secretary shall conduct a program to promote university-based training in critical skills for research in, production of, and use of hydrogen energy and fuel cell technologies. Such program may include research fellowships at institutions of higher education, centers of excellence in critical technologies, internships in industry, and such other measures as the Secretary deems appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—For activities pursuant to this section, there are authorized to be appropriated to the Secretary $7,000,000 for each of fiscal years 2004 through 2008.

SEC. 822. HYDROGEN TRANSITION STRATEGIC PLANNING.

(a) IN GENERAL.—Not later than September 30, 2004, the head of each federal agency with annual outlays of greater than $20,000,000 shall submit to the Director of the Office of Management and Budget and to the Congress a hydrogen transition strategic plan containing a comprehensive assessment of how the transition to a hydrogen-based economy could assist the mission, operation and regulatory program of the agency.

(b) CONTENTS.—At a minimum, each plan shall contain—

(1) a description of areas within the agency's control where using hydrogen and/or fuel cells could benefit the operation of the agency, assist in the implementation of its regulatory functions or enhance the agency's mission; and

(2) a description of any agency management practices, procurement policies, regulations, policies, or guidelines that may inhibit the agency's transition to use of fuel cells and hydrogen as an energy source.

(c) DURATION AND REVISION.—The strategic plan shall cover a period of not less than the five years following the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

SEC. 823. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) Section 303(b) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)) is amended by adding at the end the following:

"(4) HYDROGEN VEHICLES.—

"(A) Of the number of vehicles acquired under paragraph (1)(D) by a Federal fleet of 100 or more vehicles, not less than—

"(i) 5 percent in fiscal years 2006 and 2007;

"(ii) 10 percent in fiscal years 2008 and 2009;

"(iii) 15 percent in fiscal years 2010 and 2011; and

"(iv) 20 percent in fiscal years 2012 and thereafter,

shall be hydrogen-powered vehicles that meet standards for performance, reliability, cost, and maintenance established by the Secretary.

"(B) The Secretary may establish a lesser percentage, or waive the requirement under subparagraph (A) for any fiscal year entirely, if hydrogen-powered vehicles meeting the standards set by the Secretary pursuant to subparagraph (A) are not available at a purchase price that is less than 150 percent of the purchase price of other comparable alternative fueled vehicles.

"(C) The Secretary may by rule, delay the implementation of the requirements under subparagraph (A) in the event that the Secretary determines that hydrogen-powered vehicles are not commercially or economically available, or that fuel for such vehicles is not commercially or economically available.

"(D) The Secretary, in consultation with the Administrator of General Services, may for reasons of refueling infrastructure use and cost optimization, elect to allocate the acquisitions necessary to achieve the requirements in subparagraph (A) to certain Federal fleets in lieu of requiring each Federal fleet to achieve the requirements in subparagraph (A).".

(b) Refueling.—Section 304 of the Energy Policy Act of 1992 (42 U.S.C. 13213) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in the second sentence of subsection (a), by striking "If publicly" and inserting the following:

"(b) Commercial Arrangements.—

"(1) In general.—If publicly"; and

(3) in subsection (b) (as designated by paragraph (2)), by adding at the end the following:

"(2) Mandatory arrangements.—

"(A) In general.—In a case in which publicly available fueling facilities are not convenient or accessible to the locations of 2 or more Federal fleets for which hydrogen-powered vehicles are required to be purchased under section 303(b)(4), the Federal agency for which the Federal fleets are maintained (or the Federal agencies for which the Federal fleets are maintained, acting jointly under a memorandum of agreement providing for cost sharing) shall enter into a commercial arrangement as provided in paragraph (1).

"(B) Sunset.—Subparagraph (A) ceases to be effective at the end of fiscal year 2013.".

SEC. 824. STATIONARY FUEL CELL PURCHASE REQUIREMENT.

(a) Requirement.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically practicable and technically feasible, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be generated by fuel cells—

(1) not less than 1 percent in fiscal years 2006 through 2008;

(2) not less than 2 percent in fiscal years 2009 and 2010; and

(3) not less than 3 percent in fiscal year 2011 and each fiscal year thereafter.

(b) Compliance.—In complying with the requirements of subsection (a), Federal agencies are encouraged to—

(1) use innovative purchasing practices;

(2) use fuel cells at the site of electricity usage and in combined heat and power applications; and

(3) use fuel cells in stand alone power functions, such as but not limited to battery power and backup power.

(c) Definitions.—For purposes of this section—

(1) the term "fuel cells" means an integrated system comprised of a fuel cell stack assembly and balance of plant components that converts a fuel into electricity using an electrochemical means; and

(2) the term "electrical energy" includes on and off grid power, including premium power applications, standby power applications and electricity generation.

(d) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $30,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, and $100,000,000 for each of fiscal years 2006 and thereafter.

SEC. 825. DEPARTMENT OF ENERGY STRATEGY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall publish and transmit to Congress a plan identifying critical technologies, enabling strategies and applications, technical targets, and associated timeframes that support the commercialization of hydrogen-fueled fuel cell vehicles.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This Title may be cited as the "Energy Research, Development, Demonstration, and Commercial Application Act of 2003".

SEC. 902. GOALS.

(a) In General.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application, focused on—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies,

(2) promoting diversity of energy supply,

(3) decreasing the nation's dependence on foreign energy supplies,

(4) improving United States energy security, and

(5) decreasing the environmental impact of energy-related activities.

(b) Goals.—The Secretary shall publish measurable cost and performance-based goals with each annual budget submission in at least the following areas:

(1) energy efficiency for buildings, energy-consuming industries, and vehicles;

(2) electric energy generation (including distributed generation), transmission, and storage;

(3) renewable energy technologies including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower;

(4) fossil energy including power generation, onshore and offshore oil and gas resource recovery, and transportation; and

(5) nuclear energy including programs for existing and advanced reactors, and education of future specialists.

(c) Public Comment.—The Secretary shall provide mechanisms for input on the annually published goals from industry, university, and other public sources.

(d) Effect of Goals.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by a Federal agency to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

For purposes of this title:

(1) The term "Department" means the Department of Energy.

(2) The term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(3) The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) The term "National Laboratory" means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Engineering and Environmental Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Stanford Linear Accelerator Center.

(P) Thomas Jefferson National Accelerator Facility.

(5) The term "nonmilitary energy laboratory" means the laboratories listed in (4) with the exclusion of (4)(G), (4)(H), and (4)(N).

(6) The term "Secretary" means the Secretary of Energy.

(7) The term "single-purpose research facility" means any of the primarily single-purpose entities owned by the Department or any other organization of the Department designated by the Secretary.

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $616,000,000;

(2) for fiscal year 2005, $695,000,000;

(3) for fiscal year 2006, $772,000,000;

(4) for fiscal year 2007, $865,000,000; and

(5) for fiscal year 2008, $920,000,000.

(b) Allocations.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 912—

(A) for fiscal year 2004, $20,000,000; and

(B) for fiscal year 2005, $30,000,000.

(2) For activities under section 914—

(A) for fiscal year 2004, $4,000,000; and

(B) for each of fiscal years 2005 through 2008, $7,000,000.

(3) For activities under section 915—

(A) for fiscal year 2004, $20,000,000;

(B) for fiscal year 2005, $25,000,000;

(C) for fiscal year 2006, $30,000,000;

(D) for fiscal year 2007, $35,000,000; and

(E) for fiscal year 2008, $40,000,000.

(c) Extended Authorization.—There are authorized to be appropriated to the Secretary for activities under section 912, $50,000,000 for each of fiscal years 2006 through 2013.

(d) None of the funds authorized to be appropriated under this section may be used for—

(1) the promulgation and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act;

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act; or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act.

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) In General.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) Objectives.—The objectives of the initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting; more energy-efficient; cost-competitive and have less environmental impact.

(c) Industry Alliance.—The Secretary shall, within 3 months from the date of enactment of this section, competitively select an Industry Alliance to represent participants who are private, for-profit firms which, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(d) Research.—

(1) The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including Industry Alliance participants, national laboratories and institutions of higher education.

(2) The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) assessment of the progress of the Initiative's research activities; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) The information and roadmaps under (2) shall be available to the public.

(e) Development, Demonstration, and Commercial Application.—The Secretary shall carry out a development, demonstration, and commercial application program for the Next Generation Lighting Initiative through competitively selected awards. The Secretary may give preference to participants of the Industry Alliance selected pursuant to subsection (c).

(f) Cost Sharing.—The Secretary shall require cost sharing according to 42 U.S.C. 13542.

(g) Intellectual Property.—The Secretary may require, in accordance with the authorities provided in 35 U.S.C. 202(a)(ii), 42 U.S.C. 2182 and 42 U.S.C. 5908, that for any new invention from subsection (d)—

(1) that the Industry Alliance members who are active participants in research, development and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this legislation shall be granted first option to negotiate with the invention owner, at least in the field of solid-state lighting, non-exclusive licenses and royalties on terms that are reasonable under the circumstances;

(2) that the invention owner must offer to negotiate licenses with the Industry Alliance participants cited in (1), in good faith, for at least 1 year after U.S. patents are issued on any such new invention; and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(h) National Academy Review.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative.

(i) Definitions.—As used in this section:

(1) The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) The term "research" includes basic research on the technologies, materials and manufacturing processes required for white light emitting diodes.

(3) The term "Industry Alliance" means an entity selected by the Secretary under subsection (c).

(4) The term "white light emitting diode" means a semiconducting package, utilizing either organic or inorganic materials, that produces white light using externally applied voltage.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) Interagency Group.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (in this section referred to as the "Initiative"). The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) Integration of Efforts.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) Plan.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative. The plan shall include—

(1) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components; and

(2) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) Department of Energy Role.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) Advisory Committee.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) Construction.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) Definitions.—For purposes of this section:

(1) The term "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) The term "associated equipment" means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) Program.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) Solicitation.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) Selection of Proposals.—

(1) The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), select up to 5 proposals which may receive financial assistance under this section once the Department is in receipt of appropriated funds.

(2) In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) No one project selected under this section shall receive more than 25 percent of the funds authorized for this Program.

(4) The Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) The Secretary may consider such other criteria as the Secretary considers appropriate.

(e) Conditions.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers; and

(2) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) Establishment.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) Report.—The Secretary shall submit to the Congress, along with the President's annual budget request under section 1105(a) of title 31, United States Code, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) In General.—

(1) The following sums are authorized to be appropriated to the Secretary for distributed energy and electric energy systems activities, including activities authorized under this subtitle:

(A) for fiscal year 2004, $190,000,000;

(B) for fiscal year 2005, $200,000,000;

(C) for fiscal year 2006, $220,000,000;

(D) for fiscal year 2007, $240,000,000; and

(E) for fiscal year 2008, $260,000,000.

(2) For the Initiative in subsection 927(e), there are authorized to be appropriated—

(A) for fiscal year 2004, $15,000,000;

(B) for fiscal year 2005, $20,000,000;

(C) for fiscal year 2006, $30,000,000;

(D) for fiscal year 2007, $35,000,000; and

(E) for fiscal year 2008, $40,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2004 and 2005 shall be available for activities under section 924.

SEC. 922. HYBRID DISTRIBUTED POWER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and transmit to the Congress a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) one or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

SEC. 923. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 924. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore the use of small-scale combined heat and power in residential heating appliances, the use of excess power to operate other appliances within the residence and supply of excess generated power to the power grid.

SEC. 925. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary, within the sums authorized under section 921(a)(1), may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the utilization of distributed energy technologies, such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems, in highly energy intensive commercial applications.

SEC. 926. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act is amended by inserting the following after section 217 (42 U.S.C. 7144d):

"OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

"SEC. 218. (a) There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, who shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Director shall—

"(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

"(2) ensure that the recommendations of the Secretary's National Transmission Grid Study are implemented;

"(3) carry out the research, development, and demonstration functions;

"(4) grant authorizations for electricity import and export;

"(5) perform other electricity transmission and distribution-related functions assigned by the Secretary; and

"(6) develop programs for workforce training in power and transmission engineering.".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 217 the following new item:

"218. Office of Electric Transmission and Distribution.".

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Electric Transmission and Distribution, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 927. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Director of the Office of Electric Transmission and Distribution, shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems. This program shall include—

(1) advanced energy and energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—The Secretary shall establish a research, development and demonstration initiative specifically focused on power delivery utilizing components incorporating high temperature superconductivity.

(1) Goals of this Initiative shall be to—

(A) establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) provide technical leadership for establishing reliability for high temperature superconductivity power applications including suitable modeling and analysis;

(C) facilitate commercial transition toward direct current power transmission, storage, and use for high power systems utilizing high temperature superconductivity; and

(D) facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control and reliability.

(2) The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with national laboratories, industries, and universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to successful commercial use.

(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—The Secretary shall establish a research, development and demonstration initiative specifically focused on tools needed to plan, operate and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response and ancillary services. Goals of this Initiative shall be to—

(1) develop and utilize a geographically distributed Center, consisting of research universities and national laboratories, with expertise and facilities to develop the underlying theory and software for power system

application, and to assure commercial development in partnership with software vendors and utilities;

(2) provide technical leadership in engineering and economic analysis for reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(3) model, simulate and experiment with new market mechanisms and operating practices to understand and optimize such new methods before actual use; and

(4) provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $480,000,000;

(2) for fiscal year 2005, $550,000,000;

(3) for fiscal year 2006, $610,000,000;

(4) for fiscal year 2007, $659,000,000; and

(5) for fiscal year 2008, $710,000,000.

(b) Bioenergy.—From the amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 932:

(1) for fiscal year 2004, $135,425,000;

(2) for fiscal year 2005, $155,600,000;

(3) for fiscal year 2006, $167,650,000;

(4) for fiscal year 2007, $180,000,000; and

(5) for fiscal year 2008, $192,000,000.

(c) Biodiesel Engine Testing.—From amounts authorized under subsection (a), $5,000,000 is authorized to be appropriated in each of fiscal years 2004 and 2008 to carry out section 933.

(d) Concentrating Solar Power.—From amounts authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 934:

(1) for fiscal year 2004, $20,000,000;

(2) for fiscal year 2005, $40,000,000; and

(3) for each of fiscal years 2006, 2007 and 2008, $50,000,000.

(e) Limits on Use of Funds.—

(1) None of the funds authorized to be appropriated under this section may be used for Renewable Support and Implementation.

(2) Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

(f) Consultation.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of advanced wind power technology, including combined use with coal gasification; biomass; geothermal energy systems; and other renewable energy technologies to assist in delivering electricity to rural and remote locations.

SEC. 932. BIOENERGY PROGRAMS.

(a) In General.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bioproducts;

(4) integrated biorefineries that may produce biopower, biofuels and bioproducts;

(5) cross-cutting research and development in feedstocks; and

(6) economic analysis.

(b) Biofuels and Bioproducts.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles; and

(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems.

(c) Definition.—For purposes of (b), the term "cellulosic feedstock" means any portion of a crop not normally used in food production or any non-food crop grown for the purpose of producing biomass feedstock.

SEC. 933. BIODIESEL ENGINE TESTING PROGRAM.

(a) In General.—Not later that 180 days after enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) Scope.—The study shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) Report.—Not later than 2 years after the date of enactment, the Secretary shall provide an interim report to Congress on the findings of this study, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) Definition.—For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels".

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) In General.—The Secretary shall conduct a program of research and development to evaluate the potential of concentrating solar power for hydrogen production, including co-generation approaches for both hydrogen and electricity. Such program shall take advantage of existing facilities to the extent possible and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermo-chemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermo-chemical cycles in (2);

(4) system architectures and economics studies; and

(5) coordination with activities in the Advanced Reactor Hydrogen Co-generation Project on high temperature materials, thermo-chemical cycle and economic issues.

(b) Assessment.—In carrying out the program under this section, the Secretary is directed to assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council report entitled "Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs" in 2000 and subsequent DOE-funded reviews of that report and provide an assessment of the potential impact of this technology before, or concurrent with, submission of the fiscal year 2006 budget.

(c) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall provide a report to Congress on the economic and technical potential for electricity or hydrogen production, with or without co-generation, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity and/or hydrogen from concentrating solar power.

SEC. 935. MISCELLANEOUS PROJECTS.

The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy;

(2) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies; and

(3) renewable energy technologies for cogeneration of hydrogen and electricity.

Subtitle D—Nuclear Energy

SEC. 941. NUCLEAR ENERGY.

(a) Core Programs.—The following sums are authorized to be appropriated to the Secretary for nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (b):

(1) for fiscal year 2004, $273,000,000;

(2) for fiscal year 2005, $305,000,000;

(3) for fiscal year 2006, $330,000,000;

(4) for fiscal year 2007, $355,000,000; and

(5) for fiscal year 2008, $495,000,000.

(b) Nuclear Infrastructure Support.—The following sums are authorized to be appropriated to the Secretary for activities under section 942(f):

(1) for fiscal year 2004, $125,000,000;

(2) for fiscal year 2005, $130,000,000;

(3) for fiscal year 2006, $135,000,000;

(4) for fiscal year 2007, $140,000,000; and

(5) for fiscal year 2008, $145,000,000.

(c) Allocations.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 943—

(A) for fiscal year 2004, $140,000,000;

(B) for fiscal year 2005, $145,000,000;

(C) for fiscal year 2006, $150,000,000;

(D) for fiscal year 2007, $155,000,000; and

(E) for fiscal year 2008, $275,000,000.

(2) For activities under section 944—

(A) for fiscal year 2004, $33,000,000;

(B) for fiscal year 2005, $37,900,000;

(C) for fiscal year 2006, $43,600,000;

(D) for fiscal year 2007, $50,100,000; and

(E) for fiscal year 2008, $56,000,000.

(3) For activities under section 946, for each of fiscal years 2004 through 2008, $6,000,000.

(d) None of the funds authorized under this section may be used for decommissioning the Fast Flux Test Facility.

SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) Nuclear Energy Research Initiative.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) Nuclear Energy Plant Optimization Program.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, component aging, safety and security of existing nuclear power plants.

(c) Nuclear Power 2010 Program.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—

(1) utilization of the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(2) consideration of a variety of reactor designs suitable for both developed and developing nations;

(3) participation of international collaborators in research, development, and design efforts as appropriate; and

(4) encouragement for university and industry participation.

(d) Generation IV Nuclear Energy Systems Initiative.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(4) use improved instrumentation.

(e) Reactor Production of Hydrogen.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen using thermo-chemical processes.

(f) Nuclear Infrastructure Support.—The Secretary shall develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology and shall transmit a report containing the strategy along with the President's budget request to the Congress for fiscal year 2006. Such strategy shall provide a cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility upgrades and modifications; and

(4) building new facilities.

SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.

(a) In General.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to evaluate proliferation-resistant fuel recycling and transmutation technologies which minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate. Opportunities to enhance progress of this program through international cooperation should be sought.

(b) Reports.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program as part of the Department's annual budget submission.

SEC. 944. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) Establishment.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) Duties.—In carrying out the program under this section, the Secretary shall establish fellowship and faculty assistance programs, as well as provide support for fundamental research and encourage collaborative research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative. The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of both the Offices of Nuclear Energy, Science and Technology and Civilian Radioactive Waste Management. The Secretary shall support communication and outreach related to nuclear science, engineering and nuclear waste management.

(c) Maintaining University Research and Training Reactors and Associated Infrastructure.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among institutions of higher education;

(2) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(3) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) University-National Laboratory Interactions.—The Secretary shall develop sabbatical fellowship and visiting scientist programs to encourage sharing of personnel between national laboratories and universities.

(e) Operating and Maintenance Costs.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 945. SECURITY OF NUCLEAR FACILITIES.

The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology shall conduct a research and development program on cost-effective technologies for increasing the safety of nuclear facilities from natural phenomena and the security of nuclear facilities from deliberate attacks.

SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) Survey.—Not later than August 1, 2004, the Secretary shall provide to the Congress results of a survey of industrial applications of large radioactive sources. The survey shall—

(1) consider well-logging sources as one class of industrial sources;

(2) include information on current domestic and international Department, Department of Defense, State Department and commercial programs to manage and dispose of radioactive sources; and

(3) discuss available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) Plan.—In conjunction with the survey in subsection (a), the Secretary shall establish a research and development program to develop alternatives to such sources that reduce safety, environmental, or proliferation risks to either workers using the sources or the public. Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts. Details of the program plan shall be provided to the Congress by August 1, 2004.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle:

(1) for fiscal year 2004, $523,000,000;

(2) for fiscal year 2005, $542,000,000;

(3) for fiscal year 2006, $558,000,000;

(4) for fiscal year 2007, $585,000,000; and

(5) for fiscal year 2008, $600,000,000.

(b) Allocations.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 952(b)(2), $28,000,000 for each of the fiscal years 2004 through 2008.

(2) For activities under section 953—

(A) for fiscal year 2004, $12,000,000;

(B) for fiscal year 2005, $15,000,000; and

(C) for each of fiscal years 2006 through 2008, $20,000,000.

(3) For activities under section 954, to remain available until expended—

(A) for fiscal year 2004, $200,000,000;

(B) for fiscal year 2005, $210,000,000; and

(C) for fiscal year 2006, $220,500,000.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2004 through 2008.

(c) Extended Authorization.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), $25,000,000 for each of fiscal years 2009 through 2012.

(d) Limits on Use of Funds.—

(1) None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) Of the funds authorized under subsection (b)(2), not less than 20 percent of the

funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAMS.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and shale; and

(7) related environmental research.

(b) FUEL CELLS.—

(1) The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress of the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana and Texas.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, utilizing the resources of the existing Clean Power and Energy Research Consortium, to address the nation's critical dependence on energy and the need to reduce emissions.

(2) The center or consortium will conduct a program of research, development, demonstration and commercial application on integrating the following six focus areas—

(A) efficiency and reliability of gas turbines for power generation;

(B) reduction in emissions from power generation;

(C) promotion of energy conservation issues;

(D) effectively utilizing alternative fuels and renewable energy;

(E) development of advanced materials technology for oil and gas exploration and utilization in harsh environments; and

(F) education on energy and power generation issues.

SEC. 953. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies. The Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(b) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging and techniques for horizontal drilling in order to increase methane recovery efficiency, prevent spoilage of domestic coal reserves and minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 954. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the program authorized under Title II of this Act, the Secretary of Energy shall conduct a program of technology research, development and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and

(8) advanced coal-related research.

(b) COST AND PERFORMANCE GOALS.—In carrying out programs authorized by this section, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015, and the years after 2020. In establishing such cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken to date by industry in cooperation with the Department of Energy in support of such assessment;

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers;

(3) not later than 120 days after the date of enactment of this section, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(4) not later than 180 days after the date of enactment of this section and every four years thereafter, submit to Congress a report describing final cost and performance goals for such technologies that includes a list of technical milestones as well as an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under Title II of this Act.

SEC. 955. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary of Energy, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

Subtitle F—Science

SEC. 961. SCIENCE.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 967(c)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support:

(1) for fiscal year 2004, $3,785,000,000;

(2) for fiscal year 2005, $4,153,000,000;

(3) for fiscal year 2006, $4,586,000,000;

(4) for fiscal year 2007, $5,000,000,000; and

(5) for fiscal year 2008, $5,400,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities of the Fusion Energy Sciences Program, including activities under section 962—

(A) for fiscal year 2004, $335,000,000;

(B) for fiscal year 2005, $349,000,000;

(C) for fiscal year 2006, $362,000,000;

(D) for fiscal year 2007, $377,000,000; and

(E) for fiscal year 2008, $393,000,000.

(2) For the Spallation Neutron Source—

(A) for construction in fiscal year 2004, $124,600,000;

(B) for construction in fiscal year 2005, $79,800,000;

(C) for completion of construction in fiscal year 2006, $41,100,000; and

(D) for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment related to construction), $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

(3) For Catalysis Research activities under section 965—

(A) for fiscal year 2004, $33,000,000;

(B) for fiscal year 2005, $35,000,000;

(C) for fiscal year 2006, $36,500,000;

(D) for fiscal year 2007, $38,200,000; and

(E) for fiscal year 2008, $40,100,000.

(4) For Nanoscale Science and Engineering Research activities under section 966—

(A) for fiscal year 2004, $270,000,000;

(B) for fiscal year 2005, $290,000,000;

(C) for fiscal year 2006, $310,000,000;

(D) for fiscal year 2007, $330,000,000; and

(E) for fiscal year 2008, $375,000,000.

(5) For activities under subsection 966(c), from the amounts authorized under subparagraph (4)—

(A) for fiscal year 2004, $135,000,000;

(B) for fiscal year 2005, $150,000,000;

(C) for fiscal year 2006, $120,000,000;

(D) for fiscal year 2007, $100,000,000; and

(E) for fiscal year 2008, $125,000,000.

(6) For activities in the Genomes to Life Program under section 968—

(A) for fiscal year 2004, $100,000,000;

(B) for fiscal year 2005, $170,000,000;

(C) for fiscal year 2006, $325,000,000;

(D) for fiscal year 2007, $415,000,000; and

(E) for fiscal year 2008, $455,000,000.

(7) For construction and ancillary equipment of the Genomes to Life User Facilities under section 968(d), of funds authorized under (6)—

(A) for fiscal year 2004, $16,000,000;

(B) for fiscal year 2005, $70,000,000;

(C) for fiscal year 2006, $175,000,000;

(D) for fiscal year 2007, $215,000,000; and

(E) for fiscal year 2008, $205,000,000.

(8) For activities in the Water Supply Technologies Program under section 970, $30,000,000 for each of fiscal years 2004 through 2008.

(c) In addition to the funds authorized under subsection (b)(1), the following sums are authorized for construction costs associated with the ITER project under section 962—

(1) for fiscal year 2006, $55,000,000;

(2) for fiscal year 2007, $95,000,000; and

(3) for fiscal year 2008, $115,000,000.

SEC. 962. UNITED STATES PARTICIPATION IN ITER.

(a) PARTICIPATION.—

(1) The Secretary of Energy is authorized to undertake full scientific and technological cooperation in the International Thermonuclear Experimental Reactor project (referred to in this title as "ITER").

(2) In the event that ITER fails to go forward within a reasonable period of time, the Secretary shall send to Congress a plan, including costs and schedules, for implementing the domestic burning plasma experiment known as the Fusion Ignition Research Experiment. Such a plan shall be developed with full consultation with the Fusion Energy Sciences Advisory Committee and be reviewed by the National Research Council.

(3) It is the intent of Congress that such sums shall be largely for work performed in the United States and that such work contributes the maximum amount possible to the U.S. scientific and technological base.

(b) PLANNING.—

(1) Not later than 180 days of the date of enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential international partners, for the implementation of the goals of this section. The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) in coordination with the program in section 969, the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

SEC. 963. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term "Spallation Neutron Source" means Department Project 9909E 09334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

(c) AUTHORIZATION OF APPROPRIATIONS.—The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

SEC. 964. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all national laboratories and single-purpose research facilities. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) The Secretary shall prepare and transmit, along with the President's budget request to the Congress for fiscal year 2006, a report containing the strategy developed under subsection (a).

(2) For each national laboratory and single-purpose research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 965. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Office of Science, shall support a program of research and development in catalysis science consistent with the Department's statutory authorities related to research and development. The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and sub-nanometer scales in situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out this program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(c) TRIENNIAL ASSESSMENT.—The National Academy of Sciences shall review the catalysis program every three years to report on gains made in the fundamental science of catalysis and its progress towards developing new fuels for energy production and material fabrication processes.

SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application in nanoscience and nanoengineering. The program shall include efforts to further the understanding of the chemistry, physics, materials science, and engineering of phenomena on the scale of nanometers and to apply this knowledge to the Department's mission areas.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and teams of investigators, including multidisciplinary teams;

(2) carry out activities under subsection (c);

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with other DOE programs, industry and other Federal agencies.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) The Secretary shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) Projects under paragraph (1) may include the measurement of properties at the scale of nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) IN GENERAL.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge, computationally based, science problems related to departmental missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms in collaboration with other DOE program offices;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets;

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address departmental missions are available; and

(5) explore new computing approaches and technologies that promise to advance scientific computing including developments in quantum computing.

(c) High-Performance Computing Act of 1991 Amendments.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3) by striking "means" and inserting "and 'networking and information technology' mean", and by striking "(including vector supercomputers and large scale parallel systems)"; and

(B) in paragraph (4), by striking "packet switched"; and

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after "As part of the" and inserting: "Networking and Information Technology Research and Development Program, the Secretary of Energy shall conduct basic and applied research in networking and information technology, with emphasis on supporting fundamental research in the physical sciences and engineering, and energy applications; providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and developing tools for distributed scientific collaboration.";

(B) in subsection (b), by striking "Program" and inserting "Networking and Information Technology Research and Development Program"; and

(C) by amending subsection (e) to read as follows:

"(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2008.".

(d) Coordination.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) Establishment.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the Genomes to Life Program, in systems biology and proteomics consistent with the Department's statutory authorities.

(b) Planning.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities would be developed by the program and applied to Department missions relating to energy security, environmental cleanup, and national security.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary's annual budget submission.

(c) Program Execution.—In carrying out the program under this Act, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) Genomes to Life User Facilities and Ancillary Equipment.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President's fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the Department's fusion energy program. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark models against existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) Establishment.—There is established within the Office of Science, Office of Biological and Environmental Research, the "Energy-Water Supply Technologies Program," to study energy-related issues associated with water resources and municipal waterworks and to study water supply issues related to energy production.

(b) Definitions.—

(1) The term "Foundation" means the American Water Works Association Research Foundation.

(2) The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) The term "Program" means the Water Supply Technologies Program established by section 970(a).

(c) Program Areas.—The program shall conduct research and development, including—

(1) arsenic removal under subsection (d);

(2) desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) Arsenic Removal Program.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to utilize the facilities, institutions and relationships established in the "Consolidated Appropriations Resolution, 2003" as described in Senate Report 107–220 that will carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities or Indian tribes.

(5) The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other federal agencies, state programs and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed in Title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate Report 107–39 under the heading "WATER AND RELATED RESOURCES" in the "BUREAU OF RECLAMATION" section.

(2) The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the January 2003 national Desalination and Water Purification Technology Roadmap for next-generation desalination technology;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater and other saline water supplies; disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) Under the desalination program, funds made available may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program. The steering committee shall be jointly chaired by 1 representative from this Program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) The Secretary shall carry out a research program to develop understanding and technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) Under this program and in collaboration with other programs within the Department including those within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy, the Secretary of the Interior, Army Corps of Engineers, Environmental Protection Agency, Department of Commerce, Department of Defense, state agencies, non-governmental agencies and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a by-product of oil and gas extraction;

(D) use of impaired and non-traditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technology development needs and activities required to support long-term water needs and planning for energy sustainability, use of impaired water for energy production and other uses, and reduction of water use in energy production;

(B) carry out the research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies and strategies;

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under subparagraph (B) and assess the viability of these tools at the scale of river basins with at least one demonstration involving an international border; and

(D) transfer these tools to other federal agencies, state agencies, non-profit organizations, industry and academia for use in their energy and water sustainability efforts.

(4) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research elements described under paragraph (2), and makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) Research projects under this section shall not require cost-sharing.

(2) Each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(3) With respect to a demonstration project, the Secretary may accept in-kind contributions, and waive the cost-sharing requirement in appropriate circumstances.

Subtitle G—Energy and Environment

SEC. 971. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) PROGRAM.—The Secretary shall establish a research, development, demonstration, and commercial application program to be carried out in collaboration with entities in Mexico and the United States to promote energy efficient, environmentally sound economic development along the United States-Mexico border which minimizes public health risks from industrial activities in the border region.

(b) PROGRAM MANAGEMENT.—The program under subsection (a) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(c) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section, the Secretary shall assess the applicability of technology developed under the Environmental Management Science Program of the Department.

(d) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered into between the United States and Mexico regarding intellectual property protection.

(e) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to be appropriated to the Secretary to carry out activities under this section:

(1) For each of fiscal years 2004 and 2005, $5,000,000.

(2) For each of fiscal years 2006, 2007, and 2008, $6,000,000.

SEC. 972. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC–22–91PC90544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

Subtitle H—Management

SEC. 981. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this title shall remain available until expended.

SEC. 982. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. Cost sharing is not required for research and development of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this subtitle, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 983. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this title shall be made only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department.

SEC. 984. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) The Secretary shall establish one or more advisory boards to review Department research, development, demonstration, and commercial application programs in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, and may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory board shall also review the measurable cost and performance-based goals for such programs as established under section 902, and the progress on meeting such goals.

(e) Periodic Reviews and Assessments.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for such programs as established under section 902, if any, and the progress on meeting such goals. Such reviews and assessments shall be conducted every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the Congress reports containing the results of all such reviews and assessments.

SEC. 985. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) Technology Transfer Coordinator.—The Secretary shall designate a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Transfer Working Group, shall oversee the expenditure of funds allocated to the Technology Transfer Working Group, and shall coordinate with each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c).

(b) Technology Transfer Working Group.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including those related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) Technology Transfer Responsibility.—Nothing in this section shall affect the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980.

SEC. 986. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) Establishment.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(b) Purpose.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or single-purpose research facilities and entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as institutions of higher education; technology-related business concerns; nonprofit institutions; and agencies of State, tribal, or local governments.

(c) Projects.—The Secretary shall authorize the Director of each National Laboratory or single-purpose research facility to implement the Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (d) and (e).

(d) Program Requirements.—Each project funded under this section shall meet the following requirements:

(1) Each project shall include at least one of each of the following entities: a business; an institution of higher education; a nonprofit institution; and an agency of a State, local, or tribal government.

(2) Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources. The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project after start of the project. Independent research and development expenses of Government contractors that qualify for reimbursement under section 3109205 0918(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(3) All projects under this section shall be competitively selected using procedures determined by the Secretary.

(4) Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) No Federal funds shall be made available under this section for construction or any project for more than 5 years.

(e) Selection Criteria.—

(1) The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) The Secretary shall consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of Department investment, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(f) Allocation.—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate such activities with the project.

(g) Report to Congress.—Not later than July 1, 2006, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.

(h) Definitions.—In this section:

(1) The term "technology cluster" means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(2) The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that conducts scientific or engineering research; develops new technologies; manufactures products based on new technologies; or performs technological services.

(i) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2004, 2005, and 2006.

SEC. 987. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) Small Business Advocate.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small businesses training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) DEFINITIONS.—In this section:

(1) The term "small business concern" has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term "socially and economically disadvantaged small business concerns" has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2004 through 2008.

SEC. 988. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit a report to the Congress identifying any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities and provide suggestions for improving inter-laboratory exchange of scientific and technical personnel.

SEC. 989. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to the Congress on recommendations developed as a result of the study.

SEC. 990. OUTREACH.

The Secretary shall ensure that each program authorized by this title includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 991. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a nonmilitary energy laboratory of the Department unless such contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying the Congress of the waiver and setting forth the reasons for the waiver at least 60 days prior to the date of the award of such a contract.

SEC. 992. REPROGRAMMING.

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of the enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to the appropriate authorizing committees of the Congress a report explaining how such amounts will be distributed among the authorizations contained in this title.

(b) PROHIBITION.—

(1) No amount identified under subsection (a) shall be reprogrammed if such reprogramming would result in an obligation which changes an individual distribution required to be reported under subsection (a) by more than 5 percent unless the Secretary has transmitted to the appropriate authorizing committees of the Congress a report described in subsection (c) and a period of 30 days has elapsed after such committees receive the report.

(2) In the computation of the 30-day period described in paragraph (1), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) REPROGRAMMING REPORT.—A report referred to in subsection (b)(1) shall contain a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of the proposed action.

SEC. 993. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this title in accordance with the applicable provisions of the Atomic Energy Act of 1954 (42 U.S.C. et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), and any other Act under which the Secretary is authorized to carry out such activities.

SEC. 994. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

"(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

"(A) have extensive background in scientific or engineering fields; and

"(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

"(3) The Under Secretary for Energy and Science shall—

"(A) serve as the Science and Technology Advisor to the Secretary;

"(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

"(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

"(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

"(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

"(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.".

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—

(1) Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

"OFFICE OF SCIENCE

"SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Assistant Secretary for Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

"(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.".

(2) Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science immediately prior to the effective date of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act, as amended by paragraph (1). While so acting, such person shall receive compensation at the rate provided by this Act for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking "There shall be in the Department six Assistant Secretaries" and inserting "Except as provided in section 209, there shall be in the Department seven Assistant Secretaries".

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

"(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

(2) Section 5314 of title 5, United States Code, is amended by striking "Under Secretaries of Energy (2)" and inserting "Under Secretaries of Energy (3)".

(3) Section 5315 of title 5, United States Code, is amended by—

(A) striking "Director, Office of Science, Department of Energy."; and

(B) striking "Assistant Secretaries of Energy (6)" and inserting "Assistant Secretaries of Energy (8)".

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking "Section 209" and inserting "Sec. 209";

(B) by striking "213." and inserting "Sec. 213.";

(C) by striking "214." and inserting "Sec. 214.";

(D) by striking "215." and inserting "Sec. 215."; and

(E) by striking "216." and inserting "Sec. 216.".

SEC. 995. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) Section 3165a of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

"(14) Support competitive events for students, under supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.".

(b) Section 3169 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e), as redesignated by this Act, is amended by inserting before the period: "; and $40,000,000 for each of fiscal years 2004 through 2008.".

SEC. 996. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

"(g)(1) In addition to other authorities granted to the Secretary under law, the Secretary may enter into other transactions on such terms as the Secretary may deem appropriate in furtherance of research, development, or demonstration functions vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

"(2)(A) The Secretary shall ensure that—

"(i) to the maximum extent the Secretary determines practicable, no transaction entered into under paragraph (1) provides for research, development, or demonstration that duplicates research, development, or demonstration being conducted under existing projects carried out by the Department;

"(ii) to the extent the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction; and

"(iii) to the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1).

"(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

"(3)(A) The Secretary shall protect from disclosure, including disclosure under section 552 of title 5, United States Code, for up to 5 years after the date the information is received by the Secretary—

"(i) a proposal, proposal abstract, and supporting documents submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award to the party submitting the information entering into a transaction under paragraph (1); and

"(ii) a business plan and technical information relating to a transaction authorized by paragraph (1) submitted to the Department as confidential business information.

"(B) The Secretary may protect from disclosure, for up to 5 years after the information was developed, any information developed pursuant to a transaction under paragraph (1) which developed information is of a character that it would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

"(4) Not later than 90 days after the date of enactment of this section, the Secretary shall prescribe guidelines for using other transactions authorized by the amendment under subsection (a). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

"(5) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.".

SEC. 997. REPORT ON RESEARCH AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical merits of any evaluation methodology currently in use or proposed for use in relation to the scientific and technical programs of the Department by the Secretary or other Federal official. Not later than 6 months after receiving the report of the National Academy, the Secretary shall submit such report to Congress, along with any other views or plans of the Secretary with respect to the future use of such evaluation methodology.

TITLE X—PERSONNEL AND TRAINING

SEC. 1001. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) The Secretary of Energy (in this title referred to as the "Secretary"), in consultation with the Secretary of Labor and utilizing statistical data collected by the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) The Secretary shall report to the Congress whenever the Secretary determines that significant national shortfalls of skilled technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish grant programs in the appropriate offices of the Department of Energy to enhance training of skilled technical personnel for which a shortfall is determined under subsection (a).

(c) DEFINITION.—For purposes of this section, the term "skilled technical personnel" means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1002. RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary $40,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1003. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

The Secretary of Labor, in consultation with the Secretary of Energy and jointly with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support electric system reliability and safety. The training guidelines shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, and maintenance of electric generation, transmission, and distribution, including competency and certification requirements, and assessment requirements that include initial and ongoing evaluation of workers, recertification assessment procedures, and methods for examining or testing

the qualification of individuals performing covered tasks; and

(2) consolidate existing training guidelines on the construction, operation, maintenance, and inspection of electric generation, transmission, and distribution facilities, such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1004. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the establishment of a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial, and residential buildings. The National Center shall be established by—

(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;

(2) contractors that install and maintain heating, ventilation, and air-conditioning systems and equipment;

(3) manufacturers of heating, ventilation, and air-conditioning systems and equipment;

(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as the Secretary may deem appropriate.

SEC. 1005. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

"(c) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.".

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

"SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

"(a) DEFINITIONS.—In this section:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given that term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given that term in section 903(5) of the Energy Policy Act of 2003.

"(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903(8) of the Energy Policy Act of 2003.

"(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(b) EDUCATION PARTNERSHIP.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

"(c) ACTIVITIES.—An activity under subsection (b) may include—

"(1) collaborative research;

"(2) equipment transfer;

"(3) training activities conducted at a National Laboratory or science facility; and

"(4) mentoring activities conducted at a National Laboratory or science facility.

"(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Congress a report on the activities carried out under this section.".

SEC. 1006. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (in this section referred to as the "Center"), to address the need for training and educating certified operators for electric power generation plants.

(b) ROLE.—The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall support the establishment of the Center at an institution of higher education with expertise in power plant technology and operation and with the ability to provide on-site as well as Internet-based training.

SEC. 1007. FEDERAL MINE INSPECTORS.

In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled Federal mine inspectors as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.

TITLE XI—ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

"(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;".

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

"(23) 'transmitting utility' means an entity, including any entity described in section 201(f), that owns or operates facilities used for the transmission of electric energy—

"(A) in interstate commerce; or

"(B) for the sale of electric energy at wholesale;".

(c) ADDITIONAL DEFINITIONS.—At the end of section (3) of the Federal Power Act, add the following:

"(26) 'unregulated transmitting utility' means an entity that—

"(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

"(B) is an entity described in section 201(f);

"(27) 'electric cooperative' means a cooperatively owned electric utility;

"(28) 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities; and

"(29) 'Independent System Operator' or 'ISO' means an entity used for the transmission of electric energy and which has been approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure non-discriminatory access to such facilities.".

(d) ADDITIONAL MODIFICATIONS.—

(1) Section 210(b)(2) of the Federal Power Act (16 U.S.C. 824(b)(2)) is amended by striking "The" the first time it appears and inserting, "Notwithstanding section 201(f), the".

(2) Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after "political subdivision of a state," "an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or sells less than 4,000,000 megawatt hours of electricity per year,".

(e) For the purposes of this title, the term "Commission" means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

(a) Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"ELECTRIC RELIABILITY

"SEC. 215. (a) For the purposes of this section:

"(1) The term 'bulk-power system' means

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to such components to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such components or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the components of the bulk power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulkpower system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

"(6) The term 'transmission organization' means an RTO or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section. The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulkpower system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this Part; and

"(C) the ordered change becomes effective under this Part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) The ERO shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulkpower system in North America.

"(h) The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i)(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

"(4) Within 90 days of the application of the ERO or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region; whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest, and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) The provisions of this section do not apply to Alaska or Hawaii.".

(b) The electric reliability organization certified by the Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e) of the Federal Power Act are not departments, agencies, or instrumentalities of the United States Government.

Subtitle B—Regional Markets

SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.

The Commission's proposed rulemaking entitled "Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design" (Docket No. RM01-12-[000) is remanded to the Commission for reconsideration. No final rule pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before July 1, 2005. Any final rule issued by the Commission pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, shall be preceded by a notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of independently administered Regional Transmission Organizations ("RTO") that have operational or functional control of facilities used for the transmission of electric energy in interstate commerce and do not own or have a financial interest in generation facilities used to supply electric energy for sale at wholesale.

SEC. 1123. PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS. .

Nothing in this Act authorizes the Commission to require a transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.

SEC. 1124. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency, the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—

(1) The appropriate Federal regulatory authority is authorized to enter into a contract, agreement, or other arrangement transferring control and use of all or part of the Federal utility's transmission system to a Regional Transmission Organization ("RTO"), as defined in the Federal Power Act. Such contract, agreement or arrangement shall be voluntary and include—

(A) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement, or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(B) provisions for monitoring and oversight by the Federal utility of the RTO fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision that may provide for the resolution of disputes through arbitration or other means with the RTO or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(C) a provision that allows the Federal utility to withdraw from the RTO and terminate the contract, agreement, or other arrangement in accordance with its terms.

(2) Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO shall serve to confer upon the Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) Any statutory provision requiring or authorizing a Federal utility to transmit, electric power, or to construct, operate, or maintain its transmission system shall not be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1125. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.

(a) STATE REGULATORY AUTHORITIES.—Not later than 90 days after the date of enactment of this Act, the Commission shall convene regional discussions with State regulatory authorities, as defined in section 3(21) of the Federal Power Act. The regional discussions should address whether wholesale electric markets in each region are working effectively to provide reliable service to electric consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions that do not have, as of the date of enactment of this Act, a Regional Transmission Organization ("RTO") or an Independent System Operator ("ISO"s, as defined in the Federal Power Act. The regional discussions shall consider—

(1) the need for an RTO or other organizations in the region to provide nondiscriminatory transmission access and generation interconnection;

(2) a process for regional planning of transmission facilities with State regulatory authority participation and for consideration of multi-state projects;

(3) a means for ensuring that costs for all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of wholesale energy or capacity are reasonable and economically efficient;

(4) a means for ensuring that all electric consumers, as defined in section 3(5) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain their ability to use the existing transmission system without incurring unreasonable additional costs in order to expand the transmission system for new customers;

(5) whether the integrated transmission and electric power supply system can and should be operated in a manner that schedules and economically prioritizes all available electric generation resources, so as to minimize the costs of electric energy to all consumers ("economic dispatch") and maintain system reliability;

(6) a means to provide transparent price signals to promote proper location and utilization of generation and the efficient expansion of transmission in a manner that does not result in collection of transmission rents that do not relieve congestion;

(7) eliminating in a reasonable manner, consistent with applicable State and Federal law, multiple, cumulative charges for transmission service across successive locations within a region ("pancaked rates");

(8) resolution of seams issues with neighboring regions and inter-regional coordination;

(9) a means of providing information electronically to potential users of the transmission system;

(10) implementation of a market monitor for the region with State regulatory authority and Commission oversight and establishment of rules and procedures that ensure that State regulatory authorities are provided access to market information and that provides for expedited consideration by the Commission of any complaints concerning exercise of market power and the operation of wholesale markets;

(11) a process by which to phase-in any proposed RTO or other organization designated to provide non-discriminatory transmission access, including the formulation of transmission pricing methodologies, so as to best meet the needs of a region, and, if relevant, shall take into account the special circumstances that may be found in the Western Interconnection related to the existence of transmission congestion, the existence of significant hydroelectric capacity, the participation of unregulated transmitting utilities, and the distances between generation and load;

(12) the need to submit regional studies, within one year of enactment of this Act, to the Commission outlining possible methodologies that will ensure that the amount of energy produced in any region will be equal to at least 50 percent of the amount of energy consumed in that region by 2013;

(13) the potential value of developing a uniform system-wide average rate for transmission pricing as a way to enhance the efficiency and reliability of the transmission grid; and

(14) a timetable to meet the objectives of this section.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report to Congress on the progress made in addressing the issues in subsection (a) of this section in discussions with the States.

(c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and State or other retail regulatory authorities that are on-going prior to enactment of this Act.

Subtitle C—Improving Transmission Access and Protecting Service Obligations

SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SERVICE OBLIGATION SECURITY AND PARITY

"SEC. 216. (a)(1) Any load-serving entity that, as of the date of enactment of this section"—

(A) owns generation facilities, markets the output of federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or, at its election, equivalent tradeable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

"(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradeable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradeable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

"(b) Nothing in this section shall affect any methodology, approved by the Commission prior to the date of enactment of this section, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

"(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

"(d) Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

"(e) For purposes of this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

"(2) The term 'load-serving entity;' means a distribution utility or an electric utility that has a service obligation.

"(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

"(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.

"(5) A transmitting utility that is a water district or water agency to which section 201 (f) applies and that has a right under state law to provide water shall be treated as a load-serving entity. Such water district or water agency's right to provide water should be treated as a service obligation.

"(f) Nothing in the section shall apply to an entity located in an area referred to in section 212(k)(2)(A).

"(g) This section does not authorize the Commission to take any action not otherwise within its jurisdiction under other provisions of this Act."

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

"SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) If an unregulated transmitting utility exempted pursuant to subsection (b) no longer meets any of the criteria for exemption, the exemption shall expire.

"(e) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) Nothing in this Act authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved organization designated to provide non-discriminatory transmission access.".

SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"PARTICIPANT FUNDING

"SEC. 217. (a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations establishing transmission pricing policies applicable to all public utilities associated with the construction of new interstate transmission facilities and expansion, modification, or upgrading of existing interstate transmission facilities ("transmission expansion").

"(b) CONTENTS.—Consistent with section 205, the regulation under subsection (a) shall, to the maximum extent practicable—

"(1) promote economic capital investment in efficient transmission systems;

"(2) encourage the construction and use of transmission facilities and generation facilities that reduce risk and provide just and reasonable rates to consumers;

"(3) encourage improved operation of generation and transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks; and

"(4) ensure that the costs of any transmission expansion are assigned or allocated in a fair manner, meaning that those who benefit from the transmission expansion pay an appropriate share of the associated costs.

"(c) PLAN.——

"(1) IN GENERAL.—An RTO or ISO may submit to the Commission a plan containing the criteria for determining the person or persons who will be required to pay for any transmission expansion. Nothing herein diminishes or alters the rights of individual members of an RTO or ISO under the Act.

"(2) Requirements.—The Commission shall approve a plan submitted under paragraph (1) if the Commission determines that the plan—

"(A) meets all the requirements of this Act and is consistent with the regulation promulgated under subsection (a);

"(B) specifies the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

"(i) directly assigned;

"(ii) participant funded; or

"(iii) rolled into regional or sub-regional rates; and

"(C) ensures that the party or parties who pay for facilities necessary for the transmission expansion receive appropriate compensation for those facilities, considering among other factors the economic benefits associated with the transmission expansion.

"(3) DEFERENCE.—In exercising its jurisdiction under this section, the Commission shall give substantial deference to the comments filed with the Commission by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO.

"(4) EFFECT OF SECTION.—Nothing in this section shall affect an RTO or ISO's allocation methodology for transmission expansion approved by the Commission prior to the date of enactment of this section.".

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111 (d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—

"(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.".

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

"(i) NET METERING.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning net metering established by section 111(d)(11), the term net metering service shall mean a service provided in accordance with the following standards:

"(1) An electric utility—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

"(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

"(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

"(B) the owner or operator of the on-site generating facility. shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

"(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability. "(7) For purposes of this subsection—

"(A) The term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

"(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

"(C) The term 'high efficiency system' means fuel cells or combined heat and power.

"(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.".

SEC. 1142. SMART METERING.

(a) IN GENERAL.—Section 111 (d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(12) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance in the costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use. and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

“(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 12 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(I) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).”.

(b) State Investigation of Demand Response and Time-based Metering.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

“(j) Time-based Metering and Communications.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.”.

(c) Federal Assistance on Demand Response.—Section 132(a) of the Public Utility Regulatory Polices Act of 1978 (16 U.S.C. 2642(a)) is amended by striking “and” at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting “; and”, and by adding the following at the end thereof:

“(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.”.

(d) Federal Guidance.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

“(d) Demand Response.—The Secretary shall be responsible for—

“(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

“(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

“(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2003, providing the Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2005.

“(e) Demand Response and Regional Coordination.—

“(1) It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

“(2) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

“(A) identifying the areas with the greatest demand response potential;

“(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response; and

“(C) developing plans and programs to use demand response to respond to peak demand or emergency needs.

“(3) Not later than 1 year after the date of enactment of the Energy Policy Act of 2003, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

“(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

“(B) existing demand response programs and time-based rate programs;

“(C) the annual resource contribution of demand resources;

“(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

“(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

“(f) Federal Encouragement of Demand Response Devices.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.”.

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) Adoption of Standards.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

“(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

“(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

“(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

“(9) Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.”.

(b) Time for Adopting Standards.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

“(d) Special Rule.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.”.

SEC. 1144. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

“(c) Technical Assistance for Certain Responsibilities.—The Secretary may provide such technical assistance as determined appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).”.

SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) Termination of Mandatory Purchase and Sale Requirements.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

“(m) Termination of Mandatory Purchase and Sale Requirements.—

“(1) Obligation to purchase.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

“(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

“(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

“(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

“(2) Revised Purchase and Sale Obligation for New Facilities.

“(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

“(B) For the purposes of this paragraph, the term ‘existing qualifying cogeneration facility’ means a facility that—

“(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

“(ii) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

"(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

"(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

"(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

"(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

"(B) the electric utility is not required by State law to sell electric energy in its service territory.

"(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(7) RECOVERY OF COSTS.—

"(A) The Commission shall promulgate and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

"(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

"(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—

"(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

"(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

"(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as state laws applicable to sales of electric energy from a qualifying facility to its host facility; and

"(iii) continuing progress in the development of efficient electric energy generating technology.

"(B) The rule promulgated pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

"(2) RULES FOR EXISTING FACILITIES.—Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

"(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

"(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).".

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe.".

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.".

Subtitle E—Provisions Regarding the Public Utility Holding Company Act of 1935

This subtitle may be cited as the "Public Utility Holding Company Act of 2003."

sec. 1151. definitions.

For the purposes of this subtitle:

(1) The term "affiliate" of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term "associate company" of a company means any company in the same holding company system with such company.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company, and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The tenn "holding company system" means a holding company, together with its subsidiary companies.

(10) The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term "person" means an individual or company.

(13) The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term "public-utility company" means an electric utility company or a gas utility company.

(15) The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public-utility companies.

(16) The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company, and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1152. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 1153. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1154. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company, and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1155. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this title, the Commission shall promulgate a final rule to exempt from the requirements of section 1153 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public-utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public-utility company, the Commission shall exempt such person or transaction from the requirements of section 1153.

SEC. 1156. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company, public utility, or natural gas company from an associate company.

SEC. 1157. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 1158. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1159. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1160. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY. Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 1161. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this title, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1162. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1163. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this title.

SEC. 1164. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle F—Market Transparency, Anti-Manipulation and Enforcement

SEC. 1171. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"MARKET TRANSPARENCY RULES

"SEC. 218. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The

Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

"(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.".

SEC. 1172. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"PROHIBITION ON FILING FALSE INFORMATION

"Sec. 219. It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) knowingly and willfully to report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to any governmental entity with the intent to manipulate the data being compiled by such governmental entity.

"PROHIBITION ON ROUND TRIP TRADING

"Sec. 220. (a) It shall be a violation of this Act for any person or any other entity (including entities described in section 201(f)) knowingly and willfully to enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.".

SEC. 1173. MARKET TRANSPARENCY.

(a) In General.—It shall be a violation of the Commodity Exchange Act (7 U.S.C. 1 et seq.) for a person or entity to knowingly report or manipulate any information relating to the price, quantity, sale or purchase, and counter party of any agreement, contract or transaction related to natural gas or electricity in interstate commerce, which the person or entity knew to be false at the time of reporting to any governmental entity or any person or entity engaged in the business of collecting and disseminating information.

(b) Clarification of Existing CFTC Authority.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by designating subsection (f) as subsection (e), and adding:

"(f) Commission Administrative and Civil Authority.—The Commission may bring administrative or civil action as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2). This applies to any action pending on or commenced after the date of enactment of the Energy Policy Act of 2003.".

(c) Fraud Authority.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) Prohibition.—It shall be unlawful for any person, directly or indirectly in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement contract, or transaction subject to regulation or this Act—

"(1) to cheat or defraud or attempt to cheat or defraud any person;

"(2) to willfully make or cause to be made to any person any false report or statement, or to willfully enter or cause to be entered for any person any false record;

"(3) to willfully deceive or attempt to deceive any person by any means whatsoever; or

"(4) except as permitted in written rules of a designated contract market or registered derivative transaction execution facility which the agreement, contract, or transaction is traded and executed—

"(A) to bucket an order;

"(B) to fill an order by offsetting against 1 or more orders of another person; or

"(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of such person, to become—

"(i) the buyer with respect to any selling order of the person; or

"(ii) the seller with respect to any buying order of the person."

(d) Technical Corrections.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e) is amended by adding at the end the following:

"Any request by any Federal, State or foreign government department, agency, or political subdivision, or foreign futures authority, for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas and electricity) within the exclusive jurisdiction of the Commission shall be directed to the Commission.".

(e) Authorization.—There are authorized to be appropriated to the Commission for fiscal year 2004 such sums as may be necessary to carry out the additional responsibilities and obligations of the Commission under this section.

SEC. 1174. ENFORCEMENT.

(a) Complaints.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting "electric utility," after "Any person,"; and

(2) inserting ", transmitting utility," after "licensee" each place it appears.

(b) Investigations.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting "or transmitting utility" after "any person" in the first sentence.

(c) Review of Commission Orders.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "Any person," in the first sentence.

(d) Criminal Penalties.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) Civil Penalties.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

(f) General Penalties.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

SEC. 1175. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) striking "60 days after" in the third sentence and inserting "of";

(3) striking "expiration of such 60-day period" in the third sentence and inserting "publication date"; and

(4) striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

Subtitle G—Consumer Protections

SEC. 1181. ELECTRIC UTILITY MERGERS.

(a) Section 203(a) of the Federal Power Act (16 U.S.C. 824(b)) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other persons, by any means whatsoever, or

"(C) purchase, acquire, or take any security of any other public utility of a value in excess of $10,000,000.

"(2) No holding company in a holding company system that includes an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with an electric utility company, a gas utility company, or a holding company in a holding company system that includes a public-utility company of value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

"(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

"(A) will adequately protect consumer interests,

"(B) will be consistent with competitive wholesale markets,

"(C) will not impair the ability of the Commission or the ability of a State commission having jurisdiction following the completion of the transaction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public,

"(D) will not impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction, and

"(E) satisfies such other criteria as the Commission considers consistent with the public interest.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application.

"(6) For purposes of this subsection, the terms "associate company", "electric utility company", "gas utility company", "holding company", "holding company system", and "public-utility company" have the meaning given those terms in the Public Utility Holding Company Act of 2003.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

SEC. 1182. MARKET-BASED POLICY.

Within six months of the enactment of this section, the Commission shall issue a policy statement establishing the conditions under which public utilities may charge market-based rates for the sale of electric energy subject to the jurisdiction of the Commission. Such policy statement should consider consumer protections and market power, as well as any other factors the Commission may deem necessary, to ensure that such rates are just and reasonable.

SEC. 1183. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) TASK FORCE.—There is established an inter-agency task force, to be known as the "Electric Energy Market Competition Task Force" (referred to in this section as the "task force"), which shall consist of—

(1) one member each from—

(A) the Department of Justice, to be appointed by the Attorney General of the United States;

(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission;

(C) the Federal Trade Commission, to be appointed by the chairman of that Commission;

(D) the Department of Energy, to be appointed by the Secretary of Energy; and (E) the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall perform a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—

(A) FINAL REPORT.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

(c) CONSULTATION.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.

SEC. 1184. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer. If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1185. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1186. DEFINITIONS.

For purposes of this subtitle—

(1) the term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) the term "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Technical Amendments

SEC. 1191. TECHNICAL AMENDMENTS.

(a) Section 211(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking "(2)";

(2) striking "(A)" and inserting "(1)"

(3) striking "(B)" and inserting "(2)"; and

(4) striking "termination of modification" and inserting "termination or modification".

(b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking "electric utility" the second time it appears and inserting "transmitting utility".

(c) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking "subsection" and inserting "section".

DIVISION B—ENERGY TAX INCENTIVES

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Energy Tax Incentives Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; etc.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Extension and expansion of credit for electricity produced from certain renewable resources.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.
Sec. 202. Modification of credit for qualified electric vehicles.
Sec. 203. Credit for installation of alternative fueling stations.
Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 205. Small ethanol producer credit.
Sec. 206. Incentives for biodiesel.
Sec. 207. Alcohol fuel and biodiesel mixtures excise tax credit.
Sec. 208. Sale of gasoline and diesel fuel at duty-free sales enterprises.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 301. Credit for construction of new energy efficient home.
Sec. 302. Credit for energy efficient appliances.
Sec. 303. Credit for residential energy efficient property.
Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 305. Energy efficient commercial buildings deduction.
Sec. 306. Three-year applicable recovery period for depreciation of qualified energy management devices.

Sec. 307. Three-year applicable recovery period for depreciation of qualified water submetering devices.
Sec. 308. Energy credit for combined heat and power system property.
Sec. 309. Credit for energy efficiency improvements to existing homes.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 411. Credit for investment in qualifying advanced clean coal technology.
Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

Sec. 501. Oil and gas from marginal wells.
Sec. 502. Natural gas gathering lines treated as 7-year property.
Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
Sec. 504. Environmental tax credit.
Sec. 505. Determination of small refiner exception to oil depletion deduction.
Sec. 506. Marginal production income limit extension.
Sec. 507. Amortization of delay rental payments.
Sec. 508. Amortization of geological and geophysical expenditures.
Sec. 509. Extension and modification of credit for producing fuel from a nonconventional source.
Sec. 510. Natural gas distribution lines treated as 15-year property.
Sec. 511. Credit for Alaska natural gas.
Sec. 512. Certain Alaska natural gas pipeline property treated as 7-year property.
Sec. 513. Arbitrage rules not to apply to prepayments for natural gas.
Sec. 514. Extension of enhanced oil recovery credit to certain Alaska facilities.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 601. Modifications to special rules for nuclear decommissioning costs.
Sec. 602. Treatment of certain income of cooperatives.
Sec. 603. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

TITLE VII—ADDITIONAL PROVISIONS

Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 702. Study of effectiveness of certain provisions by GAO.
Sec. 703. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
Sec. 704. Expansion of research credit.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 801. Penalty for failing to disclose reportable transaction.
Sec. 802. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 803. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 804. Disclosure of reportable transactions.
Sec. 805. Modifications to penalty for failure to register tax shelters.
Sec. 806. Modification of penalty for failure to maintain lists of investors.
Sec. 807. Penalty on promoters of tax shelters.

Subtitle B—Provisions to Discourage Corporate Expatriation

Sec. 821. Tax treatment of inverted corporate entities.
Sec. 822. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 823. Reinsurance of United States risks in foreign jurisdictions.

Subtitle C—Other Revenue Provisions

Sec. 831. Extension of Internal Revenue Service user fees.
Sec. 832. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 833. Individual expatriation to avoid tax.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) Expansion of Qualified Energy Resources.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) Qualified Energy Resources.—For purposes of this section—

"(1) In general.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) biomass (other than closed-loop biomass),

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power,

"(G) biosolids and sludge, and

"(H) municipal solid waste.".

"(2) Closed-loop biomass.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) Biomass.—

"(A) In general.—The term 'biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) Agricultural livestock waste nutrients.—

"(i) In general.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) Agricultural livestock.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(4) Geothermal energy.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) Small irrigation power.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.

"(6) Biosolids and sludge.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

"(7) Municipal solid waste.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(b) Extension and Expansion of Qualified Facilities.—

(1) In general.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Qualified Facilities.—For purposes of this section—

"(1) Wind facility.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) Closed-loop biomass facility.—

"(A) In general.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) Special rules.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of the Energy Tax Incentives Act of 2003,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and "(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) Biomass facility.—

"(A) In general.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

"(B) Special rules for preeffective date facilities.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before the date of the enactment of such Act—

"(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

"(ii) the 5-year period beginning on January 1, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) Credit eligibility.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) Geothermal or solar energy facility.—

"(A) In general.—In the case of a facility using geothermal or solar energy to produce electricity, the term' 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(B) Special rule.—In the case of any facility described in subparagraph (A), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(5) Small irrigation power facility.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(6) Biosolids and sludge facility.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007. Such term shall not include any property described in section 48(a)(6) the basis of which is taken into account for purposes of the energy credit under section 46.

"(7) Municipal solid waste facility.—

"(A) In general.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.

"(B) Special rule.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) Credit eligibility.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.".

(2) No credit for certain production.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

"(6) Operations inconsistent with solid waste disposal act.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).".

(3) Conforming amendment.—Section 45(e), as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) Credit Rate for Electricity Produced From New Facilities.—

(1) In general.—Section 45(a) is amended by adding at the end the following new flush sentence:

"In the case of electricity produced after 2003 at any qualified facility originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.".

(2) New rate not subject to inflation adjustment.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.".

(d) Elimination of Certain Credit Reductions.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).", and

(5) by striking "tax-exempt bonds," in the heading and inserting "certain".

(e) Treatment of Persons Not Able To Use Entire Credit.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(8) Treatment of persons not able to use entire credit.—

"(A) Allowance of credit.—

"(i) In general.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) Persons described.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) Transfer of credit.—

"(i) In general.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(D) Credit not income.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) Treatment of unrelated persons.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(f) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) Certain biomass facilities.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made

by this section shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(3) CREDIT RATE FOR NEW FACILITIES.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2003, in taxable years ending after such date.

(4) NONAPPLICATION OF AMENDMENTS TO PREEFFECTIVE DATE POULTRY WASTE FACILITIES.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on the day before the date of the enactment of this Act) placed in service on or before such date of enactment.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent.	$250
At least 10 percent but less than 20 percent.	$500
At least 20 percent but less than 30 percent.	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$1,000
At least 30 percent but less than 40 percent.	$1,750
At least 40 percent but less than 50 percent.	$2,000
At least 50 percent but less than 60 percent.	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$4,000
At least 30 percent but less than 40 percent.	$4,500
At least 40 percent but less than 50 percent.	$5,000
At least 50 percent but less than 60 percent.	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent.	$6,000
At least 30 percent but less than 40 percent.	$7,000
At least 40 percent but less than 50 percent.	$8,000
At least 50 percent but less than 60 percent.	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy, “(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

“(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

“(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

“If the model year is:	**The increased credit amount is:**
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

“(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

“If the model year is:	**The increased credit amount is:**
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

“(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

“If the model year is:	**The increased credit amount is:**
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

“(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

“(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term ‘applicable heavy duty hybrid motor vehicle’ means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

“(ii) MAXIMUM AVAILABLE POWER.—

“(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle’s total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

“(i) which draws propulsion energy from onboard sources of stored energy which are both—

“(I) an internal combustion or heat engine using consumable fuel, and

“(II) a rechargeable energy storage system,

“(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

“(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

“(iv) the original use of which commences with the taxpayer,

“(v) which is acquired for use or lease by the taxpayer and not for resale, and

“(vi) which is made by a manufacturer.

“(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

“(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

“(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

“(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 40 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2003.

“(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

“(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

“(i) which is only capable of operating on an alternative fuel,

“(ii) the original use of which commences with the taxpayer,

“(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

“(iv) which is made by a manufacturer.

“(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

“(5) CREDIT FOR MIXED-FUEL VEHICLES.—

“(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

“(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

“(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehicle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(4).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $3,500,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I, to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(B) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) In general.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) Leased vehicles.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) Conforming amendments.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "Battery" after "Qualified".

(C) The heading of section 30 is amended by inserting "battery" after "qualified".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "**battery**" before "**electric**".

(c) Additional Special Rules.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) Credit Allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) Limitation.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) Year Credit Allowed.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) Definitions.—For purposes of this section—

"(1) Qualified clean-fuel vehicle refueling property.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) Residential clean-fuel vehicle refueling property.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) Retail clean-fuel vehicle refueling property.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) No Double Benefit.—

"(1) Coordination with other deductions and credits.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) No deduction allowed under section 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) Refueling Property Installed for Tax-Exempt Entities.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) Carryforward Allowed.—

"(1) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) Special Rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) Modifications to Extension of Deduction for Certain Refueling Property.—

(1) In general.—Subsection (f) of section 179A is amended to read as follows:

"(f) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) Extension of phaseout.—Section 179A(b)(1)(B) is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(c) Incentive for Production of Hydrogen at Qualified Clean-Fuel Vehicle Refueling Property.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) General Rule.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) Definitions.—For purposes of this section—

"(1) Applicable amount.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	The applicable amount is—
2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

"(2) Alternative fuel.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) Gasoline gallon equivalent.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) Qualified motor vehicle.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) Sold at retail.—

"(A) In general.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) No Double Benefit.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) Transitional Rule.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) No carryback of section 40A credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) Effective Date.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) Allocation of Alcohol Fuels Credit to Patrons of a Cooperative.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

"(6) Allocation of small ethanol producer credit to patrons of cooperative.—

"(A) Election to allocate.—

"(i) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) Treatment of organizations and patrons.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

"(C) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Improvements to Small Ethanol Producer Credit.—

(1) Definition of small ethanol producer.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) Small ethanol producer credit not a passive activity credit.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3).".

(3) Allowing credit against entire regular tax and minimum tax.—

(A) In general.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for small ethanol producer credit.—

"(A) In general.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) Small ethanol producer credit.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii) are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) Small ethanol producer credit not added back to income under section 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) Conforming Amendment.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) Cross Reference.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 206. INCENTIVES FOR BIODIESEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—

"(A) In general.—Subject to subparagraph (B), in the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(B) Certification for agri-biodiesel.—Subparagraph (A) shall apply only if the taxpayer described in paragraph (1)(A) or (2)(A) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any agri-biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such agri-biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter for use in diesel-powered engines which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Biodiesel mixture not used as a fuel, etc.—

"(A) Imposition of tax.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of the mixture.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold after December 31, 2005.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.".

(2)(A) Section 87, as amended by this Act, is amended—

(i) by striking "and" at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting ", and",

(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).", and

(iv) by striking "**FUEL CREDIT**" in the heading and inserting "**AND BIODIESEL FUELS CREDITS**".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) Effective Date.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 207. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) In General.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) Allowance of Credits.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) Alcohol Fuel Mixture Credit.—

"(1) In general.—For purposes of this section, the alcohol fuel mixture credit is the applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) Mixtures not containing ethanol.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) Alcohol fuel mixture.—For purposes of this subsection, the term 'alcohol fuel mixture' is a mixture which—

"(A) consists of alcohol and a taxable fuel, and

"(B) is sold for use or used as a fuel by the taxpayer producing the mixture.

"(4) Other definitions.—For purposes of this subsection—

"(A) Alcohol.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) Taxable fuel.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) Termination.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

"(c) Biodiesel Mixture Credit.—

"(1) In general.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any qualified biodiesel mixture.

"(2) Applicable amount.—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) Amount for agri-biodiesel.—

"(i) In general.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(ii) Certification for agri-biodiesel.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

"(3) Definitions.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) Termination.—This subsection shall not apply to any sale or use for any period after December 31, 2005.

"(d) Mixture not used as a fuel, etc.—

"(1) Imposition of tax.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or qualified biodiesel mixture, respectively, and

"(B) any person—

"(i) separates such alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.".

(b) Registration Requirement.—Section 4101(a) (relating to registration) is amended by inserting "and every person producing biodiesel (as defined in section 40B(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4091".

(c) Conforming Amendments.—

(1) Section 40(c) is amended by striking "section 4081(c), or section 4091(c)" and inserting "section 4091(c), section 6426, section 6427(e), or section 6427(f)".

(2) Section 40(d)(4)(B) is amended by striking "or 4081(c)".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Paragraph (1) of section 4041(k) is amended to read as follows:

"(1) In general.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).".

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 6426(b)(4)(A)), and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40B(d)(1)) or agri-biodiesel (as defined in section 40B(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40B(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) Termination.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2005.".

(10) Subsection (f) of section 6427 is amended to read as follows:

"(f) Aviation Fuel Used to Produce Certain Alcohol Fuels.—

"(1) In general.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Regular tax rate.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) Incentive tax rate.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

"(4) Termination.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.".

(11) Paragraphs (1) and (2) of section 6427(i) are amended by inserting "(f)," after "(d),".

(12) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(D) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(E) by striking "alcohol mixture" in the heading and inserting "alcohol fuel and biodiesel mixture".

(13) Section 6427(o) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) any tax is imposed by section 4081, and",

(B) by striking "such gasohol" in paragraph (2) and inserting "the alcohol fuel mixture (as defined in section 6426(b)(3))",

(C) by striking "gasohol" both places it appears in the matter following paragraph (2) and inserting "alcohol fuel mixture", and

(D) by striking "Gasohol" in the heading and inserting "Alcohol Fuel Mixture".

(14) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(15) Section 9503(b)(4) is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) is amended by inserting "(other than subsection (e) thereof)" after "section 6427".

(17) Section 9503(e)(2) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(d) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (b)(12)(D)) not later than September 30, 2003.

SEC. 208. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) Prohibition.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.".

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

“(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—

“(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

“(i) in the case of a 30-percent home, $1,000, and

“(ii) in the case of a 50-percent home, $2,000.

“(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

“(i) 30-PERCENT HOME.—The term ‘30-percent home’ means—

“(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment, or

“(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(ii) 50-PERCENT HOME.—The term ‘50-percent home’ means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

“(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

“(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

“(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

“(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

“(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

“(c) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means—

“(A) the person who constructed the qualifying new home, or

“(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

“(2) ENERGY EFFICIENT PROPERTY.—The term ‘energy efficient property’ means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system which can, individually or in combination with other components, meet the requirements of this section.

“(3) QUALIFYING NEW HOME.—

“(A) IN GENERAL.—The term ‘qualifying new home’ means a dwelling—

“(i) located in the United States,

“(ii) the construction of which is substantially completed after the date of the enactment of this section, and

“(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

“(B) MANUFACTURED HOME INCLUDED.—The term ‘qualifying new home’ includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

“(4) CONSTRUCTION.—The term ‘construction’ includes reconstruction and rehabilitation.

“(5) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

“(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

“(B) exterior windows (including skylights), and

“(C) exterior doors.

“(d) CERTIFICATION,—

“(1) METHOD OF CERTIFICATION.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

“(C) PERFORMANCE-BASED METHOD.—

“(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

“(I) heated by the same fuel type, and

“(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

“(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

“(D) GUARANTEE-BASED METHOD.—

“(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

“(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

“(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

“(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

“(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

“(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

“(3) FORM.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

“(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

“(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor

(HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

"(C) Ratings label affixed in dwelling.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(e) Application.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after the date of the enactment of this section and purchased during the period beginning on such date and ending on—

"(1) in the case of any 30-percent home, December 31, 2005, and

"(2) in the case of any 50-percent home, December 31, 2007.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the new energy efficient home credit determined under section 45G(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) New Energy Efficient Home Expenses.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).".

(d) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) No carryback of new energy efficient home credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.".

(e) Deduction for Certain Unused Business Credits.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45G(a).".

(f) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45G. New energy efficient home credit.".

(g) Effective Date.—The amendments made by this section shall apply to homes the construction of which is substantially completed after the date of the enactment of this Act.

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) Allowance of Credit.—

"(1) In general.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) Amount.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

"(b) Applicable Amount; Eligible Production.—For purposes of subsection (a)—

"(1) Applicable amount.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

"(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

"(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

"(2) Eligible production.—

"(A) In general.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

"(B) Categories.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii),

"(iv) refrigerators described in paragraph (1)(B)(ii), and

"(v) refrigerators described in paragraph (1)(C).

"(c) Limitation on Maximum Credit.—

"(1) In general.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

"(2) Limitation based on gross receipts.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) Gross receipts.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) Definitions.—For purposes of this section—

"(1) Qualified energy efficient appliance.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

"(2) Clothes washer.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) Refrigerator.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) Special Rules.—

"(1) In general.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) Verification.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) Termination.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the energy efficient appliance credit determined under section 45H(a).".

(c) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of energy efficient appliance credit before effective date.—

No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending on or before the date of the enactment of such section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45H. Energy efficient appliance credit.".

(e) Effective Date.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

"(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

"(C) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

"(iii) $150 for each advanced natural gas, oil, or propane water heater,

"(iv) $50 for each natural gas, oil, or propane water heater,

"(v) $50 for an advanced main air circulating fan,

"(vi) $150 for each advanced combination space and water heating system,

"(vii) $50 for each combination space and water heating system, and

"(viii) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified solar water heating property expenditure.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) Qualified photovoltaic property expenditure.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) Solar panels.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) Qualified fuel cell property expenditure.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) Qualified wind energy property expenditure.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(6) Qualified tier 2 energy efficient building property expenditure.—

"(A) In general.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) Tier 2 energy efficient building property.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

"(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

"(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

"(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) Labor costs.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) Swimming pools, etc., used as storage medium.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25C," after "sections 23".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(iv) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(I) has a capacity of less than 2,000 kilowatts, and

"(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.".

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) In General.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

"(b) Maximum Amount of Deduction.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) Energy Efficient Commercial Building Property Expenditures.—For purposes of this section—

"(1) In general.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) which is the type of structure to which the Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) Energy efficient property.—For purposes of paragraph (1)—

"(A) In general.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

"(B) Methods of calculation.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

"(C) Computer software.—

"(i) In general.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

"(ii) Qualified computer software.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) Allocation of deduction for public property.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

"(4) Notice to owner.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) Certification.—

"(A) In general.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

"(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

"(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

"(B) Qualified individuals.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

"(C) Proficiency of qualified individuals.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(d) Basis Reduction.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(e) Regulations.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(f) Termination.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.".

(b) Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179B(d).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 306. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In General.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) Definition of Qualified Energy Management Device.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) Qualified energy management device.—

"(A) In general.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) Energy management device.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) In General.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end

end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—

"(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

"(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

"(i) to measure and record water usage data, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(a) (relating to energy credit), as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

"(v) which is placed in service before January 1, 2007.

"(B) SPECIAL RULES.—

"(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the primary fuel source for the system.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

"(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(iv) PUBLIC UTILITY PROPERTY.—

"(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

"(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (i), (iii), and (iv) thereof.

"(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed a credit under this section for a combined heat and power system property which has a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.".

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling which—

"(A) is located in the United States,

"(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) CERTIFICATION.—

"(1) METHODS OF CERTIFICATION.—

"(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) DOLLAR AMOUNT.—The credit", and

(B) by adding at the end the following new paragraph:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(2)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25D," after "sections 25C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25D," after "25C,".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting "; and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

“(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

“(1) the applicable amount of clean coal technology production credit, multiplied by

“(2) the applicable percentage of the sum of—

“(A) the kilowatt hours of electricity, plus

“(B) each 3,413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

“(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term ‘qualifying clean coal technology unit’ means a clean coal technology unit of the taxpayer which—

“(A) on the date of the enactment of this section—

“(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

“(ii) had a nameplate capacity rating of not more than 300 megawatts,

“(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

“(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

“(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

“(2) CLEAN COAL TECHNOLOGY UNIT.—The term ‘clean coal technology unit’ means a unit which—

“(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

“(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

“(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

“(D) has a maximum design net heat rate of not more than 9,500, and

“(E) meets the pollution control requirements of paragraph (3).

“(3) POLLUTION CONTROL REQUIREMENTS.—

“(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

“(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

“(I) subparagraph (B), or

“(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

“(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

“(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

“(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

“(ii) in the case of nitrogen oxide emissions—

“(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

“(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

“(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

“(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

“(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit’s co-generation of steam),

“(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [1 − {((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

“(C) shall be corrected for the site reference conditions of—

“(i) elevation above sea level of 500 feet,

“(ii) air pressure of 14.4 pounds per square inch absolute (psia),

“(iii) temperature, dry bulb of 63°F,

“(iv) temperature, wet bulb of 54°F, and

“(v) relative humidity of 55 percent, and

“(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit’s carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

“(5) HHV.—The term ‘HHV’ means higher heating value.

“(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.

“(7) INFLATION ADJUSTMENT FACTOR.—

“(A) IN GENERAL.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

“(B) GDP IMPLICIT PRICE DEFLATOR.—The term ‘GDP implicit price deflator’ means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

“(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

“(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

“(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

“(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

“(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

“(A) to carry out the purposes of this subsection,

“(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

“(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

“(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

“(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

“(I) a site,

“(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

“(III) filings for all necessary preconstruction approvals,

“(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

“(V) such other factors that the Secretary determines are appropriate,

“(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

“(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the qualifying clean coal technology production credit determined under section 45I(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45I. Credit for production from a qualifying clean coal technology unit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

"(ii) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

"(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

"(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts in the case of units placed in service before 2009), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45I(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting ", (2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced
clean coal technology unit
credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.2 percent	$.0060	$.0038
Less than 40.2 but not less than 39 percent	$.0025	$.0010
Less than 39 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0105	$.0090
Less than 43.9 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 46.3 percent	$.0140	$.0115
Less than 46.3 but not less than 44.2 percent	$.0120	$.0090.

"(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN PLACED IN SERVICE.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) USE BY TVA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

"(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

"(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

"(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) PROPORTIONATE REDUCTIONS.—

"(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

"(4) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45M(c)(1)).

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the marginal oil and gas well production credit determined under section 45K(a).".

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.".

(d) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this

Act, is amended by adding at the end the following new item:

"Sec. 45K. Credit for producing oil and gas from marginal wells.".

(f) Effective Date.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) Natural Gas Gathering Line.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) Natural gas gathering line.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .... 10".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) Treatment as Expense.—

"(1) In general.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) Limitation.—

"(A) In general.—The aggregate costs which may be taken into account under this subsection for any taxable year with respect to any facility may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year with respect to such facility.

"(B) Applicable percentage.—For purposes of subparagraph (A)—

"(i) In general.—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) Reduced percentage.—In the case of any facility with average daily refinery runs or average retained production for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (but not below zero) by the product of—

"(I) such percentage (before the application of this clause), and

"(II) the ratio of such excess to 50,000 barrels.

"(b) Definitions.—For purposes of this section—

"(1) Qualified capital costs.—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) Small business refiner.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year, and

"(B) the average daily refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on the date of the enactment of this section did not exceed 410,000 barrels.

"(c) Coordination With Other Provisions.—Section 280B shall not apply to amounts which are treated as expenses under this section.

"(d) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(b) Conforming Amendments.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting "179B, or 179C".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 179C(d).".

(5) Section 1245(a), as amended by this Act, is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENVIRONMENTAL TAX CREDIT.

"(a) In General.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of low-sulfur diesel fuel produced at a facility by such small business refiner during such taxable year.

"(b) Maximum Credit.—

"(1) In general.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) with respect to such facility for any preceding year.

"(2) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) Reduced percentage.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179C(a)(2)(B)(ii).

"(c) Definitions.—For purposes of this section—

"(1) In general.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179C.

"(2) Low-sulfur diesel fuel.—The term 'low-sulfur diesel fuel' means diesel fuel containing not more than 15 parts per million of sulfur.

"(3) Applicable period.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(4) Applicable EPA regulations.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(d) Certification.—

"(1) Required.—Not later than the date which is 30 months after the first day of the first taxable year in which a credit is allowed under this section with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) Contents of application.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) Review period.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) Statute of limitations.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the period described in paragraph (3) ends with respect to the taxpayer, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(f) Cooperative Organizations.—

"(1) Apportionment of credit.—

"(A) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(B) Form and effect of election.—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(2) Treatment of organizations and patrons.—

"(A) Organizations.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) Patrons.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(3) Special rules for decrease in credits for taxable year.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(A) such reduction, over

"(B) the amount not apportioned to such patrons under paragraph (1) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding at the end the following new subsection:

"(e) Environmental Tax Credit.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Environmental tax credit.".

(e) Effective Date.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking "2004" and inserting "2007".

SEC. 507. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Amortization of Delay Rental Payments for Domestic Oil and Gas Wells.—

"(1) In general.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) Half-year convention.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) Exclusive method.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) Treatment upon abandonment.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) Delay rental payments.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 508. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Amortization of Geological and Geophysical Expenditures.—

"(1) In general.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) Special rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) Conforming Amendment.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) Extension for Other Facilities.—

"(1) Oil and gas.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

"(3) Wells producing viscous oil.—

"(A) In general.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

"(B) Viscous oil.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) Waiver of unrelated person requirement.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) Facilities producing refined coal.—

"(A) In general.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) Refined coal.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) Covered facilities.—

"(i) In general.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) Qualified emission reduction.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

"(iii) Qualified enhanced value.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) Qualifying advanced clean coal technology units excluded.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

"(5) Coalmine gas.—

"(A) In general.—This section shall apply to coalmine gas—

"(i) captured or extracted by the taxpayer during the period beginning after the date of the enactment of this subsection and ending before January 1, 2007, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

"(B) Coalmine gas.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

"(i) liberated during or as a result of coal mining operations, or

"(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

"(C) Special rule for advanced extraction.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

"(D) Noncompliance with pollution laws.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

"(6) Special rules.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) Fuels treated as qualified fuels.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

"(B) Daily limit.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

"(C) Credit amount.—The dollar amount applicable under subsection (a)(1) shall be $3 (and the inflation adjustment under subsection (b)(2) shall not apply to such amount).".

(b) Clarification of Placed in Service Date for Certain Landfill Gas Facilities.—Section 29(d) (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) Clarification of placed in service date for certain landfill gas facilities.—

"(A) In general.—In the case of a landfill placed in service on or before the date of the enactment of this paragraph—

"(i) a facility for producing qualified fuel from such landfill shall include all wells, pipes, and related components used to collect landfill gas, and

"(ii) production of landfill gas from such landfill attributable to wells, pipes, and related components placed in service after such date of enactment shall be treated as produced from a facility placed in service on the date such wells, pipes, and related components were placed in service.

"(B) Landfill gas.—The term 'landfill gas' means gas described in subsection (c)(1)(B)(ii) and derived from the biodegradation of municipal solid waste.".

(c) Extension for Certain Fuel Produced at Existing Facilities.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2006, in the case of any coke, coke gas, or natural gas and by-products produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(d) Study of Coalbed Methane.—

(1) In general.—The Secretary of the Treasury shall conduct a study regarding the effect of section 29 of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) Contents of study.—The study under paragraph (1) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) Existing facilities.—The amendments made by subsection (c) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

SEC. 510. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .... 20".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. CREDIT FOR ALASKA NATURAL GAS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) In General.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) Alaska natural gas the production of which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

"(2) Reduction as gas prices increase.—

"(A) In general.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $0.83, bears to

"(ii) $0.52.

"(B) APPLICABLE REFERENCE PRICE.—For purposes of this paragraph—

"(i) IN GENERAL.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

"(ii) REFERENCE PRICE.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

"(C) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(II) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(c) ALASKA NATURAL GAS.—For purposes of this section—

"(1) IN GENERAL.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(18) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

"(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

"(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

"(2) NATURAL GAS.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—

"(A) IN GENERAL.—In the case of a well in which there is more than 1 person or entity—

"(i) entitled to production of Alaska natural gas, or

"(ii) at the election of such person or entity, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.

"(B) PARTNERSHIP PROPERTIES.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas during the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) ending with the date which is 25 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) The Alaska natural gas credit determined under section 45M(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

SEC. 512. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any Alaska natural gas pipeline, and".

(b) ALASKA NATURAL GAS PIPELINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) ALASKA NATURAL GAS PIPELINE.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

"(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

"(B) is—

"(i) placed in service after December 31, 2012, or

"(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(ii) the following new item:

"(C)(iii) .... 10".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

SEC. 513. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

"(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

"(i) NEW BUSINESS CUSTOMERS.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) Overall limitation.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) Ruling requests.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) Adjustment for natural gas otherwise on hand.—

"(i) In general.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

"(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

"(ii) Applicable share.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) Intentional acts.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

"(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) Testing period.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

"(I) Service area.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) Private Loan Financing Test Not To Apply to Prepayments for Natural Gas.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) Effective Date.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 514. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) In General.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

"(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

"(ii) prepares Alaska natural gas (as defined in section 45M(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

"(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.".

(b) Effective Date.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2003.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.".

(c) Treatment of Certain Decommissioning Costs.—

(1) In general.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Transfers Into Qualified Funds.—

"(1) In general.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

"(2) Deduction for amounts transferred.—

"(A) In general.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) Denial of deduction for previously deducted amounts.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) Transfers of qualified funds.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

"(D) Special rules.—

"(i) Gain or loss not recognized.—No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) Transfers of appreciated property.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) New ruling amount required.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) No basis in qualified funds.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) New ruling amount to take into account total costs.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(d) Technical Amendment.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 602. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) DEFINITIONS AND SPECIAL RULES.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(c) CROSS REFERENCE.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 603. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) Independent transmission company.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) Election.—An election under paragraph (1), once made, shall be irrevocable.

"(5) Nonapplication of installment sales treatment.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) Effective Date.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) Special Recovery Period for Property on Indian Reservations.—Section 168(j)(8) (relating to termination) is amended by striking "2004" and inserting "2005".

(b) Indian Employment Credit.—Section 45A(f) (relating to termination) is amended by striking "2004" and inserting "2005".

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) Study.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) Reports.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 703. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) Taxes on Trains.—

(1) In general.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) Conforming amendments.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Diesel fuel used in trains.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081."

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Paragraph (3) of section 4083(a) is amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) Gasoline used in trains.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081."

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) Refund of certain taxes on fuel used in diesel-powered trains.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof."

(b) Fuel Used on Inland Waterways.—

(1) In general.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Conforming amendment.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2004.

SEC. 704. EXPANSION OF RESEARCH CREDIT.

(a) Credit for Expenses Attributable to Certain Collaborative Energy Research Consortia.—

(1) In general.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.".

(2) Energy research consortium defined.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) Energy research consortium.—

"(A) In general.—The term 'energy research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

"(B) Treatment of persons.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) Conforming amendment.—Section 41(b)(3)(C) is amended by inserting "(other than an energy research consortium)" after "organization".

(b) Repeal of Limitation on Contract Research Expenses Paid to Small Businesses, Universities, and Federal Laboratories.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) Amounts paid to eligible small businesses, universities, and Federal laboratories.—

"(i) In general.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) Eligible small business.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) Small business.—For purposes of this subparagraph—

"(I) In general.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

TITLE VIII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 801. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction, or

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 802. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011.

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the followihg new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d) is amended—

(A) by striking subparagraphs (C) and (D) of paragraph (2), and

(B) by adding at the end the following:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 803. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 804. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 805. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 806. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 807. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Discourage Corporate Expatriation

SEC. 821. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

"(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

"(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

"(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

"(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

"(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

"(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

"(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

"(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

"(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

"(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

"(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

"(E) TAX COURT REVIEW.—

"(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

"(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

"(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,".

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking "or (D)" and inserting ", (D), or (E)".

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 822. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) VALUE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

"(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

"(e) DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

"(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

"(2) INVERTED CORPORATION; INVERSION DATE.—

"(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) SPECIFIED STOCK COMPENSATION.—

"(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) EXCEPTIONS.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 823. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle C—Other Revenue Provisions

SEC. 831. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.

"(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) PROGRAM CRITERIA.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	**Average fee**
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 832. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "April 2, 2003".

(c) Effective Date.—

(1) Sales, etc.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 843. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) Expatriation To Avoid Tax.—

(1) In general.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

"(a) Treatment of Expatriates.—

"(1) In general.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) Individuals subject to this section.—This section shall apply to any individual if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

"(B) the net worth of the individual as of such date is $2,000,000 or more, or

"(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(2) Revision of exceptions from alternative tax.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

"(c) Exceptions.—

"(1) In general.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

"(2) Dual citizens.—

"(A) In general.—An individual is described in this paragraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

"(ii) the individual has had no substantial contacts with the United States.

"(B) Substantial contacts.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

"(i) was never a resident of the United States (as defined in section 7701(b)),

"(ii) has never held a United States passport, and

"(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

"(3) Certain minors.—An individual is described in this paragraph if—

"(A) the individual became at birth a citizen of the United States,

"(B) neither parent of such individual was a citizen of the United States at the time of such birth,

"(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

"(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.".

(3) Conforming amendment.—Section 2107(a) is amended to read as follows:

"(a) Treatment of Expatriates.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).".

(b) Special Rules for Determining When an Individual is no Longer a United States Citizen or Long-Term Resident.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Special Rules for Determining When an Individual is no Longer a United States Citizen or Long-Term Resident.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

"(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

"(2) provides a statement in accordance with section 6039G.".

(c) Physical Presence in the United States for More Than 30 Days.—Section 877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

"(g) Physical Presence.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present (within the meaning of section 7701(b)(7) without regard to subparagraphs (B), (C), and (D) thereof) in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.".

(d) Transfers Subject to Gift Tax.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

"(6) Transfers of certain stock.—

"(A) In general.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

"(B) Valuation.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

"(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

"(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation,

then the portion of the fair market value of the stock of such foreign corporation transferred by such donor which is included for purposes of subparagraph (A) shall be the amount which bears the same ratio to such value as the fair market value of any assets owned by such foreign corporation and situated in the United States at the time of such transfer bears to the total fair market value of all assets owned by such foreign corporation at such time. For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.".

(e) Enhanced Information Reporting From Individuals Losing United States Citizenship.—

(1) In general.—Subsection (a) of section 6039G is amended to read as follows:

"(a) In General.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).".

(2) Information to be provided.—Subsection (b) of section 6039G is amended to read as follows:

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country, in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) information detailing the income, assets, and liabilities of such individual,

"(6) the number of days that the individual was present in the United States during the taxable year, and

"(7) such other information as the Secretary may prescribe.".

(3) Increase in penalty.—Subsection (d) of section 6039G is amended to read as follows:

"(d) Penalty.—If—

"(1) an individual is required to file a statement under subsection (a) for any taxable year, and

"(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.".

(4) CONFORMING AMENDMENT.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SA 1433. Mr. FRIST proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of the amendment add the following:

All provisions of Division A and Division B shall take effect one day after enactment of this Act.

SA 1434. Mr. FRIST proposed an amendment to amendment SA 1433 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On line 3 of the amendment strike "one day" and insert "two days".

SA 1435. Mr. FRIST (for Mr. CAMPBELL) proposed an amendment to the bill S. 523, to make technical corrections to law relating to Native Americans, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007.".

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d–24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

"(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking "2005" and inserting "2008";

(2) in subsection (b), by striking "2002" and inserting "2005"; and

(3) in subsection (c), by striking "2001" and inserting "2004".

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting "and Celilo Village" after "existing sites".

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

"(22) Saginaw Chippewa Tribal College.".

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.".

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 204(a).

(3) GOVERNORS.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) Survey.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) Legal Descriptions.—

(1) Publication.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) Technical corrections.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) Effect.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) In General.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) Applicable Law.—

(1) In general.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) Pueblo lands act.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) Use of Trust Land.—

(1) In general.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) Criteria.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) Limitation.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) Funds To Be Deposited Into Separate Accounts.—

(1) In general.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772-71, 773-71, 774-71, and 775-71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) Account for principal amount.—

(A) In general.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) Use and investment.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) Account for investment income.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) Specification of projects.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) Account for income on judgment funds.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—

(i) In general.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) Specification of activities.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) Determination of Amount of Funds Available.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) Annual Audit.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) Reporting of Investment Activities and Expenditures.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

FILING OF MOTION

Mr. FRIST. Mr. President, I move to commit S. 14 to the Committee on Energy and Natural Resources with the instructions to report back forthwith with the following amendment. The text of amendment SA 1432 is printed in today's RECORD under "Text of Amendments."

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been rescheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources;

The hearing will be held on Tuesday, September 9, 2003, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 808, to provide for expansion of Sleeping Bear Dunes National Lakeshore; S. 1107, to enhance the recreational fee demonstration program for the National Park Service, and for other purposes; and H.R. 620, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, July 30, at 9:30 a.m., to conduct a business meeting to consider S. 930, S. 1279, GSA resolutions to authorize the FY 2004 Capital and Investment Leasing Program, H.R. 274, S. 269, S. 551, the Recycled Oil Bill (to be introduced), S. 793, H.R. 1018, H.R. 281, S. 1210, S. 1425, and the POPS implementing bill, to be introduced.

The hearing will be held in SD 406 (Hearing Room).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 30, 2003, at 9 a.m., to hold a nominations hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, July 30, 2003, at a time and location to be determined to hold a business meeting to consider the nominations of Joe D. Whitley to be General Counsel, Department of Homeland Security; Penrose C. Albright to be Assistant Secretary of Homeland Security for Plans, Programs, and Budget, Department of Homeland Security, and Joel D. Kaplan to be Deputy Director of the Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, July 30, 2003.

The following agenda will be considered:

Presidential nominations: Howard Radzely, of Maryland, to be Solicitor for the Department of Labor; and Michael Young, of Pennsylvania, to be a member of the Federal Mine Safety and Health Review Commission.

Any additional nominees cleared for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 30, 2003, at 10 a.m., in room 216 of the Hart Senate Office Building to conduct a business meeting on pending business, to be followed immediately by an oversight hearing on potential settlement mechanisms of the Cobell v. Norton lawsuit.

Mr. President, I also ask unanimous consent that the Committee on Indian Affairs be authorized to meet in the afternoon on Wednesday, July 30, 2003, at 2 p.m., in room 216 of the Hart Senate Office Building to conduct a hearing on S. 578, The Tribal Government Amendments to the Homeland Security Act of 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Wednesday, July 30, 2003, at 10 a.m., in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: Senators.

Panel II: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit.

Panel III: Larry Alan Burns to be United States District Judge for the Southern District of California; Glen E. Conrad to be United States District Judge for the Western District of Virginia; Henry F. Floyd to be United States District Judge for the District of South Carolina; Kim R. Gibson to be United States District Judge for the Western District of Pennsylvania; Michael W. Mosman to be United States District Judge for the District of Oregon; and Dana Makoto Sabraw to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, July 30, 2003, at 2:30 p.m. in the Dirksen Senate Office Building, Room 226 on "An Examination of S. 1194, The Mentally Ill Offender Treatment and Crime Reduction Act of 2003."

Witness List:

Panel I: Mr. Ron Honberg, Esq., National Alliance for Mental Illness, Arlington, VA; The Honorable Eve Stratton, Justice Ohio Supreme Court, Columbus, OH; Mr. Reggie Wilkinson, Director of Ohio Department of Rehabilitation & Corrections, Columbus, OH; Sheriff Donald Eslinger, Seminole County Sheriff's Department, Sanford, FL; and The Honorable John Campbell, Vermont State Senate, Quechee, VT.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Wednesday, July 30, 2003, at 9 a.m., for a hearing entitled "SARS: Best Practices for Identifying and Caring for New Cases."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, July 30, 2003, at 2:30 p.m., on Space Exploration.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Ms. CANTWELL. Mr. President, I ask unanimous consent the privilege of the floor be granted to Antonio Gonzales, Daniel Archuleta, Jasmine Fallstitch, Christine Nelson, Ryan Davies, James Guttierrez, Frank Murray, Tara Peterkin, and Scott Pearsall for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the privilege of the floor be granted to Erica Buehrens, a legislative fellow on the staff of Senator EDWARDS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Joanna Bush, Angela Wilson, and Michael Kuehner, interns in my office, be given the privilege of the floor during the debate and vote on amendment No. 1419.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that floor privileges be granted to Tom Johnson and Brock Taylor of my staff for the duration of the debate on the Pryor nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that Lisa Polk from the Finance Committee be granted the privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 100, S. 523.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 523) to make technical corrections to laws relating to Native Americans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Definition of Secretary.

[TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

[Subtitle A—Technical Amendments

[Sec. 101. Ute Mountain Ute Tribe; oil shale reserve.
[Sec. 102. Bosque Redondo Memorial Act.
[Sec. 103. Navajo-Hopi Land Settlement Act.
[Sec. 104. Cow Creek Band of Umpqua Indians.
[Sec. 105. Pueblo de Cochiti; modification of settlement.
[Sec. 106. Chippewa Cree Tribe; modification of settlement.
[Sec. 107. Mississippi Band of Choctaw Indians.

[Subtitle B—Other Provisions Relating to Native Americans

[Sec. 111. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
[Sec. 112. Conveyance of Native Alaskan objects.
[Sec. 113. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
[Sec. 114. Pueblo of Acoma; land and mineral consolidation.
[Sec. 115. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
[Sec. 116. Quinault Indian Nation; water feasibility study.
[Sec. 117. Santee Sioux Tribe; study and report.
[Sec. 118. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
[Sec. 119. Shakopee Mdewakanton Sioux Community.

[TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

[Sec. 201. Definitions.
[Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
[Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
[Sec. 204. Survey and legal descriptions.
[Sec. 205. Administration of trust land.
[Sec. 206. Effect.
[Sec. 207. Gaming.

[TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

[Sec. 301. Distribution of judgment funds.
[Sec. 302. Conditions for distribution.

[SEC. 2. DEFINITION OF SECRETARY.

[In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

[TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

[Subtitle A—Technical Amendments

[SEC. 101. UTE MOUNTAIN UTE TRIBE; OIL SHALE RESERVE.

[Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

["(3) With respect to the land conveyed to the Tribe under subsection (b)—

["(A) the land shall not be subject to any Federal restriction on alienation; and

["(B) no grant, lease, exploration or development agreement, or other conveyance of the land (or any interest in the land) that is authorized by the governing body of the Tribe shall be subject to approval by the Secretary of the Interior or any other Federal official.".

[SEC. 102. BOSQUE REDONDO MEMORIAL ACT.

[Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking "2000" and inserting "2004"; and

[(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

[(2) in subsection (b), by striking "2002" and inserting "2007,".

[SEC. 103. NAVAJO-HOPI LAND SETTLEMENT ACT.

[Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d–24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

[SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

[Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

[SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

[Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

[(1) by striking "implement the settlement" and inserting the following: "implement—

["(1) the settlement;";

[(2) by striking the period at the end and inserting "; and"; and

[(3) by adding at the end the following:

["(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

["(A) on October 22, 2001, by the Army Corps of Engineers;

["(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

["(C) on November 8, 2001, by the Secretary of the Interior.".

[SEC. 106. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

[(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking "3 years" and inserting "6 years".

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

[SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

[Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands Placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

[Subtitle B—Other Provisions Relating to Native Americans

[SEC. 111. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

[(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

[(1) is declared to be held in trust by the United States for the benefit of the Band; and

[(2) shall be considered to be a portion of the reservation of the Band.

[(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

[(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

[SEC. 112. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

[Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

[(1)(A) are in the possession of the Secretary of Agriculture; and

[(B) have been collected from the cemetery site or historical place; but

[(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

[SEC. 113. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

[SEC. 114. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

[(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

[(1) a bonus bid for a lease sale on the outer Continental Shelf; or

[(2) a royalty due on oil or gas production; [for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

[(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

[(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

[(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

[(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

[SEC. 115. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No. 355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

[SEC. 116. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

[(a) IN GENERAL.—The Secretary may carry out a water source, quantity, and quality feasibility study for the Quinault Indian Nation, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

[(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

[(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

[(2) make available to the public, on request, the results of the feasibility study.

[SEC. 117. SANTEE SIOUX TRIBE; STUDY AND REPORT.

[(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

[(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

[(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

[SEC. 118. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

[Notwithstanding any other provision of law—

[(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No. 247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

[(2) the Secretary shall take such action as is necessary to—

[(A) document the cancellation under paragraph (1); and

[(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

[SEC. 119. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

[(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

[(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

[(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

[(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

[TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

[SEC. 201. DEFINITIONS.

[In this title:

[(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

[(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 204(a).

[(3) GOVERNORS.—The term "Governors" means—

[(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

[(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

[(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(5) PUEBLOS.—The term "Pueblos" means—

[(A) the Pueblo of Santa Clara, New Mexico; and

[(B) the Pueblo of San Ildefonso, New Mexico.

[(6) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

[SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

[(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

[(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

[(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

[(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

[(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

[(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

[(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

[(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

[(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

[SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

[(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

[(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

[(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

[(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

[(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

[(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

[SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

[(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

[(b) LEGAL DESCRIPTIONS.—

[(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

[(A) a legal description of the boundary line; and

[(B) legal descriptions of the trust land.

[(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

[(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

[SEC. 205. ADMINISTRATION OF TRUST LAND.

[(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

[(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

[(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

[(b) APPLICABLE LAW.—

[(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

[(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

[(A) The trust land.

[(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

[(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

[(c) USE OF TRUST LAND.—

[(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

[(A) traditional and customary uses; or

[(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

[(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

[(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

[SEC. 206. EFFECT.

[Nothing in this title—

[(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

[(A) in or to the trust land; and

[(B) in existence before the date of enactment of this Act;

[(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

[(A) based on Aboriginal or Indian title; and

[(B) in existence before the date of enactment of this Act;

[(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

[(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

[SEC. 207. GAMING.

[Land taken into trust under this title shall neither be considered to have been taken into trust, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

[TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

[SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

[(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

[(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775-71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

[(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

[(A) IN GENERAL.—The Tribe shall—

[(i) establish an account for the principal amount of the judgment funds; and

[(ii) use those funds to establish a Permanent Fisheries Fund.

[(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

[(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

[(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

[(3) ACCOUNT FOR INVESTMENT INCOME.—

[(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

[(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

[(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

[(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

[(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

[(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

[(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

[(B) USE OF FUNDS.—

[(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

[(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

[(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

[(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

[(1) be maintained separately by the Tribe; and

[(2) be subject to an annual audit.

[(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

[SEC. 302. CONDITIONS FOR DISTRIBUTION.

[(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

[(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Chippewa Cree Tribe; modification of settlement.
Sec. 108. Mississippi Band of Choctaw Indians.
Sec. 109. Rehabilitation of Celilo Indian Village.
Sec. 110. Inheritance of certain trust or restricted land.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
Sec. 124. Pueblo of Acoma; land and mineral consolidation.
Sec. 125. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
Sec. 126. Quinault Indian Nation; water feasibility study.
Sec. 127. Santee Sioux Tribe; study and report.
Sec. 128. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
Sec. 129. Shakopee Mdewakanton Sioux Community.
Sec. 130. Agua Caliente Band of Cahuilla Indians.
Sec. 131. Saginaw Chippewa Tribal College.
Sec. 132. Ute Indian Tribe; oil shale reserve.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007,".

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d–24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

"(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking "2005" and inserting "2008";

(2) in subsection (b), by striking "2002" and inserting "2005"; and

(3) in subsection (c), by striking "2001" and inserting "2004".

SEC. 107. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking "3 years" and inserting "6 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

SEC. 108. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by section 1(a)(2) of Public Law 106–228, as amended by title VIII, section 811 of Public Law 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

SEC. 109. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting "and Celilo Village" after "existing sites".

SEC. 110. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

(a) IN GENERAL.—Section 5 of Public Law 98–513 (98 Stat. 2413) is amended to read as follows:

"SEC. 5. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act—

"(1) the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in the land that is less than 2.5 acres to more than 1 tribal member unless each tribal member already holds an interest in that land; and

"(2) any interest in trust or restricted land within the reservation that is less than 2.5 acres that would otherwise pass by intestate succession (including a life estate in the land under section 4), or that is devised to more than 1 tribal member that is not described in paragraph (1), shall revert to the Indian tribe, to be held in the name of the United States in trust for the Indian tribe.

"(b) NOTICE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2003, the Secretary shall provide notice to owners of trust or restricted land within the Lake Traverse Reservation of the provisions of this section by—

"(A) direct mail;

"(B) publication in the Federal Register; or

"(C) publication in local newspapers.

"(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

"(A) certify that the requirements of this subsection have been met; and

"(B) shall publish notice of that certification in the Federal Register.".

(b) APPLICABILITY.—This section and the amendment made by this section shall not apply with respect to the estate of any person who dies before the date that is 1 year after the date on which the Secretary makes the required certification under section 5(b) of Public Law 98–513 (98 Stat. 2413) (as amended by subsection (a)).

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

SEC. 124. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production;

for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 125. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No. 355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

SEC. 126. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 127. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 128. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No. 247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

SEC. 129. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) In General.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) No Effect on Trust Land.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 130. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) In General.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) Covenants.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 131. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

"(22) Saginaw Chippewa Tribal College.".

SEC. 132. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.".

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) Agreement.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) Boundary line.—The term "boundary line" means the boundary line established under section 204(a).

(3) Governors.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Pueblos.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) Trust land.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) Survey.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) Legal Descriptions.—

(1) Publication.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) Technical corrections.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) Effect.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) In General.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) Applicable Law.—

(1) In general.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) Pueblo lands act.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) Use of Trust Land.—

(1) In general.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) Criteria.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) Limitation.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) Funds To Be Deposited Into Separate Accounts.—

(1) In general.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) Account for principal amount.—

(A) In general.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) Use and investment.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) Account for investment income.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) Specification of projects.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) Account for income on judgment funds.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—

(i) In general.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) Specification of activities.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) Determination of Amount of Funds Available.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) Annual Audit.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) Reporting of Investment Activities and Expenditures.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) United States Liability.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) Application of Other Law.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be withdrawn; that the Campbell substitute be agreed to; that the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table; and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was withdrawn.

The amendment (No. 1435) was agreed to, as follows:

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Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti: modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106-511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007,".

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d–24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

"(h) Tribal Sovereignty.—Notwithstanding any other provision of this Act—

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102-358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking "2005" and inserting "2008";

(2) in subsection (b), by striking "2002" and inserting "2005"; and

(3) in subsection (c), by striking "2001" and inserting "2004".

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106-228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106-228, as amended by Title VIII, Section 811 of Pub. L. 106-568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100-581 (102 Stat. 2944) is amended by inserting "and Celilo Village" after "existing sites".

Subtitle B—Other Provisions Relating to Native Americans

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) In General.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) Land.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) Gaming.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) Definition of Bidding or Royalty Credit.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) Authority.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107-138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107-138 (116 Stat. 6).

(c) Use of Bidding and Royalty Credits.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) In General.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) Public Availability of Results.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) Study.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) Cooperative Agreement.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) Report.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) In General.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) No Effect on Trust Land.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) In General.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) Covenants.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

"(22) Saginaw Chippewa Tribal College.".

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.".

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) Agreement.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) Boundary line.—The term "boundary line" means the boundary line established under section 204(a).

(3) Governors.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Pueblos.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) Trust land.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) In General.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) Survey.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) Legal Descriptions.—

(1) Publication.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) Technical corrections.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) Effect.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) In General.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) Applicable Law.—

(1) In general.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) Pueblo lands act.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) Use of Trust Land.—

(1) In general.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) Criteria.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) Limitation.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) Funds To Be Deposited Into Separate Accounts.—

(1) In general.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) Account for principal amount.—

(A) In general.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) Use and investment.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) Account for investment income.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) Specification of projects.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) Account for income on judgment funds.—

(A) In general.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) Use of funds.—

(i) In general.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) Specification of activities.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) Determination of Amount of Funds Available.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) Annual Audit.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) Reporting of Investment Activities and Expenditures.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) United States Liability.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) Application of Other Law.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

The bill (S. 523) as amended, was read the third time and passed.

MAX CLELAND OVER-THE-ROAD BUS SECURITY AND SAFETY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 210, S. 929.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 929) to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "*Max Cleland* Over-the-Road Bus Security and Safety Act of 2003".

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) In General.—The Secretary of [Transportation,] *Homeland Security* acting through the Administrator of the [Federal Motor Carrier Safety Administration,] *Transportation Security Administration*, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) Reimbursement.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) Federal Share.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) Due Consideration.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) Grant Requirements.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) In General.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) Coordination.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of [Transportation] *Homeland Security* shall transmit to the Committee on

Commerce, Science, and Transportation of the [Senate and] *Senate*, the Committee on Transportation and Infrastructure of the House of [Representatives] *Representatives, and the Select Committee on Homeland Security of the House of Representatives*, a preliminary report in accordance with the requirements of this section.

(b) Contents of Preliminary Report.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) Consultation With Industry, Labor, and Other Groups.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There are authorized to be appropriated to the Secretary of [Transportation] *Homeland Security* to carry out this Act [$35,000,000] *$25,000,000* for fiscal year 2003 and $99,000,000 for fiscal year 2004. Such sums shall remain available until expended.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 929), as amended, was read the third time and passed, as follows:

S. 929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Max Cleland Over-the-Road Bus Security and Safety Act of 2003".

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) In General.—The Secretary of Homeland Security acting through the Administrator of the Transportation Security Administration, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) Reimbursement.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) Federal Share.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) Due Consideration.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) Grant Requirements.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) In General.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) Coordination.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Select Committee on Homeland Security of the House of Representatives, a preliminary report in accordance with the requirements of this section.

(b) Contents of Preliminary Report.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) Consultation With Industry, Labor, and Other Groups.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There are authorized to be appropriated to the Secretary of Homeland Security to carry out this Act $25,000,000 for fiscal year 2003 and $99,000,000 for fiscal year 2004. Such sums shall remain available until expended.

FEDERAL EMPLOYEE STUDENT LOAN ASSISTANCE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 220, S. 926.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 926) to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 926) was read the third time and passed, as follows:

S. 926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Student Loan Assistance Act".

SEC. 2. STUDENT LOAN REPAYMENTS.

Section 5379(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking "$6,000" and inserting "$10,000"; and

(2) in subparagraph (B), by striking "$40,000" and inserting "$60,000".

HONORING THE MEMORY OF DR. WILLIAM R. BRIGHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 206, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

S. Res. 206, honoring the memory of Dr. William R. "Bill" Bright, commending his life as an example to succeeding generations.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWNBACK. Mr. President, I rise today to honor the memory of one of the great spiritual leaders of the twentieth century, Dr. William R. Bright. Dr. Bright, or Bill, as a number of us in this Chamber knew him, was a man of great faith, great heart, and great strength. Bill Bright's passing on Saturday, July 19, 2003, leaves a hole in my heart and the hearts of the many individual lives he touched. For this reason, I would like to take a few moments to remember the life and work of Dr. Bright.

Bill was born in Coweta, Oklahoma, in 1921. He graduated from Northeastern State University in Oklahoma with a Bachelor of Arts degree in economics and a minor in sociology. While a student, Bill already showed promise as an energetic community leader. He served as editor of the university yearbook, was elected student body president, was chosen as a member of Who's Who in American Colleges and Universities, and was selected by students and faculty as the year's outstanding graduate. After graduation, he joined the extension faculty of Oklahoma State University for a time, and then moved to Los Angeles to launch a business career.

While in California, Bill attended the First Presbyterian Church in Hollywood, where he became a Christian in 1945 and began an intensive study of the Bible. Never one who lacked commitment to those endeavors he felt were of great importance, Bill engaged in 5 years of graduate work at Princeton and Fuller theological seminaries, while still continuing his business interests. During his studies at Fuller, young Bright became convinced that he personally needed to be working to help fulfill Christ's Great Commission to spread the Gospel to those around him. Looking for opportunity to act on this calling, Bright began by sharing his faith in Christ with students on campus at UCLA, and activity which gave birth to the present worldwide ministry of Campus Crusade for Christ International.

Bill worked faithfully to lead Campus Crusade for Christ from its infancy in 1951 to its current size. Campus Crusade has grown to be one of the world's largest Christian ministries, serving individuals in 191 countries through a staff of 26,000 full-time employees and more than 225,000 trained volunteers. What began as a campus ministry now covers almost every segment of society with more than 70 special ministries and projects which reach out to students, inner cities, governments, prisons, families, the military, executives, musicians, athletes, and many others.

In addition to touching so many lives by the work of Campus Crusade, Bright reached out to others through the print and visual media. Bill authored more than 100 books and booklets, as well as thousands of articles and pamphlets, which have been distributed by the millions in most major languages. In particular, his 1956 booklet title The Four Spiritual Laws has been printed in over 200 languages and distributed to mre than 2.5 billion peeple. Bright also commissioned the JESUS film, a documentary of the life of Christ, which has been viewed by over 5.1 billion people in 234 countries and has been translated into 786 languages.

While Bill focused on serving others and would not like attention to be drawn to himself, he could certainly not avoid attracting praise for his great works of religious and community service. Dr. Bright held six honorary doctorate degrees: a Doctor of Laws from the Jeonbug National University of Korea, a Doctor of Divinity from John Brown University, a Doctor of Letters from Houghton University, a Doctor of Divinity from the Los Angeles Bible College and Seminary, a Doctor of Divinity from Montreat-Anderson College, and a Doctor of Laws from Pepperdine University. In 1971, he was named outstanding alumnus of his alma mater, Northeastern State University. He is listed in Who's Who in Religion and England's Who's Who in Community Service, and has received numerous other recognitions. Among the most prestigious of these awards was the Templeton Prize for Progress in Religion in 1996, which is worth over $1 million. Bill, in his charity, donated all of this prize money to ministries training Christians internationally in the spiritual benefits of fasting and prayer.

Bill Bright was a man of determination and spiritual vigor, a man who had great faith, great hope, and great love for his Lord and for his fellow man. He was a man worthy of respect and emulation. I, and I know many of my colleagues in this Chamber, extend our deepest condolences to Bill's wife, Vonetta, his sister, Florence, his brother, Forest, his two sons, Zachary and Brad, and his four grandchildren. We know that Bill is now in a place of greater peace than ever he was on earth. We commend him to his eternal rest and we thank him for his many years of faithful service.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 206

Whereas Dr. Bright died on July 19, 2003, at age 81 in Orlando, Florida from complications related to pulmonary fibrosis, a lung disease for which there is no known cure or effective treatment;

Whereas Dr. Bright was an agnostic humanist and materialist, and successful Hollywood businessman, until he became "overcome by the love of our great Creator God and Savior" in 1945, whereupon he spent 5 years in theological studies at Princeton and Fuller Theological Seminaries;

Whereas Dr. Bright, with his wife Vonette, in 1951 founded Campus Crusade for Christ International, which now serves people in 191 countries through a staff of 27,000 full-time employees and up to 500,000 trained volunteers;

Whereas his life focus was on students and laypersons, and from the first he emphasized the role of women as full partners in leadership in the various ministries;

Whereas Dr. Billy Graham, a long-time friend of the Brights, has said: "He is a man whose sincerity and integrity and devotion to our Lord have been an inspiration and a blessing to me ever since the early days of my ministry";

Whereas Dr. Bright lived simply, owning neither houses nor land, and receiving no honoraria or donations for his thousands of appearances across the world, and the scores of writings and video presentations he developed;

Whereas when the Berlin Wall came down in 1989, he fulfilled a dream of more than 40 years of praying for Russia by donating his entire pension to establish a ministry to the students of Moscow State University;

Whereas Campus Crusade for Christ International operates more than 70 ministries and projects which offer hope and spiritual enlightenment across the globe to students on hundreds of campuses, urban residents, including minorities, the well-known Athletes-in-Action ministry, leaders of governments, inmates of prisons, aid to families, aid to health and education programs, aid to families of military personnel, executives, entertainers and musicians, and many others;

Whereas in 1979, Dr. Bright commissioned the JESUS film, a feature-length documentary on the life of Christ, directed by John Heyman, which has since been viewed by more than 5,100,000,000 people in 234 countries and has become the most widely viewed, as well as most widely translated, in 786 languages, film in history;

Whereas Dr. Bright is author of more than 100 books and booklets, as well as thousands of articles and pamphlets that have been distributed by the millions in most major languages, including the widely regarded Four Spiritual Laws of which 2,500,000,000 copies have been distributed;

Whereas Dr. Bright received 8 honorary degrees from universities in the United States and other nations, and numerous awards and honors from higher education, his home state of Oklahoma, and his peers in religious, radio, and television broadcasting;

Whereas, Dr. Bright was awarded the unique and prestigious Templeton Prize for Progress in Religion in 1996, presented by Prince Phillip at Buckingham Palace in London, and was received by Pope John Paul II in Rome where he addressed world spiritual leaders in accepting its $1,100,000 prize, which he directed be given to worldwide fasting for peace and spiritual enlightenment;

Whereas Dr. Bright sought ecumenical and trans-denominational cooperation throughout the world by building more than 1,000 partnerships with other ministries, and in 1983, he and former President Ronald Reagan, along with Jewish, Catholic, and Protestant members of the clergy, informed Congress which voted to establish The Year of the Bible to help focus on timeless truths for the Nation;

Whereas he helped create what media reports describe as the largest non-denominational Christian ministry in the world, and he rejected appeals to establish a single religious denomination and would not allow his name to be attached to any single denominational enterprise;

Whereas he urged followers to be "salt and light," to seek civility in society, and to be active in ministry to prisons, hospitals, orphanages, and he declared the duties of citizenship to be reliably informed, active in the study of issues, voter registration and get-out-the-vote drives, and personal voting;

Whereas he never endorsed individual candidates or parties, and encouraged laypersons to seek public service and often called upon people in all lands to study American History, declaring President George Washington as his secular hero after Jesus of Nazareth and the Apostle Paul;

Whereas in response to a suggestion from a Member of the United States Senate, he helped establish the Evangelical Council for Financial Accountability to set high standards and monitor their compliance, setting an example for all charitable organizations;

Whereas Money magazine has often cited Campus Crusade for Christ International as best or one of the top 5 non-profit ministries for effective stewardship of donor dollars; and

Whereas in his last months he co-founded the Global Pastors Network, a separate ministry to pastors worldwide with helpful resources and a goal to start 5,000,000 home-based studies of the attributes of God: Now, therefore, be it

Resolved, That the Senate—

(1) sends its condolences to Mrs. Vonette Zachary Bright, their grandchildren, their sons, Zac and Brad, and their wives, Terry and Katherine, all of whom are also in full-time Christian ministry; and

(2) does hereby honor the memory of Dr. William R. ("Bill") Bright, an ambassador of spiritual goodwill, whose 58 years of dedicated and effective service stand as an outstanding example of selfless leadership to all humankind.

UNANIMOUS CONSENT AGREEMENT—S. 3

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the House message with respect to S. 3, the partial-birth abortion bill, and that it be considered under the following limitations:

That the only motion in order be a motion to disagree to the House amendment to the Senate bill; that there be 8 hours of debate with respect to that motion, with the time equally divided and controlled between the majority and Democratic leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on the motion to disagree; that upon disposition of that motion, the Senate agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 3-to-2, without further intervening action or debate.

Mr. REID. Mr. President, reserving the right to object. I ask the majority leader this through the Chair: Senator BOXER has asked that she be in charge of this 8 hours of debate, which the Democratic leader certainly has agreed to. We would like some commitment from the majority leader that these 8 hours won't start in the middle of the night sometime and that she will be able to use her 8 hours at a reasonable time, during the day or early evening. We hope the majority leader could give us that assurance.

Mr. FRIST. Mr. President, indeed it is in the unanimous consent request that a time will be determined by the majority leader in consultation with the Democratic leader. It will not be in the middle of the night. We will find a mutually appropriate time.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1504

Mr. FRIST. Mr. President, I understand that S. 1504, introduced by Senator GREGG earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1504) to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents.

Mr. FRIST. Mr. President, I ask for its second reading and object to further proceeding.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

ORDERS FOR THURSDAY, JULY 31, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, July 31. I further ask that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then begin debate in relation to the motion to invoke cloture on the nomination of William Pryor, to be U.S. Circuit Judge for the Eleventh Circuit, with the time until 10 a.m. equally divided between the chairman and the ranking member of the Judiciary Committee, or their designees; provided that at 10 a.m. the Senate proceed to the vote on the motion to invoke cloture.

I further ask unanimous consent that following the cloture vote, regardless of the outcome, the Senate resume consideration of S. 14, the Energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow morning the Senate will debate the cloture motion relating to the Pryor nomination until 10 a.m. Following that debate, the Senate will proceed with the cloture vote. Therefore, the first vote of tomorrow's session will be at 10 a.m.

Following the cloture vote, the Senate will resume consideration of S. 14, the Energy bill. It is the chairman's intention to continue to work through amendments tomorrow, and Senators should expect votes throughout the day. As a reminder, cloture was filed in relation to the bill tonight, and that cloture vote will occur on Friday morning.

We have a lot of work to complete prior to adjourning for the scheduled recess. I encourage all Members to make themselves available for a busy day tomorrow.

Mr. REID. Mr. President, if I can say briefly to the majority leader—I am speaking only for this Senator; the ultimate decision will be made, of course, by the distinguished Democratic leader—from what has gone on today and the fact the distinguished majority leader has filed cloture on still another judge, I do not think there will be much done in the way of the Energy bill tomorrow on this side. We have to get ready for the Kuhl nomination, about which the two Senators from California feel very strongly.

I know it is the chairman's intention to work through amendments tomorrow on S. 14, but I think there will be a lot of other issues done and there will not be amendments offered on that bill. As I indicated when I started this brief statement, the ultimate decision will be made by Senator DASCHLE, but I am giving the majority my thoughts this evening.

Mr. FRIST. Mr. President, I thank the Senator. I have talked to both the Democratic leader and the chairman, and we agree after the cloture vote to go to the bill to work through the amendments. I am very hopeful over the course of the morning and over the course of the day that we will be able to make substantial progress on this important bill.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 10:17 p.m., recessed until Thursday, July 31, 2003, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 30, 2003:

DEPARTMENT OF STATE

JAMES CASEY KENNY, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRELAND.

PAMELA P. WILLEFORD, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWITZERLAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PRINCIPALITY OF LIECHTENSTEIN.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CRISTINA BEATO, OF NEW MEXICO, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO THE QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE EVE SLATER, RESIGNED.

THE JUDICIARY

GEORGE W. MILLER, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR THE TERM OF FIFTEEN YEARS, VICE JAMES T. TURNER, TERM EXPIRED.

F. DENNIS SAYLOR IV, OF MASSACHUSETTS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS, VICE ROBERT E. KEETON, RETIRED.

ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JERRY M. RIVERA, 5499

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064.

To be major

STEPHEN W. AUSTIN, 9537
PATRICK R. BASAL, 1220
DAVID S. BOWERMAN, 9468
CLAUDE W. BRITTIAN, 6918
STEPHEN L. BROADUS, 6672
ANDREW W. CHOI, 5015
JOHN CHUN, 5608
DOYLE M. COFFMAN, 6650
CLOYD L. COLBY, 7770
TAMMIE E. CREWS, 4547
STEPHEN G. CRUYS, 0563
PETER O. DISSMORE, 8652
BETH M. ECHOLS, 5524
STEVEN R. FIRTKO, 4451
MARK A. FREDERICK, 8897
ALBERT J. GHERGICH JR., 4370
ROBERT B. GILLETTE, 3812
WILLIAM C. HARRISON, 7771
DARRYL E. HOLLOWELL, 0606
MILTON JOHNSON, 2731
MARK R. JOHNSTON, 0270
GARRY R. KERR, 0495
WILLIAM R. KILMER, 3639
JOHN W. KISER JR., 7452
JOSEPH H. KO, 8833
VICTORIO S. LANUEVO, 5474
DOUGLAS R. LAX JR., 5571
SAMUEL S. LEE, 5572
DAVID M. LOCKHART, 9087
GIAN S. MARTIN, 5464
TIMOTHY S. MEADOR, 6484
DENISE S. MERRITT, 6676
MARK E. MOSS, 4389
SAMUEL H. MURRAY, 4837
ROBERT NAY, 2287
LEE W. NELSON, 4577
DARIN A. NIELSEN, 6145
PABLO PEREZMAISONET, 3494
KEVIN M. PIES, 6386
SCOTT RIEDEL, 9969
CHARLES B. RIZER, 0771
STEVEN J. ROBERTS, 5367
PERRY J. SCHMITT, 3429
DAVID L. SHOFFNER, 9732
JERRY C. SIEG, 4272
DAVID L. SPEARS, 3781
SID A. TAYLOR SR., 8743
HENRY T. VAKOC, 5443
EARL W. VANDERHOFF, 8535
JOSEPH F. VIEIRA III, 4613
DAVID E. WAKE, 8276
DALLAS M. WALKER, 6336
DAVID G. WAWERU, 5051
NATHAN L. ZIMMERMAN, 9781

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203 AND 12211:

To be colonel

MICHAEL J BULLOCK, 5478
DANIEL E CAMERON, 7671
STEPHEN M DOYLE, 9050
SHERYL E GORDON, 9703
LEODIS T JENNINGS, 0274
CHRISTOPHER R KEMP, 1837
ELTON LEWIS, 0886
JAMES F MULVEHILL, 6937
RAYMOND F SHIELDS JR., 6773
PAUL A TRAPANI, 0410

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

STEPHEN M. SAIA, 3317

To be commander

LINDA C. C. CHAN, 6051
CHRISTOPHER J. COBB, 7341
KENNETH J. KELLY, 4040
FERNANDO MORENO, 0864
JOHN T. NEFF, 3530
LOREN J. STEENSON, 9142

To be lieutenant commander

RICHARD D BERGTHOLD, 0599
VORRICE J. BURKS, 1016
JACK L CARVER, 3732
LAURIE A. HALE, 2180
MELVIN J. HENDRICKS, 4805
SCOTT D. LOESCHKE, 6070
MICHAEL J LYDON, 9363
WAYNE A. MACRAE, 2662
JAMES F. MCALLISTER, 0539
CARLOS B. ORTIZ, 5937
JOHN A. RALPH, 5770
MICHAEL J. RECKLING, 8538
RANDALL H. RUSSELL, 5976
JEFFREY N. SAVILLE, 5785
MICHAEL S. SEXTON, 7147
BRIAN J. STAMM, 4372
JOHN A. SWANSON, 9101
SCOTT A SWOPE, 9423
DAVID A. TUBLEY, 6919

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROLAND E. ARELLANO, 9223
LEA A. BEILMAN, 4737
JO A. J. BLANDO, 9099
LANNY L. BOSWELL JR., 6321
MARK J. BOURNE, 0866
JAMES C. BRENNAN, 9880
CHRISTINE L. CONGDON, 3465
GLENN C. CONTE, 6088
ALBERT E. COOMBS, 1382
ANTHONY P. DORAN, 3732
MICHAEL E. EBY, 4228
DEMETRI ECONOMOS, 7964
ANTHONY W. FRABUTT, 6168
DAVID L. HAMMELL, 6570
LINDA S. HITE, 1610
PHILLIP E. JACKSON, 4592
WILSON G. KNIGHT, 4576
TRACY J. KOLOSIK, 1836
KIM L. LEFEBVRE, 8873
MARGARET A. LLUY, 6756
GARY W. MOSMAN, 0429
RONALD A. NOSEK JR., 9056
REGINA P. ONAN, 0245
KELLY S. PAUL, 2340
JAMES B. POINDEXTER III, 8216
MARY C. POLKOSKI, 9826
CELIA A. QUIVERS, 2386
ROBERT A. RAHAL, 6544
DARIN P. ROGERS, 5660
MARK C. RUSSELL, 0065
WILLIAM E. SCHUTT, 0976
ALAN V. SIEWERTSEN, 5718
LESLIE L. SIMS, 6205
ANNA H. STALCUP, 2191
CARL V. TRESNAK, 4230
RESA L. WARNER, 0371
DANIEL W. WATTS, 2820
MARVA L. WHEELER, 6204

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

VIDA M. ANTOLINJENKINS, 8443
STEVEN M. BARNEY, 1814
MICHAEL M. BATES, 7583
KEVIN M. BREW, 3728
KENNETH B. BROWN, 0793
FRANCIS J. BUSTAMANTE, 1015
JAMES R. CRISFIELD JR., 8988
JEFFREY A. FISCHER, 0620
STEPHEN A. JAMROZY, 0436
RANDALL G. JOHNSON, 7071
TODD M. KRAFT, 3778
SCOTT J. LAURER, 5061
PAUL C. LEBLANC, 2073
JONATHAN S. THOW, 4391
JONATHAN H. WAGSHUL, 7239
DOMINICK G. YACONO JR., 8537

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JAMES J. ANDERSON, 7688
CHARLES R. BAILEY, 7654
PATRICK W. BLESCH, 5309
GEORGE D. BOWLING, 2318
CATHERINE L. BUTLER, 8085
WILBERT R. BYNUM, 7059
JAMES F. COONEY, 4723
MARK P. DIBBLE, 4220
TEDDIE L. DYSON, 8785
ANDREW C. ESCRIVA, 7790
DIONISIO S. GAMBOA, 9492
MICHAEL J. GARDELLA, 6424
RUDOLPH K. GEISLER, 6071
PAUL A. GODEK, 1884
SHAWN D. GRUNZKE, 1868
MICHAEL S. HANSEN, 6229
ERNEST D. HARDEN JR., 9468
CARL R. HERRON, 5399
SCOTT J. HOFFMAN, 3025
ARISTIDES ILIAKIS, 1076
MICHAEL P. KOLSTER, 9292
RICKY A. KUSTURIN, 3823
THOMAS J. LACOSS, 3863
JEFFREY S. LECLAIRE, 6342
JAMES M. LOWTHER, 7048
JOSEPH F. MAHAN, 9746
MATTHEW K. MARTIN, 2144
PAUL E. MARTIN, 3693
KENNETH W. MCKINLEY, 9875
JAMES W. MELONE, 7384
MIGUEL D. MIRANO II, 4893
JOSEPH D. NOBLE JR., 7141
DAVID C. NYSTRÒM, 1877
JOAN R. OLDMIXON, 3005
TIMOTHY L. PHILLIPS, 6095
MARK R. PIMPO, 2290
FRANK M. RENDON, 6823
DAWN D. RICHARDSON, 2887
WALTER W. ROBOHN, 2817
RICHARD P. RUIZ, 9209
DANIEL P. SEEP, 8452
MARCOS A. SEVILLA, 7243
MELVIN A. SHAFER, 0152
ANTHONY A. SORELL, 7861
DEBORAH A. STARK, 0636
VAUGHN L. STOCKER, 2467
KEITH E. SYKES, 2657
MICHAEL L. TAYLOR, 1737
TIMOTHY J. THATE, 7828
HARRY T. THETFORD JR., 8239
MICHAEL E. THOMAS, 2792
BARBARA D. TUCKER, 8339
JOSEPH M. VITELLI, 8677
DEREK K. WEBSTER, 4315
DONALD J. WILLIAMS, 4470
JOHN F. ZOLLO, 5546

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

MICHAEL T. AKIN, 0014
KARLYNA L. D. ANDERSEN, 8003
JOEL M. APIDES, 3545
THOMAS E. BATES, 5366
LYNN L. BEACH, 9745
WALTER S. BEW, 6475
HEATHER I. BLOMELEY, 6401
CARLOS V. BROWN, 0551
WILLIAM C. BRUNNER, 2431
MARGARET CALLOWAY, 5549
BRETT B. CARMICHAEL, 3088
WAYNE A. CAROLEO, 2585
DAVID T. CARPENTER, 6476

BROOKS D. CASH, 4386
TIMOTHY L. CLENNEY, 8019
DAVID W. CLINE, 9268
JOHN P. COLMENARES, 2360
MICHAEL J. COLSTON, 8360
CATHERINE S. COPENHAVER, 8754
GLEN C. CRAWFORD, 0598
RHODEL F. DACANAY, 9590
MASON X. DANG, 8617
SUBRATO J. DEB, 1694
JOHN E. DEORDIO, 7141
JUDITH M. DICKERT, 1028
JEROME G. ENAD, 2619
JOSEPH W. FLANAGAN, 1913
JONATHAN T. FLEENOR, 7113
BRYAN A. FOX, 3864
MICHAEL I. FREW, 7655
DARIN S. GARNER, 9061
MARILYN L. GATES, 2338
WILLIAM R. GRAF, 2068
WALTER M. GREENHALGH, 5141
MICHAEL N. HABIBE, 9155
MARK E. HAMMETT, 0483
KEITH A. HANLEY, 8159
JENIFER L. HENDERSON, 0733
ERIC P. HOFMEISTER, 6908
MICHAEL T. HOPKINS, 4519
THANH T. HUYNH, 2012
MICHAEL M. JACOBS, 4026
GREGORY W. JONES, 5166
BENJAMIN W. JORDAN, 7482
FREDERICK C. KASS, 3635
DAVID J. KEBLISH, 1258
JOHN S. KENNEDY, 9199
WILLIAM J. KLORIG, 7524
MARK A. KOBELJA, 4906
KAREN J. KOPMANN, 7200
CHARLES S. KUZMA, 9907
PATRICK R. LARABY, 6114
CATHY T. LARRIMORE, 4310
THOMAS R. LATENDRESSE, 3610
JOSEPH T. LAVAN, 6481
PATRICK L. LAWSON, 8981
NORMAN LEE, 8486
GREGORY S. LEPKOWSKI, 8862
CON Y. LING, 6402
FRANCESCA K. LITOW, 0156
JASON D. MAGUIRE, 5061
RICHARD T. MAHON, 3897
MARTIN A. MAKELA, 6076
CHRISTOPHER J. MCARTHUR, 0745
JOHN M. MCCURLEY, 5206
FREDERICK J. MCDONALD, 6635
MICHAEL T. MCHALE, 0777
DAVID B. MCLAREN, 4734
ROBERT D. MENZIES, 7770
MARK E. MICHAUD, 8250
ALLEN O. MITCHELL, 0027
MELISSA A. MOHON, 1376
JOHN B. NEWMAN, 6132
SANDOR S. NIEMANN, 5238
DONALD E. OLOFSSON, 6439
JOHN J. PAPE, 8474
RICHARD J. PAVER, 8793
TODD B. PETERSON, 7245
DAVID S. PLURAD, 0333
TIMOTHY J. POREA, 2749
MAE M. POUGET, 3657
KENNETH G. PUGH, 3946
SCOTT W. PYNE, 4636
CHRISTOPHER S. QUARLES, 7614
RICHARD D. QUATTRONE, 8812
TIMOTHY R. QUINER, 2077
JEFFREY D. QUINLAN, 6847
JUAN P. RIVERA, 4674
STACY J. ROGERS, 1309
MARY A. RONALD, 7026
JASON J. ROSS, 2888
MARY K. RUSHER, 9956
JOHN W. SANDERS III, 9432
ELIZABETH K. SATTER, 6928
BRYAN P. SCHUMACHER, 1420
JAVAID A. SHAD, 2089
RICHARD L. SIEMENS, 8968
ANDREW E. SIMAYS, 6527
ROBERT C. STABLEY, 3786
ZSOLT T. STOCKINGER, 7520
MICHAEL J. STRUNC, 4062
KEITH A. STUESSI, 6706
WILLIAM SUKOVICH, 1651
DAVID A. TARANTINO JR., 2129
GREGORY J. TARMAN, 7353
MICHAEL D. THOMAS, 2225
WILLIAM E. TODD, 6897
JOHN M. TRAMONT, 7064
SAMUEL K. TSANG, 8141
GUIDO F. VALDES, 0350
PETER WECHGELAER, 5205
CHRISTOPHER WESTROPP, 0491
PERRY N. WILLETTE, 1053
ROBERT O. WOODBURY, 3550
CLIFTON WOODFORD, 6695
JON S. WOODS, 8131
PETER G. WOODSON, 0183

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

RICHARD E. AGUILA, 5100
MARC E. A. ARENA, 1471
ELDON G. BLOCH, 6957
SIDNEY L. BOURGEOIS, 8744
JERRY N. BURTON JR., 3950
STEPHEN L. CHRISTOPHER, 6306
SCOTT A. CURTICE, 8210
TODD L. EVANS, 1351
RODNEY L. GUNNING, 5935
BRADLEY H. HAJDIK, 5071
SHEHERAZAD A. HARTZELL, 6257
MILAN J. JUGAN JR., 9735
DONALD A. LONERGAN, 8265
THOMAS F. MOONEY III, 8467
BRENT E. NEUBAUER, 3586
CHARLES W. PATTERSON, 9684
THOMAS M. PRATER, 4283
SCOTT D. THOMAS, 2698

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LINDA M. ACOSTA, 6961
UNKYONG S. ARCHER, 5798
KHIN AUNGTHEIN, 6619
EDWARD S. BATES JR., 8113
ALLISON R. BEATTY, 1864
TERRY V. BOLA, 0425
ELIZABETH N. BOULETTE, 7152
JANET M. BRADLEY, 3455
MARY A. BRANTLEY, 4266
CATHALEEN A. CANLER, 7074
DAVID T. CASTELLANO, 2731
JAY E. CHAMBERS, 1570
KATHERINE H. CONNOLLY, 7067
RACHELE A. CRUZ, 4382
DEBRA A. DELEO, 3713
DAVID A. FARMER, 2211
TRISHA L. FARRELL, 4660
TERENCE FINNERTY, 8207
SHELLY A. FOLTZ, 3861
ANN L. FORREST, 7406
JEAN B. FREEMAN, 5214
CYNTHIA J. GANTT, 8542
DEBRA C. GARDNER, 9844
JANET M. K. GEHRING, 2018
KIRSTEN L. HARVISON, 8098
SANDRA HEARN, 6399
JAMES T. HOSACK, 6674
LORETTA A. HOWERTON, 5394
RICHARD W. JOHNSON, 6232
RICHELLE L. KAY, 7871
TINA L. KEY, 3311
LORI J. KRAYER, 6094
RICHARD S. MAFFEO, 7787
JOHN T. MANNING, 4918
SANDRA A. MASON, 6481
CAROLYN R. MCGEE, 2506
BRADLEY A. MCGLOIN, 9946
MICHELLE L. MCKENZIE, 7736
CHRISTINE T. MILLER, 9608
ANNE M. MITCHELL, 3953
JOLENE M. MOORE, 9226
ALICIA A. MORRISON, 4187
JOHN H. NAGELSCHMIDT, 4176
IRENE M. NIEDERHUT, 9460
ANGELA S. NIMMO, 7420
MARY K. NUNLEY, 6486
MARIA E. PERRY, 8190
SABRINA L. PUTNEY, 5115
ANN RAJEWSKI, 1741
SHIRLEY L. RUSSELL, 6355
AMANDA G. SIERRA, 2965
HARRY F. SMITH III, 9895
MARK E. SNIDER, 2958
CONSTANCE E. STAMATERIS, 3716
JAMES X. STOBINSKI, 5586
THOMAS A. SWEET, 5950
SARA J. THELIN, 2445
NELIDA R. TOLEDO, 6001
CYNTHIA D. TURNER, 9607
VICKIE A. WEAVER, 8351
RAYMOND D. WILSON, 6469
HILARY V. WONG, 5017
ANNA L. WRIGHT, 4317
JOAN L. WRIGHT, 4361

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEANNE K. AABY, 2231
TONY L. AMMONS JR., 5001
SHAWN J. BERGAN, 6607
KEVIN L. BROWN, 0859
DAVID R. BUSTAMANTE, 2003
LEONARD W. W. COOKE, 3300
THOMAS F. GEORGE, 0097
JOSEPH E. GREALISH, 5101
BETH L. HARTMANN, 3052
LEWIS S. HURST, 3608
STEPHANIE M. JONES, 3403
CHRISTOPHER J. LACARIA, 3758
IAN C. LANGE, 2140
CHRISTOPHER S. LAPLATNEY, 2472
CHRISTINE W. LONIE, 5257
SCOTT W. LOWE, 9148
MARKO MEDVED, 8416
ROBERT N. MORRISON, 4636
SHARON B. OBY, 7873
PAUL J. ODENTHAL, 9326
KENNETH T. OGAWA, 1040
LAURENCE J. READAL, 6579
CHARLES R. REUNING, 8471
DAVID J. ROBILLARD, 0648
DALE M. ROHRBACH, 6045
THOMAS P. SCHEUERMANN, 9937
EDWARD G. SEWESTER, 2517
CHARLES M. SMITH, 6052
SCOTT G. SMITH, 5552
MATTHEW E. SUESS, 1532
MARSHALL T. SYKES, 7882
DANIEL J. THERRIEN, 7025
ROBERT B. TOMIAK, 9677
DEAN A. TUFTS, 8661
RICHARD L. WHIPPLE, 4263
GARY L. WICK, 6110
MICHAEL J. ZUCCHERO, 6952

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEE A. AXTELL, 2588
MILES J. BARRETT, 4724
ROBERT A. CALLISON, 5870
JOHN D. DENTON, 5143
TIMOTHY R. EICHLER, 0431
BRYAN K. FINCH, 0720
WAYNE R. FREIBERG, 4948
MILTON D. GIANULIS, 3425
DAVID L. GIBSON, 3726
THOMAS P. HALL, 9046
VAL J. JENSEN, 7060
RONALD KAWCZYNSKI, 3387
MICHAEL S. KLEPACKI, 5338
TIMOTHY J. KOESTER, 5961
GLEN A. KRANS, 8601
GUY M. LEE, 6897
ARTHUR H. LOGAN, 6747
ROBERT K. MCGAHA, 0556
MICHAEL A. MIKSTAY, 7749
DAVID A. MUDD, 7513
WESLEY B. SLOAT, 9975
JOHN A. SWANSON, 9101
GREGORY N. TODD, 5010
DALE C. WHITE, 8144
DENNIS W. YOUNG, 3621

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 31, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 1

9:15 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine issues with respect to missing persons in Southeast Europe.
334 CHOB

9:30 a.m.
Judiciary
To hold hearings to examine the Greater Access to Affordable Pharmaceuticals Act.
SD-226

SEPTEMBER 16

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to receive the legislative presentation of The American Legion.
SH-216

POSTPONEMENTS

SEPTEMBER 9

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 808, to provide for expansion of Sleeping Bear Dunes National Lakeshore, S. 1107, to enhance the Recreational Fee Demonstration Program for the National Park Service, and H.R. 620, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.
SD-366

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, July 31, 2003*

(Legislative day of Monday, July 21, 2003)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

O God, who blesses us in ways we cannot number or describe, forgive us when we forget Your mercies. We thank You that in the shadow of Your wings we can find refuge. Thank You for filling our empty hands with good. Give us, today, a clearer vision of Your truth that we may do Your will.

Lord, help us to tear down the walls of mistrust and suspicion that divide us and build bridges of unity and cooperation. May we remember the power of courtesy and civility. May our actions reinforce our words. Help us to be steadfast and unmovable in our resolve to make a positive impact on our world. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will debate the cloture motion relating to the Pryor nomination until 10 a.m. Following the debate relating to the Pryor nomination, the Senate will proceed to the cloture vote. Therefore, the first vote in today's session will occur at approximately 10 a.m. Following the cloture vote, the Senate will resume consideration of S. 14, the Energy bill.

Last night I filed a cloture motion relative to the pending Energy legislation. As I said last night, that cloture motion was filed to give us a chance to finish the bill prior to the August recess. If we have any hope of passing a bill which would establish a national energy policy, then the Senate must invoke cloture. In the interim, I know the chairman will certainly work with Members toward consent agreements to allow consideration of any additional amendments. It is our hope to continue to process Senators' amendments prior to the cloture vote.

Let me reiterate again that our commitment remains on this side of the aisle to finish this Energy bill. Cloture votes on judicial nominees will not and should not detract us from the ultimate goal of concluding our work on this bill. I hope today that we can renew our efforts, have Members come forward with their amendments, debate those amendments, and then have the Senate work its will on the issues.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided between the Senator from Utah, Mr. HATCH, and the Senator from Vermont, Mr. LEAHY, for debate prior to a vote on the motion to invoke cloture on the nomination of William Pryor.

The Senator from Utah.

Mr. HATCH. Mr. President, on Tuesday a cloture motion was filed on the nomination of William Pryor for the Eleventh Circuit Court of Appeals. I rise today to urge my colleagues to vote for cloture on this nomination.

Why must we seek cloture on this nomination? Unfortunately, we all know the answer. A majority of Democratic Senators have developed a poor track record of denying a minority of Democratic Senators and the entire Republican majority, easily a majority of the Senate, the right to vote to confirm two of President Bush's outstanding Circuit Court nominees, Miguel Estrada and Priscilla Owen. One filibuster of an outstanding Federal circuit court nominee was bad enough—unprecedented, in fact, in the history of the Senate. A second filibuster doubled the ignominy. I fear that the second filibuster will not be the last. I wonder whether there is a particular number of filibusters that the majority of Democrats has in mind. I, and the majority of this Senate would like to know.

I have heard certain Democrats say that a baseball player would be thrilled to have a batting average as good as the percentage of President Bush's nominees who have been confirmed since he took office. Assuming such an analogy is relevant, let's take it a bit further. I wonder if that same baseball player would sit calmly on the bench if, in the most important innings of the season, the opposing team invoked a rule to prevent that player from even getting into the batter's box. And what if the rule invoked had never been used to deny a player the right to take his swings? Should that player and his team's manager be thankful that most other players were allowed to play? Should the opposing manager be able to tell that player and his team, well, I understand your manager put your name on the gameday lineup two seasons ago, but it is up to us, not him and not your team, when or if you will ever play? I submit that they would be as frustrated and disappointed as we Senators are today, with the two ongoing filibusters of nominees whose names were submitted by the President well over 2 years ago, and the real probability of more indefinite delays to come.

Here is what we know: a majority of Democrats has made it clear to a majority of Senators that they are determined to deny it the right to vote, and to deny a nominee what he or she deserves, an up or down vote.

By the way, the President deserves an up-or-down vote on his nominees. We certainly gave judges up-or-down votes in the Clinton administration and during the Carter administration.

When they got to the floor, they got up-or-down votes. Because we do not know when the next filibuster is coming, we must ensure that debate on Attorney General Pryor's nomination to the Eleventh Circuit is ample but not endless. Unfortunately, we know from the filibusters of Miguel Estrada and Justice Owen that meaningful deliberation on these nominees is not the goal of those who would deny us the right to vote on their confirmation. The goal is to prevent a majority of the Senate from fulfilling its constitutional duty. In an effort to keep this from happening, we have filed for cloture. I urge my colleagues to support cloture on General Pryor's nomination.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Over the past 6 months we have heard that a filibuster is justified for Miguel Estrada on the grounds that he has not been forthcoming enough or that the Senate needed blanket access to all of his legal memoranda in order to make an informed choice.

Well, that is interesting because Democrats have never asked for these types of investigations or these types of documents for any other Senate nominee. They have not asked for these documents for women. They have not asked for these documents for white males but all of a sudden we have the first Hispanic nominated to the Circuit Court of Appeals for the District of Columbia and all of a sudden they are asking for documents that they know the Solicitor General's office cannot give, not because there is anything to hide—Miguel Estrada would have given them up if he had had the power to do so—but because it is not the right thing to do. They are privileged documents.

In Justice Owen's case, she appeared before the Judiciary Committee twice and answered dozens and dozens of oral and written followup questions in great detail. Her court opinions are available and have been read and scrutinized by Members of the Senate. No one doubts that she has a sufficient record. So why is she being held up? I might add, why is she being treated differently from Miguel Estrada? Nobody has demanded those types of documents from her.

But not even those most vigorously opposed to Bill Pryor's nomination contend that his record is insufficient. He has been a bold, vocal, and successful advocate for his State as attorney general, an elected office in Alabama.

Prior to and during his campaign seeking reelection to the attorney general position in 1998 and 2002, he made his positions on the contentious issues of the day crystal clear, and he won his most recent election with almost 60 percent of the vote. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee; rarely has a nominee at his hearing been so honest, intelligent and forthright in his answers to every Senator's questions, even though he surely knew that his legal and policy positions on many, if not most, issues, clashed head-on with the positions of those who questioned him. Similarly, in his answers to approximately 288 written questions from seven different Democratic Senators, he was as clear and complete as he had been during his hearing. And even after Bill Pryor answered all of these questions, some Democrats regrettably continued to try to dig for dirt on him, using unauthenticated and possibly stolen documents as a pretext for a so-called investigation, when not a single person has made a substantive, authenticated allegation against him. But throughout almost a month of this unilateral fishing expedition, including phone calls to 20 people, nobody can show that Bill Pryor was anything other than truthful with our committee.

We all know what kind of man Bill Pryor is, and we all know what he believes. We even know why he believes what he believes. But therein lies the problem, apparently, for those who seek to prevent us from voting to confirm him.

The problem that those opposed to giving Bill Pryor an up or down vote in the Senate have is that they cannot credibly make any substantive arguments against him—so they oppose him based on what he has stated he personally believes. They cannot cast aspersions on his legal ability—the undisputed quality of his legal work as attorney general of Alabama is reflected in several major cases in which the Supreme Court majorities have agreed with his arguments. They cannot say he is only a one-party horse—because so many Democrats, and many prominent African-American Democrats, in Alabama support him even though they disagree with him politically. They cannot really find anything substantive that might reflect poorly on his qualifications to sit on the Federal bench. So they attack his personal beliefs, even though in every instance in which a conflict between those beliefs and the law has arisen in Bill Pryor's career, he has unfailingly put the law first. In most of the cases they criticize him for, he was won in the Supreme Court, making such criticism even more laughable.

The President has nominated a good an honest man with a sterling legal career, a bipartisan reputation for enforcing the law impartially as attorney general, and an enviable record of success before the Nation's highest Court. Contrary to all available evidence, a minority of the Senate may attempt to prevent us from voting on him. Such an attempt is profoundly at odds with what the Constitution demands of us as Senators. The President and the American people have a right to an up or down vote on judicial nominees. That is what the advise and consent clause means. Playing political games with judicial nominees must stop. We must do our duty to vote on this excellent nominee, Bill Pryor.

Now, if this is another filibuster, we need to ferret it out. That is why we will have the cloture vote. For those complaining this interrupts the Energy bill, we are here at 9 a.m. in the morning; energy can start right after this cloture vote.

Let's face it, there has been a slow walk on the Energy Bill as there has been on almost everything this year. We all know the game that is going on. Frankly, in the case of Bill Pryor, it is a very dangerous game.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield 6 minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I urge my colleagues to vote against cloture on the nomination of William Pryor. Since President Bush came into office, the Senate has confirmed 140 of his nominees and so far blocked only two. We have blocked these nominees partly because they were too extreme for lifetime judicial appointments, and partly because the White House and the Senate Majority have tried to jam the nominations through the Senate without respect for the Senate's advice and consent role under the Constitution, and without respect for the Senate's rules and traditions.

The nomination of Mr. Pryor illustrate all of these issues. His views are at the extreme of legal thinking. It is clear from his record that does not merit confirmation to a lifetime seat on an appellate court that often has the last word on vital issues, not only for the 4.5 million people of Alabama, but also for the 8 million people of Georgia and the 15 million people of Florida.

Mr. Pryor is not simply a conservative, he is committed to using the law to advance a narrow ideological agenda that is at odds with much of the Supreme Court's jurisprudence over the last 40 years. An agenda that is at odds with important decisions that have made our country more inclusive and fair over the past 40 years.

Mr. Pryor's agenda is clear. He is an aggressive supporter of rolling back the power of Congress to remedy violations of civil and individual rights; he is a vigorous opponent of the constitutional right to privacy and a woman's right to choose; and, he is an aggressive advocate of the death penalty, even for individuals with mental retardation. He contemptuously dismissive of claims of racial bias in the application of the death penalty. He is a ardent opponent of gay rights.

What we are expected to believe is that despite the intensity with which he holds these views and the years he has devoted to dismantling these legal rights, he will still "follow the law" if he's confirmed to the Eleventh Circuit. Repeating that mantra again and again in the face of his extreme record does not make it credible that he will do so.

Mr. Pryor's supporters say that his views have gained acceptance by the Courts, and that his legal positions are well within the legal mainstrain. This is simply not true. Mr. Pryor has consistently advocated views to narrow individual rights far beyond what any court in this land had been willing to hold.

Just this past term, the Supreme Court rejected Mr. Pryor's argument that States could not be sued for money damages for violating the Family and Medical Leave Act. The Court rejected his argument that states should be able to criminalize private sexual conduct between consenting adults. The Court rejected his far-reaching argument that counties should have the same immunity from lawsuits that States have. The Court rejected his argument that the right to counsel does not apply to defendants with suspended sentences of imprisonment. The Court rejected his argument that is was constitutional for Alabama prison guards to handcuff prisoners to "hitching posts" for hours in the summer heat.

Last term, the Court also rejected Mr. Pryor's view on what constituted cruel and unusual punishment in the context of the death penalty. The Court held, contrary to Mr. Pryor's arguments, that subjecting mentally retarded persons to the death penalty violated the Eighth Amendment. And just this Spring, the Eleventh Circuit, a circuit dominated by conservative, Republican appointees, rejected Mr. Pryor's attempt to evade that Supreme Court's decision. Mr. Pryor attempted to prevent a prisoner with an IQ of 65—whom even the prosecution had noted was mentally retarded—from raising a claim that he should not be executed. Repeatedly, his far-reaching arguments have been rejected by the courts. This is not a man within the legal mainstream.

Mr. Pryor and his supporters simply say that he is "following the law," but repeatedly Mr. Pryor attempts to make the law, using the Attorney General's office as his own personal ideological platform.

Mr. Pryor's many intemperate, inflammatory statements show that he lacks the temperament to serve on the Federal court. Mr. Pryor ridiculed the Supreme Court of the United States for granting a temporary stay of execution in a capital punishment case. Alabama is one of only 2 States in the Nation that uses the electric chair as its sole method of execution. The Court granted review to determine whether the use of the electric chair was cruel and unusual punishment. For Mr. Pryor, however, the Court should not have even paused to consider this Eighth Amendment question. He said the issue "should not be decided by 9 octogenarian lawyers who happen to sit on the Supreme Court." This doesn't reflect the thoughtfulness we seek in our federal judges.

He is dismissive of concerns about fairness in capital punishment. He has stated: "make no mistake about it, the death penalty moratorium movement is headed by an activist minority with little concern for what is really going on in our criminal justice system."

I have watched my colleagues on the other side bring up every argument they can find to save this nominee. Mr. Pryor's record is so full of examples of extreme views, and they labor to rebut each one. They call Senate Democrats and citizens who question Mr. Pryor's fitness—including more than 204 local and national groups—a variety of names, and accuse us of bias. The question however is why when there are so many qualified Republican attorneys in Alabama, the President would choose such a divisive nominee? Why pick one whose record raises so much doubt as to whether he will be fair? Why pick one who can only muster a rating of partially unqualified from the American Bar Association?

I hope this nominee will not be approved.

The PRESIDENT pro tempore. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Massachusetts. It is interesting that we are in this debate. We are told we want to finish the Energy bill, yet we have been talking about everything but energy. We have a number of judicial nominations that have been brought up that are obviously controversial, obviously not ripe for debate. That takes time. At the same time, we have ignored a number of judicial nominations that could have been voted on in a series of 10-minute rollcall votes had the leadership wanted that.

Maybe they don't really want to finish the Energy bill before the recess. Or perhaps, as we now read in the paper, the White House has ordered Republican leadership to have four cloture votes, a very busy week.

When I came here and when the distinguished Presiding Officer, my friend from Alaska, and the very highly respected President pro tempore, we tended to be more independent around here, independent of the White House. The Senate was its own body. Now the White House tends to run things, even picking the Republican leadership. It is a strange time.

I am going to yield quickly to the Senator from New York, but I just want to say one thing. One of the most despicable things in this debate has been the charges made by supporters of the administration that Democratic Senators are anti-Catholic because we oppose Mr. Pryor, notwithstanding his far right, way out of the mainstream ideology and past actions; notwithstanding the fact that we asked questions about whether he was soliciting campaign contributions from the same companies he was supposed to be suing and prosecuting. Notwithstanding that, because we raised these questions, the answers are not given to the questions we raise. Instead, we are called anti-Catholic.

This charge is despicable. I have waited patiently for more than 2 years for my counterparts on the other side to disavow such charges. They stay silent, and of course the best way for a lie to take root is for people to stay silent about it. They stayed silent about this lie—actually that is not true. They haven't just stayed silent about it. Many have gone on and repeated it.

The slander in the ads recently run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and the President's family is personally offensive. They have no place in this debate or anywhere else.

I challenged Republican Senators, who are so fond of castigating special interest groups and condemning every statement critical of a Republican nominee as a partisan smear, to condemn this ad campaign and the injection of religion into these matters. Only one of the newest Members of the Senate on the Republican side responded to the challenge.

Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the case of these obnoxious charges or, worse, have fed the flames. Last night, at least three Republican Senators came to the floor, not to condemn this campaign of calling Democrats anti-Catholic—including this lifelong Catholic—but they have come here to fan the flames, to stoke this divisive, harmful, and destructive campaign. I have rarely been more disappointed in the Senate.

Where are the fair-minded Republican Senators? What has silenced them? Are they so afraid of the White House that they would allow this religious McCarthyism to take place? Why are they allowing this to go on? The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop.

I remember when one of the greatest Senators of Vermont, Ralph Flanders, stood up on this floor, even though he was a Republican, sort of the quintessential Republican—he stood up and condemned what Joseph McCarthy was doing. And it stopped. I hope some will stand up and condemn this charge of anti-Catholicism leveled against the members of the Senate Judiciary Committee.

A few days ago we heard from a distinguished group of members of the clergy from a variety of churches and synagogues who serve as members of the Interfaith Alliance. They were willing to do what the Republican Senators will not, and held a forum to discuss the recent injection of religion into the judicial nominations process. The Alliance is a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 religious traditions. These men and women of faith promote the positive and healing role of religion in public life, and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes. They came to the United States Capitol to denounce the despicable charges made against Senators, and to urge, as many of us have, that this involvement of religion in the confirmation process come to an end. I would like to enter into the record the remarks of participants in the forum on July 29, 2003, including statements by Rev. Dr. C. Welton Gaddy, the President of the Interfaith Alliance, Rabbi Jack Moline, the Vice-chair of the Alliance, and the Right Reverend Jane Holmes Dixon, the Immediate Past President of the Alliance. These statements are moving and persuasive and important. I would hope that my Republican colleagues would read them and take them to heart.

Mr. President, I ask unanimous consent to print the remarks of the Interfaith Alliance forum in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF FORUM PARTICIPANTS—THE FORUM TO DISCUSS THE RECENT INJECTION OF RELIGION INTO THE JUDICIAL NOMINATIONS PROCESS, JULY 29, 2003

PARTICIPANTS: LEADERS OF THE INTERFAITH ALLIANCE: THE REV. C. WELTON GADDY, RABBI JACK MOLINE, FATHER ROBERT DRINAN, THE REV. CARLTON VEAZEY, AND THE RIGHT REV. JANE HOLMES DIXON; SENATOR PATRICK LEAHY; SENATOR RICHARD DURBIN.

Senator LEAHY. First I want to thank everybody who has come here today, and I certainly appreciate so much the religious leaders who have really come together and united on one thing, to condemn the injection of religious smears into the judicial nomination process.

Partisan political groups have used religious intolerance and bigotry to raise money and to publish and broadcast dishonest ads that falsely accuse Democratic senators of being anti-Catholic. I cannot think of anything in my 29 years in the Senate that has angered me or upset me so much as this. One recent Sunday I emerged from Mass to learn later that one of these advocates had been on C-SPAN at the same time that morning to brand me an anti-Christian bigot.

Now, as an American of Irish and Italian heritage, I remember my parents talking about days I thought were long past, when Irish Catholics were greeted with signs that told them they did not need apply for jobs. Italians were told that Americans did not want them or their religious ways. This is what my parents saw, and a time that they lived to see be long passed. And my parents, rest their souls, thought this time was long past, because it was a horrible part of U.S. history, and it mocks the pain—the smears we see today mock the pain and injustice of what so many American Catholics went through at that time. These partisan hate groups rekindle that divisiveness by digging up past intolerances and breathing life into that shameful history, and they do it for short-term political gains. They want to subvert the very constitutional process designed to protect all Americans from prejudice and injustice.

It is saddening, and it's an affront to the Senate as well as to so many, when we see senators sit silent when they are invited to disavow these abuses. These smears are lies, and like all lies they depend on the silence of others to live, and to gain root. It is time for the silence to end. The Administration has to accept responsibility for the smear campaign; the process starts with the President. We would not see this stark divisiveness if the President would seek to unite, instead of to divide, the American people and the Senate with his choices for the federal courts. And those senators who join in this kind of a religion smear: they may do it to chill debate on whether Mr. Pryor can be a fair and impartial judge, but they do far more. They hurt the whole country. They hurt Christians and non-Christians. They hurt believers and non-believers. They hurt all of us, because the Constitution requires judges to apply the law, not their political views, and instead they try to subvert the Constitution. And remember, all of us, no matter what our faith—and I'm proud of mine—no matter what our faith, we are able to practice it, or none if we want, because of the Constitution. All of us ought to understand that the Constitution is there to protect us, and it is the protection of the Constitution that has seen this country evolve into a tolerant country. And those who would try to put it back, for short-term political gains, subvert the Constitution, and they damage the country.

Now this nominee, Mr. Pryor, is an active politician. He has been particularly active on several political issues that divide Americans. And this administration has acknowledged that it selects nominees on the basis of their ideologies. So when this or other nominees are asked about their views and statements, whether it's about Roe v. Wade or the flawed administration of the death penalty, they are being asked legitimate questions that the White House itself has already considered in their selection. Senators of course have an equal right to inform themselves about their ideologies. And those senators do us all a disservice, they do a disservice to this great and wonderful institution, when they charge that there is a religious test for nominees. The record itself reputes that. Democratic senators have joined in confirming 140 of President Bush's judicial nominees. Now you'd have to guess that most of these nominees, chosen by President Bush and confirmed by Democratic senators, have been Republicans. Most, presumably, share the Administration's right-to-life philosophy. No doubt, a large number of the 140 are Christians, and of course, we would have to assume some are Catholics.

I appreciated Senator Durbin's courage when he spoke the truth about these falsehoods, and I appreciate the courage of the religious leaders we will hear from today, and I welcome Reverend Dr. Welton Gaddy, the president of The Interfaith Alliance. The Alliance has stood up on important legal issues on behalf of Americans of many different faiths. Remember, as Americans, this is one of the things that makes us free and the nation that we are—the diversity that comes from our various religious beliefs. The first Amendment encompasses so many different things: the freedom of speech, the freedom to practice any religion you want, or none if you want. We are not a theocracy, we are a democracy. And because we are a democracy, all of us, especially those who may practice a minority religion, get a chance to practice it. I'm glad to see Father Drinan here. Father Drinan is a professor of law at Georgetown and has been a member of Congress, but more importantly than that he has been a friend of mine since I was a teenager. We first met when I was a college student, and we talked about the fact that I wanted to go to law school. And we're fortunate to have with us today the Reverend Carlton Veazey, and the Right Reverend Jane Holmes Dixon, retired Episcopal Bishop from Washington National Cathedral. And the Bishop has told me she now has a son in Vermont. I admired her before, and I admire her even more now, for that. And Rabbi Jack Moline of Northern Virginia has joined us. So Revered, why don't I turn it over to you now.

The Rev. C. WELTON GADDY. Welcome to this Press and Hill Staff Briefing. My name is Welton Gaddy. I serve as President of The Interfaith Alliance, a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 different religious traditions. The Interfaith Alliance promotes the positive and healing role of religion in public life and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes.

Last Wednesday, the Senate Judiciary Committee's discussion on William Pryor's nomination to the 11th Circuit Court of Appeals in Atlanta deteriorated into a dramatic demonstration of the inappropriate intermingling of religion and politics that raised serious concerns about the constitutionally guaranteed separation of the institutions of religion and government. Such a meshing of religion and politics in the rhetoric of the Senate Judiciary Committee cheapens religion and diminishes the recognized authority of the Committee to speak on matters of constitutionality. The debate of that day, though alarming and disturbing, has created a teachable moment in which we will do well to look again at the appropriate role of religion in such a debate. That is why we are here this morning.

Religion plays a vital role in the life of our nation. Many people enter politics motivated by religious convictions regarding the importance of public service. Religious values inform an appropriate patriotism and inspire political action. But a person's religious identity should stand outside the purview of inquiry related to a judicial nominee's suitability for confirmation. The Constitution is clear: There shall be no religious test for public service.

Within a partisan political debate, it is out of bounds for anyone to pursue a strategy of establishing the religious identity of a judicial nominee to create divisive partisanship. That, too, is an egregious misuse of religion and a violation of the spirit of the constitution. Even to hint that a judiciary committee member's opposition to a judicial nomination is based on the nominee's religion is cause for alarm. How did we get here?

In recent years, some religious as well as political leaders have advanced the theory that the authenticity of a person's religion can be determined by that person's support for a specific social-political agenda. So severe has been the application of this approach to defining religious integrity that divergence from an endorsement of any one issue or set of issues can lead to charges of one not being a "good" person of faith.

The relevance of religion to deliberations of the Judiciary Committee should be twofold: one, a concern that every judicial nominee embraces by word and example the religious liberty clause in the constitution that protects the rich religious pluralism that characterizes this nation and, two, a concern that no candidate for the judiciary embraces an intention of using that position to establish a particular religion or religious doctrine. In other words the issue is not religion but the constitution. Religion is a matter of concern only as it relates to support for the constitution.

Make no mistake about it, there are people in this nation who would use the structures of government to establish their particular religion as the official religion of the nation. There are those who would use the legislative and judicial processes to turn the social-moral agenda of their personal sectarian commitment into the general law of the land. The Senate Judiciary Committee has an obligation to serve as a watchdog that sounds no uncertain warning when such a philosophy seeks endorsement within the judiciary.

It is wrong to establish the identity of a person's religion as a strategy for advancing or defeating that person's nomination for a judgeship. However, it is permissible, even obligatory, to inquire about how a person's religion impacts that person's decisions about upholding the constitution and evaluating legislation. When a candidate for a federal bench has said, as did the candidate under consideration last Wednesday, in an address in the town in which I pastor, "our political system seems to have lost God" and declares that the "political system must remain rooted in a Judeo-Christian perspective of the nature of government and the nature of man," there is plenty for this Committee to question.

Every candidate coming before this Committee should be guaranteed confirmation or disqualification apart from the candidate's religious identity as a Baptist, a Catholic, a Buddhist or a person without religious identification. What is important here is a candidate's pledge to defend the constitution. And, that pledge should be buttressed by a record of words and actions aimed not at attacking the very religious pluralism that the candidate is being asked to defend but rather to continuing a commitment to the highest law of the land.

I felt grimy after listening to distinctions between a "good Catholic" and a "bad Catholic." I know that language: I heard it in the church of my childhood where we defined a "good Baptist" as one who tithed to the church, didn't smoke, didn't dance and attended church meetings on Sunday evening and a "bad Baptist" as one who didn't fit that profile. The distinctions had nothing to do with the essence of the Christian tradition and the content of Baptist principles. It is not a debate that is appropriate or necessary in the Chamber of the United States Senate.

The United States is the most religiously pluralistic nation on earth. The Interfaith alliance speaks regularly in commendation of "One Nation—Many Faiths." For the sake of the stability of this nation, the vitality of religion in this nation, and the integrity of the Constitution, we have to get this matter right. Yes, religion is important. Discussions of religion are not out of place in the judiciary committee or any public office. But evaluations of candidates for public office on the basis of religion are wrong and there should be no question that considerations of candidates who would alter the political landscape of America by using the judiciary to turn sectarian values into public laws should end in rejection.

The crucial line of questioning should revolve not around the issue of the candidate's personal religion but of the candidate's support for this nation's vision of the role of religion. If the door to the judiciary must have a sign posted on it, let the sign read that those who would pursue the development of a nation opposed to religion or committed to a theocracy rather than a democracy need not apply.

In 1960, then presidential candidate John F. Kennedy addressed the specific matter of Catholicism with surgical precision and political wisdom, stating that the issue was not what kind of church he believed in but what kind of America he believed in. John F. Kennedy left no doubt about that belief: "I believe in an America where the separation of church and state is absolute." Kennedy pledged to address issues of conscience out of a focus on the national interest not out of adherence to the dictates of one religion. He confessed that if at any point a conflict arose between his responsibility to defend the constitution and the dictates of his religious, he would resign from public office. No less a commitment to religious liberty should be acceptable by any judicial nominee or by members of the Senate Judiciary Committee who recommend for confirmation to the bench persons charged with defending the Constitution.

We have an impressive group of religious leaders here to address various issues relating to this topic. Also, another member of the Senate Judiciary Committee has joined us, Senator Durbin, and I wanted to say, as I recognize him for some comments, Senator how grateful we are, not only for your words in session on this committee, but for the tireless work you've done on charitable choice legislation.

Senator DURBIN. Thank you very much, and I appreciate those who have gathered this morning to address this very timely and very important issue.

It has been written that patriotism is the refuge of scoundrels. As of last week, we learned that religion is now the refuge of extremists. Those who are bringing us candidates who cannot stand on their own feet when it comes to their political positions, are now saying that hard questions about their politics are actually some sort of criticism about their religion belief. I have said publicly and privately to Senator Hatch, this has to end immediately.

Americans should understand that a person's religion, as the Constitution requires, should never be a qualification for public office. I am going to join Senator Leahy in offering an amendment to the Senate Judiciary Committee which states categorically that no witness or nominee can ever be asked their religion during the course of a committee hearing. I think we have crossed a line which is extremely sad, and watching last week as several of my colleagues came forward to explain Catholic doctrine was quite a treat, Father Drinan, to have my colleagues who are proud members of the Church of Christ, the Methodist Church, and the Church of Jesus Christ of Latter-day Saints, to explain to me what a "good Catholic" believes, was troubling. I think that that kind of conversation has no place in the public marketplace, and that Senator Leahy has led us in this committee, from the beginning objecting to this line of questioning, and we should put down the rule, hard and fast, once and for all, that whether the person who is inspiring this, Mr. Boyden Gray, in his scurrilous advertising campaign, or members of the United States Senate, who would seek to exploit the issue of religion to somehow justify the extremist views of their nominees: whoever the person is, they have no place in this important public debate.

I am a person of the Catholic faith. I was raised in that religion. I continue to go to Mass, to sometimes debate my church over issues. I believe that's my responsibility and my personal situation. I don't believe that should be part of the public debate, but my position on the issues might be, and for some of the senators to come forward and say, anytime a religious belief somehow reaches over into a political area it's out of bounds, you can't ask questions, well that's just plain wrong. If you happen to be a person who is of the Jewish religion, who keeps kosher in observance of religious belief, that is certainly your right to do and has little relevance to the political debate. But the position of a person on the death penalty, whether they're Jewish, Catholic, Protestant, nonbeliever, whatever their denomination, that certainly does have relevance to the national debate, and to say that we're not going to ask those questions because they somehow cross the line into religious belief, is to disqualify this committee from even considering the most important political issues. We can't let that happen.

I'm proud of the fact that I have nominated many judges of my own state, and that I have never used a litmus test on any of those judicial nominees. Though I am pro-choice in my belief when it comes to vote on the issues before us, I have successfully nominated, and seen appointed, pro-life judges in my state, and I believe then as I do now that the fact that that's part of their religious belief is irrelevant. I hope that what we are saying and what we are talking about today is heard by members of the entire Senate, and I hope that we will adopt this rules change to say once and for all that we will not return to the shabby episode that we saw played out in the Senate Judiciary Committee last week.

Rev. GADDY. Senator Leahy has already introduced the members of the panel who will come and speak now; I will simply recognize them. Rabbi Jack Moline.

Rabbi JACK MOLINE. I am Rabbi Jack Moline, vice-chair at-large of the Interfaith Alliance. I am also on the back end of a summer cold, so I apologize for the huskiness of my voice.

The "Father of our Country," George Washington, was a surveyor by trade. Part of his duties included the determination of exactly where the property of one owner left off and the other owner began. You might wonder what possible difference a few inches, even a few feet in either direction would make to a farmer with acres of land. But Washington knew as we all know that crops do not grow only in the center of a field, and that cattle do not graze only a distance from the fence, and that injuries do not always occur close to the barn. Good surveying produces good boundaries. And good boundaries keep good neighbors from unnecessary conflict.

As a rabbi, I have studied similar boundary issues in the Talmud. Entire sections are taken up discussing the boundaries between properties, between businesses, between Sabbath and weekdays, between the holy and the profane. Violating those boundaries throws a system into turmoil. Preserving them avoid unnecessary conflict.

We Americans have become experts in testing boundaries. You can make your own list of the boundaries we have tried to survey, and where we have been successful and where we have not. In culture, in business, in public policy and in politics, the lines that separate one domain from another have been confronted by those who wish to preserve them and by those who wish to redraw them.

When the Bill of Rights of our Constitution established what Thomas Jefferson wisely called the wall of separation between church and state, it created a two-hundred-year-old tradition of surveying that boundary, trying to find the exact place to keep good neighbors from unnecessary conflict.

The Senate Judiciary Committee failed in their latest attempt last week when Alabama Attorney General William Pryor, nominee for a federal judgeship, was asked by a supporting Senator about his religious affiliation. The result, as you have seen, was an unnecessary conflict between good neighbors. In fact, we are counting our blessings that the Capitol Police were not called to intervene in the ensuing arguments.

The religious beliefs of a nominee are relevant only to the extent that they interfere with his or her ability to support and defend the Constitution of the United States. Frankly, I would be alarmed to see the influences of religious conviction expunged from any aspect of American government. And I think it is entirely relevant to ask any candidate for the executive, legislative or judiciary if personal convictions would interfere with the ability to support and defend the Constitution and its resultant laws as they exist today.

Frankly, that is the relevant question—not a question of affiliation. Do the values, beliefs or proclivities that Mr. Pryor or anybody else holds prevent him from meeting the responsibilities of the office. The question is about his beliefs and no one else's. By affixing a label to the question and generalizing the issue, the legitimate business of the Senate Judiciary Committee was catapulted onto the other side of that carefully surveyed boundary. And lest you think the fault lies only on one side, the subsequent responses of opposing senators are a good indication of the reason we rely on articulated rules in our society and not good will.

It is time to return to the tradition of Washington and Jefferson and survey again that necessary boundary. And once it has been reestablished, then it behooves both the Senators and the nominees they examine to respect the values on which this country was founded.

Rev. GADDY. Now I'll recognize Father Robert Drinan.

Father ROBERT DRINAN. In the Constitution of Massachusetts there's a beautiful sentence about how judges are supposed to be picked. Judges shall be selected from those "who are as impartial as the lot of humanity will allow." Isn't that a nice theological thing; we're all corrupted, "as the lot of humanity will allow." And in the Constitution of the United States there's only one reference to religion, and it's very pertinent this morning, Article six says "No religious test shall ever be applied for public office"

Consequently, when we're thinking about what we are trying to decide or think about in the Senate, we must remember the shades of Justice Brandeis. You recall that his confirmation was delayed, they never said openly that he would be the first Jew but it was always there, and I said that shame as a leader of the Americana Bar Association that the ABA opposed Justice Brandeis, and underneath, it was his religion.

I have here the full hearing on this man who desires to be a judge, and if you read it in full you'd say that the Senate is fully entitled to exercise its constitutional privilege. They have to give advice and consent. Advice and consent. They have broad discretion. And if they think he wouldn't be impartial, that he wouldn't be a good judge, they are fully entitled to say no. And during the centuries the Senate has said no to too many of the president's nominees.

What shall we say about this individual? You can read it for yourself. He lacks judicial temperament, in my view. He's so scalding and so one-sided. He believes in school prayer. He called the Supreme Court "nine octogenarian lawyers," and at 41 he's a hard-charging conservative activist, and the senators are quite able, under their powers, to say "we don't think that he is appropriate." Mr. Pryor is negative on Section Five of the Voting Rights Act, and has clashed with the Justice Department, so let's take a hypo. Law professors love hypos. Suppose there was a group of Catholics and non-Catholics in this country, who would say that Mr. Pryor is very much in favor of the death penalty and that comes from his religion. Well, it wouldn't be on solid ground, because the Pope has opposed the death penalty, the Catholic catechism and the Catholic bishops with unusual activity and vigor have opposed the death penalty in any form.

Mr. Pryor defies all of that. Should we say he's a bad Catholic? And I would say that if people use that and his faith saying that he's defying the Church, that would be an appropriate reason to vote no. They have to vote yes or no according to what the Constitution says, and it seems to me that the Senate has many, many reason to say that this individual is not ready or he's not appropriate. They could easily find, they could easily say, in the words of the Massachusetts Constitution, that he is not 'as impartial as the lot of humanity will allow."

Rev. GADDY. Now Reverend Carton Veazey.

The Rev. CARLTON VEAZEY. Thank you, Dr. Gaddy. Thank you also, Senator DURBIN and Senator LEAHY, for sharing this time. I'm Reverend Carlton Veazey, President of the Religious Coalition for Reproductive Choice, founded in 1973 as a result of the Roe v. Wade decision. We have over forty religious organizations and denominations in our coalition. We represent over 20 million people. But I'm not here to talk about choice. I'm here to talk about religious freedom. Because that is the issue, and that is what we in the coalition strongly believe. Because we are diverse, and all of our denominations, we all agree on a woman's right to choose, but we also understand that we have different theological positions as relates to that issue, and that is the strength of our coalition.

The Religious Coalition was founded 30 years ago. Men of faith, and who are pro-faith, we work together in harmony because we respect each other's beliefs. We don't hold the same view about abortion rights, but we all agree that this is a matter of conscience and belief. In this pluralistic nation, we agree to respect different views and decisions. The nominee's pronouncements on reproductive choice show no understanding of the pluralism that makes this nation great. He's not unqualified for the bench because of his religion, but because of some views that he lacks judicial temperament, and it's shown he would impose his personal views regardless of the law, and does not respect the basic principle of religious freedom on which this nation was founded.

Conservatives are arguing that there is a religious litmus test about abortion rights and that determines who gets appointed and who does not. That's nonsense. There is no correct position. Catholics and people of all religions have different views on abortion, as the organization Catholics for Free Choice, which is a part of our coalition. Many Catholics disagree with the church's stance, and many Catholics practice birth control and have abortions. But the main thing is to understand that religion has no place in making this decision. These senators, who have tried so courageously to protect that, to protect us from becoming a theocratic government, to protect us from just one view.

Catholics today have the freedom to exercise prudential judgment, and to decide how best to interpret the range of teachings and principles contained in the Catholic canon, as Father Drinan pointed out. Thus some Catholics believe that abortion, while a serious moral issue, should not be illegal, while others believe that the taking of human life in war or capital punishment is morally evincible, in spite of Papal pronouncements against both.

I was interested in Dr. Gaddy when he talked about Baptists. I'm a Baptist; I was trying to measure myself up and see what kind of Baptist. I have become a better Baptist since the time that you were talking about them. But the thing is, that there is no "good Baptist" or "bad Baptist." There is no "Baptist position." There's no "Baptist position." That's why you have, and I respect them for what they believe, but on the other hand that's not my position. I am not a Southern Baptist. Sometimes I don't know if I'm a Northern Baptist. Because the basic principle and tenet of the Baptist faith is that we have autonomy to believe in the way we understand God and understand our religious principles. So what I'm saying today is that simply, as it's been stated before, that no one should have a litmus test on their religion. I think he should be judged on his qualifications or her qualifications, and that alone. So the Religious Coalition wanted to come and to stand with you, to say that we also believe that you are doing the courageous thing and protecting religious freedom in our country. Thank you very much.

Rev. GADDY. The retired Bishop Pro Tempore of the Episcopal Diocese in Washington is also one who has served as chair of the board of The Interfaith Alliance, Bishop Jane Holmes Dixon, we are eager to hear you.

The Right Rev. JANE HOLMES DIXON. Good morning. It is a pleasure to be here with all of you this morning. I am the Right Reverend Jane Holmes Dixon, Immediate Past President of the Interfaith Alliance and the recently retired Bishop of the Episcopal Diocese of Washington, Pro tempore.

Before I begin my remarks, I would like to thank Senator Leahy for understanding the grave importance of why this discussion today is not only crucial for the future of the judicial nominations process, but in fact, a necessary reflection on the state of our democracy for all of us gathered here: religious leaders, elected officials, those who seek to serve the nation by entering into civil service, and finally, the countless people of this nation who are brought up to believe that any citizen, no matter what your gender, race or religion, will have an equal opportunity to serve this country, and will have the right to be treated equally under the law. The First Amendment of our Constitution—through its wise and steadfast guarantee that the government of the United States shall make no law to establish a religion and guarantees that it will not interfere with the free exercise of religion—expects nothing less than the religious freedom and liberty that this provides.

I believe that I speak for many when I say that last week's hearing of Alabama Attorney General Bill Pryor did not reflect well on the religious health of our nation and the guarantees of our Constitution.

Last week's hearing, a hearing that put on the record certain Senators defining what is true Catholicism—including even references to Rome—and other Senators having to defend their opposition to a nominee against charges of being anti-Catholic—was nothing short of a travesty and a major step back for interfaith relations in this nation. This becomes more troubling given the fact that there are indeed Roman Catholics on this committee who, according to their own remarks before the committee, consider themselves to be devout.

Not only must those who are nominated to become judges respect religious pluralism, equally important, those who are charged with confirming judges must respect the fact that within denominations there remains a wide spectrum of people who all hold varied beliefs. And they are all equally worthy of respect.

Senators do have an obligation to determine whether a judicial nominee will in fact respect those of all religious beliefs and those citizens amongst us who practice no religion at all. It is fair to ascertain whether a nominee will deliver justice based upon the Constitution of the United States—a document that unites us all and binds us together under a common law—or religious doctrine and sacred texts that were written for those who specifically subscribe to one religious tenet over another. This becomes more necessary when a nominee or his or her supporters take the unfortunate and even dangerous step of couching the nominee's positions on law and justice in terms of abiding by one faith tradition over another.

I am deeply disappointed that those charged with confirming nominees to serve the federal judiciary and thus the millions of Americans who will depend on those confirmed to uphold the concept of blind justice, would deploy the strategy of playing one religion against another—equating honest differences of opinion with being anti-religion. Whether it is anti-Catholic, anti-Baptist, anti-Sikh, anti-Jew, or anti-Muslim, this kind of divisive politics has no place in the Congress of the United States, period. We are a people who are free to choose how and when we worship.

Mr. LEAHY. I see the Senator from New York. How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 16 minutes 10 seconds.

Mr. LEAHY. I yield 6 minutes to the Senator from New York.

The PRESIDENT pro tempore. The Senator from New York is recognized for 6 minutes.

Mr. SCHUMER. Mr. President, first let me thank our colleague from Vermont for his heartfelt leadership on this issue. Every one of us knows how much he cares about these issues and how these charges—"charges" is too dignified a word—these scurrilous attacks have gotten to him and moved him. We very much appreciate his integrity and courage and strength on these issues.

I rise in strong opposition to the Pryor nomination. This is a nomination where there are three strikes and you are out; three strikes against Mr. Pryor and he is out.

First, he is the most extreme nominee we have been asked to support. Second, there are questions about his credibility before the committee. And, third, the committee rules were violated to bring Mr. Pryor to the floor. So three strikes and Mr. Pryor is out.

Let me talk about each of the three briefly. First on extremism. This man is not a mainstream conservative. On issue after issue, he is in the most militant, hard, out-of-the-mainstream position, more than any judge. His views are an unfortunate stitching together of the worst parts of the most troubling nominees we have seen thus far.

He is not just out of the mainstream and extreme on one subject, he is extreme on almost everything. In a sense, he is the Frankenstein nominee, a stitching together of the worst parts of the worst nominees the President has sent us.

I will leave the issue of choice aside, other than to say that of the 120 judges I have voted for, the overwhelming majority were pro-life. So anyone on the other side who accuses anyone on this side of having a litmus test is just flying in the face of truth and honor and decency.

But what about other issues? He was the only attorney general who filed a brief to overturn parts of the Violence Against Women Act, a brief that went too far even for Justice Scalia—1 of 50. He was the only attorney general who ever supported Federal intervention in the States in Bush v. Gore.

He has voted to undermine the Clean Water Act. He has voted on issue after issue to turn the clock way back. On criminal justice issues, where I tend to side with my Republican colleagues at least as often as I side with my friends on the Democratic side, even here, he is way off the deep end.

He defended his State's practice of handcuffing prisoners to hitching posts in the hot Alabama sun for 7 hours without even giving them a drop of water to drink. And then, when the Supreme Court held this violated the 8th amendment, he criticized that decision.

His language is intemperate. He said he prayed to God that there would be no more Souters. This is not somebody we should elevate to this important part of the bench. He is way off the deep end. He is extreme in the extreme.

On this investigation, someone came forward after the nominee was questioned by my colleagues from Massachusetts and Wisconsin on the issue of this organization that raised money.

I don't like the system by which we raise money. But we should not hold Mr. Pryor to a different standard than seems to be all around the country. It isn't the raising of the money that bothers me. But when asked questions about it, there are eight statements he made that are highly suspect that are contradicted by documents sent to the committee. That doesn't mean he lied, but it means we ought to look into it because there is a possibility he did. We have not been able to complete that investigation.

To send this nominee to the bench whose credibility is in some suspicion—not proven certainly; he may be exonerated—is wrong and unfair. And it is a rush to judgment. I pled with my colleagues: Why can't we wait until this investigation is over and get the true facts? Maybe they are afraid of the answers because there has been a rush to judgment here. There is no danger to the Republic if we wait until September. Let the investigation finish, and then proceed with Mr. Pryor's nomination.

That is the second strike.

First, extreme; second, may not have been truthful with the committee; and then, the third—despite the promises of my good friend on the Judiciary Committee—we have violated rule 4 again.

This side of the aisle will not allow the rules of this body to be tampered with, and if for no other reason we will not proceed with Mr. Pryor's nomination today, and we will get overwhelming support on our side because the rules of the committee have been steamrolled at the whim of my good friend, the chairman. That is wrong.

That is the third strike. He is out.

One final point I would like to make. I am sorry my time is limited.

The argument about Mr. Pryor's religious background and discrimination—I am not going to get into Catholic doctrine. I will leave that to far better judges.

I ask unanimous consent for 2 additional minutes.

Mr. LEAHY. Yes.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator may proceed.

Mr. SCHUMER. I thank the ranking member and the Chair.

I am not going to get into Catholic doctrine. That is not my bailiwick, that is for sure. But let me say to my colleagues in a heartfelt way that you are good people. But the arguments you are using are the last refuge of scoundrels. You are not scoundrels. But the arguments you are using are debasing of our society and this Chamber. They are hits below the belt. You ought to be ashamed of using arguments like that.

When we had Mr. Estrada, we were accused of being anti-Hispanic. When we had Mr. Pickering, we were accused of being anti-Baptist. When we had Priscilla Owen, we are accused of being anti-women. And now, of course, anti-Catholic with Mr. Pryor.

These arguments are the last refuge of scoundrels.

Again, my colleagues are not scoundrels, but the arguments they are using are, and they ought to look into their hearts before they use such arguments again. They are cheap. As my colleague said, they represent religious McCarthyism. And one comes to think on this side—and I think most Americans think—they cannot win on the merits, and so they do below-the-belt shots.

Every single nominee who comes up—it is not debating whether that nominee deserves to be on the bench but, rather, someone is attacking him or her because of their religion, because of their gender, or because of their ethnicity. We have gone further than that in this wonderful country of ours. Argue on the merits, not in these cheap and vulgar arguments which demean people who use them and won't prevail.

I will tell my colleagues this. Those arguments—I will tell this to Mr. Boyden Gray, and all the others as well whom my colleague from Illinois did such a good job with on television last night—those arguments strengthen resolve. They make us certain that we were right because we say to ourselves: They can't win on the merits; try below-the-belt shots.

The PRESIDING OFFICER. The Senator has used his additional time.

Mr. SCHUMER. I yield my time to the Senator from Vermont.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

UNANIMOUS-CONSENT REQUEST—AMENDING STANDING RULES

Mr. LEAHY. Madam President, I alerted the distinguished Senate floor manager on this matter.

I send a resolution to the desk on behalf of myself and Senator DURBIN. The resolution says that in any proceeding of a committee considering a nomination made by the President to the U.S. Senate, it shall not be in order to ask any question of the nominee relating to the religious affiliation of the nominee.

With that, Madam President, I send a resolution to the desk to amend the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a Presidential nominee's religious affiliation.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution amending the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a Presidential nominee's religious affiliation.

Mr. LEAHY. Madam President, I ask unanimous consent for its immediate consideration; that the resolution be considered and agreed to, and the motion to reconsider be laid upon the table.

Mr. HATCH. Madam President, reserving the right to object—and I will object—let me make clear that when the issue of religion is raised, as it has been in the Pryor matter, and we think improperly so, and it seems to be continuously raised in some of these issues before the Judiciary Committee with various nominees—there are questions or statements like this: One Senator accused Attorney General Pryor of——

Mr. REID. Regular order.

Mr. HATCH. —"asserting an agenda of religious belief of your own." As long as those types of questions are going to be asked, I am going to have to object.

The PRESIDING OFFICER. Regular order has been called for.

Mr. HATCH. Then I object under those circumstances.

Mr. REID. Regular order.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over 1 day under rule 14.

Who yields time?

Mr. LEAHY. Madam President, how much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER. There are 4 minutes 52 seconds remaining.

Mr. LEAHY. I yield 4 minutes to my distinguished friend from Illinois who, incidentally, gave one of the finest speeches I ever heard last night on the Senate floor.

Mr. DURBIN. I thank the Senator from Vermont.

Madam President, I rise this morning in continuation of the debate which occurred last night. What has just occurred on the floor of the United States Senate is troubling. An attempt was made by the Senator from Vermont in which I joined to make it clear that no nominee of a President who appears before a committee of the Senate would ever be asked questions related to his or her religious affiliation.

This clear statement of constitutional principle was just rejected by the Republican chairman of the Senate Judiciary Committee. I don't understand that.

If we truly want to take religion out of this debate, if we want the debate to be confined to political beliefs and not a person's creed, why does the Republican chairman of the Senate Judiciary Committee object? I think the answer is obvious.

What we have seen in the William Pryor nomination is an attempt to use religion as a defense. It is almost part of the art of magic. How do you pull off a magic trick? You divert the attention of the audience to something else while you move your hand in another direction. In this case, what the Republicans are trying to do is to divert our attention from the radical political beliefs of William Pryor by saying that the real issue isn't politics; it is his Catholic faith. Frankly, that is not only an unfair argument. It is inaccurate.

Time and again, the Judiciary committee has approved President Bush's nominees for the Federal bench who have been Catholic, who have been prolife, and, frankly, who have taken positions with which most of the Democratic members of the committee disagree. But in this case, despite the fact that William Pryor has reached a new level as a nominee in terms of his radical views and his experience, we are being accused of discriminating against him because of his religion.

The record will show that it was the Republican chairman of the committee who asked that William Pryor's religious affiliation be made part of the record. It was the chairman of the committee who used that important and now code phrase, "deeply held religious beliefs," on more than one occasion. The record will also show that many of us who have questioned the background of William Pryor never raised his religion as an issue, nor should we.

I have listened to this debate on the floor of the Senate and in the Senate Judiciary Committee, and it troubles me greatly to think this body would now ignore the clear instruction and guidance of the U.S. Constitution, which says, in Article VI, that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

I would warn my colleagues on the other side of the aisle that there is a strong sentiment in America that each of us should have the freedom to follow the religion of our conscience, that no one should ever be dictated to by this Government or any government as to their religious belief. And those who attempt to exploit religion to achieve political goals will, frankly, never be favored in this country, nor should they. That is what is at issue here. And for them to raise this as somehow a condemnation of William Pryor's religion, is troubling. C. Boyden Gray, former counsel to President Bush's father, last night on television said, although he was an Episcopalian in his own personal religious belief, he did not feel any problem running these ads suggesting about what a good Catholic believes.

We have had the same thing in the committee. Members of the committee who are not members of the Catholic faith have been professing theology.

Late last night, I spoke on the Floor to explain my deep disappointment about the debate in the Judiciary Committee surrounding the nomination of William Pryor.

That negative discourse has now spilled over to the floor of the U.S. Senate and in the advertisements placed in our Nation's newspapers and on radio airwaves.

I never thought that we would ever be in the position that we find ourselves in today where members of this chamber are debating some of the most well settled and fundamental premises upon which our great Nation was founded.

Freedom from religious persecution is one of the pillars upon which our Nation and its Constitution rest, and there should be no debate about it.

In fact, our Founding Fathers thought it necessary to encapsulate that concept into the very text of the Constitution itself, in clause 3 of article VI.

That clause reads:

> . . . no religious test shall ever be required as a qualification to any office or public trust under the United States.

It was General Charles Pinckney of South Carolina who, on August 20, 1787, introduced the provision at the Federal Convention that ultimately became part of the Constitution in Article VI. General Pinckney, like many of the pioneers, understood that religion can be abused by governments in divisive ways.

As early as the 17th Century, some Americans such as Roger Williams, expressed their objection to the common practice inherited from England of imposing a religious test for public office. However, by the beginning of the 18th Century, just about every Colony had enacted a law that limited eligibility for public office solely to members of certain denominations.

In Rhode Island, for example, one had to be a Protestant to become eligible for such office. In Pennsylvania, the law required a belief that God was "the rewarder of the good and punisher of the wicked." North Carolina disqualified from office anyone who denied "the being of God or the truth of the Protestant religion, or the divine authority of either the Old or New Testament."

The words of Oliver Ellsworth, a landholder who participated in the debates on December 17, 1787, capture the essence of the need for an affirmative prohibition now found in the Constitution. Ellsworth said:

> Some very worthy persons . . . have objected against that clause in the constitution which provides, that no religious test shall ever be required as a qualification to any office or public trust under the United States. They have been afraid that this clause is unfavorable to religion. But my countrymen, the sole purpose and effect of it is to exclude persecution and to secure to you the important right of religious liberty. We are almost the only people in the world, who have a full enjoyment of the important right of human nature. In our country every man has a right to worship God in that way which is most agreeable to his conscience.

This morning, I am uncomfortable in offering this Resolution with my respected colleague, the Senator from Vermont and ranking member of the Senate Judiciary Committee, because I believe the rule change we seek with this Resolution should never be needed in a Chamber where every Member has sworn to uphold and defend the Constitution.

Yet events of the past few weeks compel us to act today.

Our resolution would simply state that it is the rule of the Senate to prohibit the questioning by any Senator of a presidential nominee's religious affiliation. The rule would thus require us to carry out in practice the wise admonitions of our Founding Fathers.

I hope my colleagues will join Senator LEAHY and me in adopting this resolution.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. DURBIN. Madam President, I hope colleagues will join me in opposing this nomination.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I would like to speak about the meeting earlier this week with the Interfaith Alliance where they—Catholics, Protestants, and Jews—condemned the activities of having any Member of the Senate ask somebody their religion in a Senate meeting.

A few days ago we heard from a distinguished group of members of the clergy from a variety of churches and synagogues who serve as members of the Interfaith Alliance. The Alliance is a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 religious traditions. These men and women of faith promote the positive and healing role of religion in public life, and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes. They came to the United States Capitol to denounce the despicable charges made against Senators, and to urge, as many of us have, that this involvement of religion in the confirmation process come to an end. I would like to enter into the record the statements of some of the participants in the event where the Alliance's members came together for that purpose.

Specifically, I would like to have printed in the RECORD the remarks of Rev. Dr. C. Welton Gaddy, the President of the Interfaith Alliance, the remarks of Rabbi Jack Moline, the Vice-chair of the Alliance, and the remarks of the Right Reverend Jane Holmes Dixon, the Immediate Past President of the Alliance. These statements are moving and persuasive and important. I would hope that my Republican colleagues would read them and take them to heart.

The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop.

I ask unanimous consent to have those remarks by clergy printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(Remarks by Rev. Dr. C. Welton Gaddy)

RELIGION AND THE SENATE JUDICIARY HEARING

[From Hill Briefing, July 29, 2003]

Good morning. Welcome to this Press and Hill Staff Briefing. My name is Welton Gaddy. I serve as President of the Interfaith Alliance, a national, grassroots, non-partisan, faith-based organization of 150,000 members who come from over 65 different religious traditions. The Interfaith Alliance promotes the positive and healing role of religion in public life and challenges all who seek to manipulate or otherwise abuse religion for sectarian or partisan political purposes.

Last Wednesday, the Senate Judiciary Committee's discussion on William Pryor's nomination to the 11th Circuit Court of Appeals in Atlanta deteriorated into a dramatic demonstration of the inappropriate intermingling of religion and politics that raised serious concerns about the constitutionally guaranteed separation of the institutions of religion and government. Such a meshing of religion and politics in the rhetoric of the Senate Judiciary Committee cheapens religion and diminishes the recognized authority of the Committee to speak on matters constitutionality. The debate of that day, though alarming and disturbing, has created a teachable moment in which we will do well to look again at the appropriate role of religion in such a debate. That is why we are here this morning.

Religion plays a vital role in the life of our Nation. Many people enter politics motivated by religious convictions regarding the importance of public service. Religious values inform an appropriate patriotism and inspire political action. But a person's religious identity should stand outside the purview of inquiry related to a judicial nominee's suitability for confirmation. The Constitution is clear: there shall be no religious test for public service.

Within a partisan political debate, it is out of bounds for anyone to pursue a strategy of establishing the religious identity of a judicial nominee to create divisive partisanship. That, too, is an egregious misuse of religion and a violation of the spirit of the constitution. Even to hint that a judiciary committee member's opposition to a judicial nomination is based on the nominee's religion is cause for alarm. How did we get here?

In recent years, some religious as well as political leaders have advanced the theory that the authenticity of a person's religion can be determined by that person's support for a specific social-political agenda. So severe has been the application of this approach to defining religious integrity that divergence from an endorsement of any one issue or set of issues can lead to charges of one not being a "good" person of faith.

The relevance of religion to deliberations of the Judiciary Committee should be twofold: one, a concern that every judicial nominee embraces by word and example the religious liberty clause in the constitution that protects the rich religious pluralism that characterizes this nation and, two, a concern that no candidate for the judiciary embraces an intention of using that position to establish a particular religion or religious doctrine. In other words the issue is not religion but the constitution. Religion is a matter of concern only as it relates to support for the constitution.

Make no mistake about it, there are people in this nation who would use the structures of government to establish their particular religion as the official religion of the nation. There are those who would use the legislative and judicial processes to turn the social-moral agenda of their personal sectarian commitment into the general law of the land. The Senate Judiciary Committee has an obligation to serve as a watchdog that sounds no uncertain warning when such a philosophy seeks endorsement within the judiciary.

It is wrong to establish the identity of a person's religion as a strategy for advancing or defeating that person's nomination for a judgeship. However, it is permissible, even obligatory, to inquire about how a person's religion impacts that person's decisions about upholding the constitution and evaluating legislation. When a candidate for a federal bench has said, as did the candidate under consideration last Wednesday, in an address in the town in which I pastor, "our political system seems to have lost God" and declares that the "political system must remain rooted in a Judeo-Christian perspective of the nature of government and the nature of man," there is plenty for this Committee to question.

Every candidate coming before this Committee should be guaranteed confirmation or disqualification apart from the candidate's religious identity as a Baptist, a Catholic, a Buddhist or a person without religious identification. What is important here is a candidate's pledge to defend the constitution. And, that pledge should be buttressed by a record of words and actions aimed not at attacking the very religious pluralism that the candidate is being asked to defend but rather to continuing a commitment to the highest law of the land.

I felt grimy after listening to distinctions between a "good Catholic" and "bad Catholic." I know that language; I heard it in the church of my childhood where we defined a "good Baptist" as one who tithed to the church, didn't smoke, didn't dance and attended church meetings on Sunday evening and a "bad Baptist" as one who didn't fit that profile. The distinctions had nothing to do with the essence of the Christian tradition and the content of Baptist principles. It is not a debate that is appropriate or necessary in the Chamber of the United States Senate.

The United States is the most religiously pluralistic nation on earth. The Interfaith Alliance speaks regularly in commendation of "One Nation—Many Faiths." For the sake of the stability of this nation, the vitality of religion in this nation, and the integrity of the Constitution, we have to get this matter right. Yes, religion is important. Discussions of religion are not out of place in the judiciary committee or any public office. But evaluations of candidates for public office on the basis of religion are wrong and there should be no question that considerations of candidates who would alter the political landscape of America by using the judiciary to turn sectarian values into public laws should end in rejection.

The crucial line of questioning should revolve not around the issue of the candidate's personal religion but of the candidate's support for this nation's vision of the role of religion. If the door to the judiciary must have a sign posted on it, let the sign read that those who would pursue the development of a nation opposed to religion or committed to a theocracy rather than a democracy need not apply.

In 1960, then presidential candidate John F. Kennedy addressed the specific matter of Catholicism with surgical precision and political wisdom, stating that the issue was not what kind of church he believed in but what kind of America he believed in. John F. Kennedy left no doubt about that belief: "I believe in an America where the separation of church and state is absolute." Kennedy pledged to address issues of conscience out of a focus on the national interest not out of adherence to the dictates of one religion. He confessed that if at any point a conflict arose between his responsibility to defend the constitution and the dictates of his religion, he would resign from public office. No less a commitment to religious liberty should be acceptable by any judicial nominee or by members of the Senate Judiciary Committee who recommend for confirmation to the bench persons charged with defending the Constitution.

STATEMENT OF RABBI JACK MOLINE, OF THE INTERFAITH ALLIANCE, JULY 29, 2003

I am Rabbi Jack Moline, Vice-chair at-large of The Interfaith Alliance. I am also on the back end of a summer cold, so please forgive the huskiness of my voice.

The father of our country, George Washington, was a surveyor by trade. Part of his duties included the determination of exactly where the property of one owner left off and the other owner began. You might wonder what possible difference a few inches, even a few feet in either direction would make to a farmer with acres of land. But Washington knew as we all know that crops do not grow only in the center of a field, and that cattle do not graze only a distance from the fence, and that injuries do not always occur close to the barn. Good surveying produces good boundaries. And good boundaries keep good neighbors from unnecessary conflict.

As a rabbi, I have studied similar boundary issues in the Talmud. Entire sections are taken up discussing the boundaries between properties, between businesses, between Sabbath and weekdays, between the holy and the profane. Violating those boundaries throws a system into turmoil. Preserving them avoids unnecessary conflict.

We Americans have become experts in testing boundaries. You can make your own list of the boundaries we have tried to survey, and where we have been successful and where we have not. In culture, in business, in public policy and in politics, the lines that separate one domain from another have been confronted by those who wish to preserve them and by those who wish to redraw them.

When the Bill of Rights of our Constitution established what Thomas Jefferson wisely called the wall of separation between church and state, it created a two-hundred-year-old tradition of surveying that boundary, trying to find the exact place to keep good neighbors from unnecessary conflict.

The Senate Judiciary Committee failed in their latest attempt last week when Alabama Attorney General William Pryor, nominee for a Federal judgeship, was asked by a supporting Senator about his religious affiliation. The result, as you have seen, was an unnecessary conflict between good neighbors. In fact, we are counting our blessings that the Capitol Police were not called to intervene in the ensuing arguments.

The religious beliefs of a nominee are relevant only to the extent that they interfere with his or her ability to support and defend the Constitution of the United States. Frankly, I would be alarmed to see the influences of religious conviction expunged from any aspect of American government. And I think it is entirely relevant to ask any candidate for the executive, legislative or judiciary if personal convictions would interfere with the ability to support and defend the Constitution and its resultant laws as they exist today.

Frankly, that is the relevant quesion—not a question of affiliation. Do the values, beliefs or proclivities that Mr. Pryor or anybody else holds prevent him from meeting the responsibilities of the office. The question is about his beliefs and no one else's. By affixing a label to the question and generalizing the issue, the legitimate business of the Senate Judiciary Committee was catapulted onto the other side of that carefully surveyed boundary. And lest you think the fault lies only on one side, the subsequent responses of opposing Senators are a good indication of the reason we rely on articulated rules in our society and not good will.

It is time to return to the tradition of Washington and Jefferson and survey again that necessary boundary. And once it has been reestablished, then it behooves both the Senators and the nominees they examine to respect the values on which this country was founded.

REMARKS OF THE RIGHT REVEREND JANE HOLMES DIXON, JULY 29, 2003

Good morning. It is a pleasure to be here with all of you this morning. I am the Right Reverend Jane Holmes Dixon, Immediate Past President of The Interfaith Alliance and the recently retired Bishop of the Episcopal Diocese of Washington, Pro tempore.

Before I begin my remarks, I would like to thank Senator LEAHY for understanding the grave importance of why this discussion today is not only crucial for the future of the judicial nominations process, but in fact, a necessary reflection on the state of our democracy for all of us gathered here: religious leaders, elected officials, those who seek to serve the nation by entering into civil service, and finally, the countless people of this Nation who are brought up to believe that any citizen, no matter what your gender, race or religion, will have an equal opportunity to serve this country, and will have the right to be treated equally under the law. The First Amendment of our Constitution—through its wise and steadfast guarantee that the government of the United States shall make no law to establish a religion and guarantees that it will not interfere with the free exercise of religion—expects nothing less than the religious freedom and liberty that this provides.

I believe that I speak for many when I say that last week's hearing of Alabama Attorney General Bill Pryor did not reflect well on the religious health of our nation and the guarantees of our Constitution.

Last week's hearing, a hearing that put on the record certain Senators defining what is true Catholicism—including even references to Rome—and other Senators having to defend their opposition to a nominee against charges of being anti-Catholic—was nothing short of a travesty and a major step back for interfaith relations in this nation. This becomes more troubling given the fact that there are indeed Roman Catholics on this committee who, according to their own remarks before the committee, consider themselves to be devout.

Not only must those who are nominated to become judges respect religious pluralism, equally important, those who are charged with confirming judges must respect the fact that within denominations there remains a wide spectrum of people who all hold varied beliefs. And they are all equally worthy of respect.

Senators do have an obligation to determine whether a judicial nominee will in fact respect those of all religious beliefs and those citizens amongst us who practice no religion at all. It is fair to ascertain whether a nominee will deliver justice based upon the Constitution of the United States—a document that unites us all and binds us together

> under a common law—or religious doctrine and sacred texts that were written for those who specifically subscribe to one religious tenet over another. This becomes more necessary when a nominee or his or her supporters take the unfortunate and even dangerous step of couching the nominee's positions on law and justice in terms of abiding by one faith tradition over another.
>
> I am deeply disappointed that those charged with confirming nominees to serve the federal judiciary and thus the millions of Americans who will depend on those confirmed to uphold the concept of blind justice, would deploy the strategy of playing one religion against another—equating honest differences of opinion with being anti-religion. Whether it is anti-Catholic, anti-Baptist, anti-Sikh, anti-Jew, or anti-Muslim, this kind of divisive politics has no place in the Congress of the United States, period. We are a people who are free to choose how and when we worship.

The PRESIDING OFFICER. The Senator from Utah controls the remainder of the time.

The Senator from Utah.

Mr. HATCH. Madam President, I have been listening to this. I have to tell you, it is apparent that my friends on the other side who are stung a little bit by this. They should be. They should be. Naturally, they don't want religion mentioned because they are referring to it all the time, and it is almost always in the context of abortion.

Almost every question that Democrats ask those whom they consider controversial nominees is about abortion. Naturally, they cannot do that to every nominee, even though I believe some of them would like to. So they are selective in choosing certain nominees who have deeply held religious beliefs.

But let me just give you a few examples of why I am convinced General Pryor's religion was put squarely at issue during his hearing, and why, at the end of the hearing, I brought up the issue of religion—because I was sick and tired of hearing this kind of stuff, because when Democrats were questioning his deeply held beliefs, they really were questioning his religious beliefs.

One Senator—I believe it was Senator DURBIN from Illinois—accused General Pryor, during the hearing, of "asserting an agenda of your own, a religious belief of your own. . . ."

In his opening statement, Senator SCHUMER stated:

> [I]n General Pryor's case his beliefs are so well known, so deeply held, that it is very hard to believe, very hard to believe that they are not going to deeply influence the way he comes about saying, "I will follow the law." And that would be true of anybody who had very, very deeply held views.

I think he had a right to say that, but the point is, there isn't anybody who doesn't understand, when you talk about deeply held views, what those are are religious beliefs. If they don't understand it, then they—well, I will not comment about that.

At another point, on the subject of Roe v. Wade—which came up in almost every question to Pryor from a Democratic questioner—Senator SCHUMER said:

> I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose, but for a judge to set aside his or her personal view, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on this subject, I have got some real concerns that he cannot, because he feels these views so deeply and so passionately.

There is only one reason he feels those views so deeply and passionately, and that is because of his religion and his religious beliefs. He is a traditional, conservative pro-life Catholic. I don't think my colleagues are against the Catholic Church, but it sure seems as if they are against the traditional pro-life conservative Catholic—on a selective basis, of course, because they cannot do this to everybody.

Another Senator told General Pryor:

> . . . I think the very legitimate issue in question with your nomination is whether you have an agenda, that many of the positions which you have taken reflect not just an advocacy but a very deeply held view and a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

General Pryor is an openly pro-life Catholic. To me, these questions and comments about his deeply held personal views put his religious beliefs squarely in issue.

Some Democrats say that they have, generally, voted to confirm about 140 of President Bush's judicial nominees. And they say some may have been pro-life Catholics, so our charges that they refuse to confirm pro-life Catholics are baseless. But here's what they're really saying: if you're a pro-life Catholic, you'd better keep quiet during your entire legal or political career before you come before us on the Judiciary Committee, because if you have made public statements that indicate you actually believe in official Catholic doctrine or are actually pro-life, that's when you are in real trouble with us. If you are smart, you will keep your religious beliefs to yourself, and maybe we won't ask about them directly or indirectly. So at best, what some Democrats seem to want is a gag order enforced on nominees who have publicly espoused pro-life positions, even in the context of political campaigns. At worse, maybe some would rather that those publicly profess pro-life sentiments be excluded from public service—certainly service on the federal bench—altogether.

Let's assume that, as various polls seem to show, the American people are roughly equally divided on the policy questions regarding abortion. There's no question that tens of millions of Catholics, following the official doctrine of the church, and millions of other religious believers of all denominations in this country are on the pro-life side of that divide. An abortion litmus test—which is really a religious litmus test, where pro-life views arise from a person's faith—effectively excludes judicial nominees from that side, from service on the Federal bench. That is wrong, particularly in the case of Bill Pryor, whose record of subordinating his personal beliefs to the law could not be clearer, and who, like Justice Owen, affirmed to our Committee that he would follow Roe v. Wade and other Supreme Court precedents with which he personally disagrees. He understands his role as a federal judge. It's time we act on a proper understanding of our role as Senators and vote for or against his confirmation.

We know that our Constitution prohibits religious tests for public office. Nobody would propose a law that excluded persons of certain religions from certain federal offices. But what can't be done overtly is no less objectionable when done indirectly.

Article VI of the Constitution states, "[N]o religious test shall ever be required as a qualification to any office or public trust under the United States." I do not believe that any Senator would intentionally impose a religious test on the President's judicial nominees, and I do not think any Senators are guilty of anti-religion bias. However, I am deeply concerned that some are indirectly putting at issue the religious beliefs of several judicial nominees—nominees who are avowedly pro-life as a result of their religious beliefs.

The most recent example emerged during the debate on the nomination of Bill Pryor to the Eleventh Circuit. During his confirmation hearing, General Pryor was asked repeatedly by some Committee Democrats about what one senator called his "very, very deeply held views." In fact, in the portion of his opening statement addressing Roe v. Wade, one of my Democratic colleagues on the judiciary Committee stated

> I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose, but for a judge to set aside his or her personal view, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on this subject, I have got some real concerns that he cannot, because he feels these views so deeply and so passionately.

Another Senator accused General Pryor during the hearing of "asserting an agenda of your own, a religious belief of your own. . . ." And yet another Senator told General Pryor during the hearing:

> . . . I think the very legitimate issue in question with your nomination is whether you have an agenda, that many of the positions which you have taken reflect not just an advocacy but a very deeply held view and

> a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

Another colleague remarked:

> Virtually in every area you have extraordinarily strong views which continue and come out in a number of different ways. Your comments about Roe make one believe, could he really, suddenly, move away from those comments and be a judge?

I became concerned after these comments that General Pryor was essentially being questioned about his deeply held religious beliefs, and that is the only reason I myself questioned General Pryor on the subject of religion during his hearing. In my view, it was time to call it like I saw it. But let me make one thing absolutely clear: My questions were an attempt to prevent General Pryor, and any other judicial nominees, from being subjected to a religious test. In no way, shape or form did I attempt, or would I ever attempt, to impose such a test.

General Pryor is an openly pro-life Catholic, so there is little doubt in my mind about the nature or source of his "deeply held views." He has publicly stated on numerous occasions, including during his confirmation hearing, that he believes abortion is the taking of innocent human life. My colleagues seem to be arguing that because General Pryor feels passionately that abortion is morally wrong and has publicly expressed his views, he will be unable to set aside his personal views on the subject and follow binding Supreme Court precedent as a judge. But General Pryor's record on the subject of abortion is crystal clear and beyond dispute. He has enforced the law despite his publicly expressed and conflicting personal beliefs.

For example, after the Alabama legislature passed a partial-birth abortion ban in 1997, General Pryor issued guidance to state law enforcement officials to ensure that the law was enforced consistent with the Supreme Court's 1992 decision in Planned Parenthood v. Casey. Although there was considerable outcry against his decision from the pro-life community, the ACLU praised General Pryor's decision, emphasizing that his order had "[s]everly [l]imited" Alabama's ban. He issued similar guidance after the Supreme Court's 2000 ruling in Stenberg v. Carhart, which struck down another state's ban on partial-birth abortion.

I doubt that any Supreme Court decision could be more personally distasteful to General Pryor than Stenberg v. Carhart. And he specifically said he disagreed with the decision while emphasizing that it was the law and he would enforce it. Can we ask more of a judicial nominee, than to demonstrate such objectivity and enforce a law so at odds with his personal beliefs? I urge my colleagues to judge General Pryor and other pro-life nominees on their record as it relates to abortion and not on the nominees' person beliefs on the subject.

By the way, I am certainly not alone in my concern that the debate over General Pryor's nomination has put his religious beliefs at issue. The Mobile Register in a July 26 editorial wrote that:

> . . . the Democrats on the Senate Judiciary Committee have repeatedly asserted that Mr. Pryor would be incapable of enforcing the law . . . That's a serious charge, in effect saying that if somebody believes deeply, because of his religious faith, that abortion is morally wrong, then that person is unfit for a judgeship. But that onus is on the accusers to prove from Bill Pryor's record that he is thus hampered from enforcing the law. Mr. Pryor has much evidence on his side, but where is their evidence to the contrary? . . . To look at that record and still assert, as the Senate Democrats do, that the strength of Mr. Pryor's personal beliefs disqualifies him, is indeed, effectively, to say that his faith makes him ineligible for office. Their stance against him should anger all people of deep faith, of all religions.

In addition, Austin Rusc, President of the Catholic Family & Human Rights Institute, wrote in a letter dated July 29:

> I am deeply troubled by the recent turns of events in the U.S. Senate regarding Catholic nominees to the Federal Court. It appears to me that a faithful Catholic, that is one who upholds the Catholic teaching on the inviolability of innocent human life from conception onward, cannot be confirmed for the Federal bench by this Senate. It very clearly is a religious test for office, and therefore a violation of our Constitution. Moreover, it is an insult to millions of faithful Catholics in this country.

I also received a July 23 letter from the president and three other leaders of the Union of Orthodox Jewish Congregations of America that stated:

> As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. We urge you and your colleagues to empathetically reject this aspersion and send a clear message that such suggestions, whether explicit or implied, are beyond the pale of our politics.

I ask unanimous consent that a copy of the Register editorial be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HATCH. Any suggestions that a person with deeply held religious beliefs cannot be trusted to follow the law, despite a proven track record of doing just that, is unconstitutional. I will continue to fight any form of religious test, direct or indirect, as long as I am a Member of this Senate. I have stood up for the free exercise of religion time and time again, through such measures as the Religious Freedom Restoration Act. I am proud of my accomplishments, and I will continue in my quest to ensure that the free exercise of religion is a right that remains uncompromised for everyone—including judicial nominees.

I yield the floor.

EXHIBIT 1

[From the Mobile Register, July 26, 2003]

TO DENIGRATE PRYOR, HOW LOW CAN THEY GO?

On the matter of the judicial nomination of Alabama Attorney General Bill Pryor, it's time for his Democratic opponents to put up or shut up.

When all the smokescreens dissipate, the Senate Democrats' objections to Mr. Pryor come down to two: First, that his pro-life views are too "extreme" for him to be trusted to uphold laws that contradict those views, and second, that they have been denied ample time to investigate his fund-raising activities.

Let's take them one at a time. Much has been made of Mr. Pryor's supporters supposedly accusing his opponents of deliberate anti-Catholic bias. But that's not what the supporters have claimed. Instead, they've asserted—quite believably—that the critics' pro-choice litmus test amounts to the kind of "religious test" that, whether applied to Catholics (such as Mr. Pryor) or conservative Protestants, or for that matter members of any faith, are explicitly prohibited by the Constitution.

Too Catholic?: It's not merely Catholics who say Bill Pryor's faith is being unfairly used against him. The president and three other leaders of the Orthodox Jewish Union wrote this in a July 23 letter: "As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. . . . In our view, Mr. Pryor's record as Alabama's attorney general demonstrates his ability to faithfully enforce the law, even when it may conflict with his personal beliefs."

Indeed, the Democrats on the Senate Judiciary Committee have repeatedly asserted that Mr. Pryor would be incapable of enforcing the law. Here's Senator Charles Schumer of New York: "In General Pryor's case his beliefs are so well known, so deeply held, that it is very hard to believe—very hard to believe—that they are not going to deeply influence the way he comes about saying, 'I will follow the law,' and that would be true of anybody who had very, very deeply held views."

Senator Richard Durbin of Illinois even suggested to Mr. Pryor directly that he was "asserting an agenda of your own, a religious belief of your own, inconsistent with separation of church and state."

That's a serious charge, in effect saying that if somebody believes deeply, because of his religious faith, that abortion is morally wrong, then that person is unfit for a judgeship.

But the onus is on the accusers to prove from Bill Pryor's record that he is thus hampered from enforcing the law. Mr. Pryor has much evidence on his side, but where is their evidence to the contrary? The Alabama AG, after all, is a white Republican who has taken the side of black Democrats in a suit filed by white Republicans. He is a man who has publicly intervened against the very Republican governor, Fob James, who first appointed him. And on two separate occasions he took stances, as the state's top legal officer, that angered some of his anti-abortion allies.

To look at that record and still assert, as the Senate Democrats do, that the strength of Mr. Pryor's personal beliefs disqualifies him, is indeed, effectively, to say that his faith makes him ineligible for office. Their stance against him should anger all people of deep faith, of all religions.

False testimony?: Senate Democrats also contend that Republicans have unfairly cut off their "investigation" into whether Mr. Pryor testified truthfully about fund-raising activities for the Republican Attorneys General Association—activities the Democrats themselves acknowledge were legal.

The truth is that the anti-Pryor forces are the ones whose tactics should be in question. Using a close associate of a man from whom Mr. Pryor recently secured a guilty plea to bribery charges, the Democratic committee staff obtained documents on July 2 that they claim raise questions about the AG's own committee testimony. (It is not clear how long they had been in contact with that associate, but some Republican senators accused them of knowing weeks in advance.)

The Democrats did not bother to tell Republicans about the documents until July 8. They did not interview former staffers of the Republican group until July 15, two days before the vote on Mr. Pryor was scheduled. They have not yet put the original source under oath. And, despite being given three opportunities to question Mr. Pryor himself about the charges, Democrats declined all three times to question him.

On July 17, the day the committee was scheduled to vote on the nomination, the Democrats presented an "investigation plan" that did not include giving Mr. Pryor himself a chance to answer his accusers.

Not only that, but Republican Judiciary Committee Chairman Orrin Hatch announced that, as of yesterday, the committee had interviewed 20 witnesses, and that every one of them "corroborated the testimony of General Pryor."

In fact, said Chairman Hatch, "what's notable" is the Democrats' "complete failure to specify any evidence that General Pryor misled the committee."

Indeed, they haven't even specified exactly what their charges against him are. There is good reason, then, to agree with Chairman Hatch that the Pryor opponents are engaged in a "full-scale fishing expedition."

Enough is enough. The campaign against Bill Pryor has sunk to tawdry depths. Unless the Democrats "put up" a legitimate reason to delay, instead of these faith-based and procedural smears, they owe him an up-or-down confirmation vote on the Senate floor, with no filibusters and no more subterfuge.

Mr. HATCH. Now, look, it is a little late to start saying we should have a rule that you can never mention religion. That means you could never mention Roe v. Wade. But that would take away the biggest argument that Democrats have against these people. I don't like to mention religion either—never have except in General Pryor's case, after Democrats had not so subtly raised the issue.

Now, with regard to the criticism of Boyden Gray's group, those terms were used first by People for the American Way in formal ads and letters, and then used by, I think, the Americans United for Separation of Church and State. These are two liberal groups.

Here is Americans United for Separation of Church and State, criticizing the nomination of John Ashcroft because he was for charitable choice legislation:

> Ashcroft charitable choice provisions allow a Government-funded program to hang a sign that says "Catholics need not apply."

Where did that come from? That was long before Boyden Gray's group used such language—after all of Democrats' attacks on Pryor's deeply held beliefs during his hearing.

What about People for the American Way? People for the American Way, again, criticizing John Ashcroft because of the charitable choice legislation and saying:

> An evangelical church running a Government-funded welfare program could state that "Catholics need not apply" in a help wanted ad.

Which I doubt any of them would do.

Now, leftist groups used such language, and all of a sudden we hear this screaming and shouting that Boyden Gray's group used the same language—after Democrats put Pryor's religious beliefs squarely at issue during his hearing and markup. Now some will say: Well, I certainly didn't mean for my questions to put his religion at issue. Well, what do you mean it to be? Religious beliefs are his deeply held beliefs and personal beliefs.

Now, look, my colleagues have a right to ask questions, but I also have a right to point out that I think those questions have led us into some very tender areas.

Frankly, what it all comes down to—I hate to say this, but it is true—is Roe v. Wade. That is what it comes down to. It is the be-all and end-all issue to most of our colleagues over here.

Now, it has been to a couple of my colleagues over here, too, but we stopped our side from using it as a litmus test. In fact, I don't know of anybody over here who has used it as a litmus test. But in virtually every case, that is the chief issue Democrats use against President Bush's nominees and the chief gripe about what kind of people they are—because they are traditional pro-life religious people. I don't know what other conclusion you can come to.

So to bring this resolution up is just a political show, because nobody in their right mind is going to let them get away with that type of treatment—or should I say mistreatment—of any President's judicial nominees. I do not want anybody on our side doing it either.

Also, frankly, for my colleague from Vermont, I know he is concerned about this. And I don't think any of these groups, including the conservative groups, should use this type of "Catholics need not apply" language. I don't think it is right. I don't think it should be done. But the ones who did it first, the ones who were never criticized by our media in this country, the ones who were never criticized by my colleagues on the other side, who are now decrying all of this, were the Democratic, liberal inside-the-beltway groups. And all of a sudden Boyden Gray's group is a very bad group because they have used the same language as People for the American Way and the group Americans United for Separation of Church and State.

I yield the remainder of my time to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the distinguished chairman of the Judiciary Committee.

I was taught by my parents from early on never to laugh at somebody's religion, never to make fun of it, respect people's personal faith. I think that is a classic American principle we ought to live by. I would say that is what is happening in a subtle but very practical way is that Bill Pryor's strongly held beliefs, pro-life beliefs, are being attacked. Therefore, they are suggesting he is not fit for the bench because he has these beliefs and those beliefs just happen to be the same beliefs of the Catholic Church and many other church groups throughout America.

We cannot have that kind of test. We cannot expect nominees to come before this Judiciary Committee and renounce their beliefs as a condition to be confirmed. The question simply is, will they obey the law that is afoot in the United States by either statute, Constitution, or Supreme Court interpretation.

With regard to the resolution that has been proposed, that is just a political gimmick. It has no meaning whatsoever. I am surprised it has been offered in a body that considers itself serious. I believe, as was discussed last night between Senator McCONNELL and Senator HATCH and others before, that you have a right to ask nominees questions. If a nominee has a religious belief and his church he supports has a certain belief that has been not the law of the land, it is all right to ask that person about it. It is all right to say, your church believes this or that, the Supreme Court has held differently. Will you follow Supreme Court law. That is the question. We have every right to ask that.

What we cannot say is, because your beliefs are contrary to maybe a Supreme Court ruling or a temporary majority in the Congress, that you are no longer fit for the bench. Everybody has beliefs. Everybody has ideas and concepts. They are free to do so in this country. What you should ask and determine is whether or not the nominee will follow the law.

Bill Pryor has a demonstrated record of that. And on abortion, where he has strong beliefs, the only thing I have found he has ever done involving the manner of abortion was to use his power as attorney general. I was a former Attorney General of Alabama. I know the attorney general can define the law for prosecuting attorneys throughout the entire State, the district attorneys. And Bill Pryor, after Alabama passed a partial-birth abortion statute—a procedure I abhor, most Americans abhor and Bill Pryor abhors—he wrote them and said: Large portions of that bill are unconstitutional and cannot be enforced by you. He directed them not to enforce substantial portions of it.

A pro-life leader in the State criticized him and said he gutted the bill. The only other thing I have ever heard him say about abortion was that he would prosecute to the fullest extent of the law those who violate and protest abortion clinics in violation of the law. He has never abused his position to further his personal views about abortion or any other, for that matter.

It is unbelievably frustrating to me to be on this floor and have Senators from New York and Massachusetts and Vermont stand up and say: This man is radical. He is out of the mainstream. He is unfit for the bench—just say those words about one of the most decent, caring, honest public servants I have ever met, a public servant who has demonstrated without any doubt his capacity to do the right thing under the most tough political circumstances. I talked about that in depth last night but nobody seems to care. He has been accused of not being for civil rights.

The former county commissioner from Jefferson County, the largest county in the State, Chris McNair, whose daughter was killed in the 16th Street church bombing by the Klan many years ago, has written in support of Bill Pryor. He strongly supports him. Bill Pryor helped complete prosecutions in that case recently. Doug Jones, the prosecutor in that case, a Clinton U.S. Attorney, supports Bill Pryor. Artur Davis, Alabama Congressman, Harvard graduate, assistant United States Attorney, brilliant young congressman, supports Bill Pryor.

Joe Reed, chairman of the Alabama Democratic Conference, probably the most powerful political individual in Alabama, every Presidential candidate for the Democratic nomination knows Joe Reed personally and has probably talked to him a half a dozen times, a member of the Democratic National Committee, he writes a letter and says:

> . . . I am a member of the Democratic National Committee and, of course, Mr. Pryor is a Republican, but these are only party labels. I am persuaded that in Mr. Pryor's eyes, Justice has only one label—Justice!
>
> I am satisfied that if you appoint Mr. Pryor . . . he will be a credit to the Judiciary and will be a guardian of justice.

He goes on to say other things.

I want to share this letter from Alvin Holmes, a State Representative in Alabama for many years. He says:

> I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives, I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities.
>
> I consider Bill Pryor a moderate on race.

We have had Senators KENNEDY and SCHUMER and others saying Bill Pryor is unfair on the question of race. They say he questioned some portion of the Civil Rights Act. But he questioned section 5, the same portion Attorney General Thurbert Baker of Georgia, an African-American Democrat, has also criticized. This African-American Attorney General in Georgia has explicitly written in support of Bill Pryor for his confirmation.

This is what Mr. Holmes says:

> From 1998 to 2000, Bill Pryor sided with the NAACP against a white Republican lawsuit that challenged the districts [in Alabama] for the Legislature. Pryor fought the case all the way to the U.S. Supreme Court and won . . . The lawsuit was filed by Attorney Mark Montiel—

I know Mr. Montiel, as does Mr. Pryor.

> —a white Republican, and the 3-judge district court ruled 2 to 1 in favor of Mr. Montiel.

Bill Pryor took it to the Supreme Court on behalf of the existing districts and won the case.

> In 2001, [he] sided with the Legislature when it redrew districts for Congress, the Legislature, and the State Board of Education.

Mark Montiel challenged that in Federal court. Bill Pryor defended the legislature, and the reapportionment plans that favored the Democrats in the State because it was a duly enacted legislative plan of Alabama.

He worked with Doug Jones to prosecute the KKK murderers at the 16th Street Baptist Church in Birmingham. As I said, Mr. Chris McNair, the father of one of those young girls who was killed, strongly supports Bill Pryor. He created the sentencing commission in Alabama for ending interracial disparities in sentences. In 2000, he started Mentor Alabama, a program to recruit positive adult role models for at-risk youth.

This is Mr. Alvin Holmes talking:

> In 2001, I introduced a bill . . . to amend the Alabama Constitution repealing Alabama's racist ban on interracial marriage.

This was an amendment that had been declared unconstitutional but was still in the State Constitution. He continues:

> It was passed with a slim majority among the voters and Bill Pryor later successfully defended that repeal . . .

Every prominent white political leader in Alabama, Republicans and Democrats, opposed or remained silent on the bill except Bill Pryor who openly and publicly asked white and black citizens to repeal the law.

Mr. SANTORUM. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I am pleased to yield.

Mr. SANTORUM. Is the Senator from Alabama familiar with an op-ed in this morning's Manchester Union Leader: "Judging judges: Conservatives, Catholics needn't apply."

Mr. SESSIONS. I have not seen that editorial, but we are receiving a flood of those kinds of communications.

Mr. SANTORUM. I would like to hear the Senator from Alabama's comment on just a couple of things the Union Leader says. In talking about some ads running about Catholics not needing to apply for judicial vacancies, it says:

> Democratic Senators opposing President Bush's nomination of Alabama Attorney General William Pryor to the 11th Circuit Court of Appeals because of his "deeply held" belief that abortion is wrong.

I just suggest that a deeply held belief is rooted in his Catholic faith. That is where beliefs come from; they come from your moral teachings, much of which is through the faith that you were brought up on.

I return to the article:

> In opposing Pryor's nomination on the grounds that he believes strongly that abortion is immoral, the Democrats are doing nothing more than playing sleazy partisan politics.

The last comment is:

> What Senate Democrats are doing to the judicial nominations process is a disgrace to their party and to the country.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Orrin Hatch, Ben Nighthorse Campbell, Craig Thomas, Charles Grassley, John Cornyn, Chuck Hagel, Jim Talent, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, Larry Craig, Jeff Sessions, Lindsey Graham, Rick Santorum, and Thad Cochran.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 316 Ex.]

YEAS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—3

Jeffords
Kerry
Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace "tribal consortia" with "tribal energy resource development organizations".

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Domenici amendment No. 1412, to reform certain electricity laws.

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Frist amendment No. 1432 (to instructions on motion to commit), to provide a national energy policy for the United States of America.

Frist amendment No. 1433 (to instructions on motion to commit), to provide that all provisions of Division A and Division B shall take effect one day after enactment of this Act.

Frist amendment No. 1434 (to amendment No. 1433), to make a technical correction.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as chairman of the Committee on Energy, I am ready to proceed at any time. We have no amendments on the Republican side, so the amendments are all on the Democrat side. We stand ready to accept amendments, to debate them, to vote on them, to get rid of them. We are on one of the sections that is clearly definable. It has a limited number of amendments, the so-called electricity section. We very much would like to proceed and ask the other side if they are ready, if they could perhaps start with an amendment on the electricity side, and let us know what the remaining amendments are so we can see how long it will take us to complete the electricity title of this bill.

I say that, and at the same time I put it as a question to the minority leader.

Mr. DASCHLE. Madam President, could the Chair inform the Senate as to what the pending business is?

The PRESIDING OFFICER. The pending question is the majority leader's second-degree amendment to his first-degree amendment to his motion to commit.

Mr. DASCHLE. Do I understand the Chair that the answer is the pending business is the motion to commit the bill, not the electricity title, is that not correct?

The PRESIDING OFFICER. The pending question is that motion and the amendments thereto.

Mr. DASCHLE. I inform my colleagues that is the issue.

Last night, the majority leader filled the tree and made a motion to commit, moving off of the floor for consideration of the energy title. I will talk about that for a couple of minutes as I consider those actions last night.

We have heard some very creative explanations from the majority about how the Senate has gotten into the mess we are in this morning. They are doing their best to blame Democrats, as usual. There is one simple explanation for why the Senate has not finished its work: Politics. The majority has been playing politics with this bill and with other issues. That is just not conducive to reaching the good bipartisan outcome we expect in the Senate. Republican leaders have been playing politics so much that some Members of the Republican caucus have themselves begun to protest.

Conservative Republicans now say their leadership could have finished this Energy bill if the Senate had not been repeatedly distracted by political matters. I agree.

In an article headlined "Frist Schedules Judicial Votes, Slowing Energy Bill" in today's addition of Rollcall, it reported that:

> Though most Republicans are publicly blaming . . . "obstructionism" for the sputtering energy debate, many GOP Senators privately acknowledge that the [majority leader's] decision to pepper this week's schedule with unrelated votes on controversial judicial nominees has made it less likely the Senate will pass the energy bill before the August recess.

That is not Democrats talking; that is what Republicans have said.

The Rollcall article goes on to quote one Republican Senator:

> It might have been better not to have brought [judges] up. I think it was a mistake.

That is according to JIM INHOFE, quoted in Rollcall.

It quotes Senator LARRY CRAIG, "who is one of the many conservative Republicans who have complained about FRIST's unwillingness to push the energy bill to Senate passage, [and] said the majority leader could have avoided the time issue on judges by not bringing them up at all.

> "It was unwise," said Craig, former chairman of the Republican Policy Committee.
>
> I've been in the leadership—never at [Frist's] level—but I clearly realize the pressures put on you to do other things in the runup to a recess.
>
> I've also been involved in tough floor debates before, and once you get on them, you stay on them, and you drive it until you finish it.

Senator CRAIG THOMAS agreed:

> I wish we hadn't gone off it, frankly.

The Rollcall article went on to state that relatively few debate days spent on energy "have been spread out over the past three months causing CRAIG and others to complain that the on-again, off-again schedule has prevented the bill from gaining the momentum to pass."

Again, all quotes from Rollcall this morning.

Last evening provides a good but regrettable example of how this on-again, off-again Republican schedule has slowed the energy debate. The Republican leadership scheduled a vote for this morning on cloture on the nomination of one of the most highly controversial nominees we have had in this Congress. The outcome of today's vote was never in doubt. It was scheduled purely for political reasons, to satisfy a segment of the far right. A schedule of this vote elicited a vote last night not on energy but on a controversial judicial nominee. The Senate spent from 6 p.m. yesterday until 10:17 p.m. debating something other than energy, 4½ hours wasted on political debate brought on by Republicans, 4½ hours that could have been spent productively on the Energy bill.

That is not the only kind of interruption we have had this week. We even stopped action on the Senate floor on Tuesday for 2 hours so the Senators could attend a meeting at the White House. Guess what the purpose of that meeting was. For the Senate to be urged to complete the Energy bill. So we took 2 hours off of the floor debating the Energy bill to talk about how important it was to complete it—a few blocks from here at the White House.

Hurry up and wait seems to me to be the adage. Stop and start, switch gears. That has been the pattern all week long. In fact, that has been the pattern now for months. At one point we interrupted the Energy bill on June 12th and we did not return to it until the evening of July 24th, an interruption of 5½ weeks. To make matters worse, we are told the topsy-turvy schedule will continue tomorrow. As if the schedule were not bollixed up enough already, Senate Republican leaders now say we will be taking up the nomination of yet another controversial nominee for another political vote tomorrow.

As Republican Senators said today in Rollcall, that is just not the way to complete action on a major, complex piece of legislation.

Something else is very important about this debate. It has been omitted from what the majority is saying this morning. It is what this Energy bill and its debate is supposed to be all about. It is about ensuring Americans will have a comprehensive, balanced, reliable energy policy that protects consumers from energy market manipulation and high energy prices. These are important issues. It takes time to get them right. We have a duty to the American consumer to ensure that we fully consider what our energy policy should be in the future.

Without further amendments, this bill, unfortunately, could be billed "the Enron Production Act." Despite the massive problems experienced in our energy markets recently, this bill fails to address some of the most basic problems we are facing in our country today. It fails to outlaw many of the most egregious scams and frauds that have been perpetrated against energy ratepayers all across the country.

The round-trip trading was one of the scams used in manipulating the markets by Enron. Round-trip trading was actually covered in the Domenici bill and was also covered in the amendment offered by the distinguished Senator from Washington, Senator CANTWELL. Fat Boy, hiding the profits and then making a number of different calculations and begging for others to get involved, the Fat Boy scam is not included in the bill. It was included in the Cantwell amendment that came up yesterday. Ricochet, which allows Enron and other companies to dodge the price caps, was not in the Energy bill but was in the Cantwell amendment yesterday. Death Star, the leaking air out of tires and then paid to tow, that, also, is something that was not covered in the Energy bill but is covered in the Cantwell amendment. All the way down, every single one of the scams used by Enron, except for one, was intentionally eliminated, removed from the Energy bill.

There is no protection against the very scams that devastated California and devastated Washington and are going to devastate the country unless we deal with it. Why have they been left out? I can't tell you. But they are left out, leaving consumers with the very likely prospect they will get gouged this winter with natural gas prices and you will see manipulation like we saw with Enron, over and over again, because this bill is unwilling to address those key manipulation practices that made Enron the scorn of the country that it is today.

Democrats are willing to work, as I have said 100 times on the Senate floor over the course of this year. We are willing to work with our colleagues to come up with a bill that works, that addresses these scams, that addresses all the shortcomings, that provides a meaningful, comprehensive piece of energy legislation. But to do that, we have to address electricity in a meaningful way; we have to look at global warming; we have to pass a renewable portfolio standard; we have to address CAFE; we have to ensure that hydroelectric dam relicensing is included; we have to ensure Indian energy is part of our plan, nuclear subsidies, natural gas, energy efficiency incentives, wind energy, carbon sequestration. All of those issues are legitimate, worthy considerations for debate, amendment, and ultimate decision by the Senate as to what kind of energy policy we ought to have in this country.

These are not single amendment issues. Each one of these areas is going to take a little time. But you don't have that time to deal with these questions when you have debated William Pryor for 4 hours in a prime time opportunity last night. You are not going to deal with it today when we have to explain why Carolyn Kuhl is a nominee about whom we have great concern. You are not going to do it, as our Republican colleagues have said, when you get waylaid and you are taken off the bill for days, if not weeks, at a time.

So it is no surprise that we are in this mess this morning. We faced a very difficult time last year passing an Energy bill. But you know what we did? We stuck to it; we stayed with it. It took us days and days. We entertained 144 amendments. We had rollcall after rollcall on every one of these issues. We ultimately passed the bill 88 to 11. But that is how you work in the Senate. That is how you get the job done. You don't bounce around taking this from that, moving from this to that, and ultimately not having the kind of momentum it takes to finish a bill on time.

We have only spent, realistically, 8 days on this bill—8 days. We have only had a few rollcall votes. We have considered 102 fewer amendments than we did last year.

I am not suggesting that somehow we have to replicate what happened last year. I think we can do it faster than that, and I have come to talk to the distinguished manager on more than one occasion to say we are prepared to work with him.

I don't know of anybody who has worked harder to accommodate our majority and to work to see that we find ways in which to work through these amendments such as the Energy title, more than Senator REID has, our assistant Democratic leader. No one has worked harder than he has to get to a point where we can actually consider these amendments one by one. Nobody is trying to delay this bill. But it is impossible to finish it with all of the extraordinary diversions we have had.

I will end where I started. This is politics. This is blame the other guy. This is, we can't get it done so we will just tell everybody it is the Democrats' fault.

I thank our colleagues for their candor in Roll Call this morning because they have laid the facts bare. They know and we know why we don't have this bill done. They know and we know that until we get serious about meaningful consideration of amendments on these difficult issues, we are not going to get it done.

We are prepared to work. But as long as we have nominations such as we have this morning that is impossible. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, first, let me say I am very appreciative of the efforts that have been put forth by Senator REID, working with the Senator from New Mexico and others, as we move through this bill.

Second, I am absolutely positive that the issues which the distinguished leader raises, in terms of the people of our country needing protection and his long litany—I am absolutely concerned that when the day is done and the bill is passed, that the Senate will find that each and every one of them are covered and they are in this bill.

We didn't work forever to leave the kinds of loopholes to hurt the American people that are described in that litany of items that the distinguished majority leader says remain undone. I understand. He would rather we prove that on the floor of the Senate. I assume that is what he is talking about, by way of debate.

But so there will be no misunderstanding, this is a good bill. The electricity section covers every one of those issues that were raised. The question is, How long should it take for us to get those issues before us, debated, and completed?

I am not here to discuss the policy of our leader. He is here; our whip is here. They can discuss that. But I know we could have accomplished a lot more than we have as of today on the Energy bill. We could have accomplished, in my humble opinion, without any question, the entire electricity portion of this bill. Every reasonable amendment anybody has could have been debated. We took 1 full day when we did absolutely nothing because one Senator said we could not change from one amendment to another when everybody knew that was what we were going to do upon our return.

We had an Indian amendment that even the Democrat manager of the bill wanted to set aside for a few changes so we could proceed, and the whole day passed because one Senator said you will stay on it and you can't do anything else.

I submit that 1 day, being the day of Monday, we would have completed one, two, or even three of the sections on the most important part of this bill, the electricity section.

Far be it for this Senator to go through each day over the last 7 or 8 and talk about what has happened by way of interruptions. But I can say, only speaking for myself, that the Energy bill is the most important remaining legislation that we have for this year. I say that not just for myself, not just for my distinguished minority friend and leader, but for the majority leader. There is no more important legislation than the Energy legislation. And Senator, I say to you, I don't think you have ever said it is not, and I do not imply that. It is filled with important issues. It is filled with proposals which will lessen our need for imported oil. It is filled with provisions which will turn our electric system into a real system instead of a hodgepodge that accomplishes little or nothing other than each region of the country provides more and more and the country, as a whole, is shortchanged.

It provides alternatives. It provides the energy sources we have all been worried about being shortchanged—wind energy, bio energy, and the like. It has a tax section which will sensitize and provide incentives so that we will bring these kinds of energy on board.

Why do I talk about them in light of the speech which we have just heard? Because I submit that it is easy to find reasons not to get this bill done. It is easy to find justifications for saying we could not get it done. But I believe it should be very difficult to justify not proceeding.

For instance, right now we have the entire days of today and tomorrow. Neither of these days is planned for anybody's vacation—anybody's use. I beg the other side, let's finish the electricity section today.

The answer is, we can't do bills in pieces. My response is why not? The electricity section of this bill is a section that is, indeed, all by itself. The amendments I have heard about are about two-thirds finished. Our leader is willing to remove the impediments which are technical in nature so we can proceed.

So I beg the minority, let's do the electricity provisions in this bill. Let's do it now. Let's do it tomorrow. Granted, we will have more to do, but what is wrong with doing one big piece of this bill now? What is wrong with completing the sections, if in fact the minority leader is correct in the chart that he showed? This Senator says he is not, but if he is, let's talk about them today. Let's see the amendments and let's vote on them.

It is now 11 o'clock. Even if we do not want to work very hard we can work 7 hours today and 7 hours tomorrow. I submit you can finish five or six amendments on electricity, Senator LOTT, before that time has elapsed, and we will not complete everybody's desires on this bill but that is pretty important.

We can either do that or we can stand up here and say the distinguished minority leader is correct. He has just quoted a bunch of Republicans who are second-guessing the majority leader or who are being misquoted—maybe they really did second-guess him, maybe they didn't, but it looks good. The way the quotes are used, it looks as if they are criticizing him. But, nonetheless, it does not mean we can't get something done.

I submit it is as simple as this. If they will agree to do that, I will get the majority leader to agree that we go home on this recess and we return and we will take up this bill as soon as we return and finish it.

That is a pretty bona fide offer. It is pretty fair to the Democrats and pretty fair for the American people. Let me repeat it. Let's do the electricity provisions now. Let's work hard and complete them. That means we work until 7 or 8 tonight. Tomorrow night, we might not have to work that very hard.

I saw those lists. Those are not difficult amendments. We will be finished with what everybody says is the most complicated and most difficult portion of this bill. Then we can ask, Where are we? Then we can agree and say to the Senate we can go home on recess. And, Mr. Majority Leader and Mr. Minority Leader, won't you agree that upon our return, we come back to work? We come back on a Wednesday. We will have a Wednesday, a Thursday, and a Friday, and we will set those three days aside unequivocally—absolutely nothing else but the Energy bill. We can do that. Then we can stop blaming. We can do something productive, constructive—not completion of everything but pretty much.

What else would the minority like us to do? Would they like us to do something about the other pending judge? Let us ask the leader about this other pending judge, and get on with what I am just describing as a manager of a very positive approach to this bill.

For some reason, it would appear to some that we must set aside 3, 4, 5, 6, 7, or up to 8 days and leave them there in order to consider the Energy bill in its entirety. I see no relationship in discussing with the American people the electricity section of this bill and a section on clean air which might be offered at another time. They are completely different. As a matter of fact, the second one doesn't even belong on this bill. It could be offered 6 months from now on an Environment and Public Works bill, to be honest. But we intend to offer it here. It need not be done on the same day in the same week in some kind of togetherness so we can tell the people the entire story. We can do the biggest piece of this without any difficulty today.

I believe I am just talking because that is what is expected. But the other side has made up its mind. I have found that sometimes when you make a proposal that is halfway reasonable, somebody listens to it. I am making one. The Senator from New Mexico sometimes offers unreasonable proposals. Most of those were when I was doing the budget. That was because people thought I didn't want to spend some money that was patently unreasonable. But what I have just offered is not unreasonable. I submit it should be done. I ask that it be done. I implore the minority to let us do it. I ask that they sit down for a moment off to the side of the Senate and agree to it.

I also ask, since the majority leader was able to put a chart up and list seven items, if I counted right—maybe it was six—that perhaps he could let us see six amendments on electricity, or five or seven. Who knows? We might be able to agree on three or four of them. We can't get that done either.

That is normally the way we do it. It is not as if we have to be hiding these issues. They are either real or they aren't. If somebody can really show the American people a piece of legislation that says the electricity bill is going to hurt the American electricity user, here is the language or not. It ought to be audible, understandable, and clear enough so we can get it out there and look at it. I have not been able to do that yet.

I haven't seen any amendments on the other side that clearly say the electricity section was put together and is supported by all method, manner, and kind of electric generating and electric distribution companies in America. Did you know that? The section is supported by all kinds. With one exception, it has everybody's support. It would seem to me that it is pretty good. Let us see what is wrong with it, and let us get those solved.

I apologize to the Senate for taking so much time. But I have a hunch, from what I just heard, that maybe I will not be speaking for a couple of weeks on the subject, in which event this might be the last you will hear from me for a while about this subject. But I beg you not to cut it off this morning, and not to leave here with some kind of a pick and with some kind of partisan ill feeling. Just as you might have them on your side, I am sure some have them on our side, partisan-wise. If mistakes were made, I am sure on our side of the aisle somebody will get up and say you have made mistakes. But please don't get up from the Judiciary Committee when I am finished—none of you—and talk about how we made mistakes with reference to the judges. Let us put that off for a while to see if we can't stay on electricity for a few minutes, if you do not mind. I beg you.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from New Mexico, chairman of the committee, has great passion for this legislation, as do I. I know that last evening I perhaps offended some in this Chamber by standing around here and objecting to everything for a while because last evening, at a time when I thought we should be on the Energy title, we were preparing to move this Senate to debate on a judgeship that didn't have to be debated. So I sat out here and objected to everything, and it upset people. I understand that. But I had the same goal that the Senator from New Mexico has. I thought we should be on the Energy bill and on the electricity title. I believe we ought to do that title. I would like us to start now and do that title.

My colleague, Senator CANTWELL from the State of Washington, sat here for 2 hours last night wanting to offer an amendment and go back to the electricity title of the Energy bill but couldn't because we were on a judgeship that we didn't have to do. We shouldn't have had to do that now.

Let me make a comment. I think the way to approach this—I happen to have the same goal—is I believe we ought to go back to the electricity title right now. I would like to have amendments offered and debated. I am willing to stay here all night and get through the electricity title.

I tell you how I think we should best do that. I think we should vitiate the motion to recommit the Kuhl nomination. We don't need a vote and debate on another judge, and especially a controversial one. Clear those things out of the way right now and begin the next amendment on the electricity title. I don't know what that amendment is, but let us have a debate on it.

Let me also say that the Senator from New Mexico—in fact, both Senators from New Mexico, the chairman and ranking members of this committee I think provide pretty good leadership for this Chamber. I am pleased they have the role they have.

There is a legitimate disagreement on the electricity title with respect to the protection for consumers. That is a legitimate disagreement.

I have a letter from Mr. Eliot Spitzer. Mr. Spitzer testified at hearings I held in the Commerce Committee on the Enron issues and also the Wall Street issues about 2 years ago. It is addressed to Senators DOMENICI and BINGAMAN. I believe other Members have copies of it. He is one side of this agreement.

He said:

> I applaud your efforts to protect our energy markets from fraud and manipulation through legislation currently under consideration on the floor of the U.S. Senate. I am, however, concerned that certain provisions of the proposed legislation would make it difficult for States to protect their citizens from such fraud and manipulation.

Then he went specifically into sections 1171 and 1173. He said:

> Sections 1171 and 1173 of the proposed amendment would undercut State law enforcement and regulatory agency efforts to stop fraud and abuse in the energy markets.

I know Eliot Spitzer. He is attorney general of New York. He has done extraordinary work. He has taken all of them on in behalf of consumers. He has a view here that is very important and which we should consider very seriously. We have different views about how we protect the consumers.

With respect to west coast electricity manipulation—the manipulation of the markets to the tune of billions of dollars—I assume at the end of the day all of us want to end all of that opportunity by any company that would manipulate the markets. If we have the same goal at the end of the day, then, look, in my judgment, let us begin offering amendments. Let us have the staff and the relevant Members begin working them out and talking through compromises that are necessary, and then finish the electric title. At least let us do that title.

But that can only be done, it seems to me, if we get rid of the extraneous issues. We have a motion to commit. And I am told—I have not seen that motion in detail, but I am told the motion to commit excludes, for example, some amendments that already have been passed.

I had an amendment, and a pretty strong vote on my amendment, dealing with targets and timetables with respect to hydrogen economy and fuel cells. My understanding is that is not included in the motion to commit. So the motion to commit has all kinds of issues attached to it.

Let's get rid of that, and let's get rid of the Kuhl judgeship nomination, and then move to the electricity title, stay on it, and finish the title. As far as I am concerned, I sign up to do that. I would hope the majority leader would. I hope most of my colleagues would. And I hope there is no one on the floor of this Senate who says: Let's dig in our heels and not do this.

I happen to agree with the Senator from New Mexico, the chairman of the committee. He does not have to beg anybody, not me, and not anybody, I hope, on this side to want to finish this bill, beginning with: Let's finish this title, the electricity title.

Let me say, finally, this title is critically important to this bill. This bill is about incentivizing production. It is about conservation. It is about efficiency. It is about incentivizing limitless and renewable sources of energy. It is about a wide range of issues.

But in the electricity title it is also about paving the road for a philosophy that some want dealing with "restructuring" in which you will move electricity from some areas of the country to other areas and of which consumers in areas where they enjoy low-cost power—my State, for one—will see that power move to other parts of the country where they now pay higher rates for power, and they want our lower cost power, so it will be replaced with higher cost power.

A study by the Department of Agriculture some while ago said consumers in a State such as mine, under this deregulation and restructuring, will end up paying substantially higher electric rates. That is not what I want for my State. So there is a lot of discussion about whether deregulation and restructuring is appropriate.

We have been deregulated and restructured to death. We have seen it in the airlines. We have seen it in the railroads. We have seen it in trucking and so many areas. Every time we have been restructured, I tell you this, the rural States lose. So we need to think through this very carefully.

In the electricity title, especially, if we end up with concentrated markets, fewer firms, with more muscle and more power, then consumers need to have the opportunity to protect themselves. We must have adequate protections in this title for consumers because we have seen what happens without it.

I tell you, when I began to see the results of what was happening in the west coast electrical markets and energy markets, including natural gas, the first information we received about that was almost unbelievable. You would read some of these internal memos that were sent to us by people inside the companies, and you would say: Well, this clearly can't be right. They wouldn't write a memo in which they said: Let's construct a strategy by which we cheat, and we will put a name on it, Fat Boy. But, in fact, the more we dug, the more we found. And the more we found, the more disgusted we became because west coast consumers got cheated. It was stealing. And there are now substantial criminal investigations underway.

The interesting point about that is, the hearings that we held in the Energy Committee during that period of time were hearings in which we had the Federal Energy Regulatory Commission come up and testify. They are supposed to be, remember, the referees, the people who wear the striped shirts, the ones with the whistles, the ones who call the fouls. They came up and sat and did their best imitations of a potted plant, acting as if they were dead from the neck down—and neck up, for that matter—acting as if nothing was going on. They said: Well, there is no manipulation. There is nothing happening that is untoward. This is the market system.

It was not the market system. It was crooked. It was criminal. It was systematic and relentless cheating of consumers. That is why this title is so important. We have to do this, and we have to do it right.

Now, I don't want, at the end of the day today, tomorrow, or Saturday, or Sunday—I don't care—I don't want, at the end of the day, for any of us to think we failed to do an Energy bill, that I think we should do, to finish an electricity title, that I think we should finish, because those who schedule this place said: Well, this is urgent, but we should do this judgeship first; this is urgent, but we should do the second judgeship next; this is urgent, but we should do some trade bills, some free-trade amendments.

I don't understand that. If this is urgent—and the President called us down to the White House to say it was; in the Cabinet Room he told us, we need to get this done—if it is urgent, why all the starting and stopping?

Mrs. BOXER. Will my friend yield for a question?

Mr. DORGAN. Why don't we start? If it is urgent, why don't we start at this moment and get to the finish line on the electricity title?

My colleague, Senator DOMENICI, suggested we do that. I say, let's do it. Two steps are required: vitiate this motion to commit and get rid of the Kuhl nomination, which, incidentally, in my judgment, should not come to the floor, in any event; and then let's get on electricity, stay on electricity, and I will be here with Senator DOMENICI and Senator BINGAMAN until we are done with that title. Then let's see what is left and see if we don't find the finish line in this bill. That is the way we should do this bill.

Now, look, I don't run this place. I understand that. Others do. We are not the majority. Others are. But the question of what is urgent and what is important is a function of scheduling.

I would just say to the majority leader, and others, I believe at this moment our responsibility—if this is an urgent bill; and I do believe it is an urgent bill—our responsibility is to clear the deck—clear the deck—and move ahead. You clear the deck by getting rid of this motion to commit, getting rid of the judgeship, allowing Senator CANTWELL to offer her next amendment, allowing others to offer their next amendment, working through them, one by one by one, using a little common sense about how we improve this Energy bill so all of us can pass a piece of legislation that we are proud of, and one that advances the interests of the country.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mrs. BOXER. First of all, I thank the Senator for his, as usual, very concise reasoning over where we are. We are at a bit of an impasse because of what my colleague said.

I want to ask my friend, is he aware that for the Kuhl nomination both Senators from her State oppose her confirmation? Is my colleague aware of that?

The PRESIDING OFFICER. The Senator will direct her questions through the Chair.

Mr. DORGAN. Mr. President, responding to the Senator's question, I am aware of that. It is unusual because the rules used to be if both Senators from a State oppose the nomination, then it would not come to the floor. As I understand it, that was always the rule. That rule has apparently been abrogated or at least changed with respect to this nomination.

Mrs. BOXER. I want to further say to my friend, when Bill Clinton was President and ORRIN HATCH was chair of the Judiciary Committee, if one of the two Senators from that particular State did not send back a permission slip—or, as we call it around here, a blue slip—the nomination never moved forward.

Is my colleague aware that rule is changed by the chairman and, indeed, ignoring Senators' views? I would say through the Chair, is my colleague aware that Senator HATCH changed that rule?

Mr. DORGAN. Mr. President, responding to the Senator from California, I am not aware of the internal machinations of the Judiciary Committee. I read about what that committee does from time to time. And while I suppose it is entertaining, because there seems to be a fructus over there on most of these issues, there has been one consistent thing that has happened in the Judiciary Committee with respect to judgeships; that is, the judgeships are circumstances where the President proposes and we dispose. We have a constitutional obligation and requirement. Normally speaking, the Judiciary Committee has relied on the judgment of the two Senators from a State before it decides whether to move a judgeship.

My understanding is, the judgeship that is to be moved to the floor for a vote—a cloture vote in the middle of this Energy bill; and, incidentally, preceding a vote I assume there has to be debate on this judge—this particular judge has been opposed by both Senators of the State.

There is no reason, there is no reason at all, for that to be debated now or to have a cloture vote in the middle of an urgent piece of business such as the Energy bill. I do not have the foggiest idea why that is brought up, unless it is to advance some political interest someplace. But that ought not be here.

Senator DOMENICI is absolutely right. What we ought to do at this moment is go back to the starting line on electricity, and then decide that between now and the end of the electricity title we are not going to be interrupted—no interruptions for anything. I agree with Senator DOMENICI, let's do that. I pledge I will stay here on the floor and work with my colleagues. Let's get the electricity title done. And let's not move off to these extraneous issues. It makes no sense, if this is, in fact, an urgent matter, to move off it onto judgeships that shouldn't be debated and shouldn't have to be voted on prior to the break.

Mrs. BOXER. Mr. President, I have one last question for my colleague through the Chair.

I just want to say, as someone from a State that has been painfully hurt by the electricity scams that went on on the west coast—and I think Senator CANTWELL has put it best when she relays the story that when she goes home—and I can tell her, it happens to me, too—people say: Why isn't Ken Lay in jail—Ken Lay, the head of Enron Corporation?

They ask me about Jeff Skilling who came before the Commerce Committee and defended these schemes. He didn't know anything about all the schemes that came to light that hurt the people of California to the tune of probably an $11 billion theft.

So I ask my friend, through the Chair, this question: We have no control over when and if ever Ken Lay goes to jail or the other scoundrels who did this to the people of the west coast by making these phony shortages and stealing their money for things they need to survive. We don't control that. The administration does, through the

Attorney General's Office. I hope they are moving aggressively, but it is awful slow.

Mr. LOTT. Regular order, Mr. President.

Mrs. BOXER. What we do control is this Energy bill and this electricity title. My friend is so right to try and protect his people and the people from every State in the Union from what my people went through in California and Senator CANTWELL's people went through.

The PRESIDING OFFICER. The Senator yielded for a question only.

Mrs. BOXER. I am asking my question. Isn't it true, I say to my friend, that this is the only way the Congress can assert itself since we have no control over what happens in the courts, that we can do something about sparing your people and the other people around this country from what California went through?

Mr. DORGAN. Mr. President, responding to the Senator from California, I believe that is the case. This is the place to have that discussion. As I mentioned to Senator DOMENICI, there is a respectful disagreement perhaps about what words mean and what protection might or might not exist. But surely we can work that out, offer amendments, have votes, and get to the end of the electricity title.

I referenced a letter that has been sent to Members of the Senate from Eliot Spitzer, the Attorney General of New York. I ask unanimous consent to have the entire letter from Attorney General Spitzer printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY GENERAL,
New York, NY, July 30, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy & Natural Resources, Washington, DC.
Hon. JEFF BINGAMAN,
Ranking Minority Member, Committee on Energy & Natural Resources, Washington, DC.

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: I applaud your efforts to protect our energy markets from fraud and manipulation through legislation currently under consideration on the floor of the United States Senate. I am, however, concerned that certain provisions of the proposed legislation would make it difficult for States to protect their citizens from such fraud and manipulation. In addition, the failure of this legislation to remove the so-called "Enron Exemption" codified in the Commodity Futures Modernization Act of 2000 will allow electronic trading and other activity in the energy market to escape oversight.

Sections 1171 and 1173 of the proposed amendment would undercut State law enforcement and regulatory agency efforts to stop fraud and abuse in the energy markets. Requiring that "any request by any Federal, State, or foreign government, department or agency or political subdivision" for information from energy market participants be directed to the Commodity Futures Trading Commission (CFTC), the proposed legislation would hamper States' investigation of violations of laws related to the energy markets. Interposing this federal screen between the States and the perpetrators of abuses is inappropriate.

In addition, by expanding the CFTC's jurisdiction over electricity and gas markets, the amendment would inhibit the authority of States as well as federal agencies to address abuses in these markets, markets that, as a result of the Enron Exemption, are not subject to CFTC oversight.

As the United States Senate seeks to protect our nation from energy market abuses, I urge you not to diminish the ability of the States and of federal agencies to prevent, detect and eliminate threats to American consumers and shareholders.

Sincerely,

ELIOT SPITZER,
Attorney General.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield for a brief question.

Ms. LANDRIEU. I wanted to ask my distinguished colleague if I had heard the Senator from New Mexico correctly when he suggested that one way to proceed to move us past this very difficult hurdle would be to take up the electricity section and try to finish that before we left? If that is what I heard, was that a suggestion made by the chairman of the committee, who has worked so hard to try to put a bill together, thinking we could perhaps resolve some of those difficult issues on the electricity section? Is that what the Senator understood the chairman of the committee to say?

Mr. DORGAN. The chairman of the committee has great passion about wanting to finish this bill. I serve on the committee, as does the Senator from Louisiana. I understand that passion because I believe energy is a significant priority. He indicated he would beg that we get back on the electricity title and finish the title. I happen to think that makes a lot of sense. I believe we should do that posthaste and move through the amendments.

It is almost as if the Senate as an institution has attention deficit disorder. We just go from one subject to another and then back. And then we say, OK, focus, focus, this is urgent, this is important. And then an hour later, we are off on another subject for a bit because we have to vote on a judgeship in California; we have to vote on a judgeship here or a trade agreement there.

I suppose in real life you could be medicated for that, but as an institution, all we have to do is decide that we are going to focus on that which we believe is urgent. The Senator from New Mexico has said this is an urgent bill. He is correct about that. I have watched him for several days. He has great frustration, I am sure, at not making as much progress as he would like to make.

I mentioned a moment ago, I was here last evening. Senator CANTWELL was here waiting for 2 to 3 hours to offer an electricity amendment but could not do it. Why? Because we were off debating a judgeship that should not have been debated and didn't need to be voted on. There needed to be no cloture vote on that. But the leadership said, you have to be off on that.

I understand the Senator from Mississippi is waiting to speak. He is probably going to remind all of us that the Senate isn't run by 100 Senators; somebody has to schedule. I recognize that at one point he had to schedule this place. It is not easy. Scheduling is not easy under the best of circumstances, but it is made much more difficult if you have conflicting language, saying this is an urgent bill that must get done, but then you can't stay on it because you provide all these other issues. In the middle of this urgent situation, you decide you want to take some time to have a seventh cloture vote on Mr. Estrada. Is that urgent? I don't think so.

So with respect I say, let's now go to the electricity title, and let's work through the Energy bill. We ought to get this title done tonight. I agree with Senator DOMENICI; there is no reason we should not get the electricity title done, give everybody a chance to address those issues.

I especially think we will want to address Attorney General Spitzer's admonition and concerns as well.

I want to be constructive. I know last night I was objecting to people's unanimous consent requests. It was not because I had any animus. I just wanted us to get back to the electricity title. I could not do that. Eventually they went on and spent the whole night on the judgeship because we had this cloture vote scheduled.

That is my frustration. I share the same frustration that I think Senator DASCHLE expressed earlier and Senator DOMENICI expressed. The best way for us to proceed is to clear the deck, get all the extraneous things out of the way and decide we are going to proceed now on the electricity title. I for one pledge cooperation to try to get this title done. That is what we ought to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I tread out of these waters somewhat hesitantly because in the past I have gotten involved in similar situations. I know the Majority Leader will be here shortly to respond to some of the things that have been said today. But because of some of the things I have experienced, I would like to remind my colleagues that Senator DORGAN is right: the Majority Leader is the leader. The Majority Leader, working with the Minority Leader, has a tough job. He has to juggle a lot of balls.

The idea that there is something unusual about considering two or three or four issues intermittently, that that is something new, is ridiculous. We have had double tracking, triple tracking. I learned it from my Democrat predecessors when they were Majority Leaders. To intersperse with a legislative bill executive calendar nominations is done every day, every week. There is nothing new or unusual about that.

Until you have walked in the Leader's shoes, I urge you to be careful about trying to second-guess him in trying to juggle these different balls. It is a tough job.

We should be voting on judges. We should be confirming judges. I really don't appreciate the criticism that I think is being indirectly cast at the Leader. I am sure he is going to comment more on the days we have spent on this and other work we need to do. Everything is urgent all of a sudden. I know how it works. For 3 or 4 months around here the Leader is dredging for legislation to call up. And then all of a sudden, in May or July, everybody shows up and says: Hey, I'm ready. I want my bill. We want to do something about class action lawsuits. We want to do the Energy bill. We want the State Department authorization bill which, by the way, had to be pulled down because of totally unrelated issues. For the first time in 15 years we were about to get a State Department authorization, and it was basically forced off the floor because of unrelated, irrelevant amendments that were offered to it.

We will get through this if we work together. I am worried about the institution right now. We are fiddling while our energy is burning. For 3 years we have been hacking away at getting a national energy policy. We don't have one. And it's absurd for us now to be pontificating, saying we haven't made enough progress, when I don't know how many days we have been on this bill—I think 16 days, to be exact. There is no question this bill is being slow rolled. Everybody knows that. For some reason, and I don't know why, the Democrats are dragging it out, slowing it down. They don't want this Energy bill to be finished and go to conference. That is my opinion, one Senator's opinion.

This is a bill that has ethanol in it. We had this big agreement way back there. We thought once we got an ethanol agreement—a huge agreement—that would grease the slides and this legislation would go right through. Here we are, a month later, and we are not making good progress.

I think we should quit trying to say this side is delaying or that side is going to different issues. We need to get this done. We are talking about production, more production in America. We need more oil and natural gas. I don't know what the statistics are now but about 56 percent of our energy needs are coming from foreign oil. People, I guess, want to kill the bill because they don't like the environmental provisions, or they are afraid ANWR will be opened to actually produce more oil. I don't quite understand the fear.

This is a balanced bill. The committee did a good job. It was a bipartisan bill, more production—even going to the excessive ethanol that is included in it. Conservation, it has encouragement of conservation. It has alternative fuels to the point of being ridiculous. It has the tax provision that came out of the Finance Committee—a huge package of unbelievable things. We have an abundance of desire to try to solve this problem, and I think we need to solve it.

On the electricity section, I have some problems with that. I don't like several pieces of it. I am not particularly happy with so-called SMD and the regional transmission organizations, RTOs. I think it is a problem for my region of the country but I am not about to be a part of trying to drag it out or delay this bill. It may be in my interest locally to do that or to work to get it changed, but for our country we are going to stand here and accuse each other of not handling this right, while "Rome" and Washington, DC, burns.

This is ridiculous. Now, on judges, we don't look good, my colleagues. This is mutually assured destruction. It continues to escalate to "you did it to us, so we are going to do it to you." Now we have employed a new mechanism; we are going to filibuster judges. This is a huge mistake for this institution and it will not be allowed to stand.

Now we are beginning to question each other's motives. I was concerned about what I saw last night in the Senate. We seem to be spiraling downward. Somebody needs to sit down and say, look, we are going to stop these accusations, stop the filibusters, and we are going to vote on these judges. This is personal to me because I believe Judge Pickering of Mississippi was very badly and unfairly treated last year. I believe the vote on him will be different this year.

Now it is Pryor. There is no reason to oppose the Attorney General of the State of Alabama with his record—not to mention Priscilla Owen, Miguel Estrada, and Kuhl. We have circuits now—the Sixth Circuit, I believe, includes Tennessee, Kentucky, Ohio, Michigan—with a 25-percent vacancy. I didn't know Senators could use a blue slip to block a judge from their circuit. We don't pick the judges for the circuits; the President of the United States picks those. In my circuit, they can come from Louisiana, Mississippi, or Texas. I don't think I have a blue slip or an ability to block a judge in that circuit that is from my State, or from another State, even though I might not particularly like him or her. Now we have appellate court judges being stopped in circuits all over this country because one or two of the Senators from the appellate circuit might want to try to stop them. I haven't served on judiciary; maybe that is what happened some in the past. That is another example of what is really getting to be a problem.

I urge the leadership on both sides of the aisle on the committee to find a way to stop this because you are going to filibuster these good men and women. Then we are going to question your motives and you will question ours. I think the Senate needs to take a deep breath. Maybe what we need is an August State work period—go home for a while and cool off.

I am not going to affix blame, but I think the way this Energy bill is being handled is a huge problem for our country. I hope we will calm down, get an agreement to move forward, give the Leader the opportunity that he should have to bring up judges, or other Executive Calendar nominees, as all Leaders do, and let's have a meeting in September and find a way to stop what is going on with judges.

I admit that I made some mistakes when I was Majority Leader in how I handled them, too; but it has gotten worse since then. I don't think anybody can deny that. This mutually assured destruction must stop. I have said this before.

Heaven forbid, if we ever have another Democrat President and a Democrat Senate, we are going to filibuster your nominees for the courts. It will happen. Some of our colleagues may even say they want that right. That is wrong. You have a lot of ways you can slow down or delay hearings or judges but filibustering judges on either side is wrong. I won't be a part of it if the tables are turned, and I was not a part of it when I was Majority Leader. I stood right there and spoke against filibusters when I was Leader. I voted against a filibuster and forced votes on judges with whom I vigorously disagreed.

Two from California, Paez and Berzon, I will never really be comfortable with what I did there. I said we are not going to filibuster these judges on the floor of the Senate. So this is a terrible precedent and the Leader cannot let this stand.

So, my colleagues, I sound like a schoolteacher lecturing but, because of the experiences I have been through, I plead with the institution to get on the Energy bill, make progress, and vote on these judges. A couple of judges might not even get 50 votes but that is the way it works. If you get a vote, you win; if you don't, you lose.

Mr. McCONNELL. Will the Senator yield for a question?

Mr. LOTT. Yes.

Mr. McCONNELL. The Senator raises an important point on the Berzon and Paez nominations. I can remember the Senator, in his capacity as Majority Leader, encouraging us to support cloture on two judges about whom none of us were very enthusiastic. I remind my colleague that 75 percent of the Republican Senators voted for cloture.

The PRESIDING OFFICER. The Senator is reminded to address his questions through the Chair.

Mr. MCCONNELL. Mr. President, I ask the Senator from Mississippi if he remembers that 75 percent of the Republican Senators voted for cloture on both of those judges, and many of us voted against them once we got to the up-or-down vote.

Mr. LOTT. I remember that very well. We did the right thing. That is what I am asking now of my colleagues on both sides of the aisle. Let's find a way to do the right thing on these judges. It is totally indefensible, for instance, that on Miguel Estrada we cannot work something out where he won't be defeated by a filibuster.

I remember other votes, too. I have said on this floor two or three times that I voted for Ruth Bader Ginsburg to go on the Supreme Court. I didn't agree with her philosophically at all, and I don't agree with many of the rulings she is coming out with. President Clinton was the President; he nominated her. But she was qualified by education, experience, and demeanor, and I voted for her. I think we deserve that kind of return of courtesy.

The Majority Leader is here, so I will stop. I say to the Majority Leader, I was talking about the difficult job he has, and I know he is going to have some statistics that will indicate what has been occurring.

I yield the floor.

The PRESIDING OFFICER. The Majority Leader is recognized.

Mr. FRIST. Mr. President, I will be happy to follow the assistant leader very shortly.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, briefly, it has been said by Senator LOTT and others that there is nothing unusual about the so-called double-tracking of issues, nothing unusual at all. The distinguished majority leader offered to our colleagues and friends on the other side an opportunity to have the four cloture votes on judges this week with no debate at all. It would have taken up no time on the Energy bill.

The fact is, this is the 18th day we have been on the Energy bill this year; that is more than any other bill. The distinguished majority leader made the right call to go to energy this week. He made the right call to try to bring to closure four of the President's distinguished nominations for the circuit court benches.

I think Senator LOTT is correct. We need to, as he put it, take a deep breath, settle down here, and remember that we all came here to do the people's business. Energy is important.

I know the Majority Leader is committed to finishing this important legislation for the people of America. I hope there are a significant number of our friends on the other side of the aisle who would also like to see an Energy bill. I am confident the majority leader is going to give all of us an opportunity at some point this year to finish this bill.

I say to my friend, the Majority Leader, I think his scheduling decisions for the week were excellent, correct, and consistent with the best interests of the American people, and we support him fully in those scheduling decisions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we have worked very hard over the course of this week to address the people's business with the schedule that was set out weeks ago to address energy in a focused way, a way that would allow for debate and amendment, and bring to conclusion the debate on a bill that is important to every American listening to me now—every American.

The President initially called for an Energy bill over 2 years ago and laid down a policy 3 months ago, and the House of Representatives has acted in delivering such a bill.

As the distinguished assistant leader has mentioned, we have now spent 18 days debating energy policy. That is longer than any other bill this year and, in truth, as we all know in this body, we have been debating energy policy now for 3 years.

It is true that during the last Congress, we spent 7 weeks on an Energy bill, and the other side of the aisle comes forward and says: We spent 7 weeks last year, so we are going to have to spend 7 weeks or 8 weeks or more time on this Energy bill. I appreciate their concern because I, too, want to make sure we address these issues thoroughly. But what we have is just obstruction, flat out obstruction of our commitment to answer to the American people when they ask: Where is our national energy policy?

The distinguished Democratic leader said: Now we have politics injected. I do believe that statement is disingenuous when he throws the politics on our side and, at the same time, we have a commitment—and I have said again and again and under the able leadership of our managers, I know they are committed to addressing this bill and bringing it forward to the American people who do and will continue to suffer under skyrocketing natural gas prices.

I say that because now—and I said it last night after conversations we had both on and off the floor—it is clear that we were not going to be able to finish the Energy bill this week. We do not have the amendments. We do not have the amendments, and we have had a difficult time getting an accurate list of amendments.

When I talk to the managers, they may say we have one or two amendments on a particular issue, and then as I talk to other colleagues and they say: No, we have 7, 8, 9, 10 amendments. It is that lack of pulling together that I am most disheartened about in addressing the Nation's business.

It comes to obstruction, and I do think at this point in time the Democrats are bringing progress on this critically important issue of energy to a screeching halt. The fact is, we are ready to go today and we are ready to go tomorrow, and, if they are willing, we are ready to go the next day on the people's business on this Energy bill, and basically they are saying no. They are hiding under the allegation: Oh, it is judges you are bringing forward—and I will comment on that point, but they are hiding behind that issue because they do not want a bill.

They say: We want a bill. I say: Let's get a bill. They say: We want a bill but it is going to be sometime off in the future.

As the former majority leader said, and as the leader on the Democratic side said, it is tough scheduling. It is not impossible but it is tough scheduling. But one thing that the Republican leadership does have to demand is that people are working in good faith to complete bills in a timely way. I am beginning to lose faith in the other side of the aisle because they are obstructing—flat out obstruction.

The fact is, whether they are in a cornfield in Iowa or whether they are in a cornfield in South Dakota or in the mountains of New England, Americans want us to pass an Energy bill, not at some vague time in the future but right now, an Energy bill—this is what the American people understand—that will bring down the soaring cost of energy while ensuring an adequate supply. And that is what they are being denied by this obstruction by the Democrats.

It has gotten to where we are hearing this term—it was used earlier today—with "ism" on it, obstructionism, that we are seeing so much obstruction today from the other side of the aisle, whether it is bioshield, which we are trying to bring to the floor, or whether it is the judges. All we are trying to do is get them to the floor and have that debate and discuss them. We can't even bring them to the floor to talk about them.

I come back on energy for one second. People are willing to watch this obstruction go forward and not continue to push and do not continue to push when we are trying to stay on the Energy bill today and tomorrow, and they say: No, we can't do it; we throw up our hands; why don't we just go home? That is not in the Nation's interest.

I plead with the other side of the aisle, let's not obstruct. Let's debate energy over the course of the day and into tonight. If there are so many amendments on the other side—remember, on the other side—let's address them one by one. It is simply not acceptable not to address the amendments. I believe it is a dereliction of our duties. We are here to pass a bill. We are ready to pass a bill. We are waiting for those amendments, and the Democrats are obstructing.

Earlier this morning the minority leader did talk about the virtues of the Energy bill and gave the rhetoric, and I appreciate the rhetoric and the platitudes, but it is offensive, at least to our side of the aisle, when at the same time we are talking these platitudes both here and around the Nation in our own States and then we see the same side of the aisle, the other side of the aisle, obstruct in a steady, consistent pattern. Americans are waking up finally to this consistent pattern of obstruction, whether it is on the judges or whether it is on the Energy bill which we have before us.

I have mentioned to the leadership on the other side of the aisle—they talk about judges; quit bringing up judges at this point—I said: Let's just not do judges today. Let's put them aside. Can we finish the Energy bill this week? Again the answer was: No, no, we are not ready to finish the Energy bill this week. So I think in this call of crying politics from the other side of the aisle, the Democratic leadership really is showing their own hand. They talk about energy but do not deliver.

It is not just about the Energy bill itself—and we have touched upon the judicial nominees this morning, which again all we are asking for is a simple up-or-down vote on these nominees when I have asked consent. It is not to debate these judges now, although people come out of the woodwork for that. It is just to get consent that at some time in the future we will have the opportunity to talk about these judges and give every Senator their right—and that is through advise and consent—to have an up-or-down vote.

The Democrats—and I come back to the word—obstruct our opportunity to advise and consent. That is all we are asking in terms of the judges.

Obstruction—again, people do not see all that is going on. They see what is on the floor. But right now the obstruction does fall over to other fields—fields such as bioshield. We have worked very hard to address an issue which does have an impact on national security, and we cannot get consent to bring resolution to a very important initiative that provides over $6 billion over 10 years to purchase new countermeasures, whether it is on the biological entities, such as botulinum, anthrax, or plague, a bill that expands research and development so that we will be best prepared in the event terrorists use these agents against us. It is legislation that protects us all, but it is being obstructed.

The economy, energy, the judiciary, it is obstruction again and again. I do not fully understand why. I think we can all only speculate. We do have the Presidential election cycle that is approaching. The outside interest groups may be holding sway. I do not know. It may be obstruction for its own sake. It is not in the best interest of the American people. The American people want us to progress. They want us to move America forward, whether it is on any of the issues I have talked about today, and all they hear is obstruction.

I do want to share with my colleagues once again, and those people who are listening, and to remind my colleagues on the other side of the aisle on the judicial nominees, the requests we have made would not mandate in any way consideration of those nominees right now or during the Energy bill. That is not the purpose. That is not the way the request was put forth. Those consents to be able to bring them up at some time in the future, not on the Energy bill, were objected to by the other side of the aisle.

The consents would have allowed votes on the nominations at some time in September or October, and the requests were made, lest my colleagues forget, for 4 hours to debate these judicial nominees sometime in the future, and they said no. Then I said, these are Presidential nominations that come to us. We are to give advice and consent. Can we bring them up and debate them in an orderly fashion for 8 hours at some time in the future—not on the Energy bill but sometime in the future? And they said no. Then I asked consent if we could, sometime in the future, debate these judicial nominees for 10 hours. Object, object.

We did schedule cloture votes this week, and they were simply that, 20-minute cloture votes. Why? Because they objected to bringing these judges up and having adequate debate in September or October. What alternative does one have but to file a cloture vote to bring them up? That is a 20-minute vote.

I very specifically came to this floor and said that those 20-minute votes could be expected in between other Energy amendment votes, 20 to 25 minutes. All the requests for debate time on those cloture votes have come from the other side of the aisle, not our side of the aisle.

I further remind my colleagues that we tried on numerous occasions to reach consent to have a filing deadline on Energy amendments last week. Again, objection from the other side of the aisle. I mentioned earlier the problem the managers are having is getting their arms around the amendments that we are waiting for the other side to offer. Yet they are not materializing.

So if there is any question of the commitment to finishing this bill, I think it is clear which side of the aisle is pressing for it and which side of the aisle is not pressing forward. It leads me to the conclusion that we want an Energy bill, a good Energy bill, for the American people, consistent with appropriate production, conservation, use of renewable fuels, and tax incentives, to make sure that our energy supply is appropriate. We want that type of Energy bill worse and are willing to fight for it longer and harder than the other side of the aisle.

It was the Democratic side of the aisle that refused to grant consent—that is, obstruct—to have the debate on the electricity title. It was the Democratic side of the aisle who refused to enumerate the number of second-degree amendments that would be offered.

I made it crystal clear 6 weeks ago that we were going to be going to this bill on this Monday to work Monday, Tuesday, Wednesday, Thursday, Friday, to complete this bill. Yet, on Monday, the Democratic side of the aisle refused to grant consent to have that debate on the electricity amendment. That refusal really did not rob us, but it meant we could not use Monday as productively as we should have used it. Again, that lack of participation makes it very difficult to achieve what is in the best interest of the American people.

The chairman of the committee, the manager, Senator DOMENICI, earlier this morning indicated there are amendments on the other side of the aisle. There is only so much we can do. We cannot really reach over to the other side of the aisle and pull those amendments out of their pockets or wherever they are. They have to offer those amendments for us to consider them. So we have to sit and wait for those amendments to come forward so that the Senate can work its business on this Energy bill.

As has been said, we are prepared to have amendments offered. I think it is important that we use today and tomorrow to focus on Energy. I think we should be able to reach some sort of time agreement to bring this bill to completion. I think we need to be working toward voting on the issues as we go forward, and I plead with the other side that we stay on Energy, we stay focused, and we bring this bill to completion as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I listened with great interest to the distinguished majority leader. I would offer him advice again, for whatever it is worth. I have offered him advice as we have personally and publicly discussed progress on the Energy bill. Rather than shrill charges of obstructionism that nobody believes, I suggest that he tear down the tree, take away all of the obstacles that he laid down last night to considering the Energy bill, and I believe we could make constructive progress. I think we could perhaps finish the electricity title by the end of this week, but we cannot do that and then also do what he is now asking of us, which is to debate one of the most controversial nominees to be passed out of the Judiciary Committee. We cannot do both.

He wants us to have a vote on that nominee tomorrow morning, and I see no other option but simply to debate the nominee. He also would like very much for the trade bill to come up. There are 6 hours of time locked in for that. I do not know how we do the trade bill, an extraordinarily controversial nominee for the Ninth Circuit, and then I know he wants to do the supplemental bill as well. That is going to take some time. So how do we do all of these?

Having been the majority leader, I must say it is one of the most challenging parts of the job, but I think his colleagues were right; they said publicly he made a mistake, and I think they were right in their estimation of the schedule for this week. If we really wanted to finish the bill, we would not have had all of these diversions. If we can learn from our mistakes this week, I think the only answer is to let us not repeat them. The only way one can avoid repeating the same mistakes is to take out from underneath all of the underbrush the obstacles, the diversions, the other priorities that the majority leader has.

As I say, the Senator from Washington has been sitting in the Chamber. She sat here last night for hours waiting to debate another amendment on the electricity title. There are other Senators who have expressed an interest in coming to the floor to debate the electricity title.

How do we do that, No. 1, when we are not even on the electricity title anymore? We are actually on a motion to commit. We cannot even offer an amendment to the electricity title given the majority leader's current parliamentary maneuvers.

Then, of course, we have this enormously controversial nominee from California.

If I could offer one more piece of advice—and as I consider this, it is all the more troubling. If our Republican colleagues really wanted to get a bill, what would have been wrong with taking the bill that 88 of us voted for last year and starting with that? What would have been wrong with saying, we spent 8 weeks on a bill last year, how about taking that 8 weeks' of effort, that investment in time, bringing that to the committee, and then bringing it to the floor? My guess is we could have avoided hundreds of amendments. We could have said, what reason would there be to offer an additional amendment because we have now taken up the very thing the Senate passed last year? But for whatever reason, the committee decided to pass an "Enron protection act." They wanted to be sure, apparently, that they could lock in protection for these incredibly manipulative schemes used by Enron to bilk consumers that changed dramatically the nature, the character, of the bill itself.

If our Republican friends would have wanted to complete the bill or at any time if they would want to do so in the future, we could take up where we left off. As it is, we are left with a bill that many have not seen. We are left with titles given to us virtually at the last minute and expected to offer amendments under those circumstances.

I say to my distinguished colleague and friend, it is still within our grasp to finish this bill in a meaningful and timely way. In order to do that, we have to work at it. We have to finish this work on the electricity title, we have to go to the other titles in a way that accommodates Senators with amendments, and we have to stay on the legislation. Diversions, especially ones involving issues of great controversy, will never allow the Senate the luxury of the confidence we need to finish this bill at any time in the foreseeable future.

I stand ready to work with him, to work with the manager of the bill, the chairman of the committee, to work with our distinguished ranking member and others so we can finish the bill. Shrill charges of obstructionism will not get the job done, nor will it get the job done to finger point and try to lay blame. We are here; they have the majority. We are willing to work with them to see under their leadership we accomplish a good deal. We have on so many other bills already this year. We can do it on this bill if we have the determination to show the bipartisanship it will require.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the advice and counsel of the distinguished Democratic leader. He and I do have the opportunity to talk which, indeed, I appreciate very sincerely. As we all know, we have heard from three majority leaders commenting on the schedule—the former majority leader, Senator LOTT, myself, and the distinguished Democratic leader.

We have a challenging week, remaining week with a lot to do. We have important issues before the Senate, critically important issues. I am delighted we have expressed that commitment to address issues, first and foremost energy. That is our number one priority. Everything else is secondary. I said we would have these cloture votes this week on the judges for 20 minutes and time demands have made that expand for hours, like last night. I am not accusing anyone of trying to delay the bill by talking on these judges, but remember my initial consent was we want to talk on these judges and we want to do it sometime in the future. Just give us consent to do that. That is what has been denied.

Chile and Singapore was mentioned. Before we leave, whether it is Friday or Saturday, the Chile and Singapore trade agreements are important. I don't want to focus on those because I want to stay on energy and keep driving on energy. I have the distinguished manager, the chairman of the committee, with me. I know he will keep driving ahead. I am delighted we will do that. It is important.

We have the supplemental, something we absolutely have to deal with. We can deal with that tomorrow and hopefully that can be done and wrapped up in a very short period of time.

Last night, to clarify, I did file a Frist amendment which includes the text of S. 14 as reported by the Energy Committee. It includes the ethanol amendment already adopted by the Senate, it includes the Bond-Levin CAFE amendment, it includes the Domenici electricity substitute, and the Finance Committee-reported energy tax title. That is the amendment I put forward.

As I said earlier in the day, to facilitate the amendments which I hope the Democrats will bring forward if they have them, I will gladly withdraw the first and second-degree amendments to offer them, to allow them the opportunity to offer their amendments to push this debate forward. I would be glad to enter into time agreements on their respective amendments in order to move forward.

I will not withdraw this cloture vote tomorrow. The more I hear the other side mention "politics," the more I realize how important it is we have a cloture vote to see who is serious about finishing this bill and who is not tomorrow. We will gladly have discussions so we can consider amendments.

The Democratic leadership wants a bill. I know they want a bill. It is really a matter of, is it some time off in the future or now. The Democratic leader made a suggestion that is one I think is important because we need to move ahead, we need to act today—not just talk and talk about politics and talk about obstructionism, with rhetoric and no action. I want a bill. I want a bill that is good, that is fair to the American people, and that addresses the issues of supply and the soaring costs which we feel. It is incumbent upon us to act.

The Democratic leader mentioned last year's bill was passed with a bipartisan vote and suggested bringing that up. Let's do that. Let's pass that bill if it is the great bill he says. We would be willing to do that. I will turn to the manager of this bill and the chairman, but if we have the opportunity to take that bill up, as suggested by the Democratic leader, let's do it and pass it today and then we can move on.

Mr. REID. Would the distinguished majority leader yield for a question? Is the majority leader saying the bill that passed the Senate 88–11 last year, it would be brought to the floor and passed in the form it left the Senate?

Mr. FRIST. Mr. President, because the proposal was just made, my inclination is to basically say we would move in that direction. I want to consult with the manager of the bill since it was just proposed, but if that is the Democratic proposal and that is what is on the table—the American people deserve an Energy bill.

Let me turn to my distinguished colleague, the chairman of the committee, to comment. If so, we would proceed.

Mr. REID. If I could, briefly, before the majority leader leaves, if the proposal is the bill that passed the Senate 88–11 last year be brought to the Senate floor today in the form it passed, you got yourself a deal.

Mr. DOMENICI. No amendments and passed, as is, and sent to conference. Could we have just a few moments and come back and discuss it with you?

Mr. REID. Yes.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

Mr. REID. If the Senator will yield, we have some people to speak, if the Senator will withhold the request.

Mr. DOMENICI. I withhold.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I know my colleagues have now for the last hour discussed the fact that we need to move on an energy plan and yet allow Members to have some discussion of policy. While I think we now have a proposal to discuss, it is important to point out we were very willing to talk about an electricity title. We were very willing last night, while the Senate wanted to debate judges—and I sat here as my Republican colleagues spoke for hours—I was willing to offer an amendment on electricity.

People are talking about moving ahead on an Energy bill because it is good for our economy, because it will help with supply. While we were sitting here wasting our time yesterday talking about judges, another company in my State with 700 workers from Bellingham, WA, temporarily shut down their facility. Why? Because of the high cost of electricity in our State.

So this is not about a problem that might happen. It is a problem that has already happened.

The parliamentary, procedural ruse that has been played on us to not go to the electricity title has been incredible. I was standing here, waiting to offer amendments, only to find out that we were going to go to a judge.

Yes, the Senator from New Mexico was right; we wanted to go to the electricity title. But we didn't even have the language from his proposal when we left town last week on Friday night. It wasn't even available Friday until late Friday night. So, yes, as soon as we got that language we started poring through it.

Now the question is whether this body wants to debate an electricity title, whether they want to consider the issues at hand.

Last night, the amendment I wanted to offer was actually shared with the minority staff. The majority staff is now saying we don't know what amendments are going to be offered. We had seven amendments to file this morning, only to find out they are no longer in order because of the motion to commit in the document that is now available only in two copies of 800 pages, making it impossible for us to offer our second-degree amendments.

What happened when we shared what we wanted to offer in an amendment? We ended up getting an e-mail threat back from the majority side saying, if you offer your amendment, we are going to do X to you. So much for sharing ideas about amendments. It is no secret this Senator from the State of Washington, who believes this underlying electricity title could potentially move higher cost electricity onto the transmission lines in my State and ultimately force my consumers to pay a higher rate, doesn't like the electricity title and wants to see it changed. This Senator from Washington State does not believe that my State should be forced into that kind of regional transmission organization planning or standard market design planning in which my region might get charged higher electricity rates while the State of Texas gets a sweetheart deal.

Yes, that is right. The State of Texas gets a sweetheart deal because they are exempted from that section on regional transmission organizations and standard market design. If this electricity title is so good for all of America, why isn't it good for Texas? That is because Texas does not want to share in this plan. They don't want to share their power, and they don't want to necessarily have their transmission lines with higher cost energy on them. I don't want it in my region. But I know this: If it is good for me, it ought to be good for them.

The bottom line is the other side of the aisle doesn't want to take the time to hear about electricity amendments and debate them. With the west coast economy getting a $6 billion black eye, that is $6 billion that the ratepayers have had to pay because of increased energy prices, when the market has been knowingly manipulated. That was admitted to by Enron, admitted to by the Department of Justice citing Enron's manipulation, it has been admitted by the Federal Energy Regulatory Commission that such manipulation has happened. We ought to have our day here on the Senate floor.

The distinguished majority leader said let's not talk about the politics of this. But I have to say I don't want to stand here and be part of what he is labeling as obstruction when this is the body to which my constituents look to have their issues debated. This is the place where we come to represent constituents. This is their opportunity to be heard. I am their representative. I have the right to offer amendments dealing with one of the biggest pyramid schemes, financial crises to affect the Northwest. I deserve to be heard. My constituents deserve to be heard.

My constituents did not get invited to a meeting at the White House with Vice President DICK CHENEY to talk about the energy plan. They were not invited.

My constituents didn't get a password code to get on the conference call with the Federal Energy Regulatory Commission when they discussed with Wall Street financiers of Enron what legal standard they were going to use in reviewing the contracts of Enron, and whether ratepayers were going to get relief. My constituents didn't get that password code. We didn't get to be on that call.

My constituents don't have high-paid lobbyists like the Weststar Company, which is under Federal investigation for their donations to various political groups that were all keyed around trying to influence the energy policy of this body.

We may not win on our amendments about market manipulation and improving the way energy policy is regulated, but, by God, we deserve to be heard on this Senate floor and have a debate about electricity. You cannot have an amendment like that of Senator DAYTON that basically is trying to stop the repeal of the consumer protection law that is currently on the books, that the Domenici underlying title erases, and not have a debate on that. How can you not have a debate on the Dayton amendment that stops the repeal of the Public Utility Holding Company Act?

As the Washington Post said yesterday in a headline on the front page of the business section: "Energy Monoliths Could Return." There was more debate yesterday in the Washington Post about the Dayton amendment trying to stop the return of this monolith than there has been on the floor of the Senate.

I think the public should get their due. They paid $6 billion. Gee, for $6 billion in increased power rates you ought to at least give them a couple of days on the Senate floor to talk about these issues. These issues are a significant change to current law. The whole notion of regional transmission organizations and standard market design is a move toward deregulation that this body ought to understand and understand well.

Since the Federal Energy Regulatory Commission decided even though the markets had been manipulated they were not going to give relief to west coast ratepayers, we have not even had a hearing. We have not even had a hearing. That was just a few weeks ago.

For 2½ years my colleague and staff member, Angela Becker-Dippman, and myself have probably paid more attention to the energy issue than just about anybody in this body, save maybe the California Members. Why? Because a crisis happened in our State starting in late 2000, and we lobbied for price caps. We asked, before the Federal Energy Regulatory Commission: Give our State relief. It took them a year plus, a year and a half before they finally came in with any relief.

Then people said it was all about supply and don't worry, it is all going to get straightened out. It is not about manipulation. Nobody manipulated anything.

Then we find out they actually manipulated something and admitted it. They said: Don't worry, you'll have your day. It will all go before the Federal Energy Regulatory Commission. They will take care of it. Something will happen.

They have done nothing to protect the consumers once that manipulation was known. They have done nothing. They have done nothing but get on a phone call with the financiers of the Enron deal and say to them, in private password conversations: Don't worry, you'll be protected.

So, yes, my amendments deserve debate. We are not going to be an apologist for Enron, nor condone their actions. But we should have a healthy policy debate about:

No. 1, whether this country needs more deregulation of the energy industry. Why not have that debate? Some of my colleagues on the Democratic side of the aisle actually believe there should be deregulation. I don't agree with them. What is wrong with having that debate?

No. 2, we ought to debate whether we have enough consumer protection in this legislation to protect from future market manipulation that might happen as we continue to see the rise in natural gas prices. We should have that debate.

No. 3, we could have a debate about whether we really understand what regional transmission organizations and standard market design actually do.

I can't tell you how many people in California thought it was no big deal about how most of the legislators didn't really understand what was going on in the legislation and went ahead and passed it only to then find out that basically they had turned electricity over to the free market. Electricity isn't just a commodity; it is a necessity. People need it. They cannot be gouged by high prices. That is exactly what has happened.

We ought to debate whether we understand what regional transmission organizations and standard market design really do.

I am all for joining with my colleagues if they want to make this a voluntary experiment. If they want to make this section of the electricity title voluntary, I am happy to make it voluntary. But it is not voluntary now. It is a mandate. The Federal Energy Regulatory Commission came up with hearings, with pricing schemes, and with a rule that would ultimately go into place after 2005. So wait 2 years to get your plans in place and then implement them.

As the Senator from North Dakota adequately explained, this isn't about whether we are going to build a national grid system and whether cheap electricity in his region is going to get displaced by more costly electricity from somewhere else and forced on his consumers. Why should he agree to that? We need to have a debate about whether we really know and understand where this title is leading us. I am happy to do that. I am happy to do it. More importantly, I am happy to do it on Saturday.

My constituents deserve to be heard on this issue. When they are stuck with a 56-percent rate increase for the next 5 years because they signed an Enron contract and they get no relief from the Federal Government, they deserve to be heard. When Enron can turn around and sue them to continually force my ratepayers to pay a higher rate on manipulated contracts, they deserve to be heard.

I am not being an obstructionist. The majority leader talked about doing something in the public interest. This is about the public interest. This is about saying this body is going to protect consumers from market manipulation. We are not going to guess at it. We are not going to pretend that we know.

We are not going to pass something the Attorney General from New York sends us a letter about basically saying, Excuse me. Thanks for your hard work but you are not getting it done. Your language not only doesn't protect us enough but it might actually undermine the current State laws that are in place. Or a letter from the National Securities Exchange executive saying the same thing. The National Securities Exchange doesn't say they think the language in the underlying bill curtails their efforts on getting the kind of oversight that needs to happen to protect consumers from market manipulation.

I couldn't disagree more with the majority leader. I supported the Energy bill last year. I wanted to get it out here. I didn't like everything in it. I was willing to compromise to move something ahead. But a financial disaster happened in my State and it is going to continue for years to come. This electricity title on which the majority party has filed a motion to commit prohibits us from offering those amendments. Maybe our leadership is in the back room working out some sort of agreement. Maybe they are back there saying let us start backward on the electricity title. Maybe they are bifurcating some of these issues about supply.

But why not say to the American public we are going to make clear to you there is no doubt that this isn't a supply issue, and we have made sure manipulation has been taken care of?

We cannot leave here giving the American people the impression that if you have enough money you can rely on the energy policy. Electricity is a necessity, and we need to fight to make it affordable. This Member will stand here for as long as it takes to make sure my constituents have their day on these amendments.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I thank my colleague from Washington for her continued leadership and information about what is a very complicated matter. It isn't easy to understand and follow all the market manipulation that occurred in our Western States. But she has explained it. I intend to do so as well.

Let me say this: When the majority leader says we have to have an Energy bill, I agree we need an Energy bill. However, we need a good Energy bill. We don't need a bad Energy bill. If we have an Energy bill which doesn't attack what happened in the west coast, then I want to say to my colleagues from every State in the Union—and I will be speaking for about 15 or 20 minutes—I will tell every colleague here from every State in the Union their people could very well go through what my people went through in California.

Mrs. HUTCHISON. Mr. President, will the Senator yield for a unanimous consent request that I be allowed to speak immediately following her?

Mrs. BOXER. Absolutely.

Mrs. HUTCHISON. I ask unanimous consent to be recognized immediately following the remarks of the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, the reason I waited for 2 hours this morning to speak today is to send a warning to my colleagues. Read what you are about to do. I find it incredible that instead of continuing on the present path—which is to amend the electricity title in a way that would make it better, in ways that would protect the American people from the type of scam we witnessed in the west coast, which in my State alone cost us about $9 billion, if not more, and which is responsible for about a third of the problems we are facing financially in my State—instead of fixing that electricity title, what do we have? We have an amendment filed stopping our ability to make any changes to it, and which, by the way, eviscerates all of the 21 amendments we have worked so hard on during the 8 days we have been on this bill, including amendments by Republicans and Democrats alike, dealing with biomass, LIHEAP, oil independence, clean coal, hydrogen, and so on.

Even the 21 amendments we worked so hard on have been left out of this bill which is now pending, and if we go to it, those 21 amendments will be gone.

I also hope that leadership is working now to straighten out where we are. We are in chaos, in my opinion, right now.

When the majority leader says we need an Energy bill, I want to say we need a good Energy bill.

The last thing we need is a bad Energy bill. Let's look at this bill. This bill has an electricity title which goes forward with deregulation in the face of the disaster we had on the west coast. Why colleagues would go ahead with this is beyond me.

But I have to say, in California, every single member of the legislature—Republican and Democrat—years ago voted for such a bill. It was signed by Pete Wilson, who is the one who brought it to the legislature. And it led to a total disaster. So maybe my colleagues don't understand the fact that this is one where you better read every line and you better understand what you are voting for because this one could come back to bite you really hard.

In the bill we have huge subsidies for nuclear power. We don't even know what to do with the waste. I see my colleague from Nevada crossing the floor. He is struggling with this. What are you going to do with the waste that lasts thousands of years that is so dangerous? We don't even know. But this subsidizes new nuclear powerplants.

This bill has done nothing about fuel economy—zilch. The amendment that passed was backed, frankly, by the big auto companies, and it does nothing, at a time when we are hoping to change our dependence on foreign oil.

What we have is a bill that ignores what happened to us in California. I see that my senior Senator is here. And no one knows better than she and I what this has meant to our people. And we are trying to be good colleagues to our colleagues to say: Wait. Stop. Time out. Don't go down that path that we went down.

In the midst of the crisis, I got a letter from a gentleman who lives in Bishop, CA. I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ZACK RANCH,
Bishop, CA, April 8, 2001.

Senator BARBARA BOXER,
Hart Senate Office Building.
Washington, DC.

DEAR SENATOR BOXER: I am writing to ask for your help. Our family has owned and operated an alfalfa ranch in the Hammil Valley since 1965. Our crop is irrigated in the summer with water pumped from wells, by electric pumps. We have just been informed by Edison that our power rate will double this summer, and will possibly be raised beyond that in the future. Since we have a narrow profit margin to begin with, this will effectively put us out of business. Edison has told us that there is to be no break for farmers. In the past we have been on a "time of use" program in the summer where we pump only during off peak hours, but we aren't able to find if this program will continue. Any information you can offer, or any help you can give us, will be greatly appreciated.

Sincerely,

ANN ZACK.

Mrs. BOXER. This gentleman wrote to me. His name is Zack Ranch. Actually, his wife wrote:

> I am writing to ask your help. Our family has owned and operated an alfalfa ranch in the Hammil Valley since 1965. Our crop is irrigated in the summer with water pumped from wells, by electric pumps. We have just been informed by Edison that our power rate will double this summer, and will possibly be raised beyond that in the future. Since we have a narrow profit margin to begin with, this will effectively put us out of business. Edison has told us that there is to be no break for farmers. In the past, we have been on a "time of use" program in the summer where we pump only during off peak hours, but we aren't able to find if this program will continue. Any information you can offer, or any help you can give us, will be greatly appreciated.

Well, we lost so many small businesses and farmers during this period. It would have been worse if the State did not go in. Governor Davis, at that time, took over from the power companies and protected the people from the types of increases that consumers in Washington had, although we went up 25 percent, which is very hard to take, especially for a small business that is working on a small profit margin.

Let me show you a chart that demonstrates what happened to us at the height of our problems. This is the Enron scam. I would say to you, Mr. President, in this bill it is even going to be worse for your people because this bill has done away with the one agency that protects you against big mergers; it has essentially eviscerated the power of the FERC.

In this situation, eventually FERC was able to step in. But what we have done in this bill so far is not going to make that possible.

Let me show you what happened with the wholesale electricity prices. It started to spike up when all these scams—unbeknownst to us; I will go into those scams—hit. Enron led these scams. Other companies apparently did the same. The prices peaked over here, way up here. And then they started to go down when the rate caps were placed in.

In between this period and this period, as shown on the chart, our people suffered greatly. This represents a theft of about $9 billion from my people into the pockets of unscrupulous energy companies led by Enron.

Let me tell you what happened during this period. We have an overlay for this chart which I showed at the Commerce Committee which investigated this matter. Just to add a little spice to it, this overlay shows how much money Ken Lay and Jeffrey Skilling, the two corporate leaders—if I could use that term—of Enron, made during this period when we were being ripped off.

Mr. Lay sold $5 million worth of stock here in December 2000, $6 million worth of stock in February of 2001, and another $3 million worth of stock in May of 2001.

Mr. Skilling made millions of dollars as well. So here we are: $3 million, $3 million, and $2 million, the number of shares they sold into the hundreds of thousands. And the price per share, they sold out between $85 and $54.

When it was all over, where were the employees of Enron? Flat broke. They lost their jobs. They lost their life savings.

They knew what they were doing. They were ripping off the people of my State and selling their stock. And they are not in jail.

What do we do in this bill? We make it possible for that to continue because the electricity title does nothing but make matters worse by tying the hands of the people who could stop this nonsense from happening.

So when we get a little bit upset and emotional, it is because we have met with the people in our State. We know how they have suffered. We have met with the business community. We know what happened. And we don't see Ken Lay in jail. We don't see Jeffrey Skilling in jail. Do you know what? That is up to the administration to go after them. I urge them to do it. They are going after Martha Stewart. They went after Sam Waksal. Fine. Go after people who do bad things.

What happened here is a disaster. These men pocketed tremendous amounts of money. The people who worked for them lost their jobs, lost their retirement. People all over the country went broke with their pension plans. And this electricity title does nothing at all to stop this from happening.

Now, I never thought I would have to come out on the floor and bring out these charts again because, honest to God, I thought in the Energy bill we would come up with we would stop these shenanigans. And we can't put Ken Lay in jail here. That is up to the courts. It is up to the Attorney General. We can't put Jeffrey Skilling in jail. We can't get the money back to the people. But what we can do is make sure this does not happen again. And we are not doing it. That is why we are so upset.

And when colleagues on the other side say let's stop talking about this; we have talked for 16 days, the truth is we have talked for 8 days. The truth is they are putting in judges, controversial judges. And I have one from my State the two Senators from my State oppose. They are throwing that in the mix, when we ought to be talking about this issue.

I want to show you one more thing before I put away this chart. During this period of time, the California delegation, Republicans and Democrats alike, went to seek DICK CHENEY. We begged him to take action. We begged him to take action. We said: You are an expert on energy. You know this is a scam. We showed him a chart which showed that plants were being taken offline for so-called maintenance at a rate that was about 10 times higher than had been the normal case. So we were getting shorted electricity on purpose—manipulation.

We went to DICK CHENEY and we said: Can you help us? Do you know what he said? I will never forget it. He said: Listen, I have one thing to say to you. Your people use too much energy.

Well, let me say, my people are No. 1 in terms of the least energy used per capita. Let me repeat that: the least energy used per capita. And look at this chart. As we saw the spikes go up, demand was going down. This was not a market. This was manipulation.

Demand was down; electricity was soaring. What MARIA CANTWELL and PATTY MURRAY and I and Senator FEINSTEIN are trying to tell you is, don't let the California experience go to waste. Look at what happened to us. Look at the corporate thieves that pocketed millions of dollars while our people were taken to the cleaners, while the employees of these companies lost their jobs, lost their pensions. If I have to see another one of these cases again, it would just be tragic. Can't we learn from history? That is what we are supposed to do, learn from history.

So when we stand up and say we want to fight for our amendments, we want to make sure that the Federal Government can step in and stop this robbery, it isn't because we are trying to derail anything. If anything, we are trying to get an Energy bill on track that is going to spare other States the tragedy that our State experienced.

It isn't anything about too much demand. Our demand was down, and the prices soared. Why did that happen? Because scams were put into place. I will just show a few of these scams.

Here is Get Shorty:

> In order to short the ancillary services, it is necessary to submit false information that purports to identify the source of the ancillary services.
>
> The traders are careful, however, to be sure to buy services right at 9:00 a.m. so that Enron is not actually called upon to provide ancillary services.

That comes straight out of the lawyer's letter.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MEMORANDUM

STOEL RIVES LLP,
December 6, 2000.
To: Richard Sanders
From: Christian Yoder and Stephen Hall
Re: Traders' Strategies in the California Wholesale Power Markets/ISO Sanctions.

CONFIDENTIAL: ATTORNEY/CLIENT PRIVILEGE/ ATTORNEY WORK PRODUCT

This memorandum analyzes certain trading strategies that Enron's traders are using in the California wholesale energy markets. Section A explains two popular strategies used by the traders, "inc-ing" load and relieving congestion. Section B describes and analyzes other strategies used by Enron's traders, some of which are variations on "inc-ing" load or relieving congestion. Section C discusses the sanction provisions of the California Independent System Operator ("ISO") tariff.

A. THE BIG PICTURE

1. "Inc-ing" Load Into The Real Time Market

One of the most fundamental strategies used by the traders is referred to as "'inc-ing' load into the real time market." According to one trader, this is the 'oldest trick in the book' and, according to several of the traders, it is now being used by other market participants.

To understand this strategy, it is important to understand a little about the ISO's real-time market. One responsibility of the ISO is to balance generation (supply) and loads (demand) on the California transmission system. During its real-time energy balancing function the ISO pays/charges market participants for increasing/decreasing their generation. The ISO pays/charges market participants under two schemes: "instructed deviations" and "uninstructed deviations." Instructed deviations occur when the ISO selects supplemental energy bids from generators offering to supply energy to the market in real time in response to ISO instructions. Market participants that increase their generation in response to instructions ("instructed deviation") from the ISO are paid the "inc" price. Market participants that increase their generation without an instruction from the ISO (an "uninstructed deviation") are paid the ex post "dec" price. In real-time, the ISO issues instructions and publishes ex post prices at ten-minute intervals.

"'Inc-ing load' into the real-time market" is a strategy that enables Enron to send excess generation to the imbalance energy market as an uninstructed deviation. To participate in the imbalance energy market it is necessary to have at least 1 MW of load. The reason for this is that a generator cannot schedule energy onto the grid without having a corresponding load. The ISO requires scheduling coordinators to submit balanced schedules; i.e., generation must equal load. So, if load must equal generation, how can Enron end up with excess generation in the real-time market?

The answer is to artificially increase ("inc") the load on the schedule submitted to the ISO. Then, in real-time, Enron sends the generation it scheduled, but does not take as much load as scheduled. The ISO's meters record that Enron did not draw as much load, leaving it with an excess amount of generation. The ISO gives Enron credit for the excess generation and pays Enron the dec price multiplied by the number of excess megawatts. An example will demonstrate this. Enron will submit a day-ahead schedule showing 1000 MW of generation scheduled for delivery to Enron Energy Services ("EES"). The ISO receives the schedule, which says "1000 MW of generation" and "1000 MW of load." The ISO sees that the schedule balances and, assuming there is no congestion, schedules transmission for this transaction. In real-time, Enron sends 1000 MW of generation, but Enron Energy Services only draws 500 MW. The ISO's meters show that Enron made a net contribution to the grid of 500 MW, and so the ISO pays Enron 500 times the dec price.

The traders are able to anticipate when the dec price will be favorable by comparing the ISO's forecasts with their own. When the traders believe that the ISO's forecast underestimates the expected load, they will inc load into the real time market because they know that the market will be short, causing a favorable movement in real-time ex post prices. Of course, the much-criticized strategy of California's investor-owned utilities ("IOUs") of underscheduling load in the day-ahead market has contributed to the real-time market being short. The traders have learned to build such underscheduling into their models, as well.

Two other points bear mentioning. Although Enron may have been the first to use this strategy, others have picked up on it, too. I am told this can be shown by looking at the ISO's real-time metering, which shows that an excess amount of generation, over and above Enron's contribution, is making it to the imbalance market as an uninstructed deviation. Second, Enron has performed this service for certain other customers for which it acts as scheduling coordinator. The customers using this service are companies such as Powerex and Puget Sound Energy ("PSE"), that have generation to sell, but no native California load. Because Enron has native California load through EES, it is able to submit a schedule incorporating the generation of a generator like Powerex or PSE and balance the schedule with "dummied-up" load from EES.

Interestingly, this strategy appears to benefit the reliability of the ISO's grid. It is well known the California IOUs have systematically underscheduled their load in the PX's Day-Ahead market. By underscheduling their load into the Day-Ahead market, the IOUs have caused the ISO to have to call on energy in real time in order to keep the transmission system in balance. In other words, the transmission grid is short energy. By deliberately overscheduling load, Enron has been offsetting the ISO's real time energy deficit by supplying extra energy that the ISO needs. Also, it should be noted that in the ex post market Enron is a "price taker," meaning that they are not submitting bids or offers, but are just being paid the value of the energy that the ISO needs. If the ISO did not need the energy, the dec price would quickly drop to $0. So, the fact that Enron was getting paid for this energy shows that the ISO needed the energy to balance the transmission system and offset the IOU's underscheduling (if those parties own Firm Transmission Rights ("FTR") over the path).

2. Relieving Congestion

The second strategy used by Enron's traders is to relieve system-wide congestion in the real-time market, which congestion was created by Enron's traders in the PX's Day Ahead Market. In order to relieve transmission congestion (i.e., the energy scheduled for delivery exceeds the capacity of the transmission path), the ISO makes payments to parties that either schedule transmission in the opposite direction ("counterflow payments") or that simply reduce their generation/load schedule.

Many of the strategies used by the traders involve structuring trades so that Enron gets paid the congestion charge. Because the congestion charges have been as high as $750/MW, it can often be profitable to sell power at a loss simply to be able to collect the congestion payment.

B. REPRESENTATIVE TRADING STRATEGIES

The strategies listed below are examples of actual strategies used by the traders, many of which utilize the two basic principles described above. In some cases, the strategies are identified by the nicknames that the traders have assigned to them. In some cases, i.e., "Fat Boy," Enron's traders have used these nicknames with traders from other companies to identify these strategies.

1. Export of California Power

a. As a result of the price caps in the PX and ISO (currently $250), Enron has been able to take advantage of arbitrage opportunities by buying energy at the PX for export outside California. For example, yesterday (December 5, 2000), prices at Mid-C peaked at $1200, while California was capped at $250. Thus, traders could buy power at $250 and sell it for $1200.

b. This strategy appears not to present any problems, other than a public relations risk arising from the fact that such exports may have contributed to California's declaration of a Stage 2 Emergency yesterday.

2. "Non-firm Export"

a. The goal is to get paid for sending energy in the opposite direction as the constrained path (counterflow congestion payment). Under the ISO's tariff, scheduling coordinators that schedule energy in the opposite direction of the congestion on a constrained path get paid the congestion charges, which are charged to scheduling coordinators scheduling energy in the direction of the constraint. At times, the value of the congestion payments can be greater than the value of the energy itself.

b. This strategy is accomplished by scheduling non-firm energy for delivery from SP–15 or NP–15 to a control area outside California. This energy must be scheduled three hours before delivery. After two hours, Enron gets paid the counterflow charges. A trader then cuts the non-firm power. Once the non-firm power is cut, the congestion resumes.

c. The ISO posted notice in early August prohibiting this practice. Enron's traders stopped this practice immediately following the ISO's posting.

d. The ISO objected to the fact that the generators were cutting the non-firm energy. The ISO would not object to this transaction if the energy was eventually exported.

Apparently, the ISO has heavily documented Enron's use of this strategy. Therefore, this strategy is the more likely than most to receive attention from the ISO.

2. "Death Star"

a. This strategy earns money by scheduling transmission in the opposite direction of congestion: i.e., schedule transmission north in the summertime and south in the winter, and then collecting the congestion payments. No energy, however, is actually put onto the grid or taken off.

b. For example, Enron would first import non-firm energy at Lake Mead for export to the California-Oregon border ("COB"). Because the energy is traveling in the opposite direction of a constrained line, Enron gets paid for the counterflow. Enron also avoids paying ancillary service charges for this export because the energy is non-firm, and the ISO tariff does not require the purchase of ancillary services for non-firm energy.

c. Second, Enron buys transmission from COB to Lake Mead at tariff rates to serve the import. The transmission line from COB to Lake Mead is outside of the ISO's control area, so the ISO is unaware that the same energy being exported from Lake Mead is simultaneously being imported into Lake Mead. Similarly, because the COB to Lake Mead line is outside the ISO's control area, Enron is not subject to payment of congestion charges because transmission charges for the COB to Lake Mead line are assessed based on imbedded costs.

d. The ISO probably cannot readily detect this practice because the ISO only sees what is happening inside its control area, so it only sees half of the picture.

e. The net effect of these transactions is that Enron gets paid for moving energy to relieve congestion without actually moving any energy or relieving any congestion.

3. "Load Shift"

a. This strategy is applied to the Day-Ahead and the real-time markets.

b. Enron shifts load from a congested zone to a less congested zone, thereby earning payments for reducing congestion, i.e., not using our FTRs on a constrained path.

c. This strategy requires that Enron have FTRs connecting the two zones.

d. A trader will overschedule load in one zone, i.e., SP–15, and underschedule load in another zone, i.e., NP–15.

Such scheduling will often raise the congestion price in the zone where load was overscheduled.

The trader will then "shift" the overscheduled "load" to the other zone, and get paid for the unused FTRs. The ISO pays the congestion charge (if there is one) to market participants that do not use their FTRs. The effect of this action is to create the appearance of congestion through the deliberate overstatement of loads, which causes the ISO to charge congestion charges to supply scheduled for delivery in the congested zone. Then, by reverting back to its true load in the respective zones, Enron is deemed to have relieved congestion, and gets paid by the ISO for so doing.

e. One concern here is that by knowingly increasing the congestion costs, Enron is effectively increasing the costs to all market participants in the real time market.

f. Following this strategy has produced profits of approximately $30 million for FY 2000.

4. "Get Shorty"

a. Under this strategy, Enron sells ancillary services in the Day-ahead market.

b. Then, the next day, in the real-time market, a trader "zeroes out" the ancillary services, i.e., cancels the commitment and buys ancillary services in the real-time market to cover its position.

c. The profit is made by shorting the ancillary services, i.e., sell high and buy back at a lower price.

d. One concern here is that the traders are applying this strategy without having the ancillary services on standby. The traders are careful, however, to be sure to buy services right at 9:00 a.m. so that Enron is not actually called upon to provide ancillary services. However, once by accident, a trader inadvertently failed to cover, and the ISO called on those ancillary services.

e. This strategy might be characterized as "paper trading," because the seller does not actually have the ancillary services to sell. FERC recently denied Morgan Stanley's request to paper trade on the New York ISO.

The ISO tariff does provide for situations where a scheduling coordinator sells ancillary services in the day ahead market, and then reduces them in the day-of market. Under these circumstances, the tariff simply requires that the scheduling coordinator replace the capacity in the hour-ahead market. ISO Tariff, SBP 5.3, Buy Back of Ancillary Services.

f. The ISO tariff requires that schedules and bids for ancillary services identify the specific generating unit or system unit, or in the case of external imports, the selling entity. As a consequence, in order to short the ancillary services it is necessary to submit false information that purports to identify the source of the ancillary services.

5. "Wheel Out"

a. This strategy is used when the interties are set to zero, i.e., completely constrained.

b. First, knowing that the intertie is completely constrained, Enron schedules a transmission flow through the system. By so doing, Enron earns the congestion charge. Second, because the line's capacity is set to "0," the traders know that any power scheduled to go through the intertie will, in fact be cut. Therefore, Enron earns the congestion counterflow payment without having to actually send energy through the intertie.

c. As a rule, the traders have learned that money can be made through congestion charges when a transmission line is out of service because the ISO will never schedule an energy delivery because the intertie is constrained.

6. "Fat Boy"

a. This strategy is described above in section A(1).

7. "Ricochet"

a. Enron buys energy from the PX in the day of market, and schedules it for export. The energy is sent out of California to another party, which charges a small fee per MW, and then Enron buys it back to sell the energy to the ISO real-time market.

b. The effect of this strategy on market prices and supply is complex. First, it is clear that Enron's intent under this strategy is solely to arbitrage the spread between the PX and the ISO, and not to serve load or meet contractual obligations. Second, Ricochet may increase the Market Clearing Price by increasing the demand for energy (Increasing the MCP does not directly benefit Enron because it is *buying* energy from the PX, but it certainly affects other buyers, who must pay the same, higher price.) Third, Ricochet appears to have a neutral effect on supply, because it is returning the exported energy as an import. Fourth, the parties that pay Enron for supplying energy to the real time ex post market are the parties that underscheduled, or underestimated their load, i.e., the IOUs.

8. Selling Non-firm Energy as Firm Energy

a. The traders commonly sell non-firm energy to the PX as "firm." "Firm energy," in this context, means that the energy includes ancillary services. The result is that the ISO pays EPMI for ancillary services that Enron claims it is providing, but does not in fact provide.

b. The traders claim that "everybody does this," especially for imports from the Pacific Northwest into California.

c. At least one complaint was filed with the ISO regarding Enron's practice of doing this. Apparently, Arizona Public Service sold non-firm energy to Enron, which turned around and sold the energy to the ISO as firm. APS cut the energy flow, and then called the ISO and told the ISO what Enron had done.

9. Scheduling Energy To Collect the Congestion Charge II

a. In order to collect the congestion charges, the traders may schedule a counterflow even if they do not have any excess generation. In real time, the ISO will see that Enron did deliver the energy it promised, so it will charge Enron the inc price for each MW Enron was short. The ISO, however, still pays the congestion charge. Obviously a loophole, which the ISO could close by simply failing to pay congestion charges to entities that failed to deliver the energy.

b. This strategy is profitable whenever the congestion charge is sufficiently greater than the price cap. In other words, since the ex post is capped at $250, whenever the congestion charge is greater than $250 it is profitable to schedule counterflows, collect the congestion charge, pay the ex post, and keep the difference.

C. ISO TARIFF

The ISO tariff prohibits "gaming," which it defines as follows:

'Gaming,' or taking unfair advantage of the rules and procedures set forth in the PX or ISO Tariffs, Protocols or Activity Rules, or of transmission constraints in periods in which exist substantial Congestion, to the detriment of the efficiency of, and of consumers in, the ISO Markets. 'Gaming' may also include taking undue advantage of other conditions that may affect the availability of transmission and generation capacity, such as loop flow, facility outages, level of hydropower output or seasonal limits on energy imports from out-of-state, or actions or behaviors that may otherwise render the system and the ISO Markets vulnerable to price manipulation to the detriment of their efficiency." ISO Market Monitoring and Information Protocol ("MMIP"), Section 2.1.3.

The ISO tariff also prohibits "anomalous market behavior," which includes "unusual trades or transactions"; "pricing and bidding patterns that are inconsistent with prevailing supply and demand conditions"; and "unusual activity or circumstances relating to imports from or exports to other markets or exchanges." MMIP, Section 2.1.1 et seq.

Should it discover such activities, the ISO tariff provides that the ISO may take the following action:

1. Publicize such activities or behavior and its recommendations thereof, "*in whatever medium it believes most appropriate.*" MMIP, Section 2.3.2 (emphasis added).

2. The Market Surveillance Unit may recommend actions, including fines and suspensions, against specific entities in order to deter such activities or behavior. MMIP, Section 2.3.2.

3. With respect to allegations of gaming, the ISO may order ADR procedures to determine if a particular practice is better characterized as improper gaming or "legitimate aggressive competition." MMIP, Section 2.3.3.

4. In cases of "serious abuse requiring expeditious investigation or action" the Market Surveillance Unit shall refer a matter to the appropriate regulatory or antitrust enforcement agency. MMIP, Section 3.3.4.

5. Any Market Participant or interested entity may file a complaint with the Market Surveillance Unit. Following such complaint, the Market Surveillance Unit may "carry out any investigation that it considers appropriate as to the concern rasied." MMIP, Section 3.3.5.

6. The ISO Governing Board may impose "such sanctions or penalties as it believes necessary and as are permitted under the ISO Tariff and related protocols approved by FERC; or it may refer the matter to such regulatory or antitrust agency as it sees fit to recommend the imposition of sanctions and penalties." MMIP, Section 7.3.

Mrs. BOXER. This is a letter we got ahold of in the Commerce Committee where the lawyers were, in essence, going into all of these schemes and basically telling Enron they were running afoul of State law, and yet the schemes continued. They went on and on.

Here are the rest of the strategies used that Senator CANTWELL is trying to do away with, trying to do away with these schemes. That is why she has a number of amendments.

Death Star:

> Enron gets paid for moving energy to relieve congestion without actually moving any energy or relieving any congestion.

This is detailed in the letter I just put in the RECORD.

Load Shift:

> By knowingly increasing the congestion costs, Enron is effectively increasing the costs to all market participants in the real time market.

This is a great one. Exporting California power:

> This strategy appears not to present any problems, other than a public relations risk arising from the fact that such exports may have contributed to California's declaration of a Stage 2 Emergency.

They were taking power out of my State, robbing my State of its power. Be careful. This could happen to you. As Senator DORGAN said, he gets cheap power. In this bill that cheap power can be brought out of his State and suddenly they are faced with a lack of power. Is this the kind of Energy bill we need so badly, to take these schemes and allow them to happen in your States?

Inc-ing Load:

> The answer is to artificially increase (inc) the load on the schedule submitted to the ISO.

It is all fraud. It has all been exposed. We know now why we faced the kind of crisis we faced. Yet we can't get colleagues to listen to Senator CANTWELL, to vote for her amendment. Then we get yelled at that we are not doing the right thing for the country.

I don't understand what is going on here. If we truly care about our constituents as we say we do, if we truly want to fight for our families, if we care about our small businesses, why would we pass a bill that allows these scams to continue? Why do we have to get lectured about the fact we are derailing something? I am trying to spare what happened to me and my constituents in my State from happening to you and your constituencies in your States. For that, we are being called obstructionist.

This is another way to look at what happened. Our demand for electricity in California during our crisis period went up 4 percent. Remember, I told you, we were the most energy efficient. The reason it went up 4 percent is we are growing. I must remind you, I represent 35 million people. We have the fifth largest economy in the world. So our electricity demand went up 4 percent and our wholesale cost of electricity went up 266 percent.

No business could survive if our State hadn't come in and taken over when the power companies went under. Our power companies went under. Our electric utility companies went under. It is hard to imagine. They had been in business for 100 years or more.

I know my friend from Texas is raring to give her statement so I won't go on anymore.

I think before there are charges of obstructionism, we ought to take a deep breath and think about what happened to the largest State in the Union, when we were scammed by the private sector, by people with no morality, by people with no ethics, by people who should be in jail. We were scammed, and we are trying to prevent that from happening all over the country.

Instead, what we have is a bill that makes it easier for these scams to continue. What we have is a bill that continues on this path that will hurt consumers all over the country.

What Senator CANTWELL has been fighting for is the opportunity to offer amendments. With what has happened here now, that is no longer possible. So, yes, some of us are going to continue to tell the story. Some of us are going to say: Let us learn from history. This isn't ancient history; this is 1999 and 2000.

What we want to do is make sure we have a system that will protect small business and will protect families and will protect us all from robber barons who come in and set up elaborate scams, giving them names: Death Star, Fat Boy, Get Shorty, Inc-ing, Ricochet. This isn't just some one person who had a thought. This was a conspiracy to harm consumers.

As Senator CANTWELL said, electricity is a necessity. It is more than a commodity. You can do without a new suit; you can do without a pair of shoes if you already have one; but you cannot do without electricity, if you are in business or if you live in some of the desert areas in my State where senior citizens can get a heatstroke if they don't have their air-conditioner on. Senator CANTWELL and I and others simply want to make sure that what happened to us does not happen to us again and what happened to us does not happen to you in your States.

I thank the Senate for its indulgence. I am very hopeful that our leaders are working out a way for us to walk away from this electricity title which is so damaging and move forward with a bill that doesn't hurt the people we represent. None of us wants to do it. Let's not do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized under the previous order for up to 20 minutes.

Mrs. HUTCHISON. Mr. President, I think it is very important that we revamp and talk about what is going on here because we have been trying to pass this Energy bill, really, since May. Our leader, Senator FRIST, and the committee chairman, Senator DOMENICI, have asked people to come forward and offer their amendments time and time and time again. We have not had amendments offered; we have not had time agreements; we have not had the momentum to move forward on this bill.

Senator FRIST, as is usual around here, did allow other business to be done in between because we were not able to make headway on this bill. Senator FRIST announced at the first of this week that we were going to finish this Energy bill. But time and time again, it has broken down, amendments have not come forward, we have not had time agreements, and we have not been able to move forward.

The bill we are working on is a bill that came out of committee. It was hammered out by the committee under the leadership of the chairman and the ranking member—the two Senators from New Mexico. It came to the floor in relatively good shape. There were certainly amendments in order, and that is the right of every Senator. But it is also the responsibility of a Senator to say what the amendments are, put them forward, make the arguments, and let's move on. That is how you get a bill off the floor. We have been thwarted in those efforts time and time and time again.

We import 56 percent of the energy needs of this country. How can we be so blind when we see what is happening in the Middle East right now? We know the Middle East is volatile, we know it is the largest source of our imported energy. Yet we have been working on this Energy bill for actually 2 years and, if we don't pass an Energy bill, we are not going to become more self-sufficient. How can we miss this opportunity? It is an issue of consumer availability. It is an issue of responsible regulation. It is also an issue of security for our country—that we have the supplies that are sufficient so we will not be beholden to any other country in the world for our energy needs, and so we will have the ability to keep our economy strong and protect the people of our country. At no time was that made more clear than on September 11, 2001.

We need to finish this bill. I think a fair offer has been made. It does close out some amendments. It closes out some amendments on which I was working. I think if we all look at the big picture, we will determine that it is better to pass the bill that we had on the floor last year, which passed 88 to 11, after the Senate wrote the bill on the Senate floor. I didn't like all of it, but it was a good start at making our country more energy self-sufficient. Furthermore, it would have put people to work. Why on earth would we not, in this very hard economic time, realize that we need to put our people back to work? There are many parts of the bill that we are working on that came out of committee. There are many parts of the bill we passed last year that will put people back to work.

This bill is very balanced. It assures that we will have more energy coming from our country in the traditional ways, such as oil and gas exploration and trying to encourage clean coal, because we have an abundance of coal and it can be used in a clean, environmentally safe way if we enact the amendments and the bill from last year that encourage clean coal development. It also encourages new forms of energy—renewable energy, energy that comes from different sources, alternative sources, such as wind and ethanol—different sources even than we know about today—through research.

It is very important that we develop our own sources of energy. Nuclear energy is clean energy. It has been wiped out in our country because of the liability and the extremism that has kept anyone from making an investment in a nuclear powerplant for about the last 15 years. But nuclear energy is a major source in many European countries, and it is very clean and safe if it is done right.

So I think it is very important that we have this bill, or pass last year's bill, and that we stop talking about who is delaying. We have had the bill on the floor for a week and we have not been able to get through all of the stalling. So I think it is time for us to fish or cut bait before we leave. I think a fair offer has been made, and I think it is time for us to go forward and pass an Energy bill for our country.

Let's have the debate, let's vote up or down, and let's try to use the good parts of this bill for the future of our country. It encourages new and marginal well drilling. A lot of people say, well, a 13-barrel-a-day well is not going to make us more energy self-sufficient. But, at one time, before prices got so low that the little guys could not make it, we had 500,000 marginal wells drilling in our country. That provided a lot of jobs, and it also equaled the amount of oil we import from Saudi Arabia every day. But the little guys have very low margins at 13 barrels a day, and they cannot make it when the price of oil falls below $18 a barrel. So if we just have a mechanism by which you get some tax relief if prices fall below $18 or $17 or $16 a barrel, then those people will know they can stay in business; they will go out and find the oil and they will take the time and the expense to drill. They will not take the time to drill if we don't give them some assurances. This bill does that, and so did last year's bill. It is very important to encourage our people to go out and look for oil and gas resources.

The Gulf of Mexico is the second largest capability we have after Alaska. We have been prohibited from drilling in ANWR, and that is not in the bill. But the Gulf of Mexico is available and it is the second largest resource we have in this bill before us, as in last year's bill. We do have incentives that would allow people to go to the great expense of a deep gulf drilling because they will know they will have the capability, if they find oil or gas, to be able to afford to get it out and keep those jobs in our country.

There is a reason for us to stay on this bill. The reason is the national security of our country. That is why our leader, Senator FRIST, has said from the beginning of this week that we have already spent 2 weeks on this bill and now is the time for the Senate to act.

There is no reason for us to leave without an Energy bill. We have given it time. If people are sincere about wanting an Energy bill to pass, this is a good bill. Last year's bill is a bill with which we can work. We have already voted on a major amendment, the Bond-Levin CAFE amendment, which will have good science in fuel efficiency standards. The Senate has spoken on that issue.

Why don't we keep going? Why don't we close out the electricity title to this bill? It has been very controversial, but we put all the groups together, we have gone through all the disagreements, and we have come to some terms. Why don't we go forward on this bill?

Yes, a few people would not be able to offer their amendments because they did not come forward all these weeks we have had the bill before the Senate. Some people have, and we have voted on their amendments.

We do not need to be pointing fingers. The majority brought up the bill. Senator DOMENICI has been working on this bill diligently. Senator DOMENICI gave up the last 2 years of his chairmanship of the Budget Committee, which he loved, because he was dedicated and committed to getting an Energy bill out of the Senate and to the President's desk. He has not had the cooperation he deserves to do what he has been trying to do all these years.

Senator DOMENICI put the bill through the committee. He did not bypass the committee as was done last year. He put it through the committee, and he worked with all of the factions and interest groups. He deserves to finish this bill this week as we proposed to do.

We have tax incentives in this bill that will encourage the new kinds of energy that might be what will make the difference in sufficient energy in our country. Maybe it will be the clean coal power initiative that will get us over the hump to gasify coal in an environmentally safe way.

If we continue to put regulatory hurdles in front of our ability to develop new sources of energy in a responsible way, we are going to do two things: We are going to continue the deficit in our ability to provide our own energy for the people of the United States of America, and we are going to send jobs overseas at a time when unemployment is at a high point this year. I do not see the wisdom in that, and that is why we have been pushing all week to get this bill completed.

The United States has the 12th highest proven oil reserves in the world. Sixty-five percent of those reserves are concentrated in Alaska and the Gulf of Mexico. This bill will help the Gulf of Mexico, and it will help get the resources from Alaska through a pipeline down to the lower 48. This bill does not allow drilling in ANWR, but it does allow us to have a direct pipeline that will take the natural resources—the gas—out of Alaska and bring it down to the lower 48.

This is a huge job creator and a huge benefit for the consumers and the businesses of our country that must have energy to keep their businesses and their manufacturing operations open. I have talked with farmers and small business people about the increasing rates of natural gas and electricity, and it is driving their costs up at a time when they are not able to get higher prices for their products, and that is an alarming hit on our economy.

Why are we still talking about this bill instead of working on the electricity title and getting this bill through the Senate or taking up the offer that was made by the leadership that we take up last year's bill that passed this body 88 to 11, pass it, and go to conference and continue to work on getting a bill to the President of the United States?

Even if everything in this bill or last year's bill is not to my liking, which it is not, it is a major step for energy sufficiency, a major step in conservation, and a major step in job production for our country at a time when we need it.

I hope we will be able to move forward on this bill or on last year's bill with the goal that we will finish this bill this week. That is what we can do if we will stop talking—and I am talking because we do not have an agreement yet, but I will gladly yield to anyone who comes to the Chamber and says, We have an agreement to go forward, because I want an Energy bill this week. That is why Senator FRIST laid it before the Senate and why Senator DOMENICI got it out of committee and why we have been trying to pass this bill since last year, since early this year, since May when it came out of committee and we first tried to pass it. We have seen delay after delay.

I hope we will buckle down in the next hour and start the electricity title again or enter into an agreement that we are going to pass last year's bill, debate it, let everybody have their say, and see if we can move forward, even if it is not 100 percent what people want. I have not seen a bill come out of the Senate very often that is 100 percent of what I want. That is why we have 100 Senators representing 50 States and the required compromises that produce a bill.

I hope we will stop the delays and that we will work with Senator DOMENICI. He has made every offer that can possibly be made in an effort to move this bill forward. He has offered to keep going through the electricity title. Let's finish that. That would be a major accomplishment. And then let's go on to the tax title. A lot of people could be put back to work with the tax title because it encourages more sources of energy, and we can do that before the end of this week if we will start working and stop the delay we have seen week after week and month after month.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUNNING). Will the Senator withhold her request?

Mrs. HUTCHISON. I withdraw my request for a quorum call.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak in morning business for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. REED. Mr. President, I wish to take this opportunity to discuss the issues involving our ongoing conflict in Iraq. I will discuss the issues of intelligence, planning, and the challenges ahead.

These topics are critically important in their own right. But, they take on even more profound and consequential aspects when you recognize that failures and missteps in Iraq could play out again as we face future threats, the most alarming of which is the deepening crisis over North Korea.

Today, I find myself expressing many of the concerns that I initially stated last October when I opposed a unilateral approach to confronting the Saddam Hussein regime. But the obligation to review our activities in Iraq is less about the past and much more about the demanding present, both within Iraq and around the globe.

With each passing day, the struggle in Iraq claims additional American lives. These losses are the most tangible and poignant symbols of the increasingly difficult burden that we have chosen to bear. Our stunning military success in the first phase of the war gave us the hope that our conventional victory would lead quickly to a decisive and final cessation of hostilities. Our hopes are periodically renewed when our forces are able to capture or kill another prominent member of the regime. Most recently, the 101st Airborne routed Saddam's sons, Qusay and Uday, from their hiding place and killed them in a fierce firefight. We even seem to be closing in upon Saddam himself. Yet still the attacks against our troops go on. Our military leaders have wisely cautioned us that we can expect more attacks and more casualties. The situation in Iraq will likely get worse before it gets better, and our military presence will be of long duration.

But, also, with each passing day, several important aspects of the preemptive attack on Iraq become clearer.

The intelligence used by the administration to justify the war was selectively shaped to support their preconceived views of the threat posed by Saddam. Their declarations of the presence of weapons of mass destruction posing an imminent threat to the United States and their statements linking the Iraqi regime to terrorists associated with al-Qaida were questionable when uttered and, to date, have been unsubstantiated. These distortions were deliberate and calculated to sway opinion rather than to properly inform it.

Planning for occupation activities was woefully lacking. The administration appeared to believe its own oversimplified view of Iraq: namely, that it was a country that would welcome us with open arms once we removed Saddam. This was the line advanced by Iraqi exiles who had for many years been the proteges or associates of numerous administration officials. Apparently, the view of Iraq from Paris or London was just as distorted as the view from Washington think tanks. Complicating this unrealistic view of Iraq was a power struggle between the Department of Defense and the Department of State over responsibility for post-hostility planning. The Department of Defense won and the planning process lost. Expertise was sacrificed for enthusiasm and loyalty. Then, with the avalanche of pressing details concerning the pending attack, post-attack planning took a predictable back seat.

Today, American forces are engaged in suppressing a well-armed and well-financed insurgency. Iraq is awash in weapons. The coalition provisional authority acknowledged the obvious when it authorized each homeowner to retain an AK–47. Even so, it is amazing to read on a daily basis of the seizure of hundreds of RPG's and hundreds and hundreds of pounds of explosives. And, there appears to be a lot more that has yet to be discovered. More serious, of course, is the daily casualties among our troops caused by these weapons. Also, the insurgents to date appear to have an ample supply of cash. Another amazing revelation of my recent trip to Iraq was the frequency that our forces turned up sizable quantities of cash and valuables as they rounded up even low ranking members of the Saddam regime.

The insurgency in Iraq has not been transformed into a popular movement to attack American forces and to eject us from Iraq. That is good news. But we are in a frantic race to improve security, reinvigorate a devastated economy and establish an Iraqi government deemed legitimate by the people of Iraq before popular frustration and incipient nationalism are ignited by those who do wish to attack and eject us from the ground.

One of the more thoughtful and even-handed military analysts, Anthony Cordesman at the Center for Strategic and International Studies, has accurately summarized the record of the administration's intelligence activities leading up to Operation Iraqi Freedom.

> [T]here are many indications that the U.S. intelligence community came under pressure to accept reporting by Iraqi opposition forces with limited credibility and, in some cases, a history of actively lying to either exaggerate their own importance or push the U.S. towards a war to overthrow Saddam Hussein. In what bore a striking resemblance to similar worst case interpretations of the global threat from the proliferation of ballistic missiles under the Rumsfeld Commission, U.S. policymakers not only seem to have pushed for the interpretation that would best justify military action, but to have focused on this case as if it were a reality, rather than a possibility. In the U.S., this pressure seems to have come primarily from the Office of the Vice President and the Office of the Secretary of Defense, but it seems clear that the Bush Administration as a whole sought intelligence that would support its case in going to war, and this had a significant impact on the intelligence community from 2002-onwards.

The administration did not use intelligence to help make a difficult decision. It used intelligence to sell a preconceived notion. The long-term, fixed view of the administration held that deterrence and international inspectors were inherently incapable of containing Saddam. Only the elimination of the regime could suffice. Moreover, regime change could have the added benefit of precipitating a transformation of the entire region.

In January of 1998, Secretary Rumsfeld, Secretary Wolfowitz and other prominent neo-conservatives wrote to President Clinton urging him to use military force to remove Saddam.

In their words:

> The only acceptable strategy is one that eliminates the possibility that Iraq will be able to use weapons of mass destruction. In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power. That now needs to become the aim of American foreign policy.

This letter predated the attack on Iraq by 5 years. Indeed, it predated September 11 by more than 3 years. This last point is instructive. Recently, Secretary Rumsfeld has been defending his judgment regarding the military campaign against Iraq as simply seeing intelligence in light of September 11. But it seems clear that he reached his conclusion about Iraq well before September 11, and September 11 certainly did not change his mind.

September 11 did, however, horrifically foreshadow the gravest threat facing the Nation: sophisticated terrorist cells armed with nuclear weapons. And, in so doing, gave the administration the template for its arguments. The President's assertion, that Iraq was actively seeking uranium from Niger, was false and known to be false at the highest levels of the administration, but it provided an irresistible element in the case the administration wanted to make against Iraq. Similarly, Secretary Rumsfeld made claims that he had "bulletproof" evidence of active collaboration between the Saddam Hussein regime and al-Qaida. In the weeks since the fall of the regime, no evidence has emerged to validate this claim.

These distortions and exaggerations are a dangerous disservice. They undermine confidence in the information that the public and decision makers must rely upon to make difficult judgments. Moreover, they suggest that the administration is not interested in understanding the world, but simply changing it along lines agreed to in policy seminars years ago.

Despite warnings of the difficulties inherent in stabilizing Iraq after the defeat of Saddam Hussein, planning for post-hostilities was an afterthought. The Defense Department wrested control of the process from State and insulated the planners from broad-based collaboration. Then it went on to bet that Iraqi gratitude, together with an exile government, would provide for a cheap and easy exit strategy.

Defense officials point out that they planned for many events that did not take place and executed a military plan that minimized potential humanitarian, economic and environmental problems. In fact, the military plan executed by CENTCOM was brilliant and did seek to minimize collateral damage through judicious targeting as well as actively seizing key installations, particularly oil facilities, to avoid sabotage.

But, the further one moves away from formal military plans into the province of policing, civil administration and economic development the clearer it becomes that the post war planning was grossly inadequate.

The first overt sign of planning inadequacies was the initial indifference to large scale looting. The collapse of the Iraqi police was not compensated for by aggressive action by our military. The systematic looting went unchecked for a prolonged period and undermined an already fragile and antiquated infrastructure.

The failure to incorporate experts on Iraq from the State Department and other agencies led to reliance on an ad-hoc group of retired military and administration operatives to try to organize a political and economic response. Initial efforts were disappointing and led to General Garner's early departure. Ambassador Bremer has filled the leadership void with more of a presence, but the realization is taking hold that this will be a long and expensive process with a still uncertain outcome.

The United States faces serious challenges in Iraq.

The preeminent challenge is security. Our forces are facing increasingly sophisticated attacks. In the first few days of the occupation, our troops were engaged with small arms on an opportunistic basis. The attacks have stepped up with more organization and more lethal weapons like RPGs. Lately, the insurgent's use of remotely detonated landmines and explosives demonstrates an increasing sophistication in training and planning.

A disturbing escalation in potential lethality of these attacks came with the recent report of a man-portable antiaircraft missile attack on an aircraft over Baghdad International Airport. This attack begs the question of the number of these MANPADS in Iraq and whether any have been removed from Iraq for use elsewhere. One or more successful attacks on aircraft would have a serious impact on both the security climate and the closely related efforts to restore a sense of predictability for economic investment and development.

Our military forces are aggressively attempting to preempt these attacks. The key to any successful counter-insurgency is intelligence, and we have begun an all-out effort to target the middle range of former Iraqi security officials to identify the insurgents and their support mechanisms. Nevertheless, the number of desperate and determined regime diehards with access to weapons and knowledge of the terrain and our dispositions indicates that these attacks will continue. In addition, it is reasonable to assume that infiltration of foreign terrorists will take place. This development could add an even more lethal, sophisticated and longer-term element to the battle. Our forces will likely face successive waves of violence over many months.

The next military challenge is to sustain our forces in Iraq. We cannot do so over the next year without additional international support or by activation of additional National Guard and Reserve forces. Our quest for international support was compromised from the beginning by the administration's insistence on an essentially unilateral approach to Iraq. Unless the administration is able to recruit an additional international division, the current rotation plan will have a huge gap next February when the 101st Airborne Division is scheduled to return. Since the administration has yet to ask NATO for support and major European countries like France and Germany remain estranged on this issue, likely candidates are Turkey and, perhaps, Pakistan. Each of these countries would demand significant financial and logistical support. And, the introduction of the Turks could cause problems within Iraq. The introduction of Pakistani forces could further incite domestic criticism of Musharraf at home.

The need to activate reserve forces is becoming more pressing with each passing day. I support General Barry McCaffrey's recommendation that we immediately activate nine National Guard Brigades, not just the two currently planned to be activated. Such a decision cannot be deferred much longer since these brigades must receive intensive training before they are deployed. Given the indefinite nature of our mission in Iraq and the potential for additional crises around the globe, these brigades should be made part of our active force structure and replenished through active duty recruitment.

The security challenge is matched by the need to create a functioning government that is legitimate in the eyes of the Iraqi people. We have begun this process through some arduous efforts in Baghdad. However, even more difficult and controversial actions lie ahead. The selection of a Governing Council was a start, but also revealed the problems that we face.

First, we are still saddling ourselves with Chalabi and the exiles. My initial instincts, that I shared with Ambassador Bremer in Baghdad, questioned the wisdom of placing these individuals in positions of power. Since that time, the first credible survey of Iraqi opinion conducted by the National Democratic Institute for International Affairs has been published. Among its conclusions is the finding that there exists "[c]ynicism about leaders, especially acute regarding some exiled leaders who were objects [of] vilification campaigns led by the previous regime. . . ."

Second, we have necessarily put off the most divisive political decision. Who will be the "face of Iraq"? The Council represents a broad spectrum of Iraq, but it has yet to produce a personality that will be that Iraqi face. The "executive" of the Council is a nine member body dominated by the exiles. One member rotates as the "Executive" each month. Eventually, a personality will emerge. Will that emergence set off a political crisis when disgruntled factions realize that they will not lead Iraq? I believe that there is a substantial likelihood of such a development and that would further complicate our presence.

Finally, our political tasks in Iraq must be accomplished with greater speed and a more deliberate and effective strategy to explain our actions. After the Saddam regime, the people of Iraq are steeped in misinformation and cynicism. According to the NDI survey, "antipathy for the United States and Britain is not overcome by the fact that these two countries are responsible for the country's liberation from the tyrant they despise." Moreover, "virtually no one, excepting some Kurds in the north, believes the United States intervention in Iraq is motivated by a desire to help the Iraqi people. Usually people say the U.S. 'is acting in its own interest'—which is often viewed in terms of access to Iraq's oil reserves."

The political situation in Iraq is not without some encouragement. According to the NDI Survey, there is no widespread support for the attacks against our forces. However, Iraqis do want foreign military forces to depart. There is a strong commitment to the integrity of the Iraqi state. Nevertheless, continued security problems, economic difficulties and political controversies can quickly sap these encouraging signs.

The serious consequences of selective intelligence and poor planning are playing themselves out today in Iraq. But, of equal or even greater concern, is the effect of the administration's operating style in other areas and issues of concern. The most notable and, to my mind, the most dangerous of these issues is North Korea's rush to develop significant quantities of fissile material and nuclear weapons.

In North Korea, we have, according to their demonstrated conduct and their public declarations, the type of threat that the administration claimed required a preemptive military attack in Iraq. Nowhere in the world do the lines of sophisticated terrorists and nuclear material come closer to intersecting than in the conduct of the North Koreans. By all accounts, North Korea is one of the most persistent and prodigious proliferators in the world. They sell military products to the highest bidder. With plutonium, they will likely get offers from terrorists.

The administration's response has been slow to develop and characterized by many of the pitfalls found in the prologue to Iraq with one other major factor. Our commitment to Iraq has seriously strained the capacity of the Administration to deal with North Korea and other problem areas.

The stress on our land forces inhibits a diplomatic strategy complemented by unquestioned military power. The public preoccupation with the turmoil in Iraq makes it very difficult to marshal the necessary popular support to engage in another high profile international confrontation at this time. The amount of energy and time that is devoted to Iraq crowds out the agendas of decision makers.

Thus, the administration is in a holding pattern. It is promoting a multinational, diplomatic approach that is laudable but not productive. It appears that just below the surface, some of the Beltway battles that preceded our operations in Iraq are being fought to a standstill. Once again, it seems that dogma is clashing with diplomacy. The doctrine of regime change is pitted against a diplomatic approach that requires as a prerequisite the tacit recognition, at least, of non-aggression against the North Korean regime as part of an overall, verifiable agreement to eliminate nuclear weapons.

The effect of all of this is that crucial time is being squandered. As former Secretary of Defense Bill Perry declared, the situation in North Korea—

> was manageable six months ago if we did the right things. But we haven't done the right things.

The President has to address this issue now by settling the debate within his Administration in favor of diplomacy and not dogma. He has to take steps now to bolster our military forces to complement a diplomatic approach.

It would be tragic if our efforts in Iraq allowed a more ominous situation to develop in North Korea.

I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I came here after the distinguished Senator from West Virginia, and he is my senior. I am a youngster. But I wondered if I could speak before him and he said of course.

I ask consent that I be permitted to speak for up to 7½ minutes and that the Senator from West Virginia be the next recognized for his comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, one might think, having been immersed in this Energy bill and waiting for a possible solution to the situation, that I rise to speak of that. But I do not.

Senator BYRD, I know the Senator is busy but I would like him to listen to the few comments I have because, while they are not borrowed from him, I have heard him speak about America's involvement in other countries and I want to talk about that.

It bothers my mind, as I look at Iraq, and Afghanistan, Somalia, and the possibility now of Liberia and other countries, and I want to talk about some words that we Americans and our leaders have been using ever since I was a little kid and for all the years I was here. We used to say: we don't want to build countries. We are not in the business of constructing countries. We don't want to be called upon to put a country together. We don't want to be the builders of countries—leaving the distinct impression that we want the other countries to build themselves up.

The Senator and I would not object to that, as a thesis. That sounds like a theology of Americans. But Mr. President, I say to my good friend, the problem is that it almost implies that we will not put together the ability, the capacity to help a country build itself.

We must, as a nation, it seems to this Senator, have within our Government the capacity to help a country such as Iraq build itself up—or a country such as Afghanistan. We can't say the Defense Department is now in charge of Iraq and they know how to see that Iraq gets built up. That is not plausible.

Look what goes on every day in that country. Does all of that flow naturally to the Department of Defense for some colonel or general or the Secretary of Defense to make the decision? Of course not. There are issues of construction of a country, the building of an infrastructure, putting schools back into operation, making sure health clinics that have broken down get built. I am not suggesting that we build them in every respect but we need to have the governing capacity to have somebody in charge, seeing that it gets done.

I have said that in my own way to this administration and I am very pleased that there has been some response. I said to them on one occasion: Why don't you tell the American people what is your plan for Iraq for the next 5 years? You know, all they are seeing is the bad things. They don't know that in 6 months you are going to have a certain number of policemen trained; in 1 year, you are going to have Polish soldiers coming in; in 2 years, you are going to have all the water done.

I have said to them: In order to do that, you have to have, not the Department of Defense in charge, you have to have a reconstruction team in charge. A reconstruction team is different. In fact, it might be a layman with very big municipal authority who would be in charge. It might be a great builder who knows how to sit in an office and delegate so the things that have to be put together, the contracts that have to be let, get let; the countries that have to be called upon to do things—that it happens.

So I thought I might just share that with the Senator, since he has shown great concern about what we are going to do.

The Senator from New Mexico is totally on this President's team. I am totally his defender in terms of having taken over Iraq. I don't even spend any time worrying about those 15 words on nuclear weaponry. That is just me. I am not speaking about anybody else.

I think I ought to be listened to on some of these other issues. I know what the average folks in my hometown are thinking about. I know that they are reading in the paper about soldiers dying and the Secretary of Defense responding. I think they would feel much better if they knew there was a game plan for the reconstruction, and that America had within its Government a capacity to reconstruct what is needed and then kind of put the bricks and mortar and the building blocks together and be able to tell us, our people, and the world, what is going on month by month, 6 months by 6 months.

As an example, today I could go home to my hometown and I could speak at lunch to some people and I could pull out the blueprint for the reconstruction of Iraq. I could say to them: Folks, it may change here or there but, this is what the plan is. We have a way to do it. It is not American soldiers who are going to be over there for 5 years carrying out all the details of every little thing that has to be done. We are in a reconstruction mode to rebuild that country.

That part of our Government would be more credible when they tell us: We didn't have a water works. That is why we are still over here hurting. This fellow, Saddam Hussein, broke the water works down and there wasn't anything there for the people to drink water from. That is a lot different than saying our soldiers are running around trying to find water for the people and they got killed doing it. It is a lot different than saying we thought we had a production line to get the oil from here to there but it had decayed and we had to bring in a company to build another one, rather than reading a story that somebody shot an American soldier as we were attempting to build a pipeline for the oil and gas.

The Senator from New Mexico is totally immersed up to his head in the subject of an Energy bill for America. I pulled myself away from it to let other Senators talk about it. I thought I would come down to the floor and discuss this issue. I don't do that very often. I kind of stick to my area. But this is an important issue. We are in the business of reconstructing that country. We can say all we want—that we aren't and we don't want to—but we can't expect our soldiers, our tanks, and our men with machine guns to do that. They have to be there, of course. They are going to be there in large numbers. But we need to have something that is a reconstruction approach. The government of our country has to be wise enough, the great builders we are. We are the builders. We are the builders of the world. We surely ought to be able to put together a master plan with a master builder for the rebuilding and reconstruction.

I yield the floor. I thank the Chair. I thank the Senate.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair. I thank the distinguished Senator from New Mexico.

Mr. President, I have been asked by the distinguished Senator from South Carolina to ask unanimous consent that he be recognized following me.

The PRESIDING OFFICER. Without objection, it is so ordered.

THREAT OF THE BUSH ADMINISTRATION'S BUDGET DEFICITS

Mr. BYRD. Mr. President, an apocryphal tale is often told by professors of economics in classrooms across the country. It is a tale about a king who asks his advisers to teach him the laws of economics. The king's advisers return with a book on the subject. But the king tells his advisers that his time is precious, and he asks them to summarize the book. The king's advisers return with a single piece of paper. But the king again tells his advisers that his time is precious and he sends them away to summarize the lesson even further. The king's advisers finally return with a single line, summarizing all of the known laws of economics.

The king reads: "There is no such thing as a free lunch."

For most people, this is a universally accepted truism—just plain common sense—that nothing is free. There are tradeoffs and opportunity costs to every decision we make. Even a child can understand this most basic economic principle. But for the Bush administration, you can beat them over the head with their own budget and still they will not acknowledge the tradeoffs and opportunity costs of the budgetary decisions they have made.

On July 15, the administration released its mid-year budget and economic forecast, the so-called "Mid-Session Review." The Office of Management and Budget revealed to the American people that the Government would run an incredible, record-breaking $455 billion deficit in the fiscal year 2003. Worse, the deficit will increase to $475 billion in the fiscal year 2004. I daresay that is a low figure. The administration estimates that if the Congress enacts the President's policies, we will increase the public debt by $2 trillion over the next 6 years.

The OMB Director assured the public that these deficits were "manageable . . . sustainable . . . not a problem."

In other words, a free lunch.

When the Bush administration promises almost $3 trillion in tax cuts, a prescription drug benefit, a record increase in defense spending, more money for education and health care, claims that it will protect Social Security and Medicare for future retirees, and asks for nothing in return—that is more than a free lunch; it is a cost-free invitation to a White House banquet.

The American people may recall the last free lunch this administration tried to peddle.

Prior to the war in Iraq, the Bush administration promoted a vision of Saddam's removal from power as a quick, easy, and bloodless exercise. Indeed, most of the support for this war was based on the rationale that America's tremendous military superiority over Iraq would confine the costs of this war to a relatively painless contest between the United States' awesome military might and the relatively weak, conventional military of Saddam Hussein.

But now the true costs of the war are becoming more apparent. The number of U.S. casualties in Iraq has risen to 248 soldiers—and rising by 1 soldier per day or more—more than double the 123 deaths at the time the President declared victory in Iraq on May 1.

Families of reservists and national guardsmen, who thought that their sons and daughters, brothers and sisters, husbands and wives would return after major combat had ended, are now realizing that their family members will be in Iraq indefinitely.

Administration officials who were counting on U.S. allies to assist in peacekeeping efforts in Iraq are now realizing that our strong arm tactics have alienated many of our closest allies.

The United States is now committed to a long-term endeavor to rebuild Iraq, which is costing the American taxpayer $4 billion per month.

The administration hid the potential costs in the buildup to the war. Now, the American people are realizing that free lunch will be paid for with our Nation's treasure, prestige, and blood.

So I take little comfort when this administration promises another free lunch, when it describes its budget deficits as "manageable" and "not a problem."

With $475 billion in budget deficits projected for the upcoming fiscal year, this Nation is experiencing budget deficits never before seen. They amount to roughly one-fifth of the entire Federal budget. This forces the Federal Government to borrow $1 out of every $5 it spends. And much of that money will have to be borrowed from our allies overseas—that is, those allies that we have not already alienated.

With a $475 billion budget deficit, next year, the Federal Government will have to borrow more than the entire defense budget. For every military operation underway right now—in Iraq, Afghanistan, Liberia, the Balkans—and to maintain our current military defenses, the administration will have to borrow the money to pay the equivalent of those costs.

With a $475 billion budget deficit, the recently enacted tax cuts are not free. Ultimately, the American people will have to repay every dollar to balance the budget.

When the President is pinned down about the mounting deficits, he has two replies. First, they are small and not a threat. But the deficits assumed in his budget are the highest ever recorded, and, as long as we are running deficits, we are not saving to ensure the solvency of the Social Security and Medicare programs. There is no escaping that budgetary fact—none.

Without more savings, we are endangering the Social Security and Medicare programs.

The President tells us that we can grow out of deficits. Well that sounds nice, but it won't happen. The Congressional Budget Office, which is now headed by a former White House economist, formulated nine different economic models to predict how the recently enacted tax cut would affect the economy, and the CBO concluded that the President's proposal would have only a negligible effect.

Even with strong economic growth, the White House budget office is still projecting that the Nation will accumulate $2 trillion in new debt under this administration's proposals, and that doesn't include the $5 billion per month the administration is spending in Iraq and Afghanistan.

So, Mr. President, we are drowning in a sea of red ink. We are gasping for air. And all this administration can do is promise more cost-free White House banquet dinners as they claim it is "not a problem."

But it is a problem! We are already seeing these deficits eat into our budget. Just look at the amendments that were opposed by the administration on the recently passed appropriations bill for the Homeland Security Department.

Under pressure from the administration, Senators voted down amendment after amendment after amendment designed to enhance the security and the safety of the American people. Spending for vital homeland security functions is being denied each time with the same excuse—that our budget doesn't allow for it. We are spending nearly $4 billion per month in Iraq, but we could not afford a $1.75 billion amendment that I offered to secure our ports, to equip and train our first responders, and to secure our borders.

It is incredible! The budget that calls for astronomical tax cuts does not allow for the safety and security of the American people within their own borders.

Al-Qaida has not yet been destroyed. It is very much alive and kicking. It is still alive and well, and planning attacks now, attacks against U.S. citizens. Al-Qaida are patient, persistent killers. And, yet, this administration continues to oppose, right here on this floor, essential homeland security funding. Just this week, the Department of Homeland Security issued a new advisory about the potential hijacking of planes, and yet the administration opposed my amendment to secure cargo on passenger aircraft. Our ports, our borders, our airlines, our chemical facilities, our nuclear powerplants are still perilously vulnerable.

Have we not learned anything, Mr. President?

The war on terrorism can only be won with both a strong defense and a strong offense. And, yet, the ratio of defense to homeland security spending is 12 to 1. That is $1 of spending to build up our homeland defenses for every $12 spent on our military.

We are seeing only a halfhearted effort by this administration to address the vulnerabilities in our infrastructure.

We talk about the infrastructure in Iraq. What about our own infrastructure? The administration says they are going to do something, but not enough to thwart terrorist attacks. It should frighten us all. It certainly frightens me.

When I stop to think, I say to Senator HOLLINGS, that you and I and these people around us who are sitting at the desks—the President at the desk, the desk of the workers here—when I stop to think that we are alive today, in all likelihood, because there were a few courageous men on that airplane that went down in Pennsylvania who had heard about the attacks on the Twin Towers and the Pentagon. And because their own plane was a little late in taking off, they heard these other things. They knew what was happening. They knew what was happening to that plane and they decided that plane would not reach its objective. And from all indications that I have heard, its objective was this Capitol. So we owe our lives to them. We would not be here today. That is the way I see it.

Now, we also hear that these terrorists don't forget, that they are persistent, they are patient. They take their time and they come back. What they fail to do in the first instance, they will try again. We better take these things seriously.

The President has established a track record for being strong on rhetoric and short on resources. In his State of the Union, he said:

> We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents and other generations.

Yet, according to the White House's latest deficit estimates, the President's policy is to have a deficit of $455 billion this year, $475 billion in fiscal year 2004, and an increase in the public debt of $2 trillion over 6 years. That is rhetoric without resources.

In May of this year, the President signed the United States Leadership Against HIV/AIDS Act, which authorized $15 billion over 5 years to attack global AIDS and authorized $3 billion for fiscal year 2004. He traveled to Africa and pressed for the Congress to support the $15 billion commitment. Yet, the President requested only $1.9 billion for global AIDS programs for fiscal year 2004. That is rhetoric without resources.

In January of 2002, the President signed the No Child Left Behind Act with great fanfare. He said:

> Today, begins a new era, a new time in public education in our country. As of this hour, America's schools will be on a new path of reform, and a new path of results . . . And our schools will have greater resources to meet these goals.

And, yet, President Bush's budget for fiscal year 2004 proposes to cut funding for No Child Left Behind Act programs by $1.2 billion below the levels that Congress approved for the current fiscal year, to a level that is $6.1 billion below the level authorized in the law that he, the President, signed 18 months ago. More rhetoric without resources.

The President has called for the National Service AmeriCorps program to have 75,000 volunteers to tutor, mentor, and teach our children, provide services for our elderly, and clean up our communities. This month, the Senate approved a $100 million supplemental that would have prevented the elimination of 20,000 volunteers, reducing the program to 30,000 volunteers. The President did not lift a finger—he did not lift a finger—in support of the program when the House stripped those funds from a supplemental bill last week.

The President and members of his party have passed three tax cuts, taking $2.25 trillion out of the phoney surpluses that the President projected in 2001. Each time the President proposed these tax cuts, he promised that the tax cuts would create jobs. But the facts are different. Instead, we have seen 3.1 million jobs disappear from the private sector since the beginning of this administration, including more than 300,000 jobs lost within the past 5 months. So, once again, we hear rhetoric, but we see no results. More false promises.

We are seeing the same halfhearted effort when it comes to preserving the Social Security and Medicare programs. The Bush administration often refers to the long-term problems facing the Social Security and Medicare programs, but the Bush administration has not set aside any money to make them financially solvent.

In the coming decade, as the baby boomers begin to retire, the American people are going to realize yet another cost from these budget deficits—namely that there will not be enough money saved to pay the benefits promised to our Nation's seniors. Our Nation's seniors ought to take note of that, and the children of our Nation's seniors ought likewise take note of that.

The administration's budget deficits are a problem for State governments, as well. Federal budget deficits have contributed to a $30 billion gap in State budgets because of a lack of Federal payments to States. This is to say nothing of the $68 billion shortfall in State budgets that we read about in recent weeks. Without Federal support, States are forced to cut Medicaid and health care-related programs. For the first time ever, K through 12 education programs are being cut by States to make up for a lack of Federal funds. This year, Oregon school districts were forced to close some schools a month early because of these budget deficits.

The administration vehemently opposes any increase in Federal taxes to cover its budget deficits. But what the White House doesn't admit is that State governments across the country are already raising taxes to fill this budget gap. Governors in 29 States have proposed tax or fee increases in their latest budgets.

President Bush likes to justify his tax cuts for the rich by asserting that it's the people's money. "It's your money," he says. Well, thanks to Mr. Bush's tax cuts, we are facing a public debt of $5.5 trillion by 2008. Do you know how long it takes to count $1 trillion at the rate of $1 per second? Thirty-two thousand years. That is $1 trillion at the rate of $1 per second. So we are facing a public debt of $5.5 trillion by 2008. That is $18,890 of debt for every man, woman and child in this country. By 2008, we will be spending $260 billion on interest on that debt. In 2017, when the Social Security Trust Fund is in the red, the 65 million Americans who expect to receive their social security benefits, will ask, Where is our money? They were told "it is your money." They will be saying: Where is our money?

Everything costs something. There is no free lunch. Yet the administration continues to play the role of the savvy salesman, handing out tax cuts and telling the American people that it will cost them nothing in return.

The administration will be forced to reconcile the budgetary quagmire they have created. Nothing is free. There is no such thing as a free lunch. That much, even an apocryphal king could learn.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that at the termination of my comments, the distinguished Senator from Montana be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREE TRADE

Mr. HOLLINGS. Mr. President, it is somewhat out of order when I make comments on trade in that the distinguished majority leader says he wants to do energy, he wants to do judges, he wants to do the supplemental, and he wants to do trade. I talked to him earlier this morning, and I said: I would be glad to fill in at any time they have a lapse. He said: Well, it wouldn't be until tomorrow. Then later in the exchange—there has been an intramural all morning long on procedures—he said: Perhaps on Saturday.

So I thought once the Pastore rule had been complied with and rule 19(1)(b), the three hours had been completed—the distinguished former leader, the Senator from West Virginia, and I are the only two that remember the Pastore rule. Now that I have the floor, I have time to comment in a deliberate fashion. And while my distinguished former chairman and now ranking member of the Finance Committee is on the floor, since I am talking about trade, I want to express a frustration and make this observation.

The main problem we have is how to pay our bills. The President has just put out a budget deficit projection of just a $455 billion deficit. That is on page 1 of his report. But on page 57 of the report, you will see the deficit will really reach $698 billion this year. As of this minute, the public debt to the penny is $503 billion. But second to that particular problem is the matter before us of jobs, economic strength, and manufacturing capacity.

I will never forget Akio Morita, former chairman of the board of Sony. Morita was visiting Chicago, and lecturing about Third World countries. And he admonished that a Third World country had to develop a strong manufacturing capacity in order to become a nation state. And later on, he diverted and pointed and said to me about the United States: That world power that loses its manufacturing capacity will cease to be a world power.

At the end of World War II, we had 40 percent of the workforce of America engaged in production manufacturing. Now we are down to 11.2 percent, and soon it will be 10 percent. So as a result of the scheme, I should call it, of the Finance Committee, we will have 10 percent of Americans working, and the other 90 percent eating or talking about it. And I hear these big voices around saying: World power, we are the only world. We are not a world power. No, no. We are in a very weakened position.

Right to the point, when I came to the Senate I got on the Commerce Committee. I had practiced customs law. I thought I was getting into trade because the Commerce Committee used to be the Committee of Foreign Commerce. Under article I, section 8 of the Constitution, the Congress of the United States shall regulate foreign commerce—not the President, not fast track, not some wavering trade minister running around Doha saying he is going to do away with dumping laws—but the Congress.

And I found out that my distinguished chairman, Senator Magnuson at the time, was interested in exports, since he represented Boeing. Foreign commerce had reverted over to the Finance Committee. They had the reciprocal trade agreement. They had the Special Trade Representative. And indirectly, I became a sort of a study of the Finance Committee. I had a fellow named Claude Wilde from Texas come up to me, when I was just a freshman Senator. I was taken to the third floor of the old Statler Hilton. And he said: Yes, we are going to get rid of that fellow Yarborough. We are going to get that fellow Bentsen up here because he is better on oil.

I said: On oil.

He said: Oh, yes, that Finance Committee, we oil boys run it. We look out for oil.

So the farmers are smarter than the oil boys. They have moved in with the Senator from Montana and the Senator from North Dakota and all the rest of them.

I notice my distinguished ranking member. He put out a complaint to the WTO on agriculture. I have lost 61,000 textile jobs since he proposed NAFTA. He didn't ask the WTO about the special provisions for textiles. But he wants to petition. He immediately becomes alert. I have had to fight agriculture, I have had to fight the oil boys, I have had to fight that Finance Committee to sober up this Congress and let us go to work on producing jobs.

The policy at this minute is to export jobs, eliminate jobs, get rid of all jobs—not just textile, not just hard manufacture, not just service jobs, not just high-tech jobs, but all jobs, except politicians and the press. If we started importing politicians and press, I believe we would finally stop, look, and listen, and we would begin to understand the problem.

We have to struggle in order to debate trade as a result. It is easy to fix the Finance Committee—and they are fixed. They get their little amendments in there, and everything else like that. I am ready to vote for the Chile trade agreement. I have been saying that for 5 years, except they put on immigration.

Mr. BAUCUS. We didn't.

Mr. HOLLINGS. You didn't, but you didn't knock it off. They had a vote 3 years ago on the H–1B visas, with that Silicon Valley crowd. They wanted to get all the Indians and Chinese cheaper, and bring them in to take American jobs. The vote was 99 to 1. I was the one against that immigration. I am against this immigration, and if you didn't have fast track, Mr. President, I could put up a little amendment, like any Senator, and we would have the normal process, and we would have an up-or-down vote, and I probably could pass it. I notice, on the other side of the aisle, some Republican colleagues are concerned about the immigration provision. Chile is better than us. Chile has a free market economy; they have labor laws; they have environmental laws; they have a respected judiciary; they have a balanced budget.

Even when they brought up NAFTA, I said, why not Australia? They are the best friend we have; they immediately supported us in Iraq, in Afghanistan, in Vietnam, and in Korea—the best friend we have and we don't have a free trade agreement with them.

Now they want us to have a free trade agreement with a corporate state, Singapore. I said long ago I could compete with any company in Japan, but I could not compete with the country of Japan. So here I am being asked to give the country, which is really a corporate State, free trade status. The government of Singapore owns the port; shipping and logistics; property; the airlines, telecom, media, banking, and financing services industries; powers, utilities, technology, engineering, and the rail.

Mr. President, I ask unanimous consent to have this list printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE-OWNED CORPORATIONS IN SINGAPORE

Investment: Temasek Holdings, Ltd.

Port: PSA Corporation.

Marine: SembCorp Marine and Keppel Offshore & Marine.

Shipping and Logistics: SembCorp Logistics and Neptune Orient Lines.

Property: CapitaLand.

Airline: Singapore Airlines.

Telecom and Media: Singapore Telecoms and Media Corporation of Singapore.

Banking and Financial Services: DBS Bank.

Power and Utilities: Singapore Power, PowerSeraya, Senoko Power, and Tuas Power.

Technology: Chartered Semiconductor Manufacturing and ST Assembly Test Services.

Engineering: SembCorp Industries and ST Engineering.

Rail: SMRT Corporation.

Mr. HOLLINGS. Mr. President, that is a corporate state. There isn't any question that what we have here is a loading dock, a veritable loading dock from Indonesia. Let me read this. Here is a headline:

> Officials tout manufacturing services benefits from U.S.-Singapore FTA.
>
> U.S. Ambassador to Singapore Frank Lavin this week said the greatest economic benefits to U.S. companies from the recently-concluded U.S.-Singapore free trade agreement would come in the areas of financial services, intellectual property and manufacturing in the electronics sector.
>
> Lavin said that in the long run, the "most significant aspect of this FTA" could be provisions allowing products assembled in the two Indonesian out-islands to be counted as Singaporean in origin for the purposes of the FTA. That would allow U.S. electronics manufacturers to take advantage of low wage rates on those islands to assemble components from Singapore into electronic products that can enter the U.S. duty free, Lavin said.

Mr. President, where are we? Here we are trying to create jobs, and our good friend, Don Evans, the Secretary of Commerce, is running all over, jobs and growth, jobs and growth, jobs and growth, and we will give you a tax cut, jobs and growth as if that's going to help.

My distinguished friend on the House side—the smartest fellow perhaps in the Congress is JOHN SPRATT from South Carolina, the ranking member of the Budget Committee. He voted for NAFTA. I said, JOHN, for Heaven's sake how could you? And he said he had a promise that we can get 500 additional Customs agents. He said we need them badly, and he was right. We needed them badly.

We never got the 500 Customs agents. They keep cutting that budget particularly. They need help. In Charleston, we have to lend the local sheriff's sniffing dog to the Customs agents. My office is in the Customs building. I keep up with them and I know what is going on down there.

Mauritius, the little island off the coast of Africa, was inundating us with imported textiles, but they didn't have a textile plant. It was all made in China, and coming through Africa to South Carolina. These transshipments, Customs people will tell you, are to the tune of $5 billion. When you go to them and ask them, wait a minute, can't you enforce the law, they say: Senator, you want me to enforce the law now on terrorism or textiles? I said: Heavens, no, on terrorism. Do you want me to enforce the law on drugs or textiles? Oh, no, I want you to enforce the law on drugs.

So we have lost 61,000 textile jobs, and who is leading the way? The Department of State is leading the way in Singapore. I hate to say that about Singapore because I have visited there and I have the greatest respect for anybody in the Far East, specifically the former Prime Minister, Le Quan Yu.

As a young Senator, in the early 1970s, I went there and Senator Mansfield, the majority leader, said: Fritz, you have to call on him. He is the wise man of the East. I had the most interesting conversation just the year before last. I called on him again, with the distinguished chairman of the then Intelligence Committee, Senator SHELBY, because I wanted the Prime Minister to relate a particular observation he had made to me back then with respect to the defenses and the concerns we had in the Far East, which is another subject for debate. I was prepared to vote for Singapore. But we got fast track.

With fast track you cannot say anything; you cannot do anything. You have to disrupt the Senate, in the middle of the energy debate, to be heard. We have fast track on jobs in America. We fast track jobs offshore—that is what it is. If we did not have fast track, I could put up a little amendment to strike the provision in the Singapore agreement that they couldn't have transshipments from the Malaysian Islands. This will just open the door for everything in the Malaysian Islands to come through Singapore. Listen to what the State Department ambassador said:

With fast track, you have to disrupt the orderliness of business around here.

I apologize to both leaders who have had a very difficult time getting business back on track today, but, Mr. President, I can tell you now, I do not apologize to anybody about the importance of this particular subject. It is not discussed, it is not debated, and it is not considered. It is fixed.

I know something about trial lawyers, and I have seen some fixed juries that I have had to go up against. If there has ever been a fixed jury, it is this U.S. Congress. And I do not speak in a partisan fashion. I remember NAFTA. We had that beat until President Clinton went out and picked up 23 votes. He gave a golf round here for this particular Congressman, a golf round there. Jake Pickle, the Congressman from Texas, my good friend, got a cultural center. Another Congressman down in Texas got two C–17s. Oh, yes, the White House has the power. I do not speak loosely or lightly. I speak authoritatively. It has been reported in the press. They fixed the vote.

This vote was already fixed, unbeknownst to the members of the Finance Committee, so that when the treaties got here, they found this hidden provision on immigration and we cannot vote on it.

Finally, they put in a provision with respect to the transshipments to Singapore, and we cannot amend it. So the Senator from South Carolina under fast track is forbidden from voting his will with respect to these particular trade agreements.

I am really worried. I just mentioned to the distinguished Senator from West Virginia about production in this country. I go right back to Morita. We were talking about manufacturing. That has been the strength of Japan. It is now the unquestioned strength of China. We think we are strong. We passed a resolution in the United Nations at the end of the eighties for the General Assembly to have hearings on human rights in China. China went around us, to the leadership in Africa, in the Philippines, in Malaysia, in Australia, and in New Zealand. They picked up the votes, and we never had a hearing on human rights, even though we had it adopted in that particular committee.

One can say under domestic politics, it's the economy, stupid; one can say under foreign policy, it's the economy, stupid, because it is the economic strength of our Nation that is in question here.

I just finished reading a book, "An Army at Dawn" by Rick Atkinson. He reminded me of the strength we had in World War II and how we really won that war. I have been on several panels, having been a 3-year veteran starting out in Africa and ending up on V–E Day in Austria. As much as anyone, Rosie the Riveter won that war. I hope in this big ceremony they have for World War II that they will have a statue for Rosie the Riveter because I can tell you right now, it was the American production that won that war. As has been said, we did not defeat the Germans in North Africa, we overwhelmed them because we had that kind of production.

As I said earlier, at the end of World War II, we had 40 percent of our workforce in manufacturing, in production. As of yesterday afternoon, my check showed it was 11.2 percent, and we are going to get new figures on Friday, and probably it will be down some more. For the last 3 years the manufacturing strength and economy of the United States has diminished.

What happens is, we have 10 percent of the people producing and we have 90 percent of the people eating and talking about it. That is not a country. Let's not run around here about energy, and run around here about judges, and run around here about supplemental bills, and whatever else. Let's sober up and start rebuilding this country, rebuilding jobs, and quit exporting them. Let's put a tourniquet on this outflow hemorrhage of jobs to any and everywhere but the United States.

We have a 6.5 percent unemployment rate. The real unemployment rate is not just the 6.5 percent.

Mr. President, there are those who have not applied, so it is a real unemployment rate of some 10 percent.

My colleagues can see why I am worried when we see "The Jobless and Hopeless May Quit the Labor Force." That is how we get to 10 percent. This is another Times article dated April 26.

Mr. President, if you think I am worried, let's go to Mort Zuckerman, the editor in chief of U.S. News and World Report. I quote:

> The statistics are enough to make an incumbent assume the fetal position: 2.7 million fewer private-sector jobs than two years ago; the longest decline (32 months) in industrial employment since the Great Depression; the longest continuous decline in jobs in more than 50 years. Making matters worse, the stock market has been off by double digits for three years in a row. That's the first time that happened since the 1930s. The markets' plunge wiped out over $5 trillion in value, including the retirement savings of millions of Americans.
>
> As if all that were not enough, the $5.6 trillion Federal surplus we saw during the 1990s has been turned upside down into an estimated $4 trillion deficit. Business activity is as weak as it has ever been outside of a recession, and we do not know whether this signals the onset of another recession, the dreaded double dip.

That is Mort Zuckerman.

Some might say, HOLLINGS, you are all wound up about Texas. I am not wound up about Texas. I am wound up about the country. We are in the worst shape I have ever seen, and they are running around here with tax cuts for jobs and growth. We have lost 2 million jobs since we passed the tax cut. We have lost 2.7 million since President Bush has taken office, according to Mr. Zuckerman.

The Wall Street Journal on July 21: "Laid Off Factory Workers Find Jobs Are Drying Up For Good."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 21, 2003]

LAID-OFF FACTORY WORKERS FIND JOBS ARE DRYING UP FOR GOOD

(By Clare Ansberry)

BUTLER, PA.—The two Karenbauer brothers and their cousin, Danny Mottern, have worked alongside each other for much of their lives. Working with their hands comes naturally to all three. As young boys they were dispatched to feed the cows and plant corn on their grandfather's 134-acre farm.

Later, they all ended up in the same Trinity Industries Inc. factory, building parts for railroad cars. Brad Karenbauer, 39 years old, was a tool and die man. Mr. Mottern, 42, was a welder. Jim Karenbauer, 60, ran the forge shop. They found challenge and satisfaction in their ability to take a rought piece of metal and fashion it into the door or roof of a sturdy railroad car that could whisk people, coal and grain across the country.

"I was making something. I had something to show for myself at the end of the day," say Mr. Mottern.

But Trinity started laying off workers in 2000 and a year ago, in a bid for efficiency, shut down the Butler factory where the Karenbauers and Mr. Mottern worked. After, the three men have begun scrounging for work. They moved from job to job—shoveling snow, stocking a Wal-Mart Supercenter—but nothing has added up to the pay or fulfillment of their old jobs.

While hundreds of factories close in any given year, something historic and fundamentally different is occurring now. For manufacturing, this isn't a cyclical downturn. Most of these basic and low-skill factory jobs aren't liable to come back when the economy recovers or when excess capacity around the world dissolves.

Railroad cars, unlike buggy whips, are still needed, as are toys, appliances and shoes. But the task of making these goods is increasingly being assumed by more efficient machines and processes. Or they've been transferred to workers who earn less and live in another country. While these changes have been going on to a limited extent for years, the economic slowdown has greatly accelerated and broadened this historic shift. By some estimates, roughly 1.3 million manufacturing jobs have moved abroad since the beginning of 1992, the bulk in the past three years to Mexico and East Asia.

Other plants around Butler also have closed, including one that fabricated steel and another that made vinyl siding. Hundreds of manufacturing workers have been left without jobs and their options for similar work have narrowed significantly in this city of 15,000, and hour north of Pittsburgh.

"For people who work with their hands, there isn't going to be much out there for them for long," says Brad Karenbauer.

After he was laid off last summer, he couldn't keep up with the rent of his apartment. He moved with his girlfriend, Lisa Schnur, and their infant daughter into a trailer owned by Ms. Schnur's aunt.

Meanwhile, a landscaper gave Mr. Karenbauer odd jobs, mowing lawns and putting down mulch, paying him under the table. That lasted until the snow fell. He doesn't mind getting dirty or working outside and admits he's not comfortable behind a desk. "That's just not my cup of tea," he says. "Hands on is what I like to do. I like to work hard. Growing up, if there was work to do, you did it. After a while, you just got used to it."

Now he finds himself stranded in the labor pipeline along with a generation of assemblers, welders, and tool and die men who learned their trade on the job and know little of computer-driven machines and new age manufacturing techniques. In June, manufacturing cut 56,000 jobs, the 35th consecutive monthly decline and the longest string of layoffs in that industry since World War II.

"We're saving corporate jobs by moving production jobs to lower-cost areas," says Daniel Meckstroth, chief economist with the Manufacturers Alliance, a public policy and business research group in Arlington, Va.

The shift also means income for secretaries, maintenance workers, and counter people in lobby coffee shops and staff parking garages. Furthermore, off-loading much of the low-skill production work saves money and makes companies more competitive. That means they can focus on innovation and potentially create other jobs.

Stan Donnelly, whose Alexandria, Minn., company makes plastic parts for big equipment manufacturers, imports tools from China to save money. In the long run, bypassing U.S. toolmakers is a mistake, he believes. Those kinds of jobs helped create and sustain the middle class, and he's not sure displaced workers will learn new skills and become higher paid. "Look, we've got millions of people who have failed to get through high school. If their minds are not their salvation, what's wrong with letting their hands be their salvation?" asks Mr. Donnelly. "Over the last two centuries, America has developed a balanced society, with opportunities for a large cross section of people. We're gutting that."

In Brad and Jim Karenbauer's childhood home, work was part of the natural rhythm of the day, filling the space between school and supper and most daylight hours during weekends. If they weren't helping around their own house, they were dispatched to their grandparent's farm, as were Danny Mottern and other cousins. They plowed fields and stacked hay. Surrounded by John Deere tractors, they learned how to take machines apart and put them back together.

Their grandmother fried up homemade sausage in her iron skillet to welcome them back from the fields. Afterward, they relaxed under an oak tree, with a bottle of pop and, when older, a cold beer.

The Karenbauers' father worked in a small fabrication shop, welding steel for bridges and buildings. With six kids, money was tight, but they never felt poor. They had a half a cow in the freezer. "If you didn't have it, you didn't need it," says Brad Karenbauer. College wasn't an option. Even if they had the money, he wouldn't have gone: "I was not a school-oriented person," he says.

In their community, working with machines was nothing to be ashamed of and there were plenty of opportunities to make a comfortable living. Brad Karenbauer took three years of welding in high school and after graduation in 1981 worked 16-hour days for a brother-in-law who had a boiler-repair business. "It was a blast," he says. "My brother-in-law didn't believe in an eight-hour day. You went to a job and stayed until it was done. I was bringing home more money than I could spend."

Then as now, manufacturing paid more and had better benefits than many other jobs. In Butler County, population 174,000 about 20 percent of the work force is in manufacturing, but those jobs contribute 30 percent of the county payroll. Nationwide, manufacturing jobs averaged $54,000 in pay in 2000—20 percent higher than the average of what all American workers earn, according to the National Association of Manufacturers.

One of the prized jobs in Butler County was building railroad cars, an industry with a storied past. A century ago, the flamboyant Diamond Jim Brady, who made a fortune selling railroad parts, and engineer John Hansen built the world's largest freight-car plant, half a mile long, in Butler, according to local historian Ralph Goldinger.

Inside, more than 1,110 welding machines melted steel pieces together, producing at its peak 27,000 railroad cars a year. At first it was called Standard Steel Car Co., but the company merged with Pullman Inc. of Chicago, to become the well-known Pullman-Standard Co., whose posh cars made comfortable cross-country travel a reality.

Civic-minded Pullman donated its eight-acre ballpark to Butler in the 1940s. The New York Yankees sometimes played exhibition games there, giving locals a chance to cheer Whitey Ford, Joe DiMaggio and Lou Gehrig. Streets were named after the company founders. Mr. Hansen built a mansion with seven fireplaces on West Pearl Street. It still stands today.

Jim Karenbauer started at Pullman in 1965, when he was 22 years old and fresh out of the Air Force. He worked in the storeroom, then transferred to the forge department because he could learn and earn more. Eventually, he became foreman, earning $32,000 a year when Pullman closed its doors in 1982.

Jobs were scarce, but he found one with the Butler Township zoning department, inspecting buildings and property. He quit after three years. "I couldn't take the politics," he says. He sold insurance for a while, walking up and down Butler's streets, knocking on doors.

Two years after Pullman closed, Trinity came in and started making replacement parts for railroad cars in the same factory. Jim Karenbauer got a call in 1987 asking him to run the plant's forge operation. "They got the old Pullman guys who knew how to run that stuff," he says. About six months later he brought home applications for his younger brother and cousin.

While Jim Karenbauer made the coupling rods that hook together railroad cars, Mr. Mottern welded chutes for coal and grain cars. Brad Karenbauer moved around the floor adjusting machines that were clogged or not working properly. He learned the tool and die trade, the craft of making the tools that form parts, from his supervisor. "He took a liking to me and taught me," Mr. Karenbauer says. That sort of informal teaching was invaluable to companies and workers who couldn't afford other education. And for generations, it sufficed.

A die, or mold, shapes metal part much as a waffle iron shapes a waffle. Brad Karenbauer's job of maintaining them was critical and he was paid relatively well. At the time he was laid off last year, he earned $14.50 an hour.

For him, the challenge of figuring out how to fix problems was as rewarding as the pay. "I loved my job. I never did the same thing every day. I'd build a new die. Or fix the old one that died," he says. Co-workers voted him "employee of the month," which was noted on a sign outside the plant and acknowledged with a $150 gift certificate from Sears. "I bought a couch with that," he says.

Once he was invited to Trinity's headquarters in Dallas to explain his solution to a glitch that had been causing many pieces of a metal post to be scrapped. He figured out that the post was moving slightly when it was in the press, causing a wrinkle. He built a device to hold it firmly. His cousin, Mr. Mottern, came up with a design to replace a part that had been made by welding two pieces of metal together. That eliminated the welding, and helped the department make twice as many pieces of higher quality.

His employers gave him a framed certificate and a grainy video of his talk, which he still shows visitors. "All the bigwigs were down there," he says.

Trinity closed the Butler plant and in 2002 and one other, citing the slowdown in the rail industry. "We no longer needed to maintain all the facilities previously supporting our parts business," it said in a statement. The company, which has operations in Mexico, the Czech Republic and Romania, said the Butler work would be done at its plant in Texas.

"We'll never find a job like that," says Mr. Mottern. While working at the Trinity factory, he was able to buy 40 acres of land. He cleared a hilltop and built a tidy ranch house at the end of a long driveway, flanked by tiny evergreen saplings. A barn is filled with a half-dozen pieces of John Deere equipment, including a 1952 model he and his cousins rode on their grandparents' farm.

"I'm not going to lose this," he says. "I'm willing to work so I know someone out there is going to hire me. I always figured I could just go and work with my hands. It's all I know," says Mr. Mottern.

After Mr. Mottern was laid off last summer he worked for a landscaper. That winter he shoveled snow and ran errands for an elderly judge. Mr. Mottern doesn't want to leave Butler because his family and girlfriend are here.

He and Brad, his cousin, sometimes meet for a breakfast of eggs-over-easy and home fries at Eat'N'Park restaurant. they often discuss their growing fear that they are becoming obsolete. Both feel they are behind on computer technology, which is increasingly important in factories. Brad Karenbauer recently saw a John Deere tractor with a computerized panel in the engine. "It was way out of my league," he says.

Prospects for workers with their skills are dim. Pennsylvania has lost one out of 10 manufacturing jobs, or 90,300 jobs, in the past three years. Industrial cities such as Butler have been disproportionately hit by job loss. Earlier this year, unemployment in the county jumped to 7.3 percent the highest level since 1994.

Moreover, even though inflation-adjusted output by manufacturers nationally is expected to grow 36 percent over the next decade, employment is expected to grow only 3 percent. or by 577,000 jobs, according to the Manufacturers Alliance. The bulk of the new jobs will be given to those with computer, mathematics and management skills, while production workers are expected to decline as a share of all manufacturing occupations.

The Butler Eagle carries some "help wanted" ads, but the skills and pay don't fit their levels. United Plate Glass Co., with 45 employees, plans to expand, but it can't afford these workers. "They have 10 to 12 years with a company and I can't afford the salary level they have reached," says President William Cully.

It's especially tough for midcareer workers with family responsibilities. Almost 40, Brad Karenbauer has three kids. Along with his 14-month-old, he is supporting a 17-year-old daughter and 13-year-old-son. He passed over a job paying $6.50 an hour. Another paid $8 an hour, but involved industrial chemicals, which he thought would be dangerous. Mr. Karenbauer has a friend from Trinity who went to work for the township, making $13 an hour. "I'd take a job that makes that," he says.

So far, though, he hasn't found one. The $7,000 in his 401(k) is gone. He used it to buy a car and pay off debt. With his unemployment running out and in need of health insurance benefits, he finally took a job in April at Harmony Castings, a 60-person foundry that paid $8.85 an hour. He drove 45 minutes to get to the foundry and worked a midnight shift.

Standing in one spot eight hours a night, he took one aluminum part after another and grinded off burrs to smooth them. "To be honest with you, I'm not liking it at all," he said shortly after taking the job. "It's repetition and I hate repetition."

For challenge and additional cash, he buys broken weed eaters and lawn mowers at yard sales to repair and sell at a profit. He recently bought one for $15, put in a new spark plug and sold it to a friend—for $15. "They were in the same predicament I'm in," he says.

His cousin, Mr. Mottern, lucked out and landed a job, also in April, working on a railroad track crew. It pays $12 an hour, a $1.30-an-hour pay cut from his old job at Trinity, but after a winter of shoveling snow and summers of planting trees by the highway, he is thrilled. The job also has the potential for benefits. "I'm going to go down and bust my rear end for them," he says.

Most of the available jobs have been at malls. Mr. Karenbauer's older brother, Jim, now works at the Wal-Mart Supercenter, which opened last year. "There's four or five of us here now," says Jim Karenbauer, referring to his former Trinity co-workers. He refinanced his house a few years ago to pay for his daughter's college, and lost a chunk of his retirement savings when the stock market sank, so he can't retire.

He'd prefer work in a forge department but couldn't find a job in one. At Wal-Mart he makes $6.25 an hour, half of what he earned at Trinity. He stocks shelves with VCRs and rings the cash register. He wheels televisions sets out to the parking lot on a dolly. "Lifting them into the car is the hard part," the 60-year-old says. "They get pretty heavy."

After a month at the casting foundry, Brad Karenbauer recently gave up his job. He couldn't juggle the night shift and taking care of his daughter, while his girlfriend worked. A landscaper put him to work mowing lawns and doing odd jobs for cash. The work will dry up again once winter arrives, so he's still looking.

He doesn't regret not going to college, or working with his hands. "I think I've done better than my father," he says. "I just wonder where things are going. That trade of working with your hands is just about gone now."

Mr. HOLLINGS. I picked up my August 4 issue of Time magazine: "Where The Good Jobs Are Going. Forget Sweatshops. U.S. companies are now shifting high-wage work overseas, especially to India."

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Aug. 4, 2003]

WHERE THE GOOD JOBS ARE GOING; FORGET SWEATSHOPS, U.S. COMPANIES ARE NOW SHIFTING HIGH-WAGE WORK OVERSEAS, ESPECIALLY TO INDIA

(By Jyoti Thottam with Sean Gregory)

Little by little, Sab Maglione could feel his job slipping away. He worked for a large insurance firm in northern New Jersey, developing the software it uses to keep track of its agents. But in mid-2001, his employer introduced him to Tata Consultancy Services, India's largest software company. About 120 Tata employees were brought in to help on a platform-conversion project. Maglione, 44, trained and managed a five-person Tata team. When one of them was named manager, he started to worry. By the end of last year, 70% of the project had been shifted to India and nearly all 20 U.S. workers, including Maglione, were laid off.

Since then, Maglione has been able to find only temporary work in his field, take a pay cut of nearly 30% from his former salary of $77,000. For a family and mortgage, he says, "that doesn't pay the bills." Worried about utility costs, he runs after his two children, 11 and 7, to turn off the lights. And he has considered a new career as a house painter. "It doesn't require that much skill, and I don't have to go to school for it," Maglione says. And houses, at least, can't be painted from overseas.

Jobs that stay put are becoming a lot harder to find these days. U.S. companies are expected to send 3.3 million jobs overseas in the next 12 years, primarily to India, according to a study by Forrester Research. If you've ever called Dell about a sick PC or American Express about an error on your bill, you have already bumped the tip of this "offshore outsourcing" iceberg. The friendly voice that answered your questions was probably a customer-service rep in Bangalore or New Delhi. Those relatively low-skilled jobs were the first to go, starting in 1997.

But more and more of the jobs that are moving abroad today are highly skilled and highly paid—the type that U.S. workers assumed would always remain at home. Instead Maglione is one of thousands of Americans adjusting to the unsettling new reality of work. "If I can get another three years in this industry, I'll be fortunate," he says. Businesses are embracing offshore outsourcing in their drive to stay competitive, and almost any company, whether in manufacturing or services, can find some part of its work that can be done off site. By taking advantage of lower wages overseas, U.S. managers believe they can cut their overall costs 25% to 40% while building a more secure, more focused work force in the U.S. Labor leaders—and nonunion workers, who make up most of those being displaced—aren't buying that rationale. "How can America be competitive in the long run sending over the very best jobs?" asks Marcus Courtney, president of the Seattle-based Washington Alliance of Technology Workers. "I don't see how that helps the middle class."

On the other side of the world, though, educated Indian workers are quickly adjusting to their new status as the world's most sought-after employees. They have never been more confident and optimistic—as Americans usually like to think of themselves. For now, at least, in ways both tangible and emotional, educated Americans and Indians are trading places.

Uma Satheesh, 32, an employee of Wipro, one of India's leading outsourcing companies, is among her country's new elite. She managed 38 people who work for Hewlett-Packard's enterprise-servers group doing maintenance, fixing defects and enhancing the networking software developed by HP for its clients. Her unit includes more than 300 people who work for HP, about 90 of whom were added last November when HP went through a round of cost-cutting.

"We've been associated with HP for a long time, so it was an emotional thing," Satheesh says. "It was kind of a mixed feeling. But that is happening at all the companies, and it's going to continue." Satheesh says that five years ago, computer-science graduates had one career option in India: routine, mind-numbing computer programming. Anything more rewarding required emigrating. "Until three years ago, the first preference was to go overseas," she says. Nowadays her colleagues are interested only in business trips to the U.S. "People are pretty comfortable with the jobs here and the pay here"—not to mention the cars and houses that once seemed out of reach. Employees in her group earn from $5,200 a year to $36,000 for the most experienced managers.

And as American companies have grown more familiar with their Indian outsourcing partners, they have steadily increased the complexity of work they are willing to hand over. Rajeshwari Rangarajan, 28, leads a team of seven Wipro workers enhancing the intranet site on which Lehman Brothers employees manage personal benefits like their 401(k) accounts. "I see myself growing with every project that I do here," Rangarajan says. "I really don't have any doubts about the growth of my career."

Her experience with a leading brokerage will probably help. Financial-services companies in the U.S. are expected to move more than 500,000 jobs overseas in the next five years, according to a survey by management consultant A.T. Kearney, and India is by far the top destination. U.S. banks, insurance firms and mortgage companies have been using outscouring to handle tech support for years. Now these firms are using Indian workers to handle the business operations—say, assessing loan applications and credit checks—that the technology supports. Kumar Mahadeva, CEO of the thriving outsourcing firm Cognizant, explains the appeal: "It becomes logical for them to say, 'Hey, you know everything about the way we do claims processing. Why not take a piece of it?"

The next logical step, says Andrea Bierce, a co-author of the A.T. Kearney study, is jobs that require more complex financial skills such as equity research and analysis or market research for developing new business. Evalueserve, a niche outsourcing company in Delhi, already performs research for patent attorneys and consulting firms in the U.S. In April, J.P. Morgan Chase said it would hire about 40 stock-research analysts in Bombay—about 5% of its total research staff. Novartis employs 40 statisticians in Bombay who process data from the drug company's clinical research.

But as educated workers in India are finding new opportunities, those in the U.S. feel the doors closing. Last week Bernie Lantz drove 1,400 miles from his home in Plano, Texas, to begin a new life in Utah. He is 58 years old, a bachelor, and had lived in the Dallas area for 24 years. "I'm leaving all my friends," he says with a sigh. "It's quite an upheaval." Lantz used to earn $80,000 a year as a troubleshooter for Sabre, a company based in Southlake, Texas, whose software powers airline-reservations systems. But over the past two years, Sabre has gradually standardized and has centralized its software service. As Sabre began to outsource its internal IT services, Lantz says, he became convinced that jobs like his were becoming endangered. He was laid off in December. (A company spokesman denies that Lantz's firing was related to outsourcing.)

Discouraged by a depressed job market in Dallas, Lantz realized he would have to do something else. In the fall he will begin teaching computer science a Utah State University in Logan, and in the meantime he has learned a lesson of his own: "Find a job that requires direct hands-on work on site," Lantz advises. "Anything that can be sent overseas is going to be sent overseas."

Pat Fluno, 53, of Orlanda, Fla., says she, like Maglione, had to train her replacement—a common practice in the domestic outsourcing industry—when her data-processing unit at Germany-based Siemens was outsourced to India's Tata last year. "It's extremely insulting," she says, "The guy's sitting there doing my old job." After 10 months of looking, she is working again, but she had to take a $10,000 pay cut.

To protect domestic jobs, U.S. labor activists are pushing to limit the number of H–1B and L–1 visas granted to foreign workers. That would make it harder for offshore companies to have their employees working on site in the U.S. "Those programs were designed for a booming high-tech economy, not a busting high-tech economy," says Courtney of the Washington Alliance of Technology Workers. Courtney and his allies are starting to get the attention of lawmakers. Several congressional committees have held hearings on the impact of offshore outsourcing on the U.S. economy, and lawmakers in five states have introduced bills that would limit or forbid filling government contracts through offshore outsourcing.

Stephanie Moore, a vice president of Forrester Research, says companies are concerned about the backlash but mainly because of the negative publicity. "The retail industry is very hush-hush about its offshoring," she says. But within the boardroom, such outsourcing enjoys wide support. In a June survey of 1,000 firms by Gartner Research, 80% said the backlash would have no effect on their plans.

The advantages, businesses say, are just too great to ignore. They begin with cost but don't end there. Jennifer Cotteleer, vice president of Phase Forward, a Waltham, Mass., company that designs software for measuring clinical-trials data for drug companies, has for the past two years used offshore employees from Cognizant to customize the application for specific drug trials. Lately she has been relying on their expertise to develop even more-tailored programming. "I certainly couldn't have grown this fast without them," Cotteleer says. Her company is growing 30% annually, on track to reach $65 million in revenue this year. "What I've been able to do in very tough economic times is manage very directly to my margins," she says. "I'm providing job security for the workers I do have."

Creative use of offshore outsourcing, says Debashish Sinha of Gartner Research, offers benefits that outweight the direct loss of jobs. In an economy that has shed 2 million jobs over two years, he contends, the 200,000 that have moved overseas are less significant than the potential for cost savings and strategic growth. But he concedes that "when you're a laid-off employee who can't find a job, that's hard to understand."

Perhaps some will follow the example of Dick Taggart, 41, of Old Greenwich, Conn. After 18 years in financial services, most recently at J.P. Morgan Chase, he now works for Progeon, an affiliate of the Indian outsourcing giant Infosys, as its man on Wall Street. One week out of every six or seven, he takes securities firms to India to show them the savings that are possible. He knows the transition is painful for the workers left behind, but he has seen it before. "It was the same thing when we moved from Wall Street to New Jersey and then to Dallas," he says. "Guess what? This is next."

Mr. HOLLINGS. What happens is that when we used to argue for manufacturing jobs, they said, oh, don't worry, the service economy will produce jobs. Then when the service economy was leaving, they said high tech, will be the motor of growth. Then there was Y2K, that was to be the next motor of growth.

The high-tech jobs are gone. The service jobs are gone. As they told England at the end of World War II, do not worry, instead of a nation of bronze, you are going to be a nation of brains; instead of providing products, you are going to provide services; instead of creating wealth, you are going to handle it and be a financial center.

Of course, England has gone to economic hell in a hand basket. Downtown London is an amusement park. Let's not go that way. We have to produce.

As they crown the queens and bring out the kings and everything else of that kind, we are in a position where we do not make anything anymore. For example, footwear, 83.6 percent of our shoes are imported; 70 percent of our clothing is imported. Ceramic household articles, 87 percent is gone; cooking and kitchenware, gone. And I can read on and on, right on down the line.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Item	Percent import penetration
Footwear	83.6
Ceramic household articles	87.0
Cooking and kitchenware	58.4
Industrial thermal-processing equipment and furnaces	60.6
Household appliances, including commercial applications	44.3
Textile machinery	86.5
Metal forming machine tools	49.6
Semiconductor manufacturing machinery	52.3
Boilers, turbines, and related machinery	56.6
Electrical transformers, static converters, and inductors	49.7
Aircraft engines and gas turbines	42.2
Office machines	51.7
Consumer electronics (except televisions)	89.8
Television receivers and video monitors	79.2
Radio and television broadcasting equipment	77.3
Electrical capacitors and resistors	75.7
Computers, peripherals, and parts	59.8
Optical goods, including ophthalmic goods	53.9
Handbags	88.8
Musical instruments and accessories	64.6
Bicycles and certain parts	68.8
Toys	84.0

Mr. HOLLINGS. We do not make anything anymore. We are just jabbering to each other. We are not producing.

The Secretary of Commerce is burdened with the duty—and the current occupant of the chair would be interested in this—of listing some 500 critical articles to our national security for defense purposes. We have a $5 billion deficit in the balance of trade. We had to wait 5 months before we went into Desert Storm to get mainframes from the Japanese. Now we have to go to other countries before we can go to war. We do not make those things anymore. We have an advanced technology of a $2 billion a month deficit in the balance of trade, over $24 billion a year, in advanced technology.

The Japanese have given up. They moved their advanced technology and research to Shanghai. The most modern automotive research is in downtown Shanghai. General Motors put it there. We can go right on down the list. The Chinese are saying before anyone can come with factories, they have to bring their research.

The technology community of the United States is concerned about our technological capability. We do not have as many Americans engineers as there are in China. We maintain our security by a superiority of technology, and we are draining the tub of technology just as fast as we can. Yet in this Chamber, we want to talk about an Energy bill, want to talk about a judge—don't we want to talk about trade? Put fast track on the Energy bill. Why not? Unless, by gosh, we get serious and start talking about jobs in America, the economic strength, the industrial backbone of this Nation.

Tax cuts loses jobs. Free trade loses jobs. We have a race to the bottom to

Mexico. In South Carolina we have lost 61,000 jobs—incidentally, we were supposed to get 200,000 jobs in America by signing NAFTA. That is what NAFTA was going to create for us. Nationally, we have lost 450,000 jobs to Mexico, but not for long because those same Mexican jobs formerly in America are now going to China.

It is different than what Henry Ford said. Henry Ford said, I want the man making that automobile to be able to buy it. He produced a minimum wage and he produced health benefits. So we built up middle America. Now, instead, with a trade policy of free trade, like monkeys on a string, there is no such thing as free trade. That is an oxymoron. Trade is something for something. If it is free, it is a gift. But with that particular policy, we have to race to the bottom in the United States of America.

I have an article from the New York Times, July 20, that I wanted to read, which points out our tremendous difficulty. I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 20, 2003]

ECONOMIC VIEW: PRODUCING ABROAD IS HARMING RECOVERY

(By Louis Uchitelle)

For nearly 29 months, the nation has struggled through a recession and a weak recovery. That is a long struggle, a new form of hardship for many Americans, who are tantalized with incessant forecasts that a decisive upturn is about to happen. But as the months wear on, the dogged optimism detaches from reality.

For starters, the forecasters seem not to grasp how much the American economy has deviated from the standard business cycle and the standard cures. A major reason for the deviation is the mobility of American companies, particularly the ease with which they now shift operations to China and India. "The wholesale movement of jobs and production overseas is handcuffing the recovery," said Mark M. Zandi, chief economist at Economy.com.

In other downturns since World War II, the economy moved from healthy growth to contraction and back to healthy growth, all in less than two years. The downward swings were relatively easy to fix. The swings began when companies found themselves producing more goods and services than people bought. Inventories built up, particularly in manufacturing, and companies responded by cutting output until it was below demand. Rather than produce more, companies filled orders from stockpiles. As output declined, unemployment rose and wages stopped increasing. Capital spending also suffered. After all, why expand when the capacity to produce already exceeds demand?

But the damage did not last long. The Federal Reserve stepped in, cutting interest rates to encourage spending. Unemployment insurance, public spending, and sometimes tax cuts, helped resurrect demand. As spending picked up and inventories disappeared, prices began to rise, which encouraged more production. Hiring resumed, as did capital spending.

These various remedies are being used now, and there is some strength in spending. Yet inventories have failed to diminish, so prices, production, hiring and capital spending do not rise.

The difficulty is that companies have a choice that was not as available in the last downturn 12 years ago. Rather than halt production at home, they shift it abroad to cut costs, particularly labor costs. They feel compelled to do this. If they did not, their competitors would upstage them with their own lower-cost, overseas production that takes away sales back home.

In the process, the mechanism for restoring our economy to healthy growth—by reducing inventories and excess capacity—fails to function properly. Inventories may seem to diminish when only "Made in America" is counted. But in the new global economy, what's made in America and what's made abroad both contribute to inventories and capacity. The total does not shrink, and the economy flounders month after month.

Still, there is some relief. Super-low interest rates, mortgage refinancing, stepped-up military spending and some of the Bush tax cuts augur a temporary pop in economic growth. But temporary is the operative word. The more enduring pressure on the economy is downward, not upward.

The biggest beneficiary appears to be China. Abundant transportation has made China an ever-easier place for American companies to shift production of goods and services for sale in the market back home.

The nation's trade deficit, the excess of our imports over exports, has risen by 31 percent since the recession began in March 2001. The increase, totaling $114 billion, would add one percentage point to American economic growth—enough to turn a weak recovery into a strong one—if the rise in output were at home, not abroad. One-third of the total increase represents imports from China, Mr. Zandi says. Honing the figures, Steven S. Roach, chief economist at Morgan Stanley, finds that China's total exports have tripled since 1994, and that 65 percent of the $244 billion increase comes from foreign companies in China.

"We are criticizing the Chinese as if they were cleaning our clock and the only part of China that is cleaning our clock is the part that we put there," Mr. Roach said.

What is to be done? If we do anything, we are likely to pressure the Chinese to float their currency. A floating yuan would rise against the dollar, making Chinese exports more costly in the United States. Pressure is already coming from Congress for the Bush administration to negotiate the float.

We could also force American companies, through regulations, to stay out of countries that fail to observe minimal labor and environmental standards. Regulation is not popular in America. But it could regain its popularity, if the alternative is a continual loss of jobs in every state.

Mr. HOLLINGS. Of particular significance, the article quotes Steven Roach, the chief economist of Morgan Stanley. He finds that China's total exports have tripled since 1994, that 65 percent of the $244 billion increase comes from foreign companies in China, most of them United States.

Then I want you to listen to this economist about the economy, Mr. Mark M. Zandi. Before I quote him, let me say I am not an economist but I finally found one that is going to correct Alan Greenspan, because Mr. Greenspan is looking to consumer demand.

But before you can have consumer demand, you have to have consumers. Before you have consumers, you have to have producers. Before you have producers, you have to have jobs. Here is what he says:

> For starters, the forecasters seemed not to grasp how much the American economy has deviated from the standard business cycle and the standard cures. A major reason for the deviation is the mobility of American companies, particularly the ease with which they now shift operations to China and India. The wholesale movement of jobs and production overseas is handcuffing the recovery.

Why do they have a jobless recovery? Because the economy of the United States is handcuffed with this silly cutting of the taxes, jobs and growth, jobs and growth, free trade, free trade, free trade.

Maybe it is not jobless growth, it is just jobless in the United States. This tax incentive, this stimulation is not going to create jobs in downtown Nashville, TN. The jobs will be in Shanghai, China. If you are in Nashville, TN, and you get a good fat tax break, the question arises, should you build the plant in Nashville? No, your competition has gone to China. If you are going to meet the competition, you are going to have to put that new plant, use that tax break, that stimulation—not to invest in the United States but to invest in China.

We are missing the point of history when everyone talks of this free trade nonsense. I remind them of Alexander Hamilton, a good Republican. Some of them want to replace him with the inventor of voodoo I, Ronald Reagan, on the $10 bill. You got some crazy things going on in this town. Imagine putting Ronald Reagan on the $10 bill rather than Alexander Hamilton—one of the greatest of the great. Hamilton not only helped with the Constitution, not only helped Madison with the Federalist Papers, but created a "Report on Manufacturers." I have it right here.

What happened was the fledgling colony had just won its freedom when the British corresponded with us back in New York, because that is where the Capitol was at the time. They said what you ought to do back in the colonies since you won your freedom, was to trade with us what you produce best and we will trade back with you what we produce best. The doctrine was David Ricardo's, the economic doctrine of comparative advantage. It was Alexander Hamilton who won out. He even persuaded Madison, who voted for it.

He issued the "Report on Manufacturers." It is too long to include in the RECORD. The original copy is at the Library of Congress. It can be expressed in one expression: Hamilton told the British to bug off. We are not going to remain your colony, shipping to you our agriculture, our foodstuffs, our rice, our cotton, our indigo, our coal, our iron ore. We are not going to remain a colony; no, we will become a nation state.

The first bill to ever pass Congress was for the seal of the United States—but the second bill on July 4, 1789, that passed this Congress was protectionism, a tariff bill of 50 percent on 60 articles.

We built this country over a 160-year-period with protectionism. I will never forget, every time they would tell me: Senator, you are nothing but a protectionist.

I am for free trade, free trade. The opponents do not know what the heck they are talking about. I feel sorry for them. Protectionism built the country. We did not even have the income tax until 1913. We built it on tariffs.

After Hamilton came Lincoln. People told Lincoln that to build the transcontinental rail we ought to get steel from England. The father of the Republican Party said: No, no. We are going to build our own steel mills and when we get through we will not only have the rail equipment, we will have our steel production.

Then Roosevelt in the depth of the Depression protected agriculture. People do not think I know anything about farming. But I get the farm vote every time I run. I love campaigning out in Iowa. I can tell you right now Roosevelt protected agriculture. And Eisenhower protected oil in the 1950s with quotas. We built the country with protectionism.

I will never forget when we had to have President Reagan's second inauguration right out here in the Rotunda. He raised his hand and he said, "preserve, protect and defend." Then we came back here and we debated something on trade. I said something about protection and the majority jumped all over me: You are a protectionist, protectionist.

We have the Army to protect us when the enemy is out. We have Social Security to protect us from old age. We have Medicare to protect us from ill health. We have environmental laws, clean air and clean water, to protect the environment. The fundamental foundation of government is to protect.

Let's say you wanted to start an Alexander Manufacture Company. But before you can open Alexander Manufacture, you have to have a minimum wage. You have to have clean air; you have to have clean water; you have to have Social Security; you have to have Medicare; you have to have Medicaid; you have to have safe machinery; you have to have a safe working place; you have OSHA coming around looking at you; you have to have plant closing notice; you have to have parental leave. I could go on and on. Or you can open a plant in China for 60 cents an hour, and have none of that. So companies go to China.

I will never forget, I had a friend who organized his own company out in California. I saw where he was very successful and I said: I helped you. I got your water and sewer lines when you came to South Carolina, when you had an expansion. I want you to give us that plant in South Carolina.

He said: I don't build anything in the United States. He said: I do it in China. I got research, I got sales—for 10 percent of the costs.

He did not say this but I know it: They build the factory. They provide the employment. They give people a year-to-year contract. They don't have to worry about the cycle that the economists talk about. If the cycle goes down, they do not have to renew the contract next year. They cannot lose. We are in one dickens of a fix.

I was reading the book "Theodore Rex," the patron saint of my Republican friends. He is one of my heroes, too. In the book, on page 20, let me read at the turn of the century what we really had was protectionism.

> The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history. Indeed, it could consume only a fraction of what it produced. The rest went overseas at prices other exporters found hard to match.

As Andrew Carnegie said:

> The nation that makes the cheapest steel has other nations at its feet.
>
> More than half the world's cotton, corn, copper and oil flowed from the American cornucopia, and at least one-third of all steel, iron, silver and gold. Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of world markets. Current advertisements in British magazines gave the impression that the typical Englishman waked to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, Maxwell House coffee, commuted in a Westinghouse tram, body by Fisher, rose to his office in an Otis elevator, worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. "It only remains," one Fleet Street wag suggested, "for us to take American coal to Newcastle."
>
> Behind the joke lay real concerns. The United States was already supplying beer to Germany, pottery to Bohemia, oranges to Valencia. As a result of this billowing surge in productivity, Wall Street was awash with foreign capital. Carnegie calculated that America could afford to buy the entire United Kingdom and settle Britain's national debt into the bargain. For the first time in history, transatlantic money currents were thrusting more powerfully westward than east. Even the Bank of England had begun to borrow money on Wall Street. New York City seemed deemed to replace London as the world's financial center.

Mr. President, you can see exactly what happened. We built it up. At the end of World War II, my dear friends, we had the only economy. In order to prosper, we had to spread prosperity. The way we did that was very sanguine: the Marshall plan. And it worked. We sent over money, 80-some billion in today's dollars. We sent over the equipment, the finest machine tools, automotive equipment and otherwise. We sent over the expertise, and we rebuilt Europe, we rebuilt the Pacific rim, and capitalism defeated communism. It worked.

Our trouble is it worked too well for these eager-beaver manufacturers. I remember them well because I have been in this thing, now, for 50-some years. I can see them—Oh, I get jet lag; I hate to go; oh, man, I don't want to go; and everything else of that kind.

No more, not with the computer, not with the Internet. You can send some young, aggressive executive to Shanghai to run your plant. You can set it up on your computer. You can see what is happening daily. You can be in touch on the Internet. You can run it from the 32nd floor on Sixth Avenue in New York and, man, you have it made. And they are all doing it.

So what happened with the Marshall plan? We not only spread that prosperity but we really taught these people a bad lesson because they don't think about the country. You know, you and I are supposed to think about the country. They are supposed to think about profits. They do not have a duty.

Of course, being Americans, you would think they would be a little bit more patriotic. Their organizations are against us. Now who is the enemy? in other words.

The toast of the town, Jack Welsh of GE, he believed in squeezing the lemon.

This says:

> One of General Electric's CEO's, Jack Welsh's favorite phrase is "squeeze the lemon" for wringing out the cost. To help them meet the stiff goals, several of GE's business units, including aircraft engines, power systems, industrial systems, have been prodding suppliers to move to low-cost Mexico where the industrial giant already employs 30,000.

That was 4 years ago.

> GE even puts on supplier migration conferences to help them make the leap.

He goes on:

> Welsh's widely admired status in corporate America has lent legitimacy to a model of business success that is built on job and wage cuts.

This is Business Week. This is the bible of the business community, the weekly bible. Here it is, and I am quoting:

> The internal report, a copy of which Business Week obtained, says: "GE set the tone early and succinctly: 'Migrate or be out of business; not a matter of if, just when'. This is not a seminar just to provide information. We expect you to move and move quickly."

The followup: Even though GE's profits were up 80 percent at that particular time, they wanted more. You know, they are not just Jesse Jackson in civil rights. This is Jack Welsh in Business Leadership: I want it all. My time has come. I want it all.

So the 80 percent didn't suit him. But you don't jump on poor Jack; he has gone now, and he has had other troubles. Let's go to last month. General Motors and Ford: Automotive News.

I ask unanimous consent to have this article printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

(From Automotive News, June 23, 2003)

Ford, GM Push Vendors Toward China; 'World Price' Frenzy Threatens U.S. Jobs

(By Robert Sherefkin and David Sedgwick)

Ford Motor Co. and General Motors are pressuring their North American suppliers to join the great migration to China.

Embroiled in a price war with their foreign rivals, Ford and GM have delivered an ultimatum: Suppliers must match a "world price" that is increasingly set in China, or they must build factories in China.

Megasuppliers such as Delphi Corp., Visteon Corp. and Denso International already operate in China. Now smaller suppliers are joining them. One such company is Hella North America Inc., the American unit of German lighting manufacturer Hella KG Hueck & Co.

Hella, which supplies all of the Big 3, already owns four subsidiaries in China. Now its North American operation "continues to receive pressure from our customers to source some of their components from China," says company CEO Joe Borruso. "We are working with them to develop a sourcing plan."

China will generate a flood of exports, but domestic Chinese parts makers will be minor players (see related story on page 39). They cannot compete with international suppliers that are spending billions on joint-venture factories in China.

Only international suppliers that have built factories in China have the clout to influence world prices.

The shift to Chinese production eventually will cost hundreds of thousands of manufacturing jobs in the United States. And it will put more pressure on smaller, cash-strapped suppliers to make a risky investment on a distant continent.

Both Ford and GM are offering a two-continent deal. If a supplier builds a factory in China, it can sell parts to a Ford or GM assembly plant in China, then export parts to the automaker's North American assembly plants.

Those deals are starting to add up. According to the U.S. Department of Commerce, total imports of Chinese auto components totaled $2.2 billion last year, nearly triple the volume of imports in 1997.

China will dwarf the impact Mexico has had on the U.S. auto industry, says Detroit economist David Littmann. From the perspective of North America's purchasing managers, Littmann says, "China is vastly more encouraging than Mexico."

ASIAN MIGRATION

For automakers, China looks like a bargain. For suppliers, that price can be steep. In the years to come, segments of the U.S. supplier industry may migrate to Asia. For example, U.S. mold and die makers already have lost an estimated 6,000 jobs to Chinese rivals in recent years.

The shift toward parts buying in China is following one transition that already is well under way. Automakers and suppliers have shifted tool-and-die purchasing to China, damaging the fortunes of companies such as Commercial Tool & Die Inc. of Grand Rapids, Mich.

For 50 years, the family-owned company manufactured molds that automotive suppliers use to produce interior trim. But Ford and other customers have instructed suppliers to seek bids from Asian mold makers.

Company owner Doug Bouwman has two sons that are 19 and 20 years old. "They would both like to work in the business and possibly take it over," Bouwman says. "When I got in, it was a long-term career. It's not clear it will be that way in the future."

The overall erosion of industrial jobs will dwarf the losses experienced by the tool and die industry. By the end of the decade, China's expansion could cause the loss of 900,000 industrial jobs in North America, predicts Craig Fitzgerald, an analyst for the consulting firm Plante & Moran in Southfield, Mich.

NO APOLOGIES

The instigators of this great migration—the automakers themselves—offer no apologies.

At an April briefing in Detroit, GM executives told suppliers that the automaker's annual purchases of Chinese parts soon will top $10 billion, according to a major supplier who attended the meeting. That goal represents a sharp increase from current purchasing levels; GM's parts purchases in China last year totaled $1.1 billion.

While most of those parts are used to build vehicles in China, many will end up in U.S. assembly plants.

Last week, a GM spokeswoman declined to specify when GM expects to reach the $10 billion goal. One GM supplier's estimate: three to five years.

GM imports only 3 percent of the components that it uses in North America. But that understates China's true role: North American suppliers now are expected to match Chinese prices—whether or not they have plants in China.

And that is true for suppliers to Ford and Chrysler, not just GM. The Chrysler group "is clearly investigating China," says Peter Rosenfeld, who becomes Chrysler's executive vice president for procurement and supply in December.

The Chrysler group already has issued a "world price" order to suppliers.

This year the Big 3 are picking up the pace. GM has formed 80 "creativity teams"—consisting of engineers, purchasers and quality control experts—to analyze the cost of its components.

Following one team's suggestions, the automaker decided to import radios from China.

Last year, Ford intensified its search for Chinese suppliers after President Nick Scheele told of plans to import $1 billion worth of Chinese parts to North America in 2003. By 2010, Ford expects its purchases to rise to $10 billion.

If so, it will represent a big portion of Ford's North American parts purchases, which totaled $45 billion last year. If Ford hits that target, it would represent a sharp year-to-year increase. Last year, Ford's worldwide purchases of Chinese components were less than $100 million.

CORE GROUP

To reach its goal, Ford is counting on a core group of 75 to 100 suppliers. Many of them are clustered around Ford's Chongqing assembly plant, which will produce the Fiesta. Half of those suppliers are joint ventures with Chinese partners, and foreign suppliers wholly own 20 percent. Only 30 percent are traditional Chinese suppliers.

To augment that group, Ford has begun asking smaller Tier 1 suppliers to build factories in China. The automaker also is using the "China price" to demand lower prices from suppliers in North America.

"In some instances we are seeing best-in-class prices from suppliers" in China, says Andrew Hinkly, Ford's director of global commodity management. "So they are indeed setting the world parts price. There is a lot of momentum."

TOUGH CHOICES

Suppliers who don't want to migrate to China are feeling the heat. Consider the plight of Wescast Industries, Inc. Wescast, of Wingham, Ontario, controls 70 percent of the Big 3's exhaust manifold business in North America. Ford told Wescast this year that it would transfer $50 million of its purchases from Wescast to Chinese factories, according to an industry source.

Wescast CEO Ray Finnie declined to comment on Ford's plans. But he said the Big 3 "are asking for very significant price reductions because it is a matter of their survival."

Tier 1 vendors are not the only suppliers affected by the China price. The Big 3's focus on China is beginning to cascade through the supply chain. Tier 1 suppliers are starting to transfer their supply chains to China.

Poised to exploit that trend is former Wall Street banker Jack Perkowski, who is based in Beijing and runs Asian Strategic Investment Corp., a company backed by U.S. investors that operates 15 Chinese factories.

The company exports a variety of components such as brake seals, diesel injector bodies and engine blocks. This year, Asian Strategic Investment projects sales of $250 million and says exports to North America will account for 20 percent of that.

Ford's billion-dollar import target was a wake-up call, says company Vice President Matt Snyder. "Eight months ago, the Tier 1 suppliers were not interested," he says. "Today they are calling me."

60 CENTS AN HOUR

For manufacturers of labor-intensive components, China is an attractive location. According to Chinese government data, manufacturers in Shanghai typically pay workers $1 an hour, plus 42 cents an hour in benefits. Factories in rural areas generally pay wages of 60 cents an hour.

That is significantly lower than pay in Mexico, which range from $2 to $2.50 an hour, including wages and benefits, according to Richard Sinkin, managing director at Inter-American Holdings Co., a San Diego consulting firm that focuses on Mexican manufacturing. He also is part owner of a Mexican parts maker.

But suppliers cannot afford to be mesmerized by China's low wages. Unwary newcomers who choose the wrong partners often are saddled with unexpected costs. Consider the plight of a Fortune 500 automotive parts supplier that recently set up a Chinese factory.

This U.S. supplier had assumed it would pay its unskilled workers $1 an hour. But its Chinese partner threw in various employee subsidies—for heating oil allotments, medical care, a housing allowance, free lunches and even a clothing allowance.

The venture's $1 hourly labor costs quickly ballooned to $3 an hour, says a U.S. vice president assigned to uncover the joint venture's hidden costs.

Among the hidden costs was a car allowance for company managers. "They neglected to tell us about the two new Buicks they bought so they could claim a car allowance," he says. "You have to be insistent as hell. We're still digging."

EXODUS

While many suppliers are preparing to join the migration to China, one portion of the auto industry—tool and die makers—already has been decimated.

This is an industry dominated by small family-owned businesses—companies that are ill-equipped to expand into China. Commercial Tool & Die's plight illustrates the trend.

The company's 150 employees once made molds for toys and appliances. In the 1990s, Bouwman lost that business to Asian rivals. Now he's losing automotive customers, too.

To stay competitive, Bouwman purchased expensive tooling and computers to design his molds. But he cannot match the labor costs of his Asian rivals. A Chinese engineer is paid about $5,500 per year; Bouwman's health care premiums alone average $7,000 an employee.

Bouwman is thinking about setting up operations in China. "We're feeling the pressure," says Bouwman, 50. "China is taking jobs out of the U.S. And they won't be back."

Mr. HOLLINGS. Mr. President, just this last month:

> Ford Motor Company and General Motors are pressuring their North American suppliers to great migration in China. Embroiled in a price war with their foreign rivals, Ford and GM have delivered an ultimatum. Suppliers must match a world price that is increasingly set in China, or they must build factories in China.

How do you like that? That is not textiles, that is the automotive backbone of the United States of America. I voted for the Chrysler bailout, so now Daimler can own them. The foreigners own all the foodstuffs. They are going to have all the banks. Now they are going to have all the automobile business.

I wish Don Evans was up in Michigan. He would tell them you get a tax cut, you get $300. What are you going to do? We are going to have growth, growth, and jobs.

Here, within the week, the Automotive News says you have to go to China and you are going to lose 900,000 industrial jobs.

Go up into Indiana, Ohio, and Illinois to what I call the rust belt. The automotive parts makers are gone. By 2010, Ford expects its purchases of parts from China to rise to $10 billion. Last year, Ford's worldwide purchases of Chinese components was less than $100 million.

I quote further:

> Suppliers who do not want to migrate to China are feeling the heat. Consider the plight of Wescast Industries. Wescast controls 70 percent of the Big Three's exhaust manifold business in North America.
>
> Ford told Wescast this year that it would transfer $50 million of its purchases from Wescast to Chinese factories, according to the industry source.

Don't give me the service economy. I know about it. My light bill in Charleston, SC, is administered in Bangalore India. My insurance policy is administered in Dublin, Ireland. That is the service economy. Here is the automotive, hard machine tools industry.

I quote further:

> For manufacturers of labor-intensive components, China is an attractive location. According to the Chinese Government data, manufacturers in Shanghai typically pay workers $1 an hour, plus 42 cents an hour in benefits. Factories in rural areas generally pay wages of 60 cents an hour.
>
> That is significantly lower than pay in Mexico which ranges from $2 to $2.50 an hour, including wages and benefits. Here is the poor Senator from South Carolina fussing about 61,000 textile jobs lost to Mexico. But we find now that the Mexican jobs they got from South Carolina are now on the way to 60 cents an hour with no benefits in the rural areas of China. It is beg thy neighbor; a race to the bottom. That is the trade policy. That is the job policy. That is the economic policy. Don't worry about energy policy.

Heavens above, why can't we catch Kenny Boy? I raised the question at that particular time when Larry Thompson became Deputy Attorney General. He is in charge of corporate corruption enforcement and violations enforcement. Before he came to Justice, he worked in a law firm in Atlanta. His firm was representing who? Kenny Boy Lay, of Enron. So I raised the question of a conflict of interest. What did he say? Oh, he didn't work on that particular client. He didn't have anything to do with it.

But I run a firm, and you make money, and I make money.

Come on. Here it is 2½ years later—and we have gotten everybody, including Martha Stewart—for one little stock thing. This fellow, Larry Thompson, wants to know what he should be indicted for. I can draw it up for him. We had the hearing in California before the Committee on Commerce, Space, Science and Transportation.

I turned to the witness, David Freeman. I said: Now, Mr. Freeman, you say all this happened with Enron, and Kenny Boy may not have known anything about it. I said: In fact, this morning on television I saw Mrs. Lay, his wife, and she said Kenny Boy didn't know anything about it.

Mr. Freeman said he was the architect. He knew all about it. He designed it. Take that testimony of the knowledge of what is going on, the Enron fraud of California, the wrecked economy, and they are now calling for a recall of the Governor because of the problems Enron helped create in that state.

I heard my distinguished colleague from Idaho. He said the economy went from a surplus to a deficit, and the Governor didn't do anything about it.

Let us transfer that to Washington. The President started off with a surplus. He said he even had a $1 trillion rainy day fund. The budget was $53 billion in the red when he talked on February 27, 2001 to the Congress. He talked about the $2.6 billion he would set aside for Social Security. He said there was $2 billion for the budget needs in defense security, and he said he had $1 trillion left over. He was in the red then. But we have Enron accounting here in Washington. If he has gone from a $5.6 trillion surplus to a $4 trillion deficit, is anybody asking for the recall of the President? Of course not.

But they think that is par for the course out there in the political intramurals in California. Come on. What is going on.

It is not just GE. It is not just Ford. It is not just General Motors, or IBM—Big Blue.

This was last week, July 22, from the New York Times: "IBM Explores Shift of Some Jobs Overseas."

I ask unanimous consent to have it printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 22, 2003]

I.B.M. EXPLORES SHIFT OF SOME JOBS OVERSEAS

(By Steven Greenhouse)

With American corporations under increasing pressure to cut costs and build global supply networks, two senior I.B.M. officials told their corporate colleagues around the world in a recorded conference call that I.B.M. needed to accelerate its efforts to move white-collar, often high-paying, jobs overseas even though that might create a backlash among politicians and its own employees.

During the call, I.B.M.'s top employee relations executives said that three million service jobs were expected to shift to foreign workers by 2015 and that I.B.M. should move some of its jobs now done in the United States, including software design jobs, to India and other countries.

"Our competitors are doing it and we have to do it," Tom Lynch, I.B.M.'s director for global employee relations, said in the call. A recording was provided to The New York Times recently by the Washington Alliance of Technology Workers, a Seattle-based group seeking to unionize high-technology workers. The group said it had received the recording—which was made by I.B.M. and later placed in digital form on an internal company Web site—from an I.B.M. employee upset about the plans.

I.B.M.'s internal discussion about moving jobs overseas provides a revealing look at how companies are grappling with a growing trend that many economists call off-shoring. In decades past, millions of American manufacturing jobs moved overseas, but in recent years the movement has also shifted to the service sector, with everything from low-end call center jobs to high-paying computer chip design jobs migrating to China, India, the Philippines, Russia and other countries.

Executives at I.B.M. and many other companies argue that creating more jobs in lower cost locations overseas keeps their industries competitive, holds costs down for American consumers, helps to develop poorer nations while supporting overall employment in the United States by improving productivity and the nation's global reach.

"It's not about one shore or another shore," an I.B.M. spokeswoman, Kendra R. Collins, said. "It's about investing around the world, including the United States, to build capability and deliver value as defined by our customers."

But in recent weeks many politicians in Washington, including some in the Bush administration, have begun voicing concerns about the issue during a period when the economy is still weak and the information-technology, or I.T., sector remains mired in a long slump.

At a Congressional hearing on June 18, Bruce P. Mehlman, the Commerce Department's assistant secretary for technology policy, said, "Many observers are pessimistic about the impact of offshore I.T. service work at a time when American I.T. workers are having more difficulty finding employment, creating personal hardships and increasing demands on our safety nets."

Forrester Research, a high-technology consulting group, estimates that the number of service sector jobs newly located overseas, many of them tied to the information technology industry, will climb to 3.3 million in 2015 from about 400,000 this year. This shift of 3 million jobs represents about 2 percent of all American jobs.

"It's a very important, fundamental transition in the I.T. service industry that's taking place today," said Debashish Sinha, principal analyst for information technology services and sourcing at Gartner Inc., a consulting firm. "It is a megatrend in the I.T. services industry."

Forrester also estimated that 450,000 computer industry jobs could be transferred abroad in the next 12 years, representing 8 percent of the nation's computer jobs.

For example, Oracle, a big maker of specialized business software, plans to increase its jobs in India to 6,000 from 3,200, while Microsoft plans to double the size of its software development operation in India to 500 by late this year. Accenture, a leading consulting firm, has 4,400 workers in India, China, Russia and the Philippines.

Critics worry that such moves will end up doing more harm to the American economy than good.

"Once those jobs leave the country, they will never come back," said Phil Friedman, chief executive of Computer Generated Solutions, a 1,200-employee computer software company. "If we continue losing these jobs, our schools will stop producing the computer engineers and programmers we need for the future."

In the hourlong I.B.M. conference call, which took place in March, the company's executives were particularly worried that the trend could spur unionization efforts.

"Governments are going to find that they're fairly limited as to what they can do, so unionizing becomes an attractive option," Mr. Lynch said on the recording. "You can see some of the fairly appealing arguments they're making as to why employees need to do some things like organizing to help fight this."

The I.B.M. executives also warned that when workers from China come to the United States to learn to do technology jobs now being done here, some American employees might grow enraged about being forced to train the foreign workers who might ultimately take away their jobs.

"One of our challenges that we deal with every day is trying to balance what the business needs to do versus impact on people," Mr. Lynch said. "This is one of these areas where this challenge hits us squarely between the eyes."

Mr. Lynch warned that with the American economy in an "anemic" state, the difficulties and backlash from relocating jobs could be greater than in the past.

"The economy is certainly less robust than it was a decade ago," Mr. Lynch said, "and to move jobs in that environment is going to create more challenges for the reabsorption of the people who are displaced."

The I.B.M. executives said openly that they expected government officials to be angry about this trend.

"It's hard for me to imagine any country just sitting back and letting jobs go offshore without raising some level of concern and investigation," Mr. Lynch said.

Those concerns were pointedly raised on June 18, when the House Small Business Committee held a hearing on "The Globalization of White-Collar Jobs: Can America Lose These Jobs and Still Prosper?"

"Increased global trade was supposed to lead to better jobs and higher standards of living," said Donald A. Manzullo, an Illinois Republican who is the committee chairman. "The assumption was that while lower-skilled jobs would be done elsewhere, it would allow Americans to focus on higher-skilled, higher-paying opportunities. But what do you tell the Ph.D., or professional engineer, or architect, or accountant, or computer scientist to do next? Where do you tell them to go?"

The technology workers' alliance is highlighting I.B.M.'s outsourcing plans to help rally I.B.M. workers to the union banner.

"It's a bad thing because high-tech companies like I.B.M., Microsoft, Oracle and Sun, are making the decision to create jobs overseas strictly based on labor costs and cutting positions," said Marcus Courtney, president of the group, an affiliate of the Communications Workers of America. "It can create huge downward wage pressures on the American work force."

Mr. Mehlman, the Commerce Department official, said companies were moving more service jobs overseas because trade barriers were falling, because India, Russia and many other countries have technology expertise, and because high-speed digital connections and other new technologies made it far easier to communicate from afar.

Another important reason for moving jobs abroad is lower wages.

"You can get crackerjack Java programmers in India right out of college for $5,000 a year versus $60,000 here," said Stephanie Moore, vice president for outsourcing at Forrester Research. "The technology is such, why be in New York City when you can be 9,000 miles away with far less expense?"

Company executives say this strategy is a vital way to build a global company and to serve customers around the world.

General Electric has thousands of workers in India in call center, research and development efforts and in information technology. Peter Stack, a G.E. spokesman, said, "The outsourcing presence in India definitely gives us a competitive advantage in the businesses that use it. Those businesses are some of our growth businesses, and I would say that they're businesses where our overall employment is increasing and our jobs in the United States."

David Samson, an Oracle spokesman said the expansion of operations in India was "additive" and was not resulting in any job losses in the United States.

"Our aim here is not cost-driven," he said. "It's to build a 24/7 follow-the-sun model for development and support. When a software engineer goes to bed at night in the U.S., his or her colleague in India picks up development when they get into work. They're able to continually develop products."

Mr. HOLLINGS. Mr. President, a California IBM employee relations executive said:

. . . three million service jobs were expected to shift to foreign workers . . . I.B.M. should move some of its jobs now done in the United States, including software design jobs, to India and other countries.

I could read on and on. But you can see it. It is in the RECORD.

You have Business Week, "High-Tech in China." I don't want to include the magazine itself. But this is a quote from a Business Week article from earlier this year:

Is Your Job Next? A new round of globalization is sending up-scale jobs offshore. They include chip design, engineer, basic research, financial analysis. Can America lose these jobs and still prosper?

You have not just Business Week but Fortune magazine from June of this year. Here is one of the executives quoted here:

"I've been in this business for over 20 years, and it's the worst I've ever seen", says David Hoffmann , CEO of DHR International, a Chicago-based recruiting firm. "Nothing even comes close to this."

. . . relocation of the jobs to offshore sites. Machines—or low-wage foreigners—could just as easily do their work.

. . . shifting jobs to cheaper locales like India and the Philippines. It's not just call centers anymore. Indian radiologists now analyze CT scans and chest X-rays for American patients in an office park in Bangalore, not far from where Ernst & Young has 200 accountants processing U.S. tax returns. E&Y's tax prep center in India is only 18 months old . . . but the company already has plans to double its size. Corporate America is quickly learning that a cubicle can be replicated overseas as easily as a shop floor can.

Irwin Kellner, who is now at Hofstra University, was at Manufacturers Hanover. We have had him before committees of the Congress year in and year out. I quote:

"White-collar workers and college graduates are in a state of shock," says Kellner. "It appears these job losses are permanent. They're not necessarily coming back when the economy does."

Mr. President, we are in deep trouble. We are into a real trade war. We are into a thing of national survival.

Let me see here. Quoting:

At the University of Chicago Graduate School of Business, 96 percent of grads in 2000 had an offer when they collected their sheepskin. Only 72 percent of last year's grads were as lucky—and this year isn't shaping up any better. Even at Harvard the percentage of grads without job offers has gone from 3 percent in 2000 to 13 percent now. For schools further down the food chain, almost half the class will graduate without even one offer.

Quoting further:

. . . in the past two or three years companies have turned to India and the Philippines for much more sophisticated tasks: financial analysis, software design, tax preparation, even the creation of PowerPoint presentations.

Quoting still further:

And how cheap. Starting pay for an American accountant, says Kline, typically ranges from $40,000 to $50,000 [in the United States]. In Bangalore the accountants are paid less than half that.

Another quote from the article:

> . . . Forrester Research predicts that 3.3 million service jobs will move to countries like India, Russia, China, and the Philippines.

The firm of A.T. Kearney talked about shifting 500,000 jobs, or 8 percent of the U.S. workforce, abroad by 2008.

I quote:

> Any function that does not require face-to-face contact is now perceived as a candidate for offshore relocation.

So, Mr. President, I could go on and on. But let me just say, we are in a struggle for our economic survival. I have talked to you that free trade is a loser. We are losing all those jobs. And who is the enemy? Not just General Motors, not just IBM. I say it authoritatively because I know who wants this losing trade bill—you can start with the National Association of Manufacturers. I got into a struggle with Victor Schwartz there in the 1970s, 25 years ago. But it is not only the National Association of Manufacturers. It is the Business Roundtable, the Conference Board—yes, my dear colleagues, the United States Chamber of Commerce.

The United States Chamber of Commerce is no longer interested in main street America. It was. I won U.S. Chamber of Commerce awards during my 1992 race. Bob Thompson of Greenville, SC, was the president. And I was the poster boy of the United States Chamber of Commerce. We had stopped labor law reform. We had eight cloture votes. My distinguished friend Russell Long was chairman of the Finance Committee, and we agreed the eighth vote would count. That would decide it. We would not go any further. And up until about 20 minutes before the vote, he had me beat. I heard from a friend that I might be able to persuade Ed Zorinsky of Nebraska, and I raced over to the fourth floor of the Russell Building. The rollcall had already been called. And I saw Ed coming down the hall, and I said: Ed, I need your help. And he said: I will help you, Fritz.

And we called that roll, and we won the eighth rollcall vote on cloture. This crowd gets steamed up over two or three cloture votes. So let's get to the record. I helped defeat an eighth cloture vote myself. And as a result, I was the poster boy of the United States Chamber of Commerce.

Now, Tom Donohue—a nice fellow, absolutely honest—I worked with him when he represented the truckers. He knows nothing about international trade, but he is going for the money. He is for tort reform. I never heard him mention a bit about tort reform when he represented the truckers. But now he is, by gosh, the expert on free trade, free trade.

When I ran in 1998, they put out pamphlets against me. They endorsed my opponent, even though I had been their poster boy. I had not changed my vote. I was the same way in trade in 1998 as I was in 1992. But you can see how this crowd is. They headed for the overseas barn. I can tell you that right now.

So you have the National Association of Manufacturers, you have the Business Roundtable, you have the Conference Board. You have the United States Chamber of Commerce. I have won about six of these National Federation of Independent Business small business awards, but now they are being taken over. The U.S. Chamber and the Business Roundtable have gotten hold of them and said: Oh, we are going to get you some writeoffs, some tax breaks, too. So they are for free trade now.

To increase consumer demand, you have to have consumers. In order to have consumers, you must first have producers. And in order to have producers, you have to have jobs. And we are losing them hand over fist.

I have been the author of five textile trade bills that have passed the Senate. Four of those bills have gone to the President of the United States. Four have been vetoed—vetoed. President Carter vetoed one. President Reagan vetoed two. And President George Herbert Walker Bush vetoed the last one. And we came within two votes over on the House side of over turning the veto. We had a majority, but we did not have the two-thirds necessary to override.

The other enemy is the Retail Federation. They order so many hundred thousand dozen shirts, or whatever it is, from China. Then, if the market is good, and they run short, they call up New Jersey quick and get another hundred thousand dozen.

Now, what they get from New Jersey and what they get from China is not the same price. They get a much greater profit on the Chinese import than they do on the New Jersey shirt. I know because I got a New Jersey shirt on. Yes, sir, I believe in domestic production.

Years ago, I used to represent Pontiac folks, and a bunch of other automobile dealers. Once I bought a new car, and I was so careful to buy a domestic car; no foreign car. My neighbor said: Fritz, how much did you pay for this new Pontiac? I was looking at the sticker price, when I see on the sticker: FOB Montreal. I had bought a foreign car. I had bought a foreign car and didn't even know it. Pontiac had gone to Canada to make it because they saved $800 on the health bill on every car.

So you can understand, this has been going on for years. But we are draining the swamp. There aren't jobs left in America.

And you cannot find a hometown newspaper that has endorsed protectionist trade—I don't mind saying the word.

You have to protect your standard of living. We Republicans and Democrats, we say: Clean air, clean water, minimum wage, Medicare, Medicaid, plant closings, parental leave. If you put that requirement on manufacturers, you have to protect it. You can't just go over where they have none of those protections and 60 cents an hour.

The newspapers make a majority of their profit on retail advertising. So the retail federation and all the big stores call the main advertisers. They go down to the editors and they give them a handout. I have compared the editorials in different parts of the country. They give them the handout, and they write the editorial. Free trade, free trade—they think they are being wise.

Free trade loses jobs. We are losing the jobs right and left. But everyone is for free trade: the hometown newspaper, the Business Roundtable, the Conference Boards, the United States Chamber, the retailers, all of K Street. Have you ever had a K Street lawyer come here and ask you to vote against free trade? You can't find one.

You and I are paid to protect the jobs of America. We are not paid to make a profit. But come on, you can't find a K Street lawyer who wants to protect jobs.

In the Administration they think this is wonderful. They can open up the islands of Indonesia and transship through Singapore the electronic parts back into America from cheap labor. So they are all working against us.

It is not just President Bush. President Clinton was for free trade, free trade. He is the one who passed NAFTA. He was the one who was going to open up and create 200,000 jobs. He impoverished the State of South Carolina, I can tell you that. We have lost 61,000 textile jobs in my little State. Where we have a BMW plant, 3 years ago we had 3.2 percent unemployment. It is over 8 percent unemployment now.

Don't tell me about free trade, free trade. I have watched the outflow here. So you have the Government against us. Then if everyone is against us, who could be for us, asks the Good Book? Us. That is all I am trying to do, is wake my colleagues up to get out of this nonsense. I see the Senator from Wisconsin. I know the plants out there, too. I did work for them. I carpetbagged a few of those plants, too. I brought them to South Carolina.

But we have to move to rebuild America. We have to stop whining: I am for fair trade. I am for balancing the field, leveling the field.

That is all garbage. That is baloney, if I have ever heard it. We have to start and compete in the international economy. It is a trade war. It is very viable. It is very fair. It is very understandable. We have to get in there. Having rebuilt Europe and the Pacific rim, we have to, by gosh, get in there, and in order to remove a barrier, raise a barrier. Then remove them both, go by their rule book. We are Goody Two-shoes, and we want to set the good example like we have done for 50 some years. And we have lost our shirt in manufacturing.

We can go right to the tax law. I am going down the list now. We can go to the tax law that says if you manufacture overseas and keep your profit, you can build a new plant. You don't have to pay taxes on that profit. Or we can turn around and go along with CHARLIE RANGEL on the House side—I have the bill in on the Senate side—and say if you manufacture and keep your jobs in America, you get a tax credit. If you go overseas, you lose. You get a tax increase.

That is what we ought to do. Make it so rather than trying to revive Europe and the Pacific rim, we have to revive the United States.

Mrs. BOXER. Will the Senator yield for a question?

Mr. HOLLINGS. I am delighted to.

Mrs. BOXER. It is very interesting that you said this because when we heard from Mr. Wolfowitz in front of the Foreign Relations Committee where we had a hearing on the rebuilding of Iraq, the first thing he said matched what Mr. Bremer said, who is in charge of the rebuilding. He said: Those people over there need jobs. They need to get the economy going. They need jobs.

And I say to my friend, isn't there something ironic about that, that there is a total understanding of what the folks in Iraq need, when I could say in my State and yours and all through America, this should be the priority of the President in this country.

Mr. HOLLINGS. Certainly, it ought to be. That is our duty here in the Congress. Article I, section 8 of the Constitution says not the President but the Congress of the United States shall regulate foreign commerce. But what have we done? We have got in a fix through the Finance Committee and Ways and Means. They got fast track. And I would like to vote for Chile because Chile has a free economy, a market-based economy, a revered judiciary, labor rights, environmental laws, and a balanced budget. But I can't vote with that immigration thing included. Under fast track, I can't amend. I can't debate. I can't discuss. I can't do anything.

Let me bring up a red herring that will excite everybody. I introduced it in January. I said: Good gosh, we are going to war, and we don't have a way to pay for it. We paid for the Revolutionary War with a property tax. That is the first property tax that passed in this country. We got to the Civil War, and Abraham Lincoln put on an estate tax and a dividend tax. And we were running around here talking about taking off the estate and dividend tax.

I said, come on, we paid for World War II. We paid for Korea. We paid for Vietnam. We paid for the gulf war. The Saudis did a good bit of that, as we all know.

I said, I am going to put in a value-added tax. Every industrialized country has a value-added tax. Why? Why do I want to do that? It is twofold: One, if I take and manufacture this desk in Washington, DC, I have to pay all the income, sales, corporate taxes. And when I ship it over to Paris, France, I add on a 17 percent VAT.

If I manufactured that same desk in Paris, France, when it leaves the port of La Havre to come to Washington, we rebate the 17 percent. And so it is a 17 percent advantage to manufacture in Paris rather than in Washington. I want to reconcile that differential immediately with a value-added tax. I want to pay for the war. That is the trouble this country is in.

Bill Clinton brought the budget deficit down. He put in an increase in tax. I voted to increase Social Security. I voted to increase the gasoline tax.

I voted to increase the top payer income tax. We voted also to cut spending, and we had an 8-year economic boom. And now we just had three quarters of recession in 2001, a bad economy all through 2002, and they kept blaming it on the war. The war in Iraq only costs $4 billion a month. That is $48 billion year, and when the President talked on February 27, he said: I have $1 trillion for unforeseen needs.

The tax cuts have wrecked the economy. Everybody knows it. They are running around—jobs and growth, jobs and growth—like a bunch of children trying to sell that nonsense. So we ought to pay for the war, reconcile this trade differential and manufacturing differential. We ought to, by gosh, enforce our dumping laws. The competition is not for money or profit. The competition is for market share.

When the Japanese sell below cost in the United States and make it up in the domestic market in Tokyo, we have to enforce dumping laws. The Special Trade Representative runs out to do that and says we are going to do away with the dumping laws. That is loss leaders.

I had an antitrust case and carried it to the Supreme Court on a loss leader. I know the law of loss leaders. That is what you have in international competition. There are a bunch of loss leaders and they keep taking over, even this year, a greater share of the American automobile market. So we have to enforce our dumping laws. We have to eliminate the Trade Commission. That is another gimmick put in by the Finance Committee.

The Finance Committee—when you have a dumping violation, you file it before the International Trade Administration. They investigate and make a finding. After they make a finding, they have a sweetheart deal. They kick it over to the International Trade Commission, and they never find injury. I can tell you they have two or three exceptions since I have been talking about it, but we can save $43 million and let the finding entity, the International Trade Administration, that gives the penalty on what is to be done. We can save money there.

We need more Customs agents, and we need a department of trade. We have the Department of Manufacturing in the Commerce Committee. We can gear up for the trade war. Don't worry about the Afghan war. I think we may have created more terrorists than we have gotten rid of. The jury is out in Iraq, as to whether or not we can work out the peace. I can tell we don't have any friends in downtown Baghdad. It is a shooting gallery. They are killing our soldiers every day.

What we have to do is get into this trade war and compete.

Now, finally, the administration says they are going to get up consumer confidence. They have passed three voodoo tax cuts. Of course, Ronald Reagan passed voodoo 1, and George Herbert Walker Bush is the one who called it voodoo. How are you going to cut your revenues and increase your revenues? You never do that. You will never find a government doing that. But come to Washington, and they know everything up here. So they are going to increase the consumer confidence with tax cuts they had in 2001, 2002, and already this year.

With those three tax cuts of over $3.1 trillion, here is the news that came out yesterday: the consumer confidence index dropped 7 points to 7.6 in July, a sharp and unexpected drop.

We have a $698 billion budget deficit projected for this year. It is already $503 billion.

(Mr. CRAPO assumed the Chair.)

Mr. President, you can see the effects. You can see Wall Street is frozen. They are not going to invest when the interest rates are on the increase.

The Concord Coalition, headed up by former colleagues, Senator Kerrey, Senator Nunn, and Senator Rudman and now chaired by none other than a Republican, Pete Peterson, former Secretary of Commerce under President Nixon, released its report on fiscal responsibility. Overall, you have the Republican chairman of the Concord giving them an "F."

So there we are. We don't want to compete. We have a job policy in the U.S. Congress of actually eliminating jobs like gangbusters.

Our security is like a three-legged stool. We have the one leg of the values that we have as a nation. Everyone in the world—at least until Iraq—knew that we stood for human rights, individual freedom, and democracy. That second leg, military, is unquestioned. The third leg, economic, is fractured—intentionally so with the Marshall Plan. But we prevailed with capitalism over communism in the cold war. It worked.

But now we have taught corporate America a bad lesson, and in order to compete and make even greater profits, whether it is high-tech or service or hard manufacture, they are leaving the Nation in droves. We are sitting by talking about a little Energy bill or a judgeship.

The country is going to hell in an economic hand basket and we are the ones responsible under the Constitution and we are not doing anything about it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak in morning business, and then be followed by the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

U.S. POLICY IN IRAQ

Mr. FEINGOLD. Mr. President, I enjoyed the comments very much of the Senator from South Carolina, and I agree so much with his comments about our trade policy. I think it is possibly the leading issue in the country right now.

Mr. President, I rise to comment on U.S. policy in Iraq. We have heard much about the President's reference in the State of the Union Address to intelligence suggesting that Saddam Hussein had recently attempted to secure uranium from Niger. Now we know our own intelligence agencies did not believe that information to be credible. It was employed in a reckless effort to sell the American public on a predetermined policy course.

I do applaud President Bush for taking responsibility for his words, but for weeks this administration reacted with a combination of denial and spin, and by choosing to make the Central Intelligence Agency, and then much later the Deputy National Security Advisor, the scapegoats for this incident.

I wish to state for the record that in all of the briefings leading up to the decision to go to war in Iraq, I found the CIA to be among the most straightforward and the most professional of those making presentations to help Members of Congress understand the facts. The facts in the briefing room never matched the public rhetoric of the administration's hard sell.

The hard sell was an encompassing thing. It included an array of justifications for taking up arms that seemed to shift from day to day and week to week. Today we find the administration returning to that menu of reasons for invading Iraq, claiming that whatever happened with the State of the Union, Saddam Hussein was a brutal dictator and so at any case we did the right thing.

Saddam Hussein was a brutal dictator, and I join the vast majority of the world in being happy to see him removed from power. But that was never the bottom line. The bottom line was the regular invocation of the line: "We don't want the smoking gun to be a mushroom cloud." The bottom line was weapons of mass destruction. To pretend otherwise now is to suggest to the world that the United States of America will invoke one pretext for invading another country and then conveniently drop the subject later. That suggestion is so far from what this country's foreign policy should ever be about, so removed from what I firmly believe to be the intentions and desires of the vast majority of Americans, that it must be repudiated. But I fear that the hard sell, the use of debunked intelligence, the implied linkages to other issues have fostered that perception around the world, and that will make it harder for others to cooperate with us on the real foreign policy priority. The real foreign policy priority is the fight against terrorism.

The administration's hard sell recognized that fighting terrorists who attacked this country on September 11, 2001, is the most important national security issue for Americans. So even though they were selling us something else—selling us an invasion and occupation of a major Middle Eastern country even though intelligence did not reveal solid ties to al-Qaida—the administration, nonetheless, incorporated reference to al-Qaida in its hard sell, and they still do.

President Bush told us in his speech on the USS *Lincoln* that the battle of Iraq was won in a war that began on September 11. But this administration has never made any kind of compelling case to suggest that one had anything to do with the other.

This week, before the Senate Foreign Relations Committee, Deputy Defense Secretary Paul Wolfowitz suggested that Iraq—Iraq—rather than Afghanistan is the "central battle" in the fight against terrorism, and he claimed that al-Qaida attacks occurred in part because the United States was pursuing a policy to contain Saddam Hussein.

Secretary Wolfowitz did not say that the Iraqi Government had anything to do with the planning of the attacks on Khobar Towers or the attack on the USS *Cole*, but there these things are, in the same breath, in the same context. The rhetorical linkages continue because the hard sell is a hard job, especially now as the magnitude of the task before us is becoming clearer.

Five American soldiers were killed in Iraq over the weekend and another was killed on Monday and another on Wednesday and another on Thursday, marking 51 United States combat deaths and over 100 United States troops killed since the President declared the end of major combat operations in Iraq in May. We can all hope and pray that these attacks will decrease in their frequency and lethality, but there is no certainty that the attacks will let up anytime soon.

Despite the "triumphant mission accomplished" rhetoric in which the administration indulged several weeks ago, the friends and families of our men and women in uniform are living with the possibility of the knock on the door, the horrible news coming home. They are suffering with every news story, with every report, desperately worried about their husbands and wives, sons and daughters, and fathers and mothers. While, of course, they feel proud of their loved one's service, they also feel tremendously worried.

Yes, across America, there is a growing sense of unease—unease about the hostility our troops are facing; unease about the fact that the United States and the United Kingdom are nearly alone in trying to take this on, having alienated potential allies in the lead-up to war; unease about the giant task that lies ahead and the tremendous resources that will be required in terms of manpower, in terms of time, and in terms of money to see this through; unease about intelligence suggesting that the terrorists are planning more hijackings this summer, just as we read reports about insufficient homeland security resources forcing cuts in the number of flights that will have Federal air marshals on board. The fact is, many Americans do not feel more secure today; they feel vulnerable.

Months ago, I found I could not support a march to war without getting real answers to some basic questions about the cost and commitments we would be undertaking in the name of the American people. And I could not support a march to war when it appeared that our unilateral approach to Iraq would harm the progress of the fight against terrorism. But I want to tell you, Mr. President, I was deeply concerned about the issue of weapons of mass destruction. So I kept asking about the plan for securing such weapons and the means to make them so that they would not slip away in the chaos of war, secreted across borders or sold off to the highest bidder. No matter how hard I tried, over and over, I never got a real answer. And today we still have not found this material, a plain fact that raises very serious security concerns.

At some point in this debate, some seemed to be under the impression that asking questions and demanding that questions be answered signified something less than full support for our Armed Forces and something less than a complete commitment to the security of the United States of America. They were dead wrong. Asking questions, demanding answers, and exercising our judgment are just what the American people send us here to do. It is how we protect our interests. It is how we ensure that the brave men and women of our military do not find themselves in harm's way without an adequate explanation of their mission, without adequate training for the task before them, without the sense of futility or confusion that makes it that much harder to cope with constant threats and pervasive danger.

Now that we are beginning to get some answers, now that we are hearing that our military presence alone is costing about $1 billion a week, now that it is clear that rosy scenarios about reconstruction in Iraq will be self-financing are revealed to be the worst kind of self-deluding, wishful thinking, it is now that we need to look at the facts and adjust our course accordingly. Now we have GEN Tommy Franks' successor, General Abizaid, acknowledging that our troops are facing a "classical guerrilla-type campaign" that is "getting more organized."

Do you know what is happening? The hard sell is giving way to the hard truth. These probably are not the answers the American people were expecting when their questions were met with evasion or with vague exhortations to "just trust us." I did not support the decision that led us to this place, but I wholeheartedly support the troops who are in the hot seat now, and I support their families. I support the next generation of Americans who deserve better than to be saddled with massive debts, in part because their Government was unwilling to do what it takes to get capable partners on board to help us shoulder the burden that now weighs so very heavily on this country.

I believe we must keep the questions coming. We must get real answers, and we must all work together to move toward a wiser approach. I do not want to hear a hard sell anymore. I want to hear the answers to the hard questions, and I want to work on the hard problems and the hard choices that are before us.

Mr. President, I yield the floor.

Mrs. BOXER. I ask unanimous consent that at the completion of my remarks, Senator BAUCUS be recognized for as much time as he may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR IRAQ

Mrs. BOXER. Mr. President, before Senator FEINGOLD leaves the Chamber, I thank him for his comments. Since he is my seatmate on the Foreign Relations Committee, which in itself is an honor for me, I recall that we were very skeptical from the start about going it essentially alone in Iraq. He and I have pressed very hard to work through the U.N. weapons inspectors and to have the whole world breathing down Saddam's neck. Now, as it turned out, we essentially did it alone and we are bearing the burden of these tragic deaths every day, deaths that are almost going, I hate to say, unnoticed now, although some of us talk about the brave soldiers we are losing.

When it comes to the funding of this war, we are up to $45 billion to $50 billion a year, even without the rebuild. As my friend knows, because he has been a major force for fiscal responsibility, we cannot even share that burden. Even when countries such as the Poles come forward, and we are grateful to them for sharing the burden on the ground, we are paying for it. How can we sustain these costs at a time when our deficits are skyrocketing?

So we are in a bit of a mess, and I hope the President will move more forcefully toward internationalizing the rebuilding of Iraq and sharing the burden because that is the answer. That is what a real leader has to do.

We all said that the 21st century would be America's century but that does not mean we do it alone. It means we lead the world against tyrants and against the war on terror. So I wanted to thank my friend before he left the Chamber.

NOMINATION OF CAROLYN B. KUHL

Mrs. BOXER. Mr. President, I rise today to talk about a judicial nomination that has gotten no attention on the Senate floor thus far and yet we are going to have a vote on this nomination, as I understand it, tomorrow, the nomination of a woman from California which was ill advised from the start because there was no advice and consent done at all from this administration, at least to this Senator.

When I was notified that this nomination was going forward, I had several meetings with the Bush administration people and I asked, why are you choosing someone who is so far out of the center and so far to the extreme right, when the President said he would govern from the center?

In fact, I will never forget the night he declared victory, after the Supreme Court made their ruling, and the President came out, very appropriately, and I thought somberly, and said, I am going to bring this country together and I am going to govern from the center. I took him at his word.

When President Clinton was in office, I got a pretty stern lecture from Chairman ORRIN HATCH, for whom I have great respect. He said, Barbara, I want you to know that if you recommend any judges that are outside the center, forget about it. It is not going to happen. We are not going to let it happen. We want moderates.

I do not understand why that does not apply now. It applied to President Clinton. It ought to apply to President Bush. When President Bush said, I want to govern from the center, I took him at his word.

When the Constitution says the Senate shall be part of the advice and consent function, that does not mean we roll over and play dead to any President, be he or she Democrat or Republican. It means the President should seek our advice and must win our consent.

So when we see a judicial nominee come to this floor, where one of the home-state Senators never even sent back what we call the blue slip, which is sort of the permission slip, giving permission to move forward, when we see that being ignored after it said for many years on the slip, this nomination will not go forward unless you send back the slip—I ask unanimous consent that the blue slip be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Tuesday, August 1, 2000.

DEAR SENATOR: You will kindly give me, for the use of the Committee, your opinion and information concerning the nomination of: to be .

Please return this form as soon as possible to the nominations office in Dirksen G-66. No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators.

Respectively,
ORRIN G. HATCH,
Chairman.

Via courier to:

REPLY

To: Senator Hatch, Chairman

I approve

I oppose

Comments:

U.S. Senator.

Mrs. BOXER. There is a note from Senator HATCH when he was Chairman of the Judiciary Committee during the Clinton administration, which I would like to read. The blue slip we used to receive from Senator HATCH said: "Please return this form as soon as possible . . . No further proceedings on this nominee will be scheduled until both blue slips"—that means from each Senator—"have been returned by the nominee's home State Senators."

That is what we all used to receive from Chairman HATCH. That was his former policy. Then all of a sudden it changed when the President changed.

So on process, this was a nomination that should not be before us. Then the bar kept being raised. Senator FEINSTEIN said, let's have a hearing on this nominee and let me see whether I think she ought to move forward. Senator FEINSTEIN listened, asked deep questions, pondered, and then said, no. And she will express for herself why she said no.

So we have two home State Senators against this nomination. What happens? The nominee is coming to the floor for a vote. We have not even debated it or discussed it.

I wanted to apologize to my friend from Montana, because I know he is talking on another subject, but this is crucial. I predict this Senate will not give the go-ahead to this nominee and I want to make the record clear as to why.

It is pretty clear that if we look at the values shared by the American people on such matters as privacy, civil rights, women's rights, access to the courts, whistleblower protection, legal intimidation, the right to the disabled and the environment, on every single one of these very key American values this nominee is way outside the mainstream. There are years of actions that prove what I have said.

I do not relish this situation. Everyone who knows me knows that I fight so hard for women's rights and for women to move forward and to break the glass ceiling, but when we see the record of this nominee, I have no choice. I do not deserve to be here if I do not make the case against this nomination and why I believe the proceedings should not move forward.

So let me first show how many groups are against this nominee and how controversial this nomination is. I am going to go through these. I am not going to read every name on it but I want to give a sense of this list: the AFL-CIO, the Alliance for Justice—I am skipping some—Asian Pacific American Labor Alliance, Association of Flight Attendants, Breast Cancer Action—and I am going to explain why—Breast Cancer Fund, California Women's Law Center, Clean Water Action, Committee for Judicial Independence, Communications Workers of America, Defenders of Wildlife, Earthjustice, Feminist Majority.

Let's go to the next chart. I am skipping many of these because of the time constraints I feel but let me continue. Foundation for a Smoke-Free America—and I will explain why they got involved—Friends of the Earth, Japanese American Citizens League, International Federation of Professional and Technical Engineers, Los Angeles African American Women's Political Action Committee, Mineral Policy Center, MoveOn.org, NARAL Pro-Choice America, National Center for Lesbian Rights, National Council of Jewish Women, National Employment Lawyers Association, National Organization for Women, National Women's Law Center, Natural Resources Defense Council. Again, I am reading a partial list here.

Another list, and this is incredible. This is one judicial nominee that is coming before us the day before we leave when we are in the middle of an Energy bill that the other side says is so important. They are throwing at us one of the most controversial nominees one could find. Office and Professional Employees International Union, Progressive Jewish Alliance, San Francisco Board of Supervisors, San Francisco La Raza Lawyers Association, Sierra Club, Smokefree Educational Services, the Foundation for Taxpayer and Consumer Rights, UNITE, United American Nurses, United Farm Workers, United Food and Commercial Workers International Union. Again, I am reading a partial list.

The last chart: Union of Needletrades, Industrial and Textile Employees; Wilderness Society; Women's Committee, Labor Committee for Latin American Advancement; Women's Leadership Alliance; Women's International League for Peace and Freedom, and a number of members of the California delegation. This gives a sense of the breadth of opposition.

Let me start off telling a story why so many people are so upset about this nomination. It has to do with a case Judge Kuhl decided in the California courts that deals with a woman who is a cancer victim. I will read this woman's public statement.

> My name is Azucena Sanchez-Scott. I am a survivor of breast cancer and Judge Kuhl's courtroom. I stand before you now because I want to tell my story so that other people will never have to re-live it.

This is a woman who was harmed by Judge Kuhl in a way she will never forget for the rest of her life.

> Nothing about my cancer is easy. Not the chemotherapy, not the fear, and certainly not the emotional pain or disfigurement. As a person battling cancer, each visit to the doctor brings questions about my future and my health. That is where I was when my doctor and a stranger walked in. The doctor offered no introduction and proceeded to examine me and asked that I disrobe. It was only when I left the office and inquired with the receptionist that I learned that the stranger was a sales representative for a drug company with no medical reason for being there.

She continues:

> As a cancer survivor, I trusted that my doctor would make decisions in my best interest and my doctor violated that trust. The injustice, however, did not end there.
>
> Judge Kuhl heard my case and found no fault in the doctor's actions. She ruled that it was my obligation to protect my privacy in his exam room. That I should have battled cancer and my doctor's judgment at the same time. And, she denied my request to allow a jury trial to determine if the intrusion was highly offensive to a reasonable person.
>
> We were taught not to question our doctors and I know as a medical health professional that I have an obligation to protect my client's privacy. I was shocked to find that the doctor did not honor this obligation and I think that is why Judge Kuhl's decision was unanimously reversed on appeal. If, however, there is any duty for a citizen to ask questions as a standard to protect our rights to privacy, it lies with the Judiciary Committee.

The point is, a woman has breast cancer. She goes to the doctor for a brutally difficult exam. She is humiliated in the office of that doctor by a total stranger, a drug salesman she later finds out, and Judge Kuhl rules against this woman, against her privacy rights, and tells her she should have asked, she should have known to ask who this stranger was that her doctor brought into the room.

This is someone the Bush administration wants to promote and give a lifetime judgeship to?

I can tell you what the breast cancer groups say. They normally do not get involved in these fights, but they are involved in this one. This is from Breast Cancer Action:

> On behalf of Breast Cancer Action and our over 8,000 members in California, I am writing in support of your opposition to the nomination of Judge Carolyn Kuhl to the Ninth Circuit Court of Appeals.

They say:

> Based on Kuhl's refusal to protect fundamental woman's rights in cases such as this, the BCA opposes her nomination.

This is highly unusual.

We have another letter from another organization I want to share.

How can anyone be so cold and heartless as to tell someone suffering like this that they have to ask, Who is in the room? in a doctor's office?

The Breast Cancer Fund wrote:

> Quite simply, Judge Carolyn B. Kuhl does not show the level of sound judgment necessary for an appellate court judge.

I know we have mostly men in the Senate, although we are moving forward with about 14 women. But any woman in the Senate will tell you, going for that type of an exam, even if you are totally healthy and not just coming out of a breast cancer operation, it is very difficult, it is very nerve racking, it is very embarrassing.

To have a woman judge rule against Ms. Sanchez-Scott's privacy is extraordinary to me. To have these kinds of letters from groups like this is extraordinary, and it ought to be extraordinary to every single Senator who should vote not to allow this nomination to go forward.

I will quickly go through the other issues where Carolyn Kuhl is outside the mainstream. We mentioned she is outside the mainstream on privacy rights. She is outside the mainstream on civil rights.

> Kuhl urged the Reagan administration to adopt a position that would grant tax-exempt status to Bob Jones University. More than 200 lawyers in the Justice Department's civil rights division signed a letter in opposition to this position. The New York Times (May 26, 1983) characterized her as part of a "band of young zealots" who urged the legal switch.

She went forward and defended tax-exempt status for Bob Jones University even though it discriminated on the basis of race. Is this someone we want to elevate? She is outside the mainstream on civil rights.

She is also outside the mainstream on access to the courts. What makes our country so great is that we have the ability to go to the courthouse door and get into that courtroom. We have that right as Americans.

She argued that organizations do not have standing to sue in Federal court on behalf of their members. She called on the Supreme Court to reject the principle of associational standing, effectively undermining the ability of unions to enforce labor laws.

So if you believe, as she does, that a union does not have a right to sue on behalf of the members, that even, say, the NRA, the National Rifle Association, does not have a right to sue, whether the Chamber of Commerce should not have the right to sue, whether an environmental organization should not have the right to sue on behalf of its members, then go ahead and support her. But that undermines a basic, fundamental principle of our laws that organizations have standing to sue on behalf of their members. Whether it is the PTA or any other group, they should have the right and have their day in court.

Carolyn Kuhl is outside the mainstream on women's rights. As I go through this, I hope everyone understands it is not as if there were not other people who could have been nominated in California, great people who were Republicans in my State. And I begged the administration to do it. They said: Send a list. And I sent them a list of several wonderful Republicans in my State who would have been great nominees. No, they were going to go forward with this extreme nomination—whatever their reasons, I cannot say—even in the face of the two home State Senators' opposition.

Carolyn Kuhl supported a gag rule on title X funds, filing an amicus brief on behalf of the American Academy of Medical Ethics, an organization which represents more than 25,000 doctors who oppose abortion. She argued for restricted access to contraception, imposing additional requirements on recipients of title X funds.

We all know our country is divided on the right to choose. My State is very strongly pro-choice, that is true. But in the country it is split. I cannot believe we are split on the issue of contraception. Here we have a nominee who is for limiting access to contraception. This is outside the mainstream on women's rights. She ruled against a rape victim in favor of an insurance company when she had the opportunity to rule in favor of that victim and get that victim support.

She supported a restriction on access to abortion and urged reversal of Roe.

This is when she worked for the Department of Justice. This is what she said:

> . . . Roe v. Wade is so far flawed . . . that the Court should reconsider that decision and . . . abandon it.

That is what she argued.

On the environment, Kuhl represented a large oil company that wanted to avoid cleaning up polluted land.

Is that an American value, to stand on the side of a polluter and say let the people take care of it if an oil company polluted their land? I say it is outside the mainstream on the environment.

Legal intimidation—and this is very serious:

> Kuhl ruled against an individual subjected to intimidation and legal costs as a result of speaking out against Medicare and insurance fraud. In unanimously overturning Judge Kuhl's decision—

Unanimously overturning Judge Kuhl's decision—how far out of the mainstream can you be when a court that is dominated by Republicans overturns you unanimously?—

> the California State Court of Appeals found her ruling "would prolong both the [individual] defendant's predicament and the [corporate] plaintiff's outrageous behavior.

Outside the mainstream on tobacco.

> Kuhl was part of a team representing a tobacco company in its effort to manipulate public policy.

That was the case State of Minnesota et al v. Philip Morris et al. On the wrong side, out of the mainstream.

She was out of the mainstream on exposing corporate fraud. Kuhl challenged the ability of whistleblowers to expose fraud against the Government.

Imagine, instead of taking the side of the whistleblowers—and who are whistleblowers? People who are willing to come out and tell the truth. She challenged the ability of whistleblowers to expose fraud against the Government. The case was United States ex rel Jason R. Madden v. General Dynamics Corporation.

She also misrepresented the U.S. Government's position on the constitutionality of the Federal whistleblower law in United States ex rel Rohan v. Newert, in 1993.

Outside the mainstream on rights for the disabled. She argued airline carriers do not have to abide by antidiscrimination statutes relating to the disabled.

Do you know whom she took on in this case? The Paralyzed Veterans of America.

It is hard for me to believe this record. It is hard for me to believe you are going to have to vote to move this nomination along. Why do we have all these groups very upset? Because they understand what her record has been. Fighting on the side against paralyzed veterans—it is unbelievable. Let me just say we will have a little more debate on this tomorrow, but I want my colleagues to understand that the way this nomination came to this Senate was just plain wrong. It went against Senator HATCH's own rules that he laid down when President Clinton, was President. He said you had to have both Senators sending back their slips to allow this to go forward. Senator HATCH has changed that rule now that we have a different president.

Then, when we had two Senators against this nomination—we never expected it would be here—when I spoke to the President's men, they said: "Give us some ideas of some mainstream people you might support. I was happy to do it. I sent them a list of wonderful people.

As a matter of fact, one of the people I recommended is known to the Senator from Oregon. One of the people I recommended for this position was known to the Presiding Officer.

Instead of reaching out to the Senators from California and coming in with a consensus nominee, for whatever reason the President chose to continue with this nomination. I can tell you, in all my years, I have never seen such an outcry from the people of this country.

I will close. A letter was sent to Senator FEINSTEIN on May 6, 2003, by Shirley Hufstedler, a former Ninth Circuit judge, and the first U.S. Secretary of Education. She said:

> I do not question Judge Kuhl's skill as a highly trained lawyer. I am troubled by her lack of candor before her Senate hearing and by her apparent insensitivity to the impact her rulings have on some of the people who have come before her as a judge.

That is an important point about which I didn't tell you. There were a number of statements Judge Kuhl made before the committee that, when asked in further detail after the hearing, she had to correct and clarify what she had said to the members of the Judiciary Committee. She said, Oh, I made a mistake. I was wrong. I didn't exactly say it right.

So whether you look at her performance before the Judiciary Committee, her actions within the Department of Justice during the Ronald Reagan years, her actions as a private lawyer, or her actions as a California judge, it all adds up to outside the mainstream, way outside the mainstream. And it goes against what I believed President Bush made as a commitment to the American people—that he would govern from the center.

I have voted for many judges here, probably 90 percent, maybe high 80s. Many were judges I did not agree with, who were conservative, who would not view the world as I view it. It is very rare—very rare—that I have taken to the floor to make this point. I do not do it lightly.

This is not a personal attack. I have met Carolyn Kuhl. She is delightful to talk to. But this is not about personalities and it is not about gender and it certainly is not about religion. It is about whether or not the advice and consent of the Senate was really sought in this. It is about how Senators were disregarded, the home State Senators who wanted to cooperate, who put forward names, and it is about her lifetime of fighting for everything that is outside the mainstream of America.

I do not think, after that decision on the breast cancer victim, and that alone, that someone who would be that insensitive to say to someone who was fighting breast cancer that you have to come in and you have to ask your doctor who is in the room with you, that it is your job—that kind of decision fails the test of compassion, sensitivity and, above all, the law. She was wrong on the law. She was overturned on the law.

For all those reasons, I beg my colleagues to stop this nomination from going forward. Let's get another nominee, a Republican nominee, I am sure—which President Bush has every right to do—but one who comes from the mainstream, with mainstream values and mainstream life.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend from California, Senator BOXER, for the statement she just made. For some, it is not easy to stand up on the floor of the Senate and oppose the nomination of a judge nominated by the President of the United States. For others, it is not quite as difficult. But for the Senator from California, I admire her for the clarity of her thinking and the position she has taken because, frankly, I agree with it.

All of us in this body took an oath of office to uphold the Constitution of the United States. The main framework of that Constitution is the separation of powers with its powers allocated equally among the legislative, executive, and judicial branches. When our Founding Fathers wrote that Constitution, they were unsure about what to do about judges. They debated. One of their proposals was that the Congress send the names of potential judges to the President and that the President choose from among those judges which one the President wanted, and that is the one that would be named. It was a very difficult issue to resolve. Why? Because the two branches of government would be deciding which people would have lifetime appointments serving in the third branch of Government; that is, the judicial branch.

Why is this so important? It is so important because judges must be impartial, and they must be fair. They have a very difficult job of trying to interpret laws and interpreting the Constitution. We as Americans feel much safer and we feel much better the more we know that the judges in the district courts, the courts of appeal, and the Supreme Court are people of the highest caliber.

Let me tell you that one of the greatest privileges I believe we have as Members of the Senate is to recommend the names of potential judicial nominees to the President of the United States. I have been able to do that several times. It is very much a privilege to me personally. In the exercise of that privilege, this is the process I followed. I think it is one that honors the position of the judge in either district court or the United States Courts of Appeals.

I asked in each instance seven or eight people in my State of Montana—Republicans, Democrats, it didn't make any difference, some lawyers, some law professors, businesspeople, people who I respected as some of the best and smartest and most able in my State—to come up with three names, one for the district court and one for the circuit courts of appeal. I asked them to give me the three very best people in my State. I don't care whether they are Republicans, Democrats, whether they are known as conservatives, whether they are known as liberals, just give me the best. And they did. I sat down with each of the three and interviewed each of the three for several hours.

I can tell you it was a very difficult decision because they are tremendous people.

Finally, I decided after a lot of thinking about all of this to recommend to President Clinton the name of Don Malloy. Thankfully, he nominated Don Malloy to the Federal District Court in the State of Montana. He is a terrific Federal judge.

Why do I say terrific? I say terrific because both the plaintiffs bar and the defense bar think he is just super. He is tough, he is fair, he runs that court well, and he works very hard. Both plaintiffs and defense attorneys think he is very fair and a very good judge. That says a lot to me.

I did the same in the other case. When we had the opportunity to recommend to President Clinton the nominee for the Ninth Circuit Court of Appeals, it was the same process. I asked for the best. I didn't care whether they were Republicans or Democrats. It didn't make any difference. Who were the best? The group I selected came back with three people—all just terrific people. You would be very proud of all of them, Mr. President.

Again, I had a hard time deciding which one was the best. But I made a decision. That person now serves on the Ninth Circuit. His name is Syd Thomas. He has the reputation of being one of the best judges on the Ninth Circuit Court of Appeals.

It is very important that we get the best judges. These are people who are nominated and serve for life. That is extremely important. It is important so they can maintain their independence. It is also important since once they are confirmed, they are there forever.

We self-destruct. As Senators we self-destruct every 6 years. House Members self-destruct every 2 years—some Governors 4 years and some 2—to go back and face the people, as we should go back and face reelection. Should we be continued in these offices, if we seek them, or not? It causes us to be very close to the people. In some cases, we are more attuned to the political currents that flow in our respective States. Not so judges. Judges are not to be attuned to political currents. They are to be independent, to be impartial, to go beyond politics, to do what is right according to what the law says and what the Constitution says. That is who we want.

This is no light matter. One of the strengths of America is our independent judiciary. That is not true in most other countries. Most peoples in the world live where the continent might be under a system where the judiciary is not independent of the executive branch, not independent of the legislative branch; rather, it is under the thumb of one or the other. They are not independent.

That is one reason why this country has grown so strongly, why it has prevailed, and why we have risen so quickly and so far. It is because we have an independent judiciary, by and large, of judges who are extremely capable men and women. It engenders confidence so when people go before a judge they have the feeling this person can be fair and this person can be honest. They may not like the outcome, but at least it is a fair process. At least the President or the Governor didn't put his thumb on this judge and it wasn't a political decision. It was a decision a person made on the merits.

I say this because we as Members of the Senate have a higher obligation in passing upon judges than we do of other nominations—certainly of other executive branch nominations. When the President nominates somebody to be Treasury Secretary or somebody to be Secretary of State, or someone to be Defense Secretary, those are important jobs, very important. But they are executive branch nominations, and they are people who will be working for the President, and by and large the President should have people with whom he can work. We should, in my judgment, not have quite the same standard for executive nominations as we do for judicial nominations.

For judicial nominations, the standards should be of the highest. What should they be, roughly? They should be people who have the highest integrity and honesty. They should be people who are extremely competent, who know the law, and people who basically don't have an ax to grind or an ideological ax to grind; that is, they are basically in the mainstream. America is a mainstream country. We are not a country, hopefully, of ideologues, of people who have axes to grind, of people who want to work with each other and who live with each other. We should have judges who reflect America and in fact set the highest standards for America.

In my opinion, it is not even a close question. It doesn't even begin to be a close question. Some of the nominees before the Senate do not rise to those standards. They don't begin to. Some do. Most do. But some don't. Where they don't, we in a sense should also forget the politics and just do what is right. Is this nominee a person so qualified that he or she should be a district court judge or a judge on one of the courts of appeal? That should be the test.

It is easy for us to decide what is best and what is not best. We should not push pell-mell to follow the political flood and rush on either side of the aisle just because the President appointed the person, or because a group came out against their nominee we should or should not confirm that person.

This is a high solemn obligation we have, Mr. President. I urge all of us to take this responsibility under the Constitution, the Constitution which we all swore to uphold, very carefully.

Mr. President, turning to another matter, I would like to speak about an amendment I intended to offer today on the Energy bill that I think promotes a good commonsense solution to an issue that I think is very important to my constituents in Montana, and that is, protecting Montana's magnificent Rocky Mountain Front.

What is the Front? The Front, as we call it back home, is one of the largest and most intact wild places left in the lower 48 States. We call it the Front because that is kind of what it is; it is a front. Anyone driving across the State of Montana, driving westward, first encounters open plains and prairies; and then, suddenly, out in the distance, the Rocky Mountains, the Continental Divide just seems to jump out of the plains—this huge mountain range—and that is what we call the Eastern Front.

That is the eastern side of the Rocky Mountains which kind of juts out from the plains. It is magnificent. It is one of the largest and most intact wild places left in the lower 48 States.

This map I have is not a good map to show the beauty of it. But, rather, this is a map that shows where the Front is with respect to the Blackfoot Indian Reservation, the oil and gas leases, and some of the wilderness areas there. But to the north of the Front is an area here. This is the Blackfoot Indian Reservation. Glacier National Park is over to the northwest on this map. The area shaded in red is called Badger-Two Medicine. It is call Badger-Two Medicine in large respect because the Blackfoot Indian Reservation has ancestral rights and claims. It is a very special area to the Blackfoot. It is also a gorgeous area. I have hiked it many times. I think it is a very special place in the United States of America. This is sacred ground, Badger-Two. It is the area on the map that is shaded red located next to Glacier Park.

In January 2002, portions of the Badger-Two area, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

If you turn just south of the Badger-Two, the Front includes about a 400-square-mile strip of national forest land and about 20 square miles of BLM lands. The BLM lands are scattered in through here, as shown on this map. These include three BLM Outstanding Natural Areas. As I mentioned, they are located right through this area shown here.

Now, the Front harbors the country's largest bighorn sheep herd—the country's largest—and the second largest elk herd in the entire country. That is on the Front.

The Rocky Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 States where grizzlies still roam from the mountains to their historic range on the plains, just as they did when Lewis and Clark came across. Actually, they crossed right up through here. Marias Passway is over here. So Lewis and Clark, when they came up, saw that area. Actually, they came the south. One of the groups came across Marias Pass.

Because of this exceptional habitat, the Front offers unsurpassed hunting, fishing, and recreational opportunities. Sportsmen, local landowners, local elected officials, hikers, local communities, and many other Montanans have worked for decades to protect and preserve the Front for future generations for nearly a century.

Now let me show you a couple of pictures of the Front so you get a sense of the feel for this magnificent landscape. This is a photograph of Ear Mountain. It is supposed to be shaped like an ear. If you have a good imagination, maybe you can see the ear. Frankly, a couple summers ago, I hiked up to the top of the ear with a good friend, Rick Graetz, and another friend, Jim Scott, and Jamie Williams, and it was just a gorgeous climb.

When you get to the top of the Ear—this picture, of course, was taken a little more in the wintertime, but at the top of the Ear, if you look east, you can see forever. It is wonderful.

We feel very strongly about the Front. The majority of Montanans believe very strongly, frankly, that oil and gas leases on the Front and throughout Montana's Rocky Mountain Range just don't mix. We think that because the habitat is too rich, the landscape too important to subject it to the roads and the drills and the pipelines and the industrial equipment and the chemicals and noise and human activity that come with oil and gas development.

Let me show you a couple for photos of the Front before I proceed.

This is typical—and I mean typical. I am not exaggerating. This is what Montana looks like. It is what the eastern Front looks like. It is gorgeous.

Here is another picture. This gives you a sense of the pristine nature of the area. It is special. We are known as the Big Sky State. And when you are out here, you can understand why we call Montana the Big Sky State.

Those are some of the photographs.

To give my colleagues some idea of what the area might look like if oil and gas were developed, I show you a picture of extensive oil and gas development along the Canadian Rocky Mountain Front in Alberta.

This is the Front. If you were to continue from Montana up north, this is what it would look like—with the roads and the development of the oil and gas leases.

So we believe such development is not warranted and it is not needed in Montana.

The administration recently completed an inventory of onshore oil and gas reserves on Federal lands at five basins in the interior West, including the Rocky Mountain Front, which is part of the Montana overthrust belt. The administration's study found that the overthrust belt area contains the smallest volumes of potential oil and gas resources of all five of the western inventory areas.

In addition, the administration's study concluded that in reality the vast majority of Federal lands in the interior West are available for leasing with few, if any, restrictions; that is, there are not many restrictions in the vast majority of the Federal lands of the interior West. And that is, we are not talking about the Front, we are talking the interior of the United States.

Although a large percentage of Federal lands in the Front are currently unavailable for leasing, many of those lands are unavailable in the Front because they lie under Glacier National Park, they lie under Indian lands, and already established wilderness areas. These areas comprise much of the Federal land in the Front.

As shown on the map, here is the Scapegoat Wilderness Area, Bob Marshall Wilderness Area, Great Bear Wilderness Area, Glacier National Park, Badger-Two, and the Blackfoot. So much of this is already restricted. So not only is the Front relatively poor in terms of oil and gas reserves, many of those reserves, by congressional mandate, Executive order or treaty, will never be available for leasing. So there is no oil or gas bonanza on the Rocky Mountain Front.

My amendment builds upon local conservation efforts in Montana that started nearly a century ago; that is, back in 1913. It also builds on previous congressional initiatives championed by former Members of the Montana congressional delegation, such as Congressman Pat Williams and the late Senator Lee Metcalf.

I ask unanimous consent that a timeline of these efforts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A CONSERVATION HISTORY OF MONTANA'S ROCKY MOUNTAIN FRONT

Montana's Rocky Mountain Front has been the focus of conservation efforts for over 90 years:

1913—The Montana state legislator takes the first step in protecting the wildlife habitat of the Rocky Mountain Front by designating the Sun River Game Preserve.

1928—Bob Marshall takes his first hike into the wild country which will bear his name, starting the Swan Range at Jewel Basin and walking over 100 miles to Holland Lake.

1940—Secretary of Agriculture H.A. Wallace signs an order uniting three Forest Service "primitive areas" and additional lands into the Bob Marshall Wilderness Area.

1947—The Sun River Game Range, first of five state and private wilderness reserves, is established on the Rocky Mountain Front. Choteau rancher Carl Malone put up the money for the purchase, until the state Fish and Game Department could raise funds.

1950s—Hunters and ranchers fended off Bureau of Reclamation proposals for the Sun Butte Dam, which would have flooded a vast portion of the upper Sun River.

1953—Flathead sportsmen initiate campaign to add portions of the Swan Range, Spotted Bear, and upper Middle Fork Flathead River to the Bob Marshall Wilderness.

1972—Conservationists persuade Congress to add the Lincoln-Scapegoat area to the Bob Marshall Wilderness. This was the first citizen-established wilderness in the country.

1973—Blackfeet Tribal Council passes resolution declaring the entire Badger-Two Medicine area of the Rocky Mountain Front as "sacred ground."

1978—The Great Bear Wilderness is designated, and a portion of the Teton-Birch Creek area of the Rocky Mountain Front is added to the Bob Marshall Wilderness.

1983—At the urging of Rep. Pat Williams, the U.S. House Natural Resources Committee orders an emergency withdrawal of the Bob Marshall Wilderness from oil and gas leasing.

1984-1994—In ten separate bills Congress adds lands to the Bob Marshall Wilderness complex.

June 1993—Secretary of Interior Bruce Babbitt establishes a moratorium on oil and gas development within the Badger-Two Medicine area. Later extended to 1996.

May 1994—The U.S. House of Representatives passes H.R. 2473 which includes additions to the Bob Marshall Wilderness complex, wilderness study area designation for the Badger-Two Medicine, and mineral withdrawal of lands near Gibson Reservoir.

February 1997—Montana's Senate Natural Resources Committee rejects an industry resolution urging extensive leasing of public lands within the Rocky Mountain Front.

September 1997—Lewis and Clark National Forest Supervisor Gloria Flora issues a historic decision to remove all national forest lands within the Rocky Mountain Front from further oil and gas leasing for the next 10 to 15 years.

January 2001—All national forest land in the Rocky Mountain Front is withdrawn from mineral entry to hard rock mining for 20 years.

May 2001—The 9th Circuit Court of Appeals upholds Flora's 1997 decision to ban new oil and gas leases in the Rocky Mountain Front (the decision had been appealed by industry).

Mr. BAUCUS. Most recently, in 1997, following significant public and private investment and an extensive public comment process, the Lewis and Clark National Forest decided to withdraw 356,000 acres in the Front of any new oil and gas leasing. This was a significant first step in protecting the Front from development, and I wholeheartedly supported it.

However, in many parts of the Rocky Mountain Front, oil and gas leases do exist, and they predate that 1997 decision, or they are located on BLM lands.

Many of the leases that predate the 1997 decision are located in the Badger-Two Medicine area. That is shown up here on the map, close to the Blackfoot Reservation. And that has been under an administrative lease suspension since 1996, pending review of the Blackfoot Traditional Cultural District.

This lease suspension could be lifted at any time now that the Blackfoot Traditional Cultural District has been declared eligible for listing in the National Register of Historic Places.

All of these existing leaseholders have invested time and resources in acquiring their leases. I understand that and am sympathetic. Several leaseholders have applied to the Federal Government for permits to drill.

In fact, the BLM and the United States Forest Service plan to begin analysis of about four leases in the Blackleaf Area of the front this fall.

These leases are subject of the study proposed in my bill.

However, history has shown that energy exploration and development in the front are likely to result in expensive and time-consuming environmental studies and litigation. It will take forever. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. There are so many interests involved.

For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger Two Medicine portion of the Front. After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner. It was not worth it.

We should obviously be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, and we want to encourage them to find new domestic supplies. But they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate for study, non-producing leases in the Rocky Mountain front and look at opportunities to cancel those leases in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders with the State of Montana, the public and other interested parties.

When Interior concludes this study in 2 years the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, Mr. President, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire front.

This suspension will do two things: First, it will give the Secretary adequate time to conduct this study and make recommendations to Congress; second, it will give the Blackfeet Tribe some breathing room to negotiate with the Interior Department about the long-term protection of Blackfeet historic and sacred sites in the Badger-Two Medicine area.

That's it. That is all my amendment would do. It doesn't predetermine any outcome. It doesn't impact any existing exploration activities or environmental review processes.

It just creates a process through which the Federal Government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the best way to resolve the status of oil and gas leases along the Rocky Mountain front. My amendment is balanced and fair to all parties.

We look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the front rather than waste years and millions fighting to explore for uncertain—and small—oil and gas reserves. And, a lot of Montanans, including me, just don't want to see the front developed, and they will fight to protect it.

Here is the alternative: So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the front.

Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

Let me quote from an editorial in the Missoulian, a Montana paper based in Missoula, MT, that emphasizes what I hope my bill will accomplish. They said:

> One of the things we ought to do, as part of setting our national energy policy, is quit squandering our own energy fighting the same old battles that will never yield a single BTU. Montana's Rocky Mountain Front has for too long been a battlefield for just that sort of energy-sapping conflict . . . There are no known reserves of oil and gas in there—just speculation that it might, based on the fact that similar geology north of the Canadian border has proved productive.

That editorial concluded by stating that my amendment "acknowledges the property rights of lessees, but also the reality that they likely will be stymied indefinitely in any attempt to drill along the front. This is a proposal that protects a place Montanans so clearly desire to preserve. And it offers an opportunity to focus public and private-sector energies on actually producing useful energy."

Montanans have spoken loudly and forcefully on this issue. We don't want any drilling in the front.

Montana is a natural resource-rich State and we are proud of our natural resource heritage. Montana has made, and continues to make, tremendous contributions to this Nation's economy through the development of its precious metals like copper, platinum, palladium and gold, through development of its coal, its oil and gas, its timber, and other natural resources. We will continue to do so because that's the right thing to do for Montana's economy and the Nation.

But the front is special to Montanans. Because we're also proud of our outdoor heritage, of preserving special places to take our kids hunting and fishing and hiking, just like we did when we were kids. We balance these two Montana priorities all the time. In this case, Montanans determined that the resources that might be under the front just don't justify endangering the front's unparalleled landscape.

That's why this amendment is so important, so we can strike the right balance in Montana on the Rocky Mountain Front. Let's listen to the locals.

I ask my colleagues for their support.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to utilize the time allocated to me on H.R. 2738, the United States-Chile free-trade agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S.-CHILE FREE-TRADE AGREEMENT

Mr. STEVENS. Mr. President, I objected to the consideration of this bill by unanimous consent because I wished to make this statement concerning the salmon fishing industry.

The U.S. salmon fishing industry is facing an economic crisis. Chile has dramatically increased their production of farmed fish and flooded the U.S. market with pen-raised, chemically altered farmed salmon. Last year the United States imported $400 million in farmed salmon from Chile—a 100 percent increase from 1997. In 1998 Chile exported 51,000 metric tons of farmed salmon to U.S. markets. By 2002 Chile's farmed salmon production capabilities doubled and exported over 100,000 metric tons of farmed salmon fillets to U.S. consumers.

This farmed salmon comes into the U.S. each year largely unrestricted and considering a study that was released this week on the high levels of PCBs and other pollutants in farmed salmon, we may want to consider greater testing of this product. Additional analysis may be needed to determine the levels of contamination in farmed salmon and warn consumers of any potential health risks.

It is these factory-scale farms that have developed contaminated, genetically altered fish and created a glut in the domestic salmon market, causing prices for wild-caught salmon to plummet. Increased competition from farmed salmon has significantly impacted the livelihoods of the men and women that participate in the salmon fishery. The U.S.-Chile free trade agreement will not address any of the adverse economic impacts faced by the U.S. salmon industry.

These adverse effects are not limited to the salmon industry alone. In my state of Alaska, the economy has taken the brunt of this crisis with processing plant closures, lost jobs and fishing boats that remained tied up at the docks. The Alaska commercial fishing industry as a whole is feeling the effects of deflated price in salmon.

Alaska's commercial fishing industry is a primary employer, providing 47 percent of private sector jobs, and is second only to the oil industry in generating revenue to the state. In 2001, the fishing industry in Alaska provided tax revenues to the State of over $51 million, down roughly $8 million from 2000. The Division of Commercial Fisheries in Alaska reports that more than 4.7 billion pounds of fish and shellfish with an ex-vessel value of $871 million were harvested in waters off Alaska in 2001. Of this amount the ex-vessel value for salmon in 2001 was $229 million.

The Alaska Department of Fish and Game reports the ex-vessel value of Alaska's 2002 salmon season was roughly $140 million for a catch of 130 million fish.

This continues a trend of declining season values for salmon. The Bristol Bay sockeye salmon catch received its lowest value since 1977, receiving approximately $25 million for 10 million fish. At 40 cents a pound, Bristol Bay salmon in the 2002 season were at prices lower than those received nearly 30 years ago.

Western Alaska fishing-dependent communities were extremely hard-hit by the depressed prices in salmon and declared an economic disaster area by the State of Alaska. The administration recognized this situation and last fall directed the Economic Development Administration, under the Department of Commerce, and the Labor Department to assist these communities experiencing sudden and severe economic dislocation.

Several antidumping investigations were initiated against Chile. There appeared to be strong spikes of increased imports of Chilean farmed-salmon during the summer months, the only time of the year that fishermen can deliver fresh wild-caught salmon to market. This is obviously unfair advantage taken of these exporters in the United States. The International Trade Commission ruled that there was a reasonable indication that material injury was caused to U.S. producers of salmon. Subsequently, antidumping orders were placed on various Chilean companies. These cases involved U.S. aquaculture concerns that were ultimately bought out by foreign companies and are strong evidence that the U.S. salmon industry has been adversely affected by unrestricted imports of Chilean farmed salmon.

Considering this history of bad acts and numerous concerns raised by the Alaska delegation and Alaska seafood producers, the U.S. trade representative was put on notice about the problems faced by the domestic salmon industry. However, the trade representative only negotiated recommendations that Chile make their trade practices more transparent.

The fact is, U.S. fishermen are treated far differently than other contributors to the domestic economy. Last year we passed an unprecedented farm bill that provided significant relief for U.S. farmers; the steel industry benefits from tariffs on imported steel; tariffs are levied on Canadian timber; and tariffs have increased substantially on imports of farmed catfish. The salmon industry does not receive any such protections, and it should have received a greater recommendation from our trade negotiators.

The reality for the salmon industry is they must go it alone and hope they can weather this dramatic change in world markets for salmon. My ardent hope is for this fishery to survive, and it can only survive if the trade representative and the other negotiators for the United States wake up.

This year, we have not taken any further efforts to block this bill. We will not do so. I want to put the Senate and administration on notice that this is the last year this will be allowed to continue. With the increased information we now have concerning the harm that this fish causes to our consumers—and we know the harm that is already caused to fishermen—it is time for the Congress and administration to work to protect our wild salmon production, and to help it get to market and not face this unreasonable competition.

I point out, the spikes in their imports take place when our fish are available. They are destroying the price by flooding the market with their product, which is a tainted product. Something ought to be done about it soon.

Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, in 2002, Congress passed legislation providing more than $270 billion for farmers over a 6-year period. This included price support programs for commodities such as: wheat, cotton, rice, oilseeds, dairy products, peanuts, sugar, wool, and honey, just to name a few. This is not to mention other programs in existence today that buoy the price of products like lamb meat and apples.

Our Nation's farmers receive subsidies for their product through the Commodity Credit Corporation, to ensure their economic livelihood when market prices are low.

Overall, in 2000, corporate credit payments reached a record $32.3 billion for all farm-related programs and activities.

Also in 2002, the President imposed safeguard tariffs of up to 30 percent on a broad range of steel products. There were anti-dumping and countervailing duties of 29 percent slapped on imports of softwood lumber from Canada.

Taken together, 2002 was a banner year for industries seeking relief from foreign competition.

Just recently, the U.S. International Trade Commission upheld a determination to impose import duties on Vietnamese catfish—actually, basa—of up to 64 percent, a victory for domestic catfish farmers.

Unlike those other industries in the United States that face foreign competition, America's salmon fishermen are not on the receiving end of Federal largess. There are no safeguard tariffs put in place, nor are price supports implemented to aid this important industry. Suppliers of imported salmon do not face tariff rate quotas that benefit so many other domestic industries.

In 2002, America's salmon fishermen faced imports of nearly $400 million worth of Chilean salmon, the vast majority of which is farm-raised, which we consider to be a distinctly inferior salmon to the wild-caught salmon that comes from Alaskan waters. By comparison, in 1997, Chile imported less than $200 million worth of salmon. The amount of imports from that country has sky-rocketed in the past few years.

There is a direct correlation between the increasing amount of imported Chilean salmon and the decline in price that fishermen receive for their catch.

Between 1998 and 2002, Chilean salmon exports to the United States more than doubled from just less than 51,000 metric tons to over 102,000 metric tons. During the same time period, the price of sockeye, or red salmon, fell from $1.23 a pound to $0.55 a pound.

Now, while Alaskan fishermen are being put out of work by these increasing imports, Congress is set to provide preferential trade status to Chilean companies, to provide Chilean companies with greater access to the United States' marketplace.

I fully support the concept of free and fair trade. I recognize the benefits that trade gives to developing nations: strengthening a market economy; growing a middle class; and promoting the seeds of democracy.

Trade provides the American consumer with the ability to purchase a quality product at a reasonable price.

I also appreciate that many American companies support this preferential trade agreement as a means to level the playing field with Canadian and European competition. I am concerned, however, that this trade agreement is not fair to the State of Alaska and Alaska's fishermen.

This past April, I wrote to U.S. Trade Representative Bob Zoellick outlining my concerns about the impact a Chile Free Trade Agreement would have on Alaska's fishermen. The response I received suggested that the provisions of this preferential trade agreement "strike a reasonable balance between the very strong export interests of Chile, and the concerns of Alaskan salmon producers."

I have to ask, at what point are the concerns of Alaska's salmon producers ever addressed in this trade agreement? How is eliminating all tariffs on imported salmon a reasonable balance to putting Alaskan fishermen out of work?

I am told that Chile will eliminate all of its duties on fresh and prepared seafood products—that the United States is Chile's seventh largest supplier of fresh and frozen seafood—that this is a reasonable balance.

For a reality check, let's look at the numbers. And these numbers come from the U.S. Department of Agriculture, Foreign Agriculture Service.

Again, in 2002, Chile exported nearly $400 million worth of salmon to the United States. Over 100,000 metric tons.

On the other side of the equation, in 2002 the United States exported just $3,000—not millions—worth of canned salmon and zero dollars worth of salmon not in a can. So we have $3,000 versus $400 million.

In whose book is this a reasonable balance for America's salmon fishermen and Alaska's fishing-dependent communities? It is not just the salmon we are talking about. In 2002, Chile imported a total of $809 worth of fishery products from the United States, the vast majority of which fell under the catchall category of "other fishery products."

And while we are busy putting Americans out of work, they have nowhere to turn to seek relief. Alaska fishermen are not generally eligible for traditional trade adjustment assistance programs. They are self-employed and not part of a firm or group of workers.

Many fishermen independently own and operate their vessel with the help of their family, selling their catch to the local fish processor or cannery. They do not work for a company or firm, nor do they receive unemployment benefits when they are unable to fish.

In essence, America's fishermen have been, for too long, treated like a second-class citizen when compared with America's farmers or steel workers. While these workers have their income supplemented by federal dollars, fishermen face foreign competition to the best of their ability. And trade agreements like this, only deepen their plight.

As a result, I cannot support granting preferential trading rights to Chilean companies.

Not when Alaskan fishermen are being put out of work because of increasing imports of farm-raised salmon. Alaskan fishermen will tell you receiving TAA benefits would be nice, but it is not the same as being able to do their jobs, to put food on their tables to feed their families, to ensure that their children are cared for and have a future filled with hope.

Our fishermen face an uphill battle in keeping their jobs when faced with the onslaught of imported Chilean salmon. Maybe the rest of the nation benefits from this trade agreement. Alaska suffers.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I send to the desk a resolution.

The PRESIDING OFFICER. Is the Senator asking the resolution be introduced and referred?

Mr. JEFFORDS. It is my intention to have the resolution introduced, that is correct.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the submission of S. Res. 209 are located in today's RECORD under

"Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are in this very odd circumstance where we are waiting to learn what the decision will be with respect to the Energy bill. As one member, I send a message to those who are deliberating that if the best we can do is pass last year's bill, let's do it. We have a circumstance in which our energy dependence continues to grow. We are now more than 50 percent dependent on foreign sources of crude oil. That makes America vulnerable.

While last year's bill is not perfect, it did have broad bipartisan support and clearly will improve the energy situation in this country.

I believe last year's bill passed on a vote of 88 to 12, or very close to those numbers. It received long and careful attention on the floor. I believe there were over 140 amendments considered. I believe there were over 30 rollcall votes. I think there were actually 35 rollcall votes on that bill. We spent weeks deliberating the provisions of the Energy bill last year.

I would be the first to say I would prefer that we had concluded work on the Energy bill this year. I, for one, don't know why we wound up spending hours and hours talking about judges and engaging in what last night I thought was a very ugly scene on the floor of the Senate. Frankly, I was embarrassed for the Senate, to watch some of the statements being made last night. That did not reflect well on this body.

There should not be a religious test in any way for any position in the United States of America. This is a country dedicated to religious freedom. Whether people choose to be actively engaged in a church or not should play no role in the consideration for positions of responsibility in this country.

Thomas Jefferson, who played such a critical role in the formation of our Nation and its institutions, had written on his gravestone what he believed were his greatest accomplishments. One of those was the religious freedom that was part of the Constitution of the State of Virginia, a commitment to religious freedom which he thought was fundamental to the United States.

I hope cooler heads are going to prevail when we return in September and we are not going to see the kind of personal invective that infected this floor last night. That was an ugly scene. That is not the road we should go down as an institution. It is not the road we should go down as a country.

We can have a strenuous debate on candidates for judges. We do not have to slip over into a discussion of religion or who is a good Catholic or who is not so good a Catholic. My goodness, what is going on around here? That is not the Senate.

Returning to the Energy bill, we have an obligation. We have an obligation to reach a conclusion and, if the vehicle that allows us to reach a conclusion is the bill that was passed last year, let's do it. Let's do it on a bipartisan basis. Let's do it now. That bill had a lot of good and productive provisions in it that will make a meaningful difference over time.

No, it is not a perfect bill. It is the product of compromise. That is what this system is about. We do not all get our own way. None of us gets our own way. But if we work together, we can make meaningful progress.

I think last year's bill represents that. I urge my colleagues, we are not going to complete the bill that was out here. There are still hundreds of amendments pending. I have amendments pending on that bill. I have amendments pending I would like to have considered that I think are serious, productive amendments. But I am willing to forgo the opportunity to offer those amendments to get a bill passed.

When we get to September we are going to have appropriations bill after appropriations bill demanding our attention. The end of the fiscal year comes at the end of September. I plead with my colleagues on both sides, let's end this session on a productive and bipartisan note. Let's end the squabbling and the personal invective that has infected this body in the last 48 hours. It is not healthy. It is not productive. It does not build momentum for the work that faces us in the fall.

Let's get back to attempting to produce legislative outcomes that are positive for this country and that reflect well on this body. We have an opportunity to do it.

I say to my colleague from Vermont, who has deep feelings about energy policy and environmental policy, and has been a leader in this body on these issues, I say to him and others of our colleagues, please, let's come together and pass last year's bill and move it to conference and there try to improve it further. That strikes me as the only responsible course now remaining before us. There is no conceivable way we can finish work on the Energy bill that we have been contemplating. It is not going to happen.

I believe it would be irresponsible to leave here without finishing action on a bill. We have a bill on which a tremendous amount of time was spent last year. It does improve the energy circumstance for this country and we ought to pass it.

I hope somebody is paying attention. I thank my colleagues for listening. I hope we can move this ball off dead center and reach conclusion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I intend to use an extensive length of time on the Chile-Singapore free-trade agreements. I see my good friend from Iowa. If he would desire to precede me, I would be happy to yield to him.

Mr. GRASSLEY. No, go ahead.

CHILE-SINGAPORE FREE-TRADE AGREEMENTS

Mr. JEFFORDS. Mr. President, I rise today to express my strong opposition to the implementing legislation for the Chile-Singapore free-trade agreements. I do so not because I oppose these trade agreements but because I have serious concerns about the effect of these agreements on congressional authority over immigration and the negative effects it will have on the needs of our unemployed and underemployed citizens.

I know the importance of trade on our country and my State. In fact, trade with Canada and the rest of the world is an important part of Vermont's economy, which has led me to be a strong advocate of free-trade agreements in the past.

During my time in Congress, I have worked to promote free trade with other countries, both near and far. For example, I voted for the North American Free-Trade Agreement. I did so not because I believed it was crucial that we begin to integrate the economies of North America. I was concerned about the disparities in the economic opportunities available to Mexicans and Americans. I thought that only by giving our southern neighbors access to the engine of the American economy could we address important issues such as poverty, immigration, and exploitative labor practices.

I am aware, though, of the downside of international trade. When factories are closed or jobs move offshore because of more liberal trade policies, constituents have taken me to task because of my support for free trade. I do not blame them. Our trade policy must include strategies to help those adversely affected by the trade.

I have long supported a vigorous trade adjustment assistance program. In addition, I believe it is important that trade agreements include strong environmental and labor provisions.

Expanded trade should not lead to an "environmental race to the bottom" resulting in relaxation of environmental or labor standards that give our trading partners a competitive advantage over U.S. businesses subject to more rigorous regulation. Because of its provisions guarding against relaxation of environmental controls and labor standards, I supported the Jordan Free Trade agreement during the last Congress.

I have also voted in favor of fast track procedures. I appreciate that foreign trade negotiators will never put their best offers on the table if they have to worry that Congress will endlessly amend a negotiated trade agreement. But when I supported fast track procedures, I expected them to be limited to areas related to trade. In giving up our rights to debate and amend trade legislation, I expected and intended that those concessions would relate to issues that are specifically trade-related.

However, the free trade agreements we face today violate this belief. My opposition to these agreements is not based on what I consider to be the crux of free trade agreements, the reduction of tariffs, it is based on something more. My stance today is based on my concern with the erosion of Congress' constitutional power, and the treatment of our nation's un- and under-employed.

As I mentioned earlier, I supported the imposition of fast-track procedures for trade agreements when it passed Congress in 2002. However, what I see in front of us today, and the rumor that these agreements are to be the template for future agreements, makes me reconsider this support.

The reason for this change lies squarely in the provisions of this free trade agreement that affect our immigration laws. These agreements create new categories of visas with different standards than currently exist in our immigration law, a law that has been considered and passed by Congress.

I have looked in my copy of the Constitution and it clearly states in Article 1, Section 8, Clause 4 that Congress has the power to establish a uniform rule of naturalization. Congress, not the United States Trade Representative, has this authority. What we have in front of us today is the executive branch telling Congress what the nation's immigration policy should be, and I for one could not let this go unchallenged.

In addition, this policy that is being forced upon Congress is not in any way uniform. These bills create new categories of visas, modify the standards and requirements of existing limits, and do so for people from only two countries. Is this any way to make immigration policy?

Rhetorically, I will answer that it is, if you work in an executive branch that is interested in usurping Congressional power for yourselves, and can do so by replicating these provisions in future free trade agreements.

Finally, and what I consider to be the greatest insult to Congressional power over immigration, Congress has very limited ability to change these provisions in the future. Congress could decide, with the full support of the administration at that time, that the need for temporary H–1B visas no longer exists. However, Congress could not modify or remove the provisions contained in these free trade agreements without the assent of Chile and Singapore.

We need to wake up in Congress to what enactment of these provisions means. Ultimately, if we keep passing this type of legislation there will be no immigration law for Congress to oversee, it will all be negotiated by the United States Trade Representative with other countries.

We need to make a stand and let the administration know that this type of negotiating will not be accepted.

While it is commendable to pass, and I fully support, a Sense of the Senate resolution stating that future trade agreements should not contain similar type provisions, we need to change the fast track authority to ensure that power-hungry administrations can no longer put the Congress in this quandary. I pledge to work today with all interested members to ensure that the constitutional right and power of the Congress over immigration law is protected.

I would like to take this opportunity to more fully inform my colleagues on how these free trade agreements differ from current law and what they will be enshrining permanently in our immigration law if the Senate passes these bills.

The Chile and Singapore Free Trade Agreements create an entire new category of visas for professional workers separate from the existing H–1B program. This legislation would allow 6,800 professional workers into the United States under this new visa each year with 5,400 coming from Singapore and 1,400 from Chile. Yet, under the current H–1B program 4,000 workers from these two countries are already coming into the United States each year. In addition, as we are not currently hitting the cap of the current H–1B program, why do we need to create a new type of visa for another 2,800 workers? I believe the differences between the current H–1B program and the new type of visa will answer that question.

First of all, the proposed Chile and Singapore agreements do not require H–1B dependent employers to make attestations that they are: No. 1, seeking to recruit U.S. workers; and No. 2, that they are not displacing U.S. workers. These two provisions in current law help ensure that employers do not negatively impact the U.S. labor market, and yet they are completely missing from the Chile and Singapore implementing legislation. They are missing.

This omission will enable employers of foreign workers to operate with less oversight from the Department of Labor. The legislation goes so far as to deny the department the right to self-initiate investigations based on information of abuse or fraud in the Chile and Singapore visa programs. This will allow employer abuse to go unchecked.

Secondly, the Chile and Singapore legislation does not explicitly forbid employers from demanding that their employees reimburse them for the $1,000 H–1B visa application fee. Beyond this, if Chile or Singapore decides to challenge the fee the agreements stipulate that a panel of international trade lawyers and not the administration or Congress makes the decision on what fees are allowed.

Another crucial difference between the impending legislation and current law is that the Chile and Singapore agreements do not limit the number of times that an individual is able to renew his or her visa, enabling the non-immigrant to remain in the United States on a permanent rather than temporary basis.

This stands in sharp contrast to the current H–1B program that puts a 6-year limit on non-immigrant visas. Consequently, an employee with one of the new visas could legally remain in the United States indefinitely.

Finally, the agreements define the term "specialty occupation" differently than current H–1B law. The new visas will only require that the nonimmigrant have knowledge that is "specialized" as opposed to the "highly specialized" knowledge demanded by the current H–1B law. This could be a substantial lessening of the requirements professional workers currently have to meet to be able to escape our immigration law.

What needs to be remembered concerning the substantial differences between this new visa category and the current H–1B program is that these provisions can not be changed by Congress. That may sound unusual. I think it is, so hopefully it will not ever be allowed. But, anyway, that is the way it is stated.

These provisions to our immigration policy are in effect a permanent change to our immigration law that was negotiated by the United States Trade Representative and not considered in the normal process by Congress.

My concern with these immigration provisions extends beyond its impact on Congress' constitutional authority, to its affect on our Nation's unemployed and underemployed. The United States has a serious problem right now with our economy.

The current unemployment rate is at a 9-year high of 6.4 percent. Mr. President, 15.3 million people are unemployed, underemployed in part-time jobs, or have given up looking for work. In June, the United States lost 56,000 manufacturing jobs, bringing the total to 2.4 million manufacturing jobs that have disappeared since January 2001. Finally, the Nation's economy has shed 3.1 million private sector jobs since President George Bush took office. That is 3.1 million private-sector jobs lost since President Bush took office.

The preceding statistics lay out a serious problem, but are we considering legislation to address these problems today? No, to the contrary, we are considering these free trade agreements that will exacerbate an already terrible crisis. We should be expanding the Federal financial commitment to education and job training initiatives, not expanding the number of foreign workers allowed in this country.

This is where our answer lies. Since this Nation was founded in the late 1770s, we have struggled with the roles the various parts of our Government should play in our education delivery system. In the late 1940s, with the creation of the GI Bill, the percentage of the entire federal budget dedicated to education was 10.7 percent. Some 50-plus years later, that amount has dwindled to slightly less than 3 percent, which includes elementary, secondary, and higher education.

The first significant financial influence by the Federal Government into elementary and secondary education occurred in 1965. Under the leadership of President Johnson, the original Elementary and Secondary Act came into existence. The original purpose was to distribute money to compensate for inequality of educational opportunity and to stimulate plans for school integration.

Throughout the last 38 years, that purpose has continued to be the foundation of the Elementary and Secondary Education Act. However, sufficient funding has never been provided and the purpose has yet to be fulfilled. Since its inception in 1965, Title 1—the heart of the ESEA law has served less than 50 percent of the children who should be served under the program.

Horace Mann, who is often credited with developing the American public school system said—and I am paraphrasing—that every human being that comes into the world has the right to an education. Horace Mann made that statement in the 19th century. Two centuries later, we seem to still be baffled as to how we provide a quality education to all who seek it. I don't believe the answer is that complicated.

First and foremost, the Federal Government must increase its role in funding. It must reach back into history and return to dedicating 10 percent of the entire Federal budget to education.

Right now, in this fiscal year, the Federal Government is providing $50 billion in discretionary funding for education. This compares to almost $400 billion for defense programs.

Providing sufficient funding for defense is very important. However, it is just as important to provide sufficient funding and leadership to have the world's greatest education system. And we do not.

Some may ask, where can we find the money for education? We can find the money when we all finally understand that it will be a severe detriment to the survival of this Nation if we do not.

By vastly improving the Federal Government's monetary responsibility to education, we would go a long way to provide the resources needed to: first, serve every student who needs title I assistance; next, cover many of the mandates included in the No Child Left Behind Act—the President's new law—next, provide for quality early childhood education; also, provide additional funding for Pell Grants and other student financial aid programs to improve access to postsecondary education; in addition provide quality professional development for all school personnel, with a special emphasis on math and science; and provide the full Federal share for the Individuals with Disabilities Education Act, IDEA.

When I first arrived in Congress in 1975, one of the first bills I worked on was the law that created special education, now known as the Individuals with Disabilities Education Act, IDEA. The purpose of this legislation is to ensure that children with disabilities receive the special education and related services they need and are constitutionally entitled to receive.

We recognized that children with disabilities often require specialized services and that educating children with disabilities could be twice as costly as educating children without disabilities. Therefore, we authorized the Federal Government to pay up to 40 percent of each State's excess cost of educating children with disabilities. Unfortunately, we have failed to actually provide the States with that 40 percent we promised. We are currently only providing slightly over 17 percent of the 40 percent we promised 28 years ago. That promise is far from being fulfilled.

Our education system is also stressed at the postsecondary level. We have a higher education system that is the envy of the world. However, many in this country are unable to pursue postsecondary education opportunities, not only because of not being prepared academically, but also because of the astronomical financial burden.

One-third of all seniors graduating from higher education institutions graduate with more than $20,000 in Federal loan debt. The financial strain is having a direct impact on our job market.

Almost every community is facing a teacher shortage. How many graduates leaving college with at least a $20,000 debt are willing to sign up for a teaching job that pays on average a beginning salary of about $25,000 to $35,000?

The cost of higher education is a particular problem for the high-tech industries and the health care industries. A number of jobs in these two areas require postgraduate work. Many do not go on to graduate programs because they can't finance the first part of it. This has been a factor in the dramatic increase over the last decade of the number of H-1B visas that have been issued, which I talked about earlier. Our country is lacking the skilled workforce necessary to address many of our needs.

One initiative designed to address our job training needs is the Workforce Investment Act, which provides job-training activities for adults and youth. Unfortunately, Federal funding for job training programs have dropped $1.63 billion since 1985. These funds have dropped at the time when they have been needed the most and we are cutting.

Mr. President, these are the initiatives that we should be focusing on to ensure that our citizens are prepared for and qualified for these jobs, not legislation that is going to fill these jobs with foreign workers.

The Senate needs to take a stand today. We need to make this stand not only for the protection of Congressional authority, but also for the protection of our unemployed and underemployed citizens.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, would I be in order to speak on the Chile and Singapore free-trade agreements?

The PRESIDING OFFICER. Without objection, the Senator may use his time for that purpose.

Mr. GRASSLEY. Mr. President, I rise in strong support of these two trade bills.

The Chile and Singapore trade agreements are state-of-the-art agreements that will provide real economic and strategic benefits to America's workers, farmers, consumers and industry.

S. 1416, the U.S.-Chile Free Trade Agreement Implementation Act, implements into law our first bilateral free trade agreement with a South American country. And I think it is appropriate that Chile be one of the first.

Chile's open economy is a model for much of Latin America. Because of its free market philosophy, Chile is one of the fastest growing economies in the world. Over the past decade it has established itself not only as a strong democracy, but also as a leading advocate of free trade.

Chile already has trade agreements with sixteen other countries, including Mexico, Canada, Mercosur, and the European Union. As a result, its trade with these economies has grown while the U.S. share of Chilean imports has dropped over 30 percent between 1998 and 2002. Years of delay in reaching a free trade agreement with Chile has reportedly cost U.S. companies over $1 billion in lost export potential. Clearly, it is time for us to get back in the game.

I also want to note how pleased I am about the strong agriculture market access provisions found in the U.S.-Chile FTA. More than three-quarters of U.S. farm goods exported to Chile will be duty free within 4 years of the agreement's implementation. Immediate elimination of tariffs on U.S.

products will provide up-front gains to U.S. exporters and, importantly, will level the playing field for our farmers, ranchers and workers as they compete with products from the EU and Canada. These provisions are complemented by the removal of unnecessary sanitary and phytosanitary barriers to U.S. agriculture exports.

But this agreement doesn't just benefit U.S. agriculture. It also provides groundbreaking market access across the board. The agreement will immediately eliminate tariffs on more than 85 percent of all U.S. goods, with most of the remaining tariffs eliminated within four years.

The U.S.-Chile FTA also opens new opportunities for U.S. banks, insurance, and telecommunications services. It provides new protections for U.S. investors and high levels of intellectual property rights protection. The U.S.-Chile FTA can also strengthen momentum in the ongoing negotiations to create a Free Trade Area of the Americas. In short, the agreement vastly enhances our economic opportunities in a growing and important region of the world.

S. 1417, the U.S.-Singapore Free Trade Agreement Implementation Act, implements into law our first free-trade agreement with an Asian Pacific nation. Singapore is our largest trading partner in Southeast Asia and our twelfth largest in the world. Singapore is also a strong ally in the war against terrorism.

The U.S.-Singapore FTA is good for America. It opens up new markets and creates new opportunities for many sectors of our economy.

This FTA will guarantee fair and non-discriminatory treatment for U.S. services firms. This benefits our service industries, such as banking, insurance and the telecommunication industries.

The agreement also includes state-of-the-art provisions on e-commerce, transparency and competition, and strong intellectual property rights protection. This agreement continues our goal toward greater trade liberalization and higher standards, not only in the Pacific, but throughout the world.

Both agreements we are discussing today are the first to be considered under Trade Promotion Authority, or TPA, procedures. This is the first time in our history that the Senate has approved two free trade agreements in a single day. The fact that we were able to achieve this goal is a testament not only to the high quality of these agreements, but also to the power of Trade Promotion Authority.

It was almost a year ago today that the House and Senate gave final approval to the conference report for the Trade Act of 2002. This historic piece of legislation empowered the President, for the first time in almost a decade, to negotiate free trade agreements utilizing Trade Promotion Authority procedures. Today, with the passage of these two agreements, we are using TPA to take some of our first steps toward reengaging the world through international trade. It is a welcome development.

A fundamental part of TPA procedures is consultations. The TPA act requires that the Administration consult closely with Congress throughout the negotiating process. I know the Bush administration took these consultation requirements to heart. A number of modifications to the agreements and to the implementing legislation were adopted as a result of these procedures. That is the way the process is supposed to work—a partnership between the Congressional and executive branch to craft the best trade agreements for the American people.

Like any partnership, the more you put into it, the more you get out of it. I am disappointed that some of my colleagues who did not engage on these agreements early in the process are now complaining about some of the provisions they contain. I hope we can avoid similar problems as we work on future agreements.

Without Trade Promotion Authority, the United States fell behind on trade. But now we are back on track. The goal of TPA is to knock down barriers to trade and allow U.S. companies to compete on a level playing field around the world. These two agreements achieve that goal and more. I strongly urge my colleagues to join with me today and vote to approve these two solid agreements.

Mr. President, at this time I wish to highlight a number of the ways in which we stand to benefit from the United States-Chile Free Trade Agreement and the United States-Singapore Free Trade Agreement. I have spoken previously on how our farmers will benefit from improved market access for our agricultural exports as a result of these agreements. I want to elaborate on the benefits to agriculture, particularly with respect to sanitary and phytosanitary measures. I also want to take a moment to focus on some of the other benefits of these agreements, specifically the benefits of the telecommunications, services, and intellectual property provisions in the agreements, as well as the benefits for U.S. exporters of manufactured goods. Finally, I want to clarify how the short supply mechanisms for textiles will operate in these agreements.

With respect to agriculture, the agreement with Singapore commits Singapore to maintain its current open market for the importation of farm products from the United States, while the Agreement with Chile removes numerous barriers that previously limited U.S. exports of agricultural goods to that country. Chilean tariffs on 75 percent of U.S. agricultural products will go to zero within four years. These products include soybeans, corn, pork, and beef, all of which are major Iowa commodities.

Chile is committed to removing its price band on edible vegetable oils, wheat, wheat flour, and sugar under the FTA. Chile used its price band mechanism to protect its domestic producers of these products by keeping domestic prices within a predetermined range through the use of additional duties. As recently as 2000, this price band caused effective tariffs on wheat imported into Chile to rise as high as 90 percent. With the implementation of the agreement, Chile will eliminate its price band mechanism with respect to U.S. exports over a 12 year period.

U.S. agriculture will benefit in yet other ways under the Chile agreement. For example, up until now, the failure of Chile to recognize U.S. beef grading programs effectively blocked U.S. beef in consumer cuts from entering the Chilean market. This situation will change with the implementation of the agreement, as Chile is committed to recognize the equivalency of U.S. beef grading programs.

As a result of talks held in conjunction with negotiations of the free-trade agreement, Chile agreed to remove various non-science based barriers to imports of U.S. agricultural products. Of particular interest to Iowa's hog and cattle producers, Chile agreed to recognize the equivalency of the U.S. meat inspection system. Prior to this decision, Chile prohibited the importation of pork, beef, and lamb from U.S. facilities unless those facilities paid for Chilean inspectors to travel to the United States to inspect and certify them. Given the costs involved with this process, few U.S. plants were eligible to export meat to Chile.

With Chile's new meat inspection equivalency policy, and with duties going to zero under the agreement, barriers to the entry of U.S. pork, beef, and lamb into Chile will be removed. Following further review of its sanitary and phytosanitary, SPS, measures in conjunction with talks with the United States, Chile also agreed to permit the importation of grapefruit from Florida and cherries and stonefruit from California.

Achieving the removal of unjustified SPS measures through talks with Chile demonstrates that enhancing our trade relations with other countries can indeed provide the impetus for our trading partners to remove non-science based barriers to imports of U.S. agricultural products. Our experience with Chile creates an important precedent for other trade agreements the United States is negotiating, such as the Australia FTA, the Central America FTA, and the Free Trade Area of the Americas. The fact is, without the removal of scientifically unfounded barriers to trade, duty-free treatment under future trade agreements will mean little.

I'm pleased that talks with Chile led to the lifting of these unjustified SPS measures.

With respect to telecommunications, these agreements introduce an important new concept on flexibility of choice and technology neutrality. Under Article 13.14 of the agreement with Chile, and Article 9.13 of the agreement with Singapore, Chile and Singapore will endeavor to not prevent suppliers of public telecommunications services from having the flexibility to choose the technologies that they use to supply their services, including commercial mobile wireless services. This technology neutral approach to the regulation of commercial wireless mobile services is consistent with the practices of the U.S. Federal Communications Commission, FCC, which neither promote nor impede the use of particular wireless technologies in the U.S. market.

These provisions constitute an important first step. They introduce a key regulatory concept into free trade negotiations that can help to enhance competition and consumer choice. These provisions can also create export opportunities for U.S. manufacturers of communications equipment and thereby preserve U.S. jobs that depend on trade in technology products.

However, I view these provisions as only a first step because they are nonbinding commitments. As such, they should be viewed as a floor, and not a ceiling, on standards for future free trade agreements. Going forward, we should strive to negotiate binding and enforceable commitments in our free trade agreements, to ensure that suppliers of commercial mobile wireless communications services are not prevented by governmental action from using the technology of their choosing to provide such services. Only then will we guarantee that U.S. technology suppliers enjoy market opportunities and benefits similar to those that foreign suppliers receive in the U.S. market.

Services are another critical component of our economy. Services now account for 65 percent of the U.S. economy, and 28 percent of the value of our exports. With respect to services, the agreements establish an important precedent by adopting a comprehensive "negative list" approach, whereby any exception to the liberalization obligations contained in the agreements must be specified. This broad approach is preferable to that contained in the WTO General Agreement on Trade in Services GATS, whereby countries specify their commitments rather than exceptions. The negative list approach means more obligations for Chile and Singapore to liberalize their services exports and more jobs right here in the United States. The agreements also broaden commitments, so that they apply to government-owned or government-controlled enterprises.

With respect to intellectual property protection, these agreements generally set out among the highest standards of protection and enforcement for copyrights and other intellectual property yet to be achieved in a bilateral or multilateral trade agreement. These protections will permit the growth of trade in digital technologies and products while still protecting the legitimate rights of copyright owners. Strong enforcement provisions require the application of criminal procedures and penalties in cases of trademark counterfeiting or copyright piracy on a commercial scale, and both Chile and Singapore commit to seize, forfeit, and destroy counterfeit and pirated goods and the equipment used to produce them. These protections will apply to goods-in-transit and mandate both statutory and actual damages under Chilean and Singaporean law for intellectual property rights violations.

The agreements also incorporate a principle of "first in time, first in right" to trademarks, whereby the first to file for a trademark is granted the exclusive right to that name, phrase, or geographical place name. This approach creates an important precedent that we should seek to replicate regionally and globally, particularly in the face of efforts by the European Union to unduly expand protections for geographical indications in the WTO.

With respect to manufactured goods, Chile's commitment to eliminate tariffs immediately on 85 percent of U.S. exports, including such key sectors as computers and other information technology products, provides immediate benefits to U.S. manufacturers. By entering into this agreement, Chile will embrace the duty reduction commitments reflected in the 1996 Information Technology Agreement. These commitments can create new export opportunities for our manufacturers, which is critical in this period of increasing unemployment.

The National Association of Manufacturers has estimated that the absence of a free trade agreement with Chile has cost us about 20,000 job opportunities annually, and over $1 billion dollars in export potential. Well, that's about to change with the implementation of this agreement. And that is just the start. We need to aggressively pursue additional free trade agreements that will expand market access opportunities for our farmers and our manufacturers, to help add jobs to our economy and reverse the current trend in unemployment.,

Finally, I note that the Finance Committee has received inquiries regarding the textile commercial availability provisions in the Chile and Singapore Agreements. I asked the Office of the United States Trade Representative to clarify the operation of the short supply provisions in these agreements, and I want to share that clarification today.

All products designated as not commerically available prior to November 2002 under the African Growth and Opportunity Act, AGOA, and Caribbean Basin Trade Partnership Act, CBTPA, preference programs would be deemed as not commercially available under the Singapore agreement. The Chile agreement does not incorporate such a provision. In the future, for both the Chile and Singapore agreements, to designate an item as not commerically available would require consultations under the provisions for revision of the rules of origin contained in each agreement. These provisions require the parties to consult, upon request, to consider whether particular goods should be subject to different rules of origin to address issues of availability of the supply for fibers, yarns, or fabrics in the free trade area, and require the parties to endeavor to conclude their consultations within 60 days. I hope that this clarification proves helpful.

In sum, I strongly support the Chile and Singapore free-trade agreements. I support them because they open markets for U.S. exports of agricultural products and manufactured goods. I support them because they open markets for U.S. exports of a wide array of services. I support them because they will create opportunities for job growth here in the United States. I support them because they enhance protections for intellectual property rights holders here in the United States. And I support them because they establish important precedents for future negotiations. For these reasons, I urge each of my colleagues to support the implementing bills before us today.

Mr. President, I rise to address the benefits to U.S. agriculture from the United States-Chile Free-Trade Agreement. U.S. agriculture needs trade agreements to expand sales and farm incomes. Since 96 percent of the world's population resides outside the United States, access to foreign markets is essential for the continued growth and viability of U.S. agriculture. Bilateral agreements such as the Chile FTA are essential because they provide strong benefits to U.S. farmers.

This agreement will provide America's farmers and ranchers new access to Chile's market of 15 million consumers. This agreement is comprehensive, calling for eventual duty-free, quota-free access for all products.

On tariffs, more than three-quarters of U.S. farm goods exported to Chile will be duty free within 4 years of the agreement's implementation. Let me just name some of the specific U.S. products that will benefit. Under the FTA, Chile will provide immediate duty-free access for soybeans and pork, two major Iowa products. Chile will also immediately eliminate its tariffs on U.S. apples, pears, cherries, breakfast cereals, pasta, and bread. Corn grown in Iowa and other States will receive duty-free treatment in 2 years. The agreement provides for duty-free access for beef offal immediately, and for all U.S. beef products within 4 years.

Under the FTA, Chile commits to recognize U.S. beef grading programs. I should note as well that, through talks held in conjunction with the FTA negotiations, Chile agreed to recognize the equivalency of the U.S. meat inspection system. Chile's recognition of the equivalency of U.S. meat inspections and U.S. beef grading should greatly facilitate the export of U.S. pork and beef to Chile.

Chile's price band mechanism has been a major concern to many U.S. agricultural exporters. Well, under this agreement Chile will not only allow U.S. exports of durum wheat and pasta to enter duty free, but will also eliminate its price band mechanism for common wheat and flour in 12 years. This will open Chile's market to U.S. exporters for wheat and wheat flour.

American agriculture recognizes a good deal when it sees one. Let me read an excerpt from a July 9 letter from 32 agriculture organizations:

> Mr. Majority Leader, the undersigned organizations urge your support and vote for the Free Trade Agreement with Chile. The U.S.-Chile FTA, provides new market opportunities for U.S. agriculture products and resolution to outstanding trade concerns that U.S. producers have experienced with Chile.

And the letter is signed by such groups as the American Farm Bureau, the American Soybean Association, the National Corn Growers Association, the National Pork Producers Council, and many, many others.

This is a strong agreement for American agriculture. It sets a new standard for what we can achieve for American agriculture in a free-trade agreement. I urge my colleagues to do the right thing for American agriculture and support this strong trade agreement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that after I complete my statement, the Senator from Louisiana be recognized for 15 minutes, and then the Senator from Texas, Mr. CORNYN, be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I understand the consent request is for the Senator from Arkansas, then the Senator from Louisiana, and then the Senator from Texas. For how long is the Senator from Texas going to speak?

Mrs. LINCOLN. Fifteen minutes.

Mr. HARKIN. Mr. President, I would like to amend that request so that after the Senator from Texas speaks, this Senator from Iowa be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mrs. LINCOLN. Mr. President, in March, Senator HUTCHISON from Texas and I joined to coordinate a daily tribute to the troops in recognition of the men and women serving in combat in Iraq. We developed these tributes as a way to honor the sacrifices of the soldiers serving in the Middle East as they fought to depose the brutal regime of Saddam Hussein.

The response was impressive, and I thank Senator HUTCHISON for working with me on this initiative, not to mention all of our colleagues who contributed, who came to the floor to share with one another, as well as the rest of this Nation, the incredible sacrifices being made by the service men and women of this country.

Given recent developments in Iraq, I wish to take a few minutes today to revisit the tribute to the troops.

On Tuesday, I learned that Jonathan Marshall Cheatham, an Army PFC from Camden, AK, assigned to the 498th Engineer Battalion, died in Iraq on Saturday.

Jonathan's convoy came under attack by enemy forces firing rocket-propelled grenades while traveling near Baghdad. Jonathan was killed in the attack. He was 19 years old. Our thoughts and our prayers—all of ours, not just mine as a Senator from Arkansas, but from all of the U.S. Senators—are with his mother Barbara Prochia and with his family and friends at this time of loss.

Jonathan was one of 51 American soldiers who have been killed in combat since the President declared an end to major combat operations on May 1.

In all, 164 U.S. soldiers have died in combat in Iraq. This is a stark and vivid reminder that, even though the major combat portion of the war may have been declared over, our troops are still fighting and they still face grave threats.

Let us not forget the challenges that these troops are encountering.

Marine Cpl Jason Smedley of Little Rock, who worked in my office prior to his service in Iraq, was wounded in combat on March 28.

I am happy to report that Jason has recovered from his injuries and has returned to work as a member of my staff here in Washington, DC, this week.

Jason has regular contact with his friends and comrades with whom he fought in Iraq. Some have returned home.

Many have spent months thousands of miles away from their homes and families, stationed in a desert where the mail does not flow regularly and where they receive little news of what is happening at home.

For many of these young men and women, the undependable nature of communication causes tremendous stress and anxiety.

Many of them, trained for combat, are frustrated that they lack the training and tools to meet the challenges of a peace-keeping mission.

Others tell of the difficulties of being separated from their families.

Jason tells me of one Marine, Sergeant Eric Johnson, whose wife gave birth to a child in February. Only recently did Sergeant Johnson hold his five-month-old son for the first time.

I have no doubt that there are many other families trying to cope with similar difficulties.

Among the reservists who are serving in Iraq, there are other pressures.

Many of the troops serving in the Reserves have now been on active duty for up to 6 months or longer, meaning that they have been drawing only reserve pay over that time.

Their families are struggling to make ends meet, but they have no idea when their tour of duty will end or when their financial difficulties will be alleviated.

The sacrifices that these young men and women are making for their country are simply astonishing, and it is unlikely that we will ever be able to adequately repay the debt we will owe them.

Earlier this month, I received word from a doctor, a native of northeast Arkansas, who is currently serving in Iraq.

He and his unit were traveling to a military hospital about 45 miles north of Baghdad, where he would treat U.S. casualties.

He wrote of a vehicle traveling in front of his in traffic being hit by a rocket-propelled grenade, killing one person and injuring three others critically.

Upon arrival at the hospital, his camp received mortar fire three times in one night. He noted that "luckily, the Iraqis are poor shots."

On the Fourth of July, this young man was flown on short notice back to Baghdad, where extra surgeons were needed.

He noted that after he departed for Baghdad, his camp was attacked yet again, and that a tent about 100 meters from his was hit by mortar. Ten casualties resulted from that attack, he reported.

I point to this dramatic narrative because it illustrates a couple of important points I hope we do not lose sight of.

First, the war in Iraq is far from over.

I will note that each of the communications we have received from this brave young doctor, he has talked about coming under mortar fire from Iraqi irregulars, or watching coalition forces launch counter-attacks.

A good part of his labor centers on treating men who have been wounded in combat.

Clearly, even if the end of combat operations has been declared, the threat to our troops is ongoing.

As casualties mount and our troops continue to face daily dangers, it is important that we redouble our efforts to stabilize the country and help Iraq on the way to become a democracy.

Secondly, we should all recognize that, although our troops are faced with extremely difficult conditions, they continue their mission with courage and with a sense of duty and commitment. And they are making progress.

We learned last week that Saddam Hussein's brutal sons and presumptive heirs were killed by coalition forces in a firefight near Mosul.

Since then, coalition soldiers have received more tips and more information which will lead to the capture or elimination of Baath party holdouts and Iraqi guerrilla fighters.

Indeed, each day brings news that the noose may be tightening around Saddam Hussein himself, as bodyguards, aides, and others close to the former dictator are captured and interrogated.

We should do all we can to ensure that this progress continues, and we should ensure that our armed forces have the troops, materiel, and supplies they need to get the job done.

Finally, I would like to note that a National Guard unit from Arkansas, the 39th Infantry Brigade from Little Rock, is expected to be deployed in Iraq in April of next year, to augment security and to allow for troop rotation so that troops currently stationed in Iraq can be relieved.

With 3,400 people in the brigade, it is expected to be the largest deployment of National Guard troops from Arkansas in our State's history.

These men and women are preparing to spend a year in Iraq, at great sacrifice to themselves and to their families, so that we can look forward to a more secure future.

We owe all of them a tremendous, tremendous debt for their service.

All of us in this body are proud of the service men and women who are serving under incredible circumstances, in incredible times, and doing the best they can possibly do. We wish them the best, and we wish they are able to finish the job and return home as soon as possible.

I know my colleagues join me in again paying tribute to the troops, recognizing the incredible service of these service men and women who serve our Nation so proudly from each of our States. The different soldiers who are going out into battle, who are putting themselves in harm's way, we are lifting them up daily in our prayers, as well as their families, their needs, and their concerns. We hope we can bring this to a speedy end and we can make sure that they are all brought home as safely.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I associate myself with the remarks of my colleague from Arkansas who, along with our colleague from Texas, has organized and continues to organize a very appropriate tribute to our troops to let them know that while we work, while we try to fashion an Energy bill, while we pass trade legislation, while we attempt to pass the 13 appropriations bills that fund this Government, including the Department which funds their operations, we keep them in our minds. They are on our minds in the morning, at noontime, the early afternoon, and early evening, as it is today. I thank my colleague for her remarks, and I know she wishes the troops from Arkansas well and that they return home safely, as I do those from Louisiana, as does our whole Nation. So I thank her.

I will spend a few minutes speaking about the major issue at hand, and that is our Energy bill and our attempts to fashion an energy policy for our Nation. For a great part of the time since last Friday, the Senate has been engaged in a very important debate on this very complicated and far-reaching subject. That debate has followed along several weeks of intense debate and hard work done on the part of Democrats and Republicans on the Energy Committee to try to fashion a bill a majority of the Senators could support.

I have been in meetings myself all day on and off the floor about that very subject, and hopefully those meetings are proceeding well, trying to come up with some compromises to move us forward, to proceed so we do not get stalled on this energy legislation.

I remain very hopeful at this hour that those negotiations will be fruitful so we can continue our push, our bipartisan effort, to fashion a bill that increases supply, reduces demand, puts new measures in place that require conservation and that also will protect consumers in a new, more deregulated way.

Those are high goals, but they are important goals because if we do it right, consumers can save a great deal of money. If we do it right, we can save jobs. If we do it right, we can help this economy to get a strong foothold toward recovery. If we do it right, we can help our industries be more competitive and, in doing so, save and preserve jobs in the United States and increase prosperity.

I wanted to take a moment, while we had this time, to focus on one of the most important aspects of an energy policy, and, first, to recognize that most of the debate this week has rightly been Senators expressing their outrage at what went wrong in the last 12 or 15 months: The description brought again so vividly to the Senate floor by the Senator from Washington, Ms. CANTWELL; the comments made by Senator FEINSTEIN; the comments made by other Senators on the travesty that occurred in California and the outrage of the constituents there because of the doubling and tripling and quadrupling of energy prices.

I most certainly understand. We, ourselves, in Louisiana have been experiencing higher prices for different reasons. I understand that frustration.

As much as I support some—not all but some—of their efforts to remedy that situation, I will spend a few minutes talking about one of the real causes of that problem. While there was deception, there was manipulation, there was wrongdoing—and people like Ken Lay and others need to be on their way to jail, and we hope the prosecution will be vigorous for that wrongdoing—we would not be giving our constituents the whole picture if we did not talk for a minute about the underlying cause of that debacle. It is simply a lack of supply.

We have for the last 20 years implemented policies in this Congress that have mandated a dramatic increase in natural gas. Yet we have also mandated the same policies or allowed policies to develop that decreased our chances of producing natural gas.

As my chart shows, our main energy problem—what has happened and the reason we are spending weeks, and if we have to spend months, so be it—is we have to close this gap between natural gas demand and natural gas availability. That is what is causing the price of natural gas to be at historic highs and, quite frankly, at dangerous levels because it undercuts this economy.

Let me give a few specifics. Natural gas provides nearly 25 percent of the energy that powers our $10.5 trillion economy. I repeat: 25 percent of our entire economy rests on our natural gas policy. It is out of whack. When it is out of whack, it causes serious problems and serious consequences. That is what we are experiencing. More than 55 percent of residential customers use natural gas.

Visualize walking along any neighborhood in the country. In New Orleans, along Napoleon Avenue where I grew up; think about walking down Grand Isle, little Main Street on an island. I was just there a few weeks ago. Maybe you are in a suburb right close to Washington or maybe right on East Capitol Street. Every other house—50 percent of residential consumers—has natural gas access.

We have a shortage. When there is a shortage, prices go up. This country will see an increase, it is estimated, from $534 in 1999 to $900 in 2003. That means consumers—every other house, basically—will pay $70 billion more for gas in 2003 than they did in 2002. We gave a tax cut of $340 billion. Average it over 10 years, it is $34 billion. We are giving a tax cut of $34 billion. Yet because of our energy policy, we are taking $70 billion out of the pockets of residential customers.

It makes no sense. That is why people can say: Thanks for the tax cut, but I am not really feeling it because you are giving it on the one hand and taking it away on the other.

We have a solution. Natural gas is not only a fuel but an essential raw material for feedstock. Each year, the U.S. chemical industry converts 20 percent or $20 billion of natural gas-based fuel and feedstock into more than $200 billion of essential consumer products. When people say to me, Senator, your State is a natural gas State, you are concerned about natural gas, I am concerned about natural gas because, of course, it fuels every other house in the country, but also because it fuels so many of the plants that create all of the products we use for a variety of our entities, a variety of goods in our economy that we use every day, from plastics to chemicals to fertilizers. More than a million people work daily in the U.S. chemical industry, and 5 million people work in dependent jobs; that is 6 million jobs.

If I have to stay on the Senate floor all day today, all day tomorrow, if I don't leave for the August recess, it is fine with me because we need to get people back to work. I know that even if we passed the most well-crafted tax policy, no matter if we pass the most well-crafted trade laws, no matter what we pass, if we do not pass an Energy bill that gives some vision for the future, confidence to the market and an increased supply and conservation, we are not going to be able to do anything else here that will save these jobs or create jobs for Louisiana or for the Nation as a whole.

This is not just an Energy bill; it is a jobs bill. At a time when our economy is weak, this Senate needs to be about jobs. That is why I hope these negotiations will be fruitful. We need a good bill.

In my State of Louisiana, ammonia plants in particular are feeling the effects. For these plants, the cost of natural gas represents 70 to 90 percent of the total cost of manufacturing. If I cannot get them relief on their price of natural gas, if I cannot help get this bill through, and we do not have some relief in sight, these plants will close, thousands of jobs will be lost, they will move overseas, and they are not coming back.

It is not like closing an office temporarily until conditions improve and then everyone shows up a few months later. These plants are huge. There is a tremendous amount of steel and processing equipment. When they close, they are not going to reopen.

We have gone from nine companies employing more than 3,500 people to three companies employing less than 100.

There is a solution: Improving our drilling opportunities in appropriate places for natural gas—out West, in the gulf coast, and importing liquefied natural gas is a start.

In my last 3 minutes I will explain one basic issue that gets to the heart of what I am trying to communicate. Again, let me say so that no one can say that Senator LANDRIEU is not concerned about deception and manipulation and scams that went on, I promise, the manipulation, deception, and scams were not the primary cause of our dilemma today. It was a cause, it was a significant cause, and it was criminal in many cases, but it was not the primary cause.

The primary cause is some States, in the last 20 or 30 years, consumed a lot of energy, but do not produce energy. I have a chart illustrating statistics from our Energy Department, including all types of fuels and energy: Nuclear, hydrogen, geothermal, wood, wind, waste, solar, oil, natural gas, and coal. This is from the U.S. Department of Energy, the Energy Information Agency. This includes all types of energy minus consumption. The States in dark red on the chart are the States that consume much more energy than they produce. And they are rated from the top, which is California; the second is New York; third is Ohio; and fourth is Florida. And it goes down to the States that produce more than they consume. They become net exporters of energy, the best State being Wyoming, then Louisiana, then West Virginia, Alaska, and it goes up.

Let me be quick to point out, because this is a very important chart, the country can never be energy independent until these States, and the regions they are in, become energy independent. One of the things the chairman, the Senator from New Mexico, has been trying to help this Congress understand is that you cannot even begin to be energy independent until these States and these regions come to terms with the fact that they are consuming huge amounts of energy and they are not producing. They have two choices: They can either cut their consumption, they can cut their consumption and can conserve anything they want, or they can produce more energy.

So that is part of what our chairman and ranking member, both from New Mexico, have been trying to explain to us.

I am going to submit this for the RECORD.

We have an energy deficit in this Nation. No matter how you look at it, no matter how many people you put in jail, no matter how much consumer regulation you put in place, we have a serious energy deficit. Until this is corrected, no matter what we do, we are still not going to have the kind of energy policy in this Nation that will help us keep jobs in America and strengthen our economy.

In conclusion, I want to say how proud I am that Louisiana is a producing State and we not only consume what we produce but we export energy. We are proud to do that, and we will continue to do that in appropriate, environmentally sensitive ways.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I have a few remarks I would like to make on the free-trade agreements with Chile and Singapore. Before that, I have some matters of housekeeping.

Mr. President, I ask unanimous consent that the time Senator HOLLINGS consumed be counted against the time he controlled on H.R. 2738 and H.R. 2739, the trade agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREE-TRADE AGREEMENTS WITH CHILE AND SINGAPORE

Mr. CORNYN. Mr. President, I rise today to speak in favor of the free trade agreements with Chile and Singapore.

These agreements are consistent with the longstanding policy of the United states to negotiate agreements that reduce foreign trade barriers, increase export opportunities for American businesses, and create jobs for American workers.

I understand the concerns of my colleagues about certain immigration provisions contained within these two agreements. I recently helped chair a Judiciary Committee hearing where representatives of the United States Trade Representative's office explained the reasoning for such provisions. I also had the opportunity to discuss this issue with Ambassador Zoellick last week in person.

The fact is that our lack of a free-trade agreement with Chile today costs American exporters an estimated $800 million per year in sales, affecting approximately 10,000 U.S. jobs. That's an enormous amount and that's just one of the reasons I am in favor of these free-trade agreements, because I believe they will be good for American markets, American businesses and American workers.

Immigration policy is the responsibility given to Congress under the Constitution. I assure my colleagues that enactment of these agreements does not infringe in any way on that authority or responsibility.

The United States Trade Representative has been very responsive and open to the concern of Senators. On at least seven occasions since October of last year, USTR provided formal briefings to Judiciary Committee staff about the immigration sections in these treaties. USTR has welcomed the input of Senators on immigration and other issues covered by these treaties.

Over the past several months, some of my colleagues have expressed reservations about the temporary nature of the visits under these agreements, as well as the funding for the new visa program, time limitations for these temporary visas, and numerical limitations.

The legislation we are being asked to vote on today represents the results of negotiations between the members of both parties on the Judiciary Committee and the USTR. With respect to the substance of the immigration provisions, there was bipartisan consensus about the content. All of us want to promote trade, but we also want to protect American workers from those who abuse our immigration laws.

Ambassador Zoellick recently expressed to me that he does not approach negotiations with the intention of including immigration provisions. Circumstances vary according to each negotiation and each country involved. Negotiating flexibility must be maintained to produce agreements that provide maximum benefits to American workers.

The inclusion of the immigration provisions protects the interests of U.S. businesspeople and will better enable them to pursue overseas opportunities to increase American exports. In most immigration matters, the United States expands the number of visas for foreign workers without receiving reciprocal assurances from other countries for access for Americans.

The Chile and Singapore free-trade agreements will enable an unlimited number of American businesspeople to reside in these two countries while capping the number of annual entries at 1,400 from Chile and 5,400 from Singapore.

These limits will protect American business interests and American workers. And I applaud the U.S. Trade Representative's office for its efforts in reaching these agreements with Chile and Singapore.

At the same time, I believe this initial experience with this new authority which Congress has conferred on the President, to negotiate these agreements subject to an up-or-down vote in the Congress, has given the U.S. Trade Representative an increased appreciation for the need to actively consult with Congress on matters as sensitive and significant as immigration issues. Failing that, there is no question in my mind that future free-trade agreements are unlikely to receive Senate approval, and that would be a shame.

The United States-Chile free-trade agreement will provide numerous opportunities for United States workers and manufacturers.

U.S. companies currently operate at a disadvantage because competitors such as Canada, Mexico, and the European Union already have free-trade agreements with Chile. As I said before, our lack of an agreement costs American exporters an estimated $800 million per year in sales, affecting approximately 10,000 U.S. jobs.

The agreement with Chile will eliminate tariffs immediately on more than 85 percent of consumer and industrial goods, and most remaining tariffs will be phased out within the next 4 years. The result will be a $4.2 billion increase in the US GDP and a $700 million increase in Chile's GDP.

The U.S.-Singapore free-trade agreement will have a similar effect on trade and economic liberalization in Southeast Asia.

Despite its small size, the economy of Singapore is robust and highly competitive. Roughly 1,300 American firms have a significant presence in Singapore, including 330 regional headquarters for American businesses. The establishment of a free-trade agreement with Singapore will further increase opportunities for American workers through improved access to this important market.

I believe these free-trade agreements will be good for American markets, American businesses and American workers, and I will vote accordingly. I respectfully ask my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized for 15 minutes.

Mr. SESSIONS. Mr. President, I wonder if the Senator from Iowa would allow me to proceed for 2 minutes.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Alabama be recognized for 3 minutes after which I then be recognized for my 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I very much thank the Senator from Iowa.

I have been inclined to be supportive of these two treaties with Singapore and Chile. They came up in the Judiciary Committee. I was very surprised to see we will be amending immigration law. As I listened to the debate from other members of the committee, I concluded at that point I could not support the treaties. I voted no. I don't think there were a large number of people in the committee who voted no. But I did not like the fact that the first fast-track treaty had come up with amended immigration law which is under the plenary power of the Congress, and it is not capable of being amended. It is not capable of being changed. I think it is a bad mistake to do that.

Subsequent to that, we have worked hard to put in as part of the passage of this treaty a sense of the Senate. That sense of the Senate says:

> Trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying the current immigration policy; and future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

This is really an important issue. I want to support this treaty. I hope to be able to support this treaty. Maybe I will be able to support this treaty. But I certainly respect the people of Singapore and respect the people of Chile. They are allies and friends. We want to work with them and improve trade. Hopefully, we will be able to do that.

In my home State of Alabama, Singapore has a 1,000-personnel company that is doing great business. I am proud of their work and enjoy getting to know those people. It is an important part of the community of which I am a part, which is an example of some of the good things that come from trade.

But we are concerned. A lot of the Members of this body are concerned. This crystal-clear sense of the Senate without equivocation says do not bring us any more treaties with these kinds of amendments on them. If you do, they are going to be in danger.

IMMIGRATION PROVISIONS IN THE SINGAPORE AND CHILE FREE TRADE AGREEMENTS

While I want to support agreements, the inclusion of immigration-related provisions in the legislation before us is deeply troubling.

Let met tell you what has happened. The U.S. Trade Representative, USTR, by implementing new immigration provisions in treaty negotiations, has encroached on the role of the legislative branch, without consent from this Congress.

The "temporary entry" sections that are in the Singapore and Chile trade agreements should not be there. Because of the fast-track process, Congress is not allowed to take out the immigration provisions that we don't like, no amendments are allowed. We are only allowed to vote up or down on these agreements.

The inclusion of immigration provisions in the Free Trade Agreements with Chile and Singapore has directly interfered with Congress' plenary power to regulate the nation's immigration policy. The power to make immigration law belongs to Congress alone and includes both the temporary and permanent admissions of foreign nationals into the United States.

Article I, Section 8, clause 3 of the Constitution authorizes Congress "to regulate Commerce with foreign Nations, and among the several States" and Article I, section 8, clause 4 of the Constitution provides that Congress shall have power to "establish a uniform Rule of Naturalization."

The Supreme Court has long interpreted the Constitution to grant Congress plenary power over immigration policy. As the Court found in *Galvan* v.

Press, 347 U.S. 522, 531 (1954), "the formulation of policies [pertaining to the entry of aliens and their right to remain here] is entrusted exclusively to Congress has become about as firmly imbedded in the legislative and judicial tissues of our body politic as any aspect of our government." And, as the Court held in *Kleindienst* v. *Mandel*, 408 U.S. 753, 766 (1972) (quoting *Boutilier* v. *INS*, 386 U.S. 123 (1967)). "[t]he Court without exception has sustained Congress' 'plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden.'"

At the hearing before the Senate Judiciary Committee on these agreements, the witness for the U.S. Trade Representative, Mrs. Regina Vargo, was asked what legal authority the U.S. Trade Representative, USTR, was relying on as a basis for including immigration law negotiations in trade treaties.

The USTR witness responded by differentiating between temporary and permanent entries into the United States, stating that because the Chile and Singapore Free Trade Agreements only contained provisions regarding temporary entries of foreign persons, the USTR was acting within the bounds of its negotiating authority.

This assumed authority was again stated by the USTR in the written answers that they submitted to the written questions submitted by members of the Judiciary Committee. This is not the case and I want to make it clear to the USTR that they do not have the authority to negotiate immigration law on behalf of the Congress. By negotiating and including immigration law provisions in a binding bi-lateral treaty that Congress does not have the power to amend, the USTR has established a dangerous precedent that will not be tolerated in future trade agreements.

Instead of changing the immigration law under these agreements for citizens of Singapore and Chile, it would have been especially appropriate for the USTR to ensure that employers who repeatedly use the visa programs established under these trade agreements abide by all current U.S. laws governing the entry of these foreign workers.

As a Senator of this committee, which has jurisdiction over immigration policy, it is my duty to preserve the plenary power of Congress to make immigration policy. I am dedicated to opposing any erosion of that power. After the Judiciary Committee Hearing, I, along with Senator GRAHAM of South Carolina and Senator FEINSTEIN, sent a letter to the USTR asking them to withdraw the trade agreements and submit them again without the temporary-entry/immigration provisions.

Before we vote on the Chile and Singapore Trade Agreements, this Senate will unanimously pass a resolution I introduced. The resolution states that it is the sense of this Senate that:

> Trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and future trade agreements to which the United State is a party and the legislation implementing the agreements should not contain immigration related provisions.

I am glad that a strong statement defending Congress' authority over immigration law will be made today. I fully intend to defend that statement and ensure that future trade agreements comply with the unanimous desire of this body.

One reason I am so concerned about the inclusion of the immigration provisions is that four visa categories are permanently affected by the agreements. The legislation before us today effects four types of current visas:

No. 1. The H–1B—"highly skilled worker";

No. 2. the B–1—business visitor;

No. 3. the E–1—treaty trader or investor visa; and

No. 4. the L–1—intra-company transfer visa.

H–1B requirements under the Chile and Singapore agreements are weaker than the requirements for other H–1B workers. The agreements require, without numerical limit, that business persons in the other three visa categories be entitled to entry. Under the H1–B category, this legislation permits the admission of up to 5,400 professionals from Singapore and up to 1,400 professionals from Chile each year.

This legislation also permits the almost unlimited renewal of the H1–B visas each year, which could have the effect of turning a temporary entry visa program into a permanent visa program; and

These agreements also require that dependent spouses and children be allowed to join the H1–B professionals that enter under these agreements—with no numerical cap.

I am concerned about including permanent immigration changes in trade agreements when we have unemployment among U.S. workers. I am dedicated to preserving the jobs of U.S. workers whenever possible. I welcome, when appropriate, foreign industries within our borders, and, when appropriate, I fully support foreign workers coming here to work.

But, I also believe that the suspected abuse surrounding some immigration visas should be examined—such abuse is possibly contributing to the level of unemployment in the U.S.—including the record unemployment level for U.S. high-tech workers. The only way to protect the job market for American workers is to preserve Congress' plenary power to make laws that affect the ability of foreign workers to displace American workers from their jobs. That is why the Judiciary Committee has hearings to oversee how the visa programs we have enacted are working. Just this week we held a hearing to examine the L–1 visa, one of the visa categories affected by these trade agreements.

After that hearing, Congress may decide that we need to reform the L–1 visa category. Any provision of a future trade agreement that restricts the ability of this Congress to reform such programs and to therefore protect U.S. jobs will not be looked upon favorably. If the U.S. Trade Representative continues to negotiate treaty terms such as the ones before us today, I will be unable to support them.

I deeply desire to support Chile and Singapore and had fully planned on voting for the Free Trade Agreements at every turn. I look forward to working with colleagues from each nation, but in particular, the businessmen and women who are engaged in the expansion of trade between our respective business communities. In Alabama we are indeed fortunate that several companies from Singapore found opportunities in Alabama—opportunties they developed into thriving businesses.

One such business is located in my home town of Mobile, Alabama. Mobile Aerospace Engineering—MAE—is Singapore owned, but more importantly it is a vibrant business employing over 1,000 local workers. MAE is a community leader not just in the number of its employees, but in its community outlook and community involvement. My visits have revealed that Singapore is indeed a valued economic partner and trusted ally.

I believe the Governments of Singapore and Chile clearly understand the message my colleagues and I have communicated to the USTR. Our commitment to trade is not diminished; our message however is quite clear: trade agreements are not the appropriate vehicle for enacting immigration-related laws or for modifying current immigration policy.

I thank so much the distinguished Senator from Iowa for his courtesy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am a long-time supporter of policies designed to open foreign markets to our Nation's exports through new trade agreements. I have fought to break down the barriers that many other countries have erected to block our exports, and I have sought to reduce the practices by which many of them seek to compete unfairly in world markets. More fair trade can create jobs here at home, and American consumers can benefit from the resulting competition.

In 1991, I took a trip to Chile to gauge the prospects of entering into a free trade agreement with Chile, and I returned favorably disposed. I thought that we should negotiate a free trade agreement with Chile before doing so with Mexico, and I communicated that to the President at the time.

However, trade is not just about commercial transactions and whether or not imported products become cheaper and exporting companies increase their profits. Trade policy and the consequences of trade are linked with the preservation of the natural environment in both countries that are party to an agreement, as well as the legal rights and working conditions of workers. I take these matters into consideration when I determine whether or not to support a given trade agreement, as well as the economic gains that may be generated.

I am aware that U.S. groups representing a considerable variety of agricultural products support the Chile FTA. A total of 32 farm groups, producer groups, and agribusiness interests signed a letter in July, urging support for the agreement. Even some of those organizations have concerns about market access for specific products, or about addressing trade reform through a bilateral, rather than a multilateral agreement.

Over the 1998–2001 period, U.S. companies shipped an average of $125 million worth of agricultural goods to Chile, accounting for about 10 percent of their total agricultural imports. Until now, or major competitors in the hemisphere, Argentina and Brazil, have had an advantage in the Chile market because of their proximity and Chile's status as an associate member of Mercosur, the South American regional trade agreement. This FTA should help to level the playing field, although the cost of shipping goods more than 5,000 miles to the Chile market will always be a factor in determining the attractiveness of U.S. products.

Both of the trade agreements we are considering—the Chile and the Singapore agreements—also are good for the U.S. financial services sector. The president of Principal International, Norman Sorensen, testified recently before the Senate Finance Committee, and he listed a number of benefits for Principal and for other financial services companies. I note that Principal Financial Group is a major private employer in my State of Iowa.

Trade agreements—on the right terms—promise many benefits and opportunities. Notwithstanding these benefits, we have increasingly come to realize in recent years that issues previously not considered to be trade issues in fact are trade issues intellectual property being one of those most prominent. That is why I have worked hard to improve the labor provisions in various trade measures, concentrating particularly on abusive and exploitative child labor. I want trade agreements to promote fair trade, fair competition, environmental protection and good labor conditions in all countries. That means trade agreements that support and reinforce existing international child-labor standards, not undercut them.

In examining any trade agreement, we must weigh the balance of these considerations. In the cases of the agreements now before us, I have reluctantly concluded that the benefits do not outweigh the potential harm.

As many of my colleagues know, I have been working on reducing abusive and exploitative child labor around the world for over a decade. I first introduced a bill on this issue in 1992. According to the best estimates by the International Labor Organization—ILO—there are at least 352 million child laborers between the ages of 5 and 17 who are engaged in today's global economy.

Of these 352 million child laborers, 246 million have never seen the inside of a classroom. These 246 million powerless children are working in the most hazardous conditions in mines in fishing operations and on plantations. It is appalling that this is still occurring in the 21st century. These children are robbed of their childhoods. Many are denied any hope for a brighter future. In this new century, they will grow up illiterate and exploited, creating a wellspring of future social conflict and strife.

We have made some progress over the years by increasing funds for programs to rehabilitate child laborers through our contribution to the ILO's International Programme for the Elimination of Child Labor—IPEC. In 2000, I and Senator Helms successfully amended the Trade and Development Act with a provision directing that no trade benefits under the Generalized System of Preferences—GSP—be granted to any country that does not live up to its commitments to eliminate the worst forms of child labor. We required that the President submit a yearly report to Congress on the steps being taken by each GSP beneficiary country to carry out its commitments to end abusive and exploitative child labor.

I want to explain clearly to my colleagues what I mean when I refer to abusive and exploitative child labor. It is not children who work part-time after school or on weekends. There is nothing wrong with that. That is not the issue. What I am referring to is the definition set out by ILO Convention 182 on the Worst Forms of Child Labor.

This is not just a Western or a developed world standard; it is a global standard that has been ratified by 138 countries. It has been ratified by Chile. It has been ratified by Singapore. The United States, I am proud to say, was the third country to ratify this convention. Unfortunately, the implementing legislation now before the Senate for free trade with Chile and Singapore actually would take us and the world a step backward when it comes to protecting children. That is right. This freetrade agreement with Chile, which replaces GSP provisions in governing the trade between our two countries, will take us backward with respect to abusive and exploitative child labor.

Under GSP, the President must report to Congress annually regarding Chile's child labor practices. And under GSP, if Chile is not meeting the obligations that Chile undertook as a signatory to the ILO Convention 182, if Chile is not acting to eliminate the worst forms of child labor, then trade sanctions are available to us to require enforcement in Chile of internationally recognized child labor standards. That is so that our companies, and our workers here in America, are not subjected to the unfair competition that abusive exploitation of children allows.

Under this new implementing legislation for free trade that we have before us now, if it is enacted, neither of those things I just mentioned will be true. The President will not be required to report on Chile's practices or Singapore's. And even if egregious violations of international child labor standards are reported, no trade remedy will be available. This new agreement merely allows voluntary cooperation between the two countries on issues such as abusive and exploitative child labor.

Our trade negotiators, for some reason, in this agreement before us, explicitly weaken existing protections against abusive and exploitative child labor.

They took us from mandatory Presidential reporting, with trade sanctions available, to the mere possibility of voluntary cooperation with no recourse to trade sanctions as enforcement.

My colleagues, we voted here in the Senate 96 to 0 in the year 2000 to include these protections. Senator Helms and I offered that amendment to the GSP. This Senate voted—with our eyes open, ears open—96 to 0 to include these protections in the GSP. It received unanimous, bipartisan support.

None of us in this body have voted for, and I am sure none of us have sought to have, those child labor protections undercut by our trade negotiators in an agreement with Chile or Singapore or any other country. But that is what they have done. And now, thanks to fast-track rules, which don't allow us to amend this legislation, we will not even be able to restore the protections we voted for 3 years ago in this agreement. If we vote for this trade agreement, we are voting to remove the protections that all of us here—96 Senators—voted 3 years ago to put into place to end the practice of abusive and exploitive child labor.

I would like to support a free-trade agreement with Chile. As I said, I went there 11 years ago to help promote a free-trade agreement. But I cannot vote for this because our negotiators took away from us the one thing we put in 3 years ago to end abusive and exploitative child labor.

This takes us in the wrong direction with respect to the world's children. Supporting abusive and exploitative child labor abroad does not help create jobs in America, it is just the opposite; it hurts that effort. Our workers and our local businesses should not be competing with the worst forms of child labor abroad. Our trade negotiators should not be weakening protections that we in Congress put in place to ensure that free trade can be consistent with respect for international child labor standards. What our negotiators did is wrong.

It has been said that these trade agreements with Chile and Singapore can be a model for future trade agreements, for example, with Central American countries. In the area of abusive and exploitative child labor, I hope that is not the case. A better model would be the free-trade agreement with Jordan, which we adopted in September of 2001. That agreement had broad support from business and labor. I supported it. In that case, we successfully moved the issue of abusive and exploitative child labor and other labor rights right into the body of the agreement where they rightfully belong. I cannot understand why we would turn back from that agreement and from the GSP provisions.

I am sorry to say this is not an academic or rhetorical issue in the case of labor practices in Chile. Chile is far from the worst government, even in our hemisphere, when it comes to meeting its international obligations to protect its children.

I don't mean to single Chile out. In fact, Chile has done a great thing in getting rid of the Pinochet dictatorship and returning democracy and free markets to Chile. But there is broad agreement among international observers—our own Department of Labor, the Department of State, UNICEF, the International Labor Organization—that the problem of abusive child labor persists in Chile. Approximately 65,000 Chilean children between the ages of 12 and 17 are working rather than attending school as they should. This is according to the ILO, UNICEF, and our own State Department. These kids are engaged in mining, agriculture, including street children, domestic workers.

The Government of Chile may be seeking to reduce the problem, as it should. But we should not be weakening our sole existing trade mechanism that allows us to monitor their progress and to back up the international standard with trade action. That is not the way forward for free and fair trade. That is not the way to lift up the Chilean economy or working families in the United States. Abusive child labor perpetuates the cycle of poverty across generations. No country has achieved broad-based economic prosperity on the backs of working kids. Weakening our existing protections against the worst forms of child labor certainly should not occur in an agreement that might be a model for free trade with Central America.

Lastly, I am also concerned about the selective changes in immigration law on these trade agreements. These trade agreements would allow 1,400 foreign workers from Chile per year and 5,400 workers from Singapore per year to obtain 1-year visas to work in the United States, visas which are renewable indefinitely. That is a significant change from our current H-1B visa policy, where workers are granted 3-year visas that can be renewed only once. We should not be promoting the importation of skilled foreign workers for indefinite stays in the United States when there are 9 million Americans currently out of work.

I have a further concern with a provision inserted in the Singapore free-trade agreement. The integrated sourcing initiative, or ISI, allows predominantly information technology goods produced in third countries to be treated as if they had been produced in Singapore for the purpose of satisfying rules-of-origin provisions.

This ISI provision could allow goods produced in countries that routinely violate workers' rights, such as Indonesia, and possibly Burma, to be transshipped through Singapore in order to avoid United States limitations and bans. That is in the Singapore free-trade agreement.

I regret that our negotiators have presented us with flawed agreements. In the case of Chile, it is either sloppy work or they deliberately changed the child labor provisions. By allowing third countries to transship through Singapore, again, it is either sloppy work or deliberately trying to undercut United States limitations and bans on certain countries.

I particularly hoped that I could support an agreement for free trade with Chile. I started working for that over 10 years ago. But I do not believe trade can be called free when it promotes the exploitation and abuse of children by weakening our existing protections against the worst forms of child labor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself time under the time allotted for Senator SESSIONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I, too, rise this evening to express concern over the pending free-trade agreements with Chile and Singapore. My colleague from Iowa has just spoken to that. I will approach it from a slightly different manner but with the same concerns.

These trade agreements should have been focused largely on trade issues because our trading partners in this case need a relationship with us, and we have worked hard over the years to develop one with them. We have heard that our agreement with Chile would expand the GDP of this country by $4.2 billion and allow 75 percent of U.S. farm goods to enter Chile tariff free within 4 years. Both the Senator from Iowa and I would have to agree that is the way it ought to be. Certainly, I applaud our trade ambassador for working in that direction.

Unfortunately, during negotiations, our representatives went beyond the issues of free trade and threw our immigration laws on the table for negotiating purposes. As a result, the agreements with Chile and Singapore contain immigration provisions that I think raise very troubling issues.

Let me be the first to acknowledge that these immigration provisions may arguably benefit some U.S. companies, including companies in my home State. I have already visited with many of those companies. However, there are also problems with these provisions, problems with how they came into being in the first place, problems with their substance, and problems with their potential impact. What intensifies our dilemma today is that we run the risk that similar provisions would be included in future trade agreements, as the Senator from Iowa has already said, and I say here. Why? Because our trade ambassador has said it.

What we deal with tonight are templates or foundations from which we will deal with other countries in establishing free-trade agreements. Those negotiations are already underway with Australia and Morocco and South Africa, Central America, and 34 countries in the western hemisphere we are currently engaging with in free-trade agreements. I will tell you, if this is a template and if he plans to negotiate immigration law in the midst of a free-trade agreement, this is one Senator who will work very aggressively to block them until our trade ambassador understands that he is outside his prerogative.

Many of my colleagues will remember that last year more than 60 Senators expressed concern about our U.S. trade remedy laws being negotiated away and changed by our U.S. Trade Representatives without congressional consent or input. As we all know, once these trade agreements are sent to Congress, they cannot be changed or amended. Again, more than 60 Senators expressed concern about items that are within congressional purview and should be guided by Congress, not unelected officials down at the Trade Representative's office. These same fears and concerns apply to immigration provisions within the free-trade agreement.

It is Congress and not our trade negotiators that should be making changes in U.S. immigration law. Senators have been rightly concerned about how much consultation should be done with Congress before these provisions are finalized. It is my understanding that the USTR consulted with six private sector advisory committees when negotiating terms of the free-trade agreement, including the labor advisory committee which was critical to the temporary entry provisions. The USTR published a Federal Register notice soliciting comments on both agreements.

However, under the Trade Promotion Authority Act, the administration is required to consult with Congress while conducting negotiations. In this case, consultation was brief and given on very short notice, certainly with regard to the Judiciary Committee of which I am a member.

But what troubles me more—and would have been resolved had Congress been meaningfully consulted—is the substance of the proposed immigration provisions themselves and Congress' limited ability to amend the provisions even in the face of fraud or abuse that could occur within this trade agreement.

The free-trade agreement addresses four specific categories of temporary nonimmigrant admission currently governed by U.S. immigration law. These are business visitors, or B–1; treaty traders and investors, the E–1s and E–2s; intracompany transferees, the L–1s; and professional workers, the H–1Bs.

The potential for fraud in these visa programs is substantial. The free-trade agreement is specific that neither party may "as a condition of temporary entry, require prior approval procedure petitions, labor certification tests, or other procedures of similar effect. . . ."

Yet labor certification requirements ensure that foreign workers do not displace or adversely affect the working conditions of Americans.

Current H–1B law requires attestation of H–1B dependent employees in order to reduce potential fraud. This requirement is necessary to prevent repeat users of H–1B visas from using temporary foreign labor as a strategy to avoid paying higher salaries to American workers. This requirement is not mentioned in the implementing language.

Also, while the administration has included a cap on the number of professionals entering under the H–1B category, there are no such limitations on the number of temporary workers entering under other visa categories, including the B–1 visa, the E–1 visa, and the L–1 visa. None of these categories are numerically limited under the agreement and, once enacted, Congress may not subsequently impose caps on these categories for national entry.

This is particularly problematic within the context of the L–1 visa category. Neither of the FTA agreements requires workers to be citizens of either Chile or Singapore. They can be from any country as long as they are working for a company located in either Chile or Singapore.

Many employers are exaggerating the specialized product knowledge of their professional workers so they qualify as L–1 visa applicants. As a result, the L–1 visa program is receiving an increased amount of scrutiny by the State Department, as we speak. The Department of Homeland Security is looking at it as we speak. Members of Congress and the General Accounting Office are doing the same. GAO is also investigating the L–1 visa program. And the Judiciary Committee recently held hearings on this issue.

What Congress must realize is that because the proposed legislation is implementing a free-trade agreement between the United States and Chile and Singapore, Congress' power to amend the proposed legislation is minimal even when Americans are being adversely affected.

Only those amendments that do not conflict with the free-trade agreement can be amended without violating the agreement. This is the interesting catch-22 of what we are about to do. In fact, when asked whether Congress would be able to enact laws making changes in the H–1B or the L–1 visa programs that affect Chilean and Singaporean nationalities, once Congress approved the implementing language, the USTR, in a written response to questions submitted during a Judiciary Committee hearing, stated: "[the United States] may make modifications to the immigration law that was amended by the proposed legislation to the extent consistent with the obligations of the United States Under the Chile and Singapore Agreements.

This means that the United States ability to protect against fraud or protect U.S. workers from displacement by Chilean and Singaporean workers is reduced. The USTR states that "neither agreement precludes the United States from modifying its law and regulation related to temporary entry after the Agreement enters into force, as long as those modifications do not unduly impair or delay trade in goods or services or the conduct of investment activities under the Agreements." However, the USTR has also stated that "the international mobility of business persons, whether in their personal capacity or as employees providing services, has become an increasingly important component of component of competitive market for suppliers and consumers alike." This means that any restriction on visas may be viewed as unduly impairing or delaying trade in goods or services or the conduct of investment activities under the Agreements because employee services are so valuable.

As we have witnessed in this post-September 11th world, our immigration laws are a delicate work in progress as we try to find a solution to many of our immigration problems. As we continue to work on immigration provisions to further protect our nation we now have a new roadblock—a provision created and placed in these free trade agreements.

Should Congress, in the future, try to amend or change any of our current immigration provisions we must now always keep an eye on the provisions contained in these trade agreements. Why? Because should Congress change any of our immigration laws to adapt in this new world—and change any immigration laws that are subsequently also contained in these agreements—those new laws may in fact violate these very trade agreements—cause a tremendous problem. The problem is embodied within the provision.

As a result, Chile or Singapore, or any future country we negotiate with, could challenge us by challenging our immigration laws in an international court.

In other words the Senate of the United States, within these provisions, could be found in violation of the agreement, and therefore has lost control of its own ability to change our laws.

Having our immigration laws challenged in an international court is something I firmly believe Americans do not want questioned or subject to an international body. It is simply called national sovereignty.

Many of my constituents have always been concerned that, as we increasingly internationalize our economy, somehow we would lose our own ability to legislate and govern ourselves and control domestic policy. Tonight, with passage of these free-trade agreements, we have made a step, I believe, in that direction.

Effectively, the immigration provisions contained in these FTAs are tying the hands of Congress as it relates to ensuring American workers are not displaced or working conditions are adversely affected. Should something happen in the United States where Congress deems it absolutely necessary to change our immigration laws in the interest of National Security—I say good luck without incidentally dragging these trade agreements down and throwing the entire agreement into question or into an international tribunal, where we could easily be outvoted.

Many should be seriously asking the question why our Trade Representative is now our point person on immigration laws. The safeguards our Trade Representative left in these agreements in regards to the immigration provisions is minimal. Do these trade agreements allow the United States to block certain individuals of interest who are tying to come to this country under these new provisions? Yes it does. However, we did not negotiate a safeguard to suspend these new provisions without throwing the United States into violation of a Free Trade Agreement.

The bottom line is Congress has its hands tied. Should we try to correct an immigration law in the future, we may also be creating an additional problem while trying to correct another.

If these laws were vital to the free-trade agreement, I am certain the USTR, or those parties who have an interest in them, could and should have brought them to Congress as a free-standing amendment to our immigration laws and proposed them to us as a critical part of passing a free-trade agreement. That was not done. They were incorporated in the free-trade agreement because our trade ambassador knew they could not be amended once they were embodied. We would have to take them in part and in parcel.

However, under this agreement, now our hands are tied. I don't believe the American people want our hands tied when it comes to immigration law. They want us to be flexible, they want us to regain control of our borders, they want us to protect our workforce, while at the same time expanding where necessary, and an international workforce is needed. Clearly, in this country and in the future, that will be necessary. I hope we move in that direction. I will oppose these tonight because of that.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, as I understand it, the Presiding Officer would like to deliver his remarks. I ask unanimous consent that he be permitted to speak and then I be permitted to speak.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I wasn't able to hear that.

Mr. HATCH. I asked that the Senator from Texas, who is now presiding, be able to speak and then that I may speak immediately thereafter.

Mr. REID. The leaders are wishing to get the floor. How long will it be?

Mr. HATCH. Not very long.

Mr. REID. I have no objection.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I thank my friend from Utah for letting me do this.

I rise in support of the resolution offered by our colleague from Alabama, Senator SESSIONS. I have always been a supporter of free-trade agreements, as long as those free-trade agreements were fair.

My State has been a huge beneficiary of trade agreements. We are a strong economic factor in the United States. We want to continue to be, and we will continue to benefit from trade agreements as long as those agreements are fair.

But there is a problem here tonight with the two agreements we are going to be voting on—the agreements with Singapore and Chile. We are in very difficult economic times in this country. As a result of those difficult economic times, we have seen unemployment in this country reach the level of 6 percent, and actually now a little above 6 percent. My State has suffered just as every other State around the country with our fair share of those unemployed individuals.

Part of the displacement of those individuals is due to the immigration policies we have in effect in our country today, which allow people from other countries who want to come to America to work. We have always had an open-door policy, and we should continue to have an open-door policy, welcoming people from other countries to come to the U.S. to improve the quality of life for them and their families.

At the same time, with that open-door policy, we should not have a policy that displaces American workers when the American workers want and need the jobs they are losing because of individuals coming into this country.

As chairman of the Subcommittee on Immigration and Border Security of the Judiciary Committee, I held a hearing this week on one of our visa programs. It is called the L–1 program whereby individuals can come into this country on a visa from anywhere around the world and be put in a position that supposedly is not being used to displace an American worker.

As we found out at our hearing this week, it is happening over and over where the situation in the system is being taken advantage of, which results in abuses of that program that has the effect of displacing American workers.

We are going to hold another hearing in that subcommittee in September on the H–1B program. This has been a very valuable program to our country and particularly the high-tech industry that needed, during the nineties, an increase in the caps under the H–1B program to accommodate the technicians they needed to operate their businesses successfully.

What we found is that these individuals who come in under the L–1 and H–1B programs are being paid at lower rates than American workers they are displacing. With the slowdown in the economy and with the increase in unemployment, we are seeing that those H–1B and L–1 visa individuals who are coming into the United States are maintaining their jobs while Americans have been displaced. In part because of the abuses, the Americans, having been paid at a higher rate, are losing their jobs, and that is not right.

Lo and behold, with an agreement that is supposed to be an economic stimulus creating trade with Chile and Singapore, what do we see but the Office of the U.S. Trade Representative negotiating as a part of these agreements with Chile and Singapore a policy change in our immigration law which now allows some 5,400 individuals from Singapore, and 1,400 individuals from Chile per year, over and above all of the limits which are presently in place under H–1B, L–1, and L–2, and every other visa program we have in place, to come into the United States with no provision in these trade agreements for any kind of attestation that these people will not be allowed to come in from Singapore and Chile if they are displacing American workers. That is not right. That is also not the function of the Office of the U.S. Trade Representative.

It is the function of the U.S. Congress to set policy when it comes to the immigration laws of this country. We should not allow the U.S. Trade Representative to usurp that power and that authority which is given to Congress.

I rise tonight in strong support of the resolution offered by Senator SESSIONS. I think we need to send a shot across the bow telling the Office of the U.S. Trade Representative that we are not going to let him usurp the authority and the power that is given to the Congress of the United States by law in our immigration policy. It is our obligation to set that policy and not the obligation of the Office of the U.S. Trade Representative.

I have very grave concerns about these two agreements. I understand there are other agreements that are already being negotiated that have these same provisions in them. It was never the intention of any of us who voted to grant fast-track authority to the administration that the administration would be allowed to set immigration policy. It is wrong and it should not happen. Therefore, I strongly support the resolution of the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Utah is recognized under the unanimous consent agreement.

Mr. HATCH. Mr. President, I ask unanimous consent that the remaining time of the distinguished Senator from Alabama, Mr. SESSIONS, be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that immediately following my remarks on these two speeches, that Senator MAX BAUCUS from Montana be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise today to speak in support of legislation implementing the free-trade agreements that have been negotiated between the United States and Chile, S. 1416, and between the United States and Singapore, S. 1417. I appreciated the remarks of my colleague who is the chairman of the Immigration Subcommittee of the Senate Judiciary Committee. I have great admiration for him, and I believe he has given an appropriate warning to the Trade Representative and the administration with regard to some of the criticisms that have been lodged against these agreements.

Let me begin by commending the Bush administration for negotiating these agreements with Chile and Singapore. Both Chile and Singapore are countries that represent economic stability and growth in their respective region of the world. These trade agreements will provide new market access for American workers and products including agricultural, manufactured products, telecommunications equipment and other high-technology products.

Let me also commend Senators GRASSLEY and BAUCUS for bringing these agreements through the Finance Committee in the same bipartisan fashion that has characterized all of the recent congressional actions with respect to international trade. I am pleased to work with them on trade matters in the Finance Committee.

As chairman of the Judiciary Committee, I note that both of these agreements contain chapters on matters of great importance to our Committee. These include: intellectual property; antitrust; e-commerce; telecommunications; and, last and certainly not least, immigration. In many ways, the substance of the negotiations on matters that fall within the jurisdiction of the Judiciary Committee focused on ways to encourage our trading partners to harmonize their law with current U.S. standards. We should take pride in this dynamic.

Let me turn first to S. 1416, the United States-Chile Free Trade Agreement. Despite its status as a relatively new democracy, Chile is regarded by many to be a model for the successful implementation of market-oriented economic reform measures since its first democratic elections in 1989. Although we have seen a slight trade deficit emerge in our trade with Chile over the past few years, I believe a free trade agreement between our countries is likely to stimulate growth in both economies.

The United States-Chile FTA will provide new market opportunities for United States workers and businesses. American companies currently operate at a competitive disadvantage in terms of trade with Chile, because many key foreign competitors, such as Canada, Mexico and the European Union already have executed free trade agreements with Chile. In fact, the National Association of Manufacturers estimates that without an FTA with Chile, U.S. exporters lose roughly $800 million per year in sales, which affects approximately 10,000 American jobs. With the adoption of the Chilean agreement, America would see an immediate elimination of tariffs on more than 85 percent of consumer and industrial goods. This will help eliminate the current trade deficit and will provide for increased export opportunities for U.S. companies.

Some estimates place the potential annual economic benefits of the United States—Chilean Free Trade Agreement at an impressive $4.2 billion annual increase in the U.S. gross domestic product and a $700 million increase in the Chilean GDP.

The Chilean FTA will provide numerous economic opportunities for my State of Utah, which is important to me. Currently, Utahns export approximately $657 million worth of consumer goods to Chile every year. The major sectors of Utah's economy that will benefit most from a Chile FTA are manufacturers of computer machinery and components, high-tech computer software developers, manufacturers of medical devices, and dietary supplement companies.

Tariff-free trade with Chile will also result in expanded markets for America's farmers and ranchers, with more than 75 percent of U.S. farm goods becoming tariff-free within 4 years after enactment of the agreement. The agreement would also provide greater access for U.S.-based financial service companies to operate in the Chilean financial markets. This will result in new growth opportunities for U.S. banks, insurance companies, securities firms, and telecommunications companies.

Before entering into trade negotiations with the United States, Chile was required to adopt all provisions required for membership in the World Trade Organization. This includes the Trade-Related Aspects of Intellectual Property Rights Provisions, the so-called "TRIPS" provisions. The TRIPS provisions protect U.S. patent, copyright, and trademark owners.

The United States-Chile Free Trade Agreement is a very important step in building stronger political and economic ties, not only with Chile, but with all of South America. As I see it, Chile is a strategic ally in South America. Chile provides a strong economic and political base in a region of the world that is currently experiencing extreme economic hardships. The adoption of the Chile FTA is an important first step toward the expansion of hemispheric wide-open trade relations throughout North and South America through the proposed Free Trade Agreement of the Americas.

The United States-Singapore Free Trade Agreement, S. 1417, would have a similar effect on trade and economic liberalization in Southeast Asia. Like Chile, Singapore is a leader in its region for free trade-oriented reforms. It is very important to note that the United States-Singapore Free Trade Agreement is the first free trade agreement that the United States will have negotiated with an Asian nation.

Singapore is a relatively small nation geographically. It encompasses only 246 square miles and has a population of only four million people. Its economy is robust and highly competitive. It is one of the most open, well-regulated and secure markets for investment in Asia. Approximately 1,300 American firms have a significant presence in Singapore and all indications are that the establishment of an FTA with Singapore will provide additional opportunities for American industries through increased market access.

An FTA with Singapore also provides an opportunity for expansion in Utah's economy. Singapore currently receives almost 6 percent of Utah's international exports, amounting to more than $263 million. The top exports to Singapore from Utah include electronic machinery, plastics, perfumery, cosmetics, and telecommunications services and equipment.

The United States-Singapore Free Trade Agreement provides for reciprocal levels of market access, eventually eliminating the few remaining tariffs on American goods and services, and eliminating or reducing all non-tariff barriers to American exports. The Singapore FTA also requires observation of the TRIPS provisions.

The agreement with Singapore will provide opportunities for economic expansion and encourage free trade throughout Southeast Asia. This agreement merits the support of the Senate.

The Senate will soon have a chance to vote for, or against, both of these important free trade agreements. Last year a broad bipartisan group of 66 Senators voted for trade promotion authority. One of the chief reasons for adopting fast track procedures is to prevent trade treaties from death by amendment and procedural delays. Although no amendments are in order under the fast track rules, all Members of the Senate retain their ultimate authority to accept or reject any treaties or implementing legislation that the Administration proposes.

Because the Trade Act of 2002 calls for up or down votes without opportunity for amendment, it is important that Congress be fully consulted. This should occur at each step of the process. I know that this inability to amend the implementing language of these agreements has concerned many members of the Judiciary Committee.

From the perspective of the Judiciary Committee, I can tell my colleagues that the most controversial provisions of these trade agreements are those addressing the temporary entry of professional workers and intra-company transfers. Many members of the Judiciary Committee, Republicans and Democrats alike, have expressed their dismay over the immigration provisions.

Many Senators have unequivocally stated their objections to the manner in which the temporary entry provisions were transmitted to Congress. I share many of their concerns. The administration must consult with Congress, and specifically with the Judiciary Committee, on all matters within our committee's jurisdiction. At our mark-up on this implementing language, many members of the Committee made it plain that individual trade agreements are not the best forums for raising matters of general immigration law and policy. I trust that USTR will heed this message in the future.

To be fair to USTR, I understand that there were six briefings at the staff level prior to the transmission of the final implementing language. In addition, USTR briefed the committee staff on the proposed implementing language before it was finalized. There were also numerous additional informal consultations among committee staff on both sides of the aisle, and between committee staff and USTR and other administration officials over the last few weeks. Most, although not all, members of the Judiciary Committee sent representatives to these meetings.

Finally, the Judiciary Committee held a hearing on July 14 to allow the members of the committee to question USTR's principal negotiators on the draft implementing language for thee two agreements.

USTR worked to address the concerns expressed by Judiciary Committee members. Three main issues surfaced: first, time limits on the professional workers' visas; second, numerical limits on such professional workers; and, third protection of American workers. I want to discuss how these matters were resolved in the legislation.

With respect to the concern that there is a lack of a time limit for the professional workers' category, I note that contrary to how some may read the implementing language, the legislation does not allow indefinite stays. While it is true that the professional visa provision in the trade bills does not set a time limit, it does have to be renewed every year and is subject to section 214(b) of the Immigration and Nationality Act. This means that at each renewal, the applicant must show that the stay in the US is temporary and that there is not immigrant intent. In that sense, the safeguard against someone circumventing the permanent residence requirements is arguably greater than the safeguard contained in the traditional H1-B visa, which is expressly exempted from section 214(b).

With respect to the numerical cap, I would emphasize that the allocations for Chile and Singapore come under the overall cap for current H1-B visas. Therefore, there is no net increase of foreign workers because of these agreements. Moreover, the annual limits for Chile and Singapore, set at 1,400 and 5,400 respectively, are statutory ceilings. Our Government does not have to allocate the full amount every year.

Some of my colleagues are concerned about the fact that these agreements do not allow labor certification. First of all, I want to clarify that currently there are no labor certification requirements in our immigration laws for any visa category comparable to the ones described in the trade agreements. However, for the temporary professional workers, there is a requirement for certain employers to complete labor condition attestations. Before hiring a foreign worker, the employer must attest, among other things, that prevailing wages will be paid and the foreign workers will not be used as leverage in any labor dispute. In fact, if there is a strike or lock-out, foreign workers are not even permitted to come into the United States.

The implementing language also provides appropriate penalties for errors and fraud in the attestations. Contrary to the suggestions made by some of my colleagues, the implementing language does indeed authtorize the Department of Labor to initiate random investigations of anyone who has failed to meet a condition of the attestation. The implementing language does expressly prohibit displacing American workers through lay-offs within 90 days of the filing of a visa application. As for labor certification or numerical limitations on business visitors, traders and investors, or intra-company transferees, we must understand that these visas, if used properly, are not intended to threaten American jobs at all. In fact, business visitors are not even permitted to receive a salary in the U.S. and may only remain for a few months just like tourists.

I appreciate the reality that some unscrupulous American employers have used the visa categories I just described to commit immigration and labor fraud. The visas have become ways for some to hire cheap foreign labor, and that has unfairly hurt American workers. I am sensitive to the difficulties faced by out-of-work Americans and their families. However, we need to understand that the existence of temporary worker visas in our laws is not the problem. The problem is the misuse of these visas by those who do not respect our laws.

We should not tolerate fraud and abuse of our immigration and labor laws. We should take appropriate actions to curb fraud and abuse in this area.

I understand that the Labor Department already has the authority to investigate visa fraud of this nature if a complaint is filed. But, if conferring more investigative authority upon the Labor Department is the key to solving the problem, then Congress should examine that option notwithstanding the lack of any labor certification. I was informed by USTR that the implementing language excluded some language in the current H1-B scheme because those provisions are due to sunset at the end of this fiscal year, but if those provisions are extended, they certainly may be applied to these treaty visas.

I would also like my colleagues to keep in mind that these agreements are reciprocal. Every gesture of courtesy extended to Chilean and Singaporean citizens is extended to American citizens. The same is true for all restrictions. A good illustration is the provision calling for disputes to be resolved in a so-called "international review panel." The panel does not bind the U.S. government, and does not interpret U.S. law. It is a forum, however, where American businesses can address their grievances before an impartial reviewer. As Assistant USTR Ralph Ives testified before the Judiciary Committee the July 14 hearing, these review panels do not take the place of U.S. courts, and do not even review individual cases. Instead, they review allegations of patterns or practices by either party of the trade agreements.

Finally, some have raised a very good question about whether the Trade Act of 2002 confers authority to include matters of immigration in trade agreements. As early as the Commerce and Navigation Treaty with Great Britain of 1815, immigration provisions have been included in trade agreements that allowed for the entry of foreign nationals to conduct trade. Moreover, section 2102 of the Trade Act of 2002 calls for the President to reduce barriers to trade in services. Implicit in that authority is the mandate to provide access for U.S. businesses, including small to mid-size businesses, to foreign markets.

It is clear to me that the language we consider today has benefited from the interaction between Congress and the executive branch. Despite these improvements, some friction remains on the matter of taking up matters affecting general immigration policy as part of the negotiations on particular trade agreements.

Anyone present at either the Senate Judiciary Committee or House Judiciary Committee mark-up of the immigration implementing legislation for the Chile and Singapore FTAs got the message: Tread lightly and consult heavily.

Before I close, I want to reiterate that I have faith in the American worker. I have no doubt that with the right training, our workers can compete with the best in the world. I also believe that competition is good for America. We have no reason to fear foreign competition in the global economy so long as we are all playing by the same rules and on a level playing field.

I introduced The American Competitiveness in the Twenty-First Century Act that authorizes funds collected from H1–B visa application fees to be invested in training American workers in the fields where we have traditionally relied on foreign workers. I ask my colleagues to join me in efforts and prepare American workers to fill the needs of our job market, especially in the fields of math, science, and high technology. It is my hope that, in due time, we will no longer rely on foreign workers to help fill our needs in any sector of the job market.

In a global marketplace, American workers and firms must be given the opportunity to conduct business abroad. Indeed, we live in a world economy where free trade is vital to our economy. As I see it, the flexibility to send essential personnel from the United States to another country in order to provide much-needed, service-oriented support is an essential part of international commerce. Consequently, within the parameters of sound immigration policy, the United States must reciprocate the courtesy that we expect our trading partners to extend to American citizens working and trading abroad.

I support these two implementing bills. the FTAs with Chile and Singapore are good treaties. On balance, this legislation, despite some of the sensitivities in the area of immigration, will help bring the benefits of these trade treaties to the American public.

I think that a review of the record shows that after extensive discussion with both the Senate staff and the House staff, the administration satisfactorily addressed the vast majority of the concerns expressed by Republican and Democratic members of the Judiciary Committee.

When all is said and done, these are good trade agreements. One of the lessons I hope the administration has learned is that including immigration-related provisions in individual trade agreements that raise General matters of immigration policy is a very, very sensitive issue to us up here. In the future, I expect the administration will avoid negotiating immigration matters in trade agreements unless the Congress is broadly supportive of the provisions. If there are compelling circumstances to negotiate such agreements, I expect extensive consultation between the administration and Congress at both the Member level and staff level so that all of our concerns can be adequately addressed.

The issue of immigration aside, I believe there is a wide consensus that, overall, we have two good trade treaties and two good implementing bills. I urge every Member to vote in favor of the United States-Chile and United States-Singapore Free Trade Agreement implementing language.

UNANIMOUS-CONSENT AGREEMENT—H.R. 6

Mr. FRIST. Mr. President, we have three short unanimous consent requests. Senator BAUCUS will be taking the floor shortly.

I ask unanimous consent that following Senator BAUCUS's statement and Senator DODD's statement on free trade, the Senate then proceed to the consideration of Calendar No. 85, H.R. 6, the House-passed Energy bill, provided that all after the enacting clause be stricken and the text of the Senate amendment to H.R. 4 from the 107th Congress as passed by the Senate be inserted in lieu thereof; the bill then be read a third time and the Senate proceed to a vote on passage of the bill with no intervening action or debate; further, that following that vote, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees with the ratio of 7 to 6.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Reserving the right to object, I know the leadership on both sides of the aisle would like to proceed on last year's Senate Energy bill. This Senator believes we have just begun to have debate on two important issues that have emerged since that legislation was passed by this body.

The first issue is we now know for a fact, proven by the Federal Regulatory Commission, by the Department of Justice, and by Enron's own memos, that market manipulation has occurred. The 2002 Energy bill does not address that issue.

This body will need to come back and address that issue. I am happy to address it in another forum, but I am hearing a commitment from leadership on both sides that we will come back and address this issue.

The second issue: The Federal Regulatory Commission, since the passage of the 2002 act, issued a rule calling for the implementation of mandatory regional transmission organizations and standard market design. For my colleagues who do not understand what that means, it means a national grid where your region's cheap, affordable electricity at cost-based rates might be displaced by the highest bidder of an energy company that wants to sell its more expensive energy in your State.

The 2002 bill does not address that. We need to address the fact that we do not want FERC to proceed on an order mandating regional transmission organizations with standard market design. That is what some of my amendments dealt with; that is what some of the underlying bill dealt with. That is not in the 2002 version.

I will not object at this time based on agreement that I have heard from my leadership and the majority leadership that we will have an opportunity to address both of those issues in the future.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2739 AND H.R. 2738

Mr. FRIST. Mr. President, I ask unanimous consent that immediately following the vote on the passage of the Energy bill, all debate time be yielded back and the Senate proceed to a vote on passage of H.R. 2739, the Singapore bill, to be followed by a vote on passage of H.R. 2738, the Chile free-trade legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 139

Mr. FRIST. Mr. President, I ask unanimous consent that at a time determined by the majority leader, following consultation with the Democratic leader, the Environment and Public Works Committee be discharged from consideration of S. 139, the Climate Stewardship Act of 2002, and the Senate then proceed to its consideration; that the measure be considered on the following limitations:

That there be a total of 6 hours of debate on the bill and substitute amendment, with the time equally divided and controlled between the proponents and opponents; that the only amendment in order be a McCain-Lieberman substitute amendment, as specified in the debate time limitation; that upon the use or yielding back of all time, the Senate proceed to a vote on adoption of the amendment; that upon disposition of the amendment, the bill, as amended, if amended, be read the third time, and without further intervening action or debate the Senate proceed to vote on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. A discussion of what we have just done will take place later in the evening. The unanimous consent request means that Senator BAUCUS and Senator DODD will have their statements followed by a series of stacked votes. We will have at least three rollcall stacked votes, and then we will have some judge votes; we will be in consultation as to how many judge votes there will be. The plans will be to have a series of at least three rollcall stacked votes tonight.

The PRESIDING OFFICER. The Senator from Montana.

CHILE AND SINGAPORE FREE-TRADE AGREEMENTS

Mr. BAUCUS. Mr. President, I appreciate the work of the majority and minority leaders in putting this agreement together tonight. It sounds as if we will be able to get home for recess.

I will say a few words about the Chile and Singapore free trade agreements.

Today the Senate begins its debate on implementing the United States-Singapore and United States-Chile Free Trade Agreements.

Bringing these bills to the floor this month has been a priority for me, as I know it has been for Senator GRASSLEY. Timely passage will allow these two important agreements to go into effect as planned on January 1, 2004. And passage will user in a new era of enhanced economic ties between the United States and two important trading partners.

These are the first bills to come before the Senate under the renewed fast-track procedures adopted last year in the Trade Act of 2002. So before I discuss the agreements and the implementing bills in detail, I want to talk about the events that have brought us here today.

One year ago, the Senate passed the Trade Act of 2002 by a vote of 64 to 34. Among other important provisions, the Trade Act gave the President fast-track trade negotiating authority for 3 years, renewable for 2 more. Fast-track—or trade promotion authority, TPA, as it is sometimes called—is a contract between Congress and the administration. It allows the President to negotiate trade agreements with foreign trading partners with a guarantee that Congress will consider the agreement as a single package. No amendments are allowed and a straight up-or-down vote is guaranteed by a date certain.

In return, the President must pursue a list of negotiating objectives set by Congress. And he must make Congress a full partner in the negotiations by consulting with Members as the talks proceed.

Last year, as Chairman of the Finance Committee, I worked hard to pass the Trade Act and renew the President's fast-track trade negotiating authority.

In many cases, fast-track is an absolute necessity for completing new trade agreements. Our trading partners simply will not put their best deals on the table if they know that Congress can come back and change the agreement later.

Getting those best offers on the table is critical. It means more jobs for American workers, a level playing field, more exports for our farmers, ranchers, and companies and more choices and lower costs for consumers.

That doesn't mean our trade agenda ground to a halt without fast-track. We passed the U.S.-Jordan FTA Implementation Act in 2001 without fast-track—and by an overwhelming margin. And the Clinton Administration began negotiating the Singapore and Chile FTAs without fast-track.

I believe, frankly, that we could pass the Singapore and Chile bills without fast-track as well. But having it certainly makes the process run smoothly.

That brings me to the two free trade agreements themselves.

I have long been a supporter of trade with Singapore and Chile. In 1999, I took a delegation of Montana business people to Chile to press the case directly. I have also visited Singapore with a Montana trade delegation.

Even before we passed the Trade Act last year, I introduced legislation to grant fast-track specifically for a Singapore or Chile free-trade agreement.

Negotiating these agreements took several years of work, under both the Clinton and Bush Administrations, many negotiating sessions, and hours of consultation with Congress.

I am glad that my work and that of so many others has paid off and brought these agreements before us today. Congratulations are due all around for a job well done.

These are the first agreements to be held to the new and progressive standards included in last year's Trade Act.

By and large, I think the two agreements stack up fairly well against the negotiating objectives set out by Congress. They set a new standard in many areas that is truly state-of-the-art.

I will touch on some of the highlights.

On agriculture, the Chile FTA provides for tariff-free, quota-free trade within 12 years, with more than 75 percent of U.S. farm products entering Chile tariff-free within 4 years. That's a major achievement. U.S. farmers will have access to Chile that is as good as or better than Chile gave to the European Union and Canada in existing trade agreements.

Significantly, Chile has committed to the United States to eliminate its so-called "price bands" on certain commodities. These price bands—or variable tariffs—are extremely harmful to our farmers. Chile agreed to eliminate them.

The main benefits to my state of Montana will be in improved market access for beef and wheat.

Senator GRASSLEY and I worked hard to ensure that Chile will grant reciprocal recognition of U.S. meat inspections. With this important development, Montana's world-class ranchers now have the access to Chile's growing market that they deserve.

The agreement will also eliminate the 10 percent tariff that puts American wheat growers at an artificial disadvantage when competing with Canadian growers for sales in Chile. Obviously, Canadians do not pay that. We Americans do, until this agreement is put into effect.

On Market access, these two agreements enshrine the principle that all tariffs must eventually go to zero. U.S. policy of entering comprehensive free trade agreements stands in sharp contrast to the practices of some of our trading partners, who negotiate agreements that exclude agriculture or other sensitive sectors.

The Singapore and Chile agreements send the right message on market access: countries that are not ready to put everything on the table are not ready to negotiate an agreement with the United States.

On services, both agreements offer expanded market access for U.S. services providers and strong transparency rules for service regulations that exceed Chile and Singapore's WTO commitments. The agreements break new ground by using a "negative list," where all services are subject to the agreements' rules unless expressly excluded.

Particular achievements include enhanced access to the Singapore market for banking and other financial services, which is important because Singapore is a regional hub for southeast Asia.

Enhanced market access for services is critical, because the service sector now provides the majority of American jobs. So expanding services trade means more job opportunities.

The agreements include intellectual property rights obligations that exceed WTO levels. They set a high standard of protection for trademarks, copyrights, patents, and trade secrets that will support innovation and our country's creative industries, and they establish a tough enforcement regime for piracy and counterfeiting.

The agreements extend free trade principles to electronic commerce—making sure protectionism cannot take root in the new frontier of trade.

Unlike NAFTA, which dealt with labor and environment in side agreements, the Singapore and Chile agreements include core chapters dedicated to these important subjects. It is an improvement.

Both agreements incorporate the key Congressional objective that countries commit not to "fail to effectively enforce" their labor and environmental laws "through a sustained or recurring course of action or inaction, in a manner affecting trade." This commitment is enforceable through dispute settlement.

The agreements also foster cooperative projects to promote environmental protection and worker rights. For example, the United States will assist

Chile in building capacity for wildlife protection and resource management and to improve public information about chemicals released by industrial facilities.

The agreements establish a secure and predictable legal framework that covers all forms of investment, and investor rights are backed up with dispute settlement procedures.

All core obligations of the agreements, including environmental and labor provisions, are subject to enforcement through dispute settlement. Panel proceedings must be open and transparent—that is totally new—including public hearings, public release of legal submissions, and the right of third parties to submit views.

For the first time in a U.S. free trade agreement, panels will be able to impose monetary penalties in the first instance. If those monetary penalties are not paid, trade sanctions will be available as a back up—even in environment and labor cases.

There are those who see this use of fines as a step back. In my view, it is something worth trying, to see how well it works.

The fine mechanism should allow for a greater focus on cooperative problem-solving in resolving disputes. If it doesn't trade sanctions are still available.

Only experience can tell us how well this system will work. Based on that experience, we can reconsider a fines-based system in future agreements if we need to.

Finally, a word about trade laws. Last year's Trade Act instructed the administration to "avoid agreements that lessen the effectiveness" of U.S. trade laws.

These agreements reflect that instruction. There are no provisions weakening our antidumping or countervailing duty laws.

As in NAFTA, the President may exclude Singapore from a global safeguard remedy in certain circumstances. This exception does not apply to Chile.

At the same time, both agreements strengthen the ability of American producers to obtain safeguard relief—if needed—by creating new bilateral safeguards, new textile and apparel safeguards, and a tariff snap-back safeguard for sensitive agricultural products from Chile.

Overall—these agreements cover a lot of ground, and they do it well.

Does that mean that we now have the perfect text for every future agreement? Of course not. There is always room for improvement in trade agreements.

There is no one-size-fits-all solution—whether you are talking about agriculture, intellectual property, environmental standards, or services.

That is why I feel strongly that every new free-trade agreement needs to be adapted to the particular circumstances of the partner country involved. Some of the approaches taken in the Singapore and Chile agreements—in environment, labor, and agriculture, for example—simply may not work for countries at different levels of development or with different political and social structure.

To some extent, these are issues for another day. But I raise them today as fair warning.

I think the consultation process worked well for the Singapore and Chile agreements, but we will need to do even better on the CAFTA, Australia, and other potentially controversial agreements. Otherwise, I believe both the ambitious negotiating schedules and the chances of Congressional approval for future agreements are at serious risk.

Now I want to turn to the implementing bills themselves.

These bills were prepared by the administration in consultation with Finance Committee members and staff. We have followed the sample cooperative drafting procedures that were used for the NAFTA, the Uruguay Round, and other trade agreements considered under fast-track.

I am satisfied with the results of this process.

The two bills before us today are very similar to each other and to the Implementation Acts for NAFTA and the U.S.-Jordan Agreement. They are narrowly tailored to include only what is necessary or appropriate to implement the agreements. Where there are differences between the two bills, they reflect different negotiated outcomes in the two agreements.

I have worked hard to make sure these draft bills meet two criteria. First, the bills must accurately reflect the agreements. Second, the bills must preserve the prerogatives of Congress over trade policy.

One of my main concerns in the Singapore bill has been implementation of the Integrated Sourcing Initiative, or ISI. I have worked to make sure the bill narrowly reflects the purpose of the ISI and does not provide unintended benefits to third countries.

The bill achieves that goal by assuring that Congress will have a vote before the list of ISI products can be expanded. I want to thank USTR and Chairman GRASSLEY for working with me to come up with language that does the job.

I also had some concerns about whether the ISI could create a loophole in our economic sanctions and global safeguard laws. I appreciate the Administration's willingness to think creatively and come up with language in the Statement of Administrative Action that will help avoid potential problems.

Another concern—in both bills—has been the role of Customs. A few months ago, Chairman GRASSLEY and I came to a temporary agreement with the Administration on how to divide authority over Customs between the Departments of Treasury and Homeland Security.

A process is in place to review the initial division of labor in the coming year. So it is critical that nothing in these bills changes the current division or supersedes the review process. Again—I appreciate the willingness of Chairman GRASSLEY and the Administration to work with me on this issue.

Mr. President, the Singapore and Chile free trade agreements are solid agreements that will create economic opportunities for Americans.

With the WTO talks in a stalemate and FTAA talks bogging down, we need to pursue bilateral and regional options to expand trade and grow our economy. These agreements help achieve that goal.

A strong vote in favor of these agreements will send all the right messages—to American workers, farmers and businesses and also to our trading partners—that the United States still stands for trade liberalization. That our trade agenda is on track. And that the right kind of agreements will receive broad Congressional support.

Mr. President 1 year ago this week, the Senate passed the Trade Act of 2002.

This was landmark legislation. It was hard fought—it took the better part of 18 months to write and pass. It was far-reaching—touching on many aspects of our trade agenda. And it had support across the political spectrum—especially in the Senate.

Among its many provisions, the Trade Act improved and expanded the Trade Adjustment Assistance program for farmers and ranchers; renewed the President's Fast-Track trade negotiating authority; and renewed and expanded the Andean Trade Preference Act.

On August 6, we reach the 1-year mark for all these changes. So now is a good time to take stock of what has been accomplished so far.

Have the provisions of the Trade Act been implemented in a timely fashion? Are they working as Congress intended? And what remains to be done?

In sum, what I am here to provide today is a report card on the first year of the Trade Act of 2002.

I am proud of all the work that went into the Trade Act. But the part I am most proud of is the historic improvement and expansion of Trade Adjustment Assistance.

We all know that expanding trade is good for the economy as a whole. It creates new export opportunities for farmers and businesses. It generates employment. It gives consumers more choices and saves them money.

But trade liberalization is not always good for individual workers. Inevitably, some will lose their jobs.

Trade adjustment assistance is the result of a promise first made to American workers by President Kennedy. He promised workers that when our Government's trade policy results in the loss of jobs, we will help dislocated workers retrain, retool, and learn the new skills that they need to return to the workforce. That promise has been consistently renewed by Congress ever since.

Last year's Trade Adjustment Assistance Reform Act grew out of 40 years of experience with the TAA program. Many of the bill's key reforms were suggested in comprehensive studies of the program's strengths and weaknesses done by the GAO and the Trade Deficit Review Commission.

What those reports told us was that there were some ways to make TAA work better. That meant expanding eligibility to cover more workers affected by trade. It meant expanding benefits to assure a more useful retraining experience, and it also meant tightening up the rules in some places to make sure that the program is operating responsibly.

The improved TAA program went into effect last November.

Primary workers who lose their jobs due to import competition continue to be eligible for assistance. But the new, expanded eligibility rules also make assistance available to secondary workers whose companies lose business supplying inputs to primary firms; and workers who lose their jobs when their companies shift production overseas.

Secondary workers are only secondary in the minds of academics who made up the term. The fact is that they suffer the same job loss for the same reason as primary workers. They deserve the same chance to retrain. Now, that is what they get.

In another improvement, workers can now get training and income support for up to 2 years. This is a key change from the old program, where income support ran out before training benefits.

That led many workers to drop out of training before they were done. Dropping out of training defeats the whole purpose of TAA, so this was a critical fix.

Another key fix was the addition of a health care benefit. One of the things that has kept workers out of TAA retraining in the past was their inability to maintain affordable health insurance for their families. Now TAA enrollees are entitled to a 65 percent tax credit toward qualified health insurance expenses while in training.

Workers are also benefitting from a streamlined application process. The Trade Act combined the old TAA and NAFTA-TAA programs into one—so workers no longer have to apply twice under different rules.

Since last November, the Department of Labor has certified 1,242 TAA petitions, making 133,848 workers eligible to apply for TAA benefits.

That includes workers from Stimson Lumber in Libby, MT, and Trout Creek Lumber in Trout Creek, MT. Our lumber industry in Montana has been hard hit by unfairly subsidized Canadian lumber. I hope there will be a long-term solution to this intractable problem that will stop the job losses. I know that getting TAA assistance is not the first choice for any of these workers. But at least it is something—and something much more useful now than it was before.

Most of last year's reforms to TAA have been fully implemented and are working well. I want to thank Secretary Chao, Assistant Secretary DeRocco, and the team at the Education and Training Administration for making this priority. Thanks to their planning and hard work, the Department of Labor has done an exemplary job getting the improved program off the ground.

Still, the work of implementing TAA reform is not done. There are at least four areas where more work lies ahead.

First, the Trade Act required the Department of Labor to process petitions faster—in 40 days rather than 60. Slow petition approvals are a problem that has dogged the TAA program for years. Workers can't get program benefits until their petitions are approved.

I am glad to see that processing times are picking up. But they are not down to 40 days yet. I know the Labor Department appreciates the importance of speeding up processing time—and I certainly urge them to redouble their efforts in that regard.

Second, the Trade Act created a new Alternative TAA program—sometimes called "wage insurance"—aimed at older workers. Instead of enrolling in traditional TAA, these workers can choose to take a lower-paying job and receive a wage supplement from the government for up to 2 years. The goal of Alternative TAA is to encourage on-the-job training—which is usually the best training—and get workers back in jobs faster by making up some of the temporary income loss they may suffer by changing careers.

Alternative TAA is scheduled to go into effect on August 6 of this year. I am increasingly concerned that this deadline will not be met. Labor Department officials have assured me that they fully intended to launch this program on time. I don't doubt their sincerity or resolve.

So far, however, no draft regulations or program details have been made available. That means the public has not been able to comment on how the program might work. Outreach to potential enrollees cannot begin. And time is growing awfully short to get the States involved, even though they are on the front lines in running this program.

Alternative TAA is one of the most important innovations in the Trade Act. If it works, it could provide a whole new model for assisting displaced workers in this country.

One year seems like plenty of time to get this program running. I certainly hope it will be up and running by the deadline set by Congress.

A third outstanding item is the health care tax credit. A refundable credit was available starting last December. Congress set this August as the deadline for making the credit advanceable. For most people, that is the key to affordability.

The tax credit has been off to a somewhat shaky start. That is understandable, given that we are trying something completely new here.

In order for the tax credit to work, each state has to provide at least one group coverage option for eligible workers who do not have COBRA coverage.

As of now, it appears that about 22 states will have their coverage options up and running by August. That means that in more than half the states, some qualified workers will not be able to use their tax credits to by health insurance—unless they have COBRA.

That's not something the Federal Government can ultimately control. It is up to the States to provide retraining workers with qualified options. But I certainly encourage Treasury, HHS, and DOL to redouble their outreach efforts to get the slower States to pick up the pace.

The Trade Act of 2002 for the first time created a TAA program especially for farmers and ranchers. Farmers and ranchers are affected by trade a little differently from manufacturing workers. They don't tend to lose their jobs and go on unemployment insurance. Instead, they can face sudden sharp falls in commodity prices due to trade. These price drops affect their income, but not necessarily their employment status.

TAA for farmers has been a long time in coming. After several failed attempts, history has shown that trying to shoe-horn farmers and ranchers into a TAA program designed for manufacturing workers doesn't work. So Congress created a TAA program that better fits their needs. The eligibility trigger is different—it is based on the effect of trade on commodity prices. But the purpose is the same—give farmers a chance to retool, retrain, and adapt to import competition.

I am very proud of this program. It has the potential to do some real good in Montana and other States where farmers work hard to make it in a global economy. And it can help bolster support for trade liberalization in the agricultural community.

USDA has done some solid thinking on how to put this program together. I commend them on their outreach to

Congress and to the private sector during the planning stages.

But the effort got off to a very slow start. Even though things are back on track now, they are running way behind schedule. Congress set aside $90 million for this program in fiscal year 2003 and told USDA to get the program operational by March of this year. That didn't happen.

I know that USDA is close to finalizing the regulations so they can get TAA for Farmers up and running. I urge Secretary Veneman to do everything in her power to make sure that the program gets started in time to use the funds that Congress intended for our farmers in this fiscal year.

What happens next?

The first step is getting all the changes to TAA up and running. I hope that we are in the home stretch on that.

Then we need to start tracking results. Seeing how well the new, improved program is working. To that end, Senator GRASSLEY and I have jointly asked the GAO to do an assessment of how well TAA has been working in the first year under the new law. We have to wait long enough for meaningful data to be collected. So that report is due out next summer, and I am looking forward to the results.

In the meantime, I will be keeping my eye on TAA. A few important issues to watch will be training funds: Was the increase in the Trade Act enough to meet increased enrollment?, and performance evaluation: Are DOL and the states cooperating to generate good data for tracking program participation and outcomes?

One last item for future action is TAA for Firms. This program, which operates out of the Department of Commerce, provides technical assistance to small and medium-sized companies that face layoffs due to import competition. The companies themselves chip in half the money to fund their adjustment plans. And they pay back the Federal share in tax revenues and foregone unemployment services when they succeed.

For many years, TAA for Firms has been chronically underfunded. A backlog of approved but unfunded adjustment proposals is building up in every State.

In order to begin reducing this backlog, in the Trade Act of 2002, Congress reauthorized TAA for Firms at an increased funding level of $16 million annually. The President's budget for fiscal year 2004, however, proposes funding at only $13 million.

This is not enough, and I view it as unacceptable backsliding by the administration. I encourage our appropriators to fund this program fully at the authorized level of $16 million.

Aside from funding, I think the biggest threat to the effective operation of the TAA for Firms program is a pending proposal to change its management structure. This program works well under a small centralized management in Washington, supplemented by the excellent work of 12 regional Trade Adjustment Assistance Centers.

The program is not broken and does not need to be fixed. That is why I oppose the department's plans to break the Washington office up into seven separate offices scattered around the country. It seems like an inefficient use of government resources that will only complicate oversight and jeopardize consistent decision-making. This is not a partisan issue—it's just good government.

That is why I have introduced S. 1120—a bill to move the FAA for Firms program to a different part of the Commerce Department, where it can continue to be centrally managed. The bill currently has 12 co-sponsors, and I urge my colleagues to support it.

In addition to TAA, there were, of course, several other very important provisions in the Trade Act of 2002. Most significantly—Trade Promotion Authority.

After a lapse of 8 years, we were able to renew the fast-track procedures that allow the President to submit trade agreements to Congress for an up-or-down vote with no amendments. It is these very procedures that bring us to the floor today to debate, and ultimately vote on, the Singapore and Chile FTAs.

Some people say our trade agenda was stalled—or even dead—before we passed TPA. I strongly disagree.

We completed China and Taiwan's WTO accessions. We passed AGOA, the Jordan FTA and the Vietnam trade agreement. We know from experience that good, strong trade bills with bipartisan support can pass the Congress even without fast-track.

But fast-track makes this more likely. And—particularly when we are negotiating complex agreements with large groups of countries in the WTO or FTAA—there is just no other way to get our trading partners to put their best deals on the table. They won't show their bottom line if they think Congress can come back and renegotiate the deal.

So getting fast-track renewed is an important accomplishment. It lasts for 3 years—extendable to 5. I hope we use it well.

I want to see us use fast track to negotiate trade agreements that serve the commercial objectives of our farmers and businesses. Agreements that will create jobs for our workers and real value for consumers.

These are the kinds of agreements that will build domestic support for our trade agenda. With that support, our progress on trade will become self-reinforcing—and we will not need to worry about another lengthy lapse in fast-track.

For the last few months I have been working—together with Congressman DOOLEY and others—to reach out to business and agriculture groups and others interested in trade to hear their priorities for commercially meaningful trade agreements. I plan to continue this process and to consult closely with the administration on what I learn.

That leads me to just a few comments on consultation. The bills before us today are the first to be considered under the fast-track procedures approved last year. And one of the key refinements in the bill was to beef up the consultation process between the administration and Congress.

I want to thank Ambassador Zoellick and his staff for the efforts they have put into these consultations. Given the nature and pace of negotiations, there is always a balance to be struck between timely and meaningful consultation with Congress and quick turnaround by our negotiators. I hope they will continue their efforts to improve Congressional access to draft negotiating documents and keep the lines of communication open even when the pace of negotiations gets frantic.

I also want to commend both USTR and Senator GRASSLEY and his staff for the drafting process for the Singapore and Chile bills. It was very cooperative. This is the way the informal drafting process is supposed to work under fast-track. I think it sets a good precedent as new agreements come down the road.

Finally, I want to turn to another part of the Trade Act—the renewal and expansion of the Andean Trade Preferences Act.

Early reports slow rising exports from ATPA countries to the U.S. in some of the new categories to receive benefits. Reports from USTR and the ITC indicate that ATPA continues to play a critical role in economic diversification and drug eradication efforts in the Andean region.

As always, that doesn't mean our trade relationship with the region is trouble-free. For one thing, U.S. companies have a number of unresolved investment disputes with Andean countries. Even with the pressure USTR could bring to bear prior to ATPA renewal, we were not able to resolve them all. For example, Ecuador continues to deny VAT payment credits that it owes to American companies—despite continued promises at the highest levels of government.

Advancing the trade agenda through new agreements is important—but so is making sure that our trading partners are living up to the commitments they have already made. Congress will be looking at ATPA again in a few years, and we need to keep our eyes on the region.

The Trade Act of 2002 was the most significant and far-reaching piece of trade legislation to come through the

Congress in 14 years. I am proud to have played a central role in shaping it. Overall, my report card on implementation is pretty positive.

As implementation on TAA moves forward, I intend to continue monitoring the administration's efforts and the impact that the program has on eligible workers. I also plan to continue working on trade legislation that advances our agenda of job creation and economic growth. There will be plenty of opportunities ahead.

ENERGY TAX INCENTIVES—S. 14

Mr. BAUCUS. Mr. President, we are about to vote on the comprehensive Energy legislation. While the Senate has debated numerous aspects of this legislation, there has been a little discussion—not very much, I might add—of the tax provisions in this bill. Yesterday, Senator GRASSLEY, Senator BINGAMAN, Senator DOMENICI and I filed the Energy Tax Incentives Act of 2003 as an amendment to S. 14.

I ask unanimous consent to have printed in the RECORD a revenue table and the committee report at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Mr. President, this amendment reflects the energy tax incentives reported out by the Finance Committee in April. The incentives in this amendment enjoy broad support, across the political spectrum.

These tax incentives are also very similar to those in last year's energy tax bill. In April of last year, they won overwhelming support on the Senate floor.

I was disappointed that the conferees did not reach an agreement on the larger energy package last year. I am hopeful that this year, we will see these provisions signed into law.

Before explaining the specific incentives proposed in this amendment, let me first take a few moments to address the nature of the energy challenge facing the nation.

The last few years have seen energy crises, characterized by energy supply shortages and price spikes. We saw rolling blackouts in the State of California. Energy price jolts affected nearly all Americans. Energy-related disruptions were widespread and severe.

Folks back in my home state of Montana have been particularly hard hit. Many people in Montana have to drive great distances just to get to work. And high gas and energy prices raise the costs of doing business for small businesses, farmers, and ranchers, alike.

Today, we face continued uncertainty in world energy markets. Earlier this year, energy prices soared to record levels. This was due, in part, to uncertainty over the war in Iraq. And it was also due, in part, to the colder-than-average winter.

Natural gas markets raise growing concerns. This May, Federal Reserve Chairman Alan Greenspan predicted that growing demand for natural gas and limited supplies would continue to raise natural gas prices. Chairman Greenspan warned that this situation could put American companies at a disadvantage relative to their overseas competitors.

Since then, natural gas prices have continued to climb. Today, natural gas prices are nearly double last year's levels. A year ago, natural gas prices across the nation averaged about $3 per thousand cubic feet. This year, during the last three days of June, trading on the New York Mercantile Exchange pushed prices up to an average of $5.98 per thousand cubic feet.

Natural gas is a key input and cost of doing business in the manufacturing sector. Manufacturing is very energy-intensive. Manufacturers use energy to heat factories, to heat boilers to make steam and produce electricity to run machines. Manufacturing accounts for nearly one-half of the nation's natural gas use.

Higher gas prices place additional competitive pressures on these businesses. The National Association of Manufacturers reports that rising energy costs are causing many companies to close their operations.

Slowing in the manufacturing sector accounts for much of the current weakening in our economy. And this means that hard-working Americans are losing jobs—high-paying jobs—jobs that often move overseas.

Rising natural gas prices also affect American consumers. The Department of Energy predicts that household bills will be about 20 percent higher this winter than last year.

Gasoline prices have also raised concerns. Last year at this time, the national average retail price for regular gasoline was about $1.40 per gallon. Earlier this year, prices peaked at almost $1.70 per gallon. Last week's average price was $1.52 per gallon. The Department of Energy expects prices to remain at this higher level throughout the year. This volatility in U.S. gas prices has a sharp economic effect, disrupting businesses and lives.

The average U.S. household uses about 1,100 gallons of gasoline a year in their cars. Thus the increase in gas prices over last year means that an average household is paying $132 more a year just for their car's gasoline. And because gas prices peaked at almost $1.70 per gallon earlier this year, the actual increase in household spending on gasoline was much greater.

Such a cost difference can have severe effects on businesses. Consider a business that relies primarily on trucking services for shipping its products. For these companies, even modest price volatility can break the business.

The outlook for both the gasoline and natural gas markets is not promising. The Department of Energy projects that during the next 20 years, world oil demand will increase by more than 50 percent, from 76 million barrels per day in 2000 to nearly 120 million barrels per day in 2020.

The more reliant we are on petroleum products, the more that oil price fluctuations will affect us. And continued political uncertainly and the treat of terrorism will worsen this vulnerability.

To address these energy challenges, the Energy Committee has designed the underlying bill. And to contribute to these efforts, earlier this year, the Finance Committee marked up a bill providing tax incentives to support these broader energy policy objectives. Those incentives are reflected in the pending amendment.

The Finance Committee amendment consists of a balanced package of targeted incentives directed to alternative energy, traditional energy production, and energy efficiency.

The amendment would accomplish its goals in three main ways:

First, it would encourage new energy production, especially production from renewable sources.

Second, it would encourage the development of new technology.

And third, it would encourage energy conservation.

Production, technology, and conservation. Let me explain each in turn.

First, new production is critical. The level of U.S. energy production directly affects our dependence on foreign sources of energy. If we can increase U.S. energy production faster than demand, we can become less reliant on foreign energy. The opposite, however, is taking place.

As this chart shows, through 2020, America's energy use is increasing more rapidly than domestic energy production. As a result, our reliance on foreign sources of energy is increasing.

Here is how we address the problem: Through targeted incentives, this amendment would encourage the development of both traditional and alternative sources of production, thereby boosting our overall energy resources. This will help promote American energy independence, which will contribute to both greater economic growth and national security.

The use of tax incentives to promote energy development stretches back to the enactment of the income tax in 1916, with tax incentives for the production of oil and gas. And in 1978, we created tax incentives for renewable fuels and for conservation.

This amendment would provide tax incentives for the development of renewable resources and alternative fuels. Renewables provide cleaner, safer alternatives to more drilling and more nuclear facilities.

This amendment would extend the wind and biomass credit for an additional 5 years. And the amendment would qualify many more sources—geothermal, solar, plant life, and others—as renewable fuel sources.

At the same time, we recognize that the U.S. will continue to rely on oil, gas, and coal production. To further boost production, the amendment would create a new credit for oil and gas production from marginal wells. And the amendment would simplify cost recovery of geological and geophysical expenditures. The amendment would also include several tax incentives to help the oil and gas industry to bring supply to market.

While this amendment would thus support exploration and production of more traditional resources, it would also encourage cleaner use of these fuels.

For example, the amendment includes several incentives to encourage electric utilities to invest in technologies that will make their coal-fired power plants cleaner-burning and more efficient. This will help make coal a more environmentally-friendly energy source into the future, even as we look for alternatives.

Energy sector activities are often front and center in environmental debates. Congress needs to consider environmental concerns when crafting its energy legislation. By carefully targeting our tax incentives, we can encourage more environmentally-friendly activities, such as the use of renewable resources and the transition towards cleaner, more-efficient technologies.

Let me turn to the second key element of the amendment: new technology.

New technology can be the cornerstone of energy independence and cleaner energy. In the future, electricity, new and alternative fuels, and fuel cells will power our cars.

But to get there, we will need substantial investments to create the building blocks for future technologies. Why? Because today's transportation sector is 97 percent reliant on petroleum based fuel. That's right. 97 percent.

We need a lot of change to make the transportation sector cleaner and more fuel-efficient. We need to make significant investments to bring about this change.

In addition, we need to promote the use of cleaner, more-efficient technologies throughout the energy sector. Such state-of-the-art technologies are often more expensive than more-traditional technologies. Tax incentives help to bridge the gap in cost between these cleaner technologies and traditional technologies.

Here is what we do.

We create tax credits for the purchase of new technology vehicles. These vehicles of the future will be powered by alternative fuels, fuel cells, and by electric batteries.

We also provide tax credits for the purchase of hybrid vehicles, which run partly on electricity and partly on gasoline.

What is so great about these vehicles? Well for starters, fuel cell and electric vehicles are zero-emissions vehicles. And hybrid and alternative fuel vehicles can speed us toward the development of these zero-emissions vehicles.

And each of these vehicle types can significantly improve fuel economy and energy independence. To make sure, we provide certain tax credits only if the vehicle achieves large improvements in fuel economy.

Many new vehicle technologies require new fuels and infrastructure to deliver those fuels. Therefore, the amendment provides tax incentives for the installation of new-technology refueling stations and for the purchase of alternative fuels.

We also have developed a number of incentives to promote the use of cleaner-burning, state-of-the-art technologies throughout the energy sector.

We create incentives for clean coal. Under the amendment, if you retrofit to use currently available clean coal technology, you are eligible for a production tax credit. If you use advanced technology, you are eligible for both an investment credit and a production credit.

Investing in these cleaner-burning technologies in the coal and transportation sectors will have positive long-term environmental effects, particularly for air quality.

Other incentives will promote the development of renewable energy technology. These and other tax incentives will help advance further technological development. This will have a long-term stimulative effect on America's economy.

The third key element of the amendment is conservation. Just as much as new production, conservation promotes energy independence. It also helps reduce pollution and thereby improve our health and the environment in the longer term.

In crafting these incentives, we have struck a balance between production and conservation. Increasing conservation—reducing energy consumption—will help reduce our reliance on foreign sources of energy.

And tax incentives can be effective means of encouraging conservation. A couple of years back, Economist Kevin Hassett told the Committee that "a 10 percentage point credit would likely increase the probability of investing—in conservation—by about 24 percent."

The amendment includes several incentives to encourage businesses and homeowners to use energy-efficient equipment, building materials, and appliances. These tax incentives can make the difference, as such products tend to be more expensive than more-traditional products and materials.

As Energy Secretary Abraham said during a tour of the National Renewable Energy Laboratory in Golden, Colorado, earlier this month: Americans can help mitigate an expected natural-gas shortage during the coming year by reducing energy use and adopting efficiency measures for heating and cooling homes and offices.

The amendment would give a tax credit to reduce the cost of the energy-efficient technology, enabling individuals to purchase energy-efficient refrigerators and other appliances.

The amendment would also empower individuals with more complete energy consumption information by encouraging metering devices. These types of metering devices allow people to make more-informed decisions about the use of energy and thereby save energy in their homes.

Over time, the benefits of tax investments in energy conservation will reduce monthly energy bills. These cost savings can have the same economic effect as a tax cut—more dollars in the hands of American families.

Those are the three key elements of the amendment. New production, new technology, and conservation.

The amendment includes other important provisions. One in particular is electric utility restructuring. This is important for investor-owned utilities, municipal utilities, and cooperatives, like those back in Montana.

Other provisions address nuclear decommissioning funds and the treatment of cooperatives.

Finally, these tax provisions address market inefficiencies by providing a real economic benefit for engaging in more environmentally-sensitive activities. In short, this amendment is good environmental policy and good energy policy.

This is a good amendment. It is a package of tax incentives that are important in their own right and that will complement the broader energy bill. It will provide a key component of our emerging environmental and energy policies.

I support Chairman GRASSLEY's position that this amendment generally should represent the position of the Finance Committee and the Senate during conference negotiations of the Energy Bill.

ESTIMATED REVENUE EFFECTS OF MODIFICATIONS TO S. 1149, THE "ENERGY TAX INCENTIVES ACT OF 2003," FOR CONSIDERATION ON THE SENATE FLOOR

[Fiscal years 2004–2013, in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–08	2004–13
Extension and Modification of Renewable Electricity Production Tax Credit—Extend (property placed in service before 1/1/07 (1/1/05 in the case of open-loop)) and modify the section 45 credit for producing electricity from certain sources (credit is equal to 1.8 cents per kilowatt hour for production from post-enactment facilities after 12/31/03).	esfqfa DOE	−111	−205	−298	−387	−384	−354	−326	−303	−287	−277	−1,381	−2,928
Alternative Motor Vehicles and Fuel Incentives:													
1. Credits for purchase of alternative motor vehicles, modifications to credit for electric vehicles, and extension of deduction for qualified clean fuel vehicles and property (deduction for property placed in service before 1/1/08 (1/1/12 in the case of hydrogen fuel); credit for alternative and electric vehicles purchased before 1/1/07 (1/1/12 in the case of hydrogen).	ppisa DOE	−151	−428	−649	−550	−17	38	−19	−2	−11	−19	−1,795	−1,767
2. Credit for installation of alternative fueling stations credit for property placed in service before 1/1/08 (1/1/12 in the case of hydrogen).	ppisa DOE	−2	−3	−3	−3	−1	(1)	(1)	(1)	(1)	(1)	−11	−10
3. Credit for retail sale of alternative fuels (30 cents/gallon in 2003, 40 cents in 2004, 50 cents in 2005 and 2006).	DOE	−83	−169	−215	−90	−1	−1	−1	−1	....	....	−558	−563
4. Modifications to small ethanol producer credit and extension of section 40 credit (through 12/31/10).	tyba DOE	−16	−34	−34	−34	−41	−49	−50	−29	−3	....	−159	−290
5. Tax incentives for biodiesel (sunset 12/31/05 [3,4].	fsa DOE	−20	−29	−8	....	....	....	....	....	....	....	−57	−57
6. Alcohol fuel and biodiesel mixtures excise tax credit [4].	fsa 9/30/03	31	46	49	48	45	43	40	36	33	30	221	402
7. Sale of gasoline and diesel fuel at duty-free sales enterprises.	DOE	*No Revenue Effect*											
Total of Alternative Motor Vehicles and Fuel Incentives.	....	−241	−617	−860	−629	−15	29	8	8	19	11	−2,359	−2,285
Conservation and Energy Efficiency Provisions:													
1. Business credit for construction of new energy efficient homes.	ppb DOE & 12/31/07	−63	−102	−98	−108	−68	−21	−4	....	....	....	−440	−465
2. Credit for energy efficient appliances	apb DOE & 12/31/07	−58	−82	−68	−46	−23	−8	−2	(2)	....	....	−277	−288
3. Credit for residential fuel cell, solar, and other energy efficient property.	ppb 1/1/04 & 12/31/07	−30	−54	−61	−71	−62	....	....	....	....	....	−278	−278
4. Business tax incentives for qualifying fuel cells and microturbines (sunset 12/31/06).	ppisb DOE & 12/31/07	−5	−9	−14	−9	−4	−3	−1	(5)	(5)	(5)	−43	−46
5. Allowance of deduction for certain energy efficient commercial building property.	tyba DOE & ccb 1/1/10	−28	−51	−74	−101	−130	−139	−41	10	9	8	−385	−537
6. Three-year applicable recovery period for qualified energy management devices (excluding ancillary equipment):													
a. Electric devices (sunset for property placed in service after 12/31/07).	ppsia DOE	−9	−20	−42	−70	−61	−13	16	26	22	14	−202	−137
b. Water submetering devices (sunset for property placed in service after 12/31/07).	ppisa DOE	−4	−11	−21	−31	−24	−1	12	15	11	5	−91	−49
7. Energy credit for combined heat and power system property.	ppisa DOE & ppisb 1/1/07	−68	−79	−78	−51	−24	−11	−1	4	6	6	−300	−296
8. Credit for energy efficiency improvements to existing homes.	tyba DOE & tybb 1/1/07	−55	−78	−78	−63	−62	....	....	....	....	....	−274	−274
Total of Conservation and Energy Efficiency Provisions.	....	−320	−486	−534	−550	−396	−196	−21	55	48	33	−2,290	−2,370
Clean Coal Incentives—Investment and Production Credits for Clean Coal Technology:													
1. Credit for production from qualifying clean coal technology units.	pa DOE	−31	−58	−70	−80	−87	−90	−92	−94	−97	−97	−326	−797
2. Credit for investment in qualifying advanced clean coal technology (for property placed in service after the date of enactment and before 1/1/17 (1/1/13 in the case of advanced pulverized coal or atmospheric fluidized bed)).	ppsia DOE	−20	−47	−49	−41	−27	−111	−94	−39	−28	−18	−184	−475
3. Credit for production of electricity from qualifying advanced clean coal technology units.	pa DOE	−4	−17	−36	−55	−70	−96	−132	−153	−162	−168	−183	−895
Total of Clean Coal Incentives—Investment and Production Credit for Clean Coal Technology.	....	−55	−122	−155	−176	−184	−297	−318	−286	−287	−283	−693	−2,167
Oil and Gas Provisions:													
1. Credit for marginal domestic oil and natural gas well production.	DOE	*No Revenue Effect*											
2. Natural gas gathering pipelines treated as 7-year property.	ppsia DOE	−3	−5	−8	−12	−41	−49	−58	−66	−77	−88	−69	−407
3. Expensing of capital costs incurred and credit for production in complying with Environmental Protection Agency sulfur regulations for small refiners.	epoia 1/1/03	−9	−7	−8	−12	−27	−52	−21	3	4	5	−63	−125
4. Determination of small refiner exception to oil depletion deduction—modify definition of independent refiner from daily maximum run less than 50,000 barrels to average daily run less than 60,000 barrels.	tyea DOE	−6	−7	−8	−8	−8	−8	−8	−8	−9	−9	−37	−81

ESTIMATED REVENUE EFFECTS OF MODIFICATIONS TO S. 1149, THE "ENERGY TAX INCENTIVES ACT OF 2003," FOR CONSIDERATION ON THE SENATE FLOOR—Continued

[Fiscal years 2004–2013, in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–08	2004–13
5. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/06).	DOE	-22	-35	-36	-13	....	....	....	....	....	....	-106	-106
6. Amortize all geological and geophysical ("G&G") expenditures over 2 years.	cpoii tyba DOE	234	-212	-449	-428	-320	-261	-226	-194	-188	-194	-1,175	-2,238
7. Amortize all delay rental payments over 2 years.	apoii tyba DOE	85	11	-64	-62	-35	-9	-1	-1	-1	-1	-65	-77
8. Extension and modification of section 27 credit for facilities placed in service after the date of enactment and before 1/1/07, including viscous oil, coalmine gas, agricultural and animal waste, and refined coal; extension and modification of section 29 credit certain coal gasification and coke production from 1/1/02 through 12/31/05; clarification of definition of landfill gas facility; study of coal bed methane; for new facilities described in section 29 (c)(1)(A) & (B), credit rate is equal to $3.00 Barrel of Oil Equivalent; and 200,000 cubic feet per day limit[6].	DOE	-189	-134	-509	-601	-469	-230	-50	-(2)	....	....	-2,083	-2,363
9. Natural gas distribution lines treated as 15-year property.	ppisa DOE	-16	-38	-60	-90	-119	-145	-171	-200	-228	-242	-323	-1,309
10. Provisions Relating to Alaska Natural Gas:													
a. Credit for Alaska Natural Gas:	(7)	*No Revenue Effect*											
b. Treat certain Alaska pipeline property as 7-year property.	generally ppisa 12/31/12	....	....	....	....	....	....	....	....	....	-150	....	-150
11. Exempt certain prepayments for natural gas from tax-exempt arbitrage rules.	oia DOE	(2)	-1	-1	-2	-3	-3	-4	-5	-5	-6	-7	-31
Total of Oil and Gas Provisions	....	74	-608	-1,143	-1,228	-1,022	-757	-539	-472	-504	-685	-3,928	-6,887
Electric Utility Restructuring Provisions:													
1. Modification to special rules for nuclear decommissioning costs—transfer of non-qualified funds (buyer gets deduction over live of plant); eliminate cost of service requirement; and clarify treatment of fund transfers.	tyba DOE	-47	-69	-76	-85	-94	-103	-113	-125	-137	-151	-371	-1,000
2. Treatment of certain income of electric cooperatives.	tyba DOE	-8	-18	-21	-23	-25	-27	-30	-33	-35	-38	-95	-258
3. Sales or dispositions to Implement Federal Energy Regulatory Commission or State electric restructuring policy prior to 1/1/08.	ta DOE	-1,321	-1,183	-1,273	-817	476	1,013	1,033	1,012	818	580	-4,118	338
Total of Electric Utility Restructuring Provisions.	....	-1,376	-1,270	-1,370	-925	357	883	890	854	646	391	-4,584	-920
Additional Provisions:													
1. Extension of accelerated depreciation and wage credit benefits for businesses on Indian reservations (through 12/31/05).	DOE	2	-172	-290	-104	21	72	113	92	50	6	-543	-210
2. Study of effectiveness of certain provisions by GAO.	DOE	*No Revenue Effect*											
3. Repeal of the 4.3 cent tax on rail and barge diesel[8].	1/1/04	-107	-156	-161	-166	-171	-176	-182	-187	-192	-197	-761	-1,695
4. Modify research credit with respect to energy research.	ea DOE	-3	-7	-4	-2	-1	-1	(2)	....	....	....	-18	-18
Total of Additional Provisions	....	-108	-335	-455	-272	-151	-105	-69	-95	-142	-191	-1,322	-1,932
Revenue Provisions:													
1. Provisions relating to reportable transactions and tax shelters.	various dates after DOE[9]	92	115	119	120	124	131	139	150	164	179	570	1,333
2. Provisions to Discourage Corporate Expatriation:													
a. Tax treatment of inversion transactions.	(10)	193	117	140	168	202	242	290	348	418	493	820	2,611
b. Excise tax on stock compensation of insiders in inverted corporations.	generally 7/11/02	35	10	10	10	10	10	10	10	10	10	75	125
c. Reinsurance agreements	rra 4/11/02	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	2	5
3. Extend IRS User Fee (through 9/30/13)[11].	DOE	33	34	35	36	38	39	41	42	44	45	176	386
4. Add Hepatitis A to the list of taxable vaccines (including outlay effects).	(12)	8	9	9	9	9	9	9	9	9	9	44	89
5. Modification of the tax treatment of individual expatriation and residency termination.	(13)	19	18	21	24	28	32	37	43	49	56	100	328
Total of Revenue Provisions	....	380	303	334	367	411	463	526	602	694	792	1,797	4,877
Net total	....	-1,757	-3,340	-4,481	-3,800	-1,384	-334	151	363	187	-209	-14,760	-14,603

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[1] Gain of less than $1 million.

[2] Loss of less than $500,000.

[3] This provision may also have indirect effects on Federal outlays for certain farm programs. Outlay effects will be estimated by the Congressional Budget Office.

[4] This is a preliminary estimate of the revenue effects of this provision. This preliminary estimate assumes that all of the ethanol and biodiesel subsidies would be provided through excise tax credits and refunds and income tax credits. If a portion of the subsidies is obtained in the form of outlay payments, the overall budget effect could be significantly greater than this preliminary estimate of revenue effects. The outlay effects of this provision will be estimated by the Congressional Budget Office.

[5] Gain of less than $500,000.

[6] Qualified facilities would be given credit for three years of production (five years in the case of refined coal).

[7] Effective the later of January 1, 2010, or initial date of interstate transportation of qualifying gas.

[8] Estimate assumes that the rail diesel LUST tax of 0.1 cents per gallon would be retained.

[9] Effective dates for provisions relating to reportable transactions and tax shelters: the penalty for failure to disclose reportable transactions is effective for returns and statements the due date of which is after the date of enactment; the modification to the accuracy-related penalty for listed or reportable transactions is effective for taxable years ending after the date of enactment; the tax shelter exception to confidentiality privileges is effective for communications made on or after the date of enactment; the material advisor disclosure provision applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment; the investor list provision applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment, and the penalty on promoters of tax shelters is effective for activities after the date of enactment.

[10] Effective for certain transactions completed after March h20, 2002, and would also affect certain taxpayers who completed transactions before March 21, 2002.

[11] Estimate provided by the Congressional Budget Office.

[12] Effective for vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment.

[13] Effective for individuals who expatriate or terminate long-term residency after February 27, 2003.

Legend for "Effective" column: apoii=amounts paid or incurred in; apb=appliances produced between; ccb=construction completed by; cpoii=costs paid or incurred in; DOE=date of enactment; ea=expenditure after; epoia=expenses paid or incurred after; esfqfa=electricity sold from qualifying facilities after; fsa=fuel sold after; oia=obligation issued after; pa=production after; ppb=property purchased between; ppisa=property placed in service after; ppisb=property placed in service between; rra=risk reinsured after; ta=transactions after; tyba=taxable years beginning after; tybb=taxable years beginning before.

Note.—Details may not add to totals due to rounding. Date of enactment is assumed to be November 1, 2003.

EXHIBIT 2

[COMMITTEE PRINT]

TECHNICAL EXPLANATION OF THE ENERGY TAX INCENTIVES ACT OF 2003

I. LEGISLATIVE BACKGROUND

The Senate Committee on Finance Marked up an original bill, S. (the "Energy Tax Incentives Act of 2003"), on April 2, 2003, and, with a quorum present, ordered the bill favorably reported by a voice vote on that date.

NOTE: This bill was converted into Senate Amendment 1424.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

A. EXTENSION AND MODIFICATION OF THE SECTION 45 ELECTRICITY PRODUCTION CREDIT

(Sec. 101 of the bill and sec. 45 of the Code)

PRESENT LAW

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities (sec. 45). The amount of the credit is 1.5 cents per kilowatt hour (indexed for inflation) of electricity produced. The amount of the credit was 1.8 cents per kilowatt hour for 2002. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004. The credit is allowable for production during the 10-year period after a facility is originally placed in service. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party. In the case of a poultry waste facility, the taxpayer may claim the credit as a lessee/operator of a facility owned by a governmental unit.

Closed-loop biomass is plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste). The credit also is not available to taxpayers who use standing timber to produce electricity. Poultry waste means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

The credit for electricity produced from wind, closed-loop biomass, or poultry waste is a component of the general business credit (sec. 38(b)(8)). The credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000, or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39). To coordinate the carryback with the period of application for this credit, the credit for electricity produced from closed-loop biomass facilities may not be carried back to a tax year ending before 1993 and the credit for electricity produced from wind energy may not be carried back to a tax year ending before 1994 (sec. 39).

REASONS FOR CHANGE

The Committee recognizes that the section 45 production credit has fostered additional electricity generation capacity in the form of non-polluting wind power. The Committee believes it is important to continue this tax credit by extending the placed in service date for such facilities to bring more wind energy to the United States electric grid. The Committee also believes it is important to extend the placed in service date for closed-loop biomass facilities to give those potential fuel sources an opportunity in the market place. The Committee also believes it is appropriate to include in qualifying facilities those facilities that co-fire closed-loop biomass fuels with coal, with other biomass, or with coal and other biomass.

Based on the success of the section 45 credit in the development of wind power as an alternative source of electricity generation, the committee further believes the country will benefit from the expansion of the production credit to certain other "environmentally friendly" sources of electricity generation such as open loop biomass and agricultural waste nutrients, geothermal power, solar power, biosolids and sludge, small irrigation systems, and trash combustion. While not all of these additional facilities are pollution free, they do address environmental concerns related to waste disposal. In addition, these potential power sources further diversify the nation's energy supply.

In the current electricity market, the Committee believes that a subsidy via a tax credit of 1.8 cents per kilowatt-hour should provide sufficient incentive to investors to enter the market with alternative sources of electricity. Therefore the Committee believes indexing of the credit amounts for years after 2003 is unwarranted.

Because tax-exempt persons such as public power systems and cooperatives provide a significant percentage of electricity in the United States, the Committee believes it is important to provide the incentive for production from renewable resources to these persons in addition to taxable persons.

Lastly, the Committee believes that certain pre-existing facilities should qualify for the section 45 production credit, albeit at a reduced rate. These facilities previously received explicit subsidies, or implicit subsidies provided through rate regulation. In a deregulated electricity market, these facilities, and the environmental benefits they yield, may be uneconomic without additional economic incentive. The Committee believes the benefits provided by such existing facilities warrant their inclusion in the section 45 production credit.

EXPLANATION OF PROVISION

The provision extends the placed in service date for wind facilities, and closed loop biomass facilities to facilities placed in service after December 31, 1993 (December 31, 1992 in the case of closed-loop biomass) and before January 1, 2007.

The provision provides that, for facilities placed in service after the date of enactment, the amount of the credit will be 1.8 cents per kilowatt hour with no adjustment for inflation for production in years after 2003.

The provision also defines six new qualifying energy resources: biomass (including agricultural livestock waste nutrients), geothermal energy, solar energy, small irrigation power, biosolids and sludge, and municipal solid waste.

Qualifying biomass facilities are facilities using biomass to produce electricity that are placed in service prior to January 1, 2005. Qualifying agricultural livestock waste nutrient facilities are facilities using agricultural livestock waste nutrients to produce electricity that are placed in service after the date of enactment and before January 1, 2007.

For a facility placed in service after the date of enactment, the ten-year credit period commences when the facility is placed in service. In the case of a biomass facility originally placed in service before the date of enactment, the ten-year credit period is reduced to a five-year period and commences after December 31, 2003 and the otherwise allowable 1.8 cent-per-kilowatt-hour credit is reduced to a 1.2 cent-per-kilowatt-hour credit.

The provision modifies present law to provide that qualifying closed-loop biomass facilities include any facility originally placed in service before December 31, 1992 and modified to use closed-loop biomass to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, before January 1, 2007. The taxpayer may claim credit for electricity produced at such qualifying facilities with the credit amount equal to the otherwise allowable credit multiplied by the ratio of the thermal content of the closed loop biomass fuel burned in the facility to the thermal content of all fuels burned in the facility.

Qualifying geothermal energy facilities are facilities using geothermal deposits to produce electricity that are placed in service after the date of enactment and before January 1, 2007. Qualifying solar energy facilities are facilities using solar energy to generate electricity that are placed in service after the date of enactment and before January 1, 2007. In the case of qualifying geothermal energy facilities and qualifying solar energy facilities, taxpayers may claim the otherwise allowable credit for the five-year period commencing when the facility is placed in service.

A qualified small irrigation power facility is a facility originally placed in service after the date of enactment and before January 1, 2007. A small irrigation power facility is a facility that generates electric power through an irrigation system canal or ditch without any dam or impoundment of water. The installed capacity of a qualified facility is less than five megawatts.

A qualified biosolids and sludge facility is a facility originally placed in service after the date of enactment and before January 1, 2007. A biosolids and sludge facility is a facility that uses the waste heat from the incineration of biosolids and sludge to produce electricity. For example, if the taxpayer conveys biosolids and sludge into a glass furnace for the purpose of stabilizing the inorganic contents of the biosolids and sludge in an amorphous glass matrix (and potentially selling the resulting glass aggregates), and the taxpayer uses the waste heat from the glass furnace to generate steam to power a turbine and produce electricity, the electricity produced would be from a qualified biosolids and sludge facility. In addition, a qualifying biosolids and sludge facility is a facility for which the taxpayer has not claimed credit as a combined heat and power system property as defined elsewhere in this bill.

Municipal solid waste facilities (or units) are facilities (or units) that burn municipal solid waste (garbage) to produce steam to drive a turbine for the production of electricity. Qualifying municipal solid waste facilities (or units) include facilities (or units) placed in service after the date of enactment and before January 1, 2007. In the case of qualifying municipal solid waste facilities (or units), taxpayers may claim the otherwise allowable credit for the five-year period commencing when the facility (or unit) is placed in service.

Biomass is defined as any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from any of forest-related resources, solid wood waste materials, or agricultural sources. Eligible forest-related resources are mill and harvesting residues, precommercial thinnings, slash, and brush. Solid wood waste materials include waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings. Agricultural sources include orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues. However, qualifying biomass for purposes of this provision does not include municipal solid waste (garbage), gas derived from biodegradation of solid waste, or paper that is commonly recycled. Agricultural waste nutrients are defined as livestock manure and litter, including bedding material for the disposition of manure. Agricultural livestock comprise bovine, swine, poultry, and sheep among others.

Geothermal energy is energy derived from a geothermal deposit which is a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure).

Biosolids and sludge are the residue or solids removed during the treatment of commercial, industrial, or municipal wastewater.

Municipal solid waste is "solid waste" as defined in section 2(27) of the Solid Waste Disposal Act.

The provision provides that certain persons (public power systems, electric cooperatives, rural electric cooperatives, and Indian tribes) may sell, trade, or assign to any taxpayer any credits that would otherwise be allowable to that person, if that person were a taxpayer, for production of electricity from a qualified facility owned by such person. However, any credit sold, traded, or assigned may only be sold, traded, or assigned once. Subsequent transfers are not permitted. In addition, any credits that would otherwise be allowable to such person, to the extent provided by the Administrator of the Rural Electrification Administration, may be applied as a prepayment to certain loans or obligations undertaken by such person under the Rural Electrification Act of 1936.

In the case of qualifying open-loop biomass facilities, qualifying closed-loop biomass facilities modified to use closed-loop biomass to co-fire with coal, with other biomass, or with coal and other biomass, and qualifying municipal solid waste facilities, the provision permits a lessee or operator to claim the credit in lieu of the owner of the facilities.

Lastly, the provision repeals the present-law reduction in allowable credit for facilities financed with tax-exempt bonds or with certain loans received under the Rural Electrification Act of 1936. In the case of qualifying closed-loop biomass facilities modified to use closed-loop biomass to co-fire with coal, with other biomass, or with coal and other biomass, the provision repeals the present-law reduction in allowable credit for facilities that receive any subsidy.

EFFECTIVE DATE

The provision generally is effective for electricity produced and sold from qualifying facilities after the date of enactment. For electricity produced from qualifying open-loop biomass facilities originally placed in service prior to the date of enactment, the provision is effective January 1, 2004.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUEL INCENTIVES

A. MODIFICATIONS AND EXTENSIONS OF PROVISIONS RELATING TO ELECTRIC VEHICLES, CLEAN FUEL VEHICLES, AND CLEAN-FUEL VEHICLE REFUELING PROPERTY

(Secs. 201, 202, 203, and 204 of the bill and secs. 30 and 179A and new secs. 30B, 30C, and 40A of the Code)

PRESENT LAW

Electric vehicles

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000 (sec. 30). A qualified electric vehicle is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, the original use of which commences with the taxpayer, and that is acquired for the use by the taxpayer and not for resale. The full amount of the credit is available for purchases prior to 2002. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

Clean-fuel vehicles

Certain costs of qualified clean-fuel vehicles may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

Clean-fuel vehicle refueling property

Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is the point at which the fuel is delivered into the fuel tank of a motor vehicle. Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles, but only if the property is located at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is unavailable for costs incurred after December 31, 2006.

REASONS FOR CHANGE

The Committee believes that further investments in alternative fuel and advanced technology vehicles are necessary to transform automotive transportation in the United States to be cleaner, more fuel efficient, and less reliant on petroleum fuels.

Tax benefits provided directly to the consumer to lower the cost of new technology and alternative-fueled vehicles can help lower consumer resistance to these technologies by making the vehicles more price competitive with purely petroleum-based fuel vehicles and creating increased demand for manufacturers to produce the technologies. The eventual goal is mass production and mass-market acceptance of new technology vehicles. The Committee recognizes that creating a number of different credits tailored to each different automotive technology adds complexity to the Internal Revenue Code, but no one technology has established that it alone provides the solution. Therefore, it is appropriate to provide tax benefits tailored to specific vehicle technologies, as long as the vehicle's engine technology directly replaces gasoline and diesel fuel with an alternative energy source.

The Committee expects that hybrid motor vehicles and dedicated alternative fuel vehicles are the near-term technological advancement that will replace gasoline- and diesel-burning engines with alternative-powered engines, and electrical and fuel cell vehicles will be the longterm technological advancement.

Applying these technologies to medium and heavy-duty trucks and buses is also important for transforming the transportation sector to a cleaner, more fuel-efficient sector less reliant on petroleum-based fuels. Therefore, it is appropriate to use tax incentives to encourage the introduction of advanced vehicle technologies in large trucks and buses.

In addition, because new vehicle technologies require new fuels and infrastructure to deliver those fuels, investments in new technology automobiles alone are not sufficient to transform the market to accept these vehicles. Therefore, substantial investments in new refueling stations and new fuels are also necessary to make alternative vehicle technologies feasible.

EXPLANATION OF PROVISION

Alternative motor vehicle credits

The bill provides a credit for the purchase of a new qualified fuel cell motor vehicle, a new qualified hybrid motor vehicle, and a new qualified alternative fuel motor vehicle. In general the provision provides that the buyer claims the credit, unless the buyer is a tax-exempt entity in which case the seller or lessor of the vehicle may claim the credit. The taxpayer may carry forward unused credits for 20 years or carry unused credits back for three years (but not to any taxable year beginning before the date of enactment). Qualified vehicles are vehicles placed in service before 2007 (2012 in the case of fuel cell vehicles). Any deduction otherwise allowable under sec. 179A is reduced by the amount of credit allowable.

Fuel cell vehicles

A qualifying fuel cell vehicle is a motor vehicle that is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and may or may not require reformation prior to use. The amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. For these purposes the base fuel economy is the 2002 model year city fuel economy rating for vehicles of various weight classes (see below). Table 1 below, shows the base credit amounts.

TABLE 1.—BASE CREDIT AMOUNT FOR FUEL CELL VEHICLES

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle = 8,500	$4,000
8,500 < vehicle = 14,000	10,000
14,000 < vehicle = 26,000	20,000
26,000 < vehicle	40,000

Table 2, below, shows the additional credits for passenger automobiles or light trucks.

TABLE 2.—CREDIT FOR QUALIFYING FUEL CELL VEHICLES

If Fuel Economy of the Fuel Cell Vehicle Is:	Credit	
	At least	But less than
$1,000	150% of base fuel economy	175% of base fuel economy.
$1,500	175% of base fuel economy	200% of base fuel economy.
$2,000	200% of base fuel economy	225% of base fuel economy.
$2,500	225% of base fuel economy	250% of base fuel economy.
$3,000	250% of base fuel economy	275% of base fuel economy.
$3,500	275% of base fuel economy	300% of base fuel economy.
$4,000	300% of base fuel economy.	

Hybrid vehicles

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., batteries). The amount of credit for the purchase of a hybrid vehicle is the sum of two components. In the case of an automobile or light truck, the amount of credit is the sum of a base credit amount that varies with the amount of power available from the rechargeable storage system and a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard. In addition, the vehicle must meet or exceed the EPA Tier II, bin 5 emissions standards. In the case of a heavy duty hybrid motor vehicle (a vehicle weighing more than 8,500 pounds), the amount of credit is the sum of a base credit amount that varies, by vehicle weight class, with the amount of power available from the rechargeable storage system and an additional credit for early adoption of the technology that varies with the model year of the vehicle purchased.

For these purposes, a vehicle's power available from its rechargeable energy storage system as a percentage of maximum available power is calculated as the maximum value available from the battery or other energy storage device during a standard power test, divided by the sum of the battery or other energy storage device and the SAE net power of the heat engine.

Table 3, below, shows the base credit amounts for automobiles and light trucks.

TABLE 3.—HYBRID VEHICLE BASE CREDIT AMOUNT FOR AUTOMOBILES AND LIGHT TRUCKS, DEPENDENT UPON THE POWER AVAILABLE FROM THE RECHARGEABLE ENERGY STORAGE SYSTEM AS A PERCENTAGE OF THE VEHICLES MAXIMUM AVAILABLE POWER

Base Credit Amount	If Rechargeable Energy Storage System Provides:	
	At least	But less than
$250	4% of maximum available power.	10% of maximum available power.
$500	10% of maximum available power.	20% of maximum available power.
$750	20% of maximum available power.	30% of maximum available power.
$1,000	30% of maximum available power.	

Table 4, below, shows the additional fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy. For these purposes the base fuel economy is the 2002 model year city fuel economy rating for vehicles of various weight classes (see below).

TABLE 4.—ADDITIONAL FUEL ECONOMY CREDIT FOR HYBRID VEHICLES

Credit	If Fuel Economy of the Hybrid Vehicle Is:	at least
		but less than
$500	125% of base fuel economy.	150% of base fuel economy.
$1,000	150% of base fuel economy.	175% of base fuel economy.
$1,500	175% of base fuel economy.	200% of base fuel economy.
$2,000	200% of base fuel economy.	225% of base fuel economy.
$2,500	225% of base fuel economy.	250% of base fuel economy.
$3,000	250% of base fuel economy	

Table 5 below, shows the base credit amounts for heavy duty hybrid vehicles weighing 14,000 pounds or less.

TABLE 5.—HYBRID VEHICLE BASE CREDIT AMOUNT FOR HEAVY DUTY VEHICLES WEIGHING NOT MORE THAN 14,000 POUNDS

Base Credit Amount	If Rechargeable Energy Storage System Provides:	
	At least	But less than
$1,000	20% of maximum available power.	30% of maximum available power.
$1,750	30% of maximum available power.	40% of maximum available power.
$2,000	40% of maximum available power.	50% of maximum available power.
$2,250	50% of maximum available power.	60% of maximum available power.
$2,500	60% of maximum available power	

In the case of heavy duty hybrid vehicles weighing not more than 14,000 pounds, the additional credit amount for early adoption of the 2007 enission standards technology is $3,000 for model year 2003 vehicles, $2,500 for model year 2004 vehicles, $2,000 for model year 2005 vehicles, and $1,500 or model year 2006 vehicles.

Table 6, below, shows the base credit amounts for heavy duty hybrid vehicles weighing more than 14,000 pounds but not more than 26,000 pounds.

TABLE 6.—HYBRID VEHICLE BASE CREDIT AMOUNT FOR HEAVY DUTY HYBRID VEHICLES WEIGHING MORE THAN 14,000 POUNDS, BUT NOT MORE THAN 26,000 POUNDS

Base Credit Amount	If Rechargeable Energy Storage System Provides:	
	At least	But less than
$4,000	20% of maximum available power.	30% of maximum available power.
$4,500	30% of maximum available power.	40% of maximum available power.
$5,000	40% of maximum available power.	50% of maximum available power.
$5,500	50% of maximum available power.	60% of maximum available power.
$6,000	60% of maximum available power	

In the case of heavy duty hybrid vehicles weighing more than 14,000 pounds but not more than 26,000 pounds, the additional credit amount for early adoption of the 2007 emission standards technology is $7,750 for model year 2003 vehicles, $6,500 for model year 2004 vehicles, $5,250 for model year 2005 vehicles, and $4,000 for model year 2006 vehicles.

Table 7, below, shows the base credit amounts for heavy duty hybrid vehicles weighing more than 26,000 pounds.

TABLE 7.—HYBRID VEHICLE BASE CREDIT AMOUNT FOR HEAVY DUTY HYBRID VEHICLES WEIGHING MORE THAN 26,000 POUNDS

Base Credit Amount	If Rechargeable Energy Storage System Provides:	
	At least	But less than
$6,000	20% of maximum available power.	30% of maximum available power.
$7,000	30% of maximum available power.	40% of maximum available power.
$8,000	40% of maximum available power.	50% of maximum available power.
$9,000	50% of maximum available power.	60% of maximum available power.
$10,000	60% of maximum available power	

In the case of heavy duty hybrid vehicles weighing more than 26,000 pounds, the additional credit amount for early adoption of the 2007 emission standards technology is $12,000 for model year 2003 vehicles, $10,000 for model year 2004 vehicles, $8,000 for model year 2005 vehicles, and $6,000 for model year 2006 vehicles.

Alternative fuel vehicle

The credit for the purchase of a new alternative fuel vehicle is 40 percent of the incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, but not more than between $5,000 and $40,000 depending upon the weight of the vehicle. Table 8, below, shows the maximum permitted incremental cost for the purpose of calculating the credit for alternative fuel vehicles by vehicle weight class.

TABLE 8.—MAXIMUM ALLOWABLE INCREMENTAL COST FOR CALCULATION OF ALTERNATIVE FUEL VEHICLE CREDIT

Vehicle Gross Weight Rating in Pounds	Maximum Allowable Incremental Cost
Vehicle = 8,500	$5,000
8,500 < vehicle = 14,000	10,000

TABLE 8.—MAXIMUM ALLOWABLE INCREMENTAL COST FOR CALCULATION OF ALTERNATIVE FUEL VEHICLE CREDIT—Continued

Vehicle Gross Weight Rating in Pounds	Maximum Allowable Incremental Cost
14,000 < vehicle = 26,000	25,000
26,000 < vehicle	40,000

Alternative fuels comprise compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol. Qualifying alternative fuel motor vehicles are vehicles that operate only on qualifying alternative fuels and are incapable of operating on gasoline or diesel (except in the extent gasoline or diesel fuel is part of a qualified mixed fuel, described below).

Certain mixed fuel vehicles, that is vehicles that use a conbination of an alternative fuel and a petroleum-based fuel, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit.

Base fuel economy

The base fuel economy is the Environmental Protection Agency's unadjusted 2002 model year city fuel economy for vehicles by inertia weight class by vehicle type. The "vehicle inertia weight class" is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act. Table 9, below, shows the 2002 model year city fuel economy for vehicles by type and by inertia weight class.

TABLE 9.—2002 MODEL YEAR CITY FUEL ECONOMY

Vehicle Inertia Weight Class (pounds)	Passenger Automobile (miles per gallon)	Light Truck (miles per gallon)
1,500	45.2	39.4
1,750	45.2	39.4
2,000	39.6	35.2
2,250	35.2	31.8
2,500	31.7	29.0
2,750	28.8	26.8
3,000	26.4	24.9
3,500	22.6	21.8
4,000	19.8	19.4
4,500	17.6	17.6
5,000	15.9	16.1
5,500	14.4	14.8
6,000	13.2	13.7
6,500	12.2	12.8
7,000	11.3	12.1
8,500	11.3	12.1

Modification of credit for qualified electric vehicles

The bill repeals the phaseout of the credit for electric vehicles under present law. The provision also modifies present law to provide for a credit equal to the lesser of $1,500 or 10 percent of the manufacturer's suggested retail price of certain vehicles that conform to the Motor Vehicle Safety Standard 500. For all other electric vehicles, Table 10, below describes the credit.

TABLE 10.—CREDIT FOR QUALIFYING BATTERY ELECTRIC VEHICLES

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle = 8,500	$3,500
8,500 < vehicle = 14,000	10,000
14,000 < vehicle = 26,000	20,000
26,000 < vehicle	40,000

If an electric vehicle weighing not more than 8,500 pounds has an estimated driving range of at least 100 miles on a single charge of the vehicle's batteries or if it is capable of a payload capacity of at least 1,000 pounds, then the credit amount in Table 10 is $6,000.

In the case of property purchased by tax-exempt persons, the seller may claim the credit. The provision allows taxpayers to carry forward unused credits for 20 years or carry unused credits back for three (but not to any taxable year before the date of enactment).

Extension of present-law section 179A

The bill extends the sunset date of the present law deduction for costs of qualified clean-fuel vehicle and clean-fuel vehicle refueling property through December 31, 2007 (December 31, 2011 in the case of property relating to hydrogen). The provision modifies the definition of refueling property in the case of property relating to hydrogen to include property for the production of hydrogen.

The phase-down of present law for clean fuel vehicles is modified such that the taxpayer may claim 75 percent of the otherwise allowable deductible in 2004 and 2005 (2004 through 2009 in the case of property relating to hydrogen), 50 percent of the otherwise allowable deduction in 2006 (2010 in the case of property relating to hydrogen), and 25 percent of the otherwise allowable deduction in 2007 (2011 in the case of property relating to hydrogen).

Credit for installation of alternative fueling stations

The bill permits taxpayers to claim a 50-percent credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. In the case of retail clean-fuel vehicle refueling property the allowable credit may not exceed $30,000. In the case of residential clean-fuel vehicle refueling property the allowable credit may not exceed $1,000. The taxpayer's basis in the property is reduced by the amount of the credit and the taxpayer may not claim deductions under section 179A with respect to property for which the credit is claimed. In the case of refueling property installed on property owned or used by a tax-exempt person, the taxpayer that installs the property may claim the credit. To be eligible for the credit, the property must be placed in service before January 1, 2008 (January 1, 2012 in the case of hydrogen). The credit allowable in the taxable year cannot exceed the difference between the taxpayer's regular tax (reduced by certain other credits) and the taxpayer's tentative minimum tax. The taxpayer may carry forward unused credits for 20 years.

Credit for retail sale of alternative fuels

The bill permits taxpayers to claim a credit equal to the gasoline gallon equivalent of 30 cents per gallon of alternative fuel sold in 2003, 40 cents per gallon in 2004, 50 cents per gallon in 2005, and 50 cents per gallon in 2006. Qualifying alternative fuels are compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid mixture consisting of at least 85 percent methanol or ethanol. The gasoline gallon equivalency of any alternative fuel is determined by reference to the British thermal unit content of the alternative fuel compared to a gallon of gasoline. The credit may be claimed for sales prior to January 1, 2007. Under the provision, the credit is part of the general business credit.

EFFECTIVE DATE

The provisions relating to the credit for new fuel cell motor vehicles, hybrid motor vehicles, and alternative fuel motor vehicles, the credit for battery electric vehicles, the credit for alternative fuel vehicle refueling property, and deductions for clean fuel vehicles and clean fuel refueling property are effective for property placed in service after the date of enactment, in taxable years ending after the date of enactment. The credit for retail sales of alternative fuels is effective for sales of fuels after the date of enactment, in taxable years ending after the date of enactment.

B. MODIFICATIONS TO SMALL PRODUCER ETHANOL CREDIT

(Sec. 205 of the bill and secs. 38, 40, 87, and 469 of the Code)

PRESENT LAW

Small producer credit

Present law provides several tax benefits for ethanol and methanol produced from renewable sources (e.g., biomass) that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. In the case of ethanol, a separate 10-cents-per-gallon credit for small producers, defined generally as persons whose production does not exceed 15 million gallons per year and whose production capacity does not exceed 30 million gallons per year. The alcohol fuels tax credits are includible in income. This credit, like tax credits generally, may not be used to offset alternative minimum tax liability. The credit is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The alcohol fuels tax credit is scheduled to expire after December 31, 2007.

Taxation of cooperatives and their patrons

Under present law, cooperatives in essence are treated as pass-through entities in that the cooperative is not subject to corporate income tax to the extent the cooperative timely pays patronage dividends. Under present law, the only excess credits that may be flowed-through to cooperative patrons are the rehabilitation credit (sec. 47), the energy property credit (sec. 48(a)), and the reforestation credit (sec. 48(b)).

REASONS FOR CHANGE

The Committee believes provisions allowing greater flexibility in utilizing the benefits of the small ethanol producer credit are consistent with the objective of the bill to increase availability of alternative fuels.

EXPLANATION OF PROVISION

The provision makes several modifications to the rules governing the small producer ethanol credit. First, the provision liberalizes the definition of an eligible small producer to include persons whose production capacity does not exceed 60 million gallons. Second, the provision allows cooperatives to elect to pass-through the small ethanol producer credits to its patrons. The credit allowed to a particular patron is that proportion of the credit that the cooperative elects to pass-through for that year as the amount of patronage of that patron for that year bears to total patronage of all patrons for that year.

Third, the provision repeals the rule that includes the small producer credit in income of taxpayers claiming it and liberalizes the ordering and carryforward/carryback rules for the small producer ethanol credit. Fourth, the provision allows the small producer credit to be claimed against the alternative minimum tax. Finally, the provision provides that the small producer ethanol credit is not treated as derived from a passive activity under the Code rules restricting credits and deductions attributable to such activities.

EFFECTIVE DATE

The provision is effective for taxable years beginning after date of enactment.

C. INCREASED FLEXIBILITY IN ALCOHOL FUELS INCOME TAX CREDIT

(Sec. 206 of the bill and sec. 40 of the Code)

PRESENT LAW

An 18.4 cents-per-gallon excise tax is imposed on gasoline. The tax is imposed when the fuel is removed from a refinery unless the removal is to a bulk transportation facility (e.g., removal by pipeline or barge to a registered terminal). In the case gasoline removed in bulk by registered parties, tax is imposed when the gasoline is removed from the terminal facility, typically by truck (i.e., "breaks bulk"). If gasoline is sold to an unregistered party before it is removed from a terminal, tax is imposed on that sale. When the gasoline subsequently breaks bulk, a second tax is imposed. The payor of the second tax may file a refund claim if it can prove payment of the first tax. The party liable for payment of the gasoline excise tax is called a "position holder," defined as the owner of record inside the refinery or terminal facility.

A 52-cents-per-gallon income tax credit is allowed for ethanol used as a motor fuel (the "alcohol fuels credit"). The benefit of the alcohol fuels tax credit may be claimed as a reduction in excise tax payments when the ethanol is blended with gasoline ("gasohol"). The reduction is based on the amount of ethanol contained in the gasohol. The excise tax benefits apply to gasohol blends of 90 percent gasoline/ 10 percent ethanol, 92.3 percent gasoline/7.7 percent ethanol, or 94.3 percent gasoline/5.7 percent ethanol. The income tax credit is based on the amount of alcohol contained in the blended fuel.

Ethyl tertiary butyl ether ("ETBE") is an ether that is manufactured using ethanol. Unlike ethanol, ETBE can be blended with gasoline before the gasoline enters a pipeline because ETBE does not result in contamination of fuel with water while in transport. Treasury Department regulations provide that gasohol blenders may claim the income tax credit and excise tax rate reductions for ethanol used in the production of ETBE. The regulations also provide a special election allowing refiners to claim the benefit of the excise tax rate reduction even though the fuel being removed from terminals does not contain the requisite percentages of ethanol for claiming the excise tax rate reduction.

REASONS FOR CHANGE

The Committee believes the tax benefits currently available to ethanol used in the production of ETBE should be clarified statutorily. In addition, the Committee believes it appropriate to increase the flexibility by which the alcohol fuels credit may be claimed for alcohol used in the production of ETBE.

EXPLANATION OF PROVISION

The provision permits a taxpayer to transfer the alcohol fuels credit with respect to alcohol used in the production of ETBE to any registered position holder liable for excise taxes imposed under section 4081. Such position holder also must obtain from the transferor taxpayer a certificate that identifies the amount of alcohol used in the production of ETBE. The Secretary is to prescribe regulations as necessary to ensure that the credit is claimed once and not reassigned by the position holder.

EFFECTIVE DATE

The provision is effective date of enactment.

D. INCOME TAX CREDIT FOR BIODIESEL FUEL MIXTURES

(Sec. 207 of the bill and new sec. 40B of the Code)

PRESENT LAW

No income tax credit or excise tax rate reduction is provided for biodiesel fuels under present law. However, a 52-cents-per-gallon income tax credit (the "alcohol fuels credit") is allowed for ethanol and methanol (derived from renewable sources) when the alcohol is used as a highway motor fuel. The benefit of this income tax credit may be claimed through reductions in excise taxes paid on alcohol fuels. In the case of alcohol blended with other fuels (e.g., gasoline), the excise tax rate reductions are allowable only for blends of 90 percent gasoline/ 10 percent alcohol, 92.3 percent gasoline/7.7 percent alcohol, or 94.3 percent gasoline/5.7 percent alcohol. These present law provisions are scheduled to expire in 2007.

REASONS FOR CHANGE

The Committee believes that providing a new income tax credit for biodiesel fuel will promote energy self-sufficiency and also is consistent with the environmental objectives of the bill.

EXPLANATION OF PROVISION

The provision provides a new income tax credit for qualified biodiesel mixtures. A qualified biodiesel mixture is a mixture of diesel fuel and biodiesel that (1) is sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture. Biodiesel is monoalkyl esters of long chain fatty acids for use in diesel-powered engines and which meet the registration requirements of the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. sec. 7545) and the American Society of Testing and Materials D6751. Agri-biodiesel means biodiesel derived solely from virgin oils, including esters derived from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal fats. Recycled biodiesel is biodiesel derived from nonvirgin vegetable oils or nonvirgin animal fats. Virgin vegetable oils or animal fats mixed with recycled biodiesel will be treated as recycled biodiesel.

The biodiesel mixture credit is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year. The per gallon biodiesel mixture rate for agri-biodiesel equals one cent for each percentage point of biodiesel in the qualified biodiesel mixture, subject to a maximum credit of 20 cents per blended gallon of fuel. Agri-biodiesel used in the production of a qualified biodiesel mixture is taken into account only if a certification from the producer of the agribiodiesel which identifies the product produced is obtained. The per gallon biodiesel mixture rate for recycled biodiesel equals 0.5 cent for each percentage point of biodiesel in the qualified biodiesel mixture, subject to a maximum credit of 10 cents per blended gallon of fuel.

The amount of the biodiesel mixture credit is includible in income. The credit may not be carried back to a taxable year beginning before date of enactment.

EFFECTIVE DATE

The biodiesel mixture credit is effective for biodiesel fuel sold after date of enactment, and before January 1, 2006.

E. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT

(Sec. 208 of the bill, secs. 40, 4081, 6427, 9503, and new sec. 6426 of the Code)

PRESENT LAW

Alcohol fuels income tax credit

The alcohol fuels credit is the sum of three credits: the alcohol mixture credit, the alcohol credit and the small ethanol producer credit. Generally, the alcohol fuels credit expires after December 31, 2007.

A taxpayer (generally a petroleum refiner, distributor, or marketer) who mixes ethanol with gasoline (or a special fuel) is an "ethanol blender." Ethanol blenders are eligible for an income tax credit of 52 cents per gallon of ethanol used in the production of a qualified mixture (the "alcohol mixture credit"). A qualified mixture means a mixture of alcohol and gasoline, (or of alcohol and a special fuel) sold by the blender as fuel, or used as fuel by the blender in producing the mixture. The term alcohol includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 150. Businesses also may reduce their income taxes by 52 cents for each gallon of ethanol (not mixed with gasoline or other special fuel) that they sell at the retail level as vehicle fuel or use themselves as a fuel in their trade or business ("the alcohol credit"). The 52-cents-per-gallon income tax credit rate is scheduled to decline to 51 cents per gallon during the period 2005 through 2007. For blenders using an alcohol other than ethanol, the rate is 60 cents per gallon.

A separate income tax credit is available for small ethanol producers (the "small ethanol producer credit"). A small ethanol producer is defined as a person whose ethanol production capacity does not exceed 30 million gallons per year. The small ethanol producer credit is 10 cents per gallon of ethanol produced during the taxable year for up to a maximum of 15 million gallons.

The credits that comprise alcohol fuels tax credit are includible in income. The credit may not be used to offset alternative minimum tax liability. The credit is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally.

Excise tax reductions for alcohol mixture fuels

Generally, motor fuels tax rates are as follows:

Gasoline	18.4 cents per gallon.
Diesel fuel and kerosene	24.4 cents per gallon.
Special motor fuels	18.4 cents per gallon generally.

Alcohol-blended fuels are subject to a reduced rate of tax. The benefits provided by the alcohol fuels income tax credit and the excise tax reduction are integrated such that the alcohol fuels credit is reduced to take into account the benefit of any excise tax reduction.

Gasohol

Registered ethanol blenders may forgo the full income tax credit and instead pay reduced rates of excise tax on gasoline that they purchase for blending with ethanol. Most of the benefit of the alcohol fuels credit is claimed through the excise tax system.

The reduced excise tax rates apply to gasohol upon its removal or entry. Gasohol is defined as a gasoline/ethanol blend that contains 5.7 percent ethanol, 7.7 percent ethanol, or 10 percent ethanol. The Federal excise tax on gasoline is 18.4 cents per gallon. For the calendar year 2003, the following reduced rates apply to gasohol:

5.7 percent ethanol	15.436 cents per gallon.
7.7 percent ethanol	14.396 cents per gallon.
10.0 percent ethanol	13.200 cents per gallon.

Reduced excise tax rates also apply when gasoline is being purchased for the production of "gasohol." When gasoline is purchased for blending into gasohol, the rates above are multiplied by a fraction (e.g., 10/9 for 10-percent gasohol) so that the increased volume of motor fuel will be subject to tax. The reduced tax rates apply if the person liable for the tax is registered with the IRS and (1) produces gasohol with gasoline within 24 hours of removing or entering the gasoline or (2) gasoline is sold upon its removal or entry and such person has an unexpired certificate from the buyer and has no reason to believe the certificate is false.

Qualified methanol and ethanol fuels

Alcohol produced from a substance other than petroleum or natural gas

Qualified methanol or ethanol fuel is any liquid that contains at least 85 percent methanol or ethanol or other alcohol produced from a substance other than petroleum or natural gas. These fuels are taxed at reduced rates. The rate of tax on qualified methanol is 12.35 cents per gallon. The rate on qualified ethanol in 2003 and 2004 is 13.15 cents. From January 1, 2005 through September 30, 2007, the rate of tax on qualified ethanol is 13.25 cents.

Alcohol produced from natural gas

A mixture of methanol, ethanol, or other alcohol produced from natural gas that consists of at least 85 percent alcohol is also taxed at reduced rates. For mixtures not containing ethanol, the applicable rate of tax is 9.25 cents per gallon before October 1, 2005. In all other cases, the rate is 11.4 cents per gallon. After September 31, 2005, the rate is reduced to 2.15 cents per gallon when the mixture does not contain ethanol and 4.3 cents per gallon in all other cases.

Blends of alcohol and diesel fuel or special motor fuels

A reduced rate of tax applies to diesel fuel or kerosene that is combined with alcohol as long as at least 10 percent of the finished mixture is alcohol. If none of the alcohol in the mixture is ethanol, the rate of tax is 18.4 cents per gallon. For alcohol mixtures containing ethanol, the rate of tax in 2003 and 2004 is 19.2 cents per gallon and for 2005 through September 30, 2007, the rate for ethanol mixtures is 19.3 cents per gallon. Fuel removed or entered for use in producing a 10 percent diesel-alcohol fuel mixture (without ethanol), is subject to a tax of 20.44 cents. The rate of tax for fuel removed or entered to produce a 10 percent diesel-ethanol fuel mixture is 21.333 cents per gallon for 2003 and 2004 and 21.444 cents per gallon for the period January 1, 2005 through September 30, 2007.

Special motor fuel (nongasoline) mixtures with alcohol also are taxed at reduced rates.

Aviation fuel

Noncommercial aviation fuel is subject to a tax of 21.9 cents per gallon. Fuel mixtures containing at least 10 percent alcohol are taxed at lower rates. In the case of 10 percent ethanol mixtures, any sale or use during 2003 and 2004, the 21.9 cents is reduced by 13.2 cents (for a tax of 8.7 cents per gallon), for 2005, 2006, and 2007 the reduction is 13.1 cents (for a tax of 8.8 cents per gallon) and is reduced by 13.4 cents in the case of any sale during 2008 or thereafter. For mixtures not containing ethanol, the 21.9 cents is reduced by 14 cents for a tax of 7.9 cents. These reduced rates expire after September 30, 2007.

When aviation fuel is purchased for blending with alcohol, the rates above are multiplied by a fraction (10/9) so that the increased volume of aviation fuel will be subject to tax.

Refunds and payments

If fully taxed gasoline (or other taxable fuel) is used to produce a qualified alcohol mixture, the Code permits the blender to file a claim for a quick excise tax refund. The refund is equal to the difference between the gasoline (or other taxable fuel) excise tax that was paid and the tax that would have been paid by a registered blender on the alcohol fuel mixture being produced. Generally, the IRS pays these quick refunds within 20 days. Interest accrues if the refund is paid more than 20 days after filing. A claim may be filed by any person with respect to gasoline, diesel fuel, or kerosene used to produce a qualified alcohol fuel mixture for any period for which $200 or more is payable and which is not less than one week.

Ethyl tertiary—butyl ether (ETBE)

Ethyl tertiary butyl ether ("ETBE") is an ether that is manufactured using ethanol. Unlike ethanol, ETBE can be blended with gasoline before the gasoline enters a pipeline because ETBE does not result in contamination of fuel with water while in transport. Treasury Department regulations provide that gasohol blenders may claim the income tax credit and excise tax rate reductions for ethanol used in the production of ETBE. The regulations also provide a special election allowing refiners to claim the benefit of the excise tax rate reduction even though the fuel being removed from terminals does not contain the requisite percentages of ethanol for claiming the excise tax rate reduction.

Highway Trust Fund

With certain exceptions, the taxes imposed by section 4041 (relating to retail taxes on diesel fuels and special motor fuels) and section 4081 (relating to tax on gasoline, diesel fuel and kerosene) are credited to the Highway Trust Fund. In the case of alcohol fuels, 2.5 cents per gallon of the tax imposed is retained in the General Fund. In the case of a taxable fuel taxed at a reduced rate upon removal or entry prior to mixing with alcohol, 2.8 cents of the reduced rate is retained in the General Fund.

Biodiesel

If biodiesel is used in the production of blended taxable fuel, the Code imposes tax on the removal or sale of the blended taxable fuel. In addition, the Code imposes tax on any liquid other than gasoline sold for use or used as a fuel in a diesel-powered highway vehicle or diesel powered train unless tax was previously imposed and not refunded or credited. If biodiesel that was not previously taxed or exempt is sold for use or used as a fuel in a diesel-powered highway vehicle or a diesel-powered train, tax is imposed. There are no reduced excise tax rates for biodiesel.

REASONS FOR CHANGE

The United States seeks to reduce its dependence on foreign oil through, among other means, the use of alternative fuels. The Committee believes that the goal of promoting the use of alternative fuels can be achieved without decreasing the revenues available for improving the nation's highway and bridge network. As a result, the Committee believes that it is appropriate that the entire amount of alcohol fuel taxes be devoted to the Highway Trust Fund. Highway vehicles using alcohol-blended fuels contribute to the wear and tear of the same highway system used by gasoline or diesel vehicles. Therefore, the Committee believes that alcohol-blended fuels should be taxed at rates equal to gasoline or diesel.

EXPLANATION OF PROVISION

Overview

The provision eliminates reduced rates of excise tax for most alcohol-blended fuels. In place of reduced rates, the provision creates two new credits: the alcohol fuel mixture credit and the biodiesel mixture credit. The sum of these credits may be taken against the tax imposed on taxable fuels (by section 4081). Alternatively, in lieu of a credit against tax, the provision allows taxpayers to file a claim for payment equal to the amount of these credits. The provision also eliminates the General Fund retention of certain taxes on alcohol fuels, and credits these taxes to the Highway Trust Fund and extends the present-law alcohol fuels credit through December 31, 2010.

Alcohol fuel mixture excise tax credit

The provision eliminates the reduced rates of excise tax for most alcohol-blended fuels. Under the provision, the full rate of tax for taxable fuels is imposed on both alcohol fuel mixtures and the taxable fuel used to produce an alcohol fuel mixture.

In lieu of the reduced excise tax rates, the provision provides for an excise tax credit, the alcohol fuel mixture credit. The alcohol fuel mixture credit is 52 cents for each gallon of alcohol used by a person in producing an alcohol fuel mixture. The credit declines to 51 cents per gallon after calendar year 2004. For mixtures not containing ethanol (renewable source methanol), the credit is 60 cents per gallon. Equivalent amounts of these credits are to be credited to the Highway Trust Fund.

For purposes of the alcohol fuel mixture credit, an "alcohol fuel mixture" is (1) a mixture of alcohol and a taxable fuel and (2) sold for use or used as a fuel by the taxpayer producing the mixture. Alcohol for this purpose includes methanol, ethanol, and alcohol gallon equivalents of ETBE or other ethers produced from such alcohol. It does not include alcohol produced from petroleum, natural gas or coal (including peat), or alcohol with a proof of less than 190 (determined without regard to any added denaturants). Taxable fuel is gasoline, diesel and kerosene.

The excise tax credit is coordinated with the alcohol fuels income tax credit and is available through December 31, 2010.

Biodiesel mixture excise tax credit

The provision provides an excise tax credit for agri-biodiesel mixtures. The credit is one dollar for the first gallon of agri-biodiesel used by the taxpayer in producing at least five gallons of qualified biodiesel mixture. The credit is not available for any sale or use for any period after December 31, 2005. This excise tax credit is coordinated with income tax credit for biodiesel such that credit for the same biodiesel cannot be claimed for both income and excise tax purposes.

Payments with respect to tax-paid fuel used to produce qualified mixtures

When tax paid fuel is used to produce an alcohol fuel mixture or qualified biodiesel mixture that is sold or used in the trade or business of the person who makes such a mixture, a payment in an amount equal to the alcohol fuel mixture credit or biodiesel mixture credit is available. This refund provision is available to persons using gasoline, diesel fuel or kerosene to make an alcohol fuel mixture or qualified biodiesel mixture. Specifically, if any gasoline, diesel fuel, or kerosene on which tax was imposed by section 4081 is used by any person in producing an alcohol fuel mixture or qualified biodiesel mixture which is sold or used in such person's trade or business, the Secretary is to pay to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such gasoline, diesel fuel or kerosene.

If such claims are not paid within 45 days, the claim is to be paid with interest. The provision also provides that in the case of an electronic claim, if such claim is not paid within 20 days, the claim is to be paid with interest. The refund provision is coordinated with other refund provisions and the excise tax credits for alcohol fuel mixtures and biodiesel mixtures. The provision does not apply with respect to alcohol fuel mixtures sold or used after December 31, 2010 or qualified biodiesel mixtures sold or used after December 31, 2005.

Highway Trust Fund

The provision eliminates the requirement that 2.5 and 2.8 cents per gallon of excise taxes be retained in the General Fund so that the full amount of tax on alcohol fuels is credited to the Highway Trust Fund. The provision also authorizes the full amount of fuel taxes to be appropriated to the Highway Trust Fund without reduction for amounts equivalent to the excise tax credits allowed for alcohol fuel mixtures and biodiesel mixtures.

Alcohol fuels income tax credit

The provision extends the alcohol fuels credit (sec. 40) through December 31, 2010.

EFFECTIVE DATE

The provision is effective for fuel sold or used after September 30, 2003.

F. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES

(Sec. 209 of the bill)

PRESENT LAW

A duty-free sales enterprise that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free sales enterprise on which neither federal duty nor federal tax has been assessed pending exportation from the customs territory of the United States. Conditions for qualifying as a duty-free enterprise include (but are limited to) locations within a specified distance from a port of entry, establishment of procedures for ensuring that merchandize is exported from the United States, and prominent posting of rules concerning duty-free treatment of merchandise. The duty-free statute does not contain any limitation on what goods may qualify for duty-free treatment.

REASONS FOR CHANGE

The Committee understands that in some circumstances individuals purchase motor fuels at a duty free facility that is located in the United States, drive briefly outside of the United States, and return to the United States. The Committee believes that motor fuel sold at duty-free enterprises should support the financing of the U.S. highway system as do other motor fuel sales in the United States.

EXPLANATION OF PROVISION

The provision amends Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) to provide that gasoline or diesel fuel sold at duty-free enterprises shall be considered to entered for consumption into the United States and thus ineligible for classification as duty-free merchandise.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

A. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EFFICIENT HOME

(Sec. 301 of the bill and new sec. 45G of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for the construction of new energy-efficient homes.

REASONS FOR CHANGE

The Committee recognizes that residential energy use for heating and cooling represents a large share of national energy consumption, and accordingly believes that measures to reduce heating and cooling energy requirements have the potential to substantially reduce national energy consumption. The Committee further recognizes that the most cost-effective time to properly insulate a home is when it is under construction and that the most effective mechanism to encourage the utilization of energy-efficient components in the construction of new homes is through an incentive to the builder. Accordingly, the Committee believes that a tax credit for the use of energy-efficiency components in a home's envelope (exterior windows (including skylights) and doors and insulation) or heating and cooling appliances will encourage contractors to produce highly energy-efficient homes, which in turn will reduce national energy consumption. Reduced energy consumption will in turn reduce reliance on foreign suppliers of oil and will reduce pollution in general.

EXPLANATION OF PROVISION

The provision provides a credit to an eligible contractor of an amount equal to the aggregate adjusted bases of all energy-efficient property installed in a qualified new energy-efficient home during construction. The credit cannot exceed $1,000 ($2,000) in the case of a new home that has a projected level of annual heating and cooling costs that is 30 percent (50 percent) less than a comparable dwelling constructed in accordance with Chapter 4 of the 2000 International Energy Conservation Code.

The eligible contractor is the person who constructed the home, or in the case of a manufactured home, the producer of such home. Energy efficiency property is any energy-efficient building envelope component (insulation materials or system designed to reduce heat loss or gain, and exterior windows, including skylights, and doors) and any energy-efficient heating or cooling appliance that can, individually or in combination with other components, meet the standards for the home.

To qualify as an energy-efficient new home, the home must be: (1) a dwelling located in the United States; (2) the principal residence of the person who acquires the dwelling from the eligible contractor, and (3) certified to have a projected level of annual heating and cooling energy consumption that meets the standards for either the 30-percent or 50-percent reduction in energy usage. The home may be certified according to a component-based method or an energy performance based method. Additionally, manufactured homes certified by the Environmental Protection Agency's Energy Star Labeled Homes program are eligible for the $1,000 credit provided criteria (1) and (2) are met.

The component-based method of certification shall be based on applicable energy-efficiency specifications or ratings, including current product labeling requirements. The Secretary shall develop component-based packages that are equivalent in energy performance to properties that qualify for the credit. The standard for certifying homes through the component based method shall be based on the same standards for plan check and physical inspections as are used for energy code compliance. The certification shall be provided by a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization. Such provider of the certification must be financially independent of the eligible contractor.

The performance-based method of certification shall be based on an evaluation of the home in reference to a home which uses the same energy source and system heating type, and is constructed in accordance with the Chapter 4 of the 2000 International Energy Conservation Code. The certification shall be provided by an individual recognized by the Secretary for such purposes.

The certification process requires that energy savings to the consumer be measured in terms of energy costs. To ensure consistent and reasonable energy cost analyses, the Department of Energy shall include in its rulemaking related to this bill specific reference data to be used for qualification for the credit.

In the case of manufactured homes, certification shall be by the Energy Star Labeled Homes program.

The credit will be part of the general business credit. No credits attributable to energy efficient homes may be carried back to any taxable year ending on or before the effective date of the credit.

EFFECTIVE DATE

The credit applies to homes whose construction is substantially completed after the date of enactment and which are purchased during the period beginning on the date of enactment and ending on December 31, 2007 (December 31, 2005 in the case of the $1,000 credit).

B. CREDIT FOR ENERGY-EFFICIENT APPLIANCES

(Sec. 302 of the bill and new sec. 45H of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment: (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat; or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of: (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for the manufacture of energy-efficient appliances.

REASONS FOR CHANGE

The Committee believes that providing a tax credit for the production of energy-efficient clothes washers and refrigerators will encourage manufacturers to produce such products currently and to invest in technologies to achieve higher energy-efficiency standards for the future. In addition, the Committee intends to encourage those manufacturers already producing energy-efficient clothes washers and refrigerators to accelerate production.

EXPLANATION OF PROVISION

The provision provides a credit for the production of certain energy-efficient clothes washers and refrigerators. The credit would equal $50 per appliance for energy-efficient clothes washers produced with a modified energy factor ("MEF") of 1.42 MEF or greater for washers produced before 2007 and for refrigerators produced before 2005 that consume 10 percent less kilowatt-hours per year than the energy conservation standards promulgated by the Department of Energy that took effect on July 1, 2001. The credit equals $100 for energy-efficient clothes washers produced with a MEF of 1.5 or greater and for refrigerators produced that consume at least 15 percent less kilowatt-hours per year (at least 20 percent less for production in 2007) than the energy conservation standards promulgated by the Department of Energy that took effect on July 1, 2001. The credit is $150 in the case of a refrigerator that consumes at least 20 percent less kilowatt-hours per year than such standards and is produced before 2007. A refrigerator must be an automatic defrost refrigerator-freezer with an internal volume of at least 16.5 cubic feet to qualify for the credit. A clothes washer is any residential clothes washer, including a residential style coin operated washer, that satisfies the relevant efficiency standard.

For each category of appliances (e.g., washers that meet the lower MEF standard, washers that meet the higher MEF standard, refrigerators that meet the 10 percent standard, refrigerators that meet the 15 percent standard), only production in excess of average production for each such category during calendar years 2000–2002 would be eligible for the credit. For 2003, only production after the date of enactment is eligible for the credit, and special rules apply to determine if production exceeds the average of the base period. The taxpayer may not claim credits in excess of $60 million for all taxable years, and may not claim credits in excess of $30 million with respect to appliances that only qualify for the $50 credit. Additionally, the credit allowed for all appliances may not exceed two percent of the average annual gross receipts of the taxpayer for the three taxable years preceding the taxable year in which the credit is determined.

The credit will be part of the general business credit. No credits attributable to energy-efficient appliances may be carried back to taxable years ending before January 1, 2003.

EFFECTIVE DATE

The credit applies to appliances produced after the date of enactment and prior to January 1, 2008.

C. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY

(Sec. 303 of the bill and new sec. 25C of the Code)

PRESENT LAW

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law personal tax credit for energy efficient residential property.

REASONS FOR CHANCE

The Committee believes that allowing a credit for the purchase of certain energy efficient appliances and systems that generate electricity through renewable and pollution-free alternative energy sources will encourage the purchase of these products. The Committee believes that the use of these products will help reduce reliance on conventional energy sources and reduce atmospheric pollutants. The Committee believes that the on-site generation of electricity and solar hot water will reduce reliance on the United States' electricity grid and on natural gas pipelines. Furthermore, the Committee believes that the use of highly efficient residential equipment will lead to decreased energy consumption in households, resulting in significant energy savings.

EXPLANATION OF PROVISION

The provision provides a personal tax credit for the purchase of qualified wind energy property, qualified photovoltaic property, and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent for solar water heating property and photovoltaic property, and 30 percent for wind energy property. The maximum credit for each of these systems of property is $2,000. The provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

Qualifying solar water heating property means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence if at least half of the energy used by such property for such purpose is derived from the sun. Qualified photovoltaic property is property that uses solar energy to generate electricity for use in a dwelling unit. Solar panels are treated as qualified photovoltaic property. Qualified wind energy property is property that uses wind energy to generate electricity for use in a dwelling unit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent and that generates at least 0.5 kilowatts of electricity. The qualified fuel cell power plant must be installed on or in connection with a dwelling unit located in the United States and used by the taxpayer as a principal residence.

The provision also provides a credit for the purchase of other qualified energy efficient property, as described below:

Electric heat pump hot water heaters with an Energy Factor of at least 1.7. The maximum credit is $75 per unit.

Electric heat pumps with a heating efficiency of at least 9 HSPF (Heating Seasonal Performance Factor) and a cooling efficiency of at least 15 SEER (Seasonal Energy Efficiency Rating) and an energy efficiency ratio (EER) of 12.5 or greater. The maximum credit is $250 per unit.

Natural gas, oil, or propane furnace which achieves 95 percent annual fuel utilization efficiency. The maximum credit is $250 per unit.

Central air conditioners with an efficiency of at least 15 SEER and an EER of 12.5 or greater. The maximum credit is $250 per unit.

Natural gas, oil, or propane water heaters with an Energy Factor of at least 0.8. The maximum credit is $75 per unit.

Geothermal heat pumps which have an EER of at least 21. The maximum credit is $250 per unit.

The credit is nonrefundable, and the depreciable basis of the property is reduced by the amount of the credit. Expenditures for labor costs allocable to onsite preparation, assembly, or original installation of property eligible for the credit are eligible expenditures. The credit is allowed against the regular and alternative minimum tax.

Certain equipment safety requirements need to be met to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations. With the exception of wind energy property, if less than 80 percent of the property is used for nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account.

EFFECTIVE DATE

The credit applies to purchases after the date of enactment and before January 1, 2008.

D. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS

(Sec. 304 of the bill and sec. 48 of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for fuel cell power plant or microturbine property.

REASONS FOR CHANGE

The Committee believes that investments in qualified fuel cell power plants represent a promising means to produce electricity through non-polluting means and from nonconventional energy sources. Furthermore, the on-site generation of electricity provided by fuel cell power plants, as well as that by microturbines, will reduce reliance on the United States' electricity grid. The Committee believes that providing a tax credit for investment in qualified fuel cell and microturbine power plants will encourage investments in such systems.

EXPLANATION OF PROVISION

The provision provides a 30 percent business energy credit for the purchase of qualified fuel cell power plants for businesses. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent and generates at least 0.5 kilowatts of electricity using an electrochemical process. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatts of capacity.

Additionally, the provision provides a 10 percent credit for the purchase of qualifying stationary microturbine power plants. A qualified stationary microturbine power plant is an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such system also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency and power factors. Such system must have an electricity-only generation efficiency of not less that 26 percent at International Standard Organization conditions and a capacity of less than 2,000 kilowatts. The credit is limited to the lesser of 10 percent of the basis of the property or $200 for each kilowatt of capacity.

The credit is nonrefundable. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

EFFECTIVE DATE

The credit for businesses applies to property placed in service after the date of enactment and before January 1, 2008 (January 1, 2007 in the case of microturbines), under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

E. ENERGY-EFFICIENT COMMERCIAL BUILDINGS DEDUCTION

(Sec. 305 of the bill and new sec. 179B of the Code)

PRESENT LAW

No special deduction is currently provided for expenses incurred for energy-efficient commercial building property.

REASONS FOR CHANGE

The Committee recognizes that commercial buildings consume a significant amount of energy resources and that reductions in commercial energy use have the potential to significantly reduce national energy consumption. Accordingly, the Committee believes that a special deduction for commercial building property (lighting, heating, cooling, ventilation, and hot water supply systems) that meets a high energy-efficiency standard will encourage construction of buildings that are significantly more energy efficient than the norm. The Committee further believes that the special deduction will encourage innovation to reduce the costs of meeting the energy-efficiency standard.

EXPLANATION OF PROVISION

The provision provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures are defined as amounts paid or incurred for energy-efficient property installed in connection with the new construction or reconstruction of property: (1) which is depreciable property; (2) which is located in the United States, and (3) which is the type of structure to which the Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America ("ASHRAE/IESNA") is applicable. The deduction is limited to an amount equal to $2.25 per square foot of the property for which such expenditures are made. The deduction is allowed in the year in which the property is placed in service.

Energy-efficient commercial building property generally means any property that reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which minimally meets the requirements of Standard 90.1-2001 of ASHRAE/IESNA. Because of the requirement that in order to qualify, a building must fall within the scope of the ASHRAE/IESNA Standard 90.1-2001, residential rental property that is less than four stories does not qualify.

Certain certification requirements must be met in order to qualify for the deduction. The Secretary, in consultation with the Secretary of Energy, will promulgate regulations that describe methods of calculating and verifying energy and power costs. The methods for calculation shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump. To allow proper calculations of cost, the Secretary shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost reduction procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the Secretary may allow taxpayers in that State to use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

The Secretary shall promulgate procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards. Individuals qualified to determine compliance shall only be those recognized by one or more organizations certified by the Secretary for such purposes. In order that the deduction is available immediately, it is expected that the Secretary will promptly issue interim guidance with respect to the methods of calculating and verifying energy and power costs that relies on provisions of ASHRAE/IESNA Standard 90.1-2001 and of the 2001 California Nonresidential Alternative Calculation Method Approval Manual or the 2001 California Residential Alternative Calculation Method Approval Manual. The methods for calculation need not comply fully with section 11 of ASHRAE/IESNA Standard 90.1-2001. Such interim guidance will include interim guidance as to the qualified computer software and qualified individuals necessary to certify eligibility for the deduction.

When final regulations are adopted, such regulations additionally may, with respect to methods of calculating and verifying energy and power costs, take into consideration appropriate energy savings from design methodologies and technologies not otherwise credited in ASHRAE/IESNA Standard 90.1-2001, the 2001 California Nonresidential Alternative Calculation Method Approval Manual, or the 2001 California Residential Alternative Calculation Method Approval Manual, including the following: (1) natural ventilation, (2) evaporative cooling, (3) automatic lighting controls such as occupancy sensors, photocells, and timeclocks, (4) daylighting, (5) designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating, (6) improved fan system efficiency, including reductions in static pressure, and (7) advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors. Additionally, the calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

For energy-efficient commercial building property public property expenditures made by a public entity, such as public schools, the interim guidance, as well as final regulations, will allow the value of the deduction (determined without regard to the tax-exempt status of such entity) to be allocated to the person primarily responsible for designing the property in lieu of the public entity.

EFFECTIVE DATE

The provision is effective for taxable years beginning after the date of enactment for expenditures in connection with a building whose construction is completed on or before December 31, 2009.

F. Three-Year Applicable Recovery Period for Depreciation of Qualified Energy Management Devices

(Sec. 306 of the bill and sec. 168 of the Code)

PRESENT LAW

No special recovery period is currently provided for depreciation of qualified energy management devices.

REASONS FOR CHANGE

The Committee believes that consumers could better manage their electricity use if they had better information concerning their usage habits by time of day. In the case of electricity, if time-of-day pricing is used, energy management devices that provide information to consumers regarding their peak electrical use could encourage consumers to defer certain electrical use, such as use of a washing machine, to periods of the day when electricity prices are lower. In addition to potentially reducing consumers' electricity bill, spreading the demand for electricity more evenly throughout the day will reduce the need for utility investments in generation capacity to satisfy peak demand periods.

The Committee believes that providing a 3-year recovery period for qualified energy management devices will provide sufficient incentive for utilities to establish time-of-day pricing options that will encourage consumers to adjust their electricity usage in such a manner to dampen utilities' peak load capacity needs and thus reduce the need for investment in new capacity to meet peak load demand.

EXPLANATION OF PROVISION

The provision provides a three-year recovery period for qualified new energy management devices placed in service by any taxpayer who is a supplier of electric energy or is a provider of electric energy services. A qualified energy management device is any meter or metering device eligible for accelerated depreciation under code section 168 and which is used by the taxpayer

(1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

(2) to provide such data on at least a monthly basis to both consumers and the taxpayer.

EFFECTIVE DATE

The provision is effective for any qualified energy management device placed in service after the date of enactment of the Act and before January 1, 2008.

G. Three-Year Applicable Recovery Period for Depreciation of Qualified Water Submetering Devices

(Sec. 307 of the bill and sec. 168 of the Code)

PRESENT LAW

No special recovery period is currently provided for depreciation of qualified water submetering devices.

REASONS FOR CHANGE

The Committee believes that consumers would better manage their water use if they paid for water in proportion to the water that they actually used. In many cases in multi-unit properties, there is not unit by unit metering of water use. Rather, the landlord's average per-unit costs for water are reflected in rental rates. Thus, individual units have virtually no financial incentive to conserve on water use, as the cost of any individual's increased water usage is borne by all dwellers. The Committee believes that a tax incentive for the installation of submeters to enable unit by unit charges that reflect water usage will rationalize water use and help to conserve water resources.

EXPLANATION OF PROVISION

The provision provides a three-year recovery period for qualified new water submetering devices placed in service by any taxpayer who is an eligible resupplier. An eligible resupplier is any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property. A qualified water submetering device is any water submetering device eligible for accelerated depreciation under code section 168 and which is used by the taxpayer

(1) to measure and record water usage data, and

(2) to provide such data on at least a monthly basis to both consumers and the taxpayer.

EFFECTIVE DATE

The provision is effective for any qualified water submetering device placed in service after the date of enactment of the Act and before January 1, 2008.

H. Energy Credit for Combined Heat and Power System Property

(Sec. 308 of the bill and Sec. 48 of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for combined heat and power ("CHP") property.

REASONS FOR CHANGE

The Committee believes that investments in combined heat and power systems represent a promising means to achieve greater national energy efficiency by encouraging the dual use of the energy from the burning of fossil fuels. Furthermore, the on-site generation of electricity provided by CHP systems will reduce reliance on the United States' electricity grid. The Committee believes that providing a tax credit for investment in combined heat and power property will encourage investments in such systems.

EXPLANATION OF PROVISION

The provision provides a 10-percent credit for the purchase of combined heat and power property. CHP property as defined as property: (1) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications); (2) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities; (3) which produces at least 20 percent of its total useful energy in the form of thermal energy and at least 20 percent in the form of electrical or mechanical power (or a combination thereof); and (4) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical capacities.) Also, for purposes of determining whether CHP property includes technologies which generate electricity or mechanical power using backpressure steam turbines in place of existing pressure-reducing valves, or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, the general requirements of clause (1), the energy output requirements related to heat versus power described under (3), and the energy efficiency requirements of (4), above, may be disregarded.

CHP property does include property used to transport the energy source to the generating facility or to distribute energy produced by the facility.

If a taxpayer is allowed a credit for CHP property, and the property would ordinarily have a depreciation class life of 15 years or less, the depreciation period for the property is treated as having a 22-year class life. The present-law carry back rules of the general business credit generally would apply except that no credits attributable to combined heat and power property may be carried back before the effective date of this provision.

EFFECTIVE DATE

The credit applies to property placed in service after the date of enactment and before January 1, 2007.

I. Credit for Energy Efficiency Improvements to Existing Homes

(Sec. 309 of the bill and new sec. 25D of the Code)

PRESENT LAW

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present law credit for energy efficiency improvements to existing homes.

REASONS FOR CHANGE

Since residential energy consumption represents a large fraction of national energy use, the Committee believes that energy savings in this sector of the economy have the potential to significantly impact national energy consumption, which will reduce reliance on foreign suppliers of oil and reduce pollution in general. The Committee further recognizes that many existing homes are inadequately insulated. Accordingly, the Committee believes that a tax credit for certain energy-efficiency improvements related to a home's envelope (exterior windows (including skylights) and doors, insulation, and certain roofing systems) will encourage homeowners to improve the insulation of their homes, which in turn will reduce national energy consumption.

EXPLANATION OF PROVISION

The provision would provide a 10-percent nonrefundable credit for the purchase of qualified energy efficiency improvements. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $300. A qualified energy efficiency improvement would be any energy efficiency building envelope component that is certified to meet or exceed the prescriptive criteria for such a component established by the 2000 International Energy Conservation Code, or any combination of energy efficiency measures that is certified to achieve at least a 30-percent reduction in heating and cooling energy usage for the dwelling and (1) that is installed in or on a dwelling located in the United States; (2) owned and used by the taxpayer as the taxpayer's principal residence; (3) the original use of which commences with the taxpayer; and (4) such component can reasonably be expected to remain in use for at least five years.

Building envelope components would be: (1) insulation materials or systems which are specifically and primarily designed to reduce the heat loss or gain for a dwelling, and (2) exterior windows (including skylights) and doors.

Homes shall be certified according to a component-based method or a performance-based method. The component-based method shall be based on applicable energy-efficiency ratings, including current product labeling requirements. Certification by the component method shall be provided by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency, or a home energy rating organization.

The performance-based method shall be based on a comparison of the projected energy consumption of the dwelling in its original condition and after the completion of energy efficiency measures. The performance-based method of certification shall be conducted by an individual or organization recognized by the Secretary of the Treasury for such purposes.

The certification process requires that energy savings to the consumer be measured in terms of energy costs. To ensure consistent and reasonable energy cost analyses, the Department of Energy shall include in its rulemaking related to this bill specific reference data to be used for qualification for the credit.

The taxpayer's basis in the property would be reduced by the amount of the credit. Special rules would apply in the case of condominiums and tenant-stockholders in cooperative housing corporations.

The credit is allowed against the regular and alternative minimum tax.

EFFECTIVE DATE

The credit is effective for qualified energy efficiency improvements installed on or after the date of enactment and before January 1, 2007.

TITLE IV—CLEAN COAL INCENTIVES

A. INVESTMENT AND PRODUCTION CREDITS FOR CLEAN COAL TECHNOLOGY

(Secs. 401, 411, and 412 of the bill and new secs. 451, 45J, and 48A of the Code)

PRESENT LAW

Present law does not provide an investment credit for electricity generating units that use coal as a fuel. Nor does present law provide a production credit for electricity generated at units that use coal as a fuel. However, a nonrefundable, 10-percent investment tax credit ("business energy credit") is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) that is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage (sec. 48). Also, an income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste units placed in service prior to January 1, 2004 (sec. 45). The credit allowed equals 1.5 cents per kilowatt-hour of electricity sold. The 1.5 cent figure is indexed for inflation and equaled 1.8 cents for 2002. The credit is allowable for production during the 10-year period after a unit is originally placed in service. The business energy tax credits and the production tax credit are components of the general business credit (sec. 38(b)(1)).

REASONS FOR CHANGE

The Committee recognizes that coal is the nation's most abundant fuel source. The Committee is also sensitive to the environmental impact of burning coal for the production of electricity. For coal to continue to be a viable fuel source, the Committee seeks to encourage ways to burn coal in a more efficient and environmentally friendly manner. Therefore, the Committee supports the development and deployment of the most advanced technologies for generating electricity from coal by providing investment and production credits to a limited number of experimental production-scale electricity generating units to reduce the cost of building and operating units that represent the frontier of thermal efficiency and pollution control.

Tax-exempt organizations make up a significant percentage of the electricity industry in the United States. The Committee believes it is important to provide the incentives for investment in, and production from, clean coal technologies to all producers.

EXPLANATION OF PROVISION

In general

The bill creates three new credits: a production credit for electricity produced from qualifying clean coal technology units; a production credit for electricity produced from qualifying advanced clean coal technology units; and a credit for investments in qualifying advanced clean coal technology units. Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) will be eligible to obtain certifications from the Secretary of the Treasury (as described below) for each of these credits and sell, trade, or assign the credit to any taxpayer. However, any credit sold, traded, or assigned may only be sold, traded, or assigned once. Subsequent transfers are not permitted.

Credit for investments in qualifying advanced clean coal technology units

The bill provides a 10-percent investment tax credit for qualified investments in advanced clean coal technology units. A qualified investment is that amount that would otherwise be a qualified investment multiplied by a fraction equal to the amount of national megawatt capacity allocated to the taxpayer (as described below) divided by the megawatt capacity of the qualifying unit. Qualifying advanced clean coal technology units must utilize advanced pulverized coal or atmospheric fluidized bed combustion technology, pressurized fluidized bed combustion technology, integrated gasification combined cycle technology, or some other technology certified by the Secretary of Energy. Any qualifying advanced clean coal technology unit must meet certain capacity standards, thermal efficiency standards, and emissions standards for SO_2, nitrous oxides, particulate emissions, and source emissions standards as provided in the Clean Air Act. In addition, a qualifying advanced clean coal technology unit must meet certain carbon emissions requirements.

The proposal defines four types of qualifying advanced clean coal technology units: (1) advanced pulverized coal or atmospheric fluidized bed combustion technology units (2) qualifying pressurized fluidized bed combustion technology units; (3) integrated gasification combined cycle technology units; and (3) other technology units.

(1) A qualifying advanced pulverized coal or atmospheric fluidized bed combustion technology unit is a unit placed in service after the date of enactment and before 2013 and having a design net heat rate of not more than 8,500 Btu (8,900 Btu if the unit is placed in service before 2009).

(2) A qualifying pressurized fluidized bed combustion technology unit is a unit placed in service after the date of enactment and before 2017 and having a design net heat rate of not more than 7,720 Btu (8,900 Btu if the unit is placed in service before 2009 and 8.500 Btu if the unit is placed in service after 2008 and before 2013).

(3) A qualifying integrated gasification combined cycle technology unit is a unit placed in service after the date of enactment and before 2017 and having a design net heat rate of not more than 7,720 Btu (8,900 Btu if the unit is placed in service before 2009 and 8,500 Btu if the unit is placed in service after 2008 and before 2013).

(4) A qualifying other technology unit use any other technology and is placed in service after the date of enactment and before 2017.

The provision provides that qualifying advanced clean coal units must satisfy carbon emissions standards. For units using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate must be less than 0.60 pound of carbon per kilowatt hour (0.51 if the unit qualifies as an other technology unit). For units using design coal with a heat content in excess of 9,000 Btu per pound, the carbon emission rate must be less than 0.54 pound of carbon per kilowatt hour (0.459 if the unit qualifies as an other technology unit).

To be a qualified investment in advanced clean coal technology, the taxpayer must receive a certificate from the Secretary of the Treasury. The Secretary may grant certificates to investments only to the point that

4,000 megawatts of electricity production capacity qualifies for the credit. From the potential pool of 4,000 megawatts of capacity, not more than 1,000 megawatts in total and not more than 500 megawatts in years prior to 2009 shall be allocated to units using advanced pulverized coal or atmospheric fluidized bed combustion technology. From the potential pool of 4,000 megawatts of capacity, not more than 500 megawatts in total and not more than 250 megawatts in years prior to 2009 shall be allocated to units using pressurized fluidized bed combustion technology. From the potential pool of 4,000 megawatts of capacity, not more than 2,000 megawatts in total and not more than 750 megawatts in years prior to 2009 shall be allocated to units using integrated gasification combined cycle technology, with or without fuel or chemical co-production. From the potential pool of 4,000 megawatts of capacity, not more than 500 in total and not more than 250 megawatts in years prior to 2009 shall be allocated to any other technology certified by the Secretary of Energy.

Production credit for electricity produced from qualifying clean coal technology units

The bill provides a production credit for electricity produced from certain units that have been retrofitted, repowered, or replaced with a clean coal technology within ten years of the date of enactment. The value of the credit is 0.34 cents per kilowatt-hour of electricity and the heat value of other fuels or chemicals produced at the unit multiplied by the fraction equal to the amount of national megawatt capacity limitation (see below) allocated to the qualifying unit divided by the total megawatt capacity of the unit. The value of the credit is indexed for inflation occurring after 2003 with the first potential adjustment in 2005. The taxpayer may claim the credit throughout the 10-year period commencing from the date on which the qualifying unit is placed in service.

A qualifying clean coal technology unit is a clean coal technology unit that meets certain capacity standards, thermal efficiency standards, and emissions standards for SO_2, nitrous oxides, particulate emissions, and source emissions standards as provided in the Clean Air Act. In addition, a qualifying clean coal technology unit cannot be a unit that is receiving or is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of the Department of Energy. Lastly, to be a qualified clean coal technology unit, the taxpayer must receive a certificate from the Secretary of the Treasury. The Secretary may grant certificates to units only to the point that 4,000 megawatts of electricity production capacity qualifies for the credit. However, no qualifying unit would be eligible if the unit's capacity exceeded 300 megawatts prior to having been retrofitted, repowered, or replaced. The maximum eligible allocation to any qualifying unit may not exceed 300 megawatts.

Production credit for electricity produced from qualifying advanced clean coal technology

The bill also provides a production credit for electricity produced from any qualified advanced clean coal technology electricity generation unit that qualifies for the investment credit for qualifying clean coal technology units, as described above. The taxpayer may claim a production credit on the sum of each kilowatt-hour of electricity produced and the heat value of other fuels or chemicals produced by the taxpayer at the unit. The taxpayer may claim the production credit for the 10-year period commencing with the date the qualifying unit is placed in service (or the date on which a conventional unit was retrofitted or repowered). The value of the credit varies depending upon the year the unit is placed in service, whether the unit produces solely electricity or electricity and fuels or chemicals, and the rated thermal efficiency of the unit. In addition, the value of the credit is reduced for the second five years of eligible production. If a unit meets the more stringent qualification standards of post-2008 in years before 2009, the taxpayer may claim the higher post-2008 credit amounts. The value of the credit is indexed for inflation occurring after 2003 with the first potential adjustment in 2005. The tables below specify the value of the credit (before indexing is applied).

Advanced clean coal technology units producing solely electricity

TABLE 11.—UNITS PLACED IN SERVICE BEFORE 2009

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010

TABLE 12.—UNITS PLACED IN SERVICE AFTER 2008 AND BEFORE 2013

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055

TABLE 13.—UNITS PLACED IN SERVICE AFTER 2012 AND BEFORE 2017

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years to:
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090

Advanced clean coal technology units producing electricity and a fuel or chemical

TABLE 14.—UNITS PLACED IN SERVICE BEFORE 2009

The unit design net thermal efficiency is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years
Not less than 40.6%	$.0060	$.0038
Less than 40.6% but not less than 40%	$.0025	$.0010
Less than 40% but not less than 38.4%	$.0010	$.0010

TABLE 15.—UNITS PLACED IN SERVICE AFTER 2008 AND BEFORE 2013

The unit design net thermal efficiency is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years
Not less than 43.6%	$.0105	$.0090
Less than 43.6% but not less than 42%	$.0085	$.0068
Less than 42% but not less than 40.2%	$.0075	$.0055

TABLE 16.—UNITS PLACED IN SERVICE AFTER 2012 AND BEFORE 2017

The unit design net thermal efficiency is equal to:	Credit amount per kilowatt-hour	
	For the first five years	For the second five years
Not less than 44.2%	$.0140	$.0115
Less than 44.2% but not less than 43.9%	$.0120	$.0090

The credits are part of the general business credit. No credit may be carried back to taxable years ending on or before the date of enactment.

EFFECTIVE DATE

The provision relating to investment credits for advanced clean coal technology units is effective after the date of enactment. The provisions relating to production credits are effective after the date of enactment.

TITLE V—OIL AND GAS PROVISIONS

A. TAX CREDIT FOR OIL AND GAS PRODUCTION FROM MARGINAL WELLS

(Sec. 501 of the bill and sec. 45K of the Code)

PRESENT LAW

There is no credit for the production of oil and gas from marginal wells. The costs of such production may be recovered under the Code's depreciation and depletion rules and in other cases as a deduction for ordinary and necessary business expenses.

REASONS FOR CHANGE

The highly volatile price of oil and gas can result in lost production during periods when prices are low. The Committee has learned that once a marginally producing well is shut down, that source of supply may be forever lost. To increase domestic supply, the Committee determined that a tax credit will help ensure that supply is not lost as a result of low market prices.

EXPLANATION OF PROVISION

The provision would create a new, $3 per barrel credit for qualified crude oil production and a $0.50 credit per 1,000 cubic feet of qualified natural gas production. The maximum amount of production on which credit could be claimed is 1,095 barrels or barrel equivalents. In both cases, the credit is available only for qualified production from a "qualified marginal well." The credit is not available to production occurring if the reference price of oil exceeded $18 ($2.00 for natural gas). The credit is reduced proportionately as for reference prices between $15 and $18 ($1.67 and $2.00 for natural gas). Reference prices are determined on a one-year lookback basis.

The terms "qualified crude oil production" and "qualified natural gas production" mean domestic crude oil or natural gas which is produced from a qualified marginal well. Production from a marginal well that is not in compliance with the applicable Federal pollution prevention, control and permit requirements for any period of time is not considered qualified crude oil production or qualified natural gas production. A qualified marginal well is defined as (1) a well production from which was marginal production for purposes of the Code percentage depletion rules or (2) a well that during the taxable year had (a) average daily production of not more than 25 barrel equivalents and (b) produced water at a rate of not less than 95 percent of total well effluent.

The credit is treated as part of the general business credit. The credit cannot be carried back to a taxable year ending on or before the date of enactment of the provision.

EFFECTIVE DATE

The provision is effective for production in taxable years beginning after the date of enactment.

B. Natural Gas Gathering Lines Treated as Seven-Year Property

(Sec. 502 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87-56. Revenue Procedure 87-56 includes two asset classes that could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0, describing pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a class life of 14 years and a depreciation recovery period of seven years. The uncertainty regarding the appropriate recovery period of natural gas gathering lines has resulted in litigation between taxpayers and the IRS. The 10th Circuit Court of Appeals held that natural gas gathering lines owned by nonproducers falls within the scope of Asset class 13.2 (i.e., seven-year recovery period). More recently, the Tax Court and the U.S. District Court for the Eastern District of Michigan, Southern Division, held that natural gas gathering lines owned by nonproducers falls within the scope of Asset class 46.0 (i.e., 15-year recovery period).

REASONS FOR CHANGE

The Committee believes the appropriate recovery period for natural gas gathering lines is seven years.

EXPLANATION OF PROVISION

The provision establishes a statutory seven-year recovery period and a class life of 10 years for natural gas gathering lines. A natural gas gathering line is defined to include any pipe, equipment, and appurtenance that is (1) determined to be a gathering line by the Federal Energy Regulatory Commission, or (2) used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches (a) a gas processing plant, (b) an interconnection with an interstate transmission line, (c) an interconnection with an intrastate transmission line, or (d) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

EFFECTIVE DATE

The provision is effective for property placed in service after the date of enactment. No inference is intended as to the proper treatment of natural gas gathering lines placed in service before the date of enactment.

C. Expensing of Capital Costs Incurred and Credit for Production in Complying with Environmental Protection Agency Sulfur Regulations

(Secs. 503 and 504 of the bill and new secs. 179C and 45L of the Code)

PRESENT LAW

Taxpayers generally may recover the costs of investments in refinery property through annual depreciation deductions. Present law does not provide a credit for the production of lowsulfur diesel fuel.

REASONS FOR CHANGE

The Committee believes it is important for all refiners to meet applicable pollution control standards. However, the Committee is concerned that the cost of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency may force some small refiners out of business. To maintain this refining capacity and to foster compliance with pollution control standards the Committee believes it is appropriate to modify cost recovery provisions for small refiners to reduce their capital costs of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency.

EXPLANATION OF PROVISION

The provision generally permits small business refiners to claim an immediate deduction (i.e., expensing) for up to 75 percent of the qualified capital costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency. Qualified capital costs are those costs paid or incurred and otherwise chargeable to the taxpayer's capital account that are necessary for the refinery to come into compliance with the EPA diesel fuel requirements.

In addition, the provision provides that a small business refiner may claim a credit equal to five cents per gallon for each gallon of low sulfur diesel fuel produced at a facility of a small business refiner. The total production credit claimed by the taxpayer generally is limited to 25 percent of the qualified capital costs incurred with respect to expenditures at the refinery during the period beginning after the date of enactment and ending with the date that is one year after the date on which the taxpayer must comply with applicable EPA regulations. No deduction is allowed to the taxpayer for expenses otherwise allowable as a deduction in an amount equal to the amount of production credit claimed during the taxable year.

For these purposes a small business refiner is a taxpayer who within the business of refining petroleum products employs not more than 1,500 employees directly in refining on business days during a taxable year in which the deduction or production credit is claimed and had an average daily refinery run (or retained production) not exceeding 205,000 barrels per day for the year prior to enactment.

For taxpayers with an average daily refinery run in the year prior to enactment in excess of 155,000 and not greater than 205,000 barrels per day, the provision limits otherwise qualifying small business refiners to an immediate deduction for a percentage of qualifying capital costs equal to 75 percent less the percentage points determined by the excess of the average daily refinery runs over 155,000 barrels per day divided by 50,000 barrels per day. In addition, for these taxpayers, the limitation on the total production credit that may be claimed also is reduced proportionately.

In the case of a qualifying small business refiner that is owned by a cooperative, the cooperative is allowed to elect to pass any production credits to patrons of the organization.

EFFECTIVE DATE

The provision is effective for expenses paid or incurred after December 31, 2002.

D. Determination of Small Refiner Exception to Oil Depletion Deduction

(Sec. 505 of the bill and sec. 613A of the Code)

PRESENT LAW

Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides numerous special tax rules for operations by independent producers. One such rule allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion).

A producer is an independent producer only if its refining and retail operations are relatively small. For example, an independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed.

REASONS FOR CHANGE

The Committee believes that the goal of present law, to identify producers without significant refining capacity, can be achieved while permitting more flexibility to refinery operations.

EXPLANATION OF PROVISION

The provision increases the current 50,000-barrel-per-day limitation to 60,000. In addition, the provision changes the refinery limitation on claiming independent producer status from a limit based on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refinery run for the taxable year cannot exceed 60,000 barrels. For this purpose, the taxpayer calculates average daily refinery run by dividing total production for the taxable year by the total number of days in the taxable year.

EFFECTIVE DATE

The provision is effective for taxable years ending after the date of enactment.

E. Extension of Suspension of Taxable Income Limit with Respect to Marginal Production

(Sec. 506 of the bill and Sec. 613A of the Code)

PRESENT LAW

In General

Depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset—in the case of depletion for oil or gas interests, the mineral reserve itself—is being expended in order to produce income. Certain costs incurred prior to drilling an oil or gas property are recovered through the depletion deduction. These include costs of acquiring the lease or other interest in the property and geological and geophysical costs (in advance of actual drilling).

Depletion is available to any person having an economic interest in a producing property. An economic interest is possessed in every case in which the taxpayer has acquired by investment any interest in minerals in place, and secures, by any form of legal relationship, income derived from the extraction of the mineral, to which it must look for a return of its capital. Thus, for example, both working interests and royalty interests in an oil- or gas-producing property constitute economic interests, thereby qualifying the interest holders for depletion deductions with respect to the property. A taxpayer who has no capital investment in the mineral deposit does not possess an economic interest merely because it possesses an economic or pecuniary advantage derived from production through a contractual relation.

Cost depletion

Two methods of depletion are currently allowable under the Internal Revenue Code (the "Code"): (1) the cost depletion method, and (2) the percentage depletion method (secs. 611–613). Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the depletable property which is equal to the ratio of units sold from that property during the taxable year to the number of units remaining as of the end of taxable year plus the number of units sold during the taxable year. Thus, the amount recovered under cost depletion may never exceed the taxpayer's basis in the property.

Percentage depletion and related income limitations

The Code generally limits the percentage depletion method for oil and gas properties to independent producers and royalty owners. Generally, under the percentage depletion method 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year (sec. 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property in any year (the "net income limitation") (sec. 613(a)). By contrast, for any other mineral qualifying for the percentage depletion deduction, such deduction may not exceed 50 percent of the taxpayer's taxable income from the depletable property. A similar 50-percent net income limitation applied to oil and gas properties for taxable years beginning before 1991. Section 11522(a) of the Omnibus Budget Reconciliation Act of 1990 prospectively changed the net-income limitation threshold to 100 percent only for oil and gas properties, effective for taxable years beginning after 1990. The 100-percent net-income limitation for marginal wells has been suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.

Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for certain loss carrybacks and trust distributions) (sec. 613A(d)(1)) Because percentage depletion, unlike cost depletion, is computed without regard to the taxpayer's basis in the depletable property, cumulative depletion deductions may be greater than the amount expended by the taxpayer to acquire or develop the property.

A taxpayer is required to determine the depletion deduction for each oil or gas property under both the percentage depletion method (if the taxpayer is entitled to use this method) and the cost depletion method. If the cost depletion deduction is larger, the taxpayer must utilize that method for the taxable year in question (sec. 613(a)).

Limitation of oil and gas percentage depletion to independent producers and royalty owners

Generally, only independent producers and royalty owners (as contrasted to integrated oil companies) are allowed to claim percentage depletion. Percentage depletion for eligible taxpayers is allowed only with respect to up to 1,000 barrels of average daily production of domestic crude oil or an equivalent amount of domestic natural gas (sec. 613A(c)). For producers of both oil and natural gas, this limitation applies on a combined basis.

In addition to the independent producer and royalty owner exception, certain sales of natural gas under a fixed contract in effect on February 1, 1975, and certain natural gas from geopressured brine, are eligible for percentage depletion, at rates of 22 percent and 10 percent, respectively. These exceptions apply without regard to the 1,000-barrel-per-day limitation and regardless of whether the producer is an independent producer or an integrated oil company.

REASONS FOR CHANGE

The Committee is concerned that, while current oil and gas operations may be profitable, the highly volatile nature of oil and gas prices could quickly create economic hardships in the industry. Thus, to help minimize the adverse effects of future price fluctuations, the Committee believes it is appropriate to extend the suspension of the 100-percent net-income limitation for marginal wells.

EXPLANATION OF PROVISION

The suspension of the 100-percent net income limitation for marginal wells is extended through taxable years beginning before January 1, 2007.

EFFECTIVE DATE

The provision is effective on date of enactment.

F. AMORTIZATION OF DELAY RENTAL PAYMENTS

(Sec. 507 of the bill and new sec. 199A of the Code)

PRESENT LAW

Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred. (sec. 263). Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for "delay rental payments" as a condition of their extension. In proposed regulations issued in 2000, the Treasury Department took the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

REASONS FOR CHANGE

The Committee believes that substantial simplification for taxpayers and significant gains in taxpayer compliance and reductions in administrative cost can be contained by establishing the simple rule that all delay rental payments may be amortized over two years, including the basis of abandoned property.

EXPLANATION OF PROVISION

The provision allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

EFFECTIVE DATE

The provision applies to delay rental payments paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this proposal as to the proper treatment of pre-effective date delay rental payments.

G. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES

(Sec. 508 of the bill and new sec. 199 of the Code)

PRESENT LAW

In general

Geological and geophysical expenditures are costs incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. A key issue with respect to the tax treatment of such expenditures is whether or not they are capital in nature. Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property.

Courts have held that geological and geophysical costs are capital, and therefore are allocable to the cost of the property acquired or retained. The costs attributable to such exploration are allocable to the cost of the property acquired or retained. As described further below, IRS administrative rulings have provided further guidance regarding the definition and proper tax treatment of geological and geophysical costs.

Revenue Ruling 77–188

In Revenue Ruling 77–188 (hereinafter referred to as the "1977 ruling"), the IRS provided guidance regarding the proper tax treatment of geological and geophysical costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area encompasses a territory that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, the number of personnel, and the amount of money available to conduct a reasonable exploration program over the project area.

The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques. These techniques are designed to yield data that will afford a basis for identifying specific geological features with sufficient mineral potential to merit further exploration.

Each separable, noncontiguous portion of the original project area in which such a specific geological feature is identified is a separate "area of interest." The original project area is subdivided into as many small projects as there are areas of interest located and identified within the original project area. If the circumstances permit a detailed exploratory survey to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.

The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted with respect to each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield sufficiently accurate sub-surface data to afford a basis for a decision to acquire or retain properties within or adjacent to a particular area of interest or to abandon the entire area of interest as unworthy of development by mine or well.

The 1977 ruling provides that if, on the basis of data obtained from the preliminary geological and geophysical exploration operations, only one area of interest is located and identified within the original project area, then the entire expenditure for those exploratory operations is to be allocated to that one area of interest and thus capitalized into the depletable basis of that area of interest. On the other hand, if two or more areas of interest are located and identified within the original project area, the entire expenditure for the exploratory operations is to be allocated equally among the various areas of interest.

If no areas of interest are located and identified by the taxpayer within the original project area, then the 1977 ruling states that the entire amount of the geological and geophysical costs related to the exploration is deductible as a loss under section 165. The loss is claimed in the taxable year in which that particular project area is abandoned as a potential source of mineral production.

A taxpayer may acquire or retain a property within or adjacent to an area of interest, based on data obtained from a detailed survey that does not relate exclusively to any discrete property within a particular area of interest. Generally, under the 1977 ruling, the taxpayer allocates the entire amount of geological and geophysical costs to the acquired or retained property as a capital cost under section 263(a). If more than one property is acquired, it is proper to determine the amount of the geological and geophysical costs allocable to each such property by allocating the entire amount of the costs among the properties on the basis of comparative acreage.

If, however, no property is acquired or retained within or adjacent to that area of interest, the entire amount of the geological and geophysical costs allocable to the area of interest is deductible as a loss under section 165 for the taxable year in which such area of interest is abandoned as a potential source of mineral production.

In 1983, the IRS issued Revenue Ruling 83–105, which elaborates on the positions set forth in the 1977 ruling by setting forth seven factual situations and applying the principles of the 1977 ruling to those situations. In addition, Revenue Ruling 83–105 explains what constitutes "abandonment as a potential source of mineral production."

REASONS FOR CHANGE

The Committee believes that substantial simplification for taxpayers, significant gains in taxpayer compliance, and reductions in administrative cost can be obtained by establishing the simple rule that all geological and geophysical costs may be amortized over two years, including the basis of abandoned property.

The Committee recognizes that, on average, a two-year amortization period accelerates recovery of geological and geophysical expenses. The Committee believes that more rapid recovery of such expenses will foster increased exploration for new sources of supply.

EXPLANATION OF PROVISION

The provision allows geological and geophysical costs incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

EFFECTIVE DATE

The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this proposal as to the proper treatment of pre-effective date geological and geophysical costs.

H. Extension and Modification of Credit for Producing Fuel From a Non-Conventional Source

(Sec. 509 of the bill and new sec. 45J of the Code)

PRESENT LAW

Certain fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels must be produced within the United States.

Qualified fuels include:

(5) oil produced from shale and tar sands; as produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and

(6) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997.

The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of non-conventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

REASONS FOR CHANGE

The Committee concludes that the section 29 credit, on the margins, has increased production of oil and natural gas from domestic sources and that in the absence of these non-conventional sources the demand for imported fuels may have increased. To increase domestic sources of supply, the Committee believes it is appropriate to extend the section 29 credit to help foster new domestic fuel sources. The Committee is also concerned that, without the implicit subsidy of the production credit due to the higher extraction costs of certain "viscous oil," entrepreneurs would not otherwise exploit this domestic energy source. Therefore, the Committee believes it is appropriate to extend the credit for viscous oil produced from new wells or facilities.

The Committee also recognizes that the credit for production of synthetic fuels from coal has been interpreted to include fuels that are merely chemical changes to coal that do not necessarily enhance the value or environmental performance of the feedstock coal. Therefore, the Committee believes it is appropriate to extend the section 29 credit only to fuels produced from coal that achieve significant environmental and value-added improvements. Methane in coal mines is a serious safety hazard. In many coal mining operations, the cost of collection exceeds the value of the recovered methane so the methane is vented directly into the atmosphere. Methane is an extremely potent and long-lived greenhouse gas. Therefore, the Committee seeks to encourage capture of methane from coal mines in particular.

The Committee recognizes that the world price of oil as the nation enters the 21st century has not risen to levels forecast in 1978. Therefore, the Committee believes it is appropriate to restart the section 29 credit at a level lower than that currently available to existing production.

The Committee believes it is important to study the efficacy of the section 29 credit in the case of methane recovered from coal seams or so-called "coal beds."

EXPLANATION OF PROVISION

The provision extends the placed in service date for certain facilities that would otherwise qualify for the section 29 credit under present law and modifies the amount of the credit to equal $3.00 unindexed for inflation. The provision also expands the class of facilities that are eligible for the credit. In addition, under the provision, the taxpayer would not be able to claim any credit for production in excess of a daily average of 200,000 cubic feet of gas (or barrel of oil equivalent) from a qualifying well or facility.

Clarification of definition of when a facility is placed in service

The provision clarifies the definition of when a landfill gas facility is placed in service, both for facilities originally placed in service on or before the date of enactment and for facilities placed in service after the date of enactment. In general, a landfill gas facility includes wells, pipes, and the related components to collect landfill gas (i.e., the gas produced from biomass and derived from the bio-degradation on municipal solid waste). The production of landfill gas attributable to wells, pipes, and related components placed in service after the date of enactment is considered produced from a facility placed in service after the date of enactment. Production of landfill gas attributable to those wells, pipes, and related components placed in service on or before the date of enactment is considered produced from a facility placed in service on or before the date of enactment. That is, all of the landfill gas produced from a landfill is not considered to be from a facility placed in service on the date on which the first set of wells, pipes, and related components drew gas from the landfill. Rather, as a landfill expands and additional integrated sets of wells, pipes, and related components are installed to draw off landfill gas, the landfill gas drawn from each additional integrated set of wells, pipes, and related components is to be considered to be produced from a facility placed in service on the date each additional integrated set of wells, pipes, and related components is placed in service. Thus, a single landfill may have several "facilities" eligible for the section 29 credit, each placed in service on a different date.

Extension for certain non-conventional fuels

The provision permits taxpayers to claim the section 29 credit for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. Under the provision, qualifying fuels are oil from shale or tar sands, and gas from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass. The value of the credit is re-based to $3.00 and the amount is not indexed for inflation. Taxpayers may claim the credit for production from the well for each of the first three years of production from the qualifying well.

Expansion for fuels from agricultural and animal waste

The provision adds facilities producing liquid, gaseous, or solid fuels, from agricultural and animal waste placed in service after the date of enactment and before January 1, 2007, to the list of qualified facilities for purposes of the non-conventional fuel credit. The amount of the credit is equal to $3.00 (unindexed) per barrel or Btu oil barrel equivalent, for three years of production commencing on the date the facility is placed in service. Agricultural and animal waste includes by-products, packaging, and any materials associated with processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

Expansion for "viscous oil"

The provision expands section 29 to permit taxpayers to claim the section 29 credit for production of certain viscous oil produced at wells placed in service after the date of enactment and before January 1, 2007. The provision defines "viscous oil" as domestic crude oil produced from any property if the crude oil has a weighted average gravity of 22 degrees API or less (corrected to 60 degrees Fahrenheit). The value of the credit for viscous oil also is $3.00 per barrel. Taxpayers may claim the credit for production from the well for each of the first three years of production from the time the well is placed in service. The provision provides that qualifying sales to related parties for consumption not in the immediate vicinity of the wellhead qualify for the credit.

Expansion for "refined coal"

The provision also expands section 29 to include certain "refined coal" as a qualified non-conventional fuel. "Refined coal" is a qualifying liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) from facilities placed in service after date of enactment and before January 1, 2007. Refined coal also would include a qualifying fuel derived from high carbon fly ash produced from facilities placed in service after the date of enactment and before January 1, 2007. A qualifying fuel is a fuel that when burned emits 20 percent less nitrogen oxide and either sulfur dioxide or mercury than the burning of feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003, and if the fuel sells at prices at least 50 percent greater than the prices of the feedstock coal or comparable coal. However, no fuel produced at a qualifying advanced clean coal facility (as defined elsewhere in the committee bill) would be a qualifying fuel. The amount of credit for refined coal also is $3.00 per barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim credit for coalmine gas captured by the taxpayer and utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person. The term "coalmine gas" means any methane gas which is being liberated during qualified coal mining operations or as a result of past qualified coal mining operations, or which is captured 10 years in advance of qualified coal mining operations as part of specific plan to mine a coal deposit. In the case of coalmine gas that is captured in advance of qualified coal mining operations, the credit is allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed. The value of the credit for coalmine methane also is $3.00 per Btu oil barrel equivalent (51.7 cents per million Btu of heat value in the gas) for gas captured and utilized or sold. Taxpayers may claim the credit for gas captured and utilized or sold after the date of enactment and before January 1, 2007.

Extension of credit for certain existing facilities

The provision extends the present-law credit through December 31, 2005 for production from existing facilities producing coke, coke gas, or natural gas and by-products produced by coal gasification from lignite. The provision provides that the credit amount will be $3.00 per Btu oil barrel equivalent for production from such facilities after December 31, 2002.

Study of coal bed methane gas

Lastly, the provision directs the Secretary of the Treasury to undertake a study of the effect section 29 has had on the production of coal bed methane. The study should estimate the total amount of credit claimed annually and in aggregate related to the production of coal bed methane since the enactment of section 29. The study should report the annual value of the credit allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). The study should estimate the incremental increase in production of coal bed methane that has resulted from the enactment of section 29. The study should estimate the cost to the Federal government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in aggregate since the enactment of section 29.

EFFECTIVE DATE

The provisions apply to fuels sold from qualifying wells and facilities after the date of enactment.

I. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY

(Sec. 510 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Natural gas distribution pipelines are assigned a 20-year recovery period and a class life of 35 years.

REASONS FOR CHANGE

The Committee recognizes the importance of modernizing our aging energy infrastructure to meet the demands of the twenty-first century, and the Committee also recognizes that both short-term and long-term solutions are required to meet this challenge. The Committee understands that investment in our energy infrastructure has not kept pace with the nation's needs. In light of this, the Committee believes it is appropriate to reduce the recovery period for investment in certain energy infrastructure property to encourage investment in such property.

EXPLANATION OF PROVISION

The provision establishes a statutory 15-year recovery period and a class life of 20 years for natural gas distribution lines.

EFFECTIVE DATE

The provision is effective for property placed in service after the date of enactment.

J. CREDIT FOR ALASKA NATURAL GAS

(Sec. 511 of the bill and new sec. 45M of the Code)

PRESENT LAW

Present law does not provide a credit for conventional production of natural gas or delivery of fuels to a pipeline. However, certain fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels must be produced within the United States.

Qualified fuels include:

(1) gas produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and

(2) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997.

The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of non-conventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

REASONS FOR CHANGE

The Committee recognizes the natural gas in Alaska is an important natural resource that can expand domestic energy supplies. However, due to the volatility of energy prices, the private sector may be unwilling to make the substantial investment in a pipeline to bring some of the natural gas to the lower 48 States. The Committee believes it is important to make this natural gas resource available to the lower 48 States and to provide an economic stimulus to the Alaskan economy. The Committee believes that a credit against income taxes for delivery of natural gas to a transmission pipeline will provide a minimum return and the reduced volatility necessary to induce the private sector to invest in the pipeline to bring Alaska natural gas to the rest of the U.S. market.

EXPLANATION OF PROVISION

The provision provides a credit per million British thermal units (Btu) of natural gas for Alaska natural gas entering a pipelines during the 15-year period beginning the later of January 1, 2010 or the initial date for the interstate transportation of Alaska natural gas. Taxpayers may claim the credit against both the regular and minimum tax.

The credit amount for any month is a maximum of 52 cents per million Btu of natural gas. The credit phases out as the reference price of Alaska natural gas rises above 83 cents per million Btu, at a rate of one cent of credit lost per each cent by which the reference price of Alaska natural gas exceeds 83 cents per million Btu. The credit is not available if the reference price of Alaska natural gas rises above $1.35 per million Btu. The 52-cent and 83-cent figures are indexed for inflation after 2002, with the first adjustment for calendar year 2004.

The bill provides that the Secretary of Treasury calculate the reference price of Alaska natural gas as the average price of natural gas delivered in the lower 48 States less certain transportation costs and gas processing costs. The Committee intends that an appropriate measure of the price of natural gas delivered to the lower 48 States be the monthly Chicago city gate price for natural gas as reliably reported in one or more trade publications or as reported by the Secretary of Energy. Because qualifying natural gas is likely to be transported across both the United States and Canada, the Committee intends that transportation costs be measured as such costs as determined (pursuant to approved tariffs) by the appropriate national regulatory body. At the present time, the appropriate national regulatory body for transportation of natural gas in the United States is the Federal Energy Regulatory Commission. At the present time, the Committee understands the appropriate national regulatory body for transportation of natural gas in Canada is the Canadian National Energy Board. The Committee further intends that gas processing costs include all rates and charges of whatever kind for firm service assessed with respect to the processing of Alaska natural gas as calculated pursuant to approved tariffs under the Natural Gas Act (15 U.S.C. 717), if such costs are regulated by the Federal government, or as calculated under the principles of sec. 482 of the Code, if such costs are not regulated by the Federal government.

Alaska natural gas is any gas derived from an area of the State of Alaska lying north of 64 degrees North latitude, but not including the Alaska National Wildlife Refuge.

The credit is part of the general business credit.

EFFECTIVE DATE

The proposal is effective on the date of enactment.

K. CERTAIN ALASKA PIPELINE SYSTEMS TREATED AS SEVEN-YEAR PROPERTY

(Sec. 512 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Assets used in the private, commercial, and contract carrying of petroleum, gas and other products by means of pipes and conveyors are assigned a 15–year recovery period and a class life of 22 years.

REASONS FOR CHANCE

The Committee recognizes that, on our present course, the nation will be ever more reliant on foreign governments, that do not always have America's interest at heart, for oil and natural gas. The Committee recognizes that even with conservation efforts and alternative sources of energy that our nation's long-term security depends on reducing our reliance on foreign energy sources. In light of this, the Committee believes it is appropriate to reduce the recovery period, and thus the cost of capital, for investment in natural gas pipeline systems in Alaska that meet certain requirements.

EXPLANATION OF PROVISION

The provision establishes a statutory seven-year recovery period and a class life of 10 years for any natural gas pipeline system, located in Alaska, that has a capacity greater than five hundred billion Btu of natural gas per day and is placed in service after 2014. For purposes of the proposal, a natural gas pipeline system is defined as any system used in the carrying of natural gas by means of pipes, including pipe, trunk lines, related equipment, and appurtenances. It does not include any gas treatment plant related to such pipeline.

EFFECTIVE DATE

The proposal is effective on the date of enactment.

L. EXEMPT CERTAIN PREPAYMENTS FOR NATURAL GAS FROM TAX-EXEMPT BOND ARBITRAGE RULES

(Sec. 513 of the bill and sec. 148 of the Code)

PRESENT LAW

Interest on bonds issued by States or local governments to finance activities carried out or paid for by those entities generally is exempt from income tax (sec. 103). Restrictions are imposed on the ability of States or local governments to invest the proceeds of these bonds for profit (the "arbitrage restrictions"). One such restriction limits the use of bond proceeds to acquire "investment type property." A prepayment for property or services may give rise to investment-type property. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same transaction.

On April 17, 2002, the Department of the Treasury issued proposed regulations regarding arbitrage and private activity restrictions applicable to tax-exempt bonds issued by State and local governments. The proposed regulations add an exception to the definition of investment type property for certain natural gas prepayments that are made by or for one or more utilities that are owned by a governmental person. The exception applies if at least 95 percent of the natural gas purchased with the prepayment is to be (1) consumed by retail customers in the service area of a municipal gas utility, or (2) used to produce electricity that will be furnished to retail customers that a municipal electric utility is obligated to serve under State or Federal law. An obligation that arises solely because of a contract is not an obligation to serve under State or Federal law. For this purpose, the service area of a municipal gas utility is defined as (1) any area throughout which the municipal utility provided (at all times during the five-year period ending on the issue date) gas transmission or distribution service, and any area that is contiguous to such an area, or (2) any area where the municipal utility is obligated under State or Federal law to provide gas distribution services as provided in such law. Issuers may apply principles similar to the rules governing private use to cure a violation of the 95 percent requirement.

A prepayment will not fail to meet the requirements for prepaid gas contracts by reason of any commodity swap contract that may be entered into between the issuer and an unrelated party (other than the gas supplier), or between the gas supplier and an unrelated party (other than the issuer), so long as each swap contract is an independent contract. A swap contract is an independent contract if the obligation of each party to perform under the swap contract is not dependent on performance by any person (other than the other party to the swap contract) under another contract (for example, a gas contract or another swap contract). A natural gas commodity swap contract will not fail to be an independent contract solely because the swap contract may terminate in the event of a failure of a gas supplier to deliver gas for which the swap contract is a hedge. The Commissioner may, by published guidance, set forth additional circumstances in which a prepayment does not give rise to investment type property.

REASONS FOR CHANGE

The Committee determined that it was appropriate to complement the proposed Treasury regulations with a safe harbor that provides certainty on the date of issuance that prepayments for natural gas within the safe harbor will not violate the arbitrage rules. This provision will ensure adequate supplies of natural gas at predictable prices for natural gas utility customers without sacrificing to a great degree the appropriate present-law limitations regarding tax-exempt bond issuance for the purchase of investment property. The Committee believes that this proposal strikes an appropriate balance between these two competing policies. The creation of this safe harbor is not intended to limit the Secretary's regulatory authority to identify other situations in which prepayments do not give rise to investment type property.

EXPLANATION OF PROVISION

In general

The provision creates a safe harbor exception to the general rule that tax-exempt bondfinanced prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private business tests.

Under the provision, a prepayment financed with tax-exempt bond proceeds for the purpose of obtaining a supply of natural gas for service area customers of a governmental utility is not treated as the acquisition of investment-type property. A contract is a qualified natural gas supply contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility ("retail natural gas consumption") during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is the 5-calendar-year period immediately preceding the calendar year in which the bonds are issued. A retail customer is one who does not purchase natural gas for resale. Natural gas used to generate electricity by a governmental utility is counted as retail natural gas consumption if the electricity was sold to retail customers within the service area of the governmental electric utility.

With respect to qualified natural gas supply contracts entered into by joint action agencies acting for or on behalf of one or more governmental utilities, the requirements of the safe harbor are tested at the utility level. A joint action agency shall be treated as the agent of the utility when selling directly to a retail customer within that utility's service area.

Adjustments

The volume of gas permitted by the general rule is reduced by natural gas otherwise available on the date of issuance. Specifically, the amount of natural gas permitted to be acquired under a qualified natural gas supply contract for any period is to be reduced by the applicable share of natural gas held by the utility on the date of issuance of the bonds and natural gas that the utility has a right to acquire for the prepayment period (determined as of the date of issuance). For purposes of the preceding sentence, applicable share means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

For purposes of the safe harbor, if after the close of the testing period and before the issue date of the bonds (1) the governmental utility enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility and (2) the gas consumption for such property was not included in the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period, then the amount of gas permitted to be purchased may be increased to accommodate the contract.

The average annual retail natural gas consumption calculation for purposes of the safe harbor, however, is not to exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

Intentional acts

The safe harbor does not apply if the utility engages in intentional acts to render the volume of natural gas covered by the prepayment to be in excess of that needed for (1) retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. Sales to dispose of excess gas outside the service area that are necessitated by circumstances beyond the control of the utility, such as weather conditions, are not considered intentional acts to render the prepaid gas supply in excess of the utility's needs.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution service, or in the case of an electric utility, electric distribution service; (2) limited areas contiguous to such areas, and (3) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas are limited to any area within a county contiguous to the area described in (1) in which retail customers of the utility are located if such area is not also served by another utility providing the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor based on objective evidence of growth in gas consumption or population that demonstrates that the amount permitted by the exception is insufficient.

EFFECTIVE DATE

The provision is effective for obligations issued after the date of enactment.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

A. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS

(Sec. 601 of the bill and sec. 468A of the Code)

PRESENT LAW

Overview

Special rules dealing with nuclear decommissioning reserve funds were adopted by Congress in the Deficit Reduction Act of 1984 ("1984 Act"), when tax issues regarding the time value of money were addressed generally. Under general tax accounting rules, a deduction for accrual basis taxpayers is deferred until there is economic performance for the item for which the deduction is claimed. However, the 1984 Act contains an exception under which a taxpayer responsible for nuclear powerplant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund for future decommissioning costs. Taxpayers who do not elect this provision are subject to general tax accounting rules.

Qualified nuclear decommissioning fund

A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used exclusively for the payment of decommissioning costs, taxes on fund income, management costs of the fund, and for making investments. The income of the fund is taxed at a reduced rate of 20 percent for taxable years beginning after December 31, 1995.

Contributions to a qualified fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers (the "cost of service requirement"). Funds withdrawn by the taxpayer to pay for decommissioning costs are included in the taxpayer's income, but the taxpayer also is entitled to a deduction for decommissioning costs as economic performance for such costs occurs.

Accumulations in a qualified fund are limited to the amount required to fund decommissioning costs of a nuclear powerplant for the period during which the qualified fund is in existence (generally post-1984 decommissioning costs of a nuclear powerplant). For this purpose, decommissioning costs are considered to accrue ratably over a nuclear powerplant's estimated useful life. In order to prevent accumulations of funds over the remaining life of a nuclear powerplant in excess of those required to pay future decommissioning costs of such nuclear powerplant and to ensure that contributions to a qualified fund are not deducted more rapidly than level funding (taking into account an appropriate discount rate), taxpayers must obtain a ruling from the IRS to establish the maximum annual contribution that may be made to a qualified fund (the "ruling amount"). In certain instances (e.g., change in estimates), a taxpayer is required to obtain a new ruling amount to reflect updated information.

A qualified fund may be transferred in connection with the sale, exchange or other transfer of the nuclear powerplant to which it relates. If the transferee is a regulated public utility and meets certain other requirements, the transfer will be treated as a nontaxable transaction. No gain or loss will be recognized on the transfer of the qualified fund and the transferee will take the transferor's basis in the fund. The transferee is required to obtain a new ruling amount from the IRS or accept a discretionary determination by the IRS.

Nonqualified nuclear decommissioning funds

Federal and State regulators may require utilities to set aside funds for nuclear decommissioning costs in excess of the amount allowed as a deductible contribution to a qualified fund. In addition, taxpayers may have set aside funds prior to the effective date of the qualified fund rules. The treatment of amounts set aside for decommissioning costs prior to 1984 varies. Some taxpayers may have received no tax benefit while others may have deducted such amounts or excluded such amounts from income. Since 1984, taxpayers have been required to include in gross income customer charges for decommissioning costs (sec. 88), and a deduction has not been allowed for amounts set aside to pay for decommissioning costs except through the use of a qualified fund. Income earned in a nonqualified fund is taxable to the fund's owner as it is earned.

REASONS FOR CHANGE

The Committee does not believe a utility should be denied the opportunity to contribute to a qualified fund simply because it operates in a deregulated environment. The Committee also believes that it is appropriate to permit all decommissioning costs associated with a nuclear powerplant to be funded through a qualified fund. In addition, the Committee recognizes the importance of providing clear and concise rules to minimize disputes between taxpayers and the IRS.

EXPLANATION OF PROVISION

Repeal of cost of service requirement

The provision repeals the cost of service requirement for deductible contributions to a nuclear decommissioning fund. Thus, all taxpayers, including unregulated taxpayers, would be allowed a deduction for amounts contributed to a qualified fund.

Permit contributions to a qualified fund for pre-1984 decommissioning costs

The proposal also repeals the limitation that a qualified fund only accumulate an amount sufficient to pay for a nuclear powerplant's decommissioning costs incurred during the period that the qualified fund is in existence (generally post-1984 decommissioning costs). Thus, any taxpayer is permitted to accumulate an amount sufficient to cover the present value of 100 percent of a nuclear powerplant's estimated decommissioning costs in a qualified fund. The proposal does not change the requirement that contributions to a qualified fund not be deducted more rapidly than level funding.

Clarify treatment of transfers of qualified funds

The provision clarifies the Federal income tax treatment of the transfer of a qualified fund. No gain or loss would be recognized to the transferor or the transferee (or the qualified fund) as a result of the transfer of a qualified fund in connection with the transfer of the powerplant with respect to which such fund was established.

Exception to ruling amount for certain decommissioning costs

The provision permits a taxpayer to make contributions to a qualified fund in excess of the ruling amount in one circumstance. Specifically, a taxpayer is permitted to contribute up to the present value of the amount required to fund a nuclear powerplant's decommissioning costs which under present law section 468A(d)(2)(A) is not permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer's most recent ruling amount. Any amount transferred to the qualified fund under this special rule that has not previously been deducted, or excluded from gross income is allowed as a deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that has received amounts under this rule is transferred to another person, that person will be entitled to the deduction at the same time and in the same manner as the transferor. Thus, if the transferor was not subject to tax at the time and thus would have been unable to use the deduction, the transferee will similarly not be able to utilize the deduction.

EFFECTIVE DATE

The provision is effective for taxable years beginning after date of enactment.

B. TREATMENT OF CERTAIN INCOME OF COOPERATIVES

(Sec. 602 of the bill and sec. 501 of the Code)

PRESENT LAW

In general

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage. The IRS requires that cooperatives must operate under the following principles: (1) subordination of capital in control over the cooperative undertaking and in ownership of the financial benefits from the cooperative; (2) democratic control by the members of the cooperative; (3) vesting in and allocation among the members of all excess of operating revenues over the expenses incurred to generate revenues in proportion to their participation in the cooperative (patronage); and (4) operation at cost (not operating for profit or below cost)

In general, cooperative members are those who participate in the management of the cooperative and who share in patronage capital. As described below, income from the sale of electric energy by an electric cooperative may be member or non-member income to the cooperative, depending on the membership status of the purchaser. A municipal corporation may be a member of a cooperative.

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. In general, patronage dividends are the profits of the cooperative that are rebated to its patrons pursuant to a pre-existing obligation of the cooperative to do so. The rebate must be made in some equitable fashion on the basis of the quantity or value of business done with the cooperative.

Except for tax-exempt farmers' cooperatives, cooperatives that are subject to the cooperative tax rules of subchapter T of the Code (sec. 1381, et seq.) are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative (sec. 1382). The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of all net income, including net income that is derived from transactions with patrons who are not members of the cooperative, provided the value of transactions with patrons who are not members of the cooperative does not exceed the value of transactions with patrons who are members of the cooperative (sec. 521).

Taxation of electric cooperatives exempt from subchapter T

In general, the cooperative tax rules of subchapter T apply to any corporation operating on a cooperative basis (except mutual savings banks, insurance companies, other tax-exempt organizations, and certain utilities), including tax-exempt farmers' cooperatives (described in sec. 521(b)). However, subchapter T does not apply to an organization that is "engaged in furnishing electric energy, or providing telephone service, to persons in rural areas" (sec. 1381(a)(2)(C)). Instead, electric cooperatives are taxed under rules that were generally applicable to cooperatives prior to the enactment of subchapter T in 1962. Under these rules, an electric cooperative can exclude patronage dividends from taxable income to the extent of all net income of the cooperative, including net income derived from transactions with patrons who are not members of the cooperative.

Tax exemption of rural electric cooperatives

Section 501(c)(12) provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative's income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. The IRS takes the position that rural electric cooperatives also must comply with the fundamental cooperative principles described above in order to qualify for tax exemption under section 501(c)(12). The 85-percent test is determined without taking into account any income from qualified pole rentals and cancellation of indebtedness income from the prepayment of a loan under sections 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987). The exclusion for cancellation of indebtedness income applies to such income arising in 1987, 1988, or 1989 on debt that either originated with, or is guaranteed by, the Federal Government. Rural electric cooperatives generally are subject to the tax on unrelated trade or business income under section 511.

REASONS FOR CHANGE

The purpose of the 85-percent test under section 501(c)(12) is to ensure that the primary activities of a tax-exempt electric cooperative fulfill the statutory purpose of providing electricity services to the members of the cooperative. Similarly, the fundamental cooperative principles described above are the defining characteristics of a cooperative upon which the Federal tax rules condition conduit treatment.

The Committee believes that the nature of an electric cooperative's activities does not change because it has income from open access transactions with non-members or from nuclear decommissioning transactions (as these terms are defined in the bill). Accordingly, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to such income. The Committee intends that the term "open access transaction" shall be applied in a manner that allows an electric cooperative to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

For similar reasons, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to cancellation of indebtedness income from the prepayment of certain loans that are provided, insured, or guaranteed by the Federal government, as well as income from certain transactions that would otherwise qualify for deferred gain recognition under section 1031 or 1033.

The Committee further believes that electric energy sales to nonmembers should not result in a loss of tax-exempt status or cooperative status to the extent that such sales are necessary to replace lost sales of electric energy to members as a result of restructuring of the electric energy industry. Accordingly, the Committee believes that replacement electric energy sales to nonmembers (defined as "load loss transactions" in the bill) should be treated, for a limited period of time, as member income in applying the 85-percent test for tax exemption of rural electric cooperatives. The Committee believes that such treatment also should apply for purposes of determining whether tax-exempt and taxable electric cooperatives comply with the fundamental cooperative principles. Finally, the Committee believes that income from replacement electric energy sales should not be subject to the tax on unrelated trade or business income under Code section 511.

EXPLANATION OF PROVISION

Treatment of income from open access transactions

The bill provides that income received or accrued by a rural electric cooperative from any "open access transaction" (other than income received or accrued directly or indirectly from a member of the cooperative) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The term "open access transaction" is defined as—

(1) the provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis: (i) pursuant to an open access transmission tariff filed with and approved by the Federal Energy Regulatory Commission ("FERC") (including acceptable reciprocity tariffs), but only if (in the case of a voluntarily filed tariff) the cooperative files a report with FERC within 90 days of enactment of this provision relating to whether or not the cooperative will join a regional transmission organization ("RTO"); or (ii) under an RTO agreement approved by FERC (including an agreement providing for the transfer of control—but not ownership—of transmission facilities);

(2) the provision or sale of electric energy distribution services or ancillary services on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the cooperative or its members; or

(3) the delivery or sale of electric energy on a nondiscriminatory open access basis, provided that such electric energy is generated by a generation facility that is directly connected to distribution facilities owned by the cooperative (or its members) which owns the generation facility.

For purposes of the 85-percent test, the bill also provides that income received or accrued by a rural electric cooperative from any "open access transaction" is treated as an amount collected from members for the sole purpose of meeting losses and expenses if the income is received or accrued indirectly from a member of the cooperative.

Treatment of income from nuclear decommissioning transactions

The bill provides that income received or accrued by a rural electric cooperative from any "nuclear decommissioning transaction" also is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The term "nuclear decommissioning transaction" is defined as—

(1) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the cooperative's interest in a nuclear powerplant or nuclear powerplant unit;

(2) any distribution from a trust, fund, or instrument established to pay any nuclear decommissioning costs; or

(3) any earnings from a trust, fund, or instrument established to pay any nuclear decommissioning costs.

Treatment of income from asset exchange or conversion transactions

The bill provides that gain realized by a tax-exempt rural electric cooperative from a voluntary exchange or involuntary conversion of certain property is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). This provision only applies to the extent that: (1) the gain would qualify for deferred recognition under section 1031 (relating to exchanges of property held for productive use or investment) or section 1033 (relating to involuntary conversions); and (2) the replacement property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes property that is used, or to be used, for the purpose of generating, transmitting, distributing, or selling electricity or methane-based natural gas.

Treatment of cancellation of indebtedness income from prepayment of certain loans

The bill provides that income from the prepayment of any loan, debt, or obligation of a tax-exempt rural electric cooperative that is originated, insured, or guaranteed by the Federal Government under the Rural Electrification Act of 1936 is excluded in determining whether the cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12)

Treatment of income from load loss transactions

Tax-exempt rural electric cooperatives.—The bill provides that income received or accrued by a tax-exempt rural electric cooperative from a "load loss transaction" is treated under 501(c)(12) as income collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Therefore, income from load loss transactions is treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The bill also provides that income from load loss transactions does not cause a tax-exempt electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

The term "load loss transaction" is generally defined as any wholesale or retail sale of electric energy (other than to a member of the cooperative) to the extent that the aggregate amount of such sales during a seven-year period beginning with the "start-up year" does not exceed the reduction in the amount of sales of electric energy during such period by the cooperative to members. The "start-up year" is defined as the calendar year which includes the date of enactment of this provision or, if later, at the election of the cooperative: (1) the first year that the cooperative offers nondiscriminatory open access; or (2) the first year in which at least 10 percent of the cooperative's sales of electric energy are to patrons who are not members of the cooperative.

The bill also excludes income received or accrued by rural electric cooperatives from load loss transactions from the tax on unrelated trade or business income.

Taxable electric cooperatives.—The bill provides that the receipt or accrual of income from load loss transactions by taxable electric cooperatives is treated as income from patrons who are members of the cooperative. Thus, income from a load loss transaction is excludible from the taxable income of a taxable electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative. The bill also provides that income from load loss transactions does not cause a taxable electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

EFFECTIVE DATE

This provision is effective for taxable years beginning after the date of enactment.

C. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY

(Sec. 603 of the bill and sec. 451 of the Code)

PRESENT LAW

Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

REASONS FOR CHANGE

The Committee recognizes that electric deregulation has been occurring, and is continuing to occur, at both the Federal and State level. Federal and state energy regulators are calling for the "unbundling" of electric transmission assets held by vertically integrated utilities, with the transmission assets ultimately placed under the ownership or control of independent transmission providers (or other similarly-approved operators). This policy is intended to improve transmission management and facilitate the formation of competitive markets. To facilitate the implementation of these policy objectives, the Committee believes it is appropriate to assist taxpayers in moving forward with industry restructuring by providing a tax deferral for gain associated with certain dispositions of electric transmission assets.

EXPLANATION OF PROVISION

The provision permits a taxpayer to elect to recognize gain from a qualifying electric transmission transaction ratably over an eight-year period beginning in the year of sale. A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2008.

A taxpayer electing the application of the provision is required to attach a statement to that effect in the tax return for the taxable year in which the transaction takes place in the manner as the Secretary shall prescribe. The election shall be binding for that taxable year and all subsequent taxable years.

EFFECTIVE DATE

The provision is effective for transactions occurring after the date of enactment.

TITLE VII—ADDITIONAL PROVISIONS

A. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS

(Sec. 701 of the bill and secs. 45A and 1680(j) of the Code)

PRESENT LAW

Present law includes the following tax incentives for businesses located within Indian reservations.

Accelerated depreciation

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions under section 1680(j) will be determined using the following recovery periods:

3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above. In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities. Certain "qualified infrastructure property" may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities).

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax. The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before January 1, 2005.

Indian employment credit

In general, a credit against income tax liability is allowed to employers for the first $20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees (sec. 45A). The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No deduction is allowed for the portion of the wages equal to the amount of the credit.

Qualified wages means wages paid or incurred by an employer for services performed by a qualified employee. A qualified employee means any employee who is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe, who performs substantially all of the services within an Indian reservation, and whose principal place of abode while performing such services is on or near the reservation in which the services are performed. An employee will not be treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during the taxable year exceeds an amount determined at an annual rate of $30,000 (adjusted for inflation after 1993).

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before December 31, 2004.

REASONS FOR CHANGE

The Committee recognizes the significant potential on Indian lands for development of energy resources and other projects. The special nature of Native American tribes and high poverty rates in certain areas in some circumstances create unique barriers to development that these incentives help overcome. The Committee understands that a significant portion of these incentives are used in development of energy projects.

The Committee concluded that extending the accelerated depreciation and wage credit tax incentives within Indian reservations will both increase the supply of energy and expand business and employment opportunities in these areas.

EXPLANATION OF PROVISION

Accelerated depreciation

The provision extends the accelerated depreciation incentive for one year (to property placed in service before January 1, 2006).

Indian employment credit

The provision extends the Indian employment credit incentive for one year (to taxable years beginning before January 1, 2006).

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. GAO STUDY

(Sec. 702 of the bill)

PRESENT LAW

Present law does not require study of the present law provisions relating to clean fuel vehicles and electric vehicles.

REASONS FOR CHANGE

The Committee believes it is important to gain information on the value of benefits compared to costs in order to make informed decisions regarding the propriety of special tax treatment of various products or technologies designed to reduce dependence on petroleum, reduce emissions of pollutants, or to promote energy conservation. The Committee believes it is important to have measures of the amount of conservation or reduction in pollution that results from provisions designed to achieve such results.

EXPLANATION OF PROVISION

The bill directs the Comptroller General to undertake an ongoing analysis of the effectiveness of the tax credits allowed to alternative motor vehicles and the tax credits allowed to various alternative fuels under Title II of the bill and the tax credits and enhanced deductions allowed for energy conservation and efficiency under Title III of the bill. The studies should estimate the energy savings and reductions in pollutants achieved from taxpayer utilization of these provisions. The studies should estimate the dollar value of the benefits of reduced energy consumption and reduced air pollution in comparison to estimates of the revenue cost of these provisions to the U.S. Treasury. The studies should include an analysis of the distribution of the taxpayers who utilize these provisions by income and other relevant characteristics.

The bill directs the Comptroller General to submit annual reports to Congress beginning not later than December 31, 2004.

EFFECTIVE DATE

The provision is effective on the date of enactment.

C. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS

(Sec. 703 of the bill and secs. 4041 and 4042 of the Code)

PRESENT LAW

Under present law, diesel fuel used in trains is subject to a 4.4-cents-per gallon excise tax. Revenues from 4.3 cents per gallon of this excise tax are retained in the General Fund of the Treasury. The remaining 0.1-cent per gallon is deposited in the Leaking Underground Storage Tank ("LUST") Trust Fund.

Similarly, fuel used in barges operating on the designated inland waterways system is subject to a 4.3-cents-per-gallon General Fund excise tax. This tax is in addition to the 20.1-cents-per-gallon tax rates that is imposed on fuels used in these barges to fund the Inland Waterways Trust Fund and the Leaking Underground Storage Tank Trust Fund.

In both cases, the 4.3-cents-per-gallon excise tax rates are permanent. The LUST Trust Fund tax is scheduled to expire after March 31, 2005.

REASONS FOR CHANGE

The Committee notes that in 1993, the Congress enacted the present-law 4.3-cents-per-gallon excise tax on motor fuels as a deficit reduction measure, with the receipts payable to the General Fund. Since that time, the Congress has diverted the 4.3-cents-per-gallon excise tax for most uses to specified trust funds that provide benefits for those motor fuel users who ultimately bear the burden of these taxes. As a result, the Committee finds that generally only rail and barge operators remain as motor fuel users subject to the 4.3-cents-per-gallon excise tax who receive no benefits from a dedicated trust fund as a result of their tax burden. The Committee observes that rail and barge operators compete with other transportation service providers who benefit from expenditures paid from dedicated trust funds. The Committee concludes that it is inequitable and distortive of transportation decisions to continue to impose the 4.3-cents-per-gallon excise tax on diesel fuel used in trains and barges.

EXPLANATION OF PROVISION

The 4.3-cents-per-gallon General Fund excise tax rate on diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system is repealed. The 0.1 cent per gallon for the Leaking Underground Storage Tank ("LUST") Trust Fund is unchanged by the provision.

EFFECTIVE DATE

The proposal is effective on January 1, 2004.

D. MODIFY RESEARCH CREDIT FOR RESEARCH RELATING TO ENERGY

(Sec. 704 of the bill and sec. 41 of the Code)

PRESENT LAW

General rule

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will not apply to amounts paid or incurred after June 30, 2004.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the university basic research credit (see sec. 41(e)).

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent (i.e., the base amount equals one percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of two percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Eligible expenses

Qualified research expenses eligible for the research tax credit consist of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted on the taxpayer's behalf (so-called contract research expenses). In the case of amounts paid to a research consortium, 75 percent of amounts paid for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 for the deduction for research expenses, but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component.

REASONS FOR CHANGE

The Committee believes that research into energy production and energy conservation will help reduce pollution and enhance energy independence in the future.

EXPLANATION OF PROVISION

The bill modifies the present-law research credit as it applies to qualified energy research. In particular, the provision provides that the taxpayer may claim a credit equal to 20 percent of the taxpayer's expenditures on qualified energy research undertaken by an energy research consortium. The amount of credit claimed is determined only by regard to such expenditures by the taxpayer within the taxable year. Unlike the general rule for the research credit, the 20-percent credit for research by an energy research consortium applies to all such expenditures, not only those in excess of a base amount however determined. An energy research consortium is a qualified research consortium as under present law that also is organized and operated primarily to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, to be a qualified energy research consortium no single person shall pay or incur more than 50 percent of the total amounts received by the research consortium during the calendar year.

The bill also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business for this purpose is a business in which the taxpayer does not own a 50 percent or greater interest and the business has employed, on average, 500 or fewer employees in the two preceding calendar years.

Qualified energy research expenditures are expenditures that would otherwise qualify for the research credit under present law and relate to the production, supply, and conservation of energy, including otherwise qualifying research expenditures related to alternative energy sources or the use of alternative energy sources. For example, research relating to hydrogen fuel cell vehicles would qualify under this provision, if the research expenditures otherwise satisfy the criteria of present-law sec. 41. Likewise, otherwise qualifying research undertaken to improve the energy-efficiency of lighting would qualify under this provision.

EFFECTIVE DATE

The provision is effective for amounts paid or incurred after the date of enactment in taxable years ending after such date.

TITLE VIII—REVENUE PROVISIONS

A. PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

1. Penalty for failure to disclose reportable transactions (sec. 801 of the bill and new sec. 6707A of the Code)

PRESENT LAW

Regulations under section 6011 require a taxpayer to disclose with its tax return certain information with respect to each "reportable transaction" in which the taxpayer participates.

There are six categories of reportable transactions. The first category is any transaction that is the same as (or substantially similar to) a transaction that is specified by the Treasury Department as a tax avoidance transaction whose tax benefits are subject to disallowance under present law (referred to as a "listed transaction").

The second category is any transaction that is offered under conditions of confidentiality. In general, if a taxpayer's disclosure of the structure or tax aspects of the transaction is limited in any way by an express or implied understanding or agreement with or for the benefit of any person who makes or provides a statement, oral or written, as to the potential tax consequences that may result from the transaction, it is considered offered under conditions of confidentiality (whether or not the understanding is legally binding).

The third category of reportable transactions is any transaction for which (1) the taxpayer has the right to a full or partial refund of fees if the intended tax consequences from the transaction are not sustained or, (2) the fees are contingent on the intended tax consequences from the transaction being sustained.

The fourth category of reportable transactions relates to any transaction resulting in a taxpayer claiming a loss (under section 165) of at least (1) $10 million in any single year or $20 million in any combination of years by a corporate taxpayer or a partnership with only corporate partners; (2) $2 million in any single year or $4 million in any combination of years by all other partnerships, S corporations, trusts, and individuals; or (3) $50,000 in any single year for individuals or trusts if the loss arises with respect to foreign currency translation losses.

The fifth category of reportable transactions refers to any transaction done by certain taxpayers in which the tax treatment of the transaction differs (or is expected to differ) by more than $10 million from its treatment for book purposes (using generally accepted accounting principles) in any year.

The final category of reportable transactions is any transaction that results in a tax credit exceeding $250,000 (including a foreign tax credit) if the taxpayer holds the underlying asset for less than 45 days.

Under present law, there is no specific penalty for failing to disclose a reportable transaction; however, such a failure may jeopardize a taxpayer's ability to claim that any income tax understatement attributable to such undisclosed transaction is due to reasonable cause, and that the taxpayer acted in good faith.

REASONS FOR CHANGE

The Committee is aware that individuals and corporations are increasingly using sophisticated transactions to avoid or evade Federal income tax. Such a phenomenon could pose a serious threat to the efficacy of the tax system because of both the potential loss of revenue and the potential threat to the integrity and perceived fairness of the self-assessment system.

The Committee over two years ago began working on legislation to address this significant compliance problem. In addition, the Treasury Department, using the tools available, issued regulations requiring disclosure of certain transactions and requiring organizers and promoters of tax-engineered transactions to maintain customer lists and make these lists available to the IRS. Nevertheless, the Committee believes that additional legislation is needed to provide the Treasury Department with additional tools to assist its efforts to curtail abusive transactions. Moreover, the Committee believes that a penalty for failing to make the required disclosures, when the imposition of such penalty is not dependent on the tax treatment of the underlying transaction ultimately being sustained, will provide an additional incentive for taxpayers to satisfy their reporting obligations under the new disclosure provisions.

EXPLANATION OF PROVISION

In general

The bill creates a new penalty for any person who fails to include with any return or statement any required information with respect to a reportable transaction. The new penalty applies without regard to whether the transaction ultimately results in an understatement of tax, and applies in addition to any accuracy-related penalty that may be imposed.

Transactions to be disclosed

The bill does not define the terms "listed transaction" or "reportable transaction," nor does the bill explain the type of information that must be disclosed in order to avoid the imposition of a penalty. Rather, the bill authorizes the Treasury Department to define a "listed transaction" and a "reportable transaction" under section 6011.

Penalty rate

The penalty for failing to disclose a reportable transaction is $50,000. The amount is increased to $100,000 if the failure is with respect to a listed transaction. For large entities and high net worth individuals, the penalty amount is doubled (i.e., $100,000 for a reportable transaction and $200,000 for a listed transaction). The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only if: (1) the taxpayer on whom the penalty is imposed has a history of complying with the Federal tax laws, (2) it is shown that the violation is due to an unintentional mistake of fact, (3) imposing the penalty would be against equity and good conscience, and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the IRS Commissioner personally or the head of the Office of Tax Shelter Analysis. Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or any other IRS personnel. The decision to rescind a penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no taxpayer right to appeal a refusal to rescind a penalty. The IRS also is required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing a description of each penalty rescinded under this provision and the reasons for the rescission.

A "large entity" is defined as any entity with gross receipts in excess of $10 million in the year of the transaction or in the preceding year. A "high net worth individual" is defined as any individual whose net worth exceeds $2 million, based on the fair market value of the individual's assets and liabilities immediately before entering into the transaction.

A public entity that is required to pay a penalty for failing to disclose a listed transaction (or is subject to an understatement penalty attributable to a non-disclosed listed transaction or a non-disclosed reportable avoidance transaction) must disclose the imposition of the penalty in reports to the Securities and Exchange Commission for such period as the Secretary shall specify. The bill applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and treats any failure to disclose a transaction in such reports as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the Securities and Exchange Commission once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

EFFECTIVE DATE

The bill is effective for returns and statements the due date for which is after the date of enactment.

2. Modifications to the accuracy-related penalties for listed transactions and reportable transactions having a significant tax avoidance purpose

(Sec. 802 of the bill and new sec. 6662A of the Code)

PRESENT LAW

The accuracy-related penalty applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of corporations), then a substantial understatement exists and a penalty may be imposed equal to 20 percent of the underpayment of tax attributable to the understatement. The amount of any understatement generally is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment.

Special rules apply with respect to tax shelters. For understatements by non-corporate taxpayers attributable to tax shelters, the penalty may be avoided only if the taxpayer establishes that, in addition to having substantial authority for the position, the taxpayer reasonably believed that the treatment claimed was more likely than not the proper treatment of the item. This reduction in the penalty is unavailable to corporate tax shelters.

The understatement penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith. The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on an opinion based on a professional tax advisor's analysis of the pertinent facts and authorities [that] . . . unambiguously concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.

REASONS FOR CHANGE

Because the Treasury shelter initiative emphasizes combating abusive tax avoidance transactions by requiring increased disclosure of such transactions by all parties involved, the Committee believes that taxpayers should be subject to a strict liability penalty on an understatement of tax that is attributable to non-disclosed listed transactions or non-disclosed reportable transactions that have a significant purpose of tax avoidance. Furthermore, in order to deter taxpayers from entering into tax avoidance transactions, the Committee believes that a more meaningful (but less stringent) accuracy-related penalty should apply to such transactions even when disclosed.

EXPLANATION OF PROVISION

In general

The bill modifies the present-law accuracy related penalty by replacing the rules applicable to tax shelters with a new accuracy-related penalty that applies to listed transactions and reportable transactions with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

Disclosed transactions

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction or reportable avoidance transaction. The only exception to the penalty is if the taxpayer satisfies a more stringent reasonable cause and good faith exception (hereinafter referred to as the "strengthened reasonable cause exception"), which is described below. The strengthened reasonable cause exception is available only if the relevant facts affecting the tax treatment are adequately disclosed, there is or was substantial authority for the claimed tax treatment, and the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

Undisclosed transactions

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is not available (i.e., a strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understatement.

In addition, a public entity that is required to pay the 30 percent penalty must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

Once the 30 percent penalty has been included in the Revenue Agent Report, the penalty cannot be compromised for purposes of a settlement without approval of the Commissioner personally or the head of the Office of Tax Shelter Analysis. Furthermore, the IRS is required to submit an annual report to Congress summarizing the application of this penalty and providing a description of each penalty compromised under this provision and the reasons for the compromise.

DETERMINATION OF THE UNDERSTATEMENT AMOUNT

The penalty is applied to the amount of any understatement attributable to the listed or reportable avoidance transaction without regard to other items on the tax return. For purposes of this bill, the amount of the understatement is determined as the sum of (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return), and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item.

Except as provided in regulations, a taxpayer's treatment of an item shall not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of when the taxpayer is first contacted regarding an examination of the return or such other date as specified by the Secretary.

STRENGTHENED REASONABLE CAUSE EXCEPTION

A penalty is not imposed under the bill with respect to any portion of an understatement if it shown that there was reasonable cause for such portion and the taxpayer acted in good faith. Such a showing requires (1) adequate disclosure of the facts affecting the transaction in accordance with the regulations under section 6011, (2) that there is or was substantial authority for such treatment, and (3) that the taxpayer reasonably believed that such treatment was more likely than not the proper treatment. For this purpose, a taxpayer will be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief (1) is based on the facts and law that exist at the time the tax return (that includes the item) is filed, and (2) relates solely to the taxpayer's chances of success on the merits and does not take into account the possibility that (a) a return will not be audited, (b) the treatment will not be raised on audit, or (c) the treatment will be resolved through settlement if raised.

A taxpayer may (but is not required to) rely on an opinion of a tax advisor in establishing its reasonable belief with respect to the tax treatment of the item. However, a taxpayer may not rely on an opinion of a tax advisor for this purpose if the opinion (1) is provided by a "disqualified tax advisor," or (2) is a "disqualified opinion."

Disqualified tax advisor

A disqualified tax advisor is any advisor who (1) is a material advisor and who participates in the organization, management, promotion or sale of the transaction or is related (within the meaning of section 267 or 707) to any person who so participates, (2) is compensated directly or indirectly by a material advisor with respect to the transaction, (3) has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained, or (4) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

Organization, management, promotion or sale of a transaction.—A material advisor is considered as participating in the "organization" of a transaction if the advisor performs acts relating to the development of the transaction. This may include, for example, preparing documents (1) establishing a structure used in connection with the transaction (such as a partnership agreement), (2) describing the transaction (such as an offering memorandum or other statement describing the transaction), or (3) relating to the registration of the transaction with any federal, state or local government body. Participation in the "management" of a transaction means involvement in the decision-making process regarding any business activity with respect to the transaction. Participation in the "promotion or sale" of a transaction means involvement in the marketing or solicitation of the transaction to others. Thus, an advisor who provides information about the transaction to a potential participant is involved in the promotion or sale of a transaction, as is any advisor who recommends the transaction to a potential participant.

Disqualified opinion

An opinion may not be relied upon if the opinion (1) is based on unreasonable factual or legal assumptions (including assumptions as to future events), (2) unreasonably relies upon representations, statements, finding or agreements of the taxpayer or any other person, (3) does not identify and consider all relevant facts, or (4) fails to meet any other requirement prescribed by the Secretary.

Coordination with other penalties

Any understatement upon which a penalty is imposed under this bill is not subject to the accuracy-related penalty under section 6662. However, such understatement is included for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1).

The penalty imposed under this provision shall not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

EFFECTIVE DATE

The bill is effective for taxable years ending after the date of enactment.

3. Tax shelter exception to confidentiality privileges relating to taxpayer communications

(Sec. 803 of the bill and sec. 7525 of the Code)

PRESENT LAW

In general, a common law privilege of confidentiality exists for communications between an attorney and client with respect to the legal advice the attorney gives the client. The Code provides that, with respect to tax advice, the same common law protections of confidentiality that apply to a communication between a taxpayer and an attorney also apply to a communication between a taxpayer and a federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney. This rule is inapplicable to communications regarding corporate tax shelters.

REASONS FOR CHANGE

The Committee believes that the rule currently applicable to corporate tax shelters should be applied to all tax shelters, regardless of whether or not the participant is a corporation.

EXPLANATION OF PROVISION

The bill modifies the rule relating to corporate tax shelters by making it applicable to all tax shelters, whether entered into by corporations, individuals, partnerships, tax-exempt entities, or any other entity. Accordingly, communications with respect to tax shelters are not subject to the confidentiality provision of the Code that otherwise applies to a communication between a taxpayer and a federally authorized tax practitioner.

EFFECTIVE DATE

The bill is effective with respect to communications made on or after the date of enactment.

4. Disclosure of reportable transactions by material advisors

(Secs. 804 and 805 of the bill and secs. 6111 and 6707 of the Code)

PRESENT LAW

Registration of tax shelter arrangements

An organizer of a tax shelter is required to register the shelter with the Secretary not later than the day on which the shelter is first offered for sale. A "tax shelter" means any investment with respect to which the tax shelter ratio for any investor as of the close of any of the first five years ending after the investment is offered for sale may be greater than two to one and which is: (1) required to be registered under Federal or State securities laws, (2) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State securities agency, or (3) a substantial investment (greater than $250,000 and at least five investors).

Other promoted arrangements are treated as tax shelters for purposes of the registration requirement if: (1) a significant purpose of the arrangement is the avoidance or evasion of Federal income tax by a corporate participant; (2) the arrangement is offered under conditions of confidentiality; and (3) the promoter may receive fees in excess of $100,000 in the aggregate.

In general, a transaction has a "significant purpose of avoiding or evading Federal income tax" if the transaction: (1) is the same as or substantially similar to a "listed transaction," 101 or (2) is structured to produce tax benefits that constitute an important part of the intended results of the arrangement and the promoter reasonably expects to present the arrangement to more than one taxpayer. Certain exceptions are provided with respect to the second category of transactions.

An arrangement is offered under conditions of confidentiality if: (1) an offeree has an understanding or agreement to limit the disclosure of the transaction or any significant tax features of the transaction; or (2) the promoter knows, or has reason to know that the offeree's use or disclosure of information relating to the transaction is limited in any other manner.

Failure to register tax shelter

The penalty for failing to timely register a tax shelter (or for filing false or incomplete information with respect to the tax shelter registration) generally is the greater of one percent of the aggregate amount invested in the shelter or $500. However, if the tax shelter involves an arrangement offered to a corporation under conditions of confidentiality, the penalty is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration. Intentional disregard of the requirement to register increases the penalty to 75 percent of the applicable fees.

Section 6707 also imposes (1) a $100 penalty on the promoter for each failure to furnish the investor with the required tax shelter identification number, and (2) a $250 penalty on the investor for each failure to include the tax shelter identification number on a return.

REASONS FOR CHANGE

The Committee has been advised that the current promoter registration rules have not proven particularly effective, in part because the rules are not appropriate for the kinds of abusive transactions now prevalent, and because the limitations regarding confidential corporate arrangements have proven easy to circumvent.

The Committee believes that providing a single, clear definition regarding the types of transactions that must be disclosed by taxpayers and material advisors, coupled with more meaningful penalties for failing to disclose such transactions, are necessary tools if the effort to curb the use of abusive tax avoidance transactions is to be effective.

EXPLANATION OF PROVISION

Disclosure of reportable—transactions by material advisors

The bill repeals the present law rules with respect to registration of tax shelters. Instead, the bill requires each material advisor with respect to any reportable transaction (including any listed transaction) to timely file an information return with the Secretary (in such form and manner as the Secretary may prescribe). The return must be filed on such date as specified by the Secretary.

The information return will include (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe. It is expected that the Secretary may seek from the material advisor the same type of information that the Secretary may request from a taxpayer in connection with a reportable transaction.

A "material advisor" means any person (1) who provides material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and (2) who directly or indirectly derives gross income in excess of $250,000 ($50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons) for such advice or assistance.

The Secretary may prescribe regulations which provide (1) that only one material advisor has to file an information return in cases in which two or more material advisors would otherwise be required to file information returns with respect to a particular reportable transaction, (2) exemptions from the requirements of this section, and (3) other rules as may be necessary or appropriate to carry out the purposes of this section (including, for example, rules regarding the aggregation of fees in appropriate circumstances).

Penalty for failing to furnish information regarding reportable transactions

The bill repeals the present law penalty for failure to register tax shelters. Instead, the bill imposes a penalty on any material advisor who fails to file an information return, or who files a false or incomplete information return, with respect to a reportable transaction (including a listed transaction). The amount of the penalty is $50,000. If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) $200,000, or (2) 50 percent of the gross income of such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. Intentional disregard by a material advisor of the requirement to disclose a listed transaction increases the penalty to 75 percent of the gross income.

The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only in exceptional circumstances. All or part of the penalty may be rescinded only if: (1) the material advisor on whom the penalty is imposed has a history of complying with the Federal tax laws, (2) it is shown that the violation is due to an unintentional mistake of fact, (3) imposing the penalty would be against equity and good conscience, and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the Commissioner personally or the head of the Office of Tax Shelter Analysis; this authority to rescind cannot otherwise be delegated by the Commissioner. Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or other IRS personnel. The decision to rescind a penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no right to appeal a refusal to rescind a penalty. The IRS also is required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing a description of each penalty rescinded under this provision and the reasons for the rescission.

EFFECTIVE DATE

The provision requiring disclosure of reportable transactions by material advisors applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

The provision imposing a penalty for failing to disclose reportable transactions applies to returns the due date for which is after the date of enactment.

5. Investor lists and modification of penalty for failure to maintain investor lists

(Secs. 804 and 806 of the bill and secs. 6112 and 6708 of the Code)

PRESENT LAW

Investor lists

Any organizer or seller of a potentially abusive tax shelter must maintain a list identifying each person who was sold an interest in any such tax shelter with respect to which registration was required under section 6111 (even though the particular party may not have been subject to confidentiality restrictions). Recently issued regulations under section 6112 contain rules regarding the list maintenance requirements. In general, the regulations apply to transactions that are potentially abusive tax shelters entered into, or acquired after, February 28, 2003.

The regulations provide that a person is an organizer or seller of a potentially abusive tax shelter if the person is a material advisor with respect to that transaction. A material advisor is defined any person who is required to register the transaction under section 6111, or expects to receive a minimum fee of (1) $250,000 for a transaction that is a potentially abusive tax shelter if all participants are corporations, or (2) $50,000 for any other transaction that is a potentially abusive tax shelter. For listed transactions (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A potentially abusive tax shelter is any transaction that (1) is required to be registered under section 6111, (2) is a listed transaction (as defined under the regulations under section 6011), or (3) any transaction that a potential material advisor, at the time the transaction is entered into, knows is or reasonably expects will become a reportable transaction (as defined under the new regulations under section 6011).

The Secretary is required to prescribe regulations which provide that, in cases in which two or more persons are required to maintain the same list, only one person would be required to maintain the list.

Penalties for failing to maintain investor lists

Under section 6708, the penalty for failing to maintain the list required under section 6112 is $50 for each name omitted from the list (with a maximum penalty of $100,000 per year).

REASONS FOR CHANGE

The Committee has been advised that the present-law penalties for failure to maintain customer lists are not meaningful and that promoters often have refused to provide requested information to the IRS. The Committee believes that requiring material advisors to maintain a list of advisees with respect to each reportable transaction, coupled with more meaningful penalties for failing to maintain an investor list, are important tools in the ongoing efforts to curb the use of abusive tax avoidance transactions.

EXPLANATION OF PROVISION

Investor lists

Each material advisor with respect to a reportable transaction (including a listed transaction) is required to maintain a list that (1) identifies each person with respect to whom the advisor acted as a material advisor with respect to the reportable transaction, and (2) contains other information as may be required by the Secretary. In addition, the bill authorizes (but does not require) the Secretary to prescribe regulations which provide that, in cases in which 2 or more persons are required to maintain the same list, only one person would be required to maintain the list.

Penalty for failing to maintain investor lists

The bill modifies the penalty for failing to maintain the required list by making it a time-sensitive penalty. Thus, a material advisor who is required to maintain an investor list and who fails to make the list available upon written request by the Secretary within 20 business days after the request will be subject to a $10,000 per day penalty. The penalty applies to a person who fails to maintain a list, maintains an incomplete list, or has in fact maintained a list but does not make the list available to the Secretary. The penalty can be waived if the failure to make the list available is due to reasonable cause.

EFFECTIVE DATE

The provision requiring a material advisor to maintain an investor list applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

The provision imposing a penalty for failing to maintain investor lists applies to requests made after the date of enactment.

6. Penalties on promoters of tax shelters

(Sec. 807 of the bill and sec. 6700 of the Code)

PRESENT LAW

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement, if in connection with such activity the person makes or furnishes a qualifying false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter. A "gross valuation overstatement" means any statement as to the value of any property or services if the stated value exceeds 200 percent of the correct valuation, and the value is directly related to the amount of any allowable income tax deduction or credit.

The amount of the penalty is $1,000 (or, if the person establishes that it is less, 100 percent of the gross income derived or to be derived by the person from such activity). A penalty attributable to a gross valuation misstatement can be waived on a showing that there was a reasonable basis for the valuation and it was made in good faith.

REASONS FOR CHANGE

The Committee believes that the present-law penalty rate is insufficient to deter the type of conduct that gives rise to the penalty.

EXPLANATION OF PROVISION

The bill modifies the penalty amount to equal 50 percent of the gross income derived by the person from the activity for which the penalty is imposed. The new penalty rate applies to any activity that involves a statement regarding the tax benefits of participating in a plan or arrangement if the person knows or has reason to know that such statement is false or fraudulent as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

EFFECTIVE DATE

The bill is effective for activities after the date of enactment.

B. PROVISIONS TO DISCOURAGE CORPORATE EXPATRIATION

1. Tax treatment of inversion transactions

(Sec. 821 of the bill and new Sec. 7874 of the Code)

PRESENT LAW

Determination of corporate residence

The U.S. tax treatment of a multinational corporate group depends significantly on whether the top-tier "parent" corporation of the group is domestic or foreign. For purposes of U.S. tax law, a corporation is treated as domestic if it is incorporated under the law of the United States or of any State. All other corporations (i.e., those incorporated under the laws of foreign countries) are treated as foreign. Thus, place of incorporation determines whether a corporation is treated as domestic or foreign for purposes of U.S. tax law, irrespective of other factors that might be thought to bear on a corporation's "nationality," such as the location of the corporation's management activities, employees, business assets, operations, or revenue sources, the exchanges on which the corporation's stock is traded, or the residence of the corporation's managers and shareholders.

U.S. taxation of domestic corporations

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. In order to mitigate the double taxation that may arise from taxing the foreign-source income of a domestic corporation, a foreign tax credit for income taxes paid to foreign countries is provided to reduce or eliminate the U.S. tax owed on such income, subject to certain limitations.

Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income is generally deferred. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main antideferral regimes in this context are the controlled foreign corporation rules of subpart F and the passive foreign investment company rules. A foreign tax credit is generally available to offset, in whole or in part, the U.S. tax owed on this foreign-source income, whether repatriated as an actual dividend or included under one of the anti-deferral regimes.

U.S. taxation of foreign corporations

The United States taxes foreign corporations only on income that has a sufficient nexus to the United States. Thus, a foreign corporation is generally subject to U.S. tax only on income that is "effectively connected" with the conduct of a trade or business in the United States. Such "effectively connected income" generally is taxed in the same manner and at the same rates as the income of a U.S. corporation. An applicable tax treaty may limit the imposition of U.S. tax on business operations of a foreign corporation to cases in which the business is conducted through a "permanent establishment" in the United States.

In addition, foreign corporations generally are subject to a gross-basis U.S. tax at a flat 30-percent rate on the receipt of interest, dividends, rents, royalties, and certain similar types of income derived from U.S. sources, subject to certain exceptions. The tax generally is collected by means of withholding by the person making the payment. This tax may be reduced or eliminated under an applicable tax treaty.

U.S. tax treatment of inversion transactions

Under present law, U.S. corporations may reincorporate in foreign jurisdictions and thereby replace the U.S. parent corporation of a multinational corporate group with a foreign parent corporation. These transactions are commonly referred to as "inversion" transactions. Inversion transactions may take many different forms, including stock inversions, asset inversions, and various combinations of and variations on the two. Most of the known transactions to date have been stock inversions. In one example of a stock inversion, a U.S. corporation forms a foreign corporation, which in turn forms a domestic merger subsidiary. The domestic merger subsidiary then merges into the U.S. corporation, with the U.S. corporation surviving, now as a subsidiary of the new foreign corporation. The U.S. corporation's shareholders receive shares of the foreign corporation and are treated as having exchanged their U.S. corporation shares for the foreign corporation shares. An asset inversion reaches a similar result, but through a direct merger of the top-tier U.S. corporation into a new foreign corporation, among other possible forms. An inversion transaction may be accompanied or followed by further restructuring of the corporate group. For example, in the case of a stock inversion, in order to remove income from foreign operations from the U.S. taxing jurisdiction, the U.S. corporation may transfer some or all of its foreign subsidiaries directly to the new foreign parent corporation or other related foreign corporations.

In addition to removing foreign operations from the U.S. taxing jurisdiction, the corporate group may derive further advantage from the inverted structure by reducing U.S. tax on U.S.-source income through various "earnings stripping" or other transactions. This may include earnings stripping through payment by a U.S. corporation of deductible amounts such as interest, royalties, rents, or management service fees to the new foreign parent or other foreign affiliates. In this respect, the post-inversion structure enables the group to employ the same tax reduction strategies that are available to other multinational corporate groups with foreign parents and U.S. subsidiaries, subject to the same limitations. These limitations under present law include section 163(j), which limits the deductibility of certain interest paid to related parties, if the payor's debt-equity ratio exceeds 1.5 to 1 and the payor's net interest expense exceeds 50 percent of its "adjusted taxable income." More generally, section 482 and the regulations thereunder require that all transactions between related parties be conducted on terms consistent with an "arm's length" standard, and permit the Secretary of the Treasury to reallocate income and deductions among such parties if that standard is not met.

Inversion transactions may give rise to immediate U.S. tax consequences at the shareholder and/or the corporate level, depending on the type of inversion. In stock inversions, the U.S. shareholders generally recognize gain (but not loss) under section 367(a), based on the difference between the fair market value of the foreign corporation shares received and the adjusted basis of the domestic corporation stock exchanged. To the extent that a corporation's share value has declined, and/or it has many foreign or tax-exempt shareholders, the impact of this section 367(a) "toll charge" is reduced. The transfer of foreign subsidiaries or other assets to the foreign parent corporation also may give rise to U.S. tax consequences at the corporate level (e.g., gain recognition and earnings and profits inclusions under sections 1001, 311(b), 304, 367, 1248 or other provisions). The tax on any income recognized as a result of these restructurings may be reduced or eliminated through the use of net operating losses, foreign tax credits, and other tax attributes.

In asset inversions, the U.S. corporation generally recognizes gain (but not loss) under section 367(a) as though it had sold all of its assets, but the shareholders generally do not recognize gain or loss, assuming the transaction meets the requirements of a reorganization under section 368.

REASONS FOR CHANGE

The Committee believes that inversion transactions resulting in a minimal presence in a foreign country of incorporation are a means of avoiding U.S. tax and should be curtailed. In particular, these transactions permit corporations and other entities to continue to conduct business in the same manner as they did prior to the inversion, but with the result that the inverted entity avoids U.S. tax on foreign operations and may engage in earnings-stripping techniques to avoid U.S. tax on domestic operations. The Committee believes that certain inversion transactions (involving 80 percent or greater identity of stock ownership) have little or no non-tax effect or purpose and should be disregarded for U.S. tax purposes. The Committee believes that other inversion transactions (involving greater than 50 but less than 80 percent identity of stock ownership) may have sufficient non-tax effect and purpose to be respected, but warrant heightened scrutiny and other restrictions to ensure that the U.S. tax base is not eroded through related-party transactions.

EXPLANATION OF PROVISION

In general

The provision defines two different types of corporate inversion transactions and establishes a different set of consequences for each type. Certain partnership transactions also are covered.

Transactions involving at least 80 percent identity of stock ownership

The first type of inversion is a transaction in which, pursuant to a plan or a series of related transactions: (1) a U.S. corporation becomes a subsidiary of a foreign-incorporated entity or otherwise transfers substantially all of its properties to such an entity; (2) the former shareholders of the U.S. corporation hold (by reason of holding stock in the U.S. corporation) 80 percent or more (by vote or value) of the stock of the foreign-incorporated entity after the transaction; and (3) the foreign-incorporated entity, considered together with all companies connected to it by a chain of greater than 50 percent ownership (i.e., the "expanded affiliated group"), does not have substantial business activities in the entity's country of incorporation, compared to the total worldwide business activities of the expanded affiliated group. The provision denies the intended tax benefits of this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Code.

Except as otherwise provided in regulations, the provision does not apply to a direct or indirect acquisition of the properties of a U.S. corporation no class of the stock of which was traded on an established securities market at any time within the four-year period preceding the acquisition. In determining whether a transaction would meet the definition of an inversion under the provision, stock held by members of the expanded affiliated group that includes the foreign incorporated entity is disregarded. For example, if the former top-tier U.S. corporation receives stock of the foreign incorporated entity (e.g., so-called "hook" stock), the stock would not be considered in determining whether the transaction meets the definition. Stock sold in a public offering (whether initial or secondary) or private placement related to the transaction also is disregarded for these purposes. Acquisitions with respect to a domestic corporation or partnership are deemed to be "pursuant to a plan" if they occur within the four-year period beginning on the date which is two years before the ownership threshold under the provision is met with respect to such corporation or partnership.

Transfers of properties or liabilities as part of a plan a principal purpose of which is to avoid the purposes of the provision are disregarded. In addition, the Treasury Secretary is granted authority to prevent the avoidance of the purposes of the provision, including avoidance through the use of related persons, pass-through or other noncorporate entities, or other intermediaries, and through transactions designed to qualify or disqualify a person as a related person, a member of an expanded affiliated group, or a publicly traded corporation. Similarly, the Treasury Secretary is granted authority to treat certain non-stock instruments as stock, and certain stock as not stock, where necessary to carry out the purposes of the provision.

Transactions involving greater than 50 percent but less than 80 percent identity of stock ownership

The second type of inversion is a transaction that would meet the definition of an inversion transaction described above, except that the 80-percent ownership threshold is not met. In such a case, if a greater-than-50-percent ownership threshold is met, then a second set of rules applies to the inversion.

Under these rules, the inversion transaction is respected (i.e., the foreign corporation is treated as foreign), but: (1) any applicable corporate-level "toll charges" for establishing the inverted structure may not be offset by tax attributes such as net operating losses or foreign tax credits; (2) the IRS is given expanded authority to monitor related-party transactions that may be used to reduce U.S. tax on U.S.-source income going forward; and (3) section 163(j), relating to "earnings stripping" through related-party debt, is strengthened. These measures generally apply for a 10-year period following the inversion transaction. In addition, inverting entities are required to provide information to shareholders or partners and the IRS with respect to the inversion transaction.

With respect to "toll charges," any applicable corporate-level income or gain required to be recognized under sections 304, 311(b), 367, 1001, 1248, or any other provision with respect to the transfer of controlled foreign corporation stock or other assets by a U.S. corporation as part of the inversion transaction or after such transaction to a related foreign person is taxable, without offset by any tax attributes (e.g., net operating losses or foreign tax credits). To the extent provided in regulations, this rule will not apply to certain transfers of inventory and similar transactions conducted in the ordinary course of the taxpayer's business.

In order to enhance IRS monitoring of related-party transactions, the provision establishes a new pre-filing procedure. Under this procedure, the taxpayer will be required annually to submit an application to the IRS for an agreement that all return positions to be taken by the taxpayer with respect to related-party transactions comply with all relevant provisions of the Code, including sections 163(j), 267(a)(3), 482, and 845. The Treasury Secretary is given the authority to specify the form, content, and supporting information required for this application, as well as the timing for its submission.

The IRS will be required to take one of the following three actions within 90 days of receiving a complete application from a taxpayer: (1) conclude an agreement with the taxpayer that the return positions to be taken with respect to related-party transactions comply with all relevant provisions of the Code; (2) advise the taxpayer that the IRS is satisfied that the application was made in good faith and substantially complies with the requirements set forth by the Treasury Secretary for such an application, but that the IRS reserves substantive judgment as to the tax treatment of the relevant transactions pending the normal audit process; or (3) advise the taxpayer that the IRS has concluded that the application was not made in good faith or does not substantially comply with the requirements set forth by the Treasury Secretary.

In the case of a compliance failure described in (3) above (and in cases in which the taxpayer fails to submit an application), the following sanctions will apply for the taxable year for which the application was required: (1) no deductions or additions to basis or cost of goods sold for payments to foreign related parties will be permitted; (2) any transfers or licenses of intangible property to related foreign parties will be disregarded; and (3) any cost sharing arrangements will not be respected. In such a case, the taxpayer may seek direct review by the U.S. Tax Court of the IRS's determination of compliance failure.

If the IRS fails to act on the taxpayer's application within 90 days of receipt, then the taxpayer will be treated as having submitted in good faith an application that substantially complies with the above-referenced requirements. Thus, the deduction disallowance and other sanctions described above will not apply, but the IRS will be able to examine the transactions at issue under the normal audit process. The IRS is authorized to request that the taxpayer extend this 90-day deadline in cases in which the IRS believes that such an extension might help the parties to reach an agreement.

The "earnings stripping" rules of section 163(j), which deny or defer deductions for certain interest paid to foreign related parties, are strengthened for inverted corporations. With respect to such corporations, the provision eliminates the debt-equity threshold generally applicable under section 163(j) and reduces the 50-percent thresholds for "excess interest expense" and "excess limitation" to 25 percent.

In cases in which a U.S. corporate group acquires subsidiaries or other assets from an unrelated inverted corporate group, the provisions described above generally do not apply to the acquiring U.S. corporate group or its related parties (including the newly acquired subsidiaries or assets) by reason of acquiring the subsidiaries or assets that were connected with the inversion transaction. The Treasury Secretary is given authority to issue regulations appropriate to carry out the purposes of this provision and to prevent its abuse.

Partnership transactions

Under the proposal, both types of inversion transactions include certain partnership transactions. Specifically, both parts of the provision apply to transactions in which a foreign-incorporated entity acquires substantially all of the properties constituting a trade or business of a domestic partnership (whether or not publicly traded), if after the acquisition at least 80 percent (or more than 50 percent but less than 80 percent, as the case may be) of the stock of the entity is held by former partners of the partnership (by reason of holding their partnership interests), and the "substantial business activities" test is not met. For purposes of determining whether these tests are met, all partnerships that are under common control within the meaning of section 482 are treated as one partnership, except as provided otherwise in regulations. In addition, the modified "toll charge" provisions apply at the partner level.

EFFECTIVE DATE

The regime applicable to transactions involving at least 80 percent identity of ownership applies to inversion transactions completed after March 20, 2002. The rules for inversion transactions involving greater-than-50-percent identity of ownership apply to inversion transactions completed after 1996 that meet the 50-percent test and to inversion transactions completed after 1996 that would have met the 80-percent test but for the March 20, 2002 date.

2. Excise tax on stock compensation of insiders of inverted corporations

(Sec. 822 of the bill and new sec. 5000A and sec. 275(a) of the Code)

PRESENT LAW

The income taxation of a nonstatutory compensatory stock option is determined under the rules that apply to property transferred in connection with the performance of services (sec. 83). If a nonstatutory stock option does not have a readily ascertainable fair market value at the time of grant, which is generally the case unless the option is actively traded on an established market, no amount is included in the gross income of the recipient with respect to the option until the recipient exercises the option. Upon exercise of such an option, the excess of the fair market value of the stock purchased over the option price is included in the recipient's gross income as ordinary income in such taxable year.

The tax treatment of other forms of stock based compensation (e.g., restricted stock and stock appreciation rights) is also determined under section 83. The excess of the fair market value over the amount paid (if any) for such property is generally includable in gross income in the first taxable year in which the rights to the property are transferable or are not subject to substantial risk of forfeiture.

Shareholders are generally required to recognize gain upon stock inversion transactions. An inversion transaction is generally not a taxable event for holders of stock options and other stock based compensation.

REASONS FOR CHANGE

The Committee believes that certain inversion transactions are a means of avoiding U.S. tax and should be curtailed. The Committee is concerned that, while shareholders are generally required to recognize gain upon stock inversion transactions, executives holding stock options and certain stock-based compensation are not taxed upon such transactions. Since such executives are often instrumental in deciding whether to engage in inversion transactions, the Committee believes that, upon certain inversion transactions, it is appropriate to impose an excise tax on certain executives holding stock options and stock-based compensation.

EXPLANATION OF PROVISION

Under the provision, specified holders of stock options and other stock-based compensation are subject to an excise tax upon certain inversion transactions. The provision imposes a 20 percent excise tax on the value of specified stock compensation held (directly or indirectly) by or for the benefit of a disqualified individual, or a member of such individual's family, at any time during the 12-month period beginning six months before the corporation's inversion date. Specified stock compensation is treated as held for the benefit of a disqualified individual if such compensation is held by an entity, e.g., a partnership or trust, in which the individual, or a member of the individual's family, has an ownership interest.

A disqualified individual is any individual who, with respect to a corporation, is, at any time during the 12-month period beginning on the date which is six months before the inversion date, subject to the requirements of section 16(a) of the Securities and Exchange Act of 1934 with respect to the corporation, or any member of the corporation's expanded affiliated group, or would be subject to such requirements if the corporation (or member) were an issuer of equity securities referred to in section 16(a). Disqualified individuals generally include officers (as defined by section 16(a)) directors, and 10-percent owners of private and publicly-held corporations.

The excise tax is imposed on a disqualified individual of an inverted corporation only if gain (if any) is recognized in whole or part by any shareholder by reason of either the 80 percent or 50 percent identity of stock ownership corporate inversion transactions previously described in the provision.

Specified stock compensation subject to the excise tax includes any payment (or right to payment) granted by the inverted corporation (or any member of the corporation's expanded affiliated group) to any person in connection with the performance of services by a disqualified individual for such corporation (or member of the corporation's expanded affiliated group) if the value of the payment or right is based on, or determined by reference to, the value or change in value of stock of such corporation (or any member of the corporation's expanded affiliated group). In determining whether such compensation exists and valuing such compensation, all restrictions, other than non-lapse restrictions, are ignored. Thus, the excise tax applies, and the value subject to the tax is determined, without regard to whether such specified stock compensation is subject to a substantial risk of forfeiture or is exercisable at the time of the inversion transaction. Specified stock compensation includes compensatory stock and restricted stock grants, compensatory stock options, and other forms of stock based compensation, including stock appreciation rights, phantom stock, and phantom stock options. Specified stock compensation also includes nonqualified deferred compensation that is treated as though it were invested in stock or stock options of the inverting corporation (or member). For example, the provision applies to a disqualified individual's deferred compensation if company stock is one of the actual or deemed investment options under the nonqualified deferred compensation plan.

Specified stock compensation includes a compensation arrangement that gives the disqualified individual an economic stake substantially similar to that of a corporate shareholder. Thus, the excise tax does not apply where a payment is simply triggered by a target value of the corporation's stock or where a payment depends on a performance measure other than the value of the corporation's stock. Similarly, the tax does not apply if the amount of the payment is not directly measured by the value of the stock or an increase in the value of the stock. For example, an arrangement under which a disqualified individual is paid a cash bonus of $500,000 if the corporation's stock increased in value by 25 percent over two years or $1,000,000 if the stock increased by 33 percent over two years is not specified stock compensation, even though the amount of the bonus generally is keyed to an increase in the value of the stock. By contrast, an arrangement under which a disqualified individual is paid a cash bonus equal to $10,000 for every $1 increase in the share price of the corporation's stock is subject to the provision because the direct connection between the compensation amount and the value of the corporation's stock gives the disqualified individual an economic stake substantially similar to that of a shareholder.

The excise tax applies to any such specified stock compensation previously granted to a disqualified individual but cancelled or cashed-out within the six-month period ending with the inversion transaction, and to any specified stock compensation awarded in the six-month period beginning with the inversion transaction. As a result, for example, if a corporation were to cancel outstanding options three months before the transaction and then reissue comparable options three months after the transaction, the tax applies both to the cancelled options and the newly granted options. It is intended that the Treasury Secretary issue guidance to avoid double counting with respect to specified stock compensation that is cancelled and then regranted during the applicable twelve-month period.

Specified stock compensation subject to the tax does not include a statutory stock option or any payment or right from a qualified retirement plan or annuity, a tax sheltered annuity, a simplified employee pension, or a simple retirement account. In addition, under the provision, the excise tax does not apply to any stock option that is exercised during the six-month period before the inversion or to any stock acquired pursuant to such exercise. The excise tax also does not apply to any specified stock compensation which is sold, exchanged, distributed or cashed-out during such period in a transaction in which gain or loss is recognized in full.

For specified stock compensation held on the inversion date, the amount of the tax is determined based on the value of the compensation on such date. The tax imposed on specified stock compensation cancelled during the six-month period before the inversion date is determined based on the value of the compensation on the day before such cancellation, while specified stock compensation granted after the inversion date is valued on the date granted. Under the provision, the cancellation of a nor-lapse restriction is treated as a grant.

The value of the specified stock compensation on which the excise tax is imposed is the fair value in the case of stock options (including warrants and other similar rights to acquire stock) and stock appreciation rights and the fair market value for all other forms of compensation. For purposes of the tax, the fair value of an option (or a warrant or other similar right to acquire stock) or a stock appreciation right is determined using an appropriate option-pricing model, as specified or permitted by the Treasury Secretary, that takes into account the stock price at the valuation date; the exercise price under the option; the remaining term of the option; the volatility of the underlying stock and the expected dividends on it; and the risk-free interest rate over the remaining term of the option. Options that have no intrinsic value (or "spread") because the exercise price under the option equals or exceeds the fair market value of the stock at valuation nevertheless have a fair value and are subject to tax under the provision. The value of other forms of compensation, such as phantom stock or restricted stock, are the fair market value of the stock as of the date of the inversion transaction. The value of any deferred compensation that could be valued by reference to stock is the amount that the disqualified individual would receive if the plan were to distribute all such deferred compensation in a single sum on the date of the inversion transaction (or the date of cancellation or grant, if applicable). It is expected that the Treasury Secretary issue guidance on valuation of specified stock compensation, including guidance similar to the revenue procedures issued under section 280G, except that the guidance would not permit the use of a term other than the full remaining term. Pending the issuance of guidance, it is intended that taxpayers could rely on the revenue procedures issued under section 280G (except that the full remaining term must be used).

The excise tax also applies to any payment by the inverted corporation or any member of the expanded affiliated group made to an individual, directly or indirectly, in respect of the tax. Whether a payment is made in respect of the tax is determined under all of the facts and circumstances. Any payment made to keep the individual in the same after-tax position that the individual would have been in had the tax not applied is a payment made in respect of the tax. This includes direct payments of the tax and payments to reimburse the individual for payment of the tax. It is expected that the Treasury Secretary issue guidance on determining when a payment is made in respect of the tax and that such guidance would include certain factors that give rise to a rebuttable presumption that a payment is made in respect of the tax, including a rebuttable presumption that if the payment is contingent on the inversion transaction, it is made in respect to the tax. Any payment made in respect of the tax is includible in the income of the individual, but is not deductible by the corporation.

To the extent that a disqualified individual is also a covered employee under section 162(m), the $1,000,000 limit on the deduction allowed for employee remuneration for such employee is reduced by the amount of any payment (including reimbursements) made in respect of the tax under the provision. As discussed above, this includes direct payments of the tax and payments to reimburse the individual for payment of the tax.

The payment of the excise tax has no effect on the subsequent tax treatment of any specified stock compensation. Thus, the payment of the tax has no effect on the individual's basis in any specified stock compensation and no effect on the tax treatment for the individual at the time of exercise of an option or payment of any specified stock compensation, or at the time of any lapse or forfeiture of such specified stock compensation. The payment of the tax is not deductible and has no effect on any deduction that might be allowed at the time of any future exercise or payment.

Under the provision, the Treasury Secretary is authorized to issue regulations as may be necessary or appropriate to carry out the purposes of the section.

EFFECTIVE DATE

The provision is effective as of July 11, 2002, except that periods before July 11, 2002, are not taken into account in applying the tax to specified stock compensation held or cancelled during the six-month period before the inversion date.

3. Reinsurance agreements

(Sec. 823 of the bill and sec. 845(a) of the Code)

PRESENT LAW

In the case of a reinsurance agreement between two or more related persons, present law provides the Treasury Secretary with authority to allocate among the parties or recharacterize income (whether investment income, premium or otherwise), deductions, assets, reserves, credits and any other items related to the reinsurance agreement, or make any other adjustment, in order to reflect the proper source and character of the items for each party. For this purpose, related persons are defined as in section 482. Thus, persons are related if they are organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) that are owned or controlled directly or indirectly by the same interests. The provision may apply to a contract even if one of the related parties is not a domestic company. In addition, the provision also permits such allocation, recharacterization, or other adjustments in a case in which one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to the agreement, or a conduit between related persons.

REASONS FOR CHANGE

The Committee is concerned that reinsurance transactions are being used to allocate income, deductions, or other items inappropriately among U.S. and foreign related persons. The Committee is concerned that foreign related party reinsurance arrangements may be a technique for eroding the U.S. tax base. The Committee believes that the provision of present law permitting the Treasury Secretary to allocate or recharacterize items related to a reinsurance agreement should be applied to prevent misallocation, improper characterization, or to make any other adjustment in the case of such reinsurance transactions between U.S. and foreign related persons (or agents or conduits). The Committee also wishes to clarify that, in applying the authority with respect to reinsurance agreements, the amount, source or character of the items may be allocated, recharacterized or adjusted.

EXPLANATION OF PROVISION

The provision clarifies the rules of section 845, relating to authority for the Treasury Secretary to allocate items among the parties to a reinsurance agreement, recharacterize items, or make any other adjustment, in order to reflect the proper source and character of the items for each party. The proposal authorizes such allocation, recharacterization, or other adjustment, in order to reflect the proper source, character or amount of the item. It is intended that this authority be exercised in a manner similar to the authority under section 482 for the Treasury Secretary to make adjustments between related parties. It is intended that this authority be applied in situations in which the related persons (or agents or conduits) are engaged in crossborder transactions that require allocation, recharacterization, or other adjustments in order to reflect the proper source, character or amount of the item or items. No inference is intended that present law does not provide this authority with respect to reinsurance agreements.

No regulations have been issued under section 845(a). It is expected that the Treasury Secretary will issue regulations under section 845(a) to address effectively the allocation of income (whether investment income, premium or otherwise) and other items, the recharacterization of such items, or any other adjustment necessary to reflect the proper amount, source or character of the item.

EFFECTIVE DATE

The provision is effective for any risk reinsured after April 11, 2002.

C. EXTENSION OF IRS USER FEES

(Sec. 831 of the bill and new sec. 7529 of the Code)

PRESENT LAW

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104–117 extended the statutory authorization for these user fees through September 30, 2003.

REASONS FOR CHANGE

The Committee believes that it is appropriate to provide a further extension of these user fees.

EXPLANATION OF PROVISION

The bill extends the statutory authorization for these user fees through September 30, 2013. The bill also moves the statutory authorization for these fees into the Code.

EFFECTIVE DATE

The provision, including moving the statutory authorization for these fees into the Code and repealing the off-Code statutory authorization for these fees, is effective for requests made after the date of enactment.

D. ADD VACCINES AGAINST HEPATITIS A TO THE LIST OF TAXABLE VACCINES

(Sec. 842 of the bill and sec. 4132 of the Code)

PRESENT LAW

A manufacturer's excise tax is imposed at the rate of 75 cents per dose on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), rotavirus gastroenteritis, and streptococcus pneumoniae. The tax applied to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, "no fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

REASONS FOR CHANGE

The Committee is aware that the Centers for Disease Control and Prevention have recommended that children in 17 highly endemic States be inoculated with a hepatitis A vaccine. The population of children in the affected States exceeds 20 million. Several of the affected States mandate childhood vaccination against hepatitis A. The Committee is aware that the Advisory Commission on Childhood Vaccines has recommended that the vaccine excise tax be extended to cover vaccines against hepatitis A. For these reasons, the Committee believes it is appropriate to include vaccines against hepatitis A as part of the Vaccine Injury Compensation Program. Making the hepatitis A vaccine taxable is a first step. In the unfortunate event of an injury related to this vaccine, families of injured children are eligible for the no-fault arbitration system established under the Vaccine Injury Compensation Program rather than going to Federal Court to seek compensatory redress.

EXPLANATION OF PROVISION

The bill adds any vaccine against hepatitis A to the list of taxable vaccines. The bill also makes a conforming amendment to the trust fund expenditure purposes.

EFFECTIVE DATE

The provision is effective for vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment.

E. INDIVIDUAL EXPATRIATION TO AVOID TAX

(Sec. 833 of the bill and secs. 877, 2107, 2501, and 6039 of the Code)

PRESENT LAW

U.S. citizens and residents generally are subject to U.S income taxation on their worldwide income. The U.S. tax may be reduced or offset by a credit allowed for foreign income taxes paid with respect to foreign source income. Nonresidents who are not U.S. citizens are taxed at a flat rate of 30 percent (or a lower treaty rate) on certain types of passive income derived from U.S. sources, and at regular graduated rates on net profits derived from a U.S. trade or business.

An individual who relinquishes his or her U.S. citizenship or terminates his or her U.S. residency with a principal purpose of avoiding U.S. taxes is subject to an alternative method of income taxation for the 10 taxable years ending after the citizenship relinquishment or residency termination (the "alternative tax regime"). The alternative tax regime modifies the rules generally applicable to the taxation of nonresident noncitizens. For the 10-year period, the individual is subject to tax only on U.S.-source income at the rates applicable to U.S. citizens, rather than the rates applicable to nonresident noncitizens. However, for this purpose, U.S.-source income has a broader scope than it does for normal U.S. Federal tax purposes and includes, for example, gain from the sale of U.S. corporate stock or debt obligations. The alternative tax regime applies only if it results in a higher U.S. tax liability than the liability that would result if the individual were taxed as a nonresident noncitizen.

In addition, the alternative tax regime includes special estate and gift tax rules. Under present law, estates of nonresident noncitizens are subject to U.S. estate tax on U.S.-situated property. For these purposes, stock in a foreign corporation generally is not treated as U.S.-situated property, even if the foreign corporation itself owns U.S.-situated property. However, a special estate tax rule (sec. 2107) applies to former citizens and former long-term residents who are subject to the alternative tax regime. Under this rule, certain closely-held foreign stock owned by the former citizen or former long-term resident is includible in his or her gross estate to the extent that the foreign corporation owns U.S.-situated assets, if the former citizen or former long-term resident dies within 10 years of citizenship relinquishment or residency termination. This rule prevents former citizens and former long-term residents who are subject to the alternative tax regime from avoiding U.S. estate tax through the expedient of transferring U.S.-situated assets to a foreign corporation (subject to income tax on any appreciation under section 367). In addition, under the alternative tax regime, the individual is subject to gift tax on gifts of U.S.-situated intangibles, such as U.S. stock, made during the 10 years following citizenship relinquishment or residency termination.

Anti-abuse rules are, provided to prevent the circumvention of the alternative tax regime. Accordingly, the alternative tax regime generally applies to exchanges of property that give rise to U.S.-source income for property that gives rise to foreign source income. In addition, amounts earned by former citizens and former long-term residents through controlled foreign corporations are subject to the alternative tax regime, and the 10-year liability period is suspended during any time at which a former citizen's or former long-term resident's risk of loss with respect to property subject to the alternative tax regime is substantially diminished, among other measures.

A U.S. citizen who relinquishes citizenship or a long-term resident who terminates residency is treated as having done so with a principal purpose of tax avoidance (and, thus, generally is subject to the alternative tax regime described above) if: (1) the individual's average annual U.S. Federal income tax liability for the five taxable years preceding citizenship relinquishment or residency termination exceeds $100,000; or (2) the individual's net worth on the date of citizenship relinquishment or residency termination equals or exceeds $500,000. These amounts are adjusted annually for inflation. Certain categories of individuals may avoid being deemed to have a tax avoidance purpose for relinquishing citizenship or terminating residency by submitting a ruling request to the IRS regarding whether the individual relinquished citizenship or terminated residency principally for tax reasons.

Under present law, the Immigration and Nationality Act governs the determination of when a U.S. citizen is treated for U.S. Federal tax purposes as having relinquished citizenship. Similarly, an individual's U.S. residency is considered terminated for U.S. Federal tax purposes when the individual ceases to be a lawful permanent resident under the immigration law (or is treated as a resident of another country under a tax treaty and does not waive the benefits of such treaty). In view of this reliance on immigration-law status, it is possible in many instances for a U.S. citizen or resident to convert his or her Federal tax status to that of a nonresident noncitizen without notifying the IRS.

Individuals subject to the alternative tax regime are required to provide certain tax information, including tax identification numbers, upon relinquishment of citizenship or termination of residency (on IRS Form 8854, Expatriation Initial Information Statement). In the case of an individual with a net worth of at least $500,000, the individual also must provide detailed information about the individual's assets and liabilities. The penalty for the failure to provide the required tax information is the greater of $1,000 or five percent of the tax imposed under the alternative tax regime for the year. In addition, the U.S. Department of State and other governmental agencies are required to provide this information to the IRS.

Former citizens and former long-term residents who are subject to the alternative tax regime also are required to file annual income tax returns, but only in the event that they owe U.S. Federal income tax. If a tax return is required, the former citizen or former long-term resident is required to provide the IRS with a statement setting forth (generally by category) all items of U.S.-source and foreign-source gross income, but no detailed information with respect to all assets held by the individual.

REASONS FOR CHANGE

There are several difficulties in administering the present-law alternative tax regime. One such difficulty is that the IRS is required to determine the subjective intent of taxpayers who relinquish citizenship or terminate residency. The present-law presumption of a tax avoidance purpose in cases in which objective income tax liability or net worth thresholds are exceeded mitigates this problem to some extent. However, the present-law rules still require the IRS to make subjective determinations of intent in cases involving taxpayers who fall below these thresholds, as well for certain taxpayers who exceed these thresholds but are nevertheless allowed to seek a ruling from the IRS to the effect that they did not have a principal purpose of tax avoidance. The Committee believes that the replacement of the subjective determination of tax avoidance as a principal purpose for citizenship relinquishment or residency termination with objective rules will result in easier administration of the tax regime for individuals who relinquish their citizenship or terminate residency.

Similarly, present-law information-reporting and return-filing provisions do not provide the IRS with the information necessary to administer the alternative tax regime. Although individuals are required to file tax information statements upon the relinquishment of their citizenship or termination of their residency, difficulties have been encountered in enforcing this requirement. The Committee believes that the tax benefits of citizenship relinquishment or residency termination should be denied an individual until he or she provides the information necessary for the IRS to enforce the alternative tax regime. The Committee also believes an annual report requirement and a penalty for the failure to comply with such requirement are needed to provide the IRS with sufficient information to monitor the compliance of former U.S. citizens and long-term residents.

Individuals who relinquish citizenship or terminate residency for tax reasons often do not want to fully sever their ties with the United States; they hope to retain some of the benefits of citizenship or residency without being subject to the U.S. tax system as a U.S. citizen or resident. These individuals generally may continue to spend significant amounts of time in the United States following citizenship relinquishment or residency termination—approximately four months every year—without being treated as a U.S. resident. The Committee believes that provisions in the bill that impose full U.S. taxation if the individual is present in the United States for more than 30 days in a calendar year will substantially reduce the incentives to relinquish citizenship or terminate residency for individuals who desire to maintain significant ties to the United States.

With respect to the estate and gift tax rules, the Committee is concerned that present-law does not adequately address opportunities for the avoidance of tax on the value of assets held by a foreign corporation whose stock the individual transfers. Thus, the provision imposes gift tax under the alternative tax regime in the case of gifts of certain stock of a closely held foreign corporation.

EXPLANATION OF PROVISION

In general

The provision provides: (1) objective standards for determining whether former citizens or former long-term residents are subject to the alternative tax regime; (2) tax based (instead of immigration-based) rules for determining when an individual is no longer a U.S. citizen or long term resident for U.S. Federal tax purposes; (3) the imposition of full U.S. taxation for individuals who are subject to the alternative tax regime and who return to the United States for extended periods; (4) imposition of U.S. gift tax on gifts of stock of certain closely-held foreign corporations that hold U.S.-situated property; and (5) an annual return-filing requirement for individuals who are subject to the alternative tax regime, for each of the 10 years following citizenship relinquishment or residency termination.

Objective rules for the alternative tax regime

The provision replaces the subjective determination of tax avoidance as a principal purpose for citizenship relinquishment or residency termination under present law with objective rules. Under the provision, a former citizen or former long-term resident would be subject to the alternative tax regime for a 10-year period following citizenship relinquishment or residency termination, unless the former citizen or former long-term resident: (1) establishes that his or her average annual net income tax liability for the five preceding years does not exceed $122,000 (adjusted for inflation) and his or her net worth does not exceed $2 million, or alternatively satisfies limited, objective exceptions for dual citizens and minors who have had no substantial contact with the United States; and (2) certifies under penalties of perjury that he or she has complied with all U.S. Federal tax obligations for the preceding five years and provides such evidence of compliance as the Secretary of the Treasury may require.

The monetary thresholds under the provision replace the present-law inquiry into the taxpayer's intent. In addition, the provision eliminates the present-law process of IRS ruling requests.

If a former citizen exceeds the monetary thresholds, that person is excluded from the alternative tax regime if he or she falls within the exceptions for certain dual citizens and minors (provided that the requirement of certification and proof of compliance with Federal tax obligations is met). These exceptions provide relief to individuals who have never had substantial connections with the United States, as measured by certain objective criteria, and eliminate IRS inquiries as to the subjective intent of such taxpayers.

In order to be excepted from the application of the alternative tax regime under the provision, whether by reason of falling below the net worth and income tax liability thresholds or qualifying for the dual-citizen or minor exceptions, the former citizen or former long-term resident also is required to certify, under penalties of perjury, that he or she has complied with all U.S. Federal tax obligations for the five years preceding the relinquishment of citizenship or termination of residency and to provide such documentation as the Secretary of the Treasury may require evidencing such compliance (e.g., tax returns, proof of tax payments). Until such time, the individual remains subject to the alternative tax regime. It is intended that the IRS should continue to verify that the information submitted was accurate, and it is intended that the IRS should randomly audit such persons to assess compliance.

Termination of U.S. citizen or long-term resident status for U.S. Federal income tax purposes

Under the provision, an individual continues to be treated as a U.S. citizen or long-term resident for U.S. Federal tax purposes, including for purposes of section 7701(b)(10), until the individual: (1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, respectively; and (2) provides a statement in accordance with section 6039G.

Sanction for individuals subject to the individual tax regime who return to the United States for extended periods

The alternative tax regime does not apply to any individual for any taxable year during the 10-year period following citizenship relinquishment or residency termination if such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year. Such individual is treated as a U.S. citizen or resident for such taxable year.

Similarly, if an individual subject to the alternative tax regime is present in the United States for more than 30 days in any calendar year ending during the 10-year period following citizenship relinquishment or residency termination, and the individual dies during that year, he or she is treated as a U.S. resident, and the individual's worldwide estate is subject to U.S. estate tax. Likewise, if an individual subject to the alternative tax regime is present in the United States for more than 30 days in any year during the 10-year period following citizenship relinquishment or residency termination, the individual is subject to U.S. gift tax on any transfer of his or her worldwide assets by gift during that taxable year.

For purposes of these rules, an individual is treated as present in the United States on any day if such individual is physically present in the United States at any time during that day, with no exceptions. The present-law exceptions from being treated as present in the United States for residency purposes do not apply for this purpose.

Imposition of gift tax with respect to stock of certain closely held foreign corporations

Gifts of stock of certain closely-held foreign corporations by a former citizen or former long-term resident who is subject to the alternative tax regime are subject to gift tax under this provision, if the gift is made within the 10-year period after citizenship relinquishment or residency termination. The gift tax rule applies if: (1) the former citizen or former long-term resident, before making the gift, directly or indirectly owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of the foreign corporation; and (2) directly or indirectly, is considered to own more than 50 percent of (a) the total combined voting power of all classes of stock entitled to vote in the foreign corporation, or (b) the total value of the stock of such corporation. If this stock ownership test is met, then taxable gifts of the former citizen or former long-term resident include that proportion of the fair market value of the foreign stock transferred by the individual, at the time of the gift, which the fair market value of any assets owned by such foreign corporation and situated in the United States (at the time of gift) bears to the total fair market value of all assets owned by such foreign corporation (at the time of gift).

This gift tax rule applies to a former citizen or former long-term resident who is subject to the alternative tax regime and who owns stock in a foreign corporation at the time of the gift, regardless of how such stock was acquired (e.g., whether issued originally to the donor, purchased, or received as a gift or bequest).

Annual return

The provision requires former citizens and former long-term residents to file an annual return for each year following citizenship relinquishment or residency termination in which they are subject to the alternative tax regime. The annual return is required even if no U.S. Federal income tax is due. The annual return requires certain information, including information on the permanent home of the individual, the individual's country of residency, the number of days the individual was present in the United States for the year, and detailed information about the individual's income and assets that are subject to the alternative tax regime. This requirement includes information relating to foreign stock potentially subject to the special estate tax rule of section 2107(b) and the gift tax rules of this provision.

If the individual fails to file the statement in a timely manner or fails correctly to include all the required information, the individual is required to pay a penalty of $5,000. The $5,000 penalty does not apply if it is shown that the failure is due to reasonable cause and not to willful neglect.

EFFECTIVE DATE

The provisions apply to individuals who relinquish citizenship or terminate long-term residency after February 27, 2003.

II. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the "Energy Tax Incentives Act of 2003" as reported.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue provisions of the bill as reported involve no new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the revenue-reducing provisions of the bill involve increased tax expenditures (see revenue table in Part III. A., above).

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office submitted the following statement on this bill:

III. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of Rule XXVI of the standing rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of the "Energy Tax Incentives Act of 2003."

Motion to report the Bill

An original bill, the "Energy Tax Incentives Act of 2003," was ordered favorably reported, by a record vote on April 2, 2003.

Yeas.—Senators Grassley, Hatch, Lott, Snowe, Thomas, Santorum (proxy), Frist (proxy), Smith, Bunning, Baucus, Rockefeller (proxy), Daschle (proxy), Breaux, Conrad (proxy), Jeffords (proxy), Bingaman (proxy), Kerry (proxy), Lincoln.

Nays.—Senators Nickles, Kyl.

Votes on other amendments

The Committee accepted an amendment by Senator Bingaman to expand the research credit to 100 percent of expenses for energy related research by universities and 20 percent for payments to research consortiums for energy research. The Committee rejected a motion by Senators Baucus and Graham, to extend Superfund taxes, by record vote.

Yeas.—Senators Snowe, Baucus, Rockefeller, Daschle, Conrad, Graham (proxy), Jeffords, Bingaman, Kerry (proxy).

Nays.—Senators Grassley, Hatch, Nickles, Lott, Kyl, Thomas, Santorum, Frist (proxy), Smith, Bunning, Breaux, Lincoln.

The Committee rejected a motion by Senators Baucus, Rockefeller, Daschle, Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry and Lincoln regarding tax shelter transparency and enforcement, by record vote.

Yeas.—Baucus, Rockefeller, Daschle, Breaux, Conrad, Graham (proxy), Jeffords, Bingaman, Kerry (proxy), Lincoln.

Nays.—Senators Grassley, Hatch, Nickles, Lott, Snowe, Kyl, Thomas, Santorum, Frist (proxy), Smith, Bunning.

The Committee rejected a modified amendment by Senator Jeffords, regarding the motor fuel excise tax on diesel fuel used by railroads, by record vote.

Yeas.—Baucus, Rockefeller (proxy), Jeffords, Kerry (proxy).

Nays.—Grassley, Hatch (proxy), Nickles, Lott, Snowe, Kyl, Thomas, Santorum (proxy), Frist (proxy), Smith, Bunning, Daschle, Breaux, Conrad, Bingaman, Lincoln.

The Committee accepted an amendment by Senator Lott regarding the immediate repeal of 4.3 cents tax on diesel used by rails and barges, by voice vote.

The Committee accepted an amendment by Senator Conrad to provide credit for business installations of stationary microturbine power plants. (Senator Kyl objected.)

The Committee rejected an amendment by Senator Nickles to strike section 29 of the Chairman's mark, by roll call vote.

Ayes.—Senators Nickles, Lott, Kyl, Bunning.

Nays.—Senators Grassley, Hatch (proxy), Snowe, Thomas, Santorum (proxy), Frist (proxy), Smith, Baucus, Rockefeller (proxy), Daschle (proxy), Breaux, Conrad (proxy), Graham (proxy), Jeffords (proxy), Bingaman (proxy), Kerry (proxy), Lincoln.

The Committee accepted an amendment by Senator Lincoln to modify section 29 of the Internal Revenue Code with respect to the definition of a landfill gas facility and to modify section 45 of the Internal Revenue Code for the production of electricity to include electricity produced from facilities that burn municipal solid waste. The amendment was modified to include the President's Budget Proposal of definition change for landfill gas placed in service date and to amend the extension of Internal Revenue Service user fees.

IV. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11 (b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

Impact on individuals and businesses

With respect to individuals and businesses, the bill modifies the rules relating to (1) tax benefits for alternative fuels; (2) coal production; (3) oil and gas production; (4) energy conservation; and (5) electric industry participants involved in industry restructuring activities. Taxpayers may elect whether to avail themselves of the provisions of the bill. Thus, the provisions do not impose increased regulatory burdens on individuals or businesses. Certain provisions of the bill, such as the provision relating to transfers of decommissioning funds associated with nuclear generating facilities, simplify the present-law rules and, therefore, reduce burdens on taxpayers electing to utilize the provision. Thus, the bill does not impose increased regulatory burdens on individuals and businesses.

Impact on personal privacy and paperwork

The provisions of the bill do not impact personal privacy. Individuals may elect whether to avail themselves of the provisions of the bill. Thus, the bill does not impose increased paperwork burdens on individuals. Individuals who elect to take advantage of the bill may in some cases need to keep records in order to demonstrate that they qualify for the tax treatment provided by the bill. In some cases the bill simplifies present law, thus reducing recordkeeping requirements.

B. Unfunded Mandates Statement

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

The Committee has determined that four of the revenue provisions of the bill impose Federal mandates on the private sector. The four provisions are (1) the provisions to curtail tax shelters; (2) tax treatment of corporate inversion transactions; (3) the excise tax on stock compensation of insiders of inverted corporations; and (4) the revisions to the alternative tax regime for individuals who expatriate. The Committee has determined that the remaining revenue provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

C. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

Mr. BAUCUS. Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, last night, Senator BAUCUS and I, along with Chairman DOMENICI and Senator BINGAMAN introduced the Energy Tax Incentives Act of 2003 as an amendment to the underlying energy bill. We also submitted an amendment that contains technical and conforming modifications to the Finance Committee reported amendment. Those amendments are numbered 1424 and 1431 and are printed in the RECORD of Wednesday, July 30, 2003. These important tax initiatives were developed after several months of consultation between our Committee members, and voted out of the Finance Committee as a bipartisan product. In my estimation, the Energy Tax Incentives Act reflects a fair balance of the interests of the members and effectively supports the development of energy production from renewable and environmentally beneficial sources.

I would like to briefly describe that amendment before I talk about the tax incentives part of the energy bill.

For years, I have worked to decrease our reliance on foreign sources of energy and accelerate and diversify domestic energy production. I believe public policy ought to promote renewable domestic production that uses renewable energy and fosters economic development.

Specifically, the development of alternative energy sources should alleviate domestic energy shortages and insulate the United States from the Middle East dominated oil supply. In addition, the development of renewable energy resources conserves existing natural resources and protects the environment. Finally, alternative energy development provides economic benefits to farmers, ranchers and forest land owners, such as those in Iowa who have launched efforts to diversify the state's economy and to find creative ways to extract a greater return from abundant natural resources.

Section 45 of the Internal Revenue Code currently provides a production tax credit for electricity produced from renewable sources including wind, closed-loop biomass, and poultry waste. The Energy Tax Incentives Act extends the section 45 credit and expands the sources of electricity to include biomass, including agricultural waste nutrients, geothermal wells and solar energy.

I have been a constant advocate of alternative energy sources. Since the inception almost ten years ago of the wind energy tax credit, nearly 4,300 megawatts of generating capacity have been installed across the country. Forty percent of that capacity was added during 2001, a year in which wind energy installations increased 3000% over the prior year—the most new wind capacity ever installed in the United States. Wind farms installed last year produce enough electricity to power almost half a million average American households per year, demonstrating the significant capacity of wind. In addition, wind represents an affordable and inexhaustible source of domestically produced energy. Extending the wind energy tax credit until 2007 would support the tremendous continued development of this clean, renewable energy source.

The Finance Committee's amendment supports a maturing green energy source. Experts have established wind energy's valuable contributions to maintaining cleaner air and a cleaner environment. Every 10,000 megawatts of wind energy produced in the United States can reduce carbon monoxide emissions by 33 million metric tons by replacing the combustion of fossil fuels.

In addition, this proposal helps to empower our rural communities to reap continued economic benefits. The installation of wind turbines has a stimulative economic effect because it requires significant capital investment which results in the creation of jobs and the injection of capital into often rural economic areas. The wind industry now estimates that nearly $2 billion in employment and economic development will be added this year alone in the presence of the prompt extension of the credit through January 1, 2007

In addition, for each wind turbine, a farmer or rancher can receive more than $2,000 per year for 20 years in direct lease payments. Iowa's major wind farms currently pay more than $640,000 per year to land owners, and the development of 1,000 megawatts of capacity in California, for example, would result in annual payments of approximately $2 million to farm and forest landowners in that state.

As many of my colleagues know, I authored the section 45 tax credit included in the Energy Policy Act of 1992 which provided a tax credit for the production of energy from closed loop biomass.

This term refers to biomass produced specifically for energy production. An example is switchgrass grown in my home state of Iowa. To sustain many of the benefits derived from the production of biomass energy, we extend the existing credit and expand the provision to additional new sources of biomass energy production.

Environmentally-friendly biomass energy production is a proven, effective technology that generates numerous waste management public benefits across the country.

Moreover, the amendment expands the biomass definition to cover open loop biomass. Open loop biomass, includes organic, non-hazardous materials such as saw dust, tree trimmings, agricultural byproducts and untreated construction debris.

The development of a local industry to convert biomass to electricity has the potential to produce enormous economic benefits and electricity security for rural America.

In addition, studies show that biomass crops could produce between $2 and $5 billion in additional farm income for American farmers. As an example, over 450 tons of turkey and chicken litter are under contract to be sold for an electricity plant using poultry litter being built in Minnesota. This is a win-win, not only do the farmers not have to pay to dispose of this stuff, they get paid to sell the litter.

Finally, marginal farmland incapable of sustaining traditional yearly production is often capable of generating native grasses and organic materials that are ideal for biomass energy production. Turning tree trimmings and native grasses into energy provides an economic gain and serves an important public interest.

I am very proud of a long history of supporting new alternative energy concepts in the production of electricity. This amendment continues and expands that commitment. As discussed previously, section 45 provides a production tax credit for electricity produced from renewable sources including wind, closed-loop biomass, and poultry waste. The amendment modifies section 45 to include electricity generated from swine and bovine waste nutrient. This is a great example of how the agriculture and energy industries can come together to develop an environmentally-friendly renewable resource.

By using animal waste as an energy source, an American livestock producer can reduce or eliminate monthly energy purchases from electric and gas suppliers and provide excess energy for distribution to other members of the community. By way of example, in January 2001, an 850-cow dairy operation near Princeton, MN generated enough electricity to run its entire dairy farm and to sell $4,400 worth of excess power to the local electric provider—enough to power 78 homes during the coldest month of the year. In addition, a 5,000-hog farm, has potential to generate approximately 650,000 kilowatts of electricity—an amount equal to the consumption of 76 average American homes.

The swine and bovine proposal is truly Green electricity, as it also furthers environmental objectives. Specifically, anaerobic digestion of manure improves air quality because it eliminates as much as 90 percent of the odor from feedlots and improves soil and water quality by dramatically reducing problems with waste run-off. Maximizing farm resources in such a manner may prove essential to remain competitive in today's livestock market. In addition, the technology used to create the electricity results in the production of a fertilizer product that is of a higher quality than unprocessed animal waste.

The Energy Tax Incentives Act is important to agriculture, rural economy and small business, it is also important for domestic supply and energy independence.

Rural America can play an important part in energy independence and domestic supply. In addition to the production of electricity, this amendment includes additional tax incentives for the production of alternative fuels from renewable resources.

A small producers' credit for the production of ethanol has been included to clarify that farmers cooperatives producing ethanol will be able to pass that tax incentive through to their farmer members. And we have a new incentive for the production of biodiesel. Biodiesel is a natural substitute for diesel fuel and can be made from almost all vegetable oils and animal fats. Modern science is allowing us to slowly substitute natural renewable agricultural sources for traditional petroleum. It gives us choices for the future and it can relieve the strain on the domestic oil production to fulfill those important needs that agricultural products cannot serve.

Let me point out that the Finance Committee amendment contains provisions that enhance the tax incentives for ethanol production. Ethanol is a clean burning fuel that will continue to be a key element in our transportation fuels policy. We reshaped the ethanol excise tax exemption. Under the Finance Committee change, ethanol-blended fuels will make the same contribution to the highway trust fund as regular gasoline while also retaining an important incentive to promote the use of domestic, renewable fuels.

It makes common sense for ethanol taxes to contribute just as much to building highways as traditional gasoline taxes. It isn't logical for a smaller portion of ethanol taxes to contribute to highways than the taxes from traditional gasoline. All types of vehicle fuel taxes should contribute equally to highway construction and maintenance.

Our highway needs are great. Our dependence on imported fuel should decrease. This restructuring of ethanol excise taxes contributes to both of those priorities. At the same time, it preserves all incentives to use the clean-burning, renewable, domestically produced ethanol, the fuel of the future.

Renewable fuels like ethanol and biodiesel will improve air quality, strengthen national security, reduce the trade deficit, decrease dependence on the Middle East for oil, and expand markets for agricultural products.

The Energy Tax Incentives Act amendment is a balanced package. I would like to note, with some satisfaction, that today we have the opportunity to do the people's business in the way they want us to do business. This Energy Tax Incentive amendment was crafted in a bipartisan way on an important initiative in a way that reflects the diversity of our views and the diversity of our nation. In this wartime climate, this is what the people want.

I have only taken a few minutes to review a portion of the amendment. The electricity tax credits and the alternative fuel incentives in the amendment are good for agriculture, good for the environment, good for energy consumers and good for national security interests. But this entire tax incentive amendment is equally important to a sound energy policy and I hope that my colleagues will join with me to advance these important legislative objectives.

Let me turn to the peculiar procedural situation that we find ourselves in. I want to enter conference with a clear understanding of the bipartisan intent of the Senate.

Today, the Senate will pass the text of last year's energy bill. Read literally, the unanimous consent agreement, states that the text of last year's Finance Committee amendment, which was adopted unanimously at the time, passes the Senate.

Folks in my home state of Iowa or my friend, Senator BAUCUS' home State of Montana, might reasonably ask a question. That question would be if you have improved the Finance Committee amendment from last year's bill, why not last year's tax title with this year's tax title? That's a good question. That was my position and that of Senator BAUCUS.

From a technical standpoint, you'd have to scratch your head, looking at effective dates for a bill that is now over a year old. There are other details in the official Senate-passed bill that will appear odd simply because the text has not been updated in over a year.

The answer to the question is simple. The answer is that this procedural agreement would not hold together unless last year's bill text stayed exactly the same. That reflects the agreement of the leaders on both sides. It has nothing to do with the substance of this year's Finance Committee amendment which is non-controversial. It has to do with the all or nothing, simplistic nature of the offer made by Senators DASCHLE and REID. The problem is that, if tax matters are opened up, no matter how non-controversial, then other matters would be open. In that situation, then the agreement of the leaders could not be consummated expeditiously.

Our majority leader, Senator FRIST, assured me that the position of the Senate Republican Caucus would be this year's Finance Committee amendment. As the senior Finance Committee conferee, let me assure the Senate, that will be our conference position. Just as importantly, let me make sure the other body understands the letter and spirit of our position. Let me repeat that, loudly and clearly.

The Senate position for conference purposes will be this year's Finance Committee amendment. Everyone here knows, that in regular order, this year's Finance Committee would have been adopted by the Senate. That is the substantive position and the intellectually honest position. I expect my House counterparts to recognize and respect that intellectually honest position.

Before I finish I would like to comment on a few tax incentive proposals I intended to offer to the Finance Committee amendment. Because of the procedural situation we are in, these matters will not be in the Senate-passed bill. That is unfortunate, but, if we are to get a bill out of the Senate, these proposals became casualties for the cause.

The first proposal deals with dividend allocation rules for cooperatives. This proposal would allow the payments of dividends on the stock of cooperatives without reducing patronage dividends. This measure is very important for energy production and agriculture and, I expect, would have easily cleared the Senate.

The second proposal deals with an expansion of the qualified zone academy bond program to cover certain "green" teaching facilities recognized by the Department of Energy. This is an important matter for one such facility in my home State of Iowa. Like the first proposal, I expect this provision would have easily cleared the Senate.

The third proposal deals with publicly-traded partnerships. This proposal would permit mutual funds to acquire interests in publicly-traded partnerships. Publicly-traded partnerships are a key source of financing for energy production projects such as pipelines.

I regret the procedural situation we find ourselves in. Unfortunately, these important priorities will not be directly addressed in the Senate bill. I intend to raise them in conference in the spirit of this bill. If not successful, I will pursue them on future tax vehicles.

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, what is the regular order?

The PRESIDING OFFICER. There is an order to proceed to the House Energy bill and substitute last year's Senate language.

Mr. LOTT. Mr. President, are we ready to proceed?

The PRESIDING OFFICER. The Senate is ready to proceed.

Mr. LOTT. Reluctantly and temporarily, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe we are ready to proceed to the regular order.

The PRESIDING OFFICER. The clerk will report H.R. 6.

The legislative clerk read as follows:

A bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of the Senate amendment to H.R. 4 from the 107th Congress is inserted in lieu of the House language.

The amendment (No. 1537) is printed in today's RECORD under "Text of Amendments."

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. CRAIG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY), would vote "nay."

The PRESIDING OFFICER (Mr. TALENT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—84

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kohl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner

NAYS—14

Boxer
Cantwell
Clinton
Feingold
Feinstein
Kennedy
Kyl
Lautenberg
McCain
Murray
Reed
Schumer
Sununu
Wyden

NOT VOTING—2

Kerry
Lieberman

The bill (H.R. 6), as amended, was passed.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees on the part of the Senate in a ratio of 7 to 6.

COLLOQUOY ON AMENDMENT 1473

Mr. SMITH. Mr. President, today I have joined with my colleague from Alaska to sponsor an amendment to S. 14, the Energy bill, which would strengthen the commitment of the United States to supply oil to Israel and other nations pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

The United States is currently party to two agreements to ensure that in the event Israel was unable to independently acquire its own supply of oil, the United States Government would procure the necessary oil to meet Israel's needs.

Ms. MURKOWSKI. Mr. President, this amendment would make both agreements part of the United States law, rather than subject to continued renewal agreements. Further, the amendment also authorizes the President to export oil to, or secure oil for, Israel pursuant to these agreements, or to any country that is part of the International Emergency Oil Sharing Plan.

This language also ensures that should legislation reinstating a ban on the exportation of domestic oil be implemented in the future, the United States would still be able to meet its obligations to Israel.

Mr. SMITH. I believe it is important to ensure that the United States can fulfill its commitment to this vital ally. I want to clarify, however, that nothing in this language would authorize the President to permit oil exploration and drilling in areas currently not legally open to development. Is that also your understanding of the language?

Ms. MURKOWSKI. That is correct. No areas where drilling is prohibited could be developed under this language.

Mr. SMITH. I thank my colleague for that clarification.

LANDFILL GAS TAX CREDITS

Mrs. LINCOLN. Mr. President, I want to congratulate Chairman GRASSLEY and Ranking Member BAUCUS on this package of energy tax incentives. But also I would like to raise two concerns with the bill, which I request they address in the House-Senate conference on the energy bill.

On February 11 of this year, I introduced S. 358, the Capturing Landfill

Gas for Energy Act of 2003. My bill is cosponsored by Senators SANTORUM and HATCH and would provide a credit under either Section 29 or 45 of the Tax Code for the production of energy from landfill gas, or LFG.

In the past, Congress has recognized the importance of LFG for energy diversity and national security by providing a Section 29 credit in 1980 and extending it for nearly two decades. However, the bill before us provides no Section 45 credit for LFG, and it severely limits the Section 29 credit by applying a volume cap of 200,000 cubic feet per day. In contrast, the President proposed a Section 29 credit for LFG with no volume cap, and the House has passed a Section 45 credit for LFG. Both of these proposals would provide meaningful tax incentives to encourage the collection and use of LFG. Thus, the Senate bill falls well short of recognizing the importance of dealing with LFG, and I urge the Chairman to address this shortfall in the House-Senate conference.

My second concern deals with a provision included in the Senate energy tax bill which would clarify the definition of "landfill gas facility" for purposes of Section 29. I am grateful to have worked with the chairman and ranking member of this provision, but I am concerned that we have not yet found the proper solution.

Typically, a landfill is comprised of a number of "cells." A cell is filled with trash, closed up, and then a new cell is filled. Over time, cells within the landfill begin to generate methane gas as the garbage decomposes. So a landfill produces methane gas in stages as the individual cells produce LFG, and new "wells, pipes, and related components" are run from the landfill gas facility to collect the gas.

The Tax Code is unclear whether the new components run to cells in the landfill over time are considered part of the landfill gas facility, and thus, the question is raised whether gas from these cells are eligible for the Section 29 tax credit. Under S. 358, a landfill gas facility would include additional "wells, pipes, and related components" used to collect landfill gas. Further, the new components of the expansion would share the facility's placed in service date for purposes of Section 29. For example, the wells, pipes, and related components added to an eligible facility placed in service in 1997 would share the eligible facility's 1997 placed in service date and gas produced from the facility would receive the credit for the duration of the facility's credit pay out period.

In contrast, the provision in the Senate Energy bill would include all wells, pipes, and related components added to the eligible facility, but for all expansions placed in service after date of enactment, the components would be treated as a new facility with a new placed in service date. The difference is critical since other provisions of the Senate Energy bill subject new LFG facilities to a new volume cap of 200,000 cubic feet per day. As I mentioned, this new volume cap will seriously curtail the use of Section 29 for LFG under the bill, and it was never my intention to deny payment of the full credit for gas produced from expansions of the original facility during the 10-year payout period.

The potential energy and environmental benefits of future LFG projects are substantial, but they will be lost if we do not provide adequate provisions to support project development. I request that Chairman GRASSLEY and Senator BAUCUS continue to work with me to make sure Americans garner all of these benefits.

Mr. GRASSLEY. Mr. President, I want to assure Senator LINCOLN that I will continue to work with her to make sure adequate incentives for LFG are included in any final package from the upcoming House-Senate conference. Her concerns are my concerns as well. She has started them well and I will devote my best efforts to resolving them as we move forward on discussions and deliberations with the House of Representatives.

LABOR LAW COLLOQUY

Mr. NICKLES. Mr. President, I would like to ask my colleague from New Hampshire, the chairman of the Committee on Health, Education, Labor and Pensions, if he shares my understanding that the sense of Congress contained title 7, section 714, of the Energy bill, H.R. 6, dealing with project labor agreements, is exclusive to the natural gas transportation construction project in the State of Alaska under this title?

Mr. GREGG. I would say to my colleague that he is correct. Further, the provision is neither legally binding nor should it be construed to undermine or conflict with Executive Order 13202.

Mr. NICKLES. Mr. President, to further clarify, I ask my colleague, should the inclusion of this provision be seen as a break from the longstanding tradition of Federal Government neutrality in labor-management relations?

Mr. GREGG. No. The sense-of-Congress provision should not be interpreted to encourage the sponsors of the Alaska natural gas transportation project to engage in discriminatory hiring or contracting practices on the basis of a person's labor affiliation or lack of labor affiliation.

Mr. NICKLES. Mr. President, I thank my colleague from New Hampshire for his view on this important labor law clarification.

ENERGY TAX INCENTIVES

Mr. VOINOVICH. Mr. President, I would like to take this opportunity to express my support for States that provide tax incentives for ethanol or for electricity produced from clean coal technology or renewable in their State. For example, in my home State, the Ohio coal tax credit provides $3 per ton of Ohio coal burned using clean coal technology. This tax credit encourages use of clean coal technology and holds down electricity costs in Ohio. With Ohio's large manufacturing base, affordable energy costs keep costs down to these companies and keep jobs in the State.

I believe that States should have the opportunity to provide tax incentives for energy production and am hopeful that this is something we can address in conference on this bill.

Mr. INHOFE. I agree with my colleague. States should be able to provide incentives for energy production, much like the Federal Government does including incentives in this bill. I believe that this issue is something that should be addressed by the conference committee on this bill.

Mr. DOMINCI. I understand the concerns raised by the Senators from Ohio and Oklahoma and would like to work with them to ensure that States maintain the right to provide these incentives.

CREDIT FOR INSTALLATION OF QUALIFIED FUEL CELLS

Mr. BAUCUS. The Energy Tax Incentives Act provides an incentive for new business installations of qualified fuel cells. For those in the future who might be interested in ascertaining the intent of the authors of this provision, the Finance Committee in drafting this language did so with the knowledge that there are various types of fuel cells that convert the chemical energy in fuels, such as hydrogen or methanol, into electrical energy by means of electrochemical reactions. Rechargeable fuel cells can convert electricity into chemical energy that can be stored, and then reconvert that chemical energy into electrical energy when it is needed. Rechargeable fuel cells can provide the capability for storing electricity during periods of low demand and releasing it at periods of high demand. This feature can help stabilize the output from renewable resources, including wind generation, electricity generated from swine and bovine waste nutrients, geothermal power, solar power, and biomass facilities. This language is intended to encourage the provision of electricity through non-polluting means, and to assist in the development of alternate, renewable resources. Our policy is to help develop these and other alternative, renewable resources.

As the chairman of the Finance Committee who has worked diligently to develop appropriate incentives for renewable resources, is it also your view that the proposed credit for qualified fuel cells should include rechargeable fuel cells, such as those that store electricity generated from these renewable resources?

Mr. GRASSLEY. As my friend from Montana pointed out, I am pleased that the tax title of the pending energy conference report includes several such incentives on which we have dedicated much effort and attention. Fuel cell power plants represent a promising means for providing electricity that is generated in environmentally friendly means and from nonconventional sources. They also provide important load-leveling capabilities that will reduce the stress and reliance on our Nation's electricity grid. I am pleased to assure my friend from Montana that I will work to make sure that rechargeable fuel cell power plants, such as those he described, would be eligible for this tax credit.

Mr. BAUCUS. I thank my friend from Iowa for his cooperation on this issue, and I look forward to continue our efforts to enact this important energy security legislation.

NUCLEAR WASTE

Mr. REID. I want to confirm that acceptance of this still does not create any opportunity to discuss nuclear waste issues in conference.

Mr. DOMENICI. I agree with the Senator's view. I will be a conferee on this bill. I assure the Senator that I will resist any attempt to open the conference to discussion of waste issues. I would also like to note that there are provisions in this bill that will allow the national labs to play a strong role. From our positions on the Energy and Water Development Subcommittee, let's work together to ensure their participation.

CRIMINAL LIABILITY

Mr. INHOFE. I would like to engage the Senator in a colloquy and draw the Senate's attention to several statutes which have been, through litigation, expanded beyond what are believed was the intent of Congress.

Mr. DOMENICI. Is the Senator referring to the criminal negligence provision of the Clean Water Act and the strict criminal liability provision of the Migratory Bird Act and the Refuse Act which can be triggered by a simple accident?

Mr. INHOFE. Precisely. Now, I want to be clear that I do not want to suggest for a minute that we should make it easier for polluters to damage the environment or put the public at risk.

Mr. DOMENICI. But the situation the Senator is talking about refers to clear accidents involving ordinary people, correct?

Mr. INHOFE. Yes. Recent court decisions have made it clear that employees, at any level, who are involved in environmental accidents, can be prosecuted criminally, and potentially imprisoned. These are non-deliberate environmental accidents that do not threaten or harm others.

Mr. BREAUX. I am also concerned about criminal liability as it applies to oil spills. In fact, during the 106th Congress, I introduced legislation to address a long-standing problem which adversely affects the safe and reliable maritime transport of oil products. The legislation was aimed at eliminating the application and use of strict criminal liability statutes, statutes that do not require a showing of criminal intent or even the slightest degree of negligence, for maritime transportation-related oil spill incidents.

As stated in the Coast Guard's environmental enforcement directive of 1997, a company, its officers, employees, and mariners, in the event of an oil spill "could be convicted and sentenced to a criminal fine even where [they] took all reasonable precautions to avoid the discharge." Accordingly, responsible operators in my home State of Louisiana and elsewhere in the United States who transport oil are unavoidably exposed to potentially immeasurable criminal fines and, in the worst case scenario, jail time. Not only is this situation unfairly targeting an industry that plays an extremely important role in our national economy, but it also works contrary to the public welfare.

To preserve the environment, safeguard the public welfare, and promote the safe transportation of oil, we need to eliminate inappropriate criminal liability that otherwise undermines spill prevention and response activities. I pledge my support to work with my colleagues to address these environmental liability issues.

Mr. INHOFE. The American Waterways Operators have devoted a great deal of time to training mariners and vessel operators. Clearly, the Coast Guard goes to great lengths to ensure its officers and staff are well trained. However, unfortunately, accidents—true accidents—happen.

Mr. DOMENICI. My colleagues are clearly describing a legal minefield where employees involved in an accident become less likely to cooperate with accident investigations because they are being advised by counsel not to potentially incriminate themselves.

Mr. INHOFE. That is absolutely correct.

Mr. DOMENICI. And as chairman of the Environment and Public Works Committee, is it the Senator from Oklahoma's position that this leads to less environmental safety instead of more?

Mr. INHOFE. Indeed. I also wish to draw the Senator's attention to the Clean Air Act, which has a different, and I suggest, more appropriate provision of negligent endangerment.

Mr. DOMENICI. I am familiar with the provisions—it requires risk of physical harm to the public for an accident to trigger criminal prosecution.

Mr. INHOFE. Yes. That is the type of activity for which we should reserve criminal prosecution. I also remind my colleague that the Clean Water Act clearly allows prosecution for deceitful or purposeful environmental damage, or for fraudulent efforts to conceal such damage—a provision we would not change.

Mr. DOMENICI. I agree with the Senators' assessment, share their concern, and look forward to working with them to address this important issue.

CANTWELL AMENDMENT

Mr. DASCHLE. Mr. President, Senator CANTWELL has a market manipulation amendment that she was seeking a vote on. It is my understanding that the agriculture appropriations bill or the energy water appropriations bill is where she would like to offer her amendment. I would inquire of the majority leader that should she offer her amendment to either of those bills would she be assured of a vote on, or in relation to, her amendment with no second degree amendments prior to such vote?

Mr. FRIST. The Democratic leader is correct if Senator CANTWELL offers her amendment to that bill she will get a vote on, or in relation, to it.

FEINSTEIN AMENDMENT

Mr. DASCHLE. Mr. President, Senator FEINSTEIN has a market manipulation amendment that she was seeking a vote on. It is my understanding that the Agriculture appropriations bill would be the appropriate bill for that amendment. I would inquire of the majority leader that should she offer her amendment to that bill would she be assured of a vote on, or in relation to, her amendment with no second degree amendments prior to such vote?

Mr. FRIST. The Democratic leader is correct if Senator FEINSTEIN offers her amendment to that bill she will get a vote on or in relation to it.

Mr. FEINGOLD. Mr. President, energy policy is an important issue for America and one which my Wisconsin constituents take very seriously. The bill before us seeks to address important issues, such as the role of domestic production of energy resources versus foreign imports, the tradeoffs between the need for energy and the need to protect the quality of our environment, and the need for additional domestic efforts to support improvements in our energy efficiency, and the wisest use of our energy resources. Given the importance of energy policy, an Energy bill is a very serious matter and I do not take a decision to oppose such a bill lightly. In my view, this bill does not achieve the correct balance on several important issues, which is why I will oppose it. In addition, I am deeply troubled by the process that has led us to abandon efforts to develop meaningful energy legislation, and instead simply stop our work, take up last year's bill, and pass it.

In my work on this legislation, I have heard from large numbers of my constituents. Of the many pieces of correspondence I received on the matter of a national energy policy was a detailed paper prepared by a group of students at Marquette University. The students wrote, as part of their interdisciplinary minor in environmental ethics, a comprehensive analysis and a series of recommendations regarding energy usage and efficiency. I commend and compliment these students on their hard work, and I am very pleased to see young people becoming so involved in our political process.

In conducting their analysis and crafting their recommendations, the students underscored that it is imperative that our focus in developing energy policy remains resolutely long term. I share this belief, and I agree with the students' assessment that sensitivity is required in working to craft an energy policy because of its effect on consumers, on our society, and on the environment. During my time in the Senate I have consistently worked to ensure that energy policy is both environmentally and fiscally responsible. Unfortunately, I cannot assure these students, or any of my other constituents, that this bill meets those goals.

This bill now contains a renewable portfolio standard requiring electric utilities to generate or purchase 10 percent of the electricity they sell from renewable sources by 2020. I supported an amendment offered by the Senator from Vermont, Mr. JEFFORDS, last year to increase this percentage to 20 percent, but it was watered down to 8 percent. Additional exemptions in this bill make this target actually a target of 4–5 percent of new generation from renewable sources by 2010. We can and should do better on renewable energy sources. This bill should have set a serious target, and we should have had a floor debate on this issue.

In addition, this bill repeals the pro-consumer Public Utility Holding Company Act, the Federal Government's most important mechanism to protect electricity consumers. The Senate failed to adopt my amendment to protect electricity consumers, investors, and small businesses from abusive transactions between utilities and affiliate companies within the same corporate family. It also failed to pass a proposal by my colleague from Washington, Ms. CANTWELL, banning Enron-like trading schemes. The bill should have given the Federal Government more oversight of utility mergers and tried to prevent utilities from passing on the costs of bad investments to consumers and from using affiliate companies to out-compete small businesses. Also, the electricity provisions of the bill do not provide additional oversight of energy markets. This would have been addressed by an amendment by the Senator from California, Mrs. FEINSTEIN, that passed and which I supported, that would have fostered a more stable market with transparent transactions and helped to prevent another Enron.

Finally, I am also concerned that we included $14 billion in tax breaks without paying for them on this bill. Our budget position has deteriorated significantly over the last year, in large part because of the massive tax cut that was enacted. We now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to some sense of fiscal responsibility, and first and foremost that means making sure the bills we pass are offset. Without offsetting the cost of the tax package, we are digging our deficit hole even deeper and adding to the massive debt already facing our children and grandchildren.

The American people deserve better than this bill, and I cannot vote in favor of it. This measure will need to be greatly improved in conference to get my vote.

Mr. COCHRAN. Mr. President, I am concerned about the recent efforts by the Federal Electric Regulatory Commission, commonly known as FERC, to make RTOs mandatory. Recently, FERC released a white paper describing their intentions to mandate Regional Transmission Organization participation by utility companies.

A Regional Transmission Organization, or RTO, would act as a third party which sets the rules for power companies about pricing and delivering power in a given region. These RTOs are being formed around the country. There may eventually be one in the South. But, that should not give FERC the authority to strip State Public Utility Commissions of their right to decide whether their states enter into these types of arrangements.

I understand that entering into an RTO may be a good choice for some companies and Public Utility Commissions to make. I believe that is who should be deciding these issues—not the FERC.

I have a letter from the Mississippi Public Service Commission which I would like to submit for the RECORD. It clearly states the problems which would beset my state if it were forced into an RTO.

Currently, the FERC is attempting to force utilities to enter into RTOs. There was a federal court case in Atlantic City about this. Some groups point to that case and say that since the utility won its right to withdraw from the RTO, that every other utility can simply file a suit if they are mandated into an RTO. This is not a sensible way to make policy.

We should not equate the right to file a lawsuit with the voluntary ability to join one of these organizations.

I am pleased that an agreement has been reached to amend the Federal Power Act, not just this Energy Bill, to make it clear that FERC cannot mandate participation in an RTO. Unfortunately, this language expires on December 31, 2006. While I wish that there was no expiration to this provision, I am glad that the bill includes language to clarify that when this provision expires the FERC does not have authority to mandate participation into RTOs.

I am hopeful that the FERC will follow Congressional intent and allow states and utilities to decide when and if they wish to enter into an RTO. I thank Senator DOMENICI and his staff for their work on this provision and I am glad to have a commitment that this provision will be included in the final bill during the energy bill conference.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MISSISSIPPI PUBLIC SERVICE COMMISSION,
July 28, 2003.

Senator THAD COCHRAN,
Washington, DC

As a Mississippi State Utility Regulator, I appreciate the opportunity to submit for the record my comments and observations pertaining to the Federal Energy Regulatory Commission (FERC) and its efforts to restructure the electrical industry. Federalizing the delivery of electricity for Mississippi consumers would have a negative impact on our state.

In April of this year, the FERC released its white paper on Wholesale Power Markets and Standard Market Design. They continue to insist that Regional Transmission Organizations (RTO) will be mandatory and FERC will exert jurisdiction over retail service. If FERC has the authority to exercise jurisdiction over the Terms and Conditions of bundled retail service, this clearly suggest they will have a direct influence in the rates for such service. Bundled retail transactions are subject to State jurisdiction and the Terms and Conditions should not come under Federal control.

I personally question the legal authority, based on existing law, which would allow FERC to mandate Mississippi public utilitiess to join an RTO and ISO. To do so would require our electrical utility companies to turn over their transmission assets to third parties.

Even though our transmission facilities were built to serve local retail customers and paid for in their rates, FERC now claims everyone is entitled to the same priority and emphasizes that Terms and Conditions of the RTO or ISO tariff will apply equally to all users. If utilities are required to take service under the Terms and Conditions of a wholesale tariff, it is difficult to see how the transmission component of retail rates will not become FERC jurisdictional.

In May of 2000, we issued formal document to the Legislature after three years of Public Hearings pertaining to retail access transmission , in which we clearly indicated that restructuring the electrical industry in our state would not benefit all Mississippi consumers. The principle impact of wholesale competition in our state is in providing an additional option for meeting incremental generation needs via competitive procurement under long-term contracts and through short-term economic and reliability purchases. We do not depend on the wholesale market to the same extent, or in the same manner, as is the case with stats that have chosen a different regulatory scheme.

Our electric supplies are among the least costly and most reliable in the nation. We have sufficient generation, for the foreseeable future, and are aware of no major transmission bottlenecks that are resulting in cost or reliability problems for our consumers. We have an electric system that is serving the consumers of Mississippi in helping our state meet its economic development potential, therefore, in my opinion, allowing FERC to mandate RTO's and exert their jurisdiction over retail transmission is not only not necessary but will be financially harmful to our citizens.

Senator Cochran, I appreciate this opportunity to provide you and the Senate with my comments regarding this critical issue and I strongly urge the Senate to preserve our authority to manage and regulate our electrical industry in Mississippi.

Sincerely,

NIELSEN COCHRAN,
Commissioner.

Mr. LEAHY. Mr. President, while I recognize the Nation needs a sound and balanced national energy plan emphasizing a clean, reliable, sustainable, and affordable energy policy, unfortunately this bill fails to do that. In my home State of Vermont we are proud of an environmental ethic that supports the increased use of clean and sustainable energy. Vermonters have a long history of taking good care of our natural resources, which has served our economy and ecosystems well. It is important to strike a balance when working to resolve environmental and energy problems. That is why I will continue to strongly support programs such as Low-Income Home Energy Assistance Program.

While the Senate has been debating the energy bill on-and-off for the past few months, the debate has been fairly limited compared with the debate on the energy bill during the 107th Congress. During the 107th Congress, when the Democrats were in the majority, we debated the bill for 24 days over an 11-week span. During that time, the Senate adopted 126 amendments and rejected 18 others. At no time during the consideration of that bill, did the Senate try to limit debate by entering into a unanimous consent agreement to limit amendments. In comparison, we have had very limited debate on this bill and avoided critical issues.

Many of my colleagues offered common sense amendments that would have greatly improved the bill. This includes conservation measures offered by Senate DURBIN that would have required cars, SUVs, minivans and crossover utility vehicles to achieve a new fuel standard of 40 mpg by 2015 and would require pickup trucks and vans to achieve a CAFE standard of 27.5 mpg by 2015. Senators CANTWELL and BINGAMAN offered several amendments to the electricity title to improve consumer protections. Senators FEINSTEIN and SCHUMER offered amendments to reduce the impact of ethanol mandates on consumers in the Northeast. I am disappointed that all of these amendments failed.

Further, it should be noted this bill is fiscally irresponsible. Senators WYDEN and SUNUNU proposed an amendment that would have struck from the energy bill a provision to make available Federal subsidies for nuclear power plants. This amendment was not against nuclear power but an amendment for Congress to be fiscally responsible to the American taxpayer. Unfortunately, this amendment failed earlier in the summer. Now the American public will have to subsidize an estimated $14-$16 billion for a source of energy that leaves many citizens concerned over their safety. Lastly, many other amendments that attempted to hold the administration accountable to environmental laws were rejected by my colleagues that will result in further degradation to the American public's natural resources.

If these amendments had passed, they would have reduced our dependence on foreign oil imports, maintain air quality protections, and conserve energy. Instead this bill forces the American people to pay for the construction of new nuclear power plants and increased oil and gas drilling.

The Senate had a real opportunity to put together a sensible energy policy that shifted the focus from nuclear power and offshore drilling to a clean, renewable, and affordable energy plan. Unfortunately, we failed to so this, and that is why I cannot support S. 14.

Ms. MURKOWSKI. Mr. President, I come to the floor at this late hour to express my strong support for Senate passage of a comprehensive energy bill. This bill is an important first step in increasing the energy security of the United States. It has been a long time in coming, but we welcome this action by the Senate tonight.

From the jaws of defeat come some of the sweetest victories, and I want to commend our leadership for getting this done, really to the surprise of many pundits and experts around DC who said it could never get done this week, much less by the end of this year. We should also acknowledge the willingness of the other side to reach accommodation on this important bill.

Every where I go people talk to me about natural gas—back home in Alaska, in Seattle, or here in Washington, DC. Everyone, from the President of the United States to Federal Reserve Chairman Alan Greenspan to the farmers of Iowa, know that we face serious problems in our natural gas supply.

With passage of this bill the Senate is telling consumers, farmers and natural gas dependent industries that help is on the way. That is good for American jobs, good for our families and their pocket books and good for the economy. The provisions contained in this bill will truly help us get the all important Alaska natural gas pipeline moving forward.

Experts predict that the U.S. will face a 20 billion cubic foot per day shortage of gas by the year 2020. In Alaska we have 35 trillion cubic feet of gas in Prudhoe Bay that has already been found, and we expect more than 100 trillion additional cubic feet to be found on the North Slope with relatively little effort. Alaska's natural gas can help close more than 25 percent of the expected 2020 gap, but we need to assure the markets that some of the risk associated with this project can be mitigated. If we can get it built it will be one of the largest privately financed projects in the history of the planet. It will employ over 400.000 people nationwide, with thousands of new jobs being created in my State of Alaska. Nationally the creation of 400,000 new jobs could reduce our unemployment rate by a whopping ½ of a percentage point. That is a huge shift from just one project. And it will mean a stable supply of gas for America for years to come. No other project I know can have that kind of positive impact on America—from either a gas supply, energy security or job creation perspective. It is imperative that we get this project moving now.

I would note that the Senate bill reported by the Energy Committee this year, and the accompanying tax provisions reported out of the Finance Committee this year, called for a marginal well credit that would have capped tax credits for the production of Alaska gas at 52 cents per thousand cubic feet of gas, should the price fall below $1.35 at the wellhead.

It also contained a loan guarantee for up to $18 billion of the project's cost and an accelerated depreciation provision.

The bill we are passing tonight reverts to last year's proposal that provides a gas line tax incentive to producers if the price of natural gas falls below $3.25 per thousand cubic feet delivered to the AECO hub in Canada. Producers, however, will have to pay the credit back in full whenever the price of gas exceeds $4.85 per unit.

The provision accepted by the Senate also includes a loan guarantee where the government helps to underwrite some $8 billion of the first $10 billion of the cost of the line, in the event that unexpected energy price drops occur.

It includes all the other provisions that passed the Senate last year, including: a prohibition against a northern route, guaranteeing the gas line will follow the Alaska Highway south through the Railbelt and Yukon to reach the Lower 48 States; a streamlined permitting and expedited court review process to speed construction; Provisions that allow Alaska to control gas to facilitate use for heating or construction of petrochemical plants in State; a guarantee that the gas line will accommodate an LNG plant to be developed at tidewater in Alaska whenever exports markets for the gas appear; provisions to guarantee that new gas producers in Alaska will be able to get their gas to market; and a provision that authorizes $20 million for worker job training and promotes Alaska-hire provisions in State.

The bill also includes a proposal that will provide up to $120 million in grant aid yearly for rural electric improvements in high-cost areas. These grants can go for power plants or to reduce power demands by other utilities.

The bill also includes a $35 million grant ($5 million per year for seven years) to Alaska to help fund its Rural Power Cost Equalization (PCE) program that subsidizes the high cost of electricity in rural Alaska.

The bill authorizes the Department of Energy to make a loan of up to $125 million to retrofit the Healy clean coal plant with new technology so it can produce power economically without causing air pollution problems. The loan should make the plant economic, provide vitally needed power to the Fairbanks area at reasonable cost and aid the Usibelli coal mine and its workers.

The bill includes a tax incentive equal to $3 per barrel to produce heavy oil from northern Alaska or to produce low-pollutant synthetic fuels from coal. The same provision also provides a tax credit to fuels produced before 2007 from biomass, tar sands, or brine. For heavy oil, Alaska's West Sak field contains 15 billion barrels of known heavy oil. The incentive should help make an additional 200 million barrels of production economic over the next decade.

This legislation reauthorizes the Arctic Science Research Act of 1984 and expands its power to make grants for scientific research.

Thankfully the bill also makes it a federal crime to damage any intrastate energy pipeline. The amendment specifically provides extra legal protection to the trans-Alaska oil pipeline.

This package contains language originally proposed by Senator TED STEVENS with Senator BYRD for the Barrow Arctic Research Center to support climate change research and scientific activities. The amendment includes $35 million for planning, design, support and construction of the Barrow facility. The goal is to develop technologies needed to reduce greenhouse gas emissions.

I am pleased the bill also contains the following important provisions: Tax credits for hybrid and fuel-cell vehicles; tax credits for alternative and renewable fuels use and development; tax credits for marginal oil producers to protect oil production from stripper wells; extra funding for the Low Income Home Heating Program (LIHEAP) and for low-income weatherization grants; funding for an Advanced Clean Coal Technology program; funding for a hydrogen energy act; provisions to increase the use of ethanol in clean burning gasoline; reauthorization of hydroelectric dam licensing provisions; reauthorization of the Price Anderson Act to permit nuclear power to continue; provisions on electricity restructuring; and provisions to require a sensible increase in automobile fuel efficiency standards.

Using last year's bill was the quickest way to get the bill off the Senate floor so that details of a final package could be worked out in a conference committee with the House. Without this action today it was unlikely we would have seen positive movement until the late fall. Now we can move forward quickly for America and Alaska.

I want to assure Alaskans that I will work to include in the conference report on this bill the provisions I secured during this year's debate in the Energy Committee. With those changes this bill will help us to address our energy problems even more.

I thank the fine Chairman of the Energy Committee for his effort and leadership and I applaud the work of both Leaders to get this bill done before the August recess.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

FREE TRADE AGREEMENTS

Mr. DODD. Mr. President, I rise to speak about the Chile and Singapore free-trade agreements that are currently before this body. If these agreements were similar to earlier free-trade agreements voted on by this body—NAFTA, Israel, Jordan—I would have absolutely no difficulty whatsoever casting votes in favor of both. That, however, is not the case. These agreements are not your garden-variety free-trade agreements. In fact, these two agreements break new ground with the inclusion of specialized immigration provisions which weaken existing legal safeguards against U.S. employers displacing American workers with lower wage nonimmigrant visa holders.

I thank immensely the Presiding Officer who held a very worthwhile hearing just a day or so ago in the Judiciary Committee on one of these visa provisions, the L-1 visa issue. I thank him immensely for giving me an opportunity to address my concerns about some of the loopholes in that particular agreement.

I want to draw my colleagues' attention that I have rarely, if ever, voted against a free-trade agreement. I have been a strong supporter of free trade, but I must caution my colleagues about what is in these two agreements that were never a part, as I understood it, of the trade laws but rather add immigration provisions which I think go far beyond what many of us intended to be the case.

My concern is, despite some very good provisions in both the Chile and Singapore agreements, we are breaking new ground which I think we will come to regret with some 30 other bilateral free-trade agreements pending before this body that will be voted up or down without any amendments being offered which is a result of the fast-track authority which this body endorsed only a number of months ago.

This is but one more example of the troubling pattern of insensitivity to the concerns of American workers that our trade representatives not negotiate away their jobs in the name of free trade. U.S. negotiators have, in effect, been doing so by ignoring the labor practices and policies of our trading partners in the context of including new trade agreements and by not addressing the linkage that exists between foreign labor markets and the ability of American workers to remain internationally competitive.

One year ago, the Senate voted to give the President trade promotion authority allowing him to negotiate additional trade agreements and limiting the Congress to an up-or-down vote on each trade agreement without the ability to amend them.

Breaking with my normal practice with respect to such legislation, I decided to oppose final passage of that bill. I did so because I did not think the legislation included adequate language making it crystal clear that a primary negotiating objective of future trade agreements must be to ensure that as a condition of the U.S. signing such agreements with other governments, those governments must live up to recognized international labor organizations' standards with respect to wages and other workers' rights.

During the so-called fast-track debate, I offered an amendment that would have required fast-track authority to be in parity with the Jordan standards, a trade agreement that passed 100 to 0 in this body only a few months earlier.

I thought, with Congress poised to renew Presidential fast-track authority, it was more important than ever that with the discretion being granted to the President to negotiate trade agreements, an obligation to uphold universally recognized labor standards in those agreements be part of the deal.

Because the language included in the Jordan Trade Agreement dealt effectively with that matter, it made perfect sense, since we had voted 100 to 0 to endorse it, to include similar language as part of future agreements.

The administration disagreed with that approach and my amendment was defeated. Under those circumstances, I had no choice but to vote against final passage of the permanent trade authority legislation, and did so with regret.

At the time of the vote, I urged the administration to take note of the vote by someone who was normally a strong supporter of free-trade agreements and understand it was an expression of deep concerns that poorly crafted free-trade agreements will undermine our economy and the prosperity of working American families.

I was amazed that the concerns expressed by the American workers during the debate of the permanent trade authority legislation had been so quickly confirmed with respect to the first two agreements that this administration had sent to Congress since the FTA became law. There are likely to be as many as 30 free-trade agreements negotiated utilizing this extraordinary authority.

I have been a strong proponent of entering a bilateral trade agreement with Chile for many years. I am extremely disappointed that provisions that should not be in this agreement have been included. In all the years the proposal for a free-trade agreement with Chile has been discussed, there was never, ever—never—any mention of nonimmigrant visa provisions being included as part of a final agreement.

I recognize there are many features of the Chile and Singapore agreements that will promote a freer flow of goods and services between the United States and Chile and Singapore. The agreements include comprehensive commitments by Chile and Singapore to open their agricultural, service, and overall markets to the United States. That is great news, indeed.

Were those the only provisions we were considering today, I would, with enthusiasm, endorse and support these two agreements. But there are other provisions in these agreements that my colleagues ought to pay attention to, which have gotten very little attention at all. It is those provisions I am concerned about because they are steps in the wrong direction with respect to protecting American jobs in my State and elsewhere across this country.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and 5,400 from Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs—namely, that they be temporary in nature—by allowing Chilean and Singaporean visa holders to renew their visas for an indefinite period of time.

These provisions are not in the interest of hard-working Americans who currently find themselves out of work or in fear that they will find themselves unemployed at a moment's notice.

With the unemployment rate at 6.4 percent, and more than 9 million people in this country unemployed, I think we have a responsibility to enact policies that will bring about more job opportunities for U.S. workers instead of making it easier for additional workers to lose their jobs to lower-wage nonimmigrant visa holders.

The U.S. Trade Representative has not demonstrated, in my view, the inclusion of these provisions as central to the effectiveness of these agreements. There is absolutely no evidence whatsoever that laws governing the H–1B and L–1 visa programs pose barriers to trade or undermine our ability to meet our obligations in these trade agreements. I will never understand why the Bush administration used the opportunity of these trade agreements to actually weaken the laws with respect to those two programs, and doing so statutorily.

At the very time we are debating these pending agreements, critics of our existing H–1B and L–1 programs are crying foul. The root of their concerns is that current law contains insufficient safeguards against the misuse of those programs in ways that cause American workers to be displaced from their jobs. Yet the language in the bills before us today is even weaker than existing laws in these areas.

Last week I introduced S. 1452, the U.S. Jobs Protection Act. This bill increases the monitoring and enforcement authorities of the Department of Labor over the H–1B and L–1 visa programs, and closes loopholes in these programs to prevent unintended U.S. job losses. These agreements would prevent those reforms from being extended to H–1B and L–1 visa holders from Chile and Singapore. That is unacceptable, and ought to be to many of my colleagues.

I am extremely concerned unless those of us in this body speak out against the inclusion of these immigration provisions in the pending agreements, the administration will happily include similar language in the other remaining bilateral agreements that will come before this body, including the Central American free-trade agreement that is currently being negotiated. That would be a terrible mistake. In the best of circumstances, the CAFT agreement is going to have difficulty being approved next year. It will be dead on arrival, in my judgment, if the administration overreaches again in this area.

Mr. President, I regret the administration has chosen to overstep its authority in negotiating these agreements with Chile and Singapore. I strongly believe that trade—fair trade—creates new opportunities for America's manufacturers and our workers. But as a Member of this body, I cannot support a bill that disregards the needs of American workers, allows immigrant legislation, migration legislation to be included so blatantly in a free-trade agreement, as we try to secure decent-paying jobs and keep our unemployment rates down, and offer Americans an opportunity.

It is hard enough to convince them that free-trade agreements are in the best interest of the American economy and for the creation of jobs, but when you give away, each year, under these two agreements, more than 8,000 jobs in this country, without ever having to face anything at all, that is wrong.

If we do not speak up tonight about it, believe me, as I stand here before you, you are going to see these provisions included in all of the remaining 30 bilateral agreements, and that would be a mistake, in my view.

In a perfect world, I would hope these agreements could be withdrawn and resubmitted to the Senate without the inclusion of these immigration provisions. However, that is unlikely to happen, obviously. For that reason, I am left with no choice but to cast my vote—with deep regrets, with deep regrets—in favor of protecting, as I must, American working families, who are under tremendous pressure and strain today, and against the implementing legislation before us.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his suggestion?

Mr. DODD. Withdrawn.

Mr. DASCHLE. Mr. President, I have long supported initiatives to expand foreign markets for American goods. Trade liberalizing agreements with other countries, if negotiated correctly, can benefit American farmers, ranchers and manufacturers. Likewise, strengthening economic ties with these countries can advance our foreign policy interests. The agreements pending before us today, the Chilean and Singaporean Free Trade Agreements, fit both of these criteria, and I intend to support them both.

The agreement with Singapore, our twelfth largest trading partner, is the first such FTA with an Asian nation. Singapore is a long-standing ally in this vitally important region and has worked closely with the United States in the war against terrorism. Currently, for instance, Singapore is building an aircraft carrier pier at its port, the largest in the world, specifically for U.S. vessels.

Under this agreement, Singapore will eliminate duties on all U.S. products and broadly open its service sector across a wide range of industries. These and other commitments, such as strong protection of intellectual property rights, will benefit American investors and exporters.

With regard to Chile, I am pleased that after years of much anticipation this agreement is finally complete. Chile has stood out as one of South

America's economic leaders for some time, and this agreement will serve to solidify our support for its continued progress. Today, Chile has free trade arrangements with Canada, Mexico, and the European Union. This United States-Chile Free Trade Agreement will provide important parity for American exporters. This is very important for wheat growers who have lost substantial market share as a result of the Chile-Canada trade agreement. Our agreement should provide an opportunity to re-gain those exports.

The issue that has concerned me most is what will the impact be on our beef producers. The impact is more complex than the clear advantage for wheat farmers. Chile potentially is a consumer market for beef. Chile is a substantial importer of beef and the U.S. produces the finest beef in the world. The agreement takes important steps to open the Chilean beef market to U.S. producers, many of whom are from my home State of South Dakota.

My concern and that of many South Dakota farmers is that beef born and raised in Argentina will be sent to Chile for slaughter and be labeled as Chilean beef under the existing rules of origin law that only requires the product to be slaughtered in a country. After careful examination, it is my expectation, however, that the administration will prevent such transhipment for other countries in the region and protect our own farmers and ranchers from injurious imports from abroad.

Therefore, I believe that on balance the U.S. Chilean agreement is good for our beef producers. The agreement is good for our other exporters and it advances our foreign policy interests and I support it.

I support the agreements before the Senate today and will vote for their passage. I do want to take this opportunity, however, to raise my strong concern about a possible trade agreement with Australia.

Australia has long been one of America's staunchest allies. Our shared commitment to freedom and democracy is the foundation of a relationship that has grown even stronger since September 11. Indeed, Australia was among the first countries to offer its support in the wake of terrorist attacks on our country last year. Australia is an important American ally and one who we can and should work with closely within the WTO multilateral negotiations.

I am, however, deeply concerned about the effect that a potential free trade agreement with Australia could have on our own beef, lamb and wool producers.

Australia is increasingly involved in grain feedlots for cattle. Grain feed beef more directly compete with U.S. beef in the higher end beef market because of its higher quality. Australian farmers receive the benefit of a state trading enterprise, the Australian Wheat Board, which manages the supply of all grain in that country, and thus influences the price of grain. Ranchers in Australia receive assistance, not only from the wheat board, but also receive various other subsidies.

Australia is the world's largest beef exporter and with fewer people than cows, the country is not a significant import market. Finally, Australian live cattle are increasingly being exported. In fact USDA projects that over 900,000 head will be exported in 2003 using, among other means, huge ocean-going ships that can deliver up to 25,000 head per vessel. As a potential FTA with Australia progresses, I am hopeful that we will be able to address these very real concerns. Without some remedy, I will not be able to support the agreement.

With regard to lamb, there are not U.S. tariffs on lamb today. Currently one-third of our domestic lamb consumption is imported lamb and we are Australia's biggest export market for lamb. The U.S. currently takes in 20 percent of all of the lamb Australia produces. However, Australia's prices are well below our market, and rather than work to develop new markets, most often they come into our best markets, and underprice our domestic producers. In fact, I am told that they have even compensated supermarkets in the U.S. with advertising budgets on the condition that they sell only imported products.

With regard to wool, we need to protect the existing tariffs. Australia has a record of vastly over-producing for the market and negatively impacting our domestic prices. The current tariffs are important to keep in place. As a potential FTA with Australia progresses, I am hopeful that we will be able to address these very real concerns. Without some acceptable remedy, I will not be able to support the agreement.

A year ago, we worked on a bipartisan basis to pass Trade Promotion Authority. This law was employed to pass the two trade agreements before us. The administration is to be commended for the successful conclusion of these agreements and again I will support both.

However, it is clear that support for trade liberalization is fragile both in the Congress and around the country. I urge the administration to work with us and to take steps to build greater consensus and to avoid taking steps that undermine that consensus:

Trade Promotion Authority is a delegation of the Congress's authority. The administration jeopardizes future such delegations if it oversteps its bounds. This Congress did not vote last year to delegate the authority to make immigration policy. The administration must avoid such over reaching in the future.

I continue to have concerns about how rules of origin are applied. The Bush administration should insist on a strict standard for designating the country of origin of both live cattle and beef. At a minimum, the "born in country" standard should be adhered to. Although I would certainly prefer that we work with our trading partners to obtain a "born, raised, and slaughtered" standard for designating the country-of-origin of beef. This latter standard reflects the current country of origin law in place in the United States. This tighter standard is advocated by the major farm organizations in our country in addition to cattle ranchers and consumer groups who all believe this is a better definition.

Last year, we put top priority on helping those Americans who are on the losing side of trade. The administration made an agreement with us, but to date the administration has not honored that agreement. TAA for Farmers was supposed to be operational 6 months ago, yet has still not gotten off the ground. The Health Tax Credit was to be made available and advanceable this month, yet only 22 States have made the appropriate steps. More importantly, a number of technical corrections to the program have been stalled in Congress and the administration has not helped advance them. These technical corrections are essential to ensuring that the targeted workers, which we agreed on, receive their much-needed health benefits. The wage insurance program for older workers has remained completely dormant and the administration has taken no steps to implement this program.

Since the beginning of 2001, more than two million manufacturing jobs have been lost. I strongly urge the administration to join with us and let's use the replacement of the FSC regime as an opportunity to promote U.S. manufacturing jobs.

We must recognize that there is no "one-size-fits-all" approach to dealing with labor and environmental standards in other countries. While I applaud the provisions included in these agreements, they should not, I repeat, should not, be perceived as some sort of template for future negotiations. The conditions of countries in Central America are significantly different than those in Chile or Singapore and should be treated as such.

We need to have strong enforcement of our trade laws. Currently, for example, the United States International Trade Commission is reviewing the section 201 tariffs in place against injurious imports of steel. So far, the temporary restrictions have provided some mills the time needed to make modest steps towards recovery. Repealing these measures now, however, would greatly undercut this moderate success, and I therefore urge the President to maintain these safeguards for the full three years.

Finally, today is a good day for relations between the United States and our friends and partners in Singapore and Chile. By strengthening our economic ties, we have benefitted the people of all our countries and encouraged a mutually supportive partnership that will benefit all aspects of our bilateral relationships.

Mr. McCAIN. Mr. President, I support swift passage of the U.S.-Chile and U.S.-Singapore Free Trade Agreement Implementation Acts, S. 1416 and S. 1417, respectively. These are the first in what I hope will be a long list of trade agreement implementation bills necessary to enact trade deals negotiated and signed by the President under the authority granted him by Congress last year.

Stemming from the Trade Act of 2002, which included Trade Promotion Authority (TPA), agreements such as the two before us are helping to reestablish U.S. credibility in the area of trade. The President and his administration are now able to more freely negotiate, encouraging countries once reluctant to begin trade negotiations with the U.S. to come to the table. The U.S.-Chile Free Trade Agreement and the U.S.-Singapore Free Trade Agreement are prime examples of the United States' commitment to free and open trade. I hope they provide a launching pad for new trade agreements with key partners in every region of the world.

Our staunchest allies and most important trading partners have had reason to doubt our dedication to the free trade principles we have long advocated as a driving force of prosperity and stability. A series of short-sighted, protectionist actions in recent years has jeopardized our relationships with our most important trading partners. That makes enactment of these bilateral free trade agreements even more important.

These agreements may not have a dramatic economic impact in the United States, but they are sure to yield benefits to American consumers and businesses. Enactment of agreements such as those before us help us regain our credibility and leadership in championing free-trade principles around the world. I hope they set a precedent for more aggressive liberalization of our trade with other nations in Asia, Latin America, Africa, Europe, and the Middle East.

I commend Ambassador Zoellick for his efforts to bring these free trade agreements to fruition, as well as for his commitment to exhaustive consultations with Congress. Our agreement with Chile is one more step towards our goal of a Free Trade Area of the Americas, on which we all hope to see greater progress. Our agreement with Singapore, a key ally in the war on terror, will hopefully help propel future trade liberalization in Southeast Asia, one of the world's most dynamic regions.

As it stands now, Singapore is our 12th largest trading partner, and our largest trading partner in the strategic region of Southeast Asia. This agreement would eliminate many barriers to trade and investment, and improve market access and opportunities for U.S. goods and services. In addition, this agreement would provide regulatory reforms and transparency, two key components in establishing the strong ties and trust necessary for trade.

Implementation of the negotiated agreement with Chile would place us on an equal footing with the European Union and Canada, which already enjoy their own FTAs with Chile. Despite having to play market access catch-up, our farmers and ranchers will enjoy duty-free access to Chile's markets within 12 years; and computer and other information technology products, medical equipment, and other goods will gain immediate duty-free access.

Throughout the negotiating process, environmental and labor matters received considerable scrutiny. The FTAs address these concerns through provisions laid out in both agreements that call for Singapore and Chile to provide a high level of environmental protection, and require each nation to endeavor to improve upon their laws where necessary. Each nation is to reaffirm its obligations as part of the International Labor Organization and strive to make sure its laws reflect the labor principles therein.

These negotiations and the agreements they have produced are a good start towards accomplishing Congress' purpose for passing the Trade Act last year: an aggressive agenda to liberalize trade with key partners, producing comprehensive agreements which reduce barriers to trade, providing tangible benefits to American consumers and businesses, and reestablishing our credibility and leadership in championing free trade principles around the world.

I am, however, concerned that immigration provisions contained in these trade bills set a bad precedent. Although I support the spirit of these provisions, I strongly believe that changes to U.S. immigration policy should be thoroughly debated in Congress and such modifications do not belong in trade agreements negotiated between our government and other nations. I discourage their inclusion in future trade agreements.

Overall, these are fine examples of what Congress intended when we passed TPA. I hope we will soon see action on free trade agreements that are currently being negotiated with Australia, Central America, Morocco, Southern Africa, and others in the not too distant future. I also would like to see the Administration take concrete steps to liberalize trade in the greater Middle East, in effect operationalizing the President's call for a free trade area there within a decade.

Finally, I hope that the administration, with Congress's support, can make significant progress in the next round of global trade talks this fall. Global trade liberalization through the World Trade Organization is the most effective and efficient way to bring down barriers to trade, the best way to open the markets of key trading partners in Europe and Asia, and to enforce free trade principles. The conclusion of economically meaningful bilateral trade agreements, coupled with an aggressive campaign for global trade liberalization, will reestablish our credibility and leadership on free trade and energize the American and global economies. America and the world will be better off as a result.

Mr. COCHRAN. Mr. President, a year ago, with the support of American agriculture, Congress approved legislation granting trade promotion authority to President George W. Bush. The President has demonstrated a strong commitment to expanding the American economy by actively engaging in an aggressive trade strategy. This strategy includes negotiations with Chile and Singapore, regional efforts with the Free Trade Area of the Americas, and the Central American Free Trade Agreement talks, and with the World Trade Organization.

Congress has had unprecedented access and consultation with negotiators, resulting in agreements without hidden compromises or concessions. Public hearings in the Senate and the House have enabled agricultural groups and others who have a stake in these negotiations to make their views and interests known.

Both the Chile and Singapore agreements passed the other body last week by a substantial margin. It is now time for the Senate to approve the agreements.

The U.S./Chile agreement provides important new opportunities for America's farmers and ranchers. Chile is a market of more than 15 million people with an open and progressive economy. Both the European Union and Canada already have free trade agreements with Chile.

Our negotiators were successful in their efforts to eliminate duties on more than three-quarters of American agricultural products within the first 4 years. The agreements also contain a safeguard provision which will help prevent surges in trade volumes. To discourage the use of nontariff barriers, a sanitary and phytosanitary working group will ensure that standards of inspection and food are based on sound science.

The U.S./Singapore agreement has the positive effects of freer and fairer trade and they make this agreement worthy of support as well. Singapore has become our 11th largest trading partner and provides the U.S. services sector with fair and immediate increase in market access.

I urge my colleagues to vote for both the Chile and Singapore free-trade agreements.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, tonight the Senate passed implementing legislation for the Chile and Singapore Free Trade Agreements. These FTAs are comprehensive in nature and will serve well the interests of the United States. But they are not without flaws. I want the record to reflect my concerns and, more importantly, I want to make clear that I believe the direction the Bush administration is taking in the on-going negotiations over the Central American Free Trade Agreement and the Free Trade Agreement of the Americas is unacceptable.

Chile is an excellent candidate for a free trade agreement. It has one of the fastest growing economies in the world. The agreement the Senate has passed tonight should facilitate a general expansion of American exports, particularly in electronics and transportation equipment industries. This will create good work and good jobs here in America. More broadly, Chile is the first Latin American country to join in a free trade agreement with the United States, and that will allow the United States to more directly support economic and social reform in Latin America and will serve as a major stepping stone for enhanced hemispheric trade and job growth here at home.

Singapore is also an excellent candidate. Singapore is our 12th largest export market. The country provides a critical link between the United States and South East Asia and Singapore is the second largest Asian investor in the United States after Japan. Although the economic effects of the Singapore agreement are not likely to be great, this FTA would add a formal economic link to our significant security relationship with Singapore. It is an agreement that will ultimately build greater trade and create jobs here in America.

Chile and Singapore both have laudable records in financial regulation and transparency and have demonstrated a commitment to fundamental worker protections. For example, Chile has adopted several international labor rights conventions. The United States, by contrast, has adopted only two. The performance of these two countries in these areas, and their status as models of reform in their respective regions, make these trade agreements desirable. That is not to say these nations are not without problems or that further improvement is not needed. It is to make clear that these nations have made progress, are striving to improve, and that these agreements will only help them develop and enforce more advanced policies. And more importantly, these agreements will not put American workers at risk of unfair competition.

But, as I have said, there are flaws with these agreements. Over the past decade, the treatment of labor and environmental issues in trade agreements has evolved both in emphasis and enforcement. NAFTA represents an early stage in this evolution, addressing labor and environmental issues in the context of the agreement, albeit in side accords. The United States-Jordan Free Trade Agreement was the first FTA to include labor provisions in the actual text of the agreement and to subject those provisions to the same dispute settlement procedure as all other elements of the agreement.

Although the Chile and Singapore agreements should be the next step forward in this evolution towards strong and effectively enforced labor and environmental standards, they are in fact a step back. Unlike the United States-Jordan FTA, the only labor provision subject to dispute settlement is the requirement that each trading partner enforce its existing labor laws.

In addition, the Bush administration, specifically the United States Trade Representative, included provisions in this agreement related to immigration policy. The result is that America will allow the temporary entry of more than 6,000 foreign professionals for employment. This is not wise economic policy in good times and it is only worse economic policy in our current recession. Further, it amends unrelated immigration law, and I believe the Bush administration has abused fast track authority in doing so.

The final point I want to make this evening is, in my view, the most important. The Bush administration has made clear that it plans to use the Chile and Singapore FTAs as models or templates for future trade negotiations. I feel strongly that future negotiations must reflect the particular concerns and uniqueness of each trading partner. This seems obvious, but those who follow trade negotiations have warned that the Bush administration may claim that the standards of the Chile and Singapore agreements are universally applicable and, in particular, should apply to CAFTA and FTAA. Let me be as direct as possible: If the CAFTA and FTAA agreements do not include labor and environmental protections that are far, far stronger than the Chile and Singapore agreements I will oppose them as strenuously as I can.

The administration's one-size-fits-all approach will not work. Many of the nations considering inclusion in CAFTA and FTAA have no or low standards to protect workers and the environment and enforcement is non-existent in some areas. Worker and environmental protections in the group of six Central American countries participating in CAFTA are not comparable to those in Singapore and Chile, for example. Some have not enacted or do not enforce basic labor standards that we take for granted, including bans on child and forced labor, non-discrimination and the right of workers to associate and bargain collectively. In Nicaragua and Guatemala employees cannot strike against poor working conditions, pay and benefits without government approval. And it is common for workers seeking better conditions to be physically intimidated and abused.

In CAFTA, the Bush administration is running a race to the bottom. Even basic rights, like the right to be protected from physical violence, are cast aside in the name of business profit. That is a policy that exploits not only the people of these Central American nations, but Americans as well. It exploits American workers who are forced to compete hopelessly against companies that abide by no rules whatsoever.

Consistent with my long held views on trade, I have made the decision to do what I can to force a change of course in the CAFTA and FTAA negotiations, to ensure that those agreements enshrine, within the four corners of the agreement and with equal standing, specific labor and environmental protections that are fully enforced. I will accept no less. For example, fundamental labor standards like the right of association, the right to collectively bargain, prohibitions against child and forced labor, prohibitions against discrimination and other basic rights must be included. And these provisions must be subject to the same dispute settlement procedure as all other elements of the agreement.

I believe that trade is good for America, for our working families and for the international community. A race to the bottom—trade without rules—the sort of trade policy the Bush administration is pursuing in CAFTA and FTAA is not good for America, our workers or the international community, and I will oppose it.•

Mrs. CLINTON. Mr. President, today the Senate will vote on the Singapore and Chile free-trade agreements. Because I believe that these agreements will benefit New York and will lead to greater economic opportunities for New York companies, I will vote in support of these agreements.

Both the Singapore and Chile free-trade agreements promise to offer new opportunities for United States banks, insurance, securities and related services. These sectors are a critical part of New York's economy. These agreements also include provisions that improve intellectual property protections and open the telecommunications markets in both of these nations.

I share the concerns raised by some of my colleagues regarding the immigration provisions in these agreements. As my colleagues have pointed out, trade agreements are not the place to rewrite our immigration laws. I will be supporting Senator LEAHY's legislation to deny fast-track procedures to trade agreements that include immigration provisions. As you know, I voted against granting Trade Promotion Authority to the President and I believe the inclusion of these immigration provisions provides an example of my concerns about providing the President with Trade Promotion Authority. Despite bipartisan concerns about these provisions, Trade Promotion Authority means that we are unable to fix it.

As for the labor provisions in each agreement, the Chile and Singapore free trade agreements include obligations for each nation to enforce their own domestic labor laws. I believe that a better model for labor provisions is the United States-Jordan Free Trade agreement which included enforceable provisions to uphold International Labor Organizations, ILO, core labor standards. I am concerned that we appear to be backing away from the United States-Jordan FTA model. The labor provisions in the Chile and Singapore agreements should not be used as a model for future trade agreements.

Despite my concerns over the immigration and labor provisions, I believe that, in the aggregate, New York will benefit more from having these agreements pass than if they failed. This vote should not be interpreted as a signal as to how I will vote on future trade agreements. Rather I will look at each agreement in its totality and measure the impact of each agreement on the New Yorkers that I am privileged to represent. Because I believe that passage of the Singapore and Chile free trade agreements will lead to more jobs and greater economic growth in industries that are an important part of New York's economy, I will vote in support of these agreements.

Mr. LEVIN. Mr. President, the bills before the Senate to implement the U.S.-Chile and U.S.-Singapore free-trade agreements are being considered under fast track procedures. This means debate is limited and amendments are not in order. Senators can only vote yes or no. I opposed fast track because we should not limit the ability of Congress to improve trade agreements which may not, as some in the past have not, represent the best interest of the American worker, American farmer, or U.S. industry.

Although the U.S. International Trade Commission found the impact of a FTA with Chile and Singapore would be minimal on the U.S. economy, the U.S.-Chile and the U.S.-Singapore free-trade agreements are widely considered likely to lead to more open markets. Singapore's market is currently quite open with respect to consumer and industrial goods and imposes no tariffs on most of these products. Any remaining tariffs will be eliminated upon entry into force of the agreement. Chile's tariffs average 6 percent and they will be eliminated quickly in the agreement. For example, 85 percent of consumer and industrial goods trade becomes duty free immediately upon the entry into force of the U.S.-Chile FTA, with most of the remaining tariffs eliminated within 4 years.

Of particular interest to U.S. auto makers is Chile's commitment to eliminate its domestic tax of 75 percent on luxury automobiles over 4 years. The United States also made significant gains in opening the service sector market in both countries.

These agreements do have shortcomings. For instance, they lack a requirement to strive to achieve the core ILO labor standards that were contained in the U.S.-Jordan FTA, and instead only require each nation to enforce its own laws. They also have separate dispute settlement rules that place arbitrary caps on the enforceability of the labor and environment provisions of the agreement. This is in contrast to the U.S.-Jordan FTA which treated all commitments in the agreement to identical dispute settlement mechanisms. However, the weaker labor and environment commitments and enforcement is not as great a concern as might otherwise be the case because the laws of Chile and Singapore essentially reflect core internationally recognized labor rights. Such language would be a concern, however, if contained in future agreements with countries with lesser labor and environmental standards.

Each trade agreement should be judged on its own merits. While the provisions for Chile and Singapore may be acceptable for Chile and Singapore, the language of these agreements would clearly not be acceptable for trade agreements with countries with weaker labor laws or environmental standards. The U.S.-Jordan agreement, with its stronger labor and environment commitments and enforcement provisions, is the more acceptable model for future agreements with countries with weaker standards.

Mr. BIDEN. Mr. President, international trade has always been an important part of the American economy. For the past half century and more, the United States has been a leader in expanding international trade, opening markets around the world to our products. I believe that on balance the evidence shows us that trade has supported economic growth here in the United States, and that trade has supported good jobs and good wages for American workers.

On paper, the simple, textbook logic of trade is clear—more open markets around the world mean more customers for our workers and companies, who can compete with anyone in the world. And open markets mean more choices and lower prices for American consumers—it makes their paychecks go further.

Trade complements and reinforces the great strength of the American economy—its ability to seize opportunities.

To lead the world in research, to be the first to develop new products and processes, we depend on our ability to move investments and manpower where they can do most good. Trade is the international face of that process, that has always been the key to the success of the American economy. But in the real world, where people live, things are not that simple.

Economists like to tell us how well markets work—other things being equal. But those "other things" are not always equal. Because trade, by reinforcing the basic process of economic growth and change, reinforces the shift of investment and jobs. So trade contributes to severe disruptions, as factories shut down, people lose jobs, communities decline. It may well be true that the overall result is a more efficient, more productive, even wealthier nation.

But underneath those gains are the costs of economic change, costs that are just as real and just as much a result of trade as the benefits. The costs of coping with economic change are dumped on workers and their families, on the communities they live in. The benefits of trade often go to businesses and workers in other industries, in other parts of the country.

If the benefits of trade really do outweigh their costs, we should have the resources as a Nation to help those on the losing end, the ones who are paying the price so that our economy can become more productive. Recently, two important shifts have occurred in our trade negotiations. First, we are dealing with countries that more often than not lack the political rights and the legal structure to protect their workers and their environment.

Many of these countries don't have our strong tradition of organized labor, fighting and winning protections for wages and working conditions. Many of these countries don't have the organizations or the laws to protect their environment. We didn't, either, as we began to grow into the world's strongest economy over a century ago.

It took us time and a lot of struggle to learn those lessons.

There are still plenty of countries out there who have not learned them yet, countries that do not provide those protections that can raise living standards, standards that they cannot yet afford. Low-wage competition with our workers, with our higher living standards, can force American companies to cut costs wherever they can—

and in the end, that often means cutting labor. That means families without breadwinners, communities without jobs.

Second, on top of the fact that we are now doing trade deals with a lot of countries that don't match up with us in terms of economic development, our trade deals now include a different, deeper level of integration.

We have gone beyond lower tariffs, and into areas that implicate a lot more of our own domestic laws—on issues like agricultural policy, intellectual property, even environmental and health regulations. This deeper integration in the international economy touches close to bone in a country like ours.

We want to be sure that we remain in control of those important political issues. This does not mean that we should stop trying to bring the benefits of markets and trade to American workers and consumers. But it does mean that we have to be increasingly careful with every new step we take in trade policy. The easy work is behind us.

Each step from here on has to be taken with a much closer look at the balance between risks and rewards. But these trade deals before us today do not show that kind of care. Chile and Singapore are good allies of ours, and I support more cooperation and exchange among our economies. They are not, in their living standards and level of development, all that different from us. They are not themselves the issue here, at least not for me.

But the trade agreements the Bush administration has negotiated with them are a step back from progress we have made, as recently as just a couple of years ago, in the Jordan Free Trade Agreement. For example, the Jordan agreement subjects any violation of labor protections to "appropriate and commensurate" action. And there is no cap on the penalty that could be imposed as a result of a dispute.

But the Chile agreement and the Singapore agreement provide recourse against a country only for a sustained failure to enforce its own labor and environmental laws. In the worst case, a country could chose to lower its labor and environmental protections, making it easier to avoid a dispute or a penalty, because it would make its own standards easier and cheaper to enforce. At the margin, that would put greater pressure on American firms to cut costs—and jobs.

In addition, in these two agreements there is a cap of $15 million a year on penalties for failure to live up to labor and environmental protections. And those fines are simply paid by the offending country to itself, supposedly to strengthen its commitment to the very standards that they have failed to live up to. I have some experience with crime and punishment, Mr. President, and I can't believe that is going to deter much bad behavior. If $15 million is the maximum fine, it is an incentive to commit more than $15 million worth of violations. You can do the math.

Again, Mr. President, it is not that these two nations raise a serious threat to American living standards. Trade with Chile and Singapore combined amounts to a fraction of 1 percent of our economy. Nor do I harbor any concerns that these countries will fail to live up to their end of the deal. The issue before us now is whether these deals—the first agreements accomplished under fast track negotiating authority—set an acceptable pattern for future, more extensive trade agreements, such as the planned Central American Free Trade Agreement or the Free Trade for the Americas.

These trade agreements fail to treat labor and environmental issues as seriously as commercial disputes, as our trade law now requires. This is the first test of what this administration has done with its fast track trade negotiating authority. Now is the time to hold them to the letter and the spirit of the legislation under which we in Congress granted that authority to this administration. Yet another problem with these agreements lies in the changes in immigration law—done without the participation of the Judiciary Committee.

Fast track for the specifics of trade deals is one thing; but trade deals should not undertake, outside of the legislative process, significant changes in immigration or any other policy. Thousands of new visas can be issued under these agreements—without any requirement to show specific skill shortages here in the U.S. Those immigration provisions usurp congressional legislative powers, and undercut jobs for Americans.

I expressed concerns about the future of trade negotiations when I did not support granting the President fast track negotiating authority last year. We need the strongest protection for our workers here at home, the strongest protection for environmental standards abroad. And we need to make sure that gains from more open trade are gains that all Americans share. In the last decade, up until just a few years ago, we had a growing economy, with strong job creation and wage growth. During that period, we accomplished a number of very significant trade negotiations, including NAFTA, and China's entry into the WTO, both of which I supported. Today, things are very different.

Since January of 2001 we are down 3.1 million private sector jobs, and still counting.

A growing national economy, with strong investment in new sectors, strong employment, and growing incomes, helps to protect American families from job shifts that come from technological changes. So do strong protections for workers to organize and earn fair wages. And so do pensions that are safe, health care that is accessible and affordable. And specific protections for workers directly affected by trade. If those things are in place, the benefits of trade can outweigh the costs. But right now, we can take none of those things for granted.

Under this administration, there is a concerted effort to erode pension protections, the 40-hour work week, and other core worker protections. Our economy is struggling through the worst drought in job creation since the Great Depression. To maintain our living standards, and to maintain political support for increased trade, our trade policy must first be based on strong growth and job creation at home. This administration has not demonstrated to me that they have a plan for economic growth and job creation, or a commitment to protect workers rights.

Without that plan, without that commitment, and because of the flaws in the agreements themselves, I cannot vote for them.

For me, Mr. President, the calculation is simple. If this administration can create one new job, if it can dig us out of the hole we are in—over 3 million jobs lost—trade deals might make more sense.

I challenge this administration to create just one new job—just one more job than we had in January of 2001—before it brings another trade agreement for our approval.

Mr. JEFFORDS. Mr. President, I rise again today to reiterate my concerns with the Singapore and Chile Free Trade Agreements. Let me remind my colleagues that my concern with these agreements is not with the trade provisions that they contain, but with the changes to our immigration laws.

A vote in favor of these agreements is a vote against our un- and under-employed professional workers. A vote in favor of these agreements is a vote against congressional constitutional authority over immigration.

Let me repeat for my colleagues the numerous problems with the immigration provisions in these agreements:

Creation of entirely new categories of nonimmigrant visas for free trade professionals that do not mirror the requirements of our current H1-B program;

No requirement that H1-B dependent employers make attestations that they are seeking to recruit U.S. workers, and that they are not displacing U.S. workers;

No limit to the number of times that an individual is able to renew his or her visa, enabling the non-immigrant to remain in the United States on a permanent rather than temporary basis;

Only requires that the non-immigrant have knowledge that is "specialized" as opposed to the "highly specialized" knowledge demanded by the current H-1B law;

Requires, without a numerical limit, the entry of business people under categories that parallel three other current visa categories;

Requires the entry of their spouses and children so that they can join the foreign workers in the United States making the program even less of a temporary visa program;

Requires the entry of foreign workers on L-1 visas regardless of whether they are nationals of Singapore or Chile so long as the sponsoring corporation has an office in those countries;

Requires that the United States submit disputes about whether it should grant certain individuals entry to an international tribunal, not leaving that decision to the Department of Homeland Security.

Finally, and in my mind, most importantly, for all my colleagues, these changes to our immigration law are effectively beyond the reach of Congress to oversee or alter.

The Senate should be focusing today on legislation that will improve our education and job training services, not legislation that will increase the number of foreign workers in this country. We need to make a stand today for our professional workers and vote against these agreements.

Ms. SNOWE. Mr. President, I rise today in support of the pending Free Trade Agreements with Singapore and Chile. Congress has a constitutional obligation to formulate U.S. trade policy and through the oversight activity of the Finance Committee, and the active participation of the Congressional Oversight Group, this responsibility is being met.

I would like to take this opportunity to thank Chairman GRASSLEY for his leadership on the Finance Committee in ensuring that Congress is not on the sidelines in the trade debate, even under the fast-track procedures by which these agreements are negotiated and considered here on the Floor.

It is well known that I have opposed trade agreements in the past. I did so because I never felt that those agreements struck the proper balance between free and fair trade. Last year, I supported trade promotion authority for the President precisely because it did strike the appropriate balance, and because of this administration's commitment to aggressively enforce our trade laws so that American workers aren't undermined by unfair trade.

The two agreements before us today have made substantial progress towards meeting those concerns and they come not a moment too soon, as the success of our economy relies more than ever on fair and freer trade—U.S. exports accounted for one-quarter of U.S. economic growth over the past decade—nearly one in six manufactured products coming off the assembly line goes to a foreign customer and exports support 1 of every 5 manufacturing jobs.

Given these facts, it is an understandable concern that the U.S. has been party to only three Free Trade Agreements ever, while there are more than 130 worldwide. Since 1995, the WTO has been notified of 90 such agreements while the U.S. only reached one, the Jordan Free Trade Agreement. In contrast, the European Union has been particularly aggressive, having entered into 27 free trade agreements since 1990 and they are actively negotiating another 15.

Why should these facts raise concerns? Because every agreement made without us poses a threat to American jobs. Nowhere is this better exemplified than in Chile which signed a free trade agreement with Canada, Argentina and several other nations since 1997.

Since that time, the U.S. has lost one-quarter of Chile's import market, while nations entering into trade agreements more than captured our lost share. According to the National Association of Manufacturers, this resulted in the loss of more than $800 million in U.S. exports and 100,000 job opportunities.

In the three months since the EU-Chile agreement went into effect, the growth rate of EU exports has expanded 8.6 times as fast as U.S. exports to Chile. This represents a disturbing deterioration of the U.S. share of Chile's market. These numbers represent real jobs for U.S. manufacturers that need new markets for their goods to keep employees working and demonstrates the effect of the U.S. failing to move forward with the implementation of these market access agreements.

One industry especially affected was U.S. paper products, which accounted for 30 percent of Chile's imports but has since dropped to only 11 percent after the trade agreements were signed. The market access provisions of the U.S.-Chile FTA provide for the elimination of tariffs on all forest products immediately upon implementation of the agreement, eliminating the 6 percent import tariff on U.S. paper and wood products.

Chilean forest products exports, in contrast, already enjoy duty-free access to the U.S. market. Immediate tariff elimination will put U.S. suppliers on equal footing with Chilean producers and with competing suppliers of forest products from Canada and Mercosur countries, and the European Union.

Before the Canadian-Chile FTA went into effect, U.S. paper and paperboard exports to Chile amounted to 156,000 metric tons, with a value of $99 million and represented 30 percent of Chilean imports in 1997. However, U.S. exports were only 19,000 metric tons, with a value of $26 million, which represented just 8.3 percent of Chile's paper and paperboard imports last year. As a result of the tariff eliminations in this agreement, the U.S. paper industry will now be able to regain access to the Chilean market.

Chilean salmon has been a controversial issue in the past, but recent steps taken by both the Chilean salmon industry and the Maine salmon industry to work jointly on promoting the value of farm-raised salmon has alleviated this concern. The Maine salmon industry supports this agreement, which is monumental considering their past differences with Chile. I have heard from the Maine Aquaculture Association and Maine salmon producers like Heritage Salmon, which support this free trade agreement and look forward to future opportunities in the Chilean market. These two former rival industries have shown a deep understanding of how to evolve in the era of global trade.

Recognizing the potential effects on another industry in my state, USTR provided me with unequivocal assurances about its position on the unique concerns of rubber footwear, and New Balance has indicated to me that they are pleased that USTR has shown sufficient sensitivity to this industry in both the Chile and Singapore FTAs.

The rubber footwear section of the agreement provides for six annual reductions of 5 percent, followed by three of 10 percent and a final one of 40 percent. This nonlinear phaseout honors Ambassador Zoellick's commitment to me that the unique sensitivity of the rubber footwear industry would be reflected in agreements negotiated under Trade Promotion Authority.

Singapore represents Maine's second largest recipient of exports with almost $250 million in 2002, second only to our neighbor to the north. Most of these exports are from the strong semiconductor industry in Maine. I have been told by this industry in my own state that they look forward to the closer economic ties that will be formed under the U.S.-Singapore FTA.

I have also heard from The Baker Company in Sanford, ME, which is a manufacturer of state-of-the-art biological safety and research equipment whose 150 employees do everything from research and development, engineering, manufacturing and even sales from their headquarters in Sanford. The Baker Company represents just one of the many small manufacturers across America whose sales to Singapore will benefit from this agreement. Hopefully, the 135 percent growth in Maine exports to Singapore last year alone will continue under this FTA.

In addition, it is my hope that these agreements will offer new export opportunities for Maine agriculture. I have been told by Maine potato farmers and the Maine Farm Bureau that they support these agreements. While they would have preferred a more accelerated phase-out of some of the tariffs on agriculture exports to Chile, the industry hopes this agreement will allow Maine potatoes to regain some of their previous market-share in Chile that was lost after the Chilean FTA was signed with Canada.

As a result of these two agreements before us today, many industries stand to benefit, including the forest and paper, rubber footwear, salmon, lobster, agriculture, semiconductor, precision manufacturing, and electronic industries of my home state. Therefore, I am optimistic that these two agreements, based on this administration's comprehensive approach to FTA's, are sure to gain strong bipartisan support.

Under this administration, the U.S. approach to trade has greatly improved. However, I have several remaining concerns. While I am pleased by some of the steps taken by USTR to address the interests of small businesses, there is much more still to be done. In addition, while the improvements to Trade Adjustment Assistance have been welcome, I still believe we must address the needs of communities that have been negatively impacted by trade, so that retrained workers have new opportunities for employment.

I look forward to working with my colleagues to address these, and other, concerns and to continue our efforts to promote a U.S. trade policy that benefits all Americans.

Mr. CONRAD. Mr. President, I want to take a few moments to comment on the trade legislation we are considering and our trade policy more generally.

Let me start by saying that I intend to vote in favor of the implementing legislation for both the Singapore and Chile free-trade agreements. In both cases, the agreements will provide commercial benefits to the United States, removing barriers to the exports of our goods and services. Both Singapore and Chile have relatively advanced economies, with relatively strong environmental and labor protections, so the risk of American manufacturing jobs relocating to these countries is small. In short, Chile and Singapore are the sorts of partners we should be seeking out if we are going to negotiate free-trade agreements: partners who are chosen because they can provide complementary commercial opportunities, not partners who are chosen primarily for political, not economic, reasons.

In particular, the Chile Free-Trade Agreement will provide export opportunities for North Dakota agriculture. Ever since the idea of a Chile FTA was first broached more than a decade ago, I have insisted that any agreement must result in the removal of Chile's price bands that have served to limit our wheat exports. This FTA accomplishes that long-held goal. In addition, it levels the playing field with our leading competitor for export sales to Chile. Currently, Canadian wheat exports enter Chile tariff free, but U.S. exports face a 6 percent tariff. This agreement will eliminate the tariff disadvantage our wheat exports currently face and allow us to recapture Chilean export sales we have lost to Canada in recent years.

I would also like to comment briefly on the sugar provisions of the Chile FTA. These provisions were carefully crafted to ensure that Chile could not import sugar to meet its domestic needs and then export its entire domestic production to the United States. In particular, the agreement provides preferential tariff access to Chilean sugar only if and to the extent that Chile is a net exporter of specified sugar products. All other Chilean sugar will be subject to MFN tariff rates. During the Finance Committee's informal consideration of the implementing legislation, I posed a number of questions to Ambassador Zoellick to ensure that the Senate had a full understanding of how these provisions work.

However, important as these provisions are, they cannot serve as a model for other FTAs that the administration is negotiating or considering. Frankly, Chile is a tiny producer of sugar, and it is extremely unlikely that it will ever be a net exporter of any significance. But the same is not true for Australia, Central America, South Africa, or Thailand, all of which are being considered for FTAs. The Chile provisions, if they were included in these other agreements, would devastate our sugar industry.

U.S. producers are highly efficient, and U.S. consumers enjoy some of the lowest prices in the developed world. The fact is that sugar is one of the most distorted commodity markets in the world, with subsidies, protected markets and all sorts of nontariff, nontraditional barriers to free trade. Unless we address these issues on a global basis and eliminate these distortions, I fear that these FTAs will wipe out our efficient sugar industry to the benefit of less efficient, highly subsidized producers in other countries.

More generally, I am concerned that these FTA partners are being chosen primarily on the basis of political and foreign policy calculations rather than on the basis of potential economic benefit to this country. In my view, that is a profound mistake. There has been bipartisan agreement in the Congress that the top priority for U.S. trade policy should be leveling the playing field in agriculture. However, the administration's pursuit of these bilateral FTAs threatens to undermine that goal. Australia, Central America and Thailand are simply not going to be huge markets for U.S. agricultural goods. But imports of sensitive products from these countries could have a devastating impact on important U.S. agricultural commodities. Put simply, there is very little upside to these agreements for U.S. agriculture, and a lot of potential downside.

Moreover, to the extent we are investing significant resources in negotiating these bilateral FTAs, we are diverting resources away from the WTO agriculture negotiations, which should be our primary focus. Only by addressing the market access barriers and inequities in domestic support on a worldwide basis can we be sure that U.S. agriculture will achieve the level playing field and access to growing markets that it needs to thrive in the 21st century.

Finally, I share the concerns of many of my colleagues about the disappearance of U.S. manufacturing jobs and the hollowing out of our industrial base. As we look forward to trade negotiations with the low-wage nations of Central America and Thailand, we must tailor the labor provisions of these agreements to fit local conditions so that we do not allow exploitative conditions that give these countries an unfair advantage over U.S. businesses.

In conclusion, I support these agreements. They will provide modest economic benefits to our country. But they cannot and should not serve as one-size-fits-all models for future bilateral FTAs. Future agreements must be constructed very carefully, taking into account the strengths and weaknesses of our various trading partners, to ensure that they provide commercial benefits to U.S. agriculture, services, and manufacturing.

I ask unanimous consent to print the following information in the RECORD from questions I submitted to Ambassador Zoellick.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMBASSADOR ROBERT ZOELLICK RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD BY SENATOR KENT CONRAD OF NORTH DAKOTA, SENATE FINANCE COMMITTEE, JULY 10, 2003

1. Chile Sugar Provisions. Ambassador Zoellick, as you well know, the details of trade agreements are critically important. I want to have on the record an understanding of how the sugar provisions in the Chile agreement work, so I have a series of questions on this issue.

First, my general understanding is that this agreement gives Chile preferential access to the US sugar market, but only if and to the extent that Chile has a net trade surplus in sugar. Is that correct?

More specifically, my understanding is that the agreement defines a net trade surplus in sugar as total exports of sugar, sugar containing products and high fructose corn sweetener minus total imports of these products, except that Chilean imports of HFCS from the US don't count. Is that correct?

Third, my understanding is that unless Chile has a net trade surplus in sugar, Chile will not get any preferential access under the agreement, and not just during the 12 year phase in, but in perpetuity. Is that correct?

Fourth, my understanding is that if Chile does have a net trade surplus in sugar, the agreement gives Chile up to 2000 tons of duty free access immediately, gradually increasing to up to 3258 tons in year 11 of the agreement. Is that correct?

Fifth, to the extent that Chile's net trade surplus is less than the TRQ limit, my understanding is that Chile's duty free access would be limited to the amount of its trade surplus in sugar. Is that correct?

Sixth, my understanding is that the agreement gradually reduces the over quota duty to 0 over the 12 year phase in period. Is that correct?

Seventh, my understanding is that this preferential over quota duty rate would be limited by the amount of Chile's net trade surplus, and any imports above this would be subject to the MFN rate. Is that correct?

Finally, after the end of the 12-year transition period, my understanding is that Chile's duty free access to the US would be limited to the amount of its net trade surplus in sugar. Is that correct?

Response: With respect to trade is sugar and sugar-containing products (SCPs), we are pleased that we were able to reach agreement with Chile on provisions to address our industry's concern that the FTA not operate as a vehicle for the transshipment of sugar produced in third countries. Accordingly, each side agreed that its access to the other's market under the agreement will be limited to the amount of its net trade surplus in specified products.

Your understanding of these provisions is correct. To summarize:

During the transition period, Chile's duty-free access for specified sugar products and SCPs will be limited to the lesser of the specified in-quota quantity or the amount of Chile's net trade surplus. Chile's net trade surplus will be based on the difference between Chile's imports and exports of sugar. SCPs, and high fructose corn syrup (HFCS), not including imports of HFCS from the United States.

During the transition period, if Chile's net trade surplus exceeds the specified in-quota quantity, then a declining over-quota tariff will be applied on the amount by which the net trade surplus exceeds the specified in-quotas quantity.

After the transition period, Chile's duty-free access will be limited to the amount of its net trade surplus.

During and after the transition period, any imports in excess of Chile's net trade surplus would be subject to our prevailing normal trade relations/most-favored-nation tariff rate.

Implications for Other FTAs. Ambassador Zoellick, I would also like to raise a concern I have regarding the implication of these sugar provisions for the other FTAs that are being negotiated. Frankly, Chile is a tiny producer of sugar, and it is extremely unlikely that it will ever be a net exporter of any significance. But the same is not true of Australia, Central America, South Africa, or Thailand, all of which are being considered for FTAs. The Chile provisions, if they were included in these other agreements, would devastate our sugar industry.

U.S. producers are highly efficient, and U.S. consumers enjoy some of the lowest prices in the developed world. The fact is that sugar is one of the most distorted commodity markets in the world, with subsidies, protected markets and all sorts of non-tariff, non-traditional barriers to free trade. Unless we address these issues on a global basis and eliminate these distortions, I fear that these FTAs will wipe out our efficient sugar industry to the benefit of less efficient, highly subsidized producers in other countries. Can you assure me that you do not intend to just take the Chile provisions and apply them to these other countries but will instead look to some other approach that takes into account the amounts of sugar these countries are capable of exporting into our country?

Response: As reflected in the outcome of the Chile negotiations, we are sensitive to our industry's concerns. We recognize that each negotiating partner has a different capacity for trade in sugar, and we will continue to consult with our industry and Congress as we move forward in our other negotiations. We also remain strongly committed to addressing global distortions that affect sugar trade in the WTO negotiations, and we will continue to consult closely with Congress and the sugar industry on these issues.

Mr. THOMAS. Mr. President, as the world's largest trading Nation, trade is key to the long-term economic growth of the United States. Nearly, 26 percent of the United States' gross domestic product is directly tied to trade activity. One in three acres is planted for export to other nations and mare than four out of ten products manufactured in the United States are exported.

The United States needs to foster strong trading relationships to create opportunities for domestic businesses and entrepreneurs. As chairman of the Subcommittee on International Trade, I heard from manufacturers, ranchers, and financial service companies on the importance of opening new markets to U.S. goods and services. The agreements we are considering today represent two opportunities we cannot afford to let pass by.

Since 1997, exports from the United to Chile have fallen from 24 percent to just under 17 percent. Exports from countries with trade agreements with Chile have risen during the same time period from 25 percent to 34 percent. Manufacturers and farmers in the United States have already lost one-third of the Chilean import market to countries with trade agreements with Chile. The National Association of Manufacturers estimates that the current lack of a trade agreement with Chile costs exporters, $800 million per year in lost sales, affecting 10,000 jobs in the United States. We must act now to reverse this trend.

Upon passage of the Chile agreement, more than 85 percent of consumer and industrial products will immediately become duty-free, with most remaining tariffs eliminated within 4 years. More than three-quarters of farm goods from the United States will enter Chile tariff free within 4 years with all tariffs phased out within 12 years.

The Singapore trade agreement will provide similar benefits to United States businesses. Singapore is America's twelfth largest trading partner, with annual two-way trade of goods and services of more than $30 billion. After the agreement goes into effect, all exports from the United States to Singapore will enjoy zero tariffs. The agreement will also guarantee fair and non-discriminatory treatment and greater market access for United States firms into Singapore's financial and services industry.

Expansion of trade opportunities for businesses and industry in the United States is good for our Nation. These agreements create new access opportunities for goods and services from the United States. They are good for our ranchers and farmers, and I support passage of the United States-Singapore, and the United States-Chile trade legislation.

Mr. DURBIN. I support the Singapore and Chile Free Trade Agreements. I maintain reservations about certain sections of this agreement, but overall I believe that this Free Trade Agreement succeeds in lowering tariffs on American goods entering Chile and Singapore.

We are deciding today whether or not to allow American farmers, manufacturers, businessmen and women to trade their products, their ideas and their goods.

Expanding trade goes hand in glove with disseminating and distributing the values of America. That is why I have supported many trade agreements.

The United States-Singapore and United States-Chile Free Trade Agreements, FTA, include strong and comprehensive commitments by Singapore and Chile to open their goods, agricultural and services markets to U.S. producers. The agreements include commitments that will increase regulatory transparency and act to the benefit of U.S. workers, investors, intellectual property holders, business and consumers.

These agreements have one of the highest levels of intellectual property rights protections that we have ever had in any trade agreement with any other nation. We are concerned about the rights of those who create music, entertainment, software, and technology products, and we are concerned about manufacturers' patents.

I am particularly pleased about the benefits this agreement provides with respect to agriculture. The Chile Free Trade Agreement will eliminate tariffs on 85 percent of the U.S. exports to Chile immediately. Under the United States-Chile Free Trade Agreement, American workers, consumers, businesses, and farmers will enjoy preferential access to a small but fast-growing economy, enabling trade with no tariffs and under streamlined customs procedures.

This is good news for my home state of Illinois as over 75 percent of U.S. farm goods, including pork, beef, wheat, soybeans, feed grains, and potatoes will enter Chile duty-free within 4 years. Other duties on U.S. agriculture products will be phased out over 12 years.

In addition, an agreement was worked out with Singapore and U.S. trade negotiators on allowing chewing gum into the country. This is beneficial for Illinois because the government will only allow two brands of gum, both produced by Wrigley.

While some of the provisions in these FTAs could serve as a model for other agreements, a number of provisions clearly cannot be, nor should they be. I believe that each country or countries with whom we negotiate are unique; and while the provisions contained in the Chile and Singapore FTAs work for Chile and Singapore, they may not be appropriate for FTAs with other countries, where there may exist very different circumstances.

I have concerns that the administration may use some of the provisions contained in the agreements as models for other FTAs, such as the Central America Free Trade Agreement, CAFTA, where the conditions may make it inappropriate to do so. Specifically, with regard to the labor and environmental provisions, there are separate dispute settlement rules that place arbitrary caps on the enforcement of those provisions. Moreover, these agreements contain an "enforce your own laws" standard for dealing with labor and environmental disputes. Many of us support Chile and Singapore Free Trade Agreements not only because they have decent labor laws, but because they have the ability and willingness to enforce them.

Concerns about labor and environmental standards, however, should receive careful scrutiny on a case-by-case basis as different circumstances and situations warrant. Use of the "enforce your own law" standard is invalid as a precedent—indeed is a contradiction to the purpose of promoting enforceable core labor standards—when a country's laws clearly do not reflect international standards and when there is a history, not only of non-enforcement, but of a hostile environment towards the rights of workers to organize and bargain collectively. Using a standard in totally different circumstances will lead to totally different results.

My vote for the Chile and Singapore FTA's should not be interpreted as support for using these agreements as a model for future trade negotiations. I will evaluate all future trade agreements on their merits and their applicability to each country to ensure that core international labor rights and environmental standards are addressed in a meaningful manner. Expanded trade is important to this country and the world; but it will be beneficial to a broad range of persons in our nation and in other nations only if these trade agreements are carefully shaped to include basic standards, including the requirement that nations compete on the basis of core rights for their workers, not by suppression of these basic rights.

I support the promotion of free trade, but I join my colleagues on both sides of the aisle in expressing concern that the Administration is mandating immigration policy that is the purview of Congress. This should never happen again. The United States Trade Representative, USTR, should not be creating new immigration strategies. While I support the free trade agreements with Chile and Singapore, I want to convey to USTR that I will look long and hard at any free trade agreements that include similar immigration provisions in the future.

Mr. LEAHY. Mr. President, I will vote in favor of the Free Trade Agreements with Chile and Singapore because the benefits of the intellectual property and anti-piracy provisions in these agreements outweigh the valid concerns that have been raised about the inclusion of immigration provisions.

At the outset, let me begin by expressing my disappointment that the administration short-circuited the proper consideration process for these implementing bills through its decision to transmit them to Congress 2 days before the Judiciary Committee's scheduled debate, and before responding to written questions from this committee's members. To be fair, the administration did eventually respond to these questions. Of course, as the responses themselves pointed out, "the implementing bill cannot be modified after its introduction."

The administration apparently views the Judiciary Committee simply as an obstacle to be overcome as quickly as possible, and not as a source for possible improvements to its legislative proposals. As a result of the administration's undue haste—and the Judiciary Committee's failure to begin consideration of these measures early enough to guarantee that it could have meaningful input—we were deprived of the opportunity to propose changes in the implementing legislation. Instead, we were required to conduct an up-or-down vote on final passage of these implementing bills only 2 days after their introduction.

I share the concerns expressed by Senators FEINSTEIN, LINDSEY GRAHAM, and SESSIONS that the U.S. Trade Representative should not be in the business of amending domestic immigration laws, as these treaties do. The decision to include immigration provisions was not only unauthorized by Congress but also unnecessary to achieve the administration's stated goals. Congress has already created the H-1B program, which allows foreign workers with specialized skills to work in the United States. That program was established after a lengthy process of public hearings, debate, and negotiation. If the administration feels that program needs to be changed, or a new visa category created, it should have sought to do so through the ordinary legislative process.

This matter is of particular concern because these agreements are widely viewed as the template for future trade agreements, many of which are being negotiated as we speak. I hope that the administration has gotten the message from members on both sides of the aisle and both chambers that Congress does not intend to delegate its power over our immigration system to the executive branch. I for one believe that we should do more than express our concerns and hope that they are heeded. As a result, I have introduced the Congressional Responsibility for Immigration Act, a bill to prevent the use of fast-track procedures for trade agreements that include immigration provisions.

On the whole, however, I support these agreements because they recognize that intellectual property, and our response to international piracy in particular, is an integral part of any trade structure. The United States is the world's leading creator and exporter of intellectual property. That means we are also the world's leading target for piracy of copyrighted works. New technology has made piracy cheap and easy, and everything from music to films to books is susceptible to this kind of theft. At the same time, the advent of new technologies means that international distribution of copyrighted works is increasingly viable, and necessary, if the U.S. intellectual property industry is to continue to thrive.

These agreements go a long way to harmonize the intellectual property laws of Singapore and Chile with those of the United States. They make IP systems in each country more transparent, uniform and predictable. This is a significant benefit to U.S. industries that depend on transparency and predictability in order to be able to protect their rights in these countries. The agreements also call on the countries to recognize and uphold the rights of authors to control the electronic dissemination of their works, and to protect the encryption technology that safeguards such electronic dissemination. This too is important, because more and more intellectual property is being distributed electronically. If intellectual property holders cannot securely distribute their works in electronic form, a major source of revenue is lost, and American creativity is hampered.

Intellectual property is increasingly an international business, one that needs an international approach to many of its problems. Despite my concerns about the immigration provisions in these agreements, I will support their passage because they improve international cooperation on intellectual property issues.

Mr. CHAFEE. Mr. President, today the Senate takes up legislation to implement important free trade agreements with Chile and Singapore. Through the tireless efforts of President Bush's forward-looking Trade Representative Robert Zoellick, the U.S. has signed trade pacts that will strengthen relations with two of our best friends worldwide: Chile and Singapore. Congress ought to do our part so the people of all three nations can realize the benefits of these agreements. I commend President Bush and Ambassador Zoellick their hard work in negotiating these agreements, and for upholding the principle that economic engagement worldwide works for the betterment of all the world's people.

Like most of our friends and neighbors throughout the world, the United States faces serious economic challenges, particularly as we strive to work our way out of a period of recession and growing budget deficits. One means, and certainly not the only one, of strengthening our own economy while lifting others around the world, is to lower trade barriers and open markets. The promotion of free trade has characterized economic relations among the nations of the world during recent years. Our competitors in Europe, Asia and Latin America have sealed deals on about one hundred and thirty preferential trade compacts, some within our own hemisphere.

Yet the U.S. is party to only three of these agreements—NAFTA and respective free trade agreements with Israel and Jordan. I was astounded to learn that the European Union now exports more to South America than the United States. Congress would do the American people an injustice if we allowed the U.S. to continue to be left behind as the force of free trade go on benefiting others around the world.

Free trade, rather than imposing U.S. values and robbing peoples of their culture, creates new economic opportunities and helps raise the standard of living for millions of people. Our experience with NAFTA, for example, shows how profoundly this agreement has boosted exports and created jobs. Indeed, U.S. merchandise exports to Mexico were up almost 170 percent in NAFTA's first eight years, well above the overall U.S. increase. For Mexico, the news is also positive, as the NAFTA-related export boom was responsible for more than half the 3.5 million jobs created there since 1995.

Free trade is also a successful poverty reduction tool. Consider this: since 1987, 140 million people in the trade-dependent economies of East Asia have been removed from he ranks of abject poverty. On the other hand, economically isolated South Asia and much of Africa experienced an increase in poverty during the 1990s.

But the economic potential of regional and bilateral free trade agreements tell only part of the story. It is my view that strengthening economic bonds between the U.S. and developing nations will concurrently strengthen and encourage the forces of political reform as well.

The experience of Mexico is illustrative. Most observers give at least some credit to NAFTA for encouraging Mexico's political maturity, which saw the peaceful replacement of a political party that had a 70-year lock on that nation's presidency. Future free trade initiatives in Asia, Latin America and the Middle East could encourage the kind of dramatic political gains that, in recent decades, have transformed many of the world's nations from authoritarian regimes into functioning democracies.

Trade in goods and services between Chile and the U.S. is growing and today amounts to more than $8 billion. Under this FTA with Chile, more than 85 percent of bilateral trade in consumer and industrial products becomes tariff-free immediately, with most remaining tariffs eliminated within four years. Enactment of this agreement will improve an already strong U.S. relationship with a nation that has overcome a legacy of political division. Chile's military coup and resulting dictatorship in the 1970s and 1980s has today been replaced by a functioning, outward-looking democracy. And it is not surprising that Chile's commitment to free trade has taken place concurrently with its political reconciliation and growth.

The Singapore free trade agreement is the first U.S. FTA with an Asian nation and could spur future similar initiatives in that important region of the world. It will strengthen an already strong economic relationship with America's 12th largest trading partner by guaranteeing zero tariffs immediately on all U.S. goods entering Singapore. The $40 billion in two-way trade in goods and services between the U.S. and Singapore will surely increase through this FTA.

And both of these agreements do far more than simply encourage additional free trade. Like our free trade agreement with Jordan, these agreements with Chile and Singapore include strong provisions related to labor and the environment. Under them, all three countries agree to: One, support International Labor Organization (ILO) core labor standards and internationally recognized worker's rights and, two, effectively enforce their own labor laws in the trade-related matters. Penalties for violations are $15 million annually, with failure to pay leading potentially to suspension of benefits.

These agreements also do not forget the need to ensure protection of the environment. Under them, parties are to ensure that their domestic environmental laws provide for high levels of environmental protection and are effectively enforced. Parties must also strive to continue to improve their environmental laws. Finally, the agreements make clear that it is inappropriate to weaken or reduce domestic environmental protections in order to encourage trade or investment. These environmental provisions are not just words: they are obligations enforced through each agreement's dispute settlement procedures.

Approval of these two FTAs today is an important early step in implementing a bold free-trade agenda. Other such agreements with a great many other nations are either being negotiated or are under consideration. I am hopeful that today's strong vote in Congress will encourage increased U.S. economic engagement and bring about additional market-opening, job-creating free trade agreements. I urge all of my colleagues to support this much needed legislation.

UNITED STATES-SINGAPORE FREE TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2739.

The legislative clerk read as follows:

A bill (H.R. 2739) to implement the United States-Singapore Free Trade Agreement.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that the next votes in the sequence be limited to 10-minute votes; further, that it be in order to ask for the yeas and nays on passage of the next two bills with one show of hands.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second?

The yeas and nays are ordered on both measures.

Under the previous order, all time is yielded back. The clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—66

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Daschle
DeWine
Domenici
Durbin
Ensign
Enzi
Fitzgerald
Frist
Graham (FL)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Roberts
Rockefeller
Santorum
Schumer
Sessions
Smith
Snowe
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—32

Akaka
Biden
Boxer
Byrd
Chambliss
Corzine
Craig
Crapo
Dayton
Dodd
Dole
Dorgan
Edwards
Feingold
Feinstein
Graham (SC)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Mikulski
Miller
Reed
Reid
Sarbanes
Shelby
Specter
Wyden

NOT VOTING—2

Kerry
Lieberman

The bill (H.R. 2739) was passed.

UNITED STATES-SINGAPORE FREE TRADE AGREEMENT IMPLEMENTATION ACT AND THE UNITED STATES-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. BREAUX. Mr. President, I strongly support the Singapore and Chile Free Trade Agreements and believe they will promote domestic growth in manufacturing and exports. I look forward to seeing these agreements enacted into law. However, I am concerned about the current U.S. negotiating objective of restricting, limiting or otherwise eliminating drawback and duty deferral rights for U.S. manufacturers and exporters in free trade agreements, FTA. The administration's current policy places U.S. companies at a significant competitive disadvantage in the global market.

Free trade agreements should include no language that eliminates or otherwise restricts the application of duty drawback and duty deferral programs to U.S. manufacturers and exporters. The language in the United States-Singapore and United States-Israel FTAs, for example, have no such restrictive language and we should model future agreements after these FTAs. This issue is of significant importance to many U.S. manufacturers and exporters, including those in my home state of Louisiana.

Duty drawback and duty deferral programs reduce production and operating costs by allowing our manufacturers and exporters to recover duties that were paid on imported materials when the same or similar materials are exported either whole or as a component part of a finished product. Duty drawback positively affects nearly $16 billion of U.S. exports each year. Additionally, nearly 300,000 U.S. jobs are directly related to exported goods that benefit from drawback, and these high quality jobs could be adversely affected by eliminating or restricting drawback. In my own home state of Louisiana, drawback and duty deferral programs provide substantial benefits to local industries, allowing them to compete on a level playing field in the global market.

Drawback makes a significant difference to U.S. companies at the margin when exporting to our FTA partners where they compete against foreign producers that either have substantially lower costs of production or enjoy low or zero import duty rates. This export promotion program is one of the last WTO-sanctioned programs' which provides a substantial advantage to U.S. companies participating in the export market. The application of these programs to U.S. manufactures and exporters should not be restricted in future free trade agreements that we negotiate with our trading partners.

We need to work hard to complete free trade agreements that provide as many competitive advantages as we can to U.S. manufacturers competing in the global market, encourage growth in U.S. exports, and create U.S. jobs.

Mr. KOHL. Mr. President, I rise today to explain my opposition to the Chile and Singapore Free Trade Agreements. As a former businessman, I understand that trade has always been an important part of our economy. American workers are so productive that access to foreign markets is key to their prosperity. Last year alone the State of Wisconsin exported $10.6 billion worth of goods around the world. Unfortunately, because the Administration chose to abuse the fast track process and include unrelated immigration issues in these agreements, I was not able to support these agreements.

My opposition to these agreements is not based on the tariff reductions and market access measures included in the bills. Agreements between the U.S. and these countries make good economic sense. Canada and Europe already have free trade agreements with Chile and it has hurt our access to that market. While U.S. products face a 10 percent tariff, the same products from other countries do not. In Wisconsin we sell large mining equipment and bulldozers to Chile, but since 2000 our sales of mining equipment has tailed off. There may be many reasons for this reduction in commerce, but the fact that we face a 10 percent tariff, while our competitors from Europe do not, is not helping. This agreement will go far toward giving U.S. companies a fair and even playing field.

That said, our trade policy with other countries has been far from an unqualified success. Since 2000 Wisconsin has lost 70,000 manufacturing jobs. Almost one out of every eight jobs in the state in manufacturing has disappeared. Some of this job loss is a result of the recession. Some of these jobs have been moved to Mexico, and some of these have been unable to compete with low wages in China. Most damaging, however, may be the currency manipulation of the Chinese Government. Some experts believe the Chinese may be artificially keeping their currency undervalued by as much as 50 percent. This means products from China are 50 percent cheaper than they would normally be. This is on top of low wages and almost no environmental regulations, which also work to depress prices.

Trade can only work when countries obey the rules and follow the law. I supported bringing China into the WTO because that would make it harder for them to cheat on their agreements. However, this administration has proven unwilling to press this currency issue with the Chinese. They have allowed the problem to fester unchecked, and our manufacturing base is paying the price.

The agreements before us now, however, are not with countries that have a history of avoiding their commitments, or that do not enforce their labor laws, or with countries that are ruled by dictatorships. Singapore and Chile are responsible democracies with solid labor laws and labor unions. In the case of Singapore, the wage rates are comparable, although not the same, as the United States. Chile and Singapore have little in common with China, and should not be painted with the same broad brush. These countries also represent a significantly smaller portion of our foreign trade. Singapore represents 1.7 percent, and Chile represents 0.3 percent of total U.S. Trade, exports and imports combined and opening our market to them will have much less impact on our economy than our opening to China.

Many have criticized these agreements because the labor provisions attached to the agreement are not strong enough. A recent United States-Jordan Free Trade Agreement had much stronger labor provisions than the agreements before us now. That agreement had real accountability and real consequences if Jordan failed to keep up its side of the bargain. The administration argues that Chile and Singapore have responsible laws that are adequately enforced, and so do not need the highly prescriptive language that was included in the Jordan agreement. I agree with their arguments.

Let me be clear about the following. While these labor provisions may be adequate for Chile and Singapore, countries with good records, they should not be used as a model for future multilateral agreements in the region. The Free Trade Area of the Americas, and the Central American Free Trade Agreement will need substantially stricter labor and environmental provisions than these to get my vote. Large multilateral agreements with countries that are only fledgling democracies and have poor records of protecting workers cannot be treated in the same manner as Chile and Singapore.

Even though these agreements had problems and were not perfect, I was inclined to support them because I generally vote to support free trade. I felt these countries would be good partners and these agreements would be unlikely to have any significant negative impact on our economy. But the administration pushed the envelope of fast track too far when immigration provisions were included in the implementing legislation.

Both trade agreements contain provisions which create a new visa category for the temporary entry of business professionals. These provisions were negotiated as part of the larger trade agreement by the United States Trade Representative, USTR, which has no specific authority to implement new visa categories or make modifications to our temporary entry system. Further, these provisions were negotiated without the direction of Congress, which has traditionally debated and decided upon our Nation's immigration policy. These actions by the USTR set a dangerous precedent for immigration policy to be negotiated behind closed doors without a complete debate. Both our Nation's security and its diversity depend on well-considered immigration policy.

Second, the administration transmitted the implementing language for these trade agreements to the Senate before responding to concerns expressed at a Judiciary Committee hearing. This language is unamendable once transmitted, so it is critical that Congress be consulted fully on implementing language before transmission. Immigration policy lies squarely in the jurisdiction of the Judiciary Committee; for the administration to finalize immigration language before the Judiciary Committee has had a chance to analyze a draft and improve the language is an unacceptable way to do business.

These agreements I have decided to oppose will undoubtedly pass. Chile and Singapore have shown they are willing to play by the rules, and have democracies who will hold them accountable if they undermine their own labor and environmental laws. I expect there will be disputes in the future, there always are between partners, but Chile and Singapore will work with us to settle those disagreements when they come around. However, future agreements with countries with lower standards will have to do more to secure labor and environmental rights before I will support them. We need to move back toward the United States-Jordan model, back toward more accountability in trade agreements before this administration can expect my vote in favor of FTAA or CAFTA.

This undermining of the fast-track procedure, however, cannot be repeated. I voted for fast track, and support it as a way to give the President the ability to negotiate with other countries in good faith, but it should not be used for issues that are not trade related. Future agreements that carry unrelated provisions will not get my vote. I hope the administration hears this message and gets back to the business of focusing on our trade agenda, and leaving the immigration issues to the Congress where they belong.

Mr. VOINOVICH. Mr. President, I rise in strong support of S. Res. 211. I join my colleagues to speak out against the administration using these trade agreements to implement immigration policy without the authority or direction to do so from Congress. It is the function of the Congress to set policy on the immigration laws of this country, and in this case, the USTR overstepped its bounds. This resolution sends a message to the administration that the USTR has overreached its negotiative authority by including immigration provisions in the FTA, and in the future, they must consult with Congress before implementing new policy, and I strongly support it.

I am a strong free-trader whose State has benefited from free-trade agreements. I do have some concerns, however, about the enforcement of trade laws and I have expressed those concerns to the administration. Free trade must also be fair and I will continue to pay close attention to our trade agreements and their enforcement to make sure that American workers are not hurt by unfair trade.

Mr. CORZINE. Mr. President, I will vote against the free-trade agreements, and I want to take a few minutes to explain why.

Having spent many years in the financial world, I understand the tremendous value of trade to America and to nations around the world. Free and open trade can enhance prosperity, create jobs, and increase opportunity. That is why I supported the North American Free Trade Agreement before I came to the Senate. And it is why I supported the free-trade agreement with Jordan. Measures like these held the promise of greater economic growth to the benefit of citizens in all countries involved and represented a growing movement toward freer trade around the globe.

Yet in recent years, we have seen a serious deterioration of the trade situation here in the United States, and our Nation's trade deficit has grown dramatically. The current account deficit in the first quarter of this year increased to more than $136 billion, and many project that it will surpass $500 billion this year. That means that every day, we are being forced to borrow nearly $2 billion because of our trade imbalance. That is a serious problem, and it is simply unsustainable. Something is not right with our ability to export American goods and services, but particularly manufactured products.

Beyond the enormity of the trade deficit, American businesses increasingly are shipping jobs overseas. Not just low-skilled jobs, but professional, highly skilled and well paid jobs. That is one reason the so-called economic recovery touted by the Bush administration has widely been characterized as a jobless recovery. In fact, it is worse than a jobless recovery, it is a job-killing recovery. And while workers in this country are losing jobs, our trade policy is helping to create jobs overseas. Today, many American firms are outsourcing high-technology jobs to low-wage environments to the detriment of American workers.

Sadly, this troubling trend has not received enough attention here in Washington. It is a matter affecting millions of Americans who are looking for work—well-paying, upwardly mobile work. And, I believe, it requires a serious rethinking of our Nation's whole approach to trade.

Unfortunately, the trade agreements considered last night failed to address this problem, and I have many concerns about them.

For example, I am quite concerned about provisions in the agreements that effectively overturn U.S. immigration laws and allow thousands of foreigners to enter our country to take what will often be highly paid positions. These people will take jobs away from Americans who want them and need them. And it is especially disturbing that such a significant change in immigration laws is being included in a trade agreement. As I see it, immigration is the type of matter that deserves close attention here in the Congress, with a full opportunity for debate. It is not something that should be rammed through without any meaningful opportunity for amendment or public input.

I also am concerned about the inadequacy of the labor protections, included in thee agreements.

Mr. President, I supported the Jordan Free Trade Agreement in part because it recognized the importance of protecting worker rights. That agreement ensured that both nations adhere to internationally recognized worker protection standards, and that worker rights could be enforced. It also ensured that labor standards were subject to the same procedural protections as the other provisions of the agreement. The Chilean and Singapore agreements fail to meet that standard.

To the contrary, the labor protections in these agreements are not only much more narrowly defined—essentially dependent on the laws of the respective countries—but enforcement of those protections is much more limited, as well. For example, not all violations of labor laws could be enforced through the agreements—only those that are "sustained." Also, there are strict limits on the amount of fines and sanctions that are authorized in the case of labor violations, unlike violations of other provisions in the agreement. This disparity in the treatment of labor and commercial violations, in my view is wrong.

Mr. President, I am concerned that the labor provisions in these agreements, and other similar provisions relating to environmental protection, will serve as a template for other trade agreements already under discussion. As I see it, the Administration would be making a serious mistake if it uses these provisions as a model for future agreements. I hope that will not happen.

Mr. President, the types of commercial, labor and environmental issues addressed in these agreements are critical to the future of our nation, our economy, and millions of American workers. Yet, again, we are debating these agreements under expedited procedures that allow for every little debate and no amendments. In effect, while jobs continue to be sent abroad and millions struggle unsuccessfully to find work, the American people are being shut out of the process. In my view, that is not the right way to conduct the people's business.

Mr. President, I recognize that these agreements have, in fact been approved. But I would urge my colleagues, before we continue along the same theme path as we develop other similar agreements, let us take a step back and rethink our nation's whole approach to trade, Something is seriously wrong when America is hemorrhaging dollars and hemorrhaging jobs. We need to change course. And continuing blindly with a failed approach would be a dereliction of our responsibility to protect America's economy and America's workers.

I look forward to working with all of my colleagues to address these issues in the months and years ahead.

UNITED STATES-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2738, an act to implement the United States-Chile Free Trade Agreement.

The legislative clerk read as follows:

A bill (H.R. 2738) to implement the United States-Chile Free Trade Agreement.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (H.R. 2738) was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 66, nays 31, as follows:

[Rollcall No. 319 Leg.]

YEAS—66

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Daschle
DeWine
Dole
Durbin
Ensign
Enzi
Fitzgerald
Frist
Graham (FL)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Schumer
Sessions
Smith (OR)
Snowe
Specter
Stabenow
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—31

Akaka
Biden
Boxer
Byrd
Chambliss
Corzine
Craig
Crapo
Dayton
Dodd
Dorgan
Edwards
Feingold
Feinstein
Graham (SC)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Murkowski
Reed (RI)
Reid (NV)
Rockefeller
Sarbanes
Shelby
Stevens
Wyden

NOT VOTING—3

Domenici
Kerry
Lieberman

The bill (H.R. 2738) was passed.

Mr. STEVENS. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, today the Senate passed the United States-Chile and the United States-Singapore Free Trade Agreement Implementation Acts. This is the first time in our history that the Senate has approved two free trade agreements in a single day. The fact that we were able to achieve this goal is a testament not only to the high quality of these agreements, but also to the power of Trade Promotion Authority.

It was almost a year ago today that the House and Senate gave final approval to the conference report for the Trade Act of 2002. This historic piece of legislation empowered the President, for the first time in almost a decade, to negotiate free trade agreements utilizing Trade Promotion Authority procedures. Today, with the passage of these two agreements, we are using TPA to take some of our first steps toward re-engaging the world through international trade. It is a welcome development.

International trade has long been one of the most important foreign policy and economic tools in our Nation's arsenal. It was a key component of our post-World War II international economic strategy. For over 50 years international trade contributed to stability and economic growth throughout the world. It helped to lift the nations of Europe and Asia out of the ashes of World War II. And it helped America experience unprecedented prosperity here at home.

International trade can play a similar role at the beginning of the twenty-first century. That is part of what Trade Promotion Authority is all about. Trade Promotion Authority represents a partnership between the executive and legislative branches of government. It provides the President with Congressional support so he can negotiate the best trade agreements for America's workers. It provides certainty to our trading partners that any agreement reached will get timely consideration and will not be ripped apart by the U.S. Congress. In exchange for the authority to negotiate, Congress requires intense consultation and notification procedures. It provides a legislative check on the President's ability to negotiate. And it provides greater certainty to Congress that its intent is being followed. The success of these procedures can be seen by the strong support these two agreements enjoy today.

With our votes today we are locking in two strong trade agreements with our two strongest international trade allies, Chile and Singapore. With the passage of these agreements, we send a strong message to the world that the United States is back in the game.

These bills would not have been possible without the able assistance of many people. First, I want to acknowledge the leadership of President George W. Bush and our United States Trade Representative, Ambassador Robert Zoellick. Their stalwart commitment to expanding export opportunities for America's farmers and workers was a major factor in passing Trade Promotion Authority last year and in concluding these two agreements.

I would also like to take a moment to thank some of those individuals in the Senate who helped to make this historic day possible. First, I want to thank my colleagues on the Finance Committee, especially the Ranking Member, Mr. BAUCUS. Working together, we demonstrated that international trade is not a Republican or a Democratic issue, but rather an issue that works for all Americans.

Next, I would like to thank my Finance Committee staff who has worked hard over the summer to get the implementing bills drafted and the materials ready so that we could consider these agreements before the August recess. It was no easy task, and I appreciate their hard work and dedication.

First and foremost, I want to thank my Chief Counsel and Staff Director, Kolan Davis, whose ability to manage multiple legislative priorities is a key factor to the success of the Finance Committee's work. I also would like to thank my Chief International Trade Counsel, Everett Eissenstat, who successfully coordinated the efforts of the Finance Committee trade staff to enable us to move this legislation quickly. I also want to recognize the rest of my trade team, Carrie Clark, Zach Paulsen, David Johanson, Nova Daly, Stephen Schaefer and Cathy McKinnell. This group sacrificed many long hours to bring these agreements to fruition. Without their hard work and dedication, our success today would not have been possible.

Mr. BAUCUS had a good staff helping him as well and I would like to take a moment and thank them for their efforts. I thank Senator BAUCUS' Staff Director, Jeff Forbes, and General Counsel, William Dauster. I also appreciate the work of his trade staff led by the Chief International Trade Counsel, Tim Punke, along with Shara Aranoff, John Gilliland, Brian Pomper and Lara Birkes.

A sincere thank you also must be given to Polly Craighill from the office of the Senate Legislative Counsel, for her patience and expertise in drafting this legislation. She is truly a valued part of this institution, and her knowledge of the law and devotion to task is without equal.

We can all be proud of today's accomplishments. I look forward to President Bush signing these two bills into law.

TEMPORARY ENTRY PROVISIONS IN THE CHILE AND SINGAPORE FREE TRADE AGREEMENTS

The PRESIDING OFFICER. Under the previous order, S. Res. 211 regarding immigration provisions is agreed to, the preamble is agreed to, and the motions to reconsider are laid on the table, en bloc.

The resolution (S. Res. 211) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 211

Whereas the transmittal of the legislation implementing the Chile and Singapore Free Trade Agreements to the Senate on July 15, 2003, was preceded by debate over whether temporary entry provisions in both the underlying language of the Chile and Singapore Free Trade Agreements and in the implementing legislation should be included;

Whereas article I, section 8, clause 3 of the Constitution authorizes Congress "to regulate Commerce with foreign Nations, and among the several States", and article I, section 8, clause 4 of the Constitution provides that Congress shall have power to "establish an uniform Rule of Naturalization";

Whereas the Supreme Court has long interpreted these provisions of the Constitution to grant Congress plenary power over immigration policy;

Whereas members of the Senate often disagree about immigration policy, but agree that the formulation of immigration policy belongs to Congress; and

Whereas the practice of negotiating temporary entry provisions in the context of bilateral or multilateral trade agreements curtails the ability of Congress to regulate the Nation's immigration policies, including the admission of foreign nationals: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and

(2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the pending motion and all amendments be withdrawn and the bill be returned to the calendar; further, that the two scheduled cloture votes be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session and to consecutive votes on the following nominations on today's Executive Calendar: Calendar Nos. 305, 306, 307, 314, and 315. I further ask unanimous consent that following the votes, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President, I would like to inquire of the leader, does that mean we would then have five consecutive votes on the five district judges?

Mr. FRIST. Mr. President, the unanimous consent does mean that we will have five consecutive votes on the district judges.

Mr. LOTT. Mr. President, could I ask unanimous consent that the request be amended to the effect that we have a recorded vote on the first judge and the next four be by voice vote?

Mr. LEAHY. I object.

Mr. LOTT. Could I propose that the request be amended so that we would have a recorded vote on the first three and count that as one, and that the last two be on voice vote?

The PRESIDING OFFICER. Does the majority leader so modify the request?

Mr. LEAHY. Reserving the right to object, could the distinguished Senator from Mississippi, my good friend, repeat that? I am not sure I understood.

Mr. LOTT. I was proposing the first vote would be en bloc on the first three judges and that the final two be by voice vote.

Mr. LEAHY. So the first vote would count for three.

Mr. LOTT. The first vote would count for three.

Mr. LEAHY. I have no objection.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Could I ask if the leader would consider a modification—with apologies to all because I know we would all like to wrap this up—that we have the first two votes be recorded votes of 10 minutes and the final three be voice votes.

The PRESIDING OFFICER. Does the majority leader so modify his unanimous consent request?

Mr. FRIST. Mr. President, the majority leader does so modify. Calendar No. 305 would be a 10-minute vote; 306 would be a ten-minute vote, and the remaining three, 307, 314, and 315 would be en bloc and a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President, I have discussed this with the distinguished Senator from Mississippi. I have not heard any request from any of the members of the Judiciary Committee, chairmen or otherwise, on this. I have heard a number of members on the other side of the Judiciary Committee attack people on this side for not allowing judges to go through. This will make 145 of President Bush's judges going through. I was concerned because we have done so many by voice vote that my friends on the other side of the aisle have been so critical of this side for not allowing judges to go through. They may not have realized they were going through because we have voice-voted so many.

Because my good friend from Mississippi has asked me this as a personal matter, I have no objection to the request of the majority leader.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, once we conclude action on the judges, we will be finished voting for the evening. Those Members who want to speak on the supplemental appropriations bill will have the opportunity to do so. I understand that bill will be passed by voice vote. We will be in session tomorrow to clear any remaining legislative or executive items. Following Friday's session, the Senate will adjourn for the August recess until Tuesday, September 2. No rollcall votes will occur that day, and I will have more to say about the schedule when we return tomorrow.

NOMINATION OF JAMES I. COHN TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the nomination of James I. Cohn, of Florida, which the clerk will report.

The legislative clerk read the nomination of James I. Cohn, of Florida, to be a U.S. district judge for the Southern District of Florida.

Ms. LANDRIEU. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of James I. Cohn, of Florida, to be a U.S. circuit judge for the Southern District of Florida. The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from Mississippi (Mr. COCHRAN) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

Mr. REID: I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 320. Ex.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Cochran
Domenici
Kerry
Lieberman

The nomination was confirmed.

NOMINATION OF FRANK MONTALVO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER (Mr. GRAHAM OF SOUTH CAROLINA). UNDER THE PREVIOUS ORDER, THE SENATE WILL PROCEED TO THE NOMINATION OF FRANK MONTALVO, TO BE UNITED STATES DISTRICT JUDGE, WHICH THE CLERK WILL REPORT.

The legislative clerk read the nomination of Frank Montalvo, of Texas, to be United States District Judge for the Western District of Texas.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered on this judge?

The PRESIDING OFFICER. No.

Mr. LEAHY. This is the second of the five?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Frank Montalvo, of Texas, to be United States District Judge for the Western District of Texas?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Mississippi (Mr. LOTT) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 321 Ex.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—5

Cochran
Domenici
Kerry
Lieberman
Lott

The nomination was confirmed.

NOMINATION OF XAVIER RODRIGUEZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the clerk will report Calendar No. 307.

The legislative clerk read the nomination of Xavier Rodriguez, of Texas, to be United States District Judge for the Western District of Texas.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Xavier Rodriguez, of Texas, to be United States District Judge for the Western District of Texas?

The nomination was confirmed.

H. BRENT McKNIGHT, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA

The PRESIDING OFFICER. Under the previous order, the clerk will report Calendar No. 314.

The legislative clerk read the nomination of H. Brent McKnight, of North Carolina, to be United States District Judge for the Western District of North Carolina.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of H. Brent McKnight, of North Carolina, to be United States District Judge for the Western District of North Carolina?

The nomination was confirmed.

JAMES O. BROWNING, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. Under the previous order, the clerk will report Calendar No. 315.

The assistant legislative clerk read the nomination of James O. Browning, of New Mexico, to be United States District Judge for the District of New Mexico.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James O. Browning, of New Mexico, to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

Mrs. DOLE. Mr. President, I am delighted that my colleagues voted to confirm the nomination of Brent McKnight for one of the newly created judgeships in the Western District of North Carolina.

Mr. McKnight brings a wealth of experience to this position, and his resume and experience are impeccable. More importantly, Mr. McKnight is highly respected by his peers, a testament to his character and integrity.

Since 1993, he has served as a federal Magistrate Judge for the Western District of North Carolina, and he was appointed to the Advisory Committee on Civil Rules of the Judicial Conference by Chief Justice Rehnquist in October of 2001.

Brent McKnight has served as a state prosecutor and a District Court Judge for the 26th North Carolina Judicial District, and he maintains membership in the North Carolina Bar Association, the Federal Magistrate Judges Association, and many other organizations.

He has had a lifelong thirst for knowledge, having been a Rhodes Scholar and perhaps, even more impressive to those of us in North Carolina, a Morehead Scholar at the University of North Carolina at Chapel Hill, a prestigious award named after the well-known philanthropist and scientist, John Motley Morehead III. Currently, Mr. McKnight shares his knowledge with aspiring students as an adjunct professor at both Wingate University and the University of North Carolina at Charlotte.

It is so critical that the Senate move quickly on this and other nominations so that our courts can get much needed relief. In the Western District, where Mr. McKnight is nominated, caseloads have increased significantly. The Administrative Office of the U.S. Courts has indicated that the three U.S. District Court judges in the Western district have the fourth-heaviest caseload per judge among the 94 federal judicial districts across the country. For instance, the number of case filed in the district grew from 1,321 in 1996 to 1,518 in the year 2001. The number of cases pending rose over the same time period from 1,209 to 1,522.

This backlog in our courts must be alleviated. Approving the nomination of Brent McKnight would place a qualified and credible jurist on the bench and provide the overburdened Western District with much needed relief.

Brent McKnight has my full support, and I would urge my colleagues to support his nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. SUNUNU. Mr. President, I ask unanimous consent the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF RONALD E. MADSEN

Mr. HATCH. Mr. President, I am grateful for the opportunity today to pay tribute to a wonderful man, dedicated public servant, and loyal friend, Ronald E. Madsen.

Ron is retiring from my Senate Staff after 21 years of dedicated service to the people of Utah, a time throughout which he worked tirelessly to promote and protect the values and ideals we all hold so dear.

Ron joined my staff in the early days of my Senate career and has always been a vital center of my Senate organization.

He has served in many capacities including Utah state director, environmental and lands advisor, and most recently as staff counsel.

Ron Madsen has been a guiding influence for me. Over the years, we have navigated through many challenges and enjoyed many successes.

He has always diligently strived to provide sound counsel and steady support as we have worked together on issues facing Utah and the Nation.

In addition, Ron has played a vital role in working with many Utah industries and associations.

He spent many years advising and helping to promote the tourism and air travel industries throughout Utah.

He is a strong advocate for the Second Amendment and was a key liaison for my office on issues affecting this important constitutional right.

Over the years, Ron has spent literally months traveling Utah, meeting with county and city officials and getting a good feel for the issues and challenges Utahns are facing throughout our State.

But perhaps the most important and lasting service Ron performed were the literally thousands of hours he spent listening to and counseling constituents who called my office looking for assistance with a myriad of problems.

In Ron, they not only found help, they made a good friend. He has always been willing to work with all constituents, no matter their circumstances.

The friendship and help Ron Madsen extended has been invaluable to hundreds if not thousands of Utahns and will be felt for many years to come.

Ron was born and raised in Provo, UT where his family played an integral role in the community. He attended Brigham Young University where he received a Bachelor of Science Degree and graduated with honors. He was then awarded a 3-year trustee scholarship to George Washington University School of Law in Washington, D.C., where he served on the Law Review.

Ron later received his Juris Doctorate Degree with honors and went on to establish a successful and prestigious law career and was admitted to practice law in Washington, D.C., Maryland, Utah, and before the United States Supreme Court.

In addition to the service Ron has rendered in his community and our office, Ron is a loving father and grandfather. He is the proud father of one son and 2 daughters, and grandfather to 5 grandsons and 1 granddaughter.

I have often admired the dedication and devotion Ron Madsen has always shown, not only to his children and grandchildren, but to his wife Kathryn who was sick for many years and is now deceased.

Ron stood by her side through her struggles with health and was a steadfast partner until the end.

Ron also has a true love for animals and has opened his home to many animals in need of shelter and care. He has helped his daughter, a veterinarian technician by trade, nurse many wounded creatures back to good health and improved their quality of life immeasurably.

He has sacrificed his talents, time and financial resources for the creatures of our earth—something truly noteworthy and honorable.

I am truly grateful for the service Ron Madsen has given to me, to his community and to Utah. He has been by my side for many, many years and I will always be extremely grateful for the service he has rendered.

I will miss Ron tremendously, but know that life holds many wonderful things for him to savor and enjoy.

And as Ron has always liked to quote—"you can go off the Hatch payroll, but never off the Hatch staff."

In the future, I plan to continue to rely on Ron Madsen for his very expert advice, for his guidance and support.

Ron is a truly dedicated public servant, fervently patriotic American, loving father and grandfather, and loyal and cherished friend.

I want to wish him the very best in retirement and pray for his continued good health, success and happiness.

THE NOMINATION OF WILLIAM PRYOR

Mr. DASCHLE. Mr. President, it is with reluctance and disappointment that I must rise in opposition to another cloture vote for a judicial nominee. But once again, the extreme ideology of a nominee has left us with no other option. But even if there were no questions about Mr. Pryor's ability to apply and interpret the law fairly, the open questions surrounding Mr. Pryor's ethical fitness, the unfinished investigation in the Judiciary Committee, and the fact that his nomination was reported out of committee in violation of committee rules, should compel the Senate to delay voting on this nomination. For both substantive and procedural reasons, Mr. Pryor's nomination should be put on hold. For that reason, I must oppose cloture.

I would remind my colleagues that we have invoked our right to unlimited debate with great rarity. Since President Bush took office, Democrats have been eager to cooperate in the nomination and confirmation of qualified judges who will enforce the law and protect the rights of all Americans. And we are proud of our record. When the Democrats held the Senate, we confirmed 100 of the President's judicial nominees. We rejected only two, Charles Pickering and Priscilla Owen. This year, we have already approved 40 more judges, and only 2 nominees, Miguel Estrada and Priscilla Owen, have previously met with sustained opposition. Democrats have sought compromise and consensus. And today, there are 140 judges sitting on the bench who serve as testimony to our cooperation.

But the importance of the Federal judiciary is too important to stand silently by and allow a nominee who has expressed hostility to the laws that protect the rights of all Americans. Mr. Pryor has repeatedly put his own personal and political beliefs above the dictates of the law. Throughout his career, he has been unable to find constitutional protection for even those rights that are clearly written and firmly established in case law. Not civil rights. Not voting rights. Not the right to privacy. In fact, Mr. Pryor has argued before the Supreme Court that it should cut back on the protections of the Age Discrimination in Employment Act, the Civil Rights Act of 1964, the American with Disabilities Act, and the Family and Medical Leave Act. He referred to a recent decision reaffirming Miranda rights as "preserving the worst examples of judicial activism." And he was, in fact, the only State attorney general in the country to challenge the constitutionality of the Violence Against Women Act. Adhering to an extreme interpretation of States rights, Mr. Pryor has stated that, "Congress . . . should not be in the business of public education nor the control of street crime." Mr. Pryor has taken this position, even as President Bush has touted the importance of the Federal role in education and the COPS Program has put tens of thousands of new police officers on patrol in American towns and cities, contributing to the historic reduction in the crime rate of the 1990s.

But even if we disagree on the merits of Mr. Pryor's record, there can be no disagreement on the incompleteness of this debate. The Senate rules have preserved the right of unlimited debate because, as a deliberative body, we have an obligation to wait until all relevant information is available. In the case of Mr. Pryor's nomination, there are vitally important outstanding questions regarding his ethical fitness to serve. There was a bipartisan investigation that could have settled these questions once and for all. But in order to shield this nomination from legitimate questions, the chairman of the Judiciary Committee shut the investigation down. Then, in clear violation of the committee's rules, he pushed the nomination out of committee and onto the Senate floor. In the process, the chairman has not only allowed a cloud of suspicion to hang above Mr. Pryor's nomination, he has denied the Judiciary Committee the right to determine whether or not the nominee was forthright.

Esteem for the Federal bench, and the Judiciary Committee, should prevent such questions from going unanswered. And I would hope that my colleagues would share that view. This is a body of rules. And this is a country of laws. I cannot imagine that there is ever a time that any one of us ought to be in a position to say the rules in this case are simply not going to apply. But that is precisely what was done by the chairman of the Judiciary Committee—ironically the committee which passes judgment on those who will interpret the rule of law. Members of the committee called attention to this extraordinary development with grave concern about its implications, about its precedent, about the message it sends. After assurances by the majority leader that this would not occur, this nomination has nonetheless made it to the floor. We should not reward this disregard for the rules of the Senate by permitting the nomination to go forward.

Amazingly, this is not the ugliest aspect of this debate. Because we have expressed our opposition to Mr. Pryor, Democrats have been accused of anti-Catholic bigotry. Of course, nothing could be further from the truth. I am proud of my Catholic faith. That pride is shared by many members of our caucus. Many of us grew up listening to our parents or grandparents tell stories of seeing signs that said No Catholics Need Apply on storefront windows. In 1960, the Democratic nominee for President, John Kennedy, faced questions regarding whether a Catholic could be sufficiently independent of church doctrine in order to serve his country. John Kennedy put those questions to rest and a generation of Catholics have been able to serve their country without being forced to justify their loyalty or patriotism.

This line of attack has resuscitated a profoundly un-American idea. The charge that our opposition to Mr. Pryor is rooted in bigotry is repugnant and divisive. This is an egregious misuse of religion for profane political purposes. All Americans should be offended by this charge and disappointed that the discourse has degraded to such an extent. These are slanderous charges, and they have no place in this body. Each time Democrats have risen to oppose cloture on a judicial nomination, the majority's attacks against us have grown more vehement and abrasive. We can't control that. But we can control our response. Each Member of the Senate has sworn an oath to uphold and defend our Constitution. That is precisely what we are doing today by opposing the nomination of William Pryor. No attack, no matter how offensive, will shake us from our duty.

Mr. LEAHY. Mr. President, as I have mentioned a few times over the last few days, and as anyone watching the horrible display here on the floor last night knows, those opposing the confirmation of William Pryor to the Eleventh Circuit have been subjected to a despicable smear. Supporters of the nomination have turned reality on its head. They accuse us of imposing a religious test, but it was a Republican supporter of the nomination who was the only Senator to ask Mr. Pryor what his religion was and to use what they now term a code phrase "deeply held religious beliefs."

The scurrilous accusations against opponents of the nomination must be popular with the political gurus at the White House. It has been echoed in recent days by the Committee for Justice, a group closely associated with the President and his family, headed by the first President Bush's White House counsel. I know about the bias against immigrants and against Catholics. That was real discrimination. What is being spread this week is a falsehood uttered for partisan political purposes.

Those who know what real religious discrimination is have spoken out against the advertising campaign. Earlier today I mentioned the members of the Interfaith Alliance, who spoke so eloquently against this sort of smear. Now I am pleased to recognize the Anti-Defamation League, so well known and well respected for their work against religious bigotry, for speaking out against the Committee for Justice's slurs. Abraham H. Foxman, the National Director of the ADL, and Glen A. Tobias, its National

Chairman, have written to the head of the Committee for Justice, Mr. Boyden Gray, to object to his advertisements. They explain to Mr. Gray, that, "[t]o promote the view that Mr. Pryor's opponents object to his Catholic religious beliefs, rather than his views as expressed in his prolific legal writings and speeches and his answers to questions at his Judiciary Committee confirmation hearings, needlessly and wrongfully injects religion into the Senate's 'advise and consent' role in the nomination process."

I could not agree more. I appreciate that the ADL has added its voice to those trying to show the Committee for Justice the error of its ways. I ask unanimous consent the ADL's letter to Mr. Gray be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 30, 2003.

C. BOYDEN GRAY, Esq.
Chairman, The Committee for Justice, Wilmer, Cutler & Pickering, Washington, DC 20037.

DEAR MR. GRAY: On behalf of the Anti-Defamation League (ADL), we write to strongly object to the recent advertising campaign launched by the Committee for Justice (CFJ) that harshly criticizes opponents of judicial nominee William Pryor for "playing politics with religion." These misleading ads claim that "some in the U.S. Senate are attacking Bill Pryor for having 'deeply held' Catholic beliefs to prevent him from becoming a federal judge" and graphically illustrate the assertion with a picture of a sign hanging on the door to "Judicial Chambers" that reads, "Catholics need not apply."

We are unaware of any Senator who has attacked Mr. Pryor "for having 'deeply held' Catholic beliefs." To promote the view that Mr. Pryor's opponents object to his Catholic religious beliefs, rather than his views as expressed in his prolific legal writings and speeches and his answers to questions at his Judiciary Committee confirmation hearings, needlessly and wrongfully injects religion into the Senate's "advise and consent" role in the nomination process.

ADL does not as a practice endorse or oppose nominees to the bench. However, because Mr. Pryor has written and spoken so prolifically and so forcefully as an advocate on several issues of deep concern, we believe his positions merit close scrutiny by the Senate. Our objections to this nomination stem from Mr. Pryor's well-documented views, not his religious beliefs.

We believe that CFJ's ad campaign is misleading and inflammatory. We urge you to reconsider further promotion of this effort.

Sincerely,

GLEN A. TOBIAS,
National Chairman.
ABRAHAM H. FOXMAN,
National Director.

Mr. LEVIN. Mr. President, I oppose the nomination of William Pryor to the Eleventh Circuit Court of Appeals. Mr. Pryor holds extreme views on a range of issues, has engaged in inflammatory rhetoric when expressing those views, and has exhibited a questionable commitment to separating politics from the law.

Mr. Pryor has led Alabama's efforts to challenge Federal power and argue that the State should be immune from violations of Federal law. He has filed briefs challenging Congress' authority to enact parts of the Family and Medical Leave Act; he has argued against Congress' authority to protect disabled people from discrimination; and during Mr. Pryor's tenure as attorney general, Alabama was also the only State to file an amicus brief opposing the Government in a case limiting Congress' authority under the Clean Water Act.

Our country is built upon tolerance for a diversity of faiths yet Mr. Pryor has also shown little respect for the important constitutional principle of separation of church and state.

As an appellate court judge, Mr. Pryor would be required to follow precedents established by the Supreme court. But Mr. Pryor has openly shown disdain and indeed personally attacked individual justices. For instance, he stated, "I will end my prayer for the next administration: Please God, no more Souters."

There are just too many indications that Mr. Pryor would be unable to separate his politics from the law. Just listen to what Former Republican Arizona Attorney General Grant Woods said about Mr. Pryor. Mr. Woods described Pryor as "probably the most doctrinaire and the most partisan of any attorney general [he had] dealt with in eight years, so people would be wise to question whether or not [Pryor is] the right person to be non-partisan on the bench."

The majority brought this nomination to the floor and immediately filed a cloture petition, not allowing for adequate debate on Mr. Pryor's controversial nomination. I think that is wrong Wrong for the Senate. Wrong for our Federal courts. And wrong for the country. For these reasons, I oppose cloture on Mr. Pryor's nomination.

Mr. KOHL. Mr. President, yesterday we voted on a motion to invoke cloture on the nomination of William Pryor to be a judge on the Eleventh Circuit Court of Appeals. After careful consideration of his candidacy, I had no choice but to oppose his confirmation in the Judiciary Committee last week and opposed cloture on his nomination as well.

When considering a nominee to a Federal court judgeship, we consider the nominee's legal skills, judgment, reputation, and acumen. The nominee should be learned in the law. And the nominee should be well regarded among his peers in his or her community. Perhaps most important of all is the nominee's judicial temperament.

An appeals court judge's solemn duty and paramount obligation is to do justice fairly, impartially, and without favor. An appeals court judge must be open minded, must be willing to set his or her personal preferences aside, and must be able to judge without predisposition. And, of course, he or she must follow controlling precedent faithfully, and be able to disregard completely any views he or she holds to the contrary.

In the case of Attorney General Pryor, we are presented with a nominee whose views are so extreme that he fails this basic test. In case after case, and on issue after issue, Attorney General Pryor has a public record of taking the most extreme position, often at odds with controlling Supreme Court precedent, and in the most hard-line and inflexible manner.

Pryor's views are outside of the mainstream on issues affecting civil rights, women's rights, disability rights, religious freedom, and the right to privacy. He assures us that despite these views, he will follow settled law and Supreme Court precedent. After making extreme statements to the committee and in his hearing and refusing to disavow other zealous positions that he has taken throughout his career, he wants us to believe that he will blindly follow the law as a judge.

Let me make clear that the mere fact that Attorney General Pryor opposes abortion is not the reason I oppose him today. I have voted to confirm literally hundreds of judges, nominees who have both supported and opposed abortion. It is not Attorney General Pryor's views on whether or not he believes legal abortion is good public policy which concern me. Instead, the crucial issue is whether Attorney General Pryor can put his personal views aside and apply the law of the land as decided by the Supreme Court. It is my conclusion that he cannot.

His inability to set his personal views aside has been demonstrated most explicitly in his activist attempts to challenge numerous federal statutes. He has chosen to expand on his cramped view of federalism and challenge the ability of the Federal Government to remedy discriminatory practices. Many of the cases in which he took his most extreme legal positions were on behalf of the State of Alabama where he had the sole decision under state law as to what legal position to assert. These cases include his assertion of federalism claims to defeat provisions of the Age Discrimination in Employment Act and the Americans With Disabilities Act; his opposition to Congress's authority to provide victims of gender-motivated violence to sue their attackers in federal court; his argument that Congress exceeding its authority in passing the Family and Medical Leave Act; and many other cases. The extreme legal positions advanced in these cases were fully and entirely the responsibility of Attorney General Pryor.

Of course, Attorney General Pryor has every right to hold his views, whether we agree with him or not. He can run for office and serve in the legislative or executive branches should he convince a majority of his fellow Alabamans that he is fit to represent them. But he has no right to be a Federal appeals court judge. Only those who we are convinced are impartial, unbiased, fair, and whose only guiding ideology is to follow the Constitution to apply equal justice to all are fit for this position. Unfortunately, we can have no confidence that he will set these views aside and faithfully follow the Constitution and binding precedent. For these reasons, I must oppose his confirmation.

I would be remiss if I did not address briefly—for a brief remark is all this point is worth—the destructive charges that those of us who oppose Mr. Pryor are anti-Catholic. The people who have put forward this charge engage in the worst form of personal destruction. These allegation are beneath the dignity of the process and beneath the dignity of the Senate and must be rejected by everyone involved.

One last point. The Judiciary Committee began an investigation into statements made by the nominee before this committee. Unfortunately, that investigation has not been completed, so I am not ready at this time to judge whether Mr. Pryor lied to the Judiciary committee at his hearing with regard to his involvement in fundraising activities. This investigation involves very serious matters and must be allowed to proceed.

I will vote no.

• Mrs. FEINSTEIN. Mr. President, I took the floor last night to speak about the nomination of William Pryor and the unfortunate circumstances surrounding that nomination, and since that time certain of my colleagues on the other side of the aisle have chosen to mischaracterize my statements and perpetuate the unfair and baseless charges I was trying to debunk.

I want to briefly correct the record on two of these mischaracterizations, because I believe very strongly that these types of wrongful allegations should not be allowed to stand.

First, the junior Senator from Pennsylvania stated that anyone who questioned Mr. Pryor's "deeply held beliefs" would be questioning his religious beliefs. Specifically, he said: I just suggest that it is obvious to anyone that this code word is an antireligious bias.

Senator DURBIN attempted to correct the record immediately but was not allowed to do so until later. I appreciate his efforts in that regard, but I think I should also set the record straight myself.

First, what I said in my statement was clearly not a religious attack. I said, and I quote:

> Many of us have concerns about nominees sent to the Senate who feel so very strongly, and sometimes stridently, and often intemperately about certain political beliefs and who make intemperate statements about those beliefs. So we raise questions about whether those nominees can be truly impartial, particularly when the law conflicts with those beliefs.

So Mr. President, I was very careful to raise this concern about deeply held political beliefs, not religious beliefs. And my concern is not just the beliefs themselves but the manner in which they are expressed. I have found that intemperate statements often accompany intemperate people.

Indeed, I went on to say that, and again I quote:

> It is true that abortion rights can often be at the center of these questions. As a result, accusations have been leveled that any time reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice. But pro-choice Democrats on this committee have voted for many nominees who are anti-choice and who believe that abortion should be illegal, some of whom may even have been Catholic. I do not know because I have never inquired.
>
> So this truly is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. I think when a nominee such as William Pryor makes inflammatory statements and evidences such strongly held beliefs on a whole variety of core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge—particularly because he is very young, 41; particularly because this is a lifetime appointment; and particularly because we have seen so many people who have received lifetime appointments then go on and do just what they want, regardless of what they said. So it is of some concern to us.

That is what I said. I did not attack Mr. Pryor's religion. Nobody in this debate has. I did not attack his religious beliefs. Nobody in this Senate has.

To accuse anyone in this body of using an anti-Catholic litmus test is inaccurate, and wrong. It is ill-advised, and it risks bringing us back to a day where religion and race and gender debates split this Nation apart at its seams.

The judicial nominations process is a serious one and filled with countless debates about very serious issues. We should focus on what is important and real, not on what can inflame political supporters.

The second mischaracterization of my statement was by the junior Senator from Alabama. I know he feels very strongly about this nominee, so I do not blame him for fighting hard for Mr. Pryor.

Nevertheless, the junior Senator from Alabama did not accurately portray what I said in my statement. Specifically, the Senator said that I claimed Mr. Pryor had "used his power as attorney general to obstruct the enforcement of the Violence Against Women Act in Alabama."

What I actually said was that Pryor "used his position as attorney general to limit the scope of crucial civil rights laws like the Violence Against Women's Act, VAWA, the Age Discrimination In Employment Act, the Americans with Disabilities Act, the Fair Labor Standards Act, and the Family Medical Leave Act. . . . For example, he was the only attorney general to argue against a key provision in the Violence Against Women Act on federalism grounds."

Now in retrospect, I should have been more careful in the wording of my statement, and for that I am sorry. I said that Mr. Pryor "used his position as attorney general to limit the scope of crucial civil rights laws . . ." rather than saying what I meant to say, which was that he argued for limiting the scope of those laws—sometimes successfully—in briefs before the Federal courts.

But I certainly never said that he used his power to "obstruct" the law in Alabama.

Some other comments have been made throughout this debate that mischaracterize the Democratic opposition to this nominee and in many instances state, or at least imply, that our opposition is based on religion.

I will say once again, this is simply not true.

I hope, as I said yesterday, that this debate can focus on what it should focus on, the qualifications of this nominee. That focus should not have been lost through a violation of the committee rules, the thwarting of an ongoing investigation into the nominee, or these false charges of religious bias.•

TRIBUTE TO DR. THOMAS D. CLARK

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a legend, Kentucky's Historian Laureate Dr. Thomas D. Clark. On July 14, 2003, Dr. Clark turned 100 years old.

Dr. Clark has been described as a "State treasure." A native of Mississippi, Dr. Clark stumbled upon Kentucky as he sought to further his education. He earned a scholarship to the University of Kentucky where he received a master's in history in 1929. From there, he went on to Duke University, where he obtained a Ph.D. In true Kentucky style, Dr. Clark returned to the Commonwealth and began researching its rich past. He has written more than 32 books including, "A History in Kentucky," and served in the University of Kentucky's Department of History for nearly a quarter of a century. One of the State's leading scholars, he proudly calls Kentucky home.

Dr. Clark's service to my great State has not gone unnoticed or unappreciated. In 1969, the University of Kentucky presented Dr. Clark with an honorary doctorate for the way he touched so many Kentuckians during his teaching career. Over his 100 years, he has received many awards and honors, including the University of Kentucky Library Medallion for Intellectual Achievement and the Commonwealth Historian Laureate for life. Dr. Clark also has a building and a foundation named in his honor by the University Press of Kentucky.

Kentuckians admire Dr. Clark for his patriotism to the State, his adept knowledge of our history, and most importantly, his zest for life. I ask my colleagues to join me in honoring Dr. Clark and congratulating him on his Centenarian status.

HONORING THE LIFE OF SENATOR VANCE HARTKE

Mr. BAYH. Mr. President, I rise today to honor the life of my fellow Hoosier, Senator Vance Hartke, who passed away on July 27. Senator Harke dedicated his life to serving his country and our home State of Indiana, setting an example of personal conviction and political courage throughout his 18 years as senator.

Born on May 31, 1919, Vance Hartke grew up in Stendal, IN. He attended the University of Evansville and then earned his law degree from Indiana University. Senator Hartke served 4 years as a member of the Coast Guard and as a U.S. Navy officer during World War II. Upon his return to Indiana, Hartke began practicing law in Evansville, where he was elected mayor in 1955. From there, he was elected Senator in 1958, demonstrating a work ethic on the campaign trail that is remembered by Hoosiers still today. Senator Hartke served three continuous terms as senator, the first Indiana Democrat ever to do so.

While serving as Senator, Hartke played a crucial role in requiring auto manufacturers to install seatbelts in their cars, and supported legislation that created the Head Start Program, which continues to provide early education opportunities for tens of millions of children from lower-income families. He led Senate support for Medicare, work that earned him the nickname "Father of Medicare." Senator Hartke also was instrumental in creating the International Executive Service Corps, an organization modeled on the Peace Corps that sent retired U.S. business executives to developing countries to help expand their local businesses.

During a particularly trying time in our nation's history, Senator Hartke remained unafraid to take a bold stance in support of his convictions, sometimes in the face of strong opposition. He chose to speak out against the Vietnam war, knowing that doing so would cost him his friendship with President Lyndon Johnson, because Senator Hartke felt it was his moral responsibility to defend his beliefs.

However, of the many issues Senator Hartke supported during his 18 years as Senator, family members recall that one of his proudest accomplishments was his work on legislation that provided affordable treatment for kidney diseases. It was work that was largely overshadowed by his personal stances on other issues, but it led to the creation of a bill now credited with saving more than 500,000 lives.

The sense of loss to all those who knew Senator Hartke is tremendous. He is survived by his wife of 60 years, Martha, four sons, three daughters, and 16 grandchildren.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today to honor the accomplishments of the Hoosier soldiers of the 1st Battalion, 293rd Infantry from the Indian National Guard, who have become the first National Guard battalion in the Nation to receive the Combat Infantry award since World War II.

The Combat Infantry award is a highly coveted honor given by the Department of the Army to soldiers who have satisfactorily performed infantry duties as part of a unit that participated in ground combat. The Infantry badge honors soldiers who have operated under the worst conditions, yet still successfully performed his or her mission in a combat environment. In addition, medics who supported the soldiers will receive the Combat Medical Badge. I am immensely proud that it is an Indiana battalion that has become the first unit in more than 50 years to earn this distinction.

All members of the battalion will receive the Combat Infantry award as a symbol of our Nation's gratitude for the bravery they demonstrated and the sacrifices they and their families have made during Operation Iraqi Freedom. The 1st Battalion, 293rd Infantry is the first Indiana National Guard unit to go into combat since the Korean war. As this award recognizes, they have made an exemplary return to battle, honoring themselves and their home State of Indiana through their efforts.

The battalion has been stationed in Iraq for nearly 7 months. During their time in Iraq, the soldiers of the 1st Battalion, 293rd Infantry have provided security for the Talil Air Force Base, a key airstrip in Southern Iraq. The unit took over responsibility for the base just days after the war's deadliest battle took place on April 1 too secure control of the airstrip.

I am proud to honor the soldiers of the 1st Battalion, 293rd Infantry. The thoughts and prayers of all Hoosiers are with them as they continue their role in rebuilding Iraq. May God watch over the soldiers as they complete their duty and may God bless the United States of America.

HONORING PRIVATE ROBERT McKINLEY

Mr. BAYH. Mr. President, I also rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Peru, IN. Private Robert McKinley, 23 years old, died in Hamburg, Germany on July 8 after suffering heat stroke the month before while fighting in Mosul, Iraq. Robert joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Robert was the twelfth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Robert's family, his friends, and the entire Peru community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Robert, a memory that will burn brightly during these continuing days of conflict and grief.

Before leaving to fight in Iraq, Robert McKinley promised his grandfather he would be careful, telling him that if there was anything he could do to make our country better, then he wanted to do it. Robert had only been in the Army for 8 months, but had already seen three tours of duty and was serving in the 101st Airborne Division, a unit which played a crucial role in the actions in Iraq.

Robert was born in Peru, IN. He enjoyed fishing for walleye in Canada with his grandfather and participated in Peru's 4–H Club for 10 years. Robert graduated from Peru High School in May 1998. His family says the military provided him with an essential sense of direction. Robert leaves behind his mother, Deborah McKinely, his sister, Kay, and his grandparents, Robert and Pauline Feller.

As I search for words to do justice in honoring Robert McKinley's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Robert McKinley's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Robert McKinley in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Robert's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

TRIBUTE TO PFC. WILFREDO PEREZ, JR.

Mr. DODD. Mr. President, I rise to pay tribute to the late Pfc. Wilfredo Perez, Jr., of Norwalk, CT, who was killed in the line of duty last Saturday while guarding a children's hospital in Iraq.

Private Perez, who was 24 years old and served with the 4th Infantry Division, was the third resident of Connecticut to fall in Iraq since the onset of Operation Iraqi Freedom earlier this year. He made the ultimate sacrifice for our nation—and his bravery and heroism will not be forgotten by the people of Connecticut.

Wilfredo Perez was born in New York City and moved to Connecticut with his father, Wilfredo, Sr. while he was in middle school. He and his family were well-loved in their community, especially around Halloween time when their haunted house was a neighborhood favorite.

Throughout his years at Norwalk High School, Wilfredo Perez became known as a playful, mischievous type—a boy who would show up to Junior Air Force ROTC with his uniform untucked, or with no uniform at all. He left high school early and went to work as a contractor with his father.

A few years later, though, Wilfredo began to change. He made a commitment to turn his life around and earned his GED. Then, a little more than a year ago, he made a commitment to his country by enlisting in the United States Army.

Enlisting in the Armed Forces can mean many things to many people. For Wilfredo Perez, it was a personal challenge—a challenge to better himself, to develop as an individual, to find a sense of direction, and to pave the way for a successful future. Private Perez not only met his own goals he exceeded all expectations.

Shortly before he was transferred to Iraq, Private Perez returned to Norwalk and visited his old high school. His former teachers and principal watched as the boy whose shirt was always untucked strode confidently through the hallways in a pristine military uniform, beaming with pride. He spoke to students in school about his life—about the mistakes that he made, and about the path that he ultimately chose.

For Wilfredo Perez, the United States Army was truly a rewarding, transforming experience. And like so many of our finest men and women whose lives are tragically cut short, there is simply no telling how far he could have gone.

I join the State of Connecticut—and indeed the entire country—in mourning Wilfredo Perez, and in thanking him for his tremendous service to our country. I offer my deepest condolences to his family, his friends, and everyone else whose life was touched by Pfc. Wilfredo Perez.

TRIBUTE TO UNITED STATES NAVY CAPTAIN DUDLEY B. BERTHOLD

Mr. McCONNELL. Mr. President, today I honor a great American from the Commonwealth of Kentucky. After 25 years of dedicated service to our country, Captain Dudley B. Berthold of the United States Navy will retire on August 8 of this year. I would like to take a moment to recognize his accomplishments.

Captain Berthold is the son of retired USAR, Brigadier General Julius L. Berthold. I am pleased to say he attended the University of Louisville as an NROTC Midshipman and graduated in 1978. Upon graduation he was commissioned as an Ensign in the U.S. Navy, and shortly after completing Surface Warfare Officer School he reported to his first assignment on board the USS O'Bannon, DD 987, serving first as Auxiliary Officer and then as the Main Propulsion Assistant.

Captain Berthold began his extensive study in aircraft carrier design in 1982, when he enrolled in the Naval Postgraduate School of Monterey, CA, and earned an MS degree in Mechanical Engineering. He was selected for the Naval Nuclear Power Training Program, which led to training assignments at the Naval Nuclear Power School in Orlando, FL, and the Nuclear Prototype Propulsion Plant Training Unit in Ballston Spa, NY. His assignments took him from the decks of the USS *Theodore Roosevelt*, CVN 71, where he served as the Electrical Officer, to the shores of Virginia where, in 1989, he was assigned as the Aircraft Carrier New Construction Principle Assistant Project Officer on the staff of the Supervisor of Shipbuilding at Newport News. Here, he assisted in the planning and execution of the construction, test & trials, and delivery of the USS *George Washington*, CVN 73. On later tours, he oversaw the delivery of both the USS *Harry S Truman*, CVN 75, and the USS *Ronald Reagan*, CVN 76.

Most recently, Captain Berthold served as Program Manager for the Navy's future aircraft carrier programs at the Navy's Program Executive Office for Aircraft Carriers in Newport News, VA. He has played a key role in developing new and innovative acquisition strategies for the design and construction of the final Nimitz Class Aircraft Carrier, USS *George H W Bush*, CVN 77, and the new CVN 21 class. This new class of aircraft carrier design sets a new standard for war-fighting capability and will influence the readiness of our military throughout the 21st century.

Captain Berthold has earned a great number of personal decorations, including the Meritorious Service Medal with three Gold Stars, the Navy Commendation Medal with one Gold Star, and the Navy Achievement Medal. I am proud to represent such a fine Kentuckian in the U.S. Senate, and I thank him for his dedication to the people of the United States. His list of accomplishments is great, yet being the son of retired USAR, Brigadier General Bud Berthold, whom I consider to be a close personal friend and wonderful role model, certainly ranks high on that list. While the Navy will lose a loyal seaman, his wife, Deborah Lynn, and two children, Bryant and Bridgette, will welcome him home with open arms. I wish Captain Dudley B. Berthold the traditional naval wish of "Fair winds and Following seas" as his military career comes to an end. And I congratulate him on his retirement.

NOMINATION OF CAROLYN KUHL

Mr. LEAHY. Mr. President, the Republican leadership's actions this week were an attempt to create the impression that Senate Democrats are stalling judicial nominations. Rather than work with us to confirm the five consensus judicial nominations that have been before the Senate and available for action all week, the Republican leadership has chosen to schedule cloture vote after cloture vote on the most divisive, controversial and extreme of this President's judicial nominees.

Senators have spoken to the contentious nominations Republicans have tried to force through the Senate confirmation process this week. This is a striking difference from the days in which more than 60 of President Clinton's judicial nominees were stalled and defeated by anonymous holds and secret objections. Just as I made Judiciary Committee blue slips and the process by which the committee consults with home-state Senators public when I chaired the committee in 2001, Democratic Senators have not opposed nominees without coming before the Senate and making known their concerns.

During the 17 months a Democratic Senate majority reviewed this President's judicial nominees we were able to confirm 100 judges. This year, we have cooperated in the confirmation of 45 additional judges. The total confirmations already number 145. We have worked in good faith to reduce judicial vacancies to the lowest level in the last 13 years and to increase the full-time judge on the Federal bench across the country to the highest number in our history. We continue to work in good faith and the Democratic Senators on the Judiciary Committee have joined in reporting at least a dozen additional judicial nominations favorably to the Senate. Working together the Republican and Democratic leadership will be able to schedule debate and votes on those judges.

There are other nominees I frankly do not support and that large numbers of Senators do not support. And yet, as chairman, I did something our Republican predecessor never did, I proceeded on judicial nominations I opposed. Some were confirmed; a few have been so extreme and controversial that they have not been confirmed. Ours is a good record and a fair record.

It is a record that shows we have sought, as Senator BAUCUS explained recently, to protect the essential independence of the judiciary, to support fair-minded impartial judges, and to protect the essential rights of all Americans.

This week we have witnessed a number of unsuccessful cloture petitions. When the Republicans filed these petitions they knew they would be unsuccessful. The Republican leadership was nonetheless insistent on diverting hours from debate on the Energy bill in order to create partisan talking points. This is another example of how this administration and its aides here in the Senate are seeking to use judicial nominations for partisan purposes. That is most unfortunate.

Republican partisans have changed the practices and rules of the Senate that have helped over time to encourage the White House to work with home-State Senators and to consult with both sides of the aisle in the Senate. When judicial nominations were being made by a Democratic President, the objection of a single home-State Senator would have prevented any action on a judicial nomination. As the chairman of the Judiciary Committee acknowledged in 1999, under the practices of the committee, no nomination opposed by both home-State Senators would proceed. Yet now that the President is a Republican and the home-State Senators are Democrats, the rules are changed and traditional practices are conveniently abandoned.

The big picture is that we have the most confrontational President in recent history. His administration is committed to a plan to pack the Federal courts with nominees of a narrow judicial ideology. Compounding the situation, the Republican leadership in the Senate has decided to assist the administration in this effort at all costs. Longstanding Senate practices and rules have been broken. Home-State Senators are being ignored or overridden if they are Democratic Senators, committee rules are being breached, committee practices of the last 25 years are being ignored in a rush to steamroll the Senate.

Sadly, the most partisans have made detestable arguments and injected religion into the debate. Regrettably, the Senate under its current leadership has abandoned its constitutional role as a check on the Executive.

So we have the most aggressive Administration in recent history and its efforts to pack the courts are being facilitated by efforts of the Republican Senate majority and its willingness to remove all the processes and practices that had been available to the Senate to provide a check and balance. As they remove the mechanisms that had traditionally provided incentives for the Executive to consult with the Senate, the administration has refused to moderate its actions. Instead, Republican partisans have ratcheted up the points of contention and conflict. Rather than work in a bipartisan way to unite the country and maintain a balanced and independent federal judiciary, Republicans insist on the expedited confirmation of every nomination no matter how extreme. With all of the other, traditional screening mechanisms removed, only one Senate procedure is left—the filibuster. All their talk about supposed obstructionism is just that, partisan talking points. The factors that have led to more filibusters than usual this week have been the actions of the administration and Senate Republicans.

These matters need not be contentious. The process starts with the President. If this administration would work with us, we could avoid these situations. We have and will continue to work with the administration. We would like to be more helpful in the President's identification of nominees and advising him on the selection of consensus nominees so that we can join together in adding those confirmations to the 145 so far achieved.

GEORGE J. MITCHELL SCHOLARSHIP PROGRAM AND U.S.-IRISH RELATIONS

Mr. KENNEDY. Mr. President, yesterday's New York Times carried a very interesting article about a new scholarship program created three years ago to encourage young Americans to pursue graduate study in Ireland and learn more about that country and its long-standing ties of history and heritage to the United States.

The program is called the George J. Mitchell Scholarship Program. The name honors our former Senate Majority Leader George Mitchell, who is especially admired in Ireland and among Irish Americans and even in Great Britain for his leading role in recent years in advancing the peace process in Northern Ireland as Special Advisor to President Clinton on Ireland.

The Scholarships were created by the U.S.-Ireland Alliance, a non-partisan, non-profit organization founded in 1998 by my former foreign policy adviser, Trina Vargo, who is well known to many of us in Congress for her outstanding work in Irish issues. As many of our colleagues in the Senate and the House know, the Alliance has worked closely with both Republicans and Democrats to strengthen the ties between the United States and Ireland.

The twelve Mitchell Scholars selected each year are outstanding young American students who are gifted academically, and who show promise for future leadership in the public or private sectors in maintaining close ties between the United States and Ireland. I commend Ms. Vargo and the U.S.-Ireland Alliance for the prestige and popularity the scholarships have earned so quickly, and I ask unanimous consent that the New York Times article may be printed in the RECORD.

[From the New York Times, July 30, 2003]

MITCHELL SCHOLARS DELVE INTO IRISH CULTURE, TOO

(By Brian Lavery)

DUBLIN, July 29.—When Emily Mark arrived in Dublin to study art history at Trinity College, she postponed worrying about classes until she found a traditional musician to teach her the Irish style of playing five-string claw-hammer banjo.

This month, Ms. Mark completed a Mitchell Scholarship, a program that often sounds more like a cultural immersion course than the pursuit of a master's degree. Named in honor of former Senator George J. Mitchell for his role in the Northern Irish peace process, the scholarship's explicit objective is to instill an appreciation for Ireland in a generation of up-and-coming Americans.

To that end, Irish-American applicants have no advantage in the competition for the 12 places, said the program's founder, Trina Vargo, and the Mitchells are financed by groups that may stand to benefit from the warm feelings of Americans. In 1998, the Irish government gave more than $4 million for an initial endowment, while sponsors include the British government and some of the largest corporations in Ireland. (Nine major Irish universities provide room and board and waive tuition for Mitchell recipients.)

Those donations provide for a $12,000 stipend and trans-Atlantic airfare.

Mitchell recipients understand that the foundation behind the program, the U.S.-Ireland Alliance, which is based in Washington, wants them to become good-will ambassadors for Ireland. Rather than balk at the responsibility, they say that emotional and intellectual links are exactly what they expect to gain from their year here.

"I didn't feel pressure that I ultimately need to do some great work for Ireland," said Jeannie Huh, a West Point graduate who studied public health at Trinity College. "But I definitely do feel that over the course of the year I have built a spot in my heart for the country and the people. I think that's just inevitable."

Most Mitchell scholars try to blend into Irish society by complementing their studies with internships, part-time jobs and community work. In the last few years, three Mitchell recipients withdrew from the running for Rhodes Scholarships, and that multidisciplinary approach is one reason.

"It was more than just an academic program; it has that cultural element," said Georgia Miller Mjartan, who was a Rhodes semifinalist from Arkansas when she won a Mitchell Scholarship. She said that she realized at her Mitchell interview that she would accept the scholarship if it was offered.

"I knew that, as far as prestige, it would be good for me to go through with the Rhodes process, even if I didn't take it," she said. But Ms. Mjartan, who is 23 and lived in Carrickfergus, Northern Ireland, over the last year, withdrew her application after learning that her place, if she won, would not be awarded to an alternate candidate if she declined the scholarship. "That wouldn't be right, because I would be taking it away from someone else," she said.

The application process is intended to be friendly, with one short essay and interviews that focus on identity and personality instead of academic detail, Ms. Vargo said. Those who are accepted are encouraged to wait until they hear from other scholarship programs before deciding which to choose.

"You want them to have a reason to be here, and a really good understanding of why they're here," Ms. Vargo said.

Ms. Vargo, a former foreign policy adviser to Senator Edward M. Kennedy, knows Irish business and political circles well, and Mitchell scholars often use her network of connections. Last year, she introduced Mark Tosso to the top official in the prime minister's office, who found him a job conducting a review of communications systems for employees throughout the Irish government. "They had this project which was puttering along, and they needed someone to take charge of it," Mr. Tosso said.

In the same way, Ms. Mark, the banjo player, met a Dublin lawyer who hired her to help set up a new fund-raising arm for Amnesty International. "Everyone just bowls themselves over to help you," she said. "As soon as you express an interest in something, the opportunity is there."

The scholars also improvised when they found Irish culture less familiar with the idea of internships or entrepreneurial volunteer work. With her professor at Trinity College, Ms. Huh approach a charity based in Dublin and ended up in Bangladesh for five weeks, doing research on malnutrition. Mariyam Cementwala, from Bakerfield, Calif., organized a conference on human rights for 120 people at the National University of Ireland at Galway.

With an allowance from an Irish travel company, the latest group of Mitchell scholars went on impromptu road trips around the country, visiting one another at their universities almost once a moth, and some traveled together to Scotland. Also through Ms. Vargo, they went on a hiking trip in the Wicklow Mountains guided by a Dublin businessman, and they celebrated Thanksgiving together at a lawyer's Dublin home.

To use their own term, they bonded. They share an easy rapport—Ms. Mark called the group "the world's perfect dinner party"—whether milling about at the program's closing ceremonies with political leaders like Senator Mitchell and Sinn Fein's president, Gerry Adams, or holding up the bar at the Europa Hotel.

The program's sponsors seem to feel that even that bar tab is money well spent. Gerry McCrory, 40, heads a venture capital fund in Dublin called Cross Atlantic Capital Partners that gives about $30,000 a year to the Mitchell program. He said he looked forward to when the Mitchell Scholars would positively influence the relationship between the United States and Ireland.

"It's going to be at least another 20 or 30 years until they're in a position to make those decisions," he said, "but I think it's the right thing to do. It's a long-term investment."

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INTELLIGENCE REPORT

Mr. AKAKA. Mr. President, I rise today to commend the Senate Select Committee on Intelligence and the

House Permanent Select Committee on Intelligence for their outstanding work in reviewing the intelligence community's activities related to the terrorist attacks on September 11, 2001. The report, which was issued jointly last week by two committees, is the culmination of the hard work of the committees and their staff to inform the American people of the weaknesses in our intelligence community that need to be strengthened to prevent this type of event from occurring again.

One issue that I find particularly interesting is the focus of the Intelligence Committees' report on how the lack of employees with foreign language skills hampered the intelligence community's efforts to meet its mission. Finding Six of the report states:

> Prior to September 11, the Intelligence Community was not prepared to handle the challenge it faced in translating the volumes of foreign language counterterrorism intelligence it collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30 percent in the most critical terrorism-related languages used by terrorists.

This finding is not surprising. Shortly after the terrorist attacks of September 11, 2001, FBI Director Robert Mueller made a public plea for speakers of Arabic and Farsi to help the FBI and national security agencies translate documents that were in U.S. possession but which were left untranslated due to a shortage of employees with proficiency in those languages. The committees' report states that prior to September 11, the Bureau's Arabic translators could not keep up with the workload. As a result, 35 percent of Arabic language materials derived from Foreign Intelligence Surveillance Act, FISA, collection was not reviewed or translated. If the number of Arabic speakers employed by the Bureau remained at the same level, the projected backlog would rise to 41 percent this year.

Unfortunately, the U.S. faces a critical shortage of language proficient professionals throughout Federal agencies. As the General Accounting Office reports, Federal agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out agency missions. Further, Director of the CIA Language School has testified before the Intelligence Committees that, given the CIA's language requirements, the CIA Directorate of Operations is not fully prepared to fight a world-wide war on terrorism and at the same time carry out its traditional agent recruitment and intelligence collection mission. The Director also added that there is no strategic plan in place with regard to linguistic skills at the Agency.

The inability of law enforcement officers, intelligence officers, scientists, military personnel, and other Federal employees to decipher and interpret information from foreign sources, as well as interact with foreign nations, presents a threat to their mission and to the well-being of our Nation. It is crucial that we work to strengthen the language capabilities and in turn the security, of the United States. Both the GAO review and the Intelligence Committees' report demonstrate that action is needed to help Federal agencies more effectively recruit and retain highly skilled individuals for national security positions.

Congress has long been aware of the Federal Government's lack of skilled personnel with language proficiency. In 1958, the National Defense Education Act, NDEA, was passed in response to the Soviet Union's first space launch. We were determined to win the space race and make certain that the United States never came up short again in the areas of math, science, technology, or foreign languages. The act provided loans and fellowships to students, and funds to universities to enhance their programs and purchase necessary equipment. After the NDEA expired in the early 1960s, Congress passed the National Security Education Act in 1991, which created the National Security Education program, NSEP. This program was intended to address the lack of language expertise in the Federal Government by providing limited undergraduate scholarships and graduate fellowships for students to study foreign language and foreign area studies, and providing funds to institutions of higher learning to develop faculty expertise in the less commonly taught languages. In turn, students who receive NSEP scholarships and fellowships are required to work for an office or agency of the Federal Government in national security affairs.

While NSEP has been successful, it is obvious that more needs to be done. To address the Federal Government's lack of foreign language personnel, I introduced S. 589, the Homeland Security Federal Workforce Act, on March 11, 2003.

I am pleased to have the support of Senators DURBIN, ALLEN, VOINOVICH, WARNER, BROWNBACK, CHAMBLISS, ROCKEFELLER, and COLLINS in this effort. Our bipartisan bill would enhance the Federal Government's efforts to recruit and retain individuals possessing skills critical to preserving our national security. Through a targeted student loan repayment program and fellowships for graduate students, this legislation would help eliminate the Government's shortfall in science, mathematics, and foreign language skills.

I am pleased to note that the Committee on Governmental Affairs favorably reported S. 589 in June. When this bill comes before the Senate for consideration, I urge swift passage so that Federal agencies with direct responsibility for protecting our homeland have personnel with foreign language and other necessary skills to deter and prevent another terrorist attack.

IRAQ AND AMERICAN FOREIGN POLICY

Mr. CARPER. Mr. President, I rise to call the Senate's attention to a very important address that my distinguished senior colleague, the ranking member of the Foreign Relations Committee, delivered today on America's foreign policy and our ongoing operations in Iraq. I commend Senator BIDEN for his wise and eloquent words, and I hope that all of my colleagues will take note of this insightful address.

Senator BIDEN delivered this address today on the one-year anniversary of the bipartisan hearings he held last year as chairman of the Foreign Relations Committee, in which the committee explored many of the very questions that are bedeviling us today in post-war Iraq. Those hearings raised, before the war, all of the questions we are confronted with today with respect to how many troops we will need to maintain in Iraq and for how long, as well as how much the reconstruction of Iraq will cost and how we can best secure international cooperation to share the burdens of bringing peace and democracy to Iraq. Indeed, Chairman BIDEN said at the very first of those hearings last year, "We need a better understanding of what it would take to secure Iraq and rebuild it economically and politically. It would be a tragedy if we removed a tyrant in Iraq, only to leave chaos in his wake." One can only wish that the administration had paid more attention to the questions the committee raised and some of the warnings that the committee received from the distinguished witnesses that testified during those hearings.

Senator BIDEN's speech today was an unapologetic defense of the decision to go to war in Iraq. "Anyone who can't acknowledge that the world is better off without [Saddam] is out of touch," he said. "The cost of not acting against Saddam would have been much greater, and so is the cost of not finishing the job." At the same time, Senator BIDEN's speech today was also a ringing affirmation of the historical tradition of bipartisan foreign policy that has been the hallmark of this institution and of the Senate Foreign Relations Committee, in particular. He suggests that today, and I quote, "the stakes are too high and the opportunities too great to conduct foreign policy at the extremes."

In very convincing terms, Senator BIDEN argues that we need to chart a sensible path between the prescriptions of neo-conservative purists, who affirm a strident unilateralism, and multi-lateral purists, who shrink from forcefully acting in the absence of international consensus. Again I quote: "What we need isn't the death of internationalism or the denial of stark national interest, but a more enlightened nationalism—one that understands the value of institutions but allows us to use military force, without apology or apprehension if we have to, but does not allow us to be so blinded by the overwhelming power of our armed forces that we fail to see the benefit of sharing the risks and the costs with others."

As Senator BIDEN argues, we need to act forcefully, but humbly in the world today. We need to be unapologetic in the post-9/11 world about fighting for the security of our people. But we need to pursue our goals, as Thomas Jefferson once said, "with a decent respect to the opinions of mankind." The course that Senator BIDEN outlined today is the course we should follow, Mr. President. Ultimately, I believe that most Americans will conclude that we were right to act in Iraq. We also need to see the job through. But we need to reengage with the international community and make them partners in the noble work of securing the peace in Iraq and spreading freedom and democracy throughout the region. Again, I commend Senator BIDEN's address to my colleagues' attention, and I ask unanimous consent that the full text of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL DIALOGUE ON IRAQ + ONE YEAR

(By Senator Joseph R. Biden, Jr., The Brookings Institute, July 31, 2003)

INTRODUCTION: AMERICA'S PLACE IN THE WORLD

Most Americans don't know what you and I know, that there's a war being waged in Washington to determine the direction of our foreign policy. It goes well beyond the ordinary skirmishes that are the stuff of politics and tactics. This war is philosophical. This war is strategic and its outcome will shape the first fifty years of the twenty-first century, just as the consensus behind containment shaped the last fifty years.

Right now, the neo-conservatives in this Administration are winning that war. They seem to have captured the heart and mind of the President, and they're controlling the foreign policy agenda. They put a premium on the use of unilateral power and have a set of basic prescriptions with which I fundamentally disagree. Just as I disagree with those in my own Party who have not yet faced the reality of the post-9-11 world, and believe we can only exercise power if we act multilaterally.

I don't question the motives of either the neo-conservatives or the pure multilateralists. They genuinely view the world differently than I do. Suffice it to say, in my view the neo-cons and the pure multilateralists are both wrong. What we need isn't the death of internationalism or the denial of stark national interest, but a more enlightened nationalism—one that understands the value of institutions but allows us to use military force, without apology or apprehension if we have to, but does not allow us to be so blinded by the overwhelming power of our armed forces that we fail to see the benefit of sharing the risks and the costs with others.

In my view, the stakes are too high and the opportunities too great to conduct foreign policy at the extremes.

ONE YEAR AGO

Exactly one year ago today, when I was Chairman of the Foreign Relations Committee we began a series of bipartisan hearings on America's policy toward Iraq.

Our purpose was to start a national dialogue and give the American people an informed basis upon which to draw their own conclusions. At that first hearing, I said "President Bush has stated his determination to remove Saddam from power a view many in Congress share . . ." and I was among them. I also said as clearly as I could "If [removing Saddam] is the course we pursue . . . it matters profoundly how we do it and what we do after we succeed."

Now, a year later, Saddam is no longer in power and that's a good thing. His sons Ouday and Qusay have been killed. That's another good thing. They deserve their own special place in hell. But the mission is hardly accomplished. The new day in the Middle East has not yet dawned.

We're still at war. American soldiers are still dying, one, two, three at a time. Iraq is still not secure. Still no one has told our troops that they'll have to stay for a long time in large numbers; that they'll have to tough it out. Most Americans still don't realize it's costing us a billion dollars a week to keep our troops in Iraq, and billions more in reconstruction, and revenue from Iraqi oil will not cover these costs.

And we still haven't heard a single clear statement from the President articulating what his policy is in general and, specifically, that securing Iraq will cost billions of dollars, require tens of thousands of American troops for a considerable amount of time, and that it's worth it. And, most importantly, why it's in our national interest to stay the course.

Some in my own Party have said it was a mistake to go into Iraq in the first place, and the benefit is not worth the cost. I believe they're wrong. The cost of not acting against Saddam would have been much greater, and so is the cost of not finishing the job. The President is popular. The stakes are high. The need for leadership is great.

I wish he'd used some of his stored-up popularity to make what I admit is an unpopular case. I wish the President, instead of standing on an aircraft carrier in front of a banner that said: "Mission Accomplished" would have stood in front of a banner that said: "We've Only Just Begun."

I wish he would stand in front of the American people and say: "My fellow Americans, we have a long and hard road ahead of us in Iraq, but we have to stay in Iraq. We have to finish the job. If we don't, the following will happen. Here's what I'll be asking of you and, by the way, I'm asking the rest of the world to help us as well. And I am confident we'll succeed and as a consequence be more secure."

I'm waiting for that speech.

I said a year ago that, "In Afghanistan, the war was prosecuted exceptionally well, but the follow-through commitment to Afghanistan's security and reconstruction has fallen short."

Our failure to extend security beyond Kabul has handed most of the country to the warlords. The Taliban is regrouping. The border area with Pakistan is a Wild East of lawlessness. Afghanistan is now the number one opium producer in the world. The proceeds will fund tyrants and terrorists, who will fill the security vacuum, just as they did a decade ago. And the billion dollars the Administration is talking about sending Karzai is a year late and about 2 billion short. The failure to win the peace in Afghanistan risks being repeated in Iraq with even graver consequences.

Those failures could condemn both countries to a future as failed states, and we know from bitter experience that failed states are breeding grounds for terrorists.

If we don't write a different future, Americans will be less secure.

I said at that first hearing and I still believe today that "We need a better understanding of what it would take to secure Iraq and rebuild it economically and politically. It would be a tragedy if we removed a tyrant in Iraq, only to leave chaos in his wake."

But that's exactly what could happen unless we make some significant changes.

Dr. Hamri, in his report to the Secretary of Defense and in testimony before the Committee, said that the window of opportunity is closing and it's closing quickly.

THE ROAD TO BAGHDAD

Nine months ago, I voted to give the President the authority to use force. I would vote that way again today. Why? Because for more than a decade Saddam defied more than a dozen U.N. Security Council Resolutions. He lost the Gulf War, sued for peace, and was told by the U.N. what he had to do to stay in power. Then he violated those agreements and thumbed his nose at the U.N. He played cat-and-mouse with weapons inspectors and failed to account for the huge gaps in his weapons declarations that were documented by the U.N. weapons inspectors in 1998. He refused to abide by the conditions and, when he refused, it became the fundamental right of the international community to enforce those rules.

I voted to give the President authority to use force because Saddam was in violation of his agreements. He was a sadistic dictator who used chemical weapons against the Kurds and the Iranians. He killed thousands of Shiites. He invaded his neighbors, crossed a line in the sand, fired missiles into Israel. And if we'd left him alone for five years with billions of dollars in oil revenues I'm convinced he'd have had a nuclear weapon that would have radically changed the strategic equation to our detriment.

In my view, anyone who can't acknowledge that the world is better off without him is out of touch. That was the case against Saddam. The President made it well.

But then the ideologues took over and made Iraq about something else. They made it about establishing a new doctrine of preemption. And, in so doing, we lost the good will of the world. Let me be clear. We face a nexus of new threats and it requires new responses. Deterrence got us through the Cold War but it can't be the only answer now.

The right to act preemptively in the face of an imminent threat must remain part of our foreign policy tool kit, as it always has been.

But this Administration has turned preemption from a necessary option into an ill-defined doctrine. Iraq was to be the test case. In my view, Iraq wasn't about preemption—It was about the enforcement of a surrender agreement drafted by the international community and signed by Saddam.

Making Iraq the case for preemption, putting it at the heart of our foreign policy, made it harder to get the world to join us. Why? Because not one of our allies wanted to validate the preemption doctrine. Raising preemption to a doctrine sends a message to our enemies that their only insurance against regime change is to acquire weapons of mass destruction as quickly as they can.

It sends a message from India and Pakistan, to China and Taiwan, to Israel and its Arab neighbors—if the United States can shoot first and ask questions later, so can they.

Preemption demands a high standard of proof that can stand up to world scrutiny and “murky intelligence” is hardly enough to meet that standard.

Instead of a preemption doctrine, we need a prevention doctrine that defuses problems long before they are on the verge of exploding. And I'll be talking more about that in the coming weeks.

For now, suffice it to say, the Administration was wrong to make Iraq about preemption. But we were right to confront the challenge posed by Saddam.

Contrary to what some in my Party might think, Iraq was a problem that had to be dealt with sooner rather than later. I commend the President—He was right to enforce the solemn commitments made by Saddam. If they're not enforced, what good are they?

For me, the issue was never whether we had to deal with Saddam, but when and how. And it's precisely the when and how that this administration got wrong. We went to war too soon. We went with too few troops. We went without the world. And we're paying a price for it now.

We authorized the President to use force. Congress gave him a strong hand to play at the United Nations. The idea was simple.

We would convince the world to speak with one voice to Saddam: disarm or be disarmed. In so doing we hope to make war less likely. If Saddam failed to listen and forced us to act, we'd have the world with us.

But the Administration mis-played that hand . . . undercutting the Secretary of State allowing our military strategy to trump our diplomatic strategy. The world was convinced that we were determined to go to war no matter what Saddam did, and there were those in Europe who said they'd never go to war no matter what Saddam did or didn't do.

We insulted our allies and the U.N. weapons inspectors. We failed to be flexible in securing a second U.N. resolution. For the price of a 30-day deadline, we could have brought a majority of the Security Council along with us. We didn't.

We flip-flopped between trying to bully and bribe the Turks. We lost the option to attack from the North and as a result, we by-passed the Sunni triangle, which is the source of so much of our trouble today. And worst of all, we hyped the intelligence. I said “hyped”, not “lied about it.” I don't believe the President lied. But I do believe he was incredibly ill-served by those in his administration who exaggerated the very pieces of intelligence most likely to raise alarms with the American people.

It's not just 16 words in the State of the Union. It's that consistently, in speech after speech, TV appearance after TV appearance, the most senior Administration officials left the impression with the American people that Iraq was on the verge of reconstituting nuclear weapons. In fact, the Vice President Cheney said they had already done it that it was in league with Al Qaeda and complicit in the events of 9–11; that it had already weaponized chemical agents that could kill large numbers of Americans; and that it was developing missile capability to strike well beyond its borders.

The truth is there's little intelligence to substantiate any of these claims. The truth is that there was an on-going debate within our intelligence community about each of these allegations. Yet the administration consistently presented each of these allegations as accepted facts.

I believe the purpose was to create a sense of urgency, the sense of an imminent threat, and to rally the country into war. The result is: we went to war before we had to—before we had done everything we could to get the world with us.

Does anyone in this room really, seriously believe that our interests would have been severely hurt if we had waited to go to war until this September or this October when we would have had much of the world with us? And there's another terrible result the damage done to our credibility.

What happens now when we need to rally the world about a weapons program in North Korea or Iran? Will anyone believe us?

In 1962, President Kennedy sent former Secretary of State Dean Acheson to France to brief DeGaulle about Soviet missiles in Cuba. Acheson offered DeGaulle a full intelligence report to back up the allegations. The French President said that wasn't necessary, he didn't need to see the report.

He told Acheson he trusted Kennedy. That he knew the President would never risk war unless he was sure of his facts. After the way this Administration handled Iraq, will we ever recover that level of trust with any of our key allies?

What price will we have to pay for the mistrust we've created?

GETTING IT RIGHT IN IRAQ

Last month, Senators Lugar, Hagel and I traveled to Baghdad. We left behind two of our senior staffers for an extra week to see more of the country and talk to Iraqis. We saw first hand that we have the best people on the ground. We met with military commanders with officers and with enlisted men and women and we spent time with Ambassador Bremer and the A-team he's assembled. There's no doubt we've got the right people in place. And we've made some real progress.

It was clear to us that the vast majority of the Iraqi people are happy Saddam is no longer in power. They want us to stay as long as it takes to get them back on their feet. Much of the country beyond Baghdad is relatively calm—hospitals and schools are open; the newly formed Iraqi Governing Council is encouraging; and so are the local councils, one of which we visited.

But this very real progress is being undermined by our failure so far to come to grips with some very fundamental problems, and security is problem-number-one. It's always problem-number-one. I've seen it in the Balkans. I saw it in Afghanistan. And it's just as true in Iraq. Without security, little else is possible. The problem breaks down into two parts: First, we haven't put down the opposition from forces loyal to Saddam. General Abizaid finally admitted we're facing “guerilla war.” Almost every day that our troops continue to get picked off, sometimes by a lone sniper, other times by roadside bombs that kill two, three, four, or more at a time. This cannot, it must not continue.

There's a short-term fix: more foreign troops to share our mission and more Iraqis to guard hospitals, bridges, banks, and schools. If we had them, we could concentrate our troops in the Sunni triangle—where they're needed and where they can do the type of military job for which they were trained.

The second security issue is the pervasive lawlessness that makes life in Iraq so difficult for so many of its citizens. During the day, many Iraqis are afraid to leave home, go to work, go shopping even for the basic needs of their family. At night that fear makes much of Baghdad a ghost town. Without cops, there are countless reports of rapes and kidnapings.

When I was at the Baghdad police academy run by former New York City Police Chief Bernie Kerik, they told us just how far we have to go to get a functioning police force up and running.

Under Saddam, Iraqi cops rarely left their headquarters. If there was a murder, they wouldn't investigate out in the field. They'd ask people to come to them, and if they didn't—they'd get shot. We're not just RE-training Iraq's cops, we're training them from the ground up.

We've got to build back to the 18,000 police cars that are needed from the 200 available now. We've got to rebuild Iraq's major prisons, virtually all of which were burned or looted. Ultimately, only Iraqis can provide for their own security.

The Iraqi Civil Defense Corps we've begun to establish will help, but all of our experts agree that it'll take five years to train the necessary police force of 75,000 and three years to field an army of 40,000. Until then, security is on our shoulders.

Meanwhile, the Administration seems to have lost interest in the very issue they told us was the reason to go to war—Iraq's WMD. I can't fathom how we failed to secure the known WMD sites after the war, leaving them vulnerable to looting and smuggling.

And I can't understand how the Deputy Secretary of Defense could say, just last week, that he's “not concerned about weapons of mass destruction.”

On top of these overwhelming security challenges, the country's infrastructure is suffering from almost 30 years of neglect. That certainly shouldn't have been a surprise.

Even before the war, demand for electricity exceeded supply—6000 megawatts were needed; 4000 was the capacity. There were brownouts and blackouts. Today we're not even back to 4000 megawatts and may not get there until September. It'll take several years and more than 13 billion dollars to stay even with demand. The same is true with water—we'll need five years and more than 15 billion dollars to meet Iraqi demand. This feeds the gnawing sense of insecurity that paralyzes life in the capital.

Ultimately, our goal has to be to revive Iraq's economy because idle hands, rising frustration, and 5 million AK–47s is not a recipe for security. Finally, we're doing a terrible job of letting Iraqis know how Saddam destroyed their country and that we're working to make their lives better.

In fact, when I was in Baghdad, the CPA was broadcasting just 4 hours a day. I'm told we're up to nearly 14 hours but the programming—bureaucrats reading dry, dull official scripts—makes public access television look good! Meanwhile, Al Jazeera and Iranian TV dominate the airwaves 24/7 with more sophisticated programming. The bottom line is this: Iraqis simply can't understand how the most powerful nation on earth, which toppled Saddam in three weeks, and, with exact precision, directed laser guided bombs through the side door of a house, how that all-powerful nation can't get lights turned on.

In short, Iraqis have high expectations and we're not coming close to meeting them. Some of this is out of our control but we've brought a large part of this on ourselves. And that's because the problems in Iraq today were compounded by the false assumptions this Administration made going in, and by its failure to listen to its own people and outside experts. They assumed we'd be greeted as liberators. They assumed our favorite exiles would be embraced by the Iraqi people as new leaders. They assumed that the civil service, the army, and the police would remain intact and that all we'd have to do is replace their Baathist leadership. They assumed that Iraqi oil revenues would pay for the lion's share of reconstruction. All these assumptions were wrong, wrong, wrong.

The result is: They failed to begin planning for post-Saddam Iraq until just weeks before we attacked forgetting that we began planning for post-war Germany three years before the end of World War II. They failed to plan for the looting and sabotage. They failed to account for the decay and destruction of Iraq's infrastructure. They failed to secure commitments from other countries to help pay for Iraq's reconstruction. They failed to see the critical importance of putting enough boots on the ground, both our own and those of other countries.

Back in 1999, our military planners ran an exercise that concluded we'd need 400,000 troops—not to win, but to secure Iraq. Just before we invaded, the National Security Council prepared a memo that said the number was more like 500,000. I don't know if the President read the memo—I wish he had!

We might have planned differently. We might have thought twice about trying out Secretary Rumsfeld's theory that the U.S. should put fewer boots on the ground in military conflicts. And all of this has led us into a box where we have few good choices left. If we don't change course if we don't bring others along with us; if we don't get 5,000 foreign cops to train and patrol with the Iraqis; if we don't bring in more than 30,000 foreign troops to help relieve us, as the Chairman of the Joint Chiefs says we must; if we don't get the water running; if we can't make sure that a woman can leave home or send her children to school safely; if we can't get the lights on; if we fail to bridge the expectations gap by better communicating to the Iraqi people; if paralysis of progress continues for more than a couple more months; if ALL of this happens, we'll lose not only the support of the Iraqi people but the support of the American people as the discontent and the death toll rise. At that point, I predict, this Administration will be seriously tempted to abandon Iraq. They'll hand over power to a handpicked strongman dump security and reconstruction responsibility on the U.N., and we'll lose Iraq.

Imagine if we lost Iraq. In a worst case scenario, there'd be chaos and the threat of Iranian and fundamentalist domination of the country. The Middle East peace process would likely be derailed. Iraq would become a failed state and a source of instability. We'll have jeopardized our credibility in the world. And we'll be far less secure than when we went in.

So that leaves us with three options: We can pull out, and lose Iraq. That's a bad option. We can continue to do what we're doing: provide 90 percent of the troops, 90 percent of the money, and nearly 100 percent of the deaths. That's another, really bad option. Or, we can bring in the international community and empower Iraqis to bolster our efforts and legitimize a new Iraqi government which will allow us to rotate our troops out and finally bring them home.

That to me is the clear choice.

We have to bring in our allies. And you may ask: why would they want to help? The answer is . . . it's in their interest. Iraq is in Europe's front yard. Most European countries have large Muslim populations. They have commercial interests. Stability in Iraq is vital for our European allies, and it's vital for the Arab world as well. They need to get invested just as we are.

THREE STEPS WE CAN TAKE

So what do we do to bring in the international community and sustain the support of the Iraqi as well as the American people? First, we need a new U.N. Resolution. We may not like it, but most of the rest of the world needs it if we expect them to send the troops we need and to help pay for Iraq's reconstruction. Let's keep in mind, the President personally tried for weeks to persuade India to send another 17,000, and they said “no—not without a U.N. resolution. With such a resolution, I think we could persuade France, and Germany, and NATO to play a larger and official role to secure the peace. But not without a resolution.

We have to understand that leaders whose people opposed the war need a political rationale to get them to support building the peace. We have to understand and be willing to accept that giving a bigger role to the United Nations and NATO means sharing control, but it's a price worth paying if it decreases the danger to our soldiers and increases the prospects of stability.

Second, it's time to act magnanimously toward our friends and allies. We are a superpower and we should be magnanimous because it's not just the right thing to do, but because it's the practical thing to do. Not simply because it's consistent with our values as a nation but because if we don't make the on-going war on the ground in Iraq the world's problem, it will remain our problem alone.

The truth is, we missed a tremendous opportunity after 9–11 to bring our friends and allies along with us and to lead in a way that actually encouraged others to follow. We missed an opportunity, in the aftermath of our spectacular military victory to ask those who were not with us in the war to be partners in the peace. Instead we served 'freedom toast' on Air Force One.

The American people get it. They intuitively understand that we can't protect ourselves from a dirty bomb on the Mall in DC; a vial of anthrax in a backpack; or a homemade nuke in the hold of a ship steaming into New York harbor without the help of every intelligence service and every customs service in the world, without Interpol and yes, the French and the Germans and even the U.N.

Third, and most importantly, I said it a year ago, and I'll say it again: no foreign policy can be sustained without the informed consent of the American people. We learned that lesson in Vietnam, but we haven't applied it to Iraq. I cannot overstate the importance of keeping the American people fully informed of the risks, the costs, to the extent we know them, and the importance of staying the course in Iraq.

This Administration has been good at projecting power, but it hasn't been anywhere near as good at staying-power. Nor has it been good at convincing the American people that securing Iraq is a necessary, if costly, task—but that it's do-able.

If we learned one thing last year, it should be that the role of those of us in positions of leadership is to speak the truth to the American people—to lay out the facts to the extent we know them and to explain to the American people exactly what's expected of them in terms of time, dollars, and commitment.

Our role as leaders is not to color the truth with cynicism and ideological rhetoric but to animate that truth with the same resilience the same dignity, the same decency, and the same pragmatic approach the American people have applied to every task and every challenge.

It's long past time for the President to address the American people in prime time, to level with us about the monumental task ahead, to summon our support.

I and most of my colleagues will stand with him.

So yes, when it comes to foreign policy, I have a fundamental difference of opinion with some in this Administration and I'll be talking more about it in the next few weeks. But that's okay because I'm reminded of the words of Senator Arthur Vandenberg who said: “Bipartisan foreign policy does not involve the remotest surrender of free debate in determining our position. On the contrary, frank cooperation and free debate are indispensable to ultimate unity. It simply seeks national security ahead of partisan advantage. Every foreign policy must be totally debated and the loyal opposition is under special obligation to see that this occurs.”

I think it is my obligation to articulate an opposing view.

MEMORANDUM

To: Senator Carper
From: Margaret Simmons
Re: Mandatory Minimum Sentencing
Date: April 28, 2003

BACKGROUND

The Anti-Drug Abuse Act of 1986 provided mandatory minimum sentences of imprisonment for possession with intent to distribute powder and crack cocaine. In this statute Congress established a quantitative 100–to–1 sentence ratio between the two (i.e., it takes 100 times as much powder cocaine as crack cocaine to trigger the same sentence). Under this distinction, a person convicted of possession with intent to distribute a pound of powder cocaine (453.6 grams) would serve considerably less time in a federal prison than one convicted of possession with intent to distribute 5 grams of crack. The United States Sentencing Commission incorporated the ratio into its generally binding sentencing guidelines. Since enactment, it has become apparent that the incidence of this sentencing differential falls disproportionately on African-American defendants.

Instructed to study the situation, the Sentencing Commission proposed amendments that would equate crack and powder cocaine for sentencing purposes and recommended that Congress drop the 100–to–1 ratio from its own mandatory penalties. Congress rejected both the amendments and the suggestion for equation, but directed the Commission to reexamine the issue and report back recommendations reflecting more moderate adjustments.

In May 2002 the Sentencing Commission issued its report to Congress on cocaine and federal sentencing policy. In that report, the Commission recommended a three-pronged approach for revising federal cocaine sentencing policy: increase the five-year mandatory minimum threshold quantity for crack cocaine offenses to at least 25 grams (and the ten-year threshold quantity to at least 250 grams); provide direction for more appropriate sentencing enhancements within the guidelines' structure that target the most serious drug offenders for more severe penalties without regard to the drug involved; and maintain the current mandatory minimum threshold quantities for powder cocaine offenses. The Commission found that there does not appear to be evidence that the current quantity-based penalties for powder cocaine are inadequate.

DRUG SENTENCING REFORM ACT OF 2001

In the last Congress, Senator Sessions introduced legislation to reduce the disparity in punishment between crack and powder cocaine offenses, and to focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender. The legislation reduces the disparity in sentences for crack and powder cocaine form the ratio of 100–to–1 to 20–to–1. (Under state law in Delaware, the ratio is 1–to–1.) It does so by reducing the penalty for crack and increasing the penalty for powder cocaine. For example, for the five-year mandatory minimum, the bill would decrease the trigger amount for powder cocaine from 500 grams to 400 grams, and increase the trigger amount for crack cocaine from 5 grams to 20 grams.

In addition, the bill shifts some of the sentencing emphasis from drug quantity to the nature of the criminal conduct. The bill increases penalties for the worst drug offenders that use violence and employ women and children as couriers to traffic drugs. The bill also decreases mandatory penalties on those who play only a minimal role in a drug trafficking offense, such as a girlfriend or child of a drug dealer.

RECOMMENDATION

Senator Sessions legislation is a good start to address the disparities in mandatory sentencing between crack and powder cocaine, and achieves the recommended 20-to-1 sentencing ratio proposed by the Sentencing Commission. The bill does so by lowering the threshold quantities for powder cocaine, and increasing the threshold for crack cocaine.

However, the Sentencing Commission's recommendation was to leave the quantity-based penalties for powder cocaine unchanged. Given that this recommendation was unanimous, I think it should be given considerable weight. Thus, I would not recommend supporting legislation that adjusts the disparity in sentencing between crack and powder cocaine by changing the threshold amounts for powder cocaine.

In addition, Hispanic groups and civil rights groups are very opposed to Senator Sessions' legislation since his bill essentially increases the penalties for powder cocaine by lowering the amount needed to receive a mandatory sentence. In addition, the legislation does not address the 5-year mandatory minimum for simple possession of crack cocaine. Crack cocaine is the only drug that has a mandatory minimum sentence for simple possession.

Finally, Senator Biden's Subcommittee held a hearing in the last Congress to review the recommendations of the Sentencing Commission. It is clear from the transcript of that hearing that Senator Biden believes that the mandatory minimum sentencing should be changed, but he does not support Senator Sessions' approach. According to Senator Biden's staff; the Senator had been interested in developing his own legislation to address the mandatory minimum sentence issue in the last Congress. Therefore, given Senator Biden's history on this issue, from writing the original mandatory sentencing law in 1986 to his interest in adjusting this law, I would strongly recommend that you speak with him directly before taking any action on this subject.

NAACP V. ACUSPORT

Mr. LEVIN. Mr. President, last week U.S. district court judge Jack Weinstein of the Eastern District of New York found in the case of National Association for the Advancement of Colored People v. Acusport, Inc. et al. "clear and convincing evidence" that some gun manufacturers are guilty of "careless practices."

The NAACP filed the lawsuit against gunmakers and wholesalers for what they argued were negligent firearms distribution practices. The NAACP lawsuit did not seek financial relief but sought injunctive relief to force the gun industry to take meaningful steps towards safer business practices.

Judge Weinstein's decision was a broad condemnation of current business practices in the gun industry. Judge Weinstein said "the evidence presented at trial demonstrated that defendants are responsible for the creation of a public nuisance and could, voluntarily and through easily implemented changes in marketing and more discriminating control of sales practices of those to whom they sell their guns, substantially reduce the harm occasioned by the diversion of guns to the illegal market and by the criminal possession and use of those guns."

Although Judge Weinstein did not grant the NAACP the relief it sought, the gun industry should take no consolation in this result. In fact, relief was denied only because the court found that all New Yorkers suffered from the same kind of injuries from gun industry misconduct suffered by members of the NAACP.

The Lawful Commerce in Arms Act that recently passed the House and that has been referred to the Senate Judiciary Committee would shield negligent and reckless gun dealers from many legitimate civil lawsuits like the NAACP case. Certainly, those in the industry who conduct their business negligently or recklessly should not be shielded from the civil consequences of their actions. I urge my colleagues to oppose this bill.

THE RETIREMENT OF SHARON PETERSON

Mr. BAUCUS. Mr. President, I rise to pay tribute and express my deepest appreciation for a member of my staff who has served the U.S. Senate, me personally, and the State of Montana admirably.

Today is my State director Sharon Peterson's last day. She retires today after more than 22 year of service in the Senate.

Sharon's career in public service is the culmination of a lifetime of hard work.

Sharon became interested in public service after seeing the late Senate Majority Leader Mike Mansfield speak in Lewistown. He inspired her to give back to Montana. Which she's been doing ever since.

As a Fergus County rancher, along with her husband Garde, she has always been interested in the policies that affect Montana agriculture. And she's considered an expert in the field.

Sharon helped organize Montana Women Involved in Farm Economics—or WIFE—in 1975. This led to an appointment from President Jimmy Carter to the U.S. Commission on Alcohol Fuels, where she served from 1979 to 1981.

I remember vividly Sharon bending my ear on ethanol. She once traveled to Washington—before she was on my staff—to advocate for increased ethanol production. I remember being late for a Capitol Hill press conference and Sharon literally dragging me by my shirtsleeves to make it on time. She was just like that—always on the move, always aggressive.

A former State Chair for the Montana Democratic Party, Sharon was very politically active. And she was a familiar face in Helena during many state legislative sessions.

Sharon joined my staff in Billings in 1981. Back then, we didn't have c-span, no e-mail, no Blackberry on Palm Pilots. We didn't even have computers in my State offices when Sharon first started. Only an old roll-paper fax or two. This made it challenging for our State operation. But they worked hard to stay in touch with Washington.

Sharon served as my scheduler for 10 years. And she was tenacious in making sure I was on time, which is, as we all here in the Senate know, not an easy task—especially back then.

I once did a work day—I work alongside Montanans at least one day a month—at the Stillwater Mine in Columbus. I was having so much fun working in the mine, I didn't want to leave. Sharon, afraid of nothing and against the caution of mine workers, came down into the mine shaft to get me to my next meeting.

She once called the kitchen of a restaurant in Choteau and told the dishwasher to get me moving.

Sharon helped organize the 1989 Montana Cattle Drive celebrating Montana's bicentennial. Again, I was having so much fun I stayed out on the drive for several days longer than I was supposed to. Sharon drove out to camp and took me to a pay phone to call my Washington staff.

Sharon helped on my first Senate campaign, in 1978. She helped deliver Fergus County, which she later realized was a lot harder than one might think.

I appointed her my State director 1993. In this role, she was a key advisor to me. She was a strong voice for Montana on agriculture, transportation, rural health and education, trade and natural resources. She fought for rural communities and Main Street businesses.

She was a tireless advocate for farmers and ranchers, helping to pass numerous farm bills and helping producers through the drought of the 1980s.

She organized the first of many trade trips to foreign countries.

As State Director, Sharon took great pride in making sure our State operation ran smoothly and served Montanans well. She answered my toll free line for 22 years. That's the 800 number Montanans use to get in touch with me. She was dedicated to case work. She personally helped thousands of Montanans.

For many years I have counted on Sharon to educate us on the realities of living in rural areas. She insisted we apply good Montana common sense to everything we do. She believes strongly in protecting the Montana values of doing what's right, common sense, faith, hard work, a strong connection to the land, and community.

Her Montana roots run deep. Long ago, we tried to get Sharon to move to Washington. She stayed for two weeks and went home. Montana is her home. She loves our State. I doubt she'll ever leave. Sharon's a rancher. She's a salt-of-the earth Montanan.

When I asked Sharon what the best part of the job was she said: "The ability to help people and make Montana an even better place."

She did both.

I'll miss her. My staff will miss her. The Senate will miss her. And most importantly the State of Montana will miss her.

She truly made "The Last Best Place" even better. For that, we are eternally grateful. And we wish her and Garde all the best.

NOMINATION OF PAUL MICHAEL WARNER

Mr. HATCH. Mr. President, I rise in support of the nomination of Paul M. Warner of Salt Lake City, who has been renominated by President Bush for the position of U.S. attorney for the District of Utah.

Paul Warner has had a remarkable career in public service. After graduating from the J. Reuben Clark Law School in 1976, he enlisted in the U.S. Navy Reserve Judge Advocate General Corps, where he served as both prosecutor and defense counsel. From 1982 to 1989, Mr. Warner served in the Utah Attorney General's Office, where he did tremendous work on both civil and criminal matters. In 1983, he enlisted with the Utah Army National Guard, Judge Advocate Branch, where he has risen to the rank of colonel. Since 1989 he has served in the U.S. Attorney's Office for the District of Utah, where he has worked on both civil litigation and criminal prosecution. He became the U.S. Attorney for the District of Utah in 1998 and has served ably in that office ever since.

I think it is important to have a career prosecutor with the reputation and ability of Paul Warner to lead the Federal law enforcement effort in Utah. He is a man committed to the rule of law and has a proven track record on the problems that affect Utah, notably methamphetamine proliferation and illegal reentry by criminal aliens.

Paul Warner has been able to be so effective because he has developed a great working relationship with Federal, State, and local law enforcement personnel. I believe that without exception he is respected and trusted as a skillful prosecutor and an able administrator.

Paul Warner has nad several notable career achievements. Most notably he rose to the Olympic challenge of presiding over one of the largest peace time mobilizations of law enforcement personnel in United States history. I can't give him enough credit for facilitating the cooperation of Federal, State, and local law enforcement personnel that allowed the Salt Lake Olympic Games to run so smoothly. It was a tremendous undertaking, and the State of Utah, the United States of America, and the World Olympic Community owe a debt of gratitude to Paul Warner for negotiating the Herculean task of facilitating a safe environment that allowed the Salt Lake City Olympic Games to be enjoyed by so many throughout the world.

Paul Warner has also used his legal acumen and personal relationships to defuse several tense situations, including the controversies surrounding the Federal land use policies affecting Utah and the imposition of background checks at the Salt Lake International Airport following the 9/11 terrorist attacks.

Paul Warner has been honored on several occasions for his commitment to public service. He is the recipient of the United States Army Commendation Medal for meritorious service during Operation Desert Storm for legal work done in mobilizing members of the Utah Army National Guard. He later received two oak leaf clusters for meritorious service as Staff Judge Advocate. Mr. Warner was given a Special Achievement Award from the U.S. Department of Justice, and a Special Commendation from U.S. Attorney, District of Utah, for outstanding work as First Assistant U.S. Attorney. Finally, he has received the Community Relationship Award from the Salt Lake City branch of the NAACP.

Paul Warner is a man of integrity and honesty. He is a great American who has spent his career in public service. I can't say enough about this honorable and talented man. I have no doubt that he will continue to be an able U.S. attorney. He deserves a speedy confirmation by this committee and by the full Senate. I sincerely hope that my colleagues will join me in supporting his renomination to be the United States Attorney for the District of Utah.

RURAL DEVELOPMENT PROGRAMS IN MEXICO

Mr. GRASSLEY. Mr. President, on July 10, the Senate passed an amendment to S. 925, the Foreign Relations Authorization Act, to authorize $100 million for rural development programs in Mexico. This amendment authorizes funding for programs to promote microcredit lending, to promote small business and entrepreneurial development, to aid small farms impacted by the collapse of coffee prices, and to strengthen private property ownership in rural communities.

I understand why Senator REID offered this amendment. Mexico is important to the United States, and it deserves our attention. But I voted against this amendment. Let me explain why.

A better way to improve Mexico's economy, including its rural economy, is not through foreign assistance from the United States, but through trade. As recently noted by the Ambassador of Mexico to the United States, Mexico has been transformed in recent years through trade liberalization, and in particular through the NAFTA.

Mexico's exports to the world grew from $50 billion to $160 billion between 1993 and 2001. Total trade between the United States and Mexico increased from $88 billion to $250 billion between 1993 and 2002.

Mexico's agricultural producers have shared in the benefits of NAFTA. Between 1993 and 2001, Mexican agricultural exports to the United States rose by almost 97 percent. Some 78 percent of all Mexican agricultural exports are shipped to the United States, and the United States is by far Mexico's largest agricultural export destination.

While well intentioned, increased foreign aid from the United States, such as through Senator REID's amendment, will make little difference to the Mexican economy. Clearly, Mexico's leaders recognize that the best means of achieving a healthier Mexican economy, including Mexico's rural economy, is through continued strong trade ties with the United States.

Regardless, some of these same leaders seem to be losing interest in maintaining strong trade relations between our countries. They are doing this by attempting unilaterally to renegotiate agricultural provisions of the NAFTA.

Mexico has imposed, or threatened to impose, restrictions on the importation of a variety of U.S. agricultural products. These products include pork, beef, corn, and high fructose corn syrup, all of which are major Iowa commodities. I spoke on this situation just last month on the Senate floor, so I will not go into the specifics on Mexico's trade restrictions on these commodities.

Given barriers imposed by Mexico on U.S. agricultural products, now is clearly not the proper time to increase foreign aid to Mexico. Mexico's trade policies are harming farmers in Iowa and other states. Providing more foreign aid to Mexico sends the wrong signal. I realize that Senator REID's amendment to increase foreign aid has already passed the Senate. But until such time as Mexico's agricultural trade barriers are removed, I urge Senators to keep them in mind when voting on any future legislation involving foreign aid for Mexico.

At the same time, I hope that Mexico will realize that by not abiding by its NAFTA commitments, and by thus threatening its trade relations with the United States, it is doing little to improve the lives of rural Mexicans.

In fact, any reduction in trade between our two countries would likely lead to increased economic hardship in Mexico. Such a situation would benefit neither Mexico nor the United States.

Once again, as I did last month, I urge officials in Mexico to consider the effects that Mexico's barriers to imports of U.S. agricultural products are having on overall trade relations between the United States and Mexico. Mexicans, including those living in rural areas, have much more to gain from closer economic ties to the United States than from increased foreign aid.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Medford, OR. On January 30, 2003, three Oregon National Guardsmen beat a homeless man then attacked a Medford motel owner whom they believed was an Arab. One of the men committed suicide after the attack and the other two pled guilty to hate-related charges.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FAMILY FARMER BANKRUPTCY PROTECTION, H.R. 2465

Mr. LEAHY. Mr. President, I am pleased that the Senate is finally considering legislation to renew family farmer bankruptcy protection, which expired on July 1.

More than a month ago, on June 23, the House of Representatives passed H.R. 2465 by an overwhelming vote of 379-3. This legislation will retroactively renew and extend family farmer bankruptcy protection until January 1, 2004. Senator FEINGOLD, Senator GRASSLEY and I have been urging for weeks that the Senate majority leadership bring up this House-passed bill to retroactively renew Chapter 12 of the Bankruptcy Code.

Senator GRASSLEY and I introduced S. 1323, the companion bill to this legislation to temporarily extend these protections that our farmers have come to rely upon. But this is just a short term fix. We need to stop playing politics and permanently reauthorize the Chapter 12 family farmer protections.

Too many family farmers have been left in legal limbo in bankruptcy courts across the country because Chapter 12 of the Bankruptcy Code is still a temporary measure. This is the sixth time that Congress must act to restore or extend basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

In 2000 and 2001, for example, the Senate—then as now controlled by the other party—failed to take up a House-passed bill to retroactively renew Chapter 12. As a result, family farmers lost Chapter 12 bankruptcy protection for 8 months. Another lapse of Chapter 12 lasted more than 6 months in the previous Congress. At the end of June, Chapter 12 lapsed once again. Enough is enough. It is time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our nation's family farmers.

Last year, I strongly supported former Senator Carnahan's bipartisan amendment to make Chapter 12 permanent as part of the Senate-passed farm bill. The Senate unanimously approved the Carnahan amendment by a 93-0 vote. Unfortunately, the House majority objected to including the Carnahan amendment in the farm bill conference report and agreed to an extension of Chapter 12 only through the end of 2002. Thus, at the tail end of the last Congress, we had to pass yet another six-month extension of basic bankruptcy protection for family farmers.

In the bipartisan bankruptcy reform conference, we again tried to make Chapter 12 permanent and update and expand its coverage. During our conference negotiations, we adopted most of the Senate-passed provisions, including those authored by Senator GRASSLEY to make Chapter 12 permanent and those authored by Senator FEINGOLD to strengthen Chapter 12 to help our family farmers with the difficulties they face.

Unfortunately, the House majority again scuttled our bipartisan efforts by failing to pass the rule to consider the bipartisan conference report on the Bankruptcy Abuse Prevention and Consumer Protection Act.

It is time to end this absurdity and make these bankruptcy protections permanent. Everyone agrees that Chapter 12 has worked. When this bill passed in the House, Chairman SENSENBRENNER praised Chapter 12, but then only proposed reauthorizing it for 12 months. He admitted that the only reason his bill, which we are finally passing today, did not permanently reauthorize Chapter 12 was because it is being used as leverage for the controversial larger bankruptcy reform bill. That is unfortunate.

I will continue to work hard with Senator GRASSLEY, Senator FEINGOLD and others on both sides of the aisle to pass legislation that once and for all assures our farmers of permanent bankruptcy protection to keep their farms. In the meantime, we should quickly pass this legislation and end another lapse in this basic bankruptcy protection for our family farmers.

HAWAII AND SHIPPING CONTAINER SECURITY

Mr. AKAKA. Mr. President, I rose today to address the continued need to secure our Nation's shipping containers.

The U.S. economy is heavily dependent on the normal flow of commerce and the security of our Nation's ports. Over the past 6 years, commercial cargo entering America's ports has nearly doubled. About 7 million shipping containers arrive in U.S. seaports each year.

The Department of Homeland Security recently proposed new regulations to improve shipping container security by requiring advance information in electronic format for cargo entering and exiting the United States.

In my view, the Department needs to do more. To improve container security we must ensure that shipping container security programs are effective by having the right personnel and the right management strategies in place.

Currently the Customs Service administers two container security programs within the Department of Homeland Security: the container security initiative, known as CSI, and the customs-trade partnership against terrorism, or C-TPAT. By 2004, the Department plans to increase the funding for CSI fourteenfold and for C–TPAT by 50 percent.

A July 2003 General Accounting Office, GAO, review on container security programs raises concerns that the Customs Service has not taken the steps required to ensure the long-term success and accountability of CSI and C–TPAT. According to the GAO report, Customs has reached a critical point in the management of CSI and C–TPAT and must develop plans to address workforce needs to ensure the long-term success of these programs.

As a Senator from a State reliant on shipped products, I understand the importance of container security. My State is uniquely vulnerable to disruptions in the normal flow of commerce. In fact, 98 percent of the goods imported into Hawaii are transported by sea.

Honolulu Harbor received more than 1 million tons of food and farm products and over 2 million tons of manufactured goods per year. In 2002, Honolulu received 1,300 foreign ships and about 300,000 containers. Over 8 million tons of these goods arrive at Honolulu Harbor, which receives one-half of all cargo brought into the State.

This is why I support GAO's recommendation that Customs develop strategic plans that clearly identify the objectives the programs are intended to achieve and to enhance performance measures.

I urge the Department of Homeland Security to implement GAO's recommendation by developing workforce plans and strategies to strengthen container security and to attract, train, and retain workers within CSI and C–TPAT. This is no small challenge. By the end of 2004, Customs expects to hire 120 staff for CSI and increase staffing levels in C–TPAT by fifteenfold. Moreover, it is estimated that 46 percent of the Customs workforce will be eligible to retire by 2008.

Now more than ever, agencies must have the plans and strategies in place to recruit personnel with the skills necessary to protect our country. As the U.S. Commission on National Security/21st Century concluded in 2001:

> . . . [T]he maintenance of American power in the world depends upon the quality of U.S. government personnel, civil and military, at all levels . . . The U.S. faces a broader range of national security challenges today, requiring policy analysts and intelligence personnel with expertise in more countries, regions, and issues.

To meet these national security challenges, workforce and strategic planning for CSI and C–TPAT deserve the full attention of the Department of Homeland Security.

Such attention is critical for a State like Hawaii that is uniquely dependent on shipping of goods. The potential consequences of a terrorist incident using a shipping container are, in the words of Customs Service Commissioner Bonner," . . . profound . . . no ships would be allowed to unload at U.S. ports after such an event."

I look forward to working with the Department to ensure that the foundation is in place for CSI and C–TPAT to secure shipping containers over the longterm.

HONORING OUR ARMED FORCES

SPECIALIST MICHAEL DEUEL

Mr. THOMAS. Mr. President, I rise today to speak about a young man from my State who selflessly performed as his country asked. While doing so Army SP Michael R. Deuel was killed in Iraq on June 18 while on guard duty at a propane distribution center.

Michael was a good soldier and served proudly in the 325th Infantry Regiment's 82nd Airborne Division. He comes from a family of military tradition that he carried with him. It was the Air Force that brought the Deuel family to Wyoming where both parents served on Wyoming's own F.E. Warren Air Force Base.

It is particularly important that at a time like this, as we address legislation and we prepare to adjourn for the month of August and return to our homes to meet with constituents that we take time to remember soldiers such as Specialist Deuel. These are the brave souls who give everything to secure the peace.

Michael joined the Army so he could learn to parachute. Eventually he wanted to become a smoke jumper and fight forest fires. This too is a particularly dangerous job, and as we see through this year's fire season it is critical to the survival of our towns and rural communities in the West. Michael's decision to be in the army and his goals for life after the Army paint a picture of a young man committed to his country and his fellow Americans.

As operations continue in Iraq and the noose tightens around the last remnants of the regime, I offer America's thanks to Michael Deuel and to his family. It takes a special person to answer the call to public service. It is challenging and dangerous. America remains strong and steadfast because of the courage that they have shown in the face of danger.

Thank you for your service and sacrifice. May God bless SP Michael Deuel of the 82nd Airborne Division and may God continue to bless the United States of America.

Mr. BIDEN. Mr. President, I rise today to speak in support of Karen Tandy's nomination to be Administrator of the Drug Enforcement Administration. I am pleased that the Senate confirmed her nomination last night.

I had an opportunity to meet with Ms. Tandy a few weeks ago in my office and I was quite impressed by her. With more than a quarter century of experience in drug enforcement, I believe that she is not only well qualified to be the DEA Administrator, but that she will also bring a passion for drug policy to the job.

Both in her work as a prosecutor and in leadership positions at the Justice Department, Ms. Tandy's focus has been on drug trafficking, money laundering and asset forfeiture. She has served as an Assistant U.S. Attorney in Virginia and Washington State, Chief of Litigation in the Asset Forfeiture Office and Deputy Chief of the Narcotics and Dangerous Drugs Section at Main Justice. For the past 4 years she has served as Associate Deputy Attorney General and the Director of the Organized Crime Drug Enforcement Task Force (OCDETF) program. During that time she has focused the OCDETF program and provided tremendous leadership.

Her nomination has the endorsement of a number of well-respected organizations including the Fraternal Order of Police, the National Troopers Association, the Association of Former Narcotics Agents, the National Narcotics Officers' Association Coalition, the Community Anti-Drug Coalitions of America, the County Executives of America, and the International Union of Police Associations.

Ms. Tandy comes to the DEA at a time when both Federal and State resources for drug investigations are shrinking. I believe that she will have a difficult time fighting for scarce resources and keeping the drug issue on the national agenda.

After September 11, the FBI transferred 567 agents from counterdrug investigation to counter-terrorism investigations and the DEA was left to fill in the gap without adequate funding. The President's 2004 budget only provides funding for an additional 233 Special Agents. By shutting down popular programs such as the Mobile and Regional Enforcement Teams, DEA has been able to shuffle around 362 agents, making them look like new agents when they are not.

The magnitude of the gap left by the FBI is quite troubling. According to a recent GAO report, the number of FBI Agents working on drug cases has decreased by more than 62 percent, from 891 to 335, since September 2001. And the number of new FBI drug cases has plummeted from 1,825 in fiscal year 2000 to only 310 in the first half of fiscal year 2003.

It is clear that the DEA will need more resources if it is expected to fill the sizeable void left by the FBI. That is why I joined with twelve other Senators to write to the appropriators urging that they provide more money for the DEA to be able to do its job. I hope that at the end of the day the Congress will be able to give them more money than the President requested.

Another issue which relates closely to the work of the DEA, is the Illicit Drug Anti-Proliferation Act, legislation which I authored that became law as part of the PROTECT Act in April. The bill provides Federal prosecutors the tools needed to combat the manufacture, distribution or use of any controlled substance at any venue whose purpose is to engage in illegal narcotics activity. Rather than create a new law, it merely amends a well-established statute to make clear that anyone who knowingly and intentionally uses their property—or allows another person to use their property—for the purpose of distributing or manufacturing or using illegal drugs can be held accountable, regardless of whether the drug use is ongoing or occurs at a single event.

I introduced this legislation after holding a series of hearings regarding the dangers of Ecstasy and the rampant drug promotion associated with some raves. For the past few years Federal prosecutors have been using the so-called "crack house statute"—a law which makes it illegal for someone to knowingly and intentionally hold an event for the purpose of drug use, distribution or manufacturing—to prosecute rogue rave promoters who profit off of putting kids at risk. My bill simply amended that existing law in two ways. First, it made the "crack house statute" apply not just to ongoing drug distribution operations, but to "single-event" activities, including an event where the promoter has as his primary purpose the sale of Ecstasy or other illegal drugs. And second, it made the law apply to outdoor as well as indoor activity.

Although this legislation grew out of the problems identified at raves, the criminal and civil penalties in the bill would also apply to people who promoted any type of event for the purpose of illegal drug manufacturing, sale, or use. This said, it is important to recognize that this legislation is not designed in any way, shape or form to hamper the activities of legitimate event promoters. If rave promoters and sponsors operate such events as they are so often advertised—as places for people to come dance in a safe, drug-free environment—then they have nothing to fear from this law. In no way is this bill aimed at stifling any type of music or expression—it is only trying to deter illicit drug use and protect kids.

I know that there will always be certain people who will bring drugs into musical or other events and use them without the knowledge or permission of the promoter or club owner. This is not the type of activity that my bill addresses. The purpose of my legislation is not to prosecute legitimate law-abiding managers of stadiums, arenas, performing arts centers, licensed beverage facilities and other venues because of incidental drug use at their events. In fact, when crafting this legislation, I took steps to ensure that it did not capture such cases. My bill would help in the prosecution of rogue promoters who intentionally hold the event for the purpose of illegal drug use or distribution. That is quite a high bar.

I am committed to making sure that this law is enforced properly and have been in close contact with officials from the Drug Enforcement Administration to make sure that the law is properly construed. That is why I was concerned by press reports about a DEA Agent in Billings, Montana who misinterpreted the Illicit Drug Anti-Proliferation Act when he approached the manager of the local Eagles Lodge to warn her that she may be violating the new law if the Lodge allowed the National Organization to Reform Marijuana Laws (NORML) to have a fundraiser at their facility.

I was troubled to hear this because, according to press reports, the Eagles Lodge had no knowledge that there might be drug activity at their location before the DEA approached them. And following the DEA Agent's misguided advice based on an inaccurate understanding of the law, the Lodge decided to cancel the NORML event, leading to an outcry from various groups that the new law has stifled free speech.

As I mentioned, the law only applies to those who "knowingly and intentionally" hold an event "for the purpose of" drug manufacturing, sale and use. Based upon my understanding of the facts around the NORML fundraising incident, the Eagles Lodge did not come anywhere close to violating that high legal standard.

I had my staff meet with the DEA chief counsel's office to discuss the Eagles Lodge incident and DEA's interpretation of the law. The DEA assured my office that they shared my understanding of the law and that this interpretation of the statute was conveyed to all DEA field offices shortly after the bill was signed into law.

In a June 19, 2003, letter to me from DEA Acting Administrator William B. Simpkins, the DEA acknowledged that the Special Agent "misinterpreted" DEA's initial legal guidance on the law and "incorrectly" suggested to the Eagles Lodge that the law might apply to the NORML fundraiser. DEA conceded that "[r]egrettably, the DEA Special Agent's incorrect interpretation of the statute contributed to the decision of the Eagles Lodge to cancel the event." In response to this misguided interpretation of the law, the DEA issued on June 17, 2003, supplemental guidance in a memo to all DEA field agents making clear that:

> property owners not personally involved in illicit drug activity would not be violating the Act unless they knowingly and intentionally permitted on their property an event primarily for the purpose of drug use. Legitimate property owners and event promoters would not be violating the Act simply based upon or just because of illegal patron behavior.

I have expressed clearly to Ms. Tandy my expectation that the law will be applied narrowly and responsibly. Ms. Tandy has confirmed that under her direction the DEA will implement the law as it was intended, targeting only those events whose promoters knowingly and intentionally allow the manufacture, sale or use of illegal drugs. In the DEA's June 19, 2003 letter to me, it noted that its initial May 15, 2003 guidance:

> informed [DEA] personnel that [the law's] requirements of 'knowledge' and 'intent' were not changed by the [new] Act. Accordingly, legitimate event promoters, such as bona fide managers of stadiums, arenas, performing arts centers, and licensed beverage facilities should not be concerned that they will be prosecuted simply based upon or just because of illegal patron activity.

Obviously, DEA's May 15th guidance was not sufficient to prevent the unfortunate Eagles Lodge incident but it reveals the Agency's understanding and intent not to target and prosecute the sorts of legitimate businesses cited above. As this is a new law, Ms. Tandy agrees that DEA must and will redouble its efforts in training its agents on the proper legal interpretation.

Finally, let me conclude by making two final responses to some critics of my law who have claimed; one, that it stretches the law beyond its original intention, and two, that it creates a legal standard that will permit innocent businessmen, concert promoters, even homeowners to be prosecuted for the drug use of those who come to their property. Both charges are wrong, as I will now explain.

First, my law amended section 856 of Title 21, U.S. Code. Section 856 became law in 1986. While section 856 has become known popularly as the "crack house statute," it has always been available to prosecute any venue—not just crack houses—where the owner knowingly and intentionally made the property available for the purpose of illegal drug activity. This fact has long been recognized by the Federal courts. As the Ninth Circuit Court of Appeals—the most liberal Federal appellate court in the Nation—said: "There is no reason to believe that [section 856] was intended to apply only to storage facilities and crack houses." [*United States* v. *Tamez*, 941 F.2d 770, 773 (9th Cir. 1991).] Or, in the words of the Fifth Circuit Court of Appeals: "it is highly unlikely that anyone would openly maintain a place for the purpose of manufacturing and distributing cocaine without some sort of 'legitimate' cover—as a residence, a nightclub, a retail business, or a storage barn." [*United States* v. *Roberts*, 913 F.2d 211, (5th Cir. 1990).]

The suggestion by some that my law expanded section 856 to entities other than traditional crack houses is simply untrue. Rather, in the 17 years section 856 has been on the books, it has been used by the Justice Department to prosecute seemingly "legitimate businesses" used as a front for drug activity. Specifically, section 856 has been used against motels, bars, restaurants, used car dealerships, apartments, private clubs, and taverns. [See *United States* v. *Chen*, 913 F.2d 183 (5th Cir. 1990); *United States* v. *Bilis*, 170 F.3d 88 (1st Cir. 1999); *United States* v. *Meschack*, 225 F.3d 556 (5th Cir. 2000); *United States* v. *Tamez*, 941 F.2d 770 (9th Cir. 1991); *United States* v. *Roberts*, 913 F.2d 211 (5th Cir. 1990); *United States* v. *Cooper*, 966 F.2d 936 (5th Cir. 1992); *Huerd* v. *United States*, 1993 U.S. App. LEXIS 2949 (Feb. 10, 1993, 9th Cir.).] The bottom line is that if a defendant hides behind the front of a legitimate business, or allows a drug dealer to do so on their property, they should be held accountable. Just as the criminal law punishes the defendant who "aids and abets"—like the getaway driver in a bank robbery ring—section 856 has always punished those who knowingly and intentionally provide a venue for others to engage in illicit drug activity.

The second point I will make is that my law does not—does not—change the well-established legal standard of section 856 which is required to secure a criminal conviction. Some critics of my law suggest that Congress just created a new, incredibly low legal threshold for prosecution under my law. In fact, it is the exact opposite. For 17 years, section 856 has required a high burden of proof, and my law does not change that standard at all. So let's get our facts straight.

In order to convict a defendant under section 856, the Justice Department needs to prove 2 things beyond a reasonable doubt—the highest legal standard in our justice system. Specifically, the government must prove that the defendant one, "knowingly and intentionally" made their property available, and two, "for the purpose" of illegal drug distribution, manufacture or use. These are 2 high hurdles the government must first pass before a defendant can be convicted under section 856. Let me briefly discuss both of these legal elements. As will become quite clear, the Federal courts interpreting section 856 have consistently rejected the very broad interpretations of the statute many critics now assert will result from my law.

Federal courts construing the "knowledge" and "intent" prong of section 856 have consistently held this to be a very high bar. It's not enough for a defendant to simply think. or have reason to believe, that drug use could occur on their property. Actual knowledge of future drug use, coupled with a specific intention that such use occur, is required. One Federal court discussing the knowing and intentional standard put it this way:

> an act is done "knowingly" if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason. The purpose of adding the word "knowingly" is to insure that no one will be convicted for an act done because of mistake or accident, or other innocent reason. Actual knowledge on the part of the defendant that she was renting, leasing or making available for use the [property] for the purpose of unlawfully storing, distributing, or using a controlled substance is an essential element of the offense charged. . . . An act is done "intentionally" if done voluntarily and purposely with the intent to do something the law forbids, that is, with the purpose either to disobey or to disregard the law. . . . It is not sufficient to show that the defendant may have suspected or thought that the [property] [was] were being used for [illicit drug activity]. [*Chen*, 913 F.2d at 187.]

As explained by the Federal courts, then, section 856 means what it says—the law only applies to defendants who have actual knowledge that their property will be used for drug use and who intend that very outcome. As a result, section 856 could never be used—as some critics have irresponsibly suggested—against the promoters of a rock concert whose patrons include some who are suspected of doing drugs during live music performances. In this way, section 856 is very different than other laws proposed which would impose a "reckless" standard—holding, for example, a concert promoter liable where they had reason to believe that drug use might occur.

For example, a bill introduced in the House would create criminal liability for anyone who "knowingly promotes any rave, dance, music, or other entertainment event, that takes place under circumstances where the promoter knows or reasonably ought to know that a controlled substance will be used or distributed." I disagreed with this approach because it would have replaced the high legal standard of section 856, on the books for 17 years, with a much lower standard where a concert promoter could be prosecuted for the illicit drug activity of patrons for which the promoter had no actual knowledge. When I wrote section 856 17 years ago, I and my colleagues required actual knowledge of illicit drug activity. Actual knowledge is still the standard today.

Let me now briefly discuss the second prong under section 856, the requirement that the defendant make their property available "for the purpose" of illicit drug activity. Again, courts have interpreted this prong in a way to ensure that section 856 cannot be used against innocent property owners where some incidental drug use occurs on their premises. One Federal court started its discussion of the purpose prong by noting that "'purpose' is a word of common and ordinary, well understood meaning: it is 'that which one sets before him to accomplish; an end, intention, or aim, object, plan, project.'" [*Chen*, 913 F.2d at 189.] Thus, Federal courts have noted that

> it is strictly incumbent on the government to prove beyond a reasonable doubt not that a defendant knowingly maintained a place where controlled substances were used or distributed, but rather that a defendant knowingly maintained a place for the specific purpose of distributing or using a controlled substance. [Id.]

Accordingly, the courts have interpreted that "purpose prong" of section 856 to prevent prosecution of defendants who knowingly allowed drug use on their property. In so doing, the courts have recognized that it's not enough to simply know that illicit drug activity is occurring on one's property; the property owner must be maintaining the property for that specific purpose. This is particularly true when section 856 is used against a "non-traditional crack house," such as a residence or business. In fact, a federal appellate court reversed a section 856 conviction against a defendant who had allowed her son to deal drugs out of his bedroom. There was evidence that his mother, the defendant, assisted him in his drug dealing. While the court sustained her conviction under a count of aiding and abetting, it reversed her conviction under section 856, finding that while she knowingly allowed drug dealing on her property, the primary purpose of her apartment was as a residence, not as a venue for illicit drug activity. As the court observed:

> manufacturing, distributing, or using drugs must be more than a mere collateral purpose of the residence. Thus, 'the "casual" drug user does not run afoul of [section 856] because he does not maintain his house for the purpose of using drugs but rather for the purpose of residence, the consumption of drugs therein being merely incidental to that purpose.' We think it is fair to say, at least in the residential context, that the manufacture (or distribution or use) of drugs must be at least one of the primary or principal uses to which the house is put. *United States* v. *Verners*, 53 F.3d 291, 296 (10th Cir. 1995).

This analysis makes clear that section 856 cannot be used—as critics of my law claim—against a concert promoter for the incidental drug use of their patrons or against a homeowner for the incidental drug use of a guest at a backyard barbeque. Just as section 856 "[does not] criminalize simple consumption of drugs in one's home," [*United States* v. *Lancaster*, 968 F.2d 1250, 1253 (D.C. Cir. 1992)], it cannot be used to prosecute innocent event promoters, venue owners, or other property owners for the incidental drug use of the patrons or guests.

Here is the bottom line: Section 856 has been on the books for 17 years and I'm unaware of it ever being used to go after a concert promoter, a venue owner, or a private citizen for the incidental drug use of their patrons or guests. Why? Because, as the Federal court decisions I have briefly reviewed today show, we wrote into law a high burden of proof to make sure that innocent actors don't get prosecuted. If you don't know for example, that the guy renting your arena plans to sell drugs, you are off the hook. If you don't intend for the guy renting your arena to sell drugs, you are off the hook. And if you don't intend that the guy renting your arena do so for the specific purpose of selling drugs, you are off the hook.

So let's get our facts straight here. It is just not helpful for critics of section 856 to run around screaming that the "sky is falling," when it has not fallen for 17 years and has no reason to start now. As stated earlier, innocent actors have nothing to fear from this statute and I intend to monitor the enforcement of the Illicit Drug Anti-Proliferation Act closely to make sure that it is used properly. If someone uses a rave, or any other event, as a pretext to sell ecstasy to kids, they should go to jail, plain and simple. But that sad reality should not prevent responsible event promoters and venue owners around this country from putting on live music shows and other events, just because some of their patrons will inevitably use drugs.

In closing, Asa Hutchinson left some big shoes to fill over at DEA, but I believe that Ms. Tandy is up to the task. And it is wonderful that she will be the first woman to head the DEA. I congratulate her on her confirmation.

RECONSTRUCTION OF IRAQ

Mr. ROCKEFELLER. Mr. President, this week, we have heard from many of the Administration's representatives, including several who testified before the Foreign Relations Committee on Tuesday, that our reconstruction efforts in Iraq are going much better that we read in the press reports, especially in the north and the south of the country. I don't dispute that: I was in Iraq earlier this month, and I saw the really remarkable efforts U.S. troops and our reconstruction authorities are making.

But I want to state clearly: Out in our states, public support is ebbing much more quickly than one reads in the Washington media.

There is growing concern about the steady and growing stream of combat fatalities and, as importantly, a sense that we have no strategy for stopping them.

There is great frustration over the extension of military tours of duty in Iraq, something that is especially disruptive to the National Guardsmen and Reservists who are playing such an important role in Iraq.

Last week, for example, an Air National Guard unit from Charleston, the 130th Airlift Wing, was told that rather than have the entire unit return to West Virginia in Early August, as scheduled, half the unit will need to stay on in the Middle East until the end of the year. And before the members of the 130th could even inform their families directly, their relatives back in West Virginia learned this disappointing news from the local papers.

There is increasing unease about the cost of our financial commitments in Iraq, particularly at a time of growing domestic deficits, and our failure to line up significant international contributions.

Americans are a patient people. Our 50-year commitments to Korea, Japan, and NATO attest to that. But the American people insist on information. Our international engagements have succeeded where past Presidents have laid out what our national mission is, how our vital interests are involved, what we anticipate the cost may be, and what our plans are for an exit strategy or to get other countries to share an equitable portion of the burden.

When we don't have that, public support vanishes. There is a tendency among some in Washington to dismiss this as some sort of "Somalia syndrome." But it is not just a passing phenomenon—it's a fundamental part of who we are as a people.

It reflects that contrary to some of the characterizations out there, Americans are not naturally imperialists, and we are not warmongers. And while we believe other people should enjoy the freedoms we cherish, we are not seeking to remake the world in our image. We support our global commitments when we feel America's vital national interests are at stake, and that this is part of a clear and coherent strategy by our political leadership.

When America went to war in March, it commanded the support of a significant majority of Americans. But the administration must realize: It is in danger of losing that support. One can see it in the polls; I definitely hear it when I return to West Virginia. And the change is most pronounced in many people who supported the war back in the spring. They are losing confidence that the administration has a strategy to get our young men and women out of Iraq, and to ensure their safety up until that point.

And it is leading some people to clutch at optimistic, maybe even unrealistic "quick fix" solutions, like suggesting we dump the entire Iraq operation into the lap of the United Nations, when Kofi Annan has basically said the U.N. has no interest in taking up the U.S. role in Iraq.

This worries me deeply. America's willingness to stay the course in Iraq isn't a partisan issue. It is, I believe, a vital national priority. America created the current situation in Iraq, and we must make it succeed. It is a fundamental test of American security and American credibility, and it is being watched closely by our foes and our friends alike.

If America withdraws from Iraq before we are able to reconstitute a solid Iraqi government backed up by strong political institutions, we will leave behind a chaotic situation that will quickly become a textbook for other enemies who wonder how to defeat America when our combat forces are unstoppable.

And if the reconstruction in Iraq does not lead to a stable state, it will become impossible to line up allies for future such operations. Even the handful of countries working with us to make Iraq succeed—the British, and the Spaniards and Italians, and the Poles—wills steer clear of us.

It is not too late to turn this around. But is will require clear, consistent communication from the very top of this administration.

In recent weeks, we have learned, in rather haphazard ways, from various administration officials, that we are facing a guerrilla war in Iraq that is targeting American troops with increasing precision, that the financial cost of our occupation is running at twice the level projected, that troop deployments in Iraq will likely be extended, and that some of the countries we were hoping would help share the burden in Iraq are getting cold feet. And frankly, getting complete information has been like pulling teeth, and only reinforces the growing perceptions that decision are being made in a reactive way. I'm sure there are some people who are telling the President, "stay away from the bad news"—and that is why it is left to officials like Jerry Bremer or General Abizaid to do the honest talking.

The American people need to hear, from the President, not just what a great job our troops did in the initial combat phase, but also why many of our predictions were wrong; what the administration plans to do about it, including getting more international support; and why it is important that we not let these setbacks deter us. Unless we hear some plain, honest talking from the President about how we are dealing with the post-combat challenges in Iraq, I am convinced there will be dramatic further erosion in support for staying the course in Iraq. And I think that is something none of my colleagues here in the Senate would feel good about.

ADDITIONAL STATEMENTS

THE PERILS FACING OUR GRADUATING COLLEGE STUDENTS

• Mr. AKAKA. Mr. President, the national unemployment rate hit a 9-year high of 6.4 percent in June. We have lost more than 3.1 million private sector jobs since 2001, which is adversely impacting many of our recent college graduates who are finding it difficult to secure employment in a market that is not producing enough jobs. The Bureau of Labor Statistics has released findings that show for this same period that the unemployment rate for 20 to 24 year olds has risen from 7.2 percent to 10.7 percent.

The National Association of Colleges and Employers, which is a nonprofit association that provides resources to help career services and recruitment professionals, conducted a survey this past spring that found "corporate hiring has fallen by 36 percent since 2001; 42 percent of employers say they are cutting the number of college graduates they hire; and nearly 71 percent of Government/nonprofit employers say they expect to hire fewer new college graduates this year." This information is very troubling to me because the state of our economy has restricted unemployment opportunities and exacerbated personal debt for young men and women graduating from college.

As our college graduates look to their future, many of them will already have accrued an excessive amount of debt ranging from student loans to credit cards. I have been working to shed light on this problem which is only getting worse, the problem of economic and personal financial illiteracy among our youth.

Accumulation of credit card debt by college students has become an issue nationwide. Credit cards are easy to get; many students are able to obtain a credit card by simply submitting a copy of their school identification card. They are acquiring and using credit cards at a greater rate than ever before, without completely understanding the credit system and accrued interest. Many of these students are not adequately educated about using and paying off a credit card. Rather, many are being enticed by gimmicks to apply for a credit car. A quick Internet search can reveal dozens of sites that provide myriad of opportunities for students to obtain a credit card. Some of these sites offer credit card limits of up to $5,000. Others suggest that one could use the card to purchase books, pizza and tuition, and also earn bonus points for free music CDs. Other inducements are offered, such as a free movie ticket for those who have good credit.

With college students finding it harder to seek gainful employment upon graduating, one would hope that they would at least have a greater understanding of how to best manage their personal finances. It would have been beneficial for these graduates to have learned the essentials of money management and personal finance before leaving college, and even before leaving high school. However, we still have much to do in this area.

According to the 2002 National Jump$tart Survey, economic and financial literacy scores have declined since the Jump$tart Coalition for Personal Financial Literacy conducted its first survey of seniors in high school back in 1997. Of the high seniors who took the survey, 68.1 percent them failed, demonstrating a clear lack of understanding of the basic fundamentals of economics and personal financial management.

We have also seen an increase in personal bankruptcy filings and, if one were to couple that with the lack of jobs available for graduating students, we see that many of our students are well on the road to financial crisis, if they are not already there. Although the Department of Education has found that the default rate on student loans has decreased substantially, it has found the dollars in default remain high. This means that students defaulting on their loans have a larger debt load, which may cause them to file for bankruptcy before they even begin a career.

In the 2002–2003 fiscal year, American lenders made about $31 billion in consolidated student loans, averaging about $27,000 each. Furthermore, 45 percent of college students are in credit card debt, with the average debt being $3,066. Our students are accruing large amounts of debt without a clear understanding of how to manage their finances. As unemployment continues to rise and the job market remains bleak, we must empower our students with a greater understanding of economic and personal finance. Although improved financial literacy is not the complete solution to their problems, it can help them to alleviate or prevent some of the financial difficulties they may encounter.

As we continue to work towards economic recovery and job creation, it is imperative to also educate our children so that they may understand and excel in economic and personal finance.●

A TRIBUTE TO DR. BILL BRIGHT

● Mr. NICKLES. Mr. President, in this country of unique opportunity and personal liberty, there are people who use their talents and abilities to help others. Many of these men and women go unnoticed or unappreciated in spite of their many selfless deeds.

I rise to honor a native Oklahoman who not only rose to the challenge of God's calling in his life, but was one of the greatest visionaries and faithful servants of our time.

Dr. Bill Bright, a native of Coweta, Oklahoma, experienced something that, to many of us seems surreal: he was educated in a one-room schoolhouse for over 9 years! He graduated from Oklahoma's Northeastern State University in 1944, where he was known for his keen academic rigor and ability.

Bill married his high school sweetheart, the former Vonetta Zachary, and moved to southern California to begin a successful confections company. Although he could have made a fortune with his small but promising empire, Bill knew that he was called to a higher purpose.

Bill Bright answered that call when he found Campus Crusade for Christ. Known to many for his vigorous passion for spreading the Gospel, it is not difficult to understand why he achieved such international popularity. Today, Campus Crusades for Christ has over 26,000 employees and over 225,000 volunteers spanning 191 countries. His movie, JESUS, a documentary on the life of Jesus Christ, has been viewed by 5.1 billion people, which is roughly 5/6 of the present world population.

Although these are undeniable great accomplishments, a true leader demonstrates by example. And that is Bill Bright. In 1996, Bill was presented with the prestigious Templeton Prize for Progress in Religion, for his work with fasting and prayer. Worth more than 1 million dollars, Bill gave every penny of it to organizations that helped him to win that award—those promoting spiritual benefits of fasting and prayer.

My friend Bill Bright demonstrated the qualities of a true spiritual American leader. Considering his roots and his achievements, I venture to say Dr. Bill Bright is the evangelical Horatio Alger story of the last half-century.

Those of us who have been touched by this wonderful man will certainly miss him, but one thing is for sure—Bill Bright's vision and legacy will live on. He has made a positive difference for our state and country and I am certain helped countless individuals find eternal happiness.●

IN RECOGNITION OF THE 60TH WEDDING ANNIVERSARY OF JOSEPH AND VIVIAN SAFRANEK

● Mr. KOHL. Mr. President, I rise today to congratulate Joseph and Vivian Safranek for a marriage that has lasted 60 years. It was in 1942 in the town of Iron Mountain, MI that Joseph first offered Vivian a ride home after working at the Pine Mountain ski tournament. She accepted the ride and soon after accepted his marriage proposal. On September 18, 1943 in Kingsford, MI's Our Redeemer Lutheran Church, the two celebrated their union.

After 7 years and two children, Joseph and Vivian decided to make the move to the great State of Wisconsin. The 1950s and 60s were hard times for the Safraneks. They lived in the west side of Milwaukee in a small apartment with no running water. Joseph worked as a route salesman for the Milwaukee Cheese Co. and then at the Continental Baking Co. And even though money was tight, there was always more than enough good Wisconsin cheese and Wonder bread to go around.

Sixty years is a long time and a lot of memories. Their successful union could be measured in years or even tender moments. But even more impressive a measure is their four wonderful children and seven grandchildren.

A marriage of 60 years is an impressive and rare accomplishment. Today, I express my deepest admiration for the Safraneks—the love, the laughter, the family and the marriage that, while not born in Wisconsin, symbolizes Wisconsin and its values at their best.●

TRIBUTE TO CLYDE BROWN

● Mr. LOTT. Mr. President, it is with great pleasure that I pay tribute to an outstanding citizen of Mississippi. On June 13, 2003, Clyde Brown of Moss Point, MS was recognized for his long-term efforts to protect the fragile, natural resources of coastal Mississippi by receiving the 2003 National Oceanic and Atmospheric Administration's, NOAA, Environmental Hero Award.

Established in 1995 to commemorate the 25th anniversary of Earth Day, the Environmental Hero award honors individuals and organizations for their tireless efforts to preserve and protect our Nation's environment. Mr. Brown is among only 36 winners in the Nation of the 2003 NOAA Environmental Hero Award.

A lifelong resident of eastern Jackson County, MS, Clyde Brown recently retired after nearly 40 years of employment at the International Paper Company and is a part-time oysterman and seafood processor. He has been involved in a number of volunteer efforts that range from serving on citizen advisory councils to establishing the Mississippi Department of Marine Resources' Grand Bay National Estuarine Research Reserve, NERR.

Mr. Brown has worked with my office and other members of Congress over the years to secure support for a variety of projects including the oyster relay project, establishment of the Grand Bay NERR, expansion of the Grand Bay National Wildlife Refuge, a local Federal Emergency Management Agency buyout, disaster relief, and the Coastal Impact Assistance Program, to name a few.

David Ruple, manager of the Mississippi Department of Marine Resources/Grand Bay National Estuarine Research Reserve said, "Clyde Brown is soft-spoken yet determined in his efforts to conserve and restore the resources of the Mississippi gulf coast. He serves as the pulse of the local community and has been the sounding board for local residents inquiring about Federal and State conservation initiatives over the years. Clyde is a true environmental hero, and I am proud to have had the opportunity to work with him.

It is citizens such as Mr. Brown whose dedicated efforts and outstanding accomplishments greatly benefit the environment and make our Nation a better place for all Americans.●

SALUTING GEORGE AND LOIS FERNAU AND FUTURES OF AMERICA

● Mr. TALENT. Mr. President, today I salute George and Lois Fernau of St. Louis, who are the founders of a very talented, very patriotic singing group, the Futures of America.

The Fernaus are parents of four children, and something Mr. Fernau saw on television in the early 70s as he was about to take his daughter to softball practice disturbed him very deeply. He watched as a group of protesters burned the American flag. Mr. Fernau thought this was a slap in the face to those who fought to defend freedom under that flag and a desecration of an enduring symbol of freedom and democracy. He was inspired to do something to express his love for the country, so he asked his daughters after softball practice if they would be willing to be part of a singing group that would tour the country and spread patriotic feeling through music. Thus, the Futures of America were born.

The mission of the Futures of America is to strongly encourage all Americans, but especially young people, to learn what they call the "M.V.P.P's of Life": morals, values, principles and patriotism. They sing classic American songs such as The Battle Hymn of the Republic, Put On a Happy Face, God Bless America, as well as songs written by Mr. Fernau, such as Missouri: Our Home State, St. Louis, My Kind of Town, and You're My Music. They have performed on radio and television, and have also released several albums of their music.

Since their inception in 1971, the Futures of America have kept up an ambitious and impressive schedule, traveling close to a million miles and performing over 2,500 times. They have sung for a number of dignitaries, including two Presidents, an African king, and a host of Missouri's State and local elected officials. They also sing at venues such as Air Force bases, parades, and conventions for groups such as the Knights of Columbus, the American Legion, and the Rotary Club. The Futures of America also have the distinction of having performed before all 172 VA hospitals in America, warming the hearts of many veterans.

I commend George and Lois Fernau and the Futures of America for their service to the community over the past 32 years. Their patriotism and strong moral values are a good example for everyone. I am honored to share their accomplishments with my colleagues, and I wish them all the best for the future.●

A TRIBUTE TO MAJOR GENERAL KEVIN B. KUKLOK

● Mrs. FEINSTEIN. Mr. President, I rise to pay tribute to MG Kevin B. Kuklok, who is about to retire and return to private life after more than 35 years of selfless service to our Nation as a U.S. Marine.

Major General Kuklok graduated from the University of North Dakota, with a Bachelor of Science degree in chemical engineering. He also received his master's degree in business administration from the United States International University in San Diego, CA. He enrolled in the Platoon Leaders Class program in March 1965, and was commissioned a Second Lieutenant in the Marine Corps Reserve in August 1968.

He has served with numerous operational commands in billets ranging from staff officer to Commanding General. Some of these units were Marine Medium Lift Helicopter Squadrons 267 and 367; 2d Battalion, 7th Marines; Marine Attack Helicopter Squadron 169; Marine Air Group 46; and Marine Medium Helicopter Squadron 766.

He was Commanding Officer Headquarters and Maintenance Squadron 41, Det B; Commanding Officer of Marine Medium Helicopter Squadron 764. He also served as Director of Readiness and Safety, 4th Marine Aircraft Wing, MARRESFOR, New Orleans, LA.

Upon promotion to brigadier general, he assumed command as the commanding general, Reserve Marine Ground Task Force East, Camp Lejeune, NC.

Major General Kuklok is a veteran of Operations Desert Shield and Desert Storm. He also served as the commanding general, 4th Marine Aircraft Wing, Marine Corps Reserve, from September 1997 until August 2000.

In November 2001, General Kuklok was ordered back to active duty to support Operation Enduring Freedom, at which time he assumed his current duties as Assistant Commandant, Plans, Policies and Operations, his last active duty position.

Throughout his career as a U.S. Marine, Major General Kuklok has demonstrated uncompromising character, discerning wisdom, and a sincere, profound sense of duty to his country, his Corps, and especially to his marines and their families.

On behalf of my colleagues on both sides of the aisle, I wish to recognize Major General Kuklok's accomplishments and his devoted service to the Nation. Congratulations to him, his wife, Diana, and their two children, Nicole and Bryce, on the completion of a long and distinguished career.●

IN RECOGNITION OF THE 50TH ANNIVERSARY OF BIG BROTHERS BIG SISTERS OF SAGINAW BAY AREA

• Mr. LEVIN. Mr. President, I would like to recognize a great organization from my home State of Michigan. On August 14, 2003, people will gather to celebrate the 50th anniversary of Big Brothers Big Sisters of Saginaw Bay Area, Inc. I am pleased to pay tribute to the members of Big Brothers Big Sisters for their years of dedication and service to the community.

Big Brothers Big Sisters volunteers provide stability for area youth by mentoring children and organizing exciting activities. The tools of warmth, human interest, and personal friendship are used to improve the health, education, and personal welfare of participants. The nonsectarian, multiracial agency holds an annual Easter egg hunt, Halloween and Christmas parties, as well as a variety of community enrichment activities in the Saginaw Bay area.

In 1952, 18 individuals united to form the board of directors for Big Brothers after receiving a grant from the Optimist Club of Saginaw. With the opening of a new office in Bay City in 1973, the organization officially changed its name to Big Brothers of Saginaw Bay Area, Inc.

In 1966, the Woman's Council of Saginaw recognized the need for a Big Sisters program. The following year the Altrusa Club, a community service organization, sponsored and organized the project, and soon after, a local Big Sisters program was established. The two organizations joined forces on September 1, 1982, to form Big Brothers Big Sisters of Saginaw Bay Area, Inc., saving an estimated $15,000 to $20,000 in operating expenses annually. This money is used to enrich the lives of approximately 725 young people in Saginaw and Bay Counties.

I take great pride in recognizing the efforts of Big Brothers Big Sisters of Saginaw Bay Area as it celebrates its 50th anniversary. I have no doubt that this organization will continue to enrich the lives of local children. I know my Senate colleagues will join me in saluting the accomplishments of Big Brothers Big Sisters of Saginaw Bay Area and in wishing the group continued success in the future.•

RECOGNIZING THE ACHIEVEMENTS OF DR. BILL MADIA

• Mr. ALEXANDER. Mr. President, I wish to recognize the achievements of Dr. Bill Madia, President and CEO of UT-Battelle, and Director of Oak Ridge National Laboratory in Tennessee. Bill will be stepping down in August to take on the new position of Executive Vice President of Laboratory Operations at Battelle headquarters in Columbus, OH. Over the past three years Dr. Madia has contributed greatly to the Lab's many successes, and I would like to thank him for his leadership and commitment to our State.

ORNL is the largest of the Department of Energy's, Office of Science multi-program laboratories and to run a facility of its size is no simple task. Bill joined ORNL with more than 25 years of international experience in research and research management, including 15 years leading public and private research labs. He became the director of ORNL on April 1, 2000 and since then has continued the tradition of excellence at Oak Ridge.

Bill Madia is a visionary who delivers results. Under his leadership, construction of the Spallation Neutron Source was initiated. The SNS will produce the most intense pulsed neutron beams in the world and will be completed as expected in 2006. It is under Bill's direction that this project is progressing both on schedule and within budget.

Dr. Madia is also responsible for a major renewal of the Laboratory through his modernization plan. He has enabled the private capitalization of several new buildings that will house the Laboratory's advanced computing assets. Bill also has been instrumental in building the Laboratory's nanotechnology initiative, and the first of the DOE's Nanoscience centers, the Center for Nanophase Materials Sciences, had its groundbreaking earlier this month.

Oak Ridge has an extensive history of linking with universities and with Bill's guidance has expanded the use of these partnerships. Just recently, researchers of Oak Ridge, North Carolina State University, and University of Tennessee discovered how to tune the atomic-level zone of semi-conductor devices, the building blocks of computing chips. Additionally, he captured a leadership role in DOE's computational science initiative for Oak Ridge by building a partnership with industry to develop the next generation machine and attracting private sector financing to rapidly build a new facility necessary to operate world-class supercomputers.

Bill understands the importance of science and the role that science development plays in our lives and in the future. He has continually taken the initiative to push forth all projects that Oak Ridge takes on. Our investments in science driven technology contribute greatly to the economic growth of this country, and during his tenure the UT-Battelle team has helped with the creation of 30 new companies through the ORNL technology transfer program.

Outside of the laboratory in the Oak Ridge community, Bill Madia has done an outstanding job in promoting economic sustainability and has been a vigorous promoter of education. In fact, he has remained a strong supporter of funding for high school science laboratories and the University of Tennessee's Academy for Math and Science.

The people of Oak Ridge Tennessee and this Nation have benefited from all his hard work and will continue to benefit from Bill Madia's dedication as he continues his excellence as a member of the UT-Battelle Board of Directors. Although, he will be missed dearly in Tennessee, I am confident that he will continue to make a difference in the community. I wish him the best of luck in his future endeavors.•

MEASURES HELD OVER/UNDER RULE

The following resolution was read, and held over, under the rule.

S. Res. 207. A resolution amending the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a presidential nominee's religious affiliation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3518. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "To Amend Sections 7D, 16(i)(2), and 19 of the United States Grain Standards Act to Authorize the Secretary of Agriculture to Recover Through User Fees the Costs of Standardization Activities"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3519. A communication from the Assistant Secretary of the Navy, Installations and Environment, Department of the Navy, transmitting, a report relative to studying certain functions performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors; to the Committee on Armed Services.

EC–3520. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Enuretic Devices, Breast Reconstructive Surgery, PFPWD Valid Authorization Period, Early Intervention Services" (RIN0720–AA70) received on July 28, 2003; to the Committee on Armed Services.

EC–3521. A communication from the Assistant General for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Manufactured Home Construction and Safety Standards: Smoke Alarms" (RIN2502–AH48) received on July 28, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–3522. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the Administration's 2002 Annual Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–3523. A communication from the President of the Senate, transmitting, pursuant to law, the report of an Executive Order relative to sanctions against Burma; to the

Committee on Banking, Housing, and Urban Affairs.

EC–3524. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Milford IA (Doc. No. 03–ACE–07)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3525. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Muscatine, IA (Doc. No. 03–ACE–39)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3526. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Pratt, KS (Doc. No. 03–ACE–36)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3527. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hays, KS (Doc. No. 03–ACE–35)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3528. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Brookfield, MO (Doc. No. 03–ACE–25)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3529. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cambridge, NE (Doc. No. 03–ACE–50)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3530. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E5 Airspace; Tuscaloosa, AL (Doc. No. 03–ASO–07)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3531. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D, E4, E5 Airspace; Elizabeth City, NC (Doc. No. 03–ASO–06)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3532. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rock Rapids, IA (Doc. No. 03–ACE–28)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3533. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Muscatine, IA (Doc. No. 03–ACE–39)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3534. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Falls City, NE (Doc. No. 03–ACE–49)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3535. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sibley, IA (Doc. No. 03–ACE–48)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3536. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Red Oak, IA (Doc. No. 03–ACE–46)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3537. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sac City, IA (Doc. No. 03–ACE–47)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3538. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Ottumwa, IA (Doc. No. 03–ACE–41)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3539. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 767–300 Series Airplanes (Doc. No. 2002–NM–187)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3540. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Initiative Industrial Italiane S.P.A. Models Sky Arrow 650 TC and 650 TCN Airplanes (Doc. No. 2003–CE–10)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3541. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Inizative Industrial Italiane S.P.A. Models Sky Arrow 650 TC and 650 TCN Airplanes (Doc. No. 2003–CE–11)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3542. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. Models PC–6 Airplanes (Doc. No. 2003–CE–12)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3543. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce RB211 Series Turbofan Engines (Doc. No. 2003–NE–13)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3544. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Window Rock, AZ (Doc. No. 03–AWP–9)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3545. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Pocahontas, IA (Doc. No. 03–ACE–45)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3546. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kaiser, MO (Doc. No. 03–ACE–44)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3547. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes (Doc. No. 2003–NM–02)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3548. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A321–131 Series Airplanes; Equipped with International Aero Engines (IAE) V2500–A5 Series Engines (Doc. No. 2003–NM–134)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3549. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes (Doc. No. 2002–NM–13)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3550. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–80A1/A3 and CF6–80C2A PMC Series Turbofan Engines (Doc. No. 2002–ANE–09)" (RIN2120–AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3551. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aeropatiale Model ATR42-200, 300, 320, and 500 Series Airplanes and Model ATR72-102, 202, 212, and 212A Series Airplanes (Doc. No. 2002-NM-331)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3552. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAE 146 Series Airplanes (Doc. No. 2001-NM-271)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3553. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empressa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145 Series Airplanes (Doc. No. 99-NM-98)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3554. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT8D Series Turbofan Engines (Doc. No. 97-ANE-05)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3555. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (103) Amendment No. 3061 (Doc. No. 30372)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3556. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (113) Amendment No. 3059 (Doc. No. 30369)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3557. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller Inc. Propellers with Aluminum Blades (Doc. No. 96-ANE-40)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3558. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA (Corr. Doc. No. 02-ASO-7)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3559. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (26) Amendment No. 3062 (Doc. No. 30373)" (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3560. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled "Emergency Final Rule to Implement Measures to Reduce Overfishing on Species Management Under the Northeast Multispecies Fishery Management Plan" (RIN0648-AQ72) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3561. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of the Commission's Strategic Plan covering the Commission's program activities through fiscal year 2008; to the Committee on Commerce, Science, and Transportation.

EC-3562. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety Zones, Security Zones and Drawbridge Operation Regulations" (RIN1625-AA09) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3563. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations" (RIN1625-AA00) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3564. A communication from the Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management, National Ocean Services Coastal Services Center, transmitting, pursuant to law, the report of a rule entitled "Federal Register Notice—Coastal Services Center Broad Area Announcement Fiscal Year 2002 Programs" received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3565. A communication from the Acting Managing Director, Office of Managing Director, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2003" (MD Doc. No. 03-83) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3566. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more for Israel; to the Committee on Foreign Relations.

EC-3567. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $25,000,000 or more to Greece; to the Committee on Foreign Relations.

EC-3568. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-3569. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the United Arab Emirates; to the Committee on Foreign Relations.

EC-3570. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-3571. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC-3572. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 1st Quarter of Fiscal Year 2003"; to the Committee on Governmental Affairs.

EC-3573. A communication from the Board Members, Merit Systems Protection Board, transmitting, the Board's Annual Report for fiscal year 2001; to the Committee on Governmental Affairs.

EC-3574. A communication from the Assistant Secretary, Chief Financial Officer, Department of the Interior, transmitting, the Department's Annual Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-3575. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Repeal of Dual Compensation Reductions for Military Retirees" (RIN3206-AI91) received on July 28, 2003; to the Committee on Governmental Affairs.

EC-3576. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-3577. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Sufficiency Review of the Water and Sewer Authority's Fiscal Year 2002 Revenue Estimate in Support of $100,000,000 in Commercial Paper Notes"; to the Committee on Governmental Affairs.

EC-3578. A communication from the Senior Vice President, Chief Financial Officer, Potomac Electric Power Company, transmitting, pursuant to law, the Company's Balance Sheet as of December 31, 2002; to the Committee on Governmental Affairs.

EC-3579. A communication from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the Commission's Financial Statement for the period of October 1, 2000 through September 30, 2001; to the Committee on Governmental Affairs.

EC-3580. A communication from the Inspector General, Railroad Retirement Board, transmitting, the Board's Semiannual Report for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-3581. A communication from the Archivist of the United States, transmitting, the

Fiscal Year 2001 Annual Performance Report for the National Archives and Records; to the Committee on Governmental Affairs.

EC–3582. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Change in the Survey Cycle for the Pennington, SD, Nonappropriated Fund Wage Area" (RIN3206–AJ30) received on July 28, 2003; to the Committee on Governmental Affairs.

EC–3583. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination confirmed for the position of Director, Office of Management and Budget, received on July 23, 2003; to the Committee on Governmental Affairs.

EC–3584. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Deputy Director, Office of Management and Budget, received on July 23, 2003; to the Committee on Governmental Affairs.

EC–3585. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; D-tagatose and Dental Caries" (Doc. No. 02P–0177) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3586. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Ophthalmic Drug Products for Over-the-Counter Human Use ; Final Monograph; Technical Amendment" (RIN0910–AA01) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3587. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Beverages: Bottled Water; Confirmation of Effective Date" (Doc. No. 03N–0068) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3588. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Regulations, and Administrative Procedures; Delay of Effective Date" (RIN0905–AC81) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3589. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Records and Reports Concerning Experience With Approved New Animal Drugs" (RIN0910–AA02) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3590. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Topical Nitrofurans; Extralabel Animal Drug Use; Order of Prohibition" (Doc. No. 01N–0499) received on July 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3591. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's annual report relative to the Comprehensive Community Mental Health Services for Children and Their Families Program; to the Committee on Health, Education, Labor, and Pensions.

EC–3592. A communication from the Secretary of Health and Human Services, transmitting, a report relative to the Community Food and Nutrition Program; to the Committee on Health, Education, Labor, and Pensions.

EC–3593. A communication from the Assistant Secretary, Indian Affairs, transmitting, pursuant to law, the report of a rule entitled "Law and Order on Indian Reservations" received on July 28, 2003; to the Committee on Indian Affairs.

EC–3594. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Appeals, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals Rules of Practice: Claim for Death Benefits by Survivor" (RIN2900–AL11) received on July 28, 2003; to the Committee on Veterans' Affairs.

EC–3595. A communication from the President of the United States, transmitting, pursuant to law, the six month periodic report on the national emergency with respect to Sierra Leone and Liberia that was declared in Executive Order 13194 of January 18, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–3596. A communication from the President of the United States, transmitting, pursuant to law, the report of the continuation of the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC–3597. A communication from the President of the United States, transmitting, pursuant to law, a report regarding a World Trade Organization Concerning Kimberley Process Certification Scheme for Rough Diamonds; to the Committee on Finance.

EC–3598. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the implementation of the Diamond Trade Act; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–247. A resolution adopted by the Senate of the General Assembly of the State of Pennsylvania relative to prison inmates; to the Committee on Finance.

SENATE RESOLUTION

Whereas, studies have shown that approximately 80% of prison inmates are affected by mental health/mental retardation and drug and alcohol problems; and

Whereas, studies have confirmed that 33% of all criminal justice costs are related to substance abuse; and

Whereas, data indicates that 40% of State prisoners will be released in the next 12 months and studies demonstrate that approximately 50% to 60% of inmates released from prison will reengage in criminal activity; and

Whereas, in 1999 approximately 3,773,600 American adults were on probation and nearly 713,000 were on parole with minimal substance abuse treatment; and

Whereas, research has proven that rehabilitation programs sharply reduce rates of recidivism, thereby ending a vicious and socially destructive cycle of entry and exit from prison; and

Whereas, by providing funds to establish drug and alcohol rehabilitation programs in State and county prisons, the State will be able to reduce the judicial and operational costs associated with repeat offenders and recidivism; and

Whereas, current law prohibits the use of Federal Medicaid funds for drug and alcohol rehabilitation programs in prisons under 42 CFR §435.1009 (relating to definitions relating to institutional status); and

Whereas, current law also prohibits the use of federal Medicaid funds for mental health and mental retardation treatment programs in prisons under 42 CFR §435.1009 (relating to definitions relating to institutional status); and

Whereas, treatment should lead to a decrease in recidivism among prisoners afflicted with mental health and mental retardation problems: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to amend 42 CFR §435.1009 to permit the use of Federal Medicaid funds for prison mental health and mental retardation treatment programs and drug and alcohol rehabilitation programs and thereby afford states throughout the nation the ability to reduce recidivism and lower crime through Prison-administered treatment and rehabilitation programs; and be it further

Resolved, That copies of this resolution be transmitted to the President, the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–248. A resolution adopted by the Commission of Wayne County of the State of Michigan relative to tariff rate quotas for dry milk protein; to the Committee on Finance.

RESOLUTION NO. 2003–283

Whereas, the domestic dairy industry has been significantly impacted in recent years by the rising use of dry milk protein concentrates (MPCs) and is very concerned about the effect that imported MPCs are having; the increasing use of these key components in many dairy products and the fact that regulations have clearly lagged behind technology are serious threats to a key part of American agriculture; and

Whereas, the technology that makes possible the ultrafiltration process that separates proteins and the other components of milk was not fully developed when the General Agreement on Tariffs and Trade (GATT) was finalized in 1994; as a result, there are almost no restrictions on the importation of MPCs and this is causing serious damage to the domestic dairy industry; and

Whereas, the quotas set under GATT in 1994 are clearly not comprehensive enough for the forms in which some dairy products are imported today; foreign exporters are known to blend dairy proteins for the purpose of circumventing existing tariff rate quotas; and

Whereas, further, farm groups strongly believe the dairy protein blends are being incorrectly classified by the United States Customs Service and this improper classification has also created a trade loophole that encourages importers to circumvent tariffs on certain dairy products which undermine food safety standards and cause an economic hardship for American agriculture; and

Whereas, Congress has introduced legislation to establish tariff rate quotas for MPCs and with the enactment of legislation to close this loophole American agriculture will be able to compete on a more equal basis; the overall benefits, to our national economy and the domestic dairy industry, will strengthen a vitally important industry and restore the stability of the marketplace: Now, therefore, be it

Resolved, That the Wayne County Commission on this 5th day of June, 2003 importunes the Congress of the United States to enact legislation to provide for tariff rate quotas for dry milk protein concentrates that are equivalent to the import quotas currently in place on other dairy products; and be it further

Resolved, That the Wayne County Commission urge the United States Customs Service to work for greater enforcement of food safety standards by reconsidering the classification of dairy products, especially those containing milk protein concentrates; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Customs Service, the United States Food and Drug Administration and the members of the Michigan Congressional Delegation.

POM–249. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Federal Medicare prescription drug benefit plan; to the Committee on Finance.

HOUSE RESOLUTION NO. 317

Whereas, the Commonwealth of Pennsylvania has been providing pharmaceutical assistance coverage for low-income senior citizens for almost 20 years; and

Whereas, State Lottery Fund revenues and tobacco funds support the Pharmaceutical Assistance Contract for the Elderly (PACE) and the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier (PACENET) programs; and

Whereas, these programs have saved and will continue to save millions of dollars in costs as a result of hospitalization and nursing care facility institutionalization for many individuals being prevented or delayed because enrollees have been kept healthy with their needed prescription medications; and

Whereas, the Federal Government and pharmaceutical companies have recognized the potential value of providing pharmaceutical assistance coverage to low-income seniors; and

Whereas, Pennsylvania's PACE and PACENET programs should be recognized under any Federal Medicare prescription legislation considered by the Congress of the United States; and

Whereas, Any Federal Medicare prescription plan should permit Pennsylvania's PACE and PACENET programs to manage the prescription benefits for PACE and PACENET enrollees; and

Whereas, A Federal Medicare prescription plan that works in cooperation with Pennsylvania's PACE and PACENET programs would allow our State's senior citizens to continue using a prescription program they trust while providing the State programs with appropriate reimbursement; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge Congress to create a Federal Medicare prescription drug benefit plan which works seamlessly with Pennsylvania's PACE and PACENET programs; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM–250. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Veterans Health Care Funding Guarantee Act of 2003; to the Committee on Finance.

HOUSE RESOLUTION NO. 312

Whereas, funding for Department of Veterans Affairs (VA) health care under the Federal budget is discretionary and it is within the discretion of the Congress of the United States to determine how much money is allocated each year for veterans' medical care; and

Whereas, Section 1710(a) of Title 38 of the United States Code provides that the Secretary of Veterans Affairs "shall" furnish hospital care and medical services, but only to the extent Congress has provided money to cover the costs of the care; and

Whereas, the Disabled American Veterans (DAV) firmly believes that service-connected disabled veterans have earned the right to VA medical care through their extraordinary sacrifices and services to this nation; and

Whereas, the American Legion, AMVETS, Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans and other service organizations have fought for sufficient funding for VA health care and a budget that reflects the rising cost of health care and the increasing need for medical services; and

Whereas, the VA is unable to provide timely access to quality health care to many of our nation's most severely disabled service-connected veterans; and

Whereas, making veterans health care funding mandatory would ensure that the Federal Government meets its obligation to provide health care to service-connected disabled veterans and that all veterans eligible for the VA health care system have access to timely, quality health care; and

Whereas, making veterans health care funding mandatory would eliminate the year-to-year uncertainty about funding levels which has prevented the VA from being able to adequately plan for and meet the growing needs of veterans seeking treatment; and

Whereas, including all veterans for care in the mandatory health care funding proposal protects the overall viability of the system and the specialized programs to the VA has developed to improve the health and well-being of our nation's service-connected disabled veterans: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge Congress to take all the necessary steps to enact into law the Veterans Health Care Funding Guarantee Act of 2003, and make veterans health care mandatory to ensure that veterans have access to timely, quality health care; and be it further

Resolved, that copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–251. A joint resolution adopted by the Legislature of the State of Maine relative to the Federal Clean Air Act; to the Committee on Environment and Public Works.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and Congress, as follows:

Whereas, Section 111 of the Federal Clean Air Act requires the adoption of Federal standards, known as new source review, reflecting the best available control technology for facilities that cause or contribute significantly to air pollution that may endanger public health and welfare; and

Whereas, the United States Environmental Protection Agency adopted such standards of performance for the construction or modification of power plants; and

Whereas, litigation against power plant owners for violations of new source review is being actively pursued; and

Whereas, the current Federal administration is reportedly considering modifications of the new source review program; and

Whereas, acid rain, which is damaging sensitive ecosystems, has been attributed to emissions from coal-burning plants in the Midwest and the Mid-Atlantic states and, to a lesser extend, in New England; and

Whereas, scientific research has established a well-defined link between power plant air emissions and human health effects, including exacerbation of symptoms for those with asthma, increased risk of heart attacks for those with heart disease and increased risk of lung cancer and premature death: Now, therefore, be it

Resolved, That We, your Memorialists, urge President George W. Bush and the United States Environmental Protection Agency Administrator Christie Whitman to maintain the existing regulations on new source review; and be it further

Resolved, That We, your Memorialists, urge Congress to take appropriate action against any decision made by the United States Environmental Protection Agency to modify the regulations implementing Section 111 of the Federal Clean Air Act if the result would be to jeopardize Maine's ability to safeguard public health and protect environmental quality; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Administrator Christie Whitman and each member of the Maine Congressional Delegation.

POM–252. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to biological invasions by nonnative species; to the Committee on Environment and Public Works.

SENATE RESOLUTION

Whereas, biological invasions by nonnative species are a national problem, pose significant threats to Pennsylvania's ecosystems and economy, severely impact vital Commonwealth interest, including agriculture, forestry, recreation and tourism, and may be detrimental to public health and safety; and

Whereas, discharge of ballast water from ships is a primary vector for introduction of nonnative species into Commonwealth habitats; and

Whereas, Pennsylvania's watershed basins for the Great Lakes, the Delaware, Susquehanna, Ohio and Potomac rivers and other pathways of commerce and recreation have a major role in introducing nonnative species; and

Whereas, Pennsylvania's natural resources provide exceptional quality of life and economic prosperity to the citizens of this Commonwealth; and

Whereas, Great Lakes and Chesapeake Bay intergovernmental task forces have recommended actions to prevent and control biological invasions; and

Whereas, Section 27 of Article I of the Constitution of Pennsylvania establishes the Commonwealth as trustee of Pennsylvania's public natural resources: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United states to enact legislation that would coordinate Federal and regional actions to prevent and control biological pollution, particularly through management of ballast water discharges, elimination of unintentional introductions of nonnative invasive species and reduction of the dispersal of nonnative species within Pennsylvania's ecosystems through the development of timely, effective, scientifically based, environmentally sound and economically viable management programs; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–253. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to increased security measures for the United States Postal Service; to the Committee on Governmental Affairs.

House Resolution No. 318

Whereas, identification fraud is becoming one of the fastest-growing crimes in the United States; and

Whereas, identification fraud will cost financial companies $4.2 billion this year and $8 billion by 2006 according to the market research firm Financial Insights; and

Whereas, more than 750,000 Americans were affected by identification fraud in 2001; and

Whereas, identification fraud increased by 23% from 2000 to 2001; and

Whereas, identification fraud through the use of change of address forms is a common trend in crimes of identification fraud; and

Whereas, identification fraud security measures taken by the United States Postal Service would significantly decrease the probability of ordinary citizens becoming victims of identification fraud; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize Congress to enact legislation requiring the United States Postal Service to adopt increased security to ensure that change of address forms are not used in the commission of identification fraud; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM—254. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Carl L. Perkins Vocational and Technical Education Act; to the Committee on Health, Education, Labor, and Pensions.

Whereas, the Carl D. Perkins Vocational and Technical Education Act is scheduled for reauthorization this year; and

Whereas, in fiscal year 2002, the Commonwealth of Pennsylvania received nearly $52 million for its allocation under the Perkins Act; and

Whereas, Perkins Act moneys were used to provide Pennsylvania career and technical education students, including those with special needs, with high-quality career and technical education programs at the secondary, adult and postsecondary levels; and

Whereas, under the current Perkins Act, Pennsylvania students have demonstrated increased levels of technical skills attainment and increased advanced academic course completion; and

Whereas, Pennsylvania employers depend on career and technical education graduates to meet their need for a skilled work force; and

Whereas, The funding distribution formula in the current Perkins Act provides equitable distribution of funds to rural, suburban and urban schools; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge Congress to reauthorize the Carl D. Perkins Vocational and Technical Education Act, maintaining its current focus on preparing career and technical education students for the work force and continued education and maintaining its method of funds allocation; and be it further

Resolved, That copies of this resolution be transmitted to the Pennsylvania Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies (Rept. No. 108-119).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:

S. 1244. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005 (Rept. No. 108-120).

By Mr. COCHRAN, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1904. A bill to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes (Rept. No. 108-121).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1053. A bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment (Rept. No. 108-122).

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes (Rept. No. 108-123).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 30. A resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

S. Res. 204. A resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and with a preamble:

S. Con. Res. 25. A concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GRASSLEY for the Committee on Finance.

*Josette Sheeran Shiner, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

*James J. Jochum, of Virginia, to be an Assistant Secretary of Commerce.

*Robert Stanley Nichols, of Washington, to be an Assistant Secretary of the Treasury.

By Mr. HATCH for the Committee on the Judiciary.

Sandra J. Feuerstein, of New York, to be United States District Judge for the Eastern District of New York.

Richard J. Holwell, of New York, to be United States District Judge for the Southern District of New York.

Steven M. Colloton, of Iowa, to be United States Circuit Judge for the Eighth Circuit.

Stephen C. Robinson, of New York, to be United States District Judge for the Southern District of New York.

P. Kevin Castel, of New York, to be United States District Judge for the Southern District of New York.

R. David Proctor, of Alabama, to be United States District Judge for the Northern District of Alabama.

Rene Acosta, of Virginia, to be an Assistant Attorney General.

Daniel J. Bryant, of Virginia, to be an Assistant Attorney General.

Paul Michael Warner, of Utah, to be United States Attorney for the District of Utah for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED

On request by Mr. SUNUNU and by unanimous consent, it was

Ordered, That the following nominations be discharged from the Committee on Foreign Relations:

DEPARTMENT OF STATE

Donald K. Steinberg, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Donald Kenneth Steinberg.

Post: Nigeria.

Contributions:

1. Self, Donald Kenneth Steinberg, none.
2. Spouse, Raquel Willerman, none.
3. Children/spouses, none.

Parents, Beatrice Blass Steinberg, none. Warren Linnington Steinberg, as below.

Donee, date, amount:

DSCC, 1/24/99, $20; Kennedy for Senate, 1/24/99, $15; California Democratic Committee, 1/24/99, $20; Hillary Clinton for Senate, 2/27/99, $20; California Democratic Committee, 6/3//99, $10; DCCC, 6/27/99, $15; DSCC, 7/1/99, $15; DNC, 7/17/99, $15; DCCC, 1/19/99, $20; Natl Committee for an Effective Congress, 7,27/99, $20; DNC, 8/1/99, $10; Democrats 2000, 8/1//99, $10; Feinstein for Senate, 9/19/99, $15; DNC, 12/12/99, $20; DCCC, 12/31/99, $15; DSCC, 12/31/99, $15; Kennedy for Senate, 12/31/99, $15; Carnahan for Senate, 12/31/99, $15; Kennedy for Senate, 2/14/00, $10; McCarthy for Congress, 2/26/00, $10; Schiff for Congress, 4/17/00, $15; Natl Committee for an Effective Congress, 5/15/00, $25; DSCC, 5/18/00, $20; Democrats 2000, 5/19/00, $15; Feinstein for Senate, 5/24/00, $10; Democrats 2000, 5/29/00, $10; DCCC, 6/10/00, $20; Democrats 2000, 6/16/00, $15; DCCC, 8/21/00, $10; Schiff for Congress, 8/21/00, $15; DNC, 8/21/00, $10; Feinstein for Senate, 8/24/00, $10; DNC, 8/27/00, $20; DSCC, 8/29/00, $20; Natl Committee for an Effective Congress, 8/29/00, $20; DNC, 9/8/00, $15; DNC, 9/16/00, $10; Gephardt for Congress, 9/16/00, $15; Schiff for Congress, 10/6/00, $10; DNC, 10/6/00, $10; DCCC, 10/6/00, $10; Carnahan for Senate, 10/6/00, $10; Kerry for Senate, 10/7/00, $10; Schiff for Congress, 10/21/00, $10; Democrats 2000, 10/21/00, $15; Carnahan for Senate, 12/31/00, $15; California Democratic Victory Fund, 12/31/00, $15; Natl Committee for an Effective Congress, 2/20/01, $15; Democratic Majority, 2/20/01, $15; DNC, 2/27/01, $15; DCCC, 2/28/01, $15; Democrat 2000, 2/28/01, $15; Wellstone for Senate, 5/14/01, $10; Carnahan for Senate, 5/27/01, $10; 21st Century Democrats, 6/10/01, $15; DSCC, 7/7/01, $20; Kerry for Senate, 7/7/01, $15; DNC, 8/16/01, $15; Natl Committee for an Effective Congress, 9/9/01, $15; Wellstone for Senate, 9/9/01, $15; DSCC, 9/9/01, $15; Kerry for Senate, 9/9/01, $15; DSCC, 10/26/01, $15; DNC, 10/26/01, $15; Democratic Victory Fund, 10/26/01, $15; Feingold for Senate, 11/28/01, $10; Gephardt for Congress, 11/28/01, $10; Wellstone for Senate, 12/12/01, $15; Kerry for Senate, 12/13/01, $15; DSCC, 1/15/02, $15; DNC, 3/10/02, $20; Kerry for Senate, 3/18/02, $10; Barbara Boxer, 4/18/02, $15; Gephardt for Congress, 9/1/02, $15; DNC, 9/8/02, $20; DSCC, 9/8/02, $20; Feingold for Senate, 9/8/02, $15; 21st Century Democrats, 9/8/02, $15; DCCC, 9/8/02, $20; Natl Committee for an Effective Congress, 10/8/02, $15.

5. Grandparents, all deceased.

6. Brothers and spouses, James Robert Steinberg, none; Leigh William Steinberg, as below.

Donee, date, amount:

Democratic Foundation of Orange County, 2/5/99, $1,000; Bill Bradley for President Inc., 9/30/99, $1,000; California Victory 2000, 12/14/99, $10,000; includes DSCC, 12/14/99, $8.000; Feinstein 2000, 12/14/99, $1,000; Feinstein 2000, 12/14/99, $1,000; Committee to Re-Elect Loretta Sanchez, 2/16/00, $500; Erin Gruwell for Congress, 3/1/00, $1,000; Schiff for Congress, 3/2/00 $1,000; Committee to Re-Elect Loretta Sanchez, 5/22/00, $1,000; Schiff for Congress, 5/31/00, $1,000; DNC—Non-Federal Individual, 7/11/00, $10,000; DNC—Non-Federal Individual, 7/11/00, $15,000; DNC—Non-Federal Individual, 8/17,00, $22,500; DNC—Services Corporation, 8/17/00, $10,000; DNC—Services Corporation, 8/25/00, $1,000; California Victory 2000, 9/25/00, $5,000; Democratic Foundation of Orange County, 5/7/01, $1,000; Committee to Re-Elect Loretta Sanchez, 6/18/01, $1,000; Committee to Re-Elect Loretta Sanchez, 12/4/01, $1,000; Friends of Barbara Boxer, 7/2/02, $2,000; Senate Victory committee, 9/17/02, $10,000; Includes DSCC, 9/17/02, $9,000; Citizens for Harkin, 9/17/02, $1,000.

6. Brothers and spouses, Lucy Steinberg, sister-in-law.

Donee, date, amount:

DNC—Services Corporation, 8/17/00, $10,000.

6. Brothers and spouses (cont.), Lucy Steinberg, sister-in-law, as below.

Donee, date, amount:

DNC—Non Federal Individual, 8/17/00, $22,500; DNC Services Corporation, 8/17/00, $10,000; California Victory 2000, 12/5/00, $5,000; DSCC, 12/5/00, $5,000; Committee to Re-Elect Loretta Sanchez, 8/02/01, $1,000.

7. Sisters and spouses, none.

Constance Albanese Morella, of Maryland, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in the report is complete and accurate.

Nominee: Constance A. Morella.

Post: U.S. Ambassador and Permanent Representative to the organization for Economic Cooperation and Development (OECD).

Contributions, amount, date, donee:

1. Self, Constance A. Morella, None.

2. Spouse, Anthony C. Morella $500, 8/23/02, Friends of Connie Morella; $500, 4/22/03, Gilchrist for Congress.

3. Children and Spouses: Paul and Mary Morella, none; Mark and Teresa Morella, none; Laura Morella, none; Jay Olson (spouse), $60, 10/10/02, friends of Connie Morella; Christine and David Titcomb, none; Catherine and Jeff Sanborn, none; Louise and Peter Lundin, none; Rachel and Gregg Swanson, none; Ursula and Ryen Munro, none; Paul and Hilary Sasso, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers: Austin Albanese, $50, 10/12/02; $200, 6/19/02; $150, 6/03/02; $250, 4/15/02; $400, 4/17/01; $100, 10/17/00; $100, 6/14/00; $50, 5/18/00; $300, 11/10/99; $200, 8/25/98; $50, 5/22/98; Friends of Connie Morella.

John Albanese, $200, 10/23/02; $250, 5/23/02; $250, 4/26/01; $100, 10/23/00; $100, 6/01/00; $100, 11/05/99; Friends of Connie Morella.

George H. Walker, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: George Herbert Walker, III.

Post: Ambassador to Hungary.

Contributions—amount, date, donee:

1. Self, $1,000, 5–Mar–99, Governor George W. Bush, Presidential Exploratory Committee, Inc; ($1,000), 26–Apr–99, (Contribution Refund-Bush Presidential Exploratory Committee; $1,000, 25–Mar–99, Hulshof for Congress; $250.00, 29–Apr–99, Governor George W. Bush; Presidential Exploratory Committee, Inc.; $500.00, 3–May–99, Ashcroft 2000; $500.00, 28–May–99, Ashcroft 2000; $1,000.00, 28–Jun–99, McNary for Congress; $250.00, 3–Dec–99, Friends of Roy Blunt; $250.00, 6–Mar–00, Friends of Roy Blunt; $250.00, 24–Mar–00, Federer for Congress; $250.00, 27–Jun–00, Hulshoff for Congress; $250.00, 9–Aug–00, Lazio 2000; $1,000.00, 18–Sep–00, Victory 2000 Republican Party; $250.00, 21–Sep–00, Todd Aiken for Congress; $1,000.00, 5–Dec–00, Bush/Cheney Presidential Transition Foundation, Inc.; $475.00, 8–Jan–01, Presidential Inaugural Committee; $1,000.00, 4–May–01, Missouri Republican State Committee—Federal; $200.00, 30–Jul–01 Missouri Republican State Committee—Federal; $100.00, 11–Jun–01, Todd Akin for Congress; $500.00, 28–Sep–01, Friends of Roy Blunt, $1,000.00, 15–Nov–01, Talent for Senate; $100.00, 4–Jan–02, Todd Aiken for Congress; $250.00, 24–Jul–02, Lyndsey Graham for U.S. Senate; $250.00, 11–Oct–02, Talent Victory Committee; $1,000.00, 5–Apr–02, Hulshoff for Congress (Commerce Ck Bk); $250.00, 5–Oct–02, Roy Blunt for Congress (Commerce Ck Bk).

2. Spouse, Carol B. Walker, none.

3. Children and spouses:

Mary Elizabeth Walker Bunzel, $1,000, 24-Mar-99, Governor W. Bush; $1,000, 4-Mar-00, Friends of Giuliani.

Jeff Bunzel (Spouse), $1,000, 24-Mar-99, Governor George W. Bush; $1,000, 29-Oct-99, George W. Bush Presidential; $7,500, 20-Dec-99, Victory 99; $1,000, 15-Nov-99, Friends of Giuliani; $2,000, 3-Dec-01, Republican Party; $1,500, 5-Jan-01, Presidential Inaugural; $1,000, 22-Jul-02, CSFB Government Action Fund.

Wendy Walker Cleary (daughter), Robert Cleary (spouse), none.

Isabelle Walker Klein (daughter) and Dennis (spouse), $50.00, 16-Oct-02, Wellstone for Senate; $50.00, 2-Nov-02, Chellie Pingree for Senate; $100.00, Nov-02, Walter Mondale for Senate.

George Herbert Walker IV (son), $5,000, 15-Nov-00, Bush-Cheney Recount Fund; $1,000, 18-Oct-02, Chambliss for US Senate—Saxby Chambliss; $1,000, 18-Oct-02, Team Sununu—John Sununu; $2,000, 13-Dec-02, Senator Arlen Specter.

Carter Walker Saeteran (daughter), none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses: Ray Carter Walker (brother) and Jean (spouse), $1,000, 11-Apr-99, Bill Bradley for President; $100,00, 4-Jul-02, Bernie Sanders for Congress.

7. Sisters and Spouses: Elizabeth Walker Holden (widowed sister), none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING (for himself, Mr. Breaux, and Mr. Bond):

S. 1506. A bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. Bingaman, Mr. Kennedy, Ms. Cantwell, Mr. Durbin, Mr. Wyden, Mr. Corzine, Mr. Akaka, and Mr. Jeffords):

S. 1507. A bill to protect privacy by limiting the access of the government to library, bookseller, and other personal records for foreign intelligence and counterintelligence purposes; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. Sununu, and Mrs. Dole):

S. 1508. A bill to address regulation of secondary mortgage market enterprises, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COLEMAN:

S. 1509. A bill to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEAHY (for himself, Mr. Jeffords, Mr. Feingold, Mr. Kennedy, Mr. Kerry, and Mr. Dayton):

S. 1510. A bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. McCain):

S. 1511. A bill to designate the Department of Veterans Affairs Medical Center in Prescott, Arizona, as the "Bob Stump Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. DODD (for himself and Mr. Lieberman):

S. 1512. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders; to the Committee on Finance.

By Mr. SCHUMER:

S. 1513. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form or become members of labor organizations, and for other purposes; to the Committee on Health, Education, labor, and Pensions.

By Mrs. HUTCHISON:

S. 1514. A bill to amend the Internal Revenue Code of 1985 to reform certain excise taxes applicable to private foundations, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 1515. A bill to establish and strengthen postsecondary programs and courses in the subjects of traditional American history, free institutions, and Western civilization, available to students preparing to teach these subjects, and to other students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself and Mr. Campbell):

S. 1516. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. Graham of Florida):

S. 1517. A bill to revoke and Executive Order relating to procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; to the Committee on Governmental Affairs.

By Mr. ENZI:

S. 1518. A bill to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

By Mr. BINGAMAN (for himself, Ms. Landrieu, Mrs. Lincoln, Mr. Kerry, Mrs. Clinton, Mrs. Murray, Mr. Lautenberg, and Ms. Mikulski):

S. 1519. A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for qualifying individuals through 2004; to the Committee on Finance.

By Mr. GRAHAM of Florida (for himself, Mrs. Feinstein, and Mr. Rockefeller):

S. 1520. A bill to amend the National Security Act of 1947 to reorganize and improve the leadership of the intelligence community of the United States, to provide for the enhancement of the counterterrorism activities of the United States Government, and for other purposes; to the Select Committee on Intelligence.

By Mr. REID (for himself and Mr. Ensign):

S. 1521. A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Ms. Collins):

S. 1522. A bill to provide new human capital flexibility with respect to the GAO, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SMITH (for himself, Mr. Jeffords, and Mr. Conrad):

S. 1523. A bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental impairment or an adult dependent for care with a physical or mental impairment; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. Allen, Mr. Bunning, Mrs. Dole, and Mr. Kyl):

S. 1524. A bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes, to the Committee on Finance.

By Mr. KENNEDY:

S. 1525. A bill to require the Federal Communications Commission to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL (for himself and Mr. Inouye):

S. 1526. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of Indian tribal governments as State governments for purposes of issuing tax-exempt governmental bonds, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. Dodd, Mr. Chafee, Ms. Collins, Mr. Kerry, Mr. Schumer, Mr. Reed, and Mr. Lieberman):

S. 1527. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL (for himself and Mr. Inouye):

S. 1528. A bill to establish a procedure to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities, to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. Inouye):

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; to the Committee on Indian Affairs.

By Mr. DASCHLE:

S. 1530. A bill to provide compensation of the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, to the Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. Leahy, Mr. Warner, Mr. Bingaman, Mr. Allen, Mr. Nelson of Nebraska, Mr. Cochran, Mr. Lautenberg, Mr. Bond, Mr. Harkin, Mr. Domenici, Mr. Jeffords, Mr. Chambliss, Mr. Rockefeller, Mrs. Dole, and Mr. Breaux):

S. 1531. A bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW (for herself, Mr. Enzi, Mr. Johnson, Mr. Hagel, Mr. Schumer, Mr. Bayh, Mr. Carper, and Mr. Corzine):

S. 1532. A bill to establish the Financial Literacy Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL (for herself and Mr. Enzi):

S. 1533. A bill to prevent the crime of identify theft, mitigate the harm of individuals throughout the Nation who have been victimized by identify theft, and for other purposes; to the Committee on the Judicary.

By Mr. REID:

S. 1534. A bill to limit the closing and consolidation of certain post offices in rural communities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEVIN (for himself and Ms. Collins):

S. 1535. A bill to amend title 23, United States Code, to establish programs to facilitate international and interstate trade; to the Committee on Environment and Public Works.

By Mr. EDWARDS (for himself and Mr. Jeffords):

S. 1536. A bill to provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN:

S. 1537. A bill to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself and Mr. Hatch):

S. 1538. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. Voinovich, Mr. Sarbanes, Ms. Snowe, Mr. Jeffords, Mr. Levin, and Mr. Harkin):

S. 1539. A bill to amend the Federal Water Pollution Control Act to establish a National Clean and Sage Water Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act and the Safe Drinking Water Act, and for other purposes; in the Committee on Environment and Public Works.

By Mr. DASCHLE:

S. 1540. A bill to provide for the payment of amounts owed to Indian tribes and individual Indian money account holders; to the Committee on Indian Affairs.

By Mr. EDWARDS:

S. 1541. A bill to aid dislocated workers and rebuild communities devastated by international trade, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON:

S. 1542. A bill to amend the Internal Revenue Code of 1986 to enhance the economic future of Native Americans; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. Ensign, and Mr. Bingaman):

S. 1543. A bill to amend and improve provisions relating to the workforce investment and adult education systems of the Nation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 1544. A bill to provide for data-mining reports to Congress, to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Durbin, Mr. Lugar, Mr. Leahy, Mr. Craig, Mr. Feingold, Mr. Crapo, and Mr. Grassley):

S. 1545. A bill to amend the illegal immigration Reform and Immigrant Responsiblity Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents; to the Committee on the Judiciary.

By Mr. McCONNELL (for himself and Mr. Lieberman):

S. 1546. A bill to provide small businesses certain protection from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 1547. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; considered and passed.

By Mr. GRASSLEY (for himself, Mr. Baucus, Mr. Frist, Mr. Daschle, Mr. Domenici, Mr. Bingaman, Mr. Inhofe, Mr. Jeffords, Mr. Thomas, Mr. Voinovich, Mr. Conrad, Mrs. Lincoln, Mr. Coleman, Mr. Dorgan, Mr. Bond, Mr. Harkin, Mr. Dayton, Mr. Durbin, Mr. Talent, Mr. Nelson of Nebraska, and Mr. Brownback):

S. 1548. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes; to the Committee on Finance.

By Mrs. DOLE (for herself and Mr. Roberts):

S. 1549. A bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GREGG:

S. 1550. A bill to change the 30-year treasury bond rate to a composite corporate rate, and to establish a commission on defined benefit plans; to the Committee on Finance.

By Mr. McCAIN:

S. 1551. A bill to provide educational opportunities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself and Mr. Wyden):

S. 1552. A bill to amend title 18, United States Code, and the Foreign Intelligence Surveillance Act of 1978 to strengthen protections of civil liberties in the exercise of the foreign intelligence surveillance authorities under Federal law, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 1553. A bill to amend title 18, United States Code, to combat, deter, and punish individuals and enterprises engaged in organized retail theft; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for himself and Mr. Durbin):

S. Res. 207. A resolution amending the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a presidential nominee's religious affiliation; submitted and read.

By Mr. AKAKA:

S. Res. 208. A resolution expressing the sense of the Senate in support of improving American defenses against the spread of infectious diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS (for himself, Mr. Leahy, Mr. Warner, Ms. Stabenow, and Mr. Dodd):

S. Res. 209. A resolution recognizing and honoring Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American scuplture; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Kennedy, Mr. Dodd, and Mr. Alexander):

S. Res. 210. A resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month"; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. Kyl, Mrs. Feinstein, Mr. Craig, Mr. Graham of South Carolina, Mr. Chambliss, Mr. Feingold, Mr. Byrd, Mr. Dorgan, Mr. Kohl, Mr. Dayton, and Ms. Mikulski):

S. Res. 211. A resolution expressing the sense of the Senate regarding the temporary entry provisions in the Chile and Singapore Free Trade Agreements; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. Brownback, and Mr. Biden):

S. Res. 212. A resolution welcoming His Holiness the Fourteenth Dalai Lama and recognizing his commitment to non-violence, human rights, freedom, and democracy; to the Committee on Foreign Relations.

By Mrs. LINCOLN (for herself, Mr. Kennedy, and Mr. Edwards):

S. Res. 213. A resolution designating August 2003, as "National Missing Adult Awareness Month," considered and agreed to.

By Mrs. HUTCHISON (for herself, Mr. Cornyn, Ms. Snowe, Mr. Brownback, Mr. Chambliss, Mr. Bond, Ms. Collins, Mr. Ensign, Mr. Daschle, Mr. Nickles, Mr. Lautenberg, Mr. Biden, Mr. Inouye, Mrs. Clinton, Mr. Allard, Mrs. Murray, Mr. Dorgan, Mr. Wyden, Mr. Pryor, and Mr. Conrad):

S. Res. 214. A resolution congratulating Lance Armstrong for winning the 2003 Tour de France; considered and agreed to.

By Mr. FRIST (for himself and Mr. Daschle):

S. Res. 215. A resolution to authorize representation by the Senate Legal Counsel in the case of Wagner v. United States Senate Committee on the Judiciary, et al. considered and agreed to.

ADDITIONAL COSPONSORS

S. 150

At the request of Mr. Brownback, his name was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 150

At the request of Mr. Bayh, his name was added as a cosponsor of S. 150, supra.

S. 150

At the request of Mr. SMITH, his name was added as a cosponsor of S. 150, supra.

S. 198

At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 229

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S . 229, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 465

At the request of Mrs. MURRAY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S . 465, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 525

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 595

At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 720

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 720, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 736

At the request of Mr. ENSIGN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 846

At the request of Mr. SMITH, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 847

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 859

At the request of Mr. CORZINE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1053

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 1112

At the request of Mr. KERRY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1112, a bill to amend title 38, United States Code, to permit Department of Veterans Affairs pharmacies to dispense medications on prescriptions written by private practitioners to veterans who are currently awaiting their first appointment with the Department for medical care, and for other purposes.

S. 1120

At the request of Mr. BAUCUS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1139

At the request of Mr. DEWINE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1139, a bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes.

S. 1142

At the request of Mr. BINGAMAN, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Illinois (Mr. DURBIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1142, a bill to provide disadvantaged children with access to dental services.

S. 1177

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Massachusetts (Mr . KENNEDY), the Senator from Ohio (Mr. DEWINE) and the Senator from Nevada (Mr. REID) were added as cosponsors of S . 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

S. 1222

At the request of Mr. NELSON of Nebraska, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1265

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1265, a bill to limit the applicability of the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology for the award year 2004-2005, published in the Federal Register on May 30, 2003.

S. 1283

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1303

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

S. 1323

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1323, a bill to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months.

S. 1344

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1344, a bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1390

At the request of Mr. ENSIGN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1390, a bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.

S. 1397

At the request of Mr. GREGG, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1397, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1434

At the request of Mrs. LINCOLN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New York (Mrs. CLINTON), the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mr. SCHUMER), the Senator from Arkansas (Mr. PRYOR), the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Ms. CANTWELL), the Senator from New Jersey (Mr. CORZINE), the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. GRAHAM), the Senator from South Dakota (Mr. DASCHLE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Florida (Mr. NELSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. CONRAD), the Senator from Louisiana (Mr. BREAUX), the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. DAYTON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Nevada (Mr. REID), the Senator from Nebraska (Mr. NELSON), the Senator from North Dakota (Mr. DORGAN) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1434, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1459

At the request of Mr. MCCAIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1459, a bill to provide for reform of management of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and for other purposes.

S. 1470

At the request of Mr. SARBANES, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1470, a bill to establish the Financial Literacy and Education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers.

S. 1481

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1481, a bill to prohibit the application of the trade authorities procedures with respect to implementing bills that contain provisions regarding the entry of aliens.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1493

At the request of Mr. CHAMBLISS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1493, a bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

S. RES. 30

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 30, a resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

S. RES. 200

At the request of Mr. JOHNSON, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Oregon (Mr. WYDEN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nebraska (Mr. NELSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 200, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

S. RES. 204

At the request of Mr. BIDEN, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Texas (Mr. CORNYN), the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. CORZINE) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 204, a resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 1405

At the request of Mr. MILLER, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of amendment No. 1405 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING (for himself, Mr. BREAUX, and Mr. BOND):

S. 1506. A bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce legislation that will resolve a longstanding inequity in the tax treatment of U.S. distilled spirits that penalizes the wholesalers, and in some cases suppliers, of these products.

Under current law, wholesalers of distilled spirits are not required to pay the Federal excise tax on imported spirits until after the product is removed from a bonded warehouse for sale to a retailer.

In contrast, the tax on domestically produced spirits is included as part of the purchase price and passed on from the supplier to wholesaler. After factoring in the Federal excise tax (FET)—which is $13.50 per proof gallon—domestically produced spirits can cost wholesalers 40 percent more to purchase than comparable imported spirits.

In some instances, wholesalers and even suppliers can carry this tax-paid inventory for an average of 60 days before selling it to a retailer. Interest charges—more commonly referred to as float—resulting from financing the Federal excise tax can be quite considerable.

For example, at a 5 percent interest rate on the sale of 100,000 cases of domestic spirits, a wholesaler will incur finance charges of $21,106.85 for loans related to underwriting the cost of paying the Federal excise tax. It is important to note that it is not uncommon for wholesalers to sell a million or more cases per year of domestic spirits.

The costs associated with financing Federal excise taxes amount to a tax on a tax, making the effective rate of the Federal excise tax for domestic spirits much higher than $13.50 per proof gallon.

The Distilled Spirits Tax Equity Act would give wholesalers and suppliers in bailment states a tax credit towards the cost of financing the FET for domestically produced products.

I believe this legislation is fundamentally fair and will help protect and create jobs for the wholesale tier in Kentucky and other States. However, I wish to emphasize that I will reject any connection between a repeal of Section 5010 within the Internal Revenue Code or an increase in federal taxes for distilled spirits. Tax equity for one tier should not be achieved by placing additional burden on other tiers within the same industry.

My colleagues, Senators BOND and BREAUX join me in introducing this legislation, which the Joint Tax Committee estimates would reduce Federal revenues by approximately $249 million over ten years. Congressmen COLLINS and NEAL have introduced similar legislation that has garnered significant support in the House of Representatives. I urge my colleagues to support this legislation when it comes before the Senate.

By Mr. FEINGOLD (for himself, Mr. BINGAMAN, Mr. KENNEDY, Ms. CANTWELL, Mr. DURBIN, Mr. WYDEN, Mr. CORZINE, Mr. AKAKA, and Mr. JEFFORDS):

S. 1507. A bill to protect privacy by limiting the access of the government to library, bookseller, and other personal records for foreign intelligence and counterintelligence purposes; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I introduce the Library, Bookseller, and Personal Records Privacy Act.

This bill would amend the Patriot Act to protect the privacy of law-abiding Americans. It would set reasonable limits on the Federal Government's access to library, bookseller, medical, and other sensitive, personal information under the Foreign Intelligence Surveillance Act and related foreign intelligence authority.

I am pleased that several of my distinguished colleagues—Senators BINGAMAN, KENNEDY, CANTWELL, DURBIN, WYDEN, CORZINE, AKAKA, and JEFFORDS—have joined me as original cosponsors of this important legislation.

I and millions of other patriotic Americans love our country and support our military men and women in their difficult missions abroad, but worry about the fate of our Constitution here at home.

Much of our Nation's strength comes from our constitutional liberties and respect for the rule of law. That is what has kept us free for our two and a quarter century history. Our constitutional freedoms, our American values, are what make our country worth fighting for in the fight against terrorism.

Here at home, there is no question that the FBI needs ample resources and legal authority to prevent future acts of terrorism. But the Patriot Act went too far when it comes to the government's access to personal information about law-abiding Americans.

Even though in the end I opposed the Patriot Act, there were several provisions that I did support. For example, Congress was right to expand the category of business records that the FBI could obtain by subpoena pursuant to the Foreign Intelligence Surveillance Act. Prior to the Patriot Act, the FBI could seek a court order to obtain only travel records—such as airline, hotel, and car rental records—and records maintained by storage facilities. The Patriot Act allows any business records to be subpoenaed. I don't quibble with that change.

But what my colleagues and I do find problematic—and an increasing number of Americans who value their privacy and First Amendment rights agree with us—is that the current law allows the FBI broad, almost unfettered access to personal information about law-abiding Americans who have no connection to terrorism or spying.

Section 215 of the Patriot Act requires the FBI to show in an application to the court for a subpoena that the documents are "sought for" an international terrorism or foreign intelligence investigation. There is no requirement that the FBI make a showing of individualized suspicion that the documents relate to a suspected terrorism or spy.

In other words, under current law, the FBI could serve a subpoena on a library for all the borrowing records of its patrons or on a bookseller for the purchasing records of its customers simply by asserting that they want the records for a terrorism investigation.

During the last year, librarians and booksellers have become increasingly concerned by the potential for abuse of this law. I was pleased to stand with the American Booksellers Association and the Free Expression Network a little over a year ago when we first started to raise these concerns.

Librarians and booksellers are concerned that under the Patriot Act, the FBI could seize records from libraries and booksellers in order to monitor what books Americans have purchased or borrowed, or who has used a library's or bookstore's internet computer stations, even if there is no evidence that the person is a terrorist or spy, or has any connection to a terrorist or spy.

These concerns are so strong, that some librarians across the country have taken the unusual step of destroying records of patrons' book and computer use, as well as posting signs on computer stations warning patrons that whatever they read or access on the internet could be monitored by the Federal Government.

As a librarian in California said, "We felt strongly that this had to be done. . . . The government has never had this kind of power before. It feels like Big Brother."

And as the executive director of the American Library Association said, "This law is dangerous. . . . I read murder mysteries—does that make me a murderer? I read spy stories—does that mean I'm a spy? There's no clear link between a person's intellectual pursuits and their actions."

The American people do not know how many or what kind of requests federal agents have made for library records under the Patriot Act. The Justice Department refuses to release that information to the public.

But in a survey released by the University of Illinois at Urbana-Champaign, about 550 libraries around the Nation reported having received requests from Federal or local law enforcement during the past year. About half of the libraries said they complied with the law enforcement request, and another half indicated that they had not.

Americans don't know much about these incidents, because the law also contains a provision that prohibits anyone who receives a subpoena from disclosing that fact to anyone.

David Schwartz, president of Harry W. Schwartz Bookshops, the oldest and largest independent bookseller in Milwaukee, summed up well the American values at stake when he said: "The FBI already has significant subpoena powers to obtain records. There is no need for the government to invade a person's privacy in this way. This is a uniquely un-American tool, and it should be rejected. The books we read are a very private part of our lives. People could stop buying books, and they could be terrified into silence."

Afraid to read books, terrified into silence. Is that the America we want? Is that the America where we'd like to live? I don't think so. And I hope my colleagues will agree.

It is time to reconsider those provisions of the Patriot Act that are un-American and, frankly, un-patriotic.

Bu my concerns with the Patriot Act go beyond library and bookseller records. Under section 215 of the Patriot Act, the FBI could seek any records maintained by a business. These business records could contain sensitive, personal information—for example, medical records maintained by a doctor or hospital or credit records maintained by a credit agency. All the FBI would have to do is simply assert that the records are "sought for" its terrorism or foreign intelligence investigation.

Section 215 of the Patriot Act goes too far. Americans rightfully have a reasonable expectation of privacy in their library, bookstore, medical, financial, or other records containing personal information. Prudent safeguards are needed to protect these legitimate privacy interests.

The Library, Bookseller, and Personal Records Privacy Act is a reasonable solution. It would restore a pre-Patriot Act requirement that the FBI make a factual, individualized showing that the records sought pertain to a suspected terrorist or spy.

My bill will not prevent the FBI from doing its job. My bill recognizes that the post-September 11 world is a different world. There are circumstances when the FBI should legitimately have access to library, bookseller, or other personal information.

I would like to take a moment to explain how the safeguard in my bill would be applied. Suppose the FBI is conducting an investigation of an international terrorist organization. It has information that suspected members of the group live in a particular neighborhood. The FBI would like to serve a subpoena on the library in the suspects' neighborhood. Under current law, the FBI could decide to ask the library for all records concerning anyone who has ever borrowed a book or used a computer, and what books were borrowed, simply by asserting that the documents are sought for a terrorism investigation. But under my bill, the FBI could not do so. The FBI would have to set forth specific and articulable facts giving reason to believe that the person to whom the records pertain is a suspected terrorist. The FBI could subpoena only those library records—such as borrowing records or computer sign-in logs—that pertain to the suspected terrorists. The FBI could not obtain library records concerning individuals who are not suspected terrorists.

So, under my bill, the FBI can still obtain documents that it legitimately needs, but my bill would also protect the privacy of law-abiding Americans. I might add, that if, as the Justice Department says, the FBI is using its Patriot Act powers in a responsible manner, does not seek the records of law-abiding Americans, and only seeks the records of suspected terrorists or suspected spies, then there is no reason for the Department to object to my bill.

The second part of my bill would address privacy concerns with another Federal law enforcement power expanded by the Patriot Act—the FBI's national security letter authority, or what is sometimes referred to as "administrative subpoena" authority because the FBI does not need court approval to use this power.

My bill would amend section 505 of the Patriot Act. Part of this section relates to the production of records maintained by electronic communications providers. Libraries or bookstores with internet access for customers could be deemed "electronic communication providers" and therefore be subject to a request by the FBI under its administrative subpoena authority.

As I mentioned earlier, some librarians are so concerned about the potential for abuse by the FBI that they have taken matters into their own hands before the FBI knocks on their door. Some librarians have begun shredding on a daily basis sign-in logs and other documents relating to the public's use of library computer terminals to access the Internet.

Again, safeguards are needed to ensure that any individual who accesses the internet at a library or bookstore does not automatically give up all expectations of privacy. Like the section 215 I've discussed, my bill would require an individualized showing by the FBI of how the records of internet usage maintained by a library or bookseller pertain to a suspected terrorist or spy.

Yes, the American people want the FBI to be focused on preventing terrorism. And, yes, it may make sense to make some changes to the law to allow the FBI access to the information that it needs to prevent terrorism. But we do not need to change the values that constitute who we are as a nation in order to protect ourselves from terrorism. We can protect both our nation and our privacy and civil liberties.

An increasing number of Americans are beginning to understand that the Patriot Act went too far. Three States and over 130 cities and counties across the country have now passed resolutions expressing opposition to the Patriot Act. And it's not just the Berkeleys and Madisons of the Nation, but other States and communities with strong libertarian values, such as Alaska and cities in Montana, have passed such resolutions.

I have many concerns with the Patriot Act. I am not seeking to repeal it, in whole or in part. My colleagues and I are only seeking to modify two provisions that pose serious potential for abuse.

The privacy of law-abiding Americans is at stake. Congress should act to protect our privacy. And my bill is a reasonable approach to do just that.

I urge my colleagues to join me and support the Library, Bookseller, and Personal Records Privacy Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Library, Bookseller, and Personal Records Privacy Act".

SEC. 2. PRIVACY PROTECTIONS ON GOVERNMENT ACCESS TO LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Subsection (b) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) shall specify that there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.".

(b) ORDERS.—Subsection (c)(1) of that section is amended by striking "finds" and all that follows and inserting "finds that—

"(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

"(B) the application meets the other requirements of this section.".

(c) Oversight of Requests for Production of Records.—Section 502 of that Act (50 U.S.C. 1862) is amended—

(1) in subsection (a), by striking "the Permanent" and all that follows through "the Senate" and inserting "the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate"; and

(2) in subsection (b), by striking "On a semiannual basis," and all that follows through "a report setting forth" and inserting "The report of the Attorney General to the Committees on the Judiciary of the House of Representatives and the Senate under subsection (a) shall set forth".

SEC. 3. PRIVACY PROTECTIONS ON GOVERNMENT ACCESS TO INFORMATION ON COMPUTER USERS AT BOOKSELLERS AND LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

(a) In General.—Section 2709 of title 18, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) Records of Booksellers and Libraries.—(1) When a request under this section is made to a bookseller or library, the certification required by subsection (b) shall also specify that there are specific and articulable facts giving reason to believe that the person or entity to whom the records pertain is a foreign power or an agent of a foreign power.

"(2) In this subsection:

"(A) The term 'bookseller' means a person or entity engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication in print or digitally.

"(B) The term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2))) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.

"(C) The terms 'foreign power' and 'agent of a foreign power' have the meaning given such terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).".

(b) Sunset of Certain Modifications on Access.—Section 224(a) of the USA PATRIOT ACT of 2001 (Public Law 107–56; 115 Stat. 295) is amended by inserting "and section 505" after "by those sections)".

By Mr. HAGEL (for himself, Mr. Sununu, and Mrs. Dole):

S. 1508. A bill to address regulation of secondary mortgage market enterprises, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HAGEL. Mr. President, I rise today to introduce, along with my colleagues Senator Sununu and Senator Dole, the Federal Enterprise Regulatory Reform Act of 2003. This is needed regulatory reform at a critical time for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

There is no doubt that our housing government sponsored enterprises (GSEs) have been successful in carrying out their mission of creating a secondary market for home mortgages. The housing market has remained strong through tough economic times, and homeownership in this country is at an all-time high.

The housing GSEs, however, are uncommon institutions with a unique set of responsibilities and stakeholders. Fannie and Freddie are chartered by Congress, limited in scope, and are subject to Congressional mandates, yet they are publicly traded companies with all the earnings pressure that Wall Street demands. Additionally, Fannie and Freddie enjoy an implicit guarantee by the Federal Government that has aided them in developing substantial clout on Wall Street. With their influence in the markets, their ability to raise capital at near-Treasury Bill rates, and their use of the most sophisticated portfolio management tools, Fannie and Freddie today are no longer simply secondary market facilitators for mortgages.

Freddie Mac's recent disclosure of management failures and accounting deficiencies resulting in upwards of $4.5 billion in understated earnings precipitated the need for Congress to exercise its oversight of the GSEs. The Senate Banking Committee has held one hearing already and more are planned after our August recess.

If we are to continue to provide GSEs with the framework to operate under an implied government backing, I believe that they should be held to a higher standard than private organizations and subject to more scrutiny than the private sector. Furthermore, I believe it is possible to realign oversight and operating rules for Fannie and Freddie without jeopardizing the strong housing market that America enjoys today.

It is my view that the Office of Federal Housing Enterprise Oversight (OFHEO) has not been given the tools needed to effectively regulate Fannie Mae and Freddie Mac. Our legislation would create a new, stronger regulator in the Department of the Treasury. Treasury regulates banks and other financial institutions through the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS), and it has the experience and expertise needed to supervise Fannie Mae and Freddie Mac. Our bill also would provide the new regulator with enhanced regulatory flexibility and enforcement tools like those afforded to OCC and OTS. Furthermore, the bill would: give OFES oversight of Fannie Mae and Freddie Mac's "mission" as well as safety and soundness; give OFES authority to regulate the type and amount of non-mission related assets Fannie Mae and Freddie Mac can hold; give OFES enhanced enforcement powers much like those of other financial regulators; fund OFES through assessments instead of through Congressional appropriations; require several government studies, including one on the risk implications of GSEs purchasing their own mortgage backed securities, one on the feasibility of merging OFES with the Federal Housing Finance Board (FHFB), and one on the feasibility of consolidating OFES with the Office of Thrift Supervision (OTS).

This reform is important to restoring and maintaining the confidence that investors and the markets require. In light of the recent problems at Freddie Mac, it is even more important. I urge my colleagues to support this reform effort and invite them to cosponsor our bill.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Federal Enterprise Regulatory Reform Act of 2003".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF REGULATION OF FANNIE MAE AND FREDDIE MAC

Subtitle A—Improvement of Supervision

Sec. 101. Establishment of Office of Federal Enterprise Supervision in the Department of the Treasury.
Sec. 102. Duties and authorities of Director and HUD.
Sec. 103. Examiners and accountants.
Sec. 104. Regulations.
Sec. 105. Assessments.
Sec. 106. Independence of Director in congressional testimony and recommendations.
Sec. 107. Limitation on nonmission-related assets.
Sec. 108. Reports.
Sec. 109. Risk-based capital test for enterprises.
Sec. 110. Minimum and critical capital levels.
Sec. 111. Definitions.

Subtitle B—Prompt Corrective Action

Sec. 131. Capital classifications.
Sec. 132. Supervisory actions applicable to undercapitalized enterprises.
Sec. 133. Supervisory actions applicable to significantly undercapitalized enterprises.

Subtitle C—Enforcement Actions

Sec. 151. Cease-and-desist proceedings.
Sec. 152. Temporary cease-and-desist proceedings.
Sec. 153. Removal and prohibition authority.
Sec. 154. Enforcement and jurisdiction.
Sec. 155. Civil money penalties.
Sec. 156. Criminal penalty.

Subtitle D—Reports to Congress
Sec. 161. Studies and reports.
Subtitle E—General Provisions
Sec. 171. Conforming and technical amendments.
Sec. 172. Effective date.
TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY
Sec. 201. Abolishment of OFHEO.
Sec. 202. Continuation and coordination of certain regulations.
Sec. 203. Transfer and rights of employees of OFHEO.
Sec. 204. Transfer of property and facilities.

TITLE I—REFORM OF REGULATION OF FANNIE MAE AND FREDDIE MAC

Subtitle A—Improvement of Supervision

SEC. 101. ESTABLISHMENT OF OFFICE OF FEDERAL ENTERPRISE SUPERVISION IN THE DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—Part 1 of Subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended by striking sections 1311 and 1312 (12 U.S.C. 4511, 4512) and inserting the following:

"SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL ENTERPRISE SUPERVISION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the Office of Federal Enterprise Supervision, which shall be an office in the Department of the Treasury.

"(2) AUTHORITY.—The Office shall succeed to the authority of the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the general regulatory and any other authority of the Secretary of Housing and Urban Development with respect to the enterprises (except as specifically provided otherwise in this Act, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and any other provision of Federal law).

"(b) PROHIBITION OF MERGER OF OFFICE.—Notwithstanding any other provision of this law, the Secretary of the Treasury may not merge or consolidate the Office, or any of the functions or responsibilities of the Office, with any function or program administered by the Secretary.

"(c) SAVINGS PROVISION.—The authority of the Director to take actions under subtitles B and C does not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (a).

"SEC. 1312. DIRECTOR.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Office of Federal Enterprise Supervision, who shall be the head of the Office.

"(b) APPOINTMENT; TERM.—

"(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) TERM.—The Director shall be appointed for a term of 5 years.

"(3) VACANCY.—

"(A) IN GENERAL.—A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1).

"(B) TERM .—The Director appointed to fill a vacancy under subparagraph (A) shall be appointed only for the remainder of such term.

"(4) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which the individual was appointed until a successor Director has been appointed.

"(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development on the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, shall be the Director until the date on which that individual's term as Director of the Office of Federal Housing Enterprise Oversight would have expired.

"(c) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a direct or indirect financial interest in any enterprise, nor hold any office, position, or employment in any enterprise.".

(b) APPOINTMENT OF DIRECTOR.—Notwithstanding the effective date under section 172 or any other provision of law, the President may, at any time after the date of enactment of this Act, appoint an individual to serve as the Director in accordance with the provisions of the amendment made by subsection (a) of this section.

SEC. 102. DUTIES AND AUTHORITIES OF DIRECTOR AND HUD.

(a) IN GENERAL.—Section 1313 of the Housing and Community Development Act of 1992 (12 U.S.C. 4513) is amended to read as follows:

"SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

"(a) DUTIES.—

"(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be to ensure that the enterprises—

"(A) operate in a financially safe and sound manner;

"(B) carry out their missions in a financially safe and sound manner and only through activities that have been authorized under, and are consistent with the purposes of, the provisions of Federal law that charter the enterprises; and

"(C) remain adequately capitalized.

"(2) OTHER DUTIES.—To the extent consistent with paragraph (1), the duty of the Director shall be to exercise general supervisory and regulatory authority over the enterprises, in accordance with this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and any other provisions of law.

"(b) AUTHORITY EXCLUSIVE OF SECRETARY.—Except as specifically provided under this Act, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any other provision of Federal law, the authority of the Director with respect to the enterprises shall not be subject to the review, approval, or intervention of the Secretary of the Treasury.

"(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Director any of the functions, powers, and duties of the Director, with respect to supervision and regulation of the enterprises, as the Director considers appropriate.".

(b) PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.—Part 1 of Subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by adding at the end the following:

"SEC. 1319H. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.

"(a) IN GENERAL.—The Director shall require each enterprise to obtain the approval of the Director for any new program of the enterprise before implementing the program.

"(b) STANDARD FOR APPROVAL.—The Director shall approve any new program of an enterprise for purposes of subsection (a) unless—

"(1) in the case of a new program of the Federal National Mortgage Association, the Director determines that the program is not authorized under section 304 or paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b));

"(2) in the case of a new program of the Federal Home Loan Mortgage Corporation, the Director determines that the program is not authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.); or

"(3) the Director determines that the new program is not in the public interest.

"(c) PROCEDURE FOR APPROVAL.—

"(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a new program under subparagraph (A) that describes the program in such form as prescribed by order or regulation of the Director.

"(2) RESPONSE.—

"(A) IN GENERAL.—Not later than 45 days after the date of submission of a request for approval under paragraph (1), the Director shall—

"(i) approve the request; or

"(ii) deny the request and submit a report explaining the reasons for the denial to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate.

"(B) EXTENSION.—The Director may extend the time period under subparagraph (A) for a single additional 15 day period only if the Director requests additional information from the enterprise.

"(3) FAILURE TO RESPOND.—If the Director fails to approve the request or fails to submit a report under paragraph (2)(A)(ii) during the period provided, the request shall be considered to have been approved by the Director.

"(4) REVIEW OF DISAPPROVAL.—

"(A) SUBMISSION OF NEW INFORMATION.—If the Director submits a report under paragraph (2)(A)(ii) denying a request for reasons listed under paragraph (1) or (2) of subsection (b), the Director shall allow the enterprise to submit new information in support of the request for approval.

"(B) NEW PROGRAMS NOT IN THE PUBLIC INTEREST.—If the Director submits a report under paragraph (2)(A)(ii) denying a request after finding that the program is not in the public interest under subsection (b)(3), the Director shall provide the enterprise with notice and opportunity for a hearing on the record regarding such denial.".

(c) REPEAL OF HUD AUTHORITY.—Part 2 of Subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C.4501 et seq.) is amended by striking sections 1321 and 1322.

(d) AUTHORITY OF HUD FOR HOUSING GOALS.—

(1) IN GENERAL.—Section 1331 of the Housing and Community Development Act of 1992 (12 U.S.C. 4561) is amended—

(A) in the first sentence of subsection (a), by inserting "of Housing and Urban Development" after "The Secretary"; and

(B) by adding at the end the following:

"(d) DEFINITION.—For purposes of this part, the term 'Secretary' means the Secretary of Housing and Urban Development.".

(2) ANNUAL REPORT ON HOUSING GOALS.—Section 1324 of the Housing and Community

Development Act of 1992 (12 U.S.C. 4544) is amended by inserting "of Housing and Urban Development" after "Secretary" each place such term appears.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(b)(6)) is amended by striking "Secretary under section 1322" and inserting "Director under section 1319H".

(2) FREDDIE MAC.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended by striking "Secretary under section 1322" and inserting "Director under section 1319H".

(3) FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(A) in paragraph (5), by striking the period; and

(B) by adding at the end the following:

"(6) the Director of the Office of Federal Enterprise Supervision.".

SEC. 103. EXAMINERS AND ACCOUNTANTS.

(a) EXAMINATIONS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended—

(1) in the second sentence of subsection (c), by striking "The" and inserting "During the 3-year period that begins upon the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the"; and

(2) in subsection (d), by striking "Federal Reserve banks" and inserting "Director of the Office of Thrift Supervision".

(b) ENHANCED AUTHORITY TO HIRE EXAMINERS AND ACCOUNTANTS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following:

"(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—

"(1) APPLICABILITY.—This section applies with respect to any position of examiner, accountant, and economist at the Office, with respect to supervision and regulation of the enterprises, that is in the competitive service.

"(2) APPOINTMENT AUTHORITY.—

"(A) IN GENERAL.—The Director may appoint candidates to any position described in paragraph (1)—

"(i) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

"(ii) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

"(B) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under this paragraph shall not be considered to cause such position to be converted from the competitive service to the excepted service.

"(3) REPORTS.—

"(A) IN GENERAL.—Not later than 90 days after the end of fiscal year 2003 (for fiscal year 2003) and 90 days after the end of fiscal year 2005 (for fiscal years 2004 and 2005), the Director shall submit a report with respect to its exercise of the authority granted by paragraph (2) during such fiscal years to the—

"(i) Committee on Government Reform and the Committee on Financial Services of the House of Representatives; and

"(ii) Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) CONTENTS.—The reports submitted under subparagraph (A) shall describe the changes in the hiring process authorized by paragraph (2), including relevant information related to—

"(i) the quality of candidates;

"(ii) the procedures used by the Director to select candidates through the streamlined hiring process;

"(iii) the numbers, types, and grades of employees hired under the authority;

"(iv) any benefits or shortcomings associated with the use of the authority;

"(v) the effect of the exercise of the authority on the hiring of veterans and other demographic groups; and

"(vi) the way in which managers were trained in the administration of the streamlined hiring system.".

SEC. 104. REGULATIONS.

Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) AUTHORITY.—The Director shall issue any regulations and orders necessary to carry out the duties of the Director, with respect to supervision and regulation of the enterprises, under this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and to ensure that the purposes of this title and such Acts are accomplished."; and

(2) in subsection (c), by striking "Committee on Banking, Finance and Urban Affairs" and inserting "Committee on Financial Services".

SEC. 105. ASSESSMENTS.

Section 1316 of the Housing and Community Development Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for all reasonable costs and expenses of the Office, including—

"(1) the expenses of any examinations under section 1317; and

"(2) the expenses of obtaining any reviews and credit assessments under subsection section 1319.";

(2) in subsection (b), in paragraph (2), by moving the margin 2 ems to the right;

(3) in subsection (c), by adding at the end the following: "The Director may adjust the amounts of any semiannual assessments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by an enterprise, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under subtitles B and C for an enterprise are borne only by that enterprise.";

(4) in subsection (f), by striking "Any assessments collected" and all that follows and inserting the following: "Notwithstanding any other provision of law, any assessments collected by the Director pursuant to this section shall be deposited in the Fund in an account for the Director. Any amounts in the Fund are hereby made available, without fiscal year limitation, to the Director (to the extent of amounts in the Director's account) for carrying out the supervisory and regulatory responsibilities of the Director, with respect to the enterprises, including any necessary administrative and nonadministrative expenses of the Director in carrying out the purposes of this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.)."; and

(5) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

"(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.".

SEC. 106. INDEPENDENCE OF DIRECTOR IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.

Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury," after "the Federal Housing Finance Board,".

SEC. 107. LIMITATION ON NONMISSION-RELATED ASSETS.

Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended—

(1) by striking the subtitle designation and heading and inserting the following:

"Subtitle B—Required Capital Levels for Enterprises, Special Enforcement Powers, and Limitation on Nonmission-Related Assets";

and

(2) by adding at the end the following:

"SEC. 1369E. LIMITATION ON NONMISSION-RELATED ASSETS.

"(a) IN GENERAL.—The Director may, by regulation, determine the type and amount of nonmission-related assets that an enterprise may hold at any time. The Director shall, in any such regulation, define the term 'nonmission-related asset' for purposes of this section.

"(b) RULE OF CONSTRUCTION.—Subsection (a) may not be construed to authorize an enterprise to engage in any new program relating to any nonmission-related asset without obtaining the prior approval of the Director in accordance with section 1319H.".

SEC. 108. REPORTS.

Sections 1327 and 1328 of the Housing and Community Development Act of 1992 (12 U.S.C. 4547, 4548) are amended by striking "Secretary" each place it appears and inserting "Director".

SEC. 109. RISK-BASED CAPITAL TEST FOR ENTERPRISES.

Section 1361 of the Housing and Community Development Act of 1992 (12 U.S.C. 4611) is amended—

(1) in subsection (a)(2)(A), by inserting ", or change in such other manner as the Director considers appropriate," after "subparagraph (C),";

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding subsection (a), the Director may, in the sole discretion of the Director, make any assumptions that the Director considers appropriate regarding interest rates, home prices, and new business. Such assessment shall ensure that enterprise risk-based capital standards are, to the greatest extent feasible, comparable to those imposed by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) for comparable risk. The risk-based assessment relating to new business under this paragraph shall ensure that the enterprise is able to remain a viable enterprise in full compliance with all applicable risk-based capital and minimum capital

standards, and that it can fulfill its role of ensuring appropriate secondary market liquidity throughout the stress test."; and

(3) in subsection (c)(2), by inserting ", or such other percentage as the Director considers appropriate" before the period at the end.

SEC. 110. MINIMUM AND CRITICAL CAPITAL LEVELS.

(a) Minimum Capital Level.—Section 1362 of the Housing and Community Development Act of 1992 (12 U.S.C. 4612) is amended—

(1) by striking subsection (b);

(2) by striking "(a) In General.—"; and

(3) in the matter preceding paragraph (1), by inserting before "the sum of" the following: "the amount established by the Director, by regulation or order, as such amount may be adjusted from time-to-time by the Director to achieve the purposes of this title, that is not less than".

(b) Critical Capital Level.—Section 1363 of the Housing and Community Development Act of 1992 (12 U.S.C. 4613) is amended, in the matter preceding paragraph (1), by inserting before "the sum of" the following: "the amount established by the Director, by regulation or order, as such amount may be adjusted from time-to-time by the Director to achieve the purposes of this title, that is not less than".

SEC. 111. DEFINITIONS.

Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (5), by striking "Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Federal Enterprise Supervision of the Department of the Treasury";

(2) in paragraphs (8), (9), (10), and (19), by inserting "of Housing and Urban Development" after "Secretary" each place such term appears;

(3) in paragraph (14), by striking "Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Federal Enterprise Supervision of the Department of the Treasury";

(4) by striking paragraph (15);

(5) by redesignating paragraphs (7) through (14) (as amended by the preceding provisions of this Act) as paragraphs (8) through (15), respectively; and

(6) by inserting after paragraph (6) the following:

"(7) Enterprise-affiliated party.—The term 'enterprise-affiliated party' means—

"(A) any director, officer, employee, or controlling stockholder of, or agent for, an enterprise;

"(B) any shareholder, consultant, joint venture partner, and any other person as determined by the Director (by regulation or case-by-case) who participates in the conduct of the affairs of an enterprise; and

"(C) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(i) any violation of any law or regulation;

"(ii) any breach of fiduciary duty; or

"(iii) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the enterprise.".

Subtitle B—Prompt Corrective Action

SEC. 131. CAPITAL CLASSIFICATIONS.

Section 1364 of the Housing and Community Development Act of 1992 (12 U.S.C. 4614) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) Discretionary Classification.—

"(1) Grounds for reclassification.—The Director may reclassify an enterprise under paragraph (2) if—

"(A) at any time, the Director determines in writing that an enterprise is engaging in conduct that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly;

"(B) after notice and an opportunity for hearing, the Director determines that an enterprise is in an unsafe or unsound condition; or

"(C) pursuant to section 1371(b), the Director deems an enterprise to be engaging in an unsafe or unsound practice.

"(2) Reclassification.—In addition to any other action authorized under this title, including the reclassification of an enterprise for any reason not specified in this subsection, if the Director takes any action described in paragraph (1) the Director may classify an enterprise—

"(A) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

"(B) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

"(C) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) Restriction on Capital Distributions.—

"(1) In general.—An enterprise shall make no capital distribution if, after making the distribution, the enterprise would be undercapitalized.

"(2) Exception.—Notwithstanding paragraph (1), the Director may permit an enterprise to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(A) is made in connection with the issuance of additional shares or obligations of the enterprise in at least an equivalent amount; and

"(B) will reduce the financial obligations of the enterprise or otherwise improve the financial condition of the enterprise.".

SEC. 132. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) Effective Date for Supervisory Actions.—Section 1365(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4615(c)) is amended by striking "1-year" and inserting "6-month".

(b) Supervisory Actions.—Section 1365 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) the following:

"(1) Required monitoring.—The Director shall—

"(A) closely monitor the condition of any undercapitalized enterprise;

"(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to the undercapitalized enterprise to determine whether the plan, restrictions, and requirements are achieving the purpose of this section."; and

(C) by inserting at the end the following:

"(4) Restriction of asset growth.—An undercapitalized enterprise shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the Board has accepted the enterprise's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the ratio of tangible equity to assets of the enterprise increases during the calendar quarter at a rate sufficient to enable the enterprise to become adequately capitalized within a reasonable time.

"(5) Prior approval of acquisitions and issuance of new products.—An undercapitalized enterprise shall not, directly or indirectly, acquire any interest in any entity or issue a new product unless—

"(A) the Director has accepted the capital restoration plan of the enterprise, the enterprise is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Director determines that the proposed action will further the purpose of this section."; and

(2) in the subsection heading for subsection (b), by striking "From Undercapitalized to Significantly Undercapitalized";

(3) by redesignating subsection (c) (as amended by subsection (a)) as subsection (d); and

(4) by inserting after subsection (b) the following:

"(c) Other Discretionary Safeguards.—The Director may take, with respect to an undercapitalized enterprise, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized enterprise, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.".

SEC. 133. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking "Discretionary Supervisory Actions" and inserting "Specific Actions";

(B) in the matter preceding paragraph (1), by striking "may, at any time, take any" and inserting "shall carry out this section by taking, at any time, 1 or more";

(C) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(D) by inserting after paragraph (4) the following:

"(5) Improvement of management.—Take one or more of the following actions:

"(A) New election of board.—Order a new election for the board of directors of the enterprise.

"(B) Dismissal of directors or executive officers.—Require the enterprise to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the enterprise became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers under section 1377.

"(C) Employ qualified executive officers.—Require the enterprise to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director)."; and

(E) by inserting at the end the following:

"(8) OTHER ACTION.—Require the enterprise to take any other action that the Director determines will better carry out the purpose of this section than any of the actions specified in this paragraph.";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

"(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—An enterprise that is classified as significantly undercapitalized may not, without prior written approval by the Director—

"(A) pay any bonus to any executive officer; or

"(B) provide compensation to any executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the enterprise became undercapitalized.".

Subtitle C—Enforcement Actions

SEC. 151. CEASE-AND-DESIST PROCEEDINGS.

Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—

"(1) IN GENERAL.—If, in the opinion of the Director, an enterprise or any enterprise-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise or any enterprise-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the enterprise or is violating or has violated, or the Director has reasonable cause to believe that the enterprise or any enterprise-affiliated party is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise or any written agreement entered into with the Director, the Director may issue and serve upon the enterprise or such party a notice of charges in respect thereof.

"(2) LIMITATIONS.—The Director may not enforce compliance with—

"(A) any housing goal established under subpart B of part 2 of subtitle A of this title;

"(B) section 1336 or 1337 of this title;

"(C) subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)); or

"(D) subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)).

"(b) ISSUANCE FOR UNSATISFACTORY RATING.—If an enterprise receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may (if the deficiency is not corrected) deem the enterprise to be engaging in an unsafe or unsound practice for purposes of this subsection."; and

(2) in subsection (c)(2), by striking "or director" and inserting "director, or enterprise-affiliated party".

SEC. 152. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

Section 1372 of the Housing and Community Development Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GROUNDS FOR ISSUANCE.—Whenever the Director determines that the violation or threatened violation or the unsafe or unsound practice or practices specified in the notice of charges served upon the enterprise or any enterprise-affiliated party under section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of the enterprise, or is likely to weaken the condition of the enterprise prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may issue a temporary order requiring the enterprise or such party to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order may include any requirement authorized under subsection 1371(d).";

(2) in subsection (b), by striking "or director" and inserting "director, or enterprise-affiliated party";

(3) in subsection (d), striking "or director" and inserting "director, or enterprise-affiliated party"; and

(4) by striking subsection (e) and inserting the following:

"(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued under this section, the Director may apply to the United States District Court for the District of Columbia or the United States district court within the jurisdiction of which the headquarters of the enterprise is located, for an injunction to enforce such order, and, if the court determines that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.".

SEC. 153. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of title XIII of the Housing and Community Development Act of 1992 is amended—

(1) by redesignating sections 1377 through 1379B (12 U.S.C. 4637-41) as sections 1379 through 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

"SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

"(a) AUTHORITY TO ISSUE ORDER.—Whenever the Director determines that—

"(1) any enterprise-affiliated party has, directly or indirectly—

"(A) violated—

"(i) any law or regulation;

"(ii) any cease-and-desist order which has become final;

"(iii) any condition imposed in writing by the Director in connection with the grant of any application or other request by such enterprise; or

"(iv) any written agreement between such enterprise and the Director;

"(B) engaged or participated in any unsafe or unsound practice in connection with any enterprise; or

"(C) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1)—

"(A) such enterprise has suffered or will probably suffer financial loss or other damage; or

"(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

"(3) such violation, practice, or breach—

"(A) involves personal dishonesty on the part of such party; or

"(B) demonstrates willful or continuing disregard by such party for the safety or soundness of such enterprise,

the Director may serve upon such party a written notice of the Director's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any enterprise.

"(b) SUSPENSION ORDER.—

"(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) to any enterprise-affiliated party of the Director's intention to issue an order under, the Director may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the enterprise, if the Director—

"(A) determines that such action is necessary for the protection of the enterprise; and

"(B) serves such party with written notice of the suspension order.

"(2) EFFECTIVE PERIOD.—Any suspension order issued under subsection (a)—

"(A) shall become effective upon service; and

"(B) unless a court issues a stay of such order under subsection (g) of this section, shall remain in effect and enforceable until—

"(i) the date the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

"(ii) the effective date of an order issued by the Director to such party under subsection (a).

"(3) COPY OF ORDER.—If the Director issues a suspension order under subsection (a) to any enterprise-affiliated party, the Director shall serve a copy of such order on any enterprise with which such party is affiliated at the time such order is issued.

"(c) NOTICE, HEARING, AND ORDER.—A notice of intention to remove an enterprise-affiliated party from office or to prohibit such party from participating in the conduct of the affairs of an enterprise shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of (1) such party, and for good cause shown, or (2) the Attorney General of the United States. Unless such party shall appear at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Director shall find that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the enterprise, as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such enterprise and such party (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

"(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

"(1) participate in any manner in the conduct of the affairs of any enterprise;

“(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any enterprise;

“(3) violate any voting agreement previously approved by the Director; or

“(4) vote for a director, or serve or act as an enterprise-affiliated party.

“(e) Industry-Wide Prohibition.—

“(1) In general.—Except as provided in subparagraph (2), any person who, pursuant to an order issued under subsection (h), has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of any enterprise.

“(2) Exception if director provides written consent.—If, on or after the date an order is issued under this section which removes or suspends from office any enterprise-affiliated party or prohibits such party from participating in the conduct of the affairs of an enterprise, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the enterprise described in the written consent. If the Director grants such a written consent, it shall publicly disclose such consent.

“(3) Violation of paragraph (1) treated as violation of order.—Any violation of paragraph (1) by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

“(f) Applicability.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business enterprise.

“(g) Stay of Suspension and Prohibition of Enterprise-Affiliated Party.—Within 10 days after any enterprise-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of an enterprise under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the enterprise is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such party under this section, and such court shall have jurisdiction to stay such suspension or prohibition.

“(h) Suspension or Removal of Enterprise-Affiliated Party Charged With Felony.—

“(1) Suspension or prohibition.—

“(A) In general.—Whenever any enterprise-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Director may, if continued service or participation by such party may pose a threat to the enterprise or impair public confidence in the enterprise, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any enterprise.

“(B) Provisions applicable to notice.—

“(i) Copy.—A copy of any notice under paragraph (1)(A) shall also be served upon the enterprise.

“(ii) Effective period.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Director.

“(2) Removal or prohibition.—

“(A) In general.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an enterprise-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the enterprise or impair public confidence in the enterprise, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the enterprise without the prior written consent of the Director.

“(B) Provisions applicable to order.—

“(i) Copy.—A copy of any order under paragraph (2)(A) shall also be served upon the enterprise, whereupon the enterprise-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such enterprise.

“(ii) Effect of acquittal.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in enterprise affairs under subsection (a), (d), or (e).

“(iii) Effective period.—Any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4) unless terminated by the Director.

“(3) Authority of remaining board members.—

“(A) In general.—If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an enterprise less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

“(B) Suspension of all directors.—In the event all of the directors of an enterprise are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the enterprise and their respective successors take office.

“(4) Hearing regarding continued participation.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2) of this subsection, the enterprise-affiliated party concerned may request in writing an opportunity to appear before the Director to show that the continued service to or participation in the conduct of the affairs of the enterprise by such party does not, or is not likely to, pose a threat to the interests of the enterprise or threaten to impair public confidence in the enterprise. Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such party) and place at which such party may appear, personally or through counsel, before one or more members of the Director or designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument. Within 60 days of such hearing, the Director shall notify such party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the enterprise will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the enterprise will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such party. The Director is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.

“(i) Hearings and Judicial Review.—

“(1) Venue and procedure.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the enterprise is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to the court for final decision, the court shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

“(2) Review of order.—Any party to any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) (other than an order issued with the consent of the enterprise or the enterprise-affiliated party concerned, or an order issued under subsection (h) of this section) by the filing in the United States Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the enterprise is located, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall (except as provided in the last sentence of paragraph (1)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

"(3) PROCEEDINGS NOT TREATED AS STAY.—The commencement of proceedings for judicial review under paragraph (2) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.".

(b) CONFORMING AMENDMENTS.—

(1) 1992 ACT.—Section 1317(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 4517(f)) is amended by striking "section 1379B" and inserting "section 1379D".

(2) FANNIE MAE CHARTER ACT.—The second sentence of subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by striking "The" and inserting "Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the".

(3) FREDDIE MAC ACT.—The second sentence of subparagraph (A) of section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by striking "The" and inserting "Except to the extent action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the".

SEC. 154. ENFORCEMENT AND JURISDICTION.

Section 1375 of the Housing and Community Development Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the enterprise is located, for the enforcement of any effective and outstanding notice or order issued under this subtitle or subtitle B, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order."; and

(2) in subsection (b), by striking "or 1376" and inserting "1376, or 1377".

SEC. 155. CIVIL MONEY PENALTIES.

Section 1376 of the Housing and Community Development Act of 1992 (12 U.S.C. 4636) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "or any executive officer or" and inserting "any executive officer of an enterprise, any enterprise-affiliated party, or any";

(2) by striking subsection (b) and inserting the following:

"(b) AMOUNT OF PENALTY.—

"(1) FIRST TIER.—Any enterprise which, or any enterprise-affiliated party who—

"(A) violates any provision of this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any order, condition, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), or with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f));

"(B) violates any final or temporary order or notice issued pursuant to this title;

"(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such enterprise;

"(D) violates any written agreement between the enterprise and the Director; or

"(E) engages in any conduct the Director determines to be an unsafe or unsound practice,

shall forfeit and pay a civil penalty of not more than $10,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1)—

"(A) if an enterprise, or an enterprise-affiliated party—

"(i) commits any violation described in any subparagraph of paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such enterprise; or

"(iii) breaches any fiduciary duty; and

"(B) the violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such enterprise; or

"(iii) results in pecuniary gain or other benefit to such party,

the enterprise or enterprise-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which such violation, practice, or breach continues.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any enterprise which, or any enterprise-affiliated party who—

"(A) knowingly—

"(i) commits any violation described in any subparagraph of paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such enterprise; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such enterprise or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than an enterprise, an amount not to exceed $2,000,000; and

"(B) in the case of any enterprise, $2,000,000."; and

(3) in subsection (d)—

(A) by striking "or director" each place such term appears and inserting "director, or enterprise-affiliated party";

(B) by striking "request the Attorney General of the United States to";

(C) by inserting ", or the United States district court within the jurisdiction of which the headquarters of the enterprise is located," after "District of Columbia"; and

(D) by striking ", or may, under the direction and control of the Attorney General, bring such an action".

SEC. 156. CRIMINAL PENALTY.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377 (as added by this Act) the following:

"SEC. 1378. CRIMINAL PENALTY.

"Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any enterprise shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

Subtitle D—Reports to Congress

SEC. 161. STUDIES AND REPORTS.

(a) INSURED DEPOSITORY INSTITUTION HOLDINGS OF ENTERPRISE DEBT AND MORTGAGE-BACKED SECURITIES.—Not later than 180 days after the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board shall jointly submit a report to Congress regarding—

(1) the extent to which obligations issued or guaranteed by the enterprises (including mortgage-backed securities) are held by federally insured depository institutions, including such extent by type of institution and such extent relative to the capital of the institution;

(2) the extent to which the unlimited holdings by federally insured depository institutions of the obligations of the enterprises could produce systemic risk issues, particularly for the safety and soundness of the banking system in the United States, in the event of default or failure by an enterprise; and

(3) the effects on the enterprises, the banking industry, and mortgage markets, if prudent limits on the holdings of enterprise obligations were placed on federally insured depository institutions.

(b) PORTFOLIO OPERATIONS, RISK MANAGEMENT, AND MISSION.—

(1) IN GENERAL.—Not later than one year after the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the Director shall submit a report to Congress—

(A) describing the holdings of the enterprises in retained mortgages and repurchased mortgage-backed securities and the use of derivatives for hedging purposes;

(B) describing the extent of such holdings relative to other assets and the risk implications of such holdings;

(C) containing an analysis of such holdings for safety and soundness or mission compliance purposes; and

(D) containing an assessment of whether such holdings and other assets of the enterprises fulfill the mission purposes of the enterprises under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).

(2) CONSULTATION.—The Director shall consult with the Comptroller General of the United States in preparing the report under this subsection and in conducting any research, analyses, and assessments for the report.

(c) STUDY OF MERGER OF FHFB WITH OFES.—

(1) IN GENERAL.—The Secretary of the Treasury, after consultation with the Secretary of Housing and Urban Development and the Board of Governors of the Federal Reserve System, shall study the feasibility and advisability of merging the Federal Housing Finance Board and the Office of Federal Enterprise Supervision of the Department of the Treasury.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report

to Congress on the results of the study conducted under paragraph (1).

(d) Study of Consolidation of OTS With OFES.—

(1) Study.—The Secretary of the Treasury shall study the feasibility and efficacy of consolidating the Office of Thrift Supervision with the Office of Federal Enterprise Supervision of the Department of the Treasury.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted under paragraph (1).

(e) Recommendations.—Each report submitted pursuant to this section shall include specific recommendations of appropriate policies, limitations, regulations, legislation, or other actions to deal appropriately and effectively with the issues addressed by such report.

(f) Definitions.—As used in this section, the terms "Director" and "enterprise" have the meanings given those terms under section 1303 of the Housing and Community Development Act of 1992 (42 U.S.C. 4502).

(g) Clerical Amendments.—Part 3 of subtitle A of title XIII the Housing and Community Development Act of 1992 (106 Stat. 3969) is amended—

(1) by striking sections 1351, 1352, and 1353 (Public Law 102–550; 106 Stat. 3969), except that the provisions of law amended by such sections repealed shall not be affected by such repeal; and

(2) by striking sections 1354, 1355, and 1356 (12 U.S.C. 4601–3).

Subtitle E—General Provisions

SEC. 171. CONFORMING AND TECHNICAL AMENDMENTS.

(a) Amendments to 1992 Act.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), as amended this Act, is further amended—

(1) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) in the subsection heading, by striking "Office Personnel" and inserting "In General"; and

(ii) by striking "The" and inserting "Subject to title II of the Federal Enterprise Regulatory Reform Act of 2003, the";

(B) in subsection (d)—

(i) in the subsection heading, by striking "HUD" and inserting "Department of the Treasury"; and

(ii) by striking "Housing and Urban Development" and inserting "the Department of the Treasury"; and

(C) by striking subsection (f);

(2) in section 1319A (12 U.S.C. 4520)—

(A) by striking "(a) In General.—"; and

(B) by striking subsection (b);

(3) in section 1319F (12 U.S.C. 4525), by striking paragraph (2);

(4) in the section heading for section 1328, by striking "**SECRETARY**" and inserting "**DIRECTOR**";

(5) in section 1361 (12 U.S.C. 4611)—

(A) in subsection (e)(1), by striking the first sentence and inserting the following: "The Director shall establish the risk-based capital test under this section by regulation."; and

(B) in subsection (f), by striking "the Secretary,";

(6) in section 1364(c) (12 U.S.C. 4614(c)), by striking the last sentence;

(7) in section 1367(a)(2) (12 U.S.C. 4617(a)(2)), by striking "with the written concurrence of the Secretary of the Treasury,";

(8) by striking section 1383;

(9) by striking "Committee on Banking, Finance and Urban Affairs" and inserting "Committee on Financial Services" each place such term appears in sections 1319B, 1319G(c), 1328(a), 1336(b)(3)(C), 1337, and 1369(a)(3); and

(10) by striking "Secretary" and inserting "Director" each place such term appears in—

(A) subpart A of part 2 of subtitle A (except in sections 1322, 1324, and 1325); and

(B) subtitle B (except in section 1361(d)(1) and 1369E); and

(b) Amendments to Fannie Mae Charter Act.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" each place such term appears, and inserting "Director of the Office of Federal Enterprise Supervision of the Department of the Treasury", in—

(A) section 303(c)(2) (12 U.S.C. 1718(c)(2));

(B) section 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)); and

(C) section 309(k)(1); and

(2) in section 309(n)—

(A) in paragraph (1), by inserting "the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury," after "Senate,"; and

(B) in paragraph (3)(B), by striking "Secretary" and inserting "Director of the Office of Federal Enterprise Supervision of the Department of the Treasury".

(c) Amendments to Freddie Mac Act.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is amended—

(1) by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" each place such term appears, and inserting "Director of the Office of Federal Enterprise Supervision of the Department of the Treasury", in—

(A) section 303(b)(2) (12 U.S.C. 1452(b)(2));

(B) section 303(h)(2) (12 U.S.C. 1452(h)(2)); and

(C) section 307(c)(1) (12 U.S.C. 1456(c)(1));

(2) in section 306(i) (12 U.S.C. 1455(i))—

(A) by striking "section 1316(c)" and inserting "section 306(c)"; and

(B) by striking "section 106" and inserting "section 1316"; and

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (f)—

(i) in paragraph (1), by inserting "the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury," after "Senate,"; and

(ii) in paragraph (3)(B), by striking "Secretary" and inserting "Director of the Office of Federal Enterprise Supervision of the Department of the Treasury".

(d) Amendment to Title 18, United States Code.—Section 1905 of title 18, United States Code, is amended by striking "Office of Federal Housing Enterprise Oversight" and inserting "Office of Federal Enterprise Supervision of the Department of the Treasury".

(e) Amendments to Flood Disaster Protection Act of 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Director of the Office of Federal Enterprise Supervision of the Department of the Treasury".

(f) Amendment to Department of Housing and Urban Development Act.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(g) Amendment to Title 5, United States Code.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

"Director of the Office of Federal Enterprise Oversight, Department of the Treasury.".

SEC. 172. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 1-year period beginning on the date of enactment of this Act.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 201. ABOLISHMENT OF OFHEO.

(a) In General.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) Disposition of Affairs.—During the 1-year period beginning on the date of enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight shall, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(1) manage the employees of such Office and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of any transfer of such employee pursuant to section 203; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) Status of Employees as Federal Agency Employees.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as employees of an agency of the United States for purposes of any other provision of law during any time such employee is so employed.

(d) Use of Property and Services.—

(1) Property.—The Director of the Office of Federal Enterprise Supervision of the Department of the Treasury may use the property of the Office of Federal Housing Enterprise Oversight to perform functions that have been transferred to the Director of the Office of Federal Enterprise Supervision for such time as is reasonable to facilitate the orderly transfer of functions under any other provision of this Act, or any amendment made by this Act to any other provision of law.

(2) Agency services.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) Savings Provisions.—

(1) Existing rights, duties, and obligations not affected.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any other provision of law applicable with respect to such Office; and

(B) existed on the day before the abolishment under subsection (a) of this section.

(2) Continuation of suits.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight shall abate by reason of the enactment of this Act, except that the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 202. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

All regulations, orders, determinations, and resolutions that—

(1) were issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight;

(B) the Secretary of Housing and Urban Development and that relate to the Secretary's authority under—

(i) title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.);

(ii) under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), with respect to the Federal National Mortgage Association; or

(iii) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.); or

(C) a court of competent jurisdiction and that relate to functions transferred by this Act; and

(2) are in effect on the date of the abolishment under section 201(a) of this Act,

shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury until modified, terminated, set aside, or superseded in accordance with applicable law by such Board, any court of competent jurisdiction, or operation of law.

SEC. 203. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) Authority to Transfer.—The Director of the Office of Federal Enterprise Supervision of the Department of the Treasury may transfer employees of the Office of Federal Housing Enterprise Oversight to the Office of Federal Enterprise Supervision for employment no later than the date of the abolishment under section 201(a) of this Act, as the Director considers appropriate. This Act and the amendments made by this Act shall not be considered to result in the transfer of any function from one agency to another or the replacement of one agency by another, for purposes of section 3505 of title 5, United States Code, except to the extent that the Director of the Office of Federal Enterprise Supervision specifically provides so.

(b) Appointment Authority for Excepted and Senior Executive Service Employees.—

(1) In general.—Subject to paragraph (2), in the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(2) Decline of transfer.—The Director of the Office of Federal Enterprise Supervision of the Department of the Treasury may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(c) Reorganization.—If the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury determines, after the end of the 1-year period beginning on the date of the abolishment under section 201(a), that a reorganization of the combined work force is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(d) Employee Benefit Programs.—

(1) In general.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury as a result of a transfer under subsection (a) may retain for 18 months after the date such transfer occurs membership in any employee benefit program of the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury or the Office of Federal Housing Enterprise Oversight, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 201(a) if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Office of Federal Enterprise Supervision.

(2) Payment of differential.—The difference in the costs between the benefits which would have been provided by such agency and those provided by this section shall be paid by the Director of the Office of Federal Enterprise Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

SEC. 204. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 201(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury.

By Mr. COLEMAN:

S 1509. A bill to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill I introduce today, the Eric and Brian Simon Act of 2003, to provide compensation to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected injury, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eric and Brian Simon Act of 2003".

SEC. 2. GRATUITY FOR VETERANS AND DEPENDENTS WHO CONTRACT HIV OR AIDS FROM BLOOD TRANSFUSIONS RELATING TO SERVICE-CONNECTED DISABILITIES.

(a) In General.—Subchapter IV of chapter 11 of title 38, United States Code, is amended by inserting after section 1137 the following new section:

"§ 1138. Gratuity for veterans and dependents who contract HIV or AIDS from blood transfusions relating to service-connected disabilities

"(a) In General.—Except as provided in subsection (c), the Secretary shall pay a gratuity in the amount of $100,000 to each individual described in subsection (b) who has an HIV infection or is diagnosed with AIDS.

"(b) Eligible Individuals.—An individual described in this subsection is any individual as follows:

"(1) A veteran who—

"(A) was treated with HIV contaminated blood transfusion, HIV contaminated blood components, HIV contaminated human tissue, or HIV contaminated organs (other than Anti-hemophiliac Factor) as a result of a service-connected disability; and

"(B) can assert through medical evidence acceptable to the Secretary reasonable certainty of transmission of HIV as a result of such treatment.

"(2) A lawful spouse, or former lawful spouse, of a veteran described in paragraph (1) after the time of treatment of such veteran as described in that paragraph who can assert through medical evidence acceptable to the Secretary reasonable certainty of transmission of HIV from such veteran.

"(3) Each natural child of a veteran described in paragraph (1) conceived after the time of treatment of such veteran as described in that paragraph who can assert through medical evidence acceptable to the Secretary reasonable certainty of perinatal transmission of HIV from such veteran.

"(c) Exception.—An individual described in subsection (b) is not entitled to the payment of a gratuity under subsection (a) if the individual has received a payment under section 102 of the Ricky Ray Hemophilia Relief Fund Act of 1998 (42 U.S.C. 300c–22 note) with respect to an HIV or AIDS infection.

"(d) Acceptable Medical Evidence.—(1) Except as provided in paragraph (2), medical evidence acceptable to the Secretary under subsection (b) shall include the following, as applicable:

"(A) Evidence of infection with HIV or AIDS.

"(B) In the case of a veteran described in subsection (b)(1), evidence of the treatment described in subsection (b)(1).

"(C) Evidence indicating no prior infection with HIV or AIDS before the treatment described in subsection (b)(1) that provided the source of infection with HIV or AIDS.

"(D) Evidence indicating that infection with HIV or AIDS occurred after the date of the treatment described in subsection (b)(1) that provided the source of infection with HIV or AIDS.

"(E) In the case of an individual described in paragraph (2) or (3) of subsection (b), evidence of transmission of HIV from a veteran described in paragraph (1) of that subsection.

"(F) Such other evidence as the Secretary may require.

"(2) The Secretary may waive an applicable requirement for any evidence specified in paragraph (1) if the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

"(e) Payment for Deceased Individuals.—(1) If an individual entitled to a gratuity under this section is deceased at the time of payment, payment shall be made as follows:

"(A) In the case of an individual who is survived by a spouse living at the time of payment, to the surviving spouse.

"(B) In the case of an individual whose surviving spouse is not living at the time of payment, to the children of the individual living at the time of payment in equal shares.

"(C) In the case of an individual not described by paragraph (1) or (2), to the parents of the individual living at the time of payment in equal shares.

"(2) An individual described in paragraph (2) or (3) of subsection (b) who is entitled to a gratuity under subsection (a) is also entitled to payment under paragraph (1) with respect to a deceased individual.

"(3) In this subsection:

"(A) The term 'spouse', with respect to an individual described in paragraph (1), means the individual who was lawfully married to such individual at the time of death.

"(B) The term 'child' includes a recognized natural child, a stepchild who lived with such individual in a parent-child relationship, and an adopted child.

"(C) The term 'parent' includes fathers and mothers through adoption.

"(f) Application.—(1) A person seeking payment of a gratuity under subsection (a) shall submit to the Secretary an application therefor in such form and containing such information as the Secretary shall require.

"(2) If an individual described in subsection (b) dies before submitting an application for a gratuity under subsection (a), an individual who would be entitled to payment under subsection (e) with respect to such deceased individual may submit an application for the gratuity under paragraph (1).

"(g) Treatment of Gratuity for Insurance Purposes.—(1) A payment under this section shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on the individual receiving the payment, or on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments.

"(2) A payment under this section shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

"(h) Definitions.—In this section:

"(1) The term 'AIDS' means acquired immune deficiency syndrome.

"(2) The term 'HIV' means human immunodeficiency virus.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 11 of that title is amended by inserting after the item relating to section 1137 the following new item:

"1138. Gratuity for veterans and dependents who contract HIV or AIDS from blood transfusions relating to service-connected disabilities.".

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, and Mr. DAYTON):

S. 1510. A bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residence to sponsor their permanent partners for residence in the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Today I am introducing the Permanent Partners Immigration Act, a Senate companion to legislation that Representative NADLER of New York has introduced in the House for each of the last three Congresses. This legislation would allow U.S. citizens and legal permanent residents to petition for their foreign same-sex partners to come to the United States under our family immigration system. I am pleased to be joined in introducing this bill by Senators JEFFORDS, FEINGOLD, KENNEDY, and KERRY.

Under current law, committed partners of Americans are unable to use the family immigration system, which accounts for about 75 percent of the green cards and immigrant visas granted annually by the United States. As a result, gay Americans who are in this situation must live apart from their partners, or leave the country if they want to live legally and permanently with them.

This bill rectifies that situation, while retaining strong prohibitions against fraud. To qualify as a permanent partner, petitioners must prove that they are at least 18 and in a committed, intimate relationship with another adult in which both parties intend a lifelong commitment, and are financially interdependent with one's partner. They must also prove that they are not married to, or in a permanent partnership with, anyone other than that person, and are unable to contract with that person a marriage cognizable under the Immigration and Nationality Act. Proof could include sworn affidavits from friends and family and documentation of financial interdependence. Penalties for fraud would be the same as penalties for marriage fraud—up to five years in prison and $250,000 in fines for the U.S. citizen partner, and deportation for the alien partner.

There are Vermonters who are involved in permanent partnerships with foreign nationals and who have felt abandoned by our laws in this area. This bill would allow them—and other gay and lesbian Americans throughout our Nation who have come to feel that our immigration laws are discriminatory—to be a fuller part of our society.

The idea that immigration benefits should be extended to same-sex couples has become increasingly prevalent around the world. Indeed, fifteen nations Australia, Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, South Africa, Sweden and the United Kingdom—recognize same-sex couples for immigration purposes.

Our immigration laws treat gays and lesbians in committed relationships as second-class citizens, and that needs to change. It is the right thing to do for the people involved, it is the sensible step to take in the interest of having a fair and consistent policy, and I hope that the Senate will act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) Short Title.—This Act may be cited as the "Permanent Partners Immigration Act of 2003".

(b) Amendments to Immigration and Nationality Act.—Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act.

SEC. 2. DEFINITIONS.

Section 101(a) (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(K)(ii), by inserting "or permanent partnership" after "marriage"; and

(2) by adding at the end the following:

"(51) The term 'permanent partner' means an individual 18 years of age or older who—

"(A) is in a committed, intimate relationship with another individual 18 years of age or older in which both parties intend a lifelong commitment;

"(B) is financially interdependent with that other individual;

"(C) is not married to or in a permanent partnership with anyone other than that other individual;

"(D) is unable to contract with that other individual a marriage cognizable under this Act; and

"(E) is not a first, second, or third degree blood relation of that other individual.

"(52) The term 'permanent partnership' means the relationship that exists between two permanent partners.".

SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.

Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(1) by inserting "permanent partners," after "spouses,";

(2) by inserting "or permanent partner" after "spouse" each place such term appears; and

(3) by striking "remarries." and inserting "remarries or enters a permanent partnership with another person.".

SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.

(a) Per Country Levels.—Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended—

(1) in the heading, by inserting ", PERMANENT PARTNERS," after "SPOUSES";

(2) in subparagraph (A), in the heading by inserting ", PERMANENT PARTNERS," after "SPOUSES"; and

(3) in subparagraph (C), in the heading by inserting "WITHOUT PERMANENT PARTNERS" after "DAUGHTERS".

(b) Rules for Chargeability.—Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended—

(1) by inserting "or permanent partner" after "spouse" each place such term appears; and

(2) by inserting "or permanent partners" after "husband and wife".

SEC. 5. ALLOCATION OF IMMIGRANT VISAS.

(a) Preference Allocation for Family Members of Permanent Resident Aliens.—Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended—

(1) in the heading—

(A) by striking "and" after "Spouses" and inserting ", PERMANENT PARTNERS,"; and

(B) by inserting "WITHOUT PERMANENT PARTNERS" after "SONS" and after "DAUGHTERS"; and

(2) in subparagraph (A)—

(A) by inserting ", permanent partners," after "spouses"; and

(B) by inserting "without permanent partners" after "sons" and after "daughters".

(b) Preference Allocation for Sons and Daughters of Citizens.—Section 203(a)(3) (8 U.S.C. 1153(a)(3)) is amended—

(1) in the heading, by inserting "AND DAUGHTERS AND SONS WITH PERMANENT PARTNERS" after "DAUGHTERS"; and

(2) by inserting "or daughters or sons with permanent partners" after "daughters".

(c) Employment Creation.—Section 203(b)(5)(A)(ii) (8 U.S.C. 1153(b)(5)(A)(ii)) is amended by inserting "permanent partner," after "spouse,".

(d) Treatment of Family Members.—Section 203(d) (8 U.S.C. 1153(d)) is amended by inserting ", permanent partner," after "spouse" each place such term appears.

SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

(a) Classification Petitions.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting "or permanent partner" after "spouse";

(2) in subparagraph (A)(iii)—

(A) by inserting "or permanent partner" after "spouse" each place such term appears; and

(B) in subclause (I), by inserting "or permanent partnership" after "marriage" each place such term appears; and

(3) in subparagraph (B)—

(A) by inserting "or permanent partner" after "spouse" each place such term appears; and

(B) by inserting "or permanent partnership" after "marriage" each place such term appears.

(b) Immigration Fraud Prevention.—Section 204(c) (8 U.S.C. 1154(c)) is amended—

(1) by inserting "or permanent partner" after "spouse" each place such term appears; and

(2) by inserting "or permanent partnership" after "marriage" each place such term appears.

SEC. 7. ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES.

Section 207(c) (8 U.S.C. 1157(c)) is amended—

(1) in paragraph (2)—

(A) by inserting ", permanent partner," after "spouse" each place such term appears; and

(B) by inserting ", permanent partner's," after "spouse's"; and

(2) in paragraph (4), by inserting ", permanent partner," after "spouse".

SEC. 8. ASYLUM.

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended—

(1) in the heading, by inserting "OR PERMANENT PARTNER" after "SPOUSE"; and

(2) in subparagraph (A), by inserting ", permanent partner," after "spouse".

SEC. 9. ADJUSTMENT OF STATUS OF REFUGEES.

Section 209(b)(3) (8 U.S.C. 1159(b)(3)) is amended by inserting ", permanent partner," after "spouse".

SEC. 10. INADMISSIBLE ALIENS.

(a) Classes of Aliens Ineligible for Visas or Admission.—Section 212(a) (8 U.S.C. 1182(a)) is amended—

(1) in paragraph (3)(D)(iv), by inserting "permanent partner," after "spouse," each place such term appears;

(2) in paragraph (4)(C)(i)(I), by inserting ", permanent partner," after "spouse";

(3) in paragraph (6)(E)(ii), by inserting "permanent partner," after "spouse," each place such term appears; and

(4) in paragraph (9)(B)(v), by inserting ", permanent partner," after "spouse" each place such term appears.

(b) Waivers.—Section 212(d) (8 U.S.C. 1182(d)) is amended—

(1) in paragraph (11), by inserting "permanent partner," after "spouse,"; and

(2) in paragraph (12), by inserting ", permanent partner," after "spouse".

(c) Waivers of Inadmissibility on Health-Related Grounds.—Section 212(g)(1)(A) (8 U.S.C. 1182(g)(1)(A)) is amended by inserting ", permanent partner," after "spouse".

(d) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended by inserting "permanent partner," after "spouse," each place such term appears.

(e) Waiver of Inadmissibility for Misrepresentation.—Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended—

(1) by inserting "permanent partner," after "spouse,"; and

(2) by inserting ", permanent partner," after "resident spouse".

SEC. 11. NONIMMIGRANT STATUS FOR PERMANENT PARTNERS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

Section 214 (8 U.S.C. 1184) is amended—

(1) by redesignating subsections (o) and (p) as added by sections 1102(b) and 1103(b), respectively, of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted into law by section 1(a)(2) of P.L. 106–553, as subsections (p) and (q), respectively; and

(2) in subsection (q) (as so redesignated)—

(A) in paragraph (1), by inserting ",or permanent partner" after "spouse"; and

(B) in paragraph (2), by inserting "or permanent partnership" after "marriage" each place such term appears.

SEC. 12. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.

(a) Section Heading.—

(1) In general.—The section heading for section 216 (8 U.S.C. 1186a) is amended by inserting "AND PERMANENT PARTNERS" after "SPOUSES".

(2) Clerical amendment.—The table of contents is amended by amending the item relating to section 216 to read as follows:

"Sec. 216. Conditional permanent resident status for certain alien spouses and permanent partners and sons and daughters.".

(b) In General.—Section 216(a) (8 U.S.C. 1186a(a)) is amended—

(1) in paragraph (1), by inserting "or permanent partner" after "spouse";

(2) in paragraph (2)(A), by inserting "or permanent partner" after "spouse";

(3) in paragraph (2)(B), by inserting "permanent partner," after "spouse,"; and

(4) in paragraph (2)(C), by inserting "permanent partner," after "spouse,".

(c) Termination of Status if Finding that Qualifying Marriage Improper.—Section 216(b) (8 U.S.C. 1186a(b)) is amended—

(1) in the heading, by inserting "OR PERMANENT PARTNERSHIP" after "MARRIAGE";

(2) in paragraph (1)(A), by inserting "or permanent partnership" after "marriage"; and

(3) in paragraph (1)(A)(ii)—

(A) by inserting "or has ceased to satisfy the criteria for being considered a permanent partnership under this Act," after "terminated,"; and

(B) by inserting "or permanent partner" after "spouse".

(d) Requirements of Timely Petition and Interview for Removal of Condition.—Section 216(c) (8 U.S.C. 1186a(c)) is amended—

(1) in paragraphs (1), (2)(A)(ii), (3)(A)(ii), (3)(C), (4)(B), and (4)(C), by inserting "or permanent partner" after "spouse" each place such term appears; and

(2) in paragraph (3)(A), in the matter following clause (ii), and in paragraphs (3)(D), (4)(B), and (4)(C), by inserting "or permanent partnership" after "marriage" each place such term appears.

(e) Contents of Petition.—Section 216(d)(1) (8 U.S.C. 1186a(d)(1)) is amended—

(1) in subparagraph (A)—

(A) in the heading, by inserting "OR PERMANENT PARTNERSHIP" after "MARRIAGE";

(B) in clause (i)—

(i) in the matter preceding subclause (I), by inserting "or permanent partnership" after "marriage";

(ii) in subclause (I), by inserting before the comma at the end ", or is a permanent partnership recognized under this Act"; and

(iii) in subclause (II)—

(I) by inserting "or has not ceased to satisfy the criteria for being considered a permanent partnership under this Act," after "terminated,"; and

(II) by inserting "or permanent partner" after "spouse"; and

(C) in clause (ii), by inserting "or permanent partner" after "spouse"; and

(2) in subparagraph (B)(i)—

(A) by inserting "or permanent partnership" after "marriage"; and

(B) by inserting "or permanent partner" after "spouse".

(e) Definitions.—Section 216(g) (8 U.S.C. 1186a(g)) is amended—

(1) in paragraph (1)—

(A) by inserting "or permanent partner" after "spouse" each place such term appears; and

(B) by inserting "or permanent partnership" after "marriage" each place such term appears;

(2) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(3) in paragraph (3), by inserting "or permanent partnership" after "marriage"; and

(4) in paragraph (4)—

(A) by inserting "or permanent partner" after "spouse" each place such term appears; and

(B) by inserting "or permanent partnership" after "marriage".

SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.

(a) Section Heading.—

(1) In general.—Section 216A (8 U.S.C. 1186b) is amended in the heading by inserting "or permanent partners" after "spouses".

(2) Clerical amendment.—The table of contents is amended by amending the item relating to section 216A to read as follows:

"Sec. 216. Conditional permanent resident status for certain alien entrepreneurs, spouses or permanent partners, and children.".

(b) In General.—Section 216A(a) (8 U.S.C. 1186b(a)) is amended, in paragraphs (1), (2)(A), (2)(B), and (2)(C), by inserting "or permanent partner" after "spouse" each place such term appears.

(c) Termination of Status if Finding That Qualifying Entrepreneurship Improper.—Section 216A(b)(1) (8 U.S.C. 1186b(b)(1)) is amended in the matter following subparagraph (C), by inserting "or permanent partner" after "spouse".

(d) Requirements of Timely Petition and Interview for Removal of Condition.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended, in paragraphs (1), (2)(A)(ii), and (3)(C), by inserting "or permanent partner" after "spouse".

(e) Definitions.—Section 216A(f)(2) (8 U.S.C. 1186b(f)(2)) is amended by inserting "or permanent partner" after "spouse" each place such term appears.

SEC. 14. DEPORTABLE ALIENS.

(a) In General.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)(i), by inserting "or permanent partners" after "spouses" each place such term appears;

(B) in subparagraph (E)—

(i) in clause (ii), by inserting "or permanent partner" after "spouse"; and

(ii) in clause (iii), by inserting "or permanent partner" after "spouse";

(C) in subparagraph (H)(i)(I), by inserting "or permanent partner" after "spouse"; and

(D) by adding at the end the following:

"(I) Permanent partnership fraud.—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if—

"(i) the alien obtains any admission to the United States with an immigrant visa or other documentation procured on the basis of a permanent partnership entered into less than 2 years prior to such admission and which, within 2 years subsequent to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that such permanent partnership was not contracted for the purpose of evading any provisions of the immigration laws; or

"(ii) it appears to the satisfaction of the Secretary of Homeland Security that the alien has failed or refused to fulfill the alien's permanent partnership which in the opinion of the Secretary of Homeland Security was made for the purpose of procuring the alien's admission as an immigrant.";

(2) in paragraph (2)(E)(i), by inserting "or permanent partner" after "spouse" each place such term appears; and

(3) in paragraph (3)(C)(ii), by inserting "or permanent partner" after "spouse" each place such term appears.

(b) Technical and Conforming Amendments.—Section 237(a) (8 U.S.C. 1227(a)) is amended by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security".

SEC. 15. REMOVAL PROCEEDINGS.

Section 240(e)(1) (8 U.S.C. 1229a(e)(1)) is amended by inserting "permanent partner," after "spouse,".

SEC. 16. CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS.

Section 240A(b) (8 U.S.C. 1229b(b)) is amended—

(1) in paragraph (1)(D), by inserting "permanent partner," after "spouse,"; and

(2) in paragraph (2)—

(A) in the heading, by inserting ", permanent partner," after "spouse"; and

(B) in subparagraph (A), by inserting ", permanent partner," after "spouse" each place such term appears.

SEC. 17. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.

(a) Prohibition on Adjustment of Status.—Section 245(d) (8 U.S.C. 1255(d)) is amended by inserting "or permanent partnership" after "marriage".

(b) Avoiding Immigration Fraud.—Section 245(e) (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by inserting "or permanent partnership" after "marriage"; and

(2) by adding at the end the following:

"(4) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership if the alien establishes by clear and convincing evidence to the satisfaction of the Secretary of Homeland Security that the permanent partnership was entered into in good faith and in accordance with section 101(a)(51) and the permanent partnership was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien permanent partner. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.".

(c) Adjustment of Status for Certain Aliens Paying Fee.—Section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)) is amended by inserting ", permanent partner," after "spouse".

(d) Informants.—Section 245(j) (8 U.S.C. 1255(j)) is amended by inserting "permanent partner," after "spouse," each place such term appears.

(e) Technical and Conforming Amendments.—Section 245 (8 U.S.C. 1255) is amended by striking "Attorney General" each place that term appears and inserting "Secretary of Homeland Security".

SEC. 18. MISREPRESENTATION AND CONCEALMENT OF FACTS.

Section 275(c) (8 U.S.C. 1325(c)) is amended by inserting "or permanent partnership" after "marriage".

SEC. 19. REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION.

Section 316(b) (8 U.S.C. 1427(b)) is amended, in the matter following paragraph (2), by inserting "or permanent partner" after "spouse".

SEC. 20. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

Section 324(a) (8 U.S.C. 1435(a)) is amended, in the matter following "after September 22, 1922,", by inserting "or permanent partnershfp" after "marriage" each place such term appears.

SEC. 21. APPLICATION OF FAMILY UNITY PROVISIONS TO PERMANENT PARTNERS OF CERTAIN LIFE ACT BENEFICIARIES.

Section 1504 of division B of the Miscellaneous Appropriations Act, 2001, as enacted into law by section 1(a)(4) of Public Law 106–554, is amended—

(1) in the section heading, by inserting ", **PERMANENT PARTNERS,**" after "**SPOUSES**";

(2) in subsection (a), by inserting ", permanent partner," after "spouse"; and

(3) in each of subsections (b) and (c)—

(A) in the subsection headings, by inserting ", Permanent Partners," after "Spouses"; and

(B) by inserting ", permanent partner," after "spouse" each place such term appears.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator Leahy in the introduction of the Permanent Partners Immigration Act, to address the injustice in our immigration law on gay and lesbian couples.

The reunification of families is one of the cornerstones of our immigration policy. The American Dream is about opportunity and it is about family life as well. When one member of a family comes to the United States alone, we try to make it possible for their spouse, children, and siblings to join them in the future.

Every year, our immigration policy reunites literally hundreds of thousands of families. In 2002, almost 400,000 immigrants came to the United States to join spouses who are citizens or legal permanent residents. Thousands more siblings and children joined mothers, fathers, brothers and sisters.

Shamefully, though, our current law left thousands of other families permanently divided. Because of their sexual orientation, lesbian and gay couples are kept apart, or forced to stay together illegally, with one partner in constant fear of deportation. They are denied the half of the American Dream that we offer to other citizens and immigrants.

Our bill will remedy this injustice. It gives the same-sex permanent partners of citizens and permanent residents the opportunity to join their loved ones in our country. They must meet strict standards of eligibility, like those applied to spouses. To gain entrance, they must prove that they are financially interdependent with their partners in the United States and that they are in a lifelong relationship.

Most of our major allies and trading partners already grant immigration benefits to same-sex couples. Now, by bringing family reunification to all of our citizens and residents, our bill recognizes the common humanity of gay and lesbian Americans. It is time for Congress to act on this issue, and I urge my colleagues to support this important step in making our immigration laws fairer.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1511. A bill to designate the Department of Veterans Affairs Medical Center in Prescott, Arizona, as the "Bob Stump Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

Mr. KYL. Mr. President, today Senator MCCAIN and I are introducing legislation to rename the VA Medical Center in Prescott, AZ. to honor our colleague Bob Stump, who died on June 20. This legislation was introduced by Congressman JIM KOLBE and the other seven Arizona House Members on July 21.

I had the pleasure of serving with Bob Stump in the House of Representatives in the late 1980s and early 1900s. He was a fine man, and a great public servant. A patriot and a hard-working legislator, he did not seek headlines or glory, preferring to work quietly, without fanfare, on behalf of Arizona's interests—and the Nation's.

For Bob Stump, actions were louder than words. He didn't say much, but you always knew where he stood.

Before coming to Congress, Bob served in both houses of the Arizona legislature from 1959 to 1976—that final year as president of the Arizona State Senate. His congressional tenure culminated in his six years as Chairman of the House Committee on Veterans' Affairs, a perch from which he improved the lives of his fellow veterans in innumerable ways. As Chairman of the House Armed Services Committee for two years, he helped to ensure America's military readiness by advocating tirelessly for better U.S. military technology and protecting the important work underway at Arizona's military bases.

Bob's concern for the military, of course, was personnel. When he entered the Navy to serve his country in time of war, he was all of 16 years old. He spent three years, 1943 to 1946, as a medic on the U.S.S. *Tulugi*. He was determined to protect Arlington National Cemetery and to see to it that a World War II memorial was approved for construction on the Mall here in Washington.

Bob Stump's work to promote the welfare of current and past members of the Armed Services is well-known to Arizona's veterans. By naming the Prescott VA Health Center in his honor, we will ensure that his exemplary character and contributions are remembered by all those who pass through its doors in the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center located in Prescott, Arizona, is hereby designated as the "Bob Stump Department of Veterans Affairs Medical Center".

(b) REFERENCES.—Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Bob Stump Department of Veterans Affairs Medical Center.

Mr. MCCAIN. Mr. President, I am proud to join Senator KYL in introducing legislation that would rename the Veterans Administration medical center in Prescott, AZ after Bob Stump.

In June of this year, Arizonans suffered a major loss with the passing of Bob Stump, a native son who made his mark for our State and our Nation. Congressman Stump had a patriot's devotion to those who served our country in uniform. He will be deeply missed by his friends, family and a grateful Nation.

Congressman Stump served his country and the residents of Arizona admirably in the United States Navy, during World War II; in the Arizona State legislature; and in the United States Congress.

Congressman Stump's service in the House of Representatives was marked by this dedication to his constituents in Arizona. Never one for the trappings of a political office, Bob read and responded to all of his mail, he never had Press Secretary and often answered the office phone personally.

One could not overlook his leadership in Defense and Veterans issues. Serving as Chairman of the Veterans Affairs Committee, his work has so beneficial to America's veterans that a street in Arlington National Cemetery was named after him. Everywhere I travel, veterans remark to me that Bob Stump put Veterans needs first.

Bob's strong leadership of the House Armed Services Committee helped usher in many of the technological advances that characterize our modern military.

This legislation serves as a memorial to a member of Congress who left an indelible legacy.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1512. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders; to the Committee on Finance.

Mr. DODD. Mr. President. I am pleased to rise today with my colleague Senator LIEBERMAN to introduce legislation that would amend the Internal Revenue Code to exclude property tax abatements, provided by local governments to volunteer firefighters and emergency medical responders, from the definition of income and wages. Congressman JOHN LARSON of Connecticut introduced identical legislation in the House.

Seventy-five percent of firefighters in our country are volunteers. Unfortunately, statistics show that the number of volunteer firefighters and emergency responders have been declining in past years at an alarming rate. The number of volunteer firefighters around the country has declined by 5 to 10 percent since 1983, while the number of emergency calls made has sharply increased.

Many municipalities throughout the country, including the State of Connecticut, offer stipends and property tax abatements of up to $1,000 per year to volunteer firefighters, emergency medical technicians, paramedics, and ambulance drivers. These incentives have helped local fire departments in their volunteer recruitment efforts throughout the country.

Last year the IRS ruled that property tax abatements to volunteers should be treated as wages and income. This ruling would undermine the efforts of localities across the country to recruit more volunteer firefighters.

The bill that Senator LIEBERMAN and I are introducing amends the Internal Revenue Code to exclude property tax abatements and stipends for volunteer firefighters and emergency medical responders from the definition of income and wages. This bill would allow local governments around the country to continue providing these incentives to their volunteer firefighters and emergency medical responders.

The President has recently called for Americans to volunteer in their communities. When both heads of household hold full-time employment, it is often too difficult for them to take time away from their families without some form of compensation. A $1,000 property tax break is not a large request for the great service these men and women provide to our communities. They risk their lives for others. The least we can do is allow States and towns to offer them modest incentives to serve.

The IRS ruling undermines the good intentions and creative efforts of many localities. If our municipalities are willing to forgo their local tax revenues in order to ensure they have enough volunteer firefighters and emergency service providers to protect their communities, and if members of the community are doing their part by volunteering, then we, as a country should do our part and support local efforts to ensure that all our communities have adequate protection. And that is what our bill will ensure.

I hope that our colleagues will join us in supporting this legislation so that we can ensure that state and local governments have the flexibility to design and implement recruiting and retention programs that benefit not only the volunteer firefighters and emergency medical providers, but also the communities they protect.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM INCOME AND EMPLOYMENT TAXES AND WAGE WITHHOLDING FOR PROPERTY TAX REBATES AND OTHER BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

(a) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 140 as section 140A and by inserting after section 139 the following new section:

"SEC. 140. PROPERTY TAX REBATES AND OTHER BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

"(a) EXCLUSION.—Gross income shall not include a qualified property tax rebate or other benefit.

"(b) QUALIFIED PROPERTY TAX REBATE OR OTHER BENEFIT.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'qualified property tax rebate or other benefit' means a rebate of real or personal property taxes, or any other benefit, provided by a State or political subdivision on account of services performed as a member of a qualified volunteer emergency response organization.

"(2) QUALIFIED VOLUNTEER EMERGENCY RESPONSE ORGANIZATION.—The term 'qualified volunteer emergency response organization' means any volunteer organization—

"(A) which is organized and operated to provide firefighting or emergency medical services for persons in the State or political subdivision, as the case may be, and

"(B) which is required (by written agreement) by the State or political subdivision to furnish firefighting or emergency medical services in such State or political subdivision.".

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking the last item and inserting the following new items:

"Sec. 140. Property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders.

"Sec. 140A. Cross references to other Acts.".

(b) EXCLUSION FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Section 3121(a) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any qualified property tax rebate or other benefit (as defined in section 140(b)).".

(B) Section 209(a) of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) Any qualified property tax rebate or other benefit (as defined in section 140(b) of the Internal Revenue Code of 1986).".

(2) UNEMPLOYMENT TAXES.—Section 3306(b) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking "or" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting "; or", and by inserting after paragraph (17) the following new paragraph:

"(18) any qualified property tax rebate or other benefit (as defined in section 140(b).".

(3) WAGE WITHHOLDING.—Section 3401(a) of such Code (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) for any qualified property tax rebate or other benefit (as defined in section 140(b).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mrs. HUTCHISON:

S. 1514. A bill to amend the Internal Revenue code of 1986 to reform certain excise taxes applicable to private foundations, and for other purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation to address concerns regarding the operation of charitable foundations.

Well-publicized incidents of abuse by a few foundations have raised legitimate concerns about whether these entities are properly focusing resources on their philanthropic missions. In come cases, excessive amounts have gone toward administrative costs, high executive salaries and expensive travel.

My bill will help to ensure that more money is spent on charitable activities and that those who abuse the system are properly punished.

One proposal I support is included in the House version of the CARE Act, H.R. 7, the Charitable Giving Act of 1003. It would reduce the excise tax on investment income for foundations from two percent to one percent, allowing foundations to keep more money so they can direct it to those in need.

However, we must ensure this money actually goes toward the charitable activities for which it is intended. The House bill tries to do this by preventing any administrative costs from being counted as part of the five percent annual distribution requirement foundations must meet. While the legislation moves in the right direction, the language is too broad and may inadvertently punish some foundations that are acting responsibly.

Many foundations will find it difficult to earn the returns necessary to maintain their underlying endowments and cover the five percent requirement in addition to all administrative costs. This could lead to a diminished ability to fulfill their missions over time, as underlying endowments are eroded as an unintended consequence. Some foundations may try to meet this challenge by reducing important, legitimate spending such as on legal compliance.

The legislation I am introducing will better address these issues. First, I agree we should reduce the excise tax on foundations from two percent to one percent. I also agree we should consider limiting which administrative expenses are counted as distributions. However, I propose doing so in a more defined manner.

My bill would exclude general overhead expenses, management salaries and excessive travel expenses from being counted as distributions. It will allow expenses directly attributable to administering grants and direct charitable giving, as well as expenses related to maintaining legal compliance, to continue to be included.

By focusing these restrictions on the expenses which tend to be the source of abuse, we can deal with the root issues while minimizing unintended consequences.

My bill also goes further than other proposals in penalizing wrongdoers. It will raise the penalty for those who abuse the system by "self-dealing" from a five percent to a 25 percent excise tax on the amounts involved.

My bill will lower the net investment tax, tighten the regulations allowing administrative expenses to be counted as distributions, and increase penalties for those abusing the system. It does so with drastic measures that could lead to a decline in foundations in the long-term. Together these measures will instill more discipline on the foundation community and result in more money going to worthy causes.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Philanthropy Expansion and Responsibility Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REFORM OF CERTAIN EXCISE TAXES RELATED TO PRIVATE FOUNDATIONS.

(a) Reduction of Tax on Net Investment Income.—Section 4940(a) (relating to tax-exempt foundations) is amended by striking "2 percent" and inserting "1 percent".

(b) Repeal of Reduction in Tax Where Private Foundation Meets Certain Distribution Requirements.—Section 4940 (relating to excise tax based on investment income) is amended by striking subsection (e).

(c) Modification of Excise Tax on Self-Dealing.—The second sentence of section 4941(a)(1) (relating to initial excise tax imposed on self-dealer) is amended by striking "5 percent" and inserting "25 percent".

(d) Modification of Excise Tax on Failure To Distribute Income.—

(1) Certain administrative expenses not treated as distributions.—

(A) In general.—Section 4942(g)(1)(A) (defining qualifying distributions) is amended by striking "(including that portion of reasonable and necessary administrative expenses)" and inserting "(including that portion of reasonable and necessary administrative expenses which are directly attributable to direct charitable activities, grant selection activities, grant monitoring and administration activities, compliance with applicable Federal, State, or local law, or furthering public accountability of the private foundation, except as provided in paragraph (4))".

(B) Limitations.—Section 4942(g) is amended by striking paragraph (4) and inserting the following new paragraphs:

"(4) Limitation on administrative expenses treated as distributions.—For purposes of paragraph (1)(A), the following administrative expenses shall not be treated as qualifying distributions:

"(A) Any compensation paid to persons who are considered disqualified persons.

"(B) Any traveling expenses incurred for travel outside the United States.

"(C) Any traveling expenses incurred for transportation by air solely from one point in the United States to another point in the United States via first-class transportation on a commercial aircraft or via a private aircraft.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of paragraphs (1) and (4). Such regulations shall provide that administrative expenses which are excluded from qualifying distributions solely by reason of the limitations in paragraph (1) or (4) shall not subject a private foundation to any other excise taxes imposed by this subchapter.".

(2) Disallowance not to apply to certain private foundations.—

(A) In general.—Section 4942(j)(3) (defining operating foundation) is amended—

(i) by striking "(within the meaning of paragraph (1) or (2) of subsection (g))" each place it appears, and

(ii) by adding at the end the following new sentence: "For purposes of this paragraph, the term 'qualifying distributions' means qualifying distributions within the meaning of paragraph (1) or (2) of subsection (g) (determined without regard to subsection (g)(4)).".

(B) Conforming amendment.—Section 4942(f)(2)(C)(i) is amended by inserting "(determined without regard to subsection (g)(4))" after "within the meaning of subsection (g)(1)(A)".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. GREGG:

S. 1515. A bill to establish and strengthen postsecondary programs and courses in the subjects of traditional American history, free institutions, and Western civilization, available to students preparing to teach these subjects, and to other students; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I am proud to introduce the Higher Education for Freedom Act. This bill will establish a competitive grant program making funds available to institutions of higher education, centers within such institutions, and associated nonprofit foundations to promote programs focused on the teaching and study of traditional American history and government, and the history and achievements of Western Civilization, at both the graduate and undergraduate level, including those that serve students enrolled in K–12 teacher education programs.

Today, more than ever, it is important to preserve and defend our common heritage of freedom and civilization, and to ensure that future generations of Americans understand the importance of traditional American history and the principles of free government on which this Nation was founded. This basic knowledge is not essential to the full participation of our citizenry in America's civic life, but also to the continued success of the American experiment in self-government, binding together a diverse people into a single Nation with common purposes.

However, college students' lack of historical literacy is quite startling, and too few of today's colleges and universities are focused on the task of imparting this crucial knowledge to the next generation. One survey of students at America's top colleges reported that seniors could not identify Valley Forge, words from the Gettysburg Address, or even the basic principles of the U.S. Constitution. Given high-school level American history questions, 81 percent of the seniors would have received a D or F, the report found.

One college professor even informed me that her students did not know which side Lee was on during the Civil War, or whether the Russians were allies or enemies in World War II. A student of hers even asked why anyone should care what the Founding Fathers wrote.

Thomas Jefferson once wrote, "If a nation expects to be ignorant—and free—in a state of civilization, it expects what never was and never will be." I believe the time has come for Congress to do something to promote the teaching of traditional American history at the postsecondary level, and I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education for Freedom Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Given the increased threat to American ideals in the trying times in which we live, it is important to preserve and defend our common heritage of freedom and civilization and to ensure that future generations of Americans understand the importance of traditional American history and the principles of free government on which this Nation was founded in order to provide the basic knowledge that is essential to full and informed participation in civic life and to the larger vibrancy of the American experiment in self-government, binding together a diverse people into a single Nation with a common purpose.

(2) However, despite its importance, most of the Nation's colleges and universities no longer require United States history or systematic study of Western civilization and free institutions as a prerequisite to graduation.

(3) In addition, too many of our Nation's elementary and secondary school history teachers lack the training necessary to effectively teach these subjects, due largely to the inadequacy of their teacher preparation.

(4) Distinguished historians and intellectuals fear that without a common civic memory and a common understanding of the remarkable individuals, events, and ideals that have shaped our Nation and its free institutions, the people in the United States risk losing much of what it means to be an American, as well as the ability to fulfill the fundamental responsibilities of citizens in a democracy.

(b) Purposes.—The purposes of this Act are to promote and sustain postsecondary academic centers, institutes, and programs that offer undergraduate and graduate courses, support research, and develop teaching materials, for the purpose of developing and imparting a knowledge of traditional American history, the American Founding, and the history and nature of, and threats to, free institutions, or of the nature, history and achievements of Western Civilization, particularly for—

(1) undergraduate students who are enrolled in teacher education programs, who may consider becoming school teachers, or who wish to enhance their civic competence;

(2) elementary, middle, and secondary school teachers in need of additional training in order to effectively teach in these subject areas; and

(3) graduate students and postsecondary faculty who wish to teach about these subject areas with greater knowledge and effectiveness.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) Eligible institution.—The term "eligible institution" means—

(A) an institution of higher education;

(B) a specific program within an institution of higher education; and

(C) a non-profit history or academic organization associated with higher education whose mission is consistent with the purposes of this Act.

(2) FREE INSTITUTION.—The term "free institution" means an institution that emerged out of Western Civilization, such as democracy, individual rights, market economics, religious freedom and tolerance, and freedom of thought and inquiry.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) TRADITIONAL AMERICAN HISTORY.—The term "traditional American history" means—

(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

SEC. 4. GRANTS TO ELIGIBLE INSTITUTIONS.

(a) IN GENERAL.—From amounts appropriated to carry out this Act, the Secretary shall award grants, on a competitive basis, to eligible institutions, which grants shall be used for—

(1) history teacher preparation initiatives, that—

(A) stress content mastery in traditional American history and the principles on which the American political system is based, including the history and philosophy of free institutions, and the study of Western civilization; and

(B) provide for grantees to carry out research, planning, and coordination activities devoted to the purposes of this Act; and

(2) strengthening postsecondary programs in fields related to the American founding, free institutions, and Western civilization, particularly through—

(A) the design and implementation of courses, lecture series and symposia, the development and publication of instructional materials, and the development of new, and supporting of existing, academic centers;

(B) research supporting the development of relevant course materials;

(C) the support of faculty teaching in undergraduate and graduate programs; and

(D) the support of graduate and postgraduate fellowships and courses for scholars related to such fields.

(b) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall establish criteria by regulation, which shall, at a minimum, consider the education value and relevance of the institution's programming to carrying out the purposes of this Act and the expertise of key personnel in the area of traditional American history and the principles on which the American political system is based, including the political and intellectual history and philosophy of free institutions, the American Founding, and other key events that have contributed to American freedom and the study of Western civilization.

(c) GRANT APPLICATION.—An eligible institution that desires to receive a grant under this Act shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe by regulation.

(d) GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants made under this Act.

(e) GRANT AWARDS.—

(1) MAXIMUM AND MINIMUM GRANTS.—The Secretary shall award each grant under this Act in an amount that is not less than $400,000 and not more than $6,000,000.

(2) EXCEPTION.—A subgrant made by an eligible institution under this Act to another eligible institution shall not be subject to the minimum amount specified in paragraph (1).

(f) MULTIPLE AWARDS.—For the purposes of this Act, the Secretary may award more than 1 grant to an eligible institution.

(g) SUBGRANTS.—An eligible institution may use grant funds provided under this Act to award subgrants to other eligible institutions at the discretion of, and subject to the oversight of, the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there are authorized to be appropriated—

(1) $140,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for each of the succeeding 5 fiscal years.

By. Mr. DOMENICI (for himself and Mr. CAMPBELL):

S. 1516. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to reintroduce a piece of legislation that is of paramount importance to the State of New Mexico and many other western States. This bill will address the mounting pressures brought on by the growing demands throughout the west of a diminishing water supply.

This bill that I am introducing today authorizes the Department of Interior acting through the Bureau of Reclamation to establish a series of research and demonstration programs to help with the eradication of this non-native species on rivers in the Western United States. This bill will help develop the scientific knowledge and the experience base to build a strategy to control these invasive thieves. In addition to projects that could benefit the Pecos and the Rio Grande, the bill allows other states in the west such as Texas, Colorado, Utah, California and Arizona to develop and participate in projects as well.

Allow me to explain the importance of this bill. A water crisis has ravaged the west for four years. Drought conditions are expected to expand into the upper mid-west this year. Last year snow packs were abnormally low, causing severe drought conditions. Snow pack conditions this year were also low, but marginally better in the southwest. The rest of the west did not have promising winter snows and spring rains.

The presence of invasive species compounds the drought situation in many states. For instance, New Mexico is home to a vast amount of Salt Cedar. Salt Cedar is a water-thirsty non-native tree that continually strips massive amounts of water out of New Mexico's two predominant water supplies the Pecos and the Rio Grande rivers.

We have already had numerous catastrophic fires in our Nation's forests including the riparian woodland—the Bosque—that runs through the heart of New Mexico's most populous city. One of the reasons this fire ran its course through Albuquerque was the presence of large amounts of Salt Cedar, a plant that burns as easily as it consumes water.

Estimates show that one mature Salt Cedar tree can consume as much as 200 gallons of water per day; over the growing season that is 7 acre feet of water for each acre of Salt Cedar. In addition to the excessive water consumption, Salt Cedars increase fire, increase river channelization and flood frequency, decrease water flow, and increase water and soil salinity along the river. Every problem that drought causes is exacerbated by the presence of Salt Cedar.

I know that the seriousness of the water situation in New Mexico becomes more acute every single day. This drought has affected every New Mexican and nearly everyone in the west in some way. Wells are running dry, farmers are being forced to sell livestock, many of our cities are in various stages of conservation and many, many acres have been charred by fire.

The drought and the mounting legal requirements on both the Pecos and Rio Grande rivers are forcing us toward a severe water crisis in New Mexico. Indeed, every river in the inter-mountain west seems to be facing similar problems. Therefore, we must bring to bear every tool at our disposal for dealing with the water shortages in the west.

Solving such water problems is one of my top priorities and I assure this Congress that this bill will receive prompt attention by the Energy and Natural Resources Committee. Controlling water thirsty invasive species is one significant and substantial step in the right direction for the dry lands of the west.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Cedar Control Demonstration Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the western United States is currently experiencing its worst drought in modern history;

(2) it is estimated that throughout the western United States salt cedar and Russian olive—

(A) occupy between 1,000,000 and 1,500,000 acres of land; and

(B) are non-beneficial users of 2,000,000 to 4,500,000 acre-feet of water per year;

(3) the quantity of non-beneficial use of water by salt cedar and Russian olive is greater than the quantity that valuable native vegetation would use;

(4) much of the salt cedar and Russian olive infestation is located on Bureau of Land Management land or other land of the Department of the Interior; and

(5) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

SEC. 3. SALT CEDAR AND RUSSIAN OLIVE ASSESSMENT AND DEMONSTRATION PROGRAM.

(a) Establishment.—In furtherance of the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600), the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this Act as the "Secretary"), shall carry out a salt cedar and Russian olive assessment and demonstration program to—

(1) assess the extent of the infestation of salt cedar and Russian olive in the western United States; and

(2) develop strategic solutions for long-term management of salt cedar and Russian olive.

(b) Assessment.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation in the western United States. The assessment shall—

(1) consider past and ongoing research on tested and innovative methods to control salt cedar and Russian olive;

(2) consider the feasibility of reducing water consumption;

(3) consider methods of and challenges associated with the restoration of infested land;

(4) estimate the costs of destruction of salt cedar and Russian olive, biomass removal, and restoration and maintenance of the infested land; and

(5) identify long-term management and funding strategies that could be implemented by Federal, State, and private land managers.

(c) Demonstration Projects.—The Secretary shall carry out not less than 5 projects to demonstrate and evaluate the most effective methods of controlling salt ceder and Russian olive. Projects carried out under this subsection shall—

(1) monitor and document any water savings from the control of salt cedar and Russian olive;

(2) identify the quantity of, and rates at which, any water savings under paragraph (1) return to surface water supplies;

(3) assess the best approach to and tools for implementing available control methods;

(4) assess all costs and benefits associated with control methods and the restoration and maintenance of land;

(5) determine conditions under which removal of biomass is appropriate and the optimal methods for its disposal or use;

(6) define appropriate final vegetative states and optimal revegetation methods; and

(7) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive.

(d) Control Methods.—The demonstration projects carried out under subsection (c) may implement 1 or more control method per project, but to assess the full range of control mechanisms—

(1) at least 1 project shall use airborne application of herbicides;

(2) at least 1 project shall use mechanical removal; and

(3) at least 1 project shall use biocontrol methods such as goats or insects.

(e) Implementation.—A demonstration project shall be carried out during a time period and to a scale designed to meet the requirements of subsection (c).

(f) Costs.—Each demonstration project under subsection (c) shall be carried out at a cost of not more than $7,000,000, including costs of planning, design, implementation, maintenance, and monitoring.

(2) Cost-sharing.—

(A) Federal share.—The Federal share of the costs of a demonstration project shall not exceed 75 percent.

(B) Form of non-federal share.—The non-Federal share of the costs of a demonstration project may be provided in the form of in-kind contributions, including services provided by a State agency.

(g) Cooperation.—In carrying out the program, the Secretary shall—

(1) use the expertise of Federal agencies, national laboratories, Indian tribes, institutions of higher education, State agencies, and soil and water conservation districts that are actively conducting research on or implementing salt cedar and Russian olive control activities; and

(2) cooperate with other Federal agencies and affected States, local units of government, and Indian tribes.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $50,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

By Mr. BINGAMAN (for himself and Mr. GRAHAM of Florida):

S. 1517. A bill to revoke and Executive Order relating to procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today with my colleague from Florida, Senator GRAHAM, to introduce a very simple piece of legislation that would revoke President Bush's Executive Order 13233 and put back in force President Reagan's Executive Order 12667—restoring the American people's access to Presidential papers. This bill is the companion to H.R. 1493, which is sponsored by Representative DOUG OSE and has enjoyed bipartisan support in the House.

Twenty-five years ago, this body passed the Presidential Records Act and declared that a President's papers were the property of the people of the United States of America and were to be administered by the National Archives and Records Administration, or NARA. The Act provided that Presidential papers would be made available twelve years after a President left office, allowing the former or incumbent President the right to claim executive privilege for particularly sensitive documents. In order to fulfill that mandate, President Reagan in 1989 signed Executive Order 12667, which gave the former or incumbent President thirty days to claim executive privilege.

However, in 2001. President Bush signed Executive Order 13233, nullifying President Reagan's order and imposing new regulations for obtaining Presidential documents. President Bush's new order greatly restricts access to Presidential papers by forcing all requests for documents, no matter how innocuous, to be approved by both the former President and current White House. In this way the order goes against the letter and the spirit of the Presidential Records Act by requiring the NARA to make a presumption of non-disclosure, thus allowing the White House to prevent the release of records simply by inaction.

The President's order also limits what types of papers are available by expanding the scope of executive privilege into new areas—namely communications between the President and his advisors and legal advice given to the President. Also, former Presidents can now designate third parties to exercise executive privilege on their behalf, meaning that Presidential papers could remain concealed many years after a President's death. These expansions raise some serious constitutional questions and cause unnecessary controversy that could end up congesting our already overburdened courts. My legislation simply seeks to restore a legitimate, streamlined means of carrying out this body's wishes—making Presidential records available for examination by the public and by Congress.

The administration shouldn't fear passage of this bill. Any documents that contain sensitive national security information would remain inaccessible, as would any documents pertaining to law enforcement or the deliberative process of the executive branch. Executive privilege for both former and current Presidents would still apply to any papers the White House designates. With these safeguards in place, there is no reason to further hinder access to documents that are in some cases more than twenty years old.

By not passing this bill, the Congress would greatly limit its own ability to investigate previous administrations, not to mention limit the ability of historians and other interested parties to research the past. Knowledge of the past enriches and informs our understanding of the present, and by limiting our access to these documents we do both ourselves and future generations a great disservice. Numerous historians, journalists, archivists and other scholars have voiced their disapproval of Executive Order 13233 because they understand how important access to Presidential papers can be to accurately describing and learning from past events. We here in the Congress cannot afford to surrender our ability to investigate previous Presidential administrations because doing so would remove a vitally important means of ensuring Presidential accountability.

I believe it is time for these documents to become part of the public record. I believe in open, honest, and accountable government, and I do not believe in keeping secrets from the American people. The Presidential Records Act was one of this country's most vital post-Watergate reforms and it remains vitally important today. In these times when trust in government is slipping more and more every day, we need to send a statement to the American people that we here in Washington don't need to hide from public scrutiny—that instead we welcome and encourage public scrutiny. This bill will send just such a message.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION OF EXECUTIVE ORDER OF NOVEMBER 1, 2001.

Executive Order number 13233, dated November 1, 2001 (66 Fed. Reg. 56025), shall have no force or effect, and Executive Order number 12667, dated January 18, 1989 (54 Fed. Reg. 3403), shall apply by its terms.

By Mr. ENZI:

S. 1518. A bill to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a bill that will help bring about a more reliable system of medical justice for all Americans.

Earlier this month, we had a robust debate on a critical issue—medical liability reform. Though a majority of the Members of this body wanted to begin working to pass the bill, we didn't have the 60 Senators necessary to begin the real work on the legislation.

I co-sponsored that bill, the Patients First Act, and I still support it. Passing the Patients First Act would be an important short-term step to controlling the excesses in our legal system that have sent medical liability insurance premiums through the roof. Skyrocketing premiums are forcing doctors to move their practices to States with better legal environments and lower insurance premiums. This is endangering the availability of critical healthcare services in many areas of Wyoming and other states.

Throughout our debate, I heard many of my colleagues say that they wanted to work on this issue, but that they simply could not support the bill as it stood. We heard that the bill approaches the issue from too narrow of a perspective. We heard that the bill's caps on non-economic damages are unfair to patients, despite the fact that the bill places no limits whatsoever on a patient's right to recover all quantifiable economic damages.

While I disagree with my colleagues who oppose the Patients First Act, I respect their opposition. I also trust that they sincerely want to help solve our Nation's medical liability and litigation crisis.

During the debate this month, I noticed something interesting. While we argued the "pros and cons" of the bill, no one stood up to defend our current system of medical litigation. Now, we heard a lot about the caps, and the insurance industry, and we heard Senators say that "Yes, there is a problem, but the bill before us won't solve it."

One thing we didn't hear was a rousing defense of our medical litigation system. Even some of the lawyers in this body agreed that frivolous lawsuits are a problem and that our medical litigation system needs reform.

Why didn't we hear anyone defend the merits of our current medical litigation system? It's because our system doesn't work. It simply doesn't work for patients or for healthcare providers.

Compensation to patients injured by healthcare errors is neither prompt nor fair. The randomness and delay associated with medical litigation does not contribute to timely, reasonable compensation for most injured patients. Some injured patients get huge jury awards, while many others get nothing at all.

Let's look at the facts. In 1991, a group of researchers published a study in the New England Journal of Medicine. The study, known as the Harvard Medical Practice Study, was the basis for the Institute of Medicine's estimate that nearly 100,000 people die every year from healthcare errors.

As part of their study, the researchers reviewed the medical records of a random sample of more than 31,000 patients in New York State. They matched those records with statewide data on medical malpractice claims. The researchers found that nearly 30 percent of injuries caused by medical negligence resulted in temporary disability, permanent disability or death. However, less than 2 percent of those who were injured by medical negligence filed a claim. These figures suggest that most people who suffer negligent injuries don't receive any compensation.

When a patient does decide to litigate, only a few recover anything. Only one of every ten medical malpractice cases actually goes to trial, and of those cases, plaintiffs win less than one of every five. In addition, patients who file suit and are ultimately successful must wait a long time for their compensation—the average length of a medical malpractice action filed in state court is about 30 months.

While the vast majority of malpractice cases that go to trial are settled before the court hands down a verdict, the settlements even then don't guarantee that patients are compensated fairly, particularly after legal fees are subtracted. Research shows that for every dollar paid in malpractice insurance premiums, about 40 cents in compensation is actually paid to the plaintiff—the rest goes for legal fees, court costs, and other administrative expenditures.

To sum up: most patients injured by negligence don't file claims or receive compensation. Few of those that do file claims and go to court recover anything, and those who are successful wait a long time for their compensation. And those who settle out of court end up receiving only 40 cents for every dollar that healthcare providers pay in liability insurance premiums.

It's hard to say that our medical litigation system does right by patients in light of those facts. Unfortunately, our system doesn't work for healthcare providers either.

Earlier, I spoke about those Harvard researchers who found that fewer than 2 percent of those who were injured by medical negligence even filed a claim. As they reviewed the medical records for their study, the researchers also found another interesting fact—most of the providers against whom claims were eventually filed were not negligent at all.

That's right—most providers who were sued had not committed a negligent act.

In matching the records they reviewed to data on malpractice claims, the Harvard researchers found 47 actual malpractice claims. In only 8 of the 47 claims did they find evidence that medical malpractice had caused an injury. Even more amazingly, the physician reviewers found no evidence of any medical injury, negligent or not, in 26 of the 47 claims. However, 40 percent of these cases where they found no evidence of negligence nonetheless resulted in a payment by the provider. Basically, the researchers found no positive relationship between medical negligence and compensation.

That study was based on 1984 data. The same group of researchers conducted another study in Colorado and Utah in 1992, and they found the same thing. As in the 1984 study, they found that only 3 percent of patients who suffered an injury as a result of negligence actually sued. And again, physician reviewers could not find negligence in most of the cases in which lawsuits were filed.

Now, I assume that the patients who sued had either an adverse medical outcome, or at least an outcome that was less satisfactory than the patient expected. But our medical litigation system is not supposed to compensate patients for adverse outcomes or dissatisfaction—it's supposed to compensate patients who are victims of negligent behavior. It's supposed to be a deterrent to substandard medical care.

It's not fair to doctors and hospitals that they must pay to defend against meritless lawsuits. Nor is it fair that they must face a choice between settling for a small sum, even if they aren't at fault, so that they avoid getting sucked into a whirlpool of our medical litigation system.

It's not hard to understand why physicians and hospitals and their insurers want to stay out of court. When they lose, the decisions are increasingly resulting in mega-awards based on subjective "non-economic" damages. The number of awards exceeding $1 million grew by 50 percent between the periods of 1994-1996 and 1999-2000. Today, more than half of all jury awards exceed $1 million.

As a result, when a patient suffers a bad outcome and sues, providers have an incentive to settle the case out of court, even if the provider isn't at fault. But is this how our medical litigation system is supposed to work—as a tool for shaking down our healthcare providers?

Let's face it—our medical litigation system is broken. It doesn't work for patients or providers. Even worse, it replaces the trust in the provider-patient relationship with distrust.

Then, when courts and juries render verdicts with huge awards that bear no relation to the conduct of the defendants, this destabilizes the insurance markets and sends premiums skyrocketing. This forces many physicians to curtail, move or drop their practices, leaving patients without access to necessary medical care. This is a particular problem in states like Wyoming, where we traditionally struggle with recruiting doctors and other healthcare providers.

Perhaps we could live with this flawed system if litigation served to improve quality or safety, but it doesn't. Litigation discourages the exchange of critical information that could be used to improve the quality and safety of patient care. The constant threat of litigation also drives the inefficient, costly and even dangerous practice of "defensive medicine."

Yes, indeed, defensive medicine is dangerous. A recent study found that one of every 1200 children who receive a CAT scan may die later in life from radiation-induced cancer. Knowing this puts a physician faced with anxious parents in a difficult situation. Does the doctor use his or her professional judgment and tell the parents of a sick child not to worry, or does the doctor order the CAT scan and subject the child to radiation that is probably unnecessary, just to provide some protection against a possible lawsuit?

We have a medical litigation system in which many patients who are hurt by negligent actions receive no compensation for their loss. Those who do receive compensation end up with about 40 cents of every premium dollar after legal fees and other costs are subtracted. And the likelihood and the outcomes of lawsuits and settlements bear little relation to whether or not a healthcare provider was at fault.

We like to say that justice is blind. With respect to our medical litigation system, I would say that justice is absent and nowhere to be found.

During our debate on the Patients First Act, I said that the current medical liability crisis and the shortcomings of our medical litigation system make it clear that it is time for a major change. I also said that regardless of how we voted, we all should work toward replacing the current medical tort liability scheme with a more reliable and predictable system of medical justice.

Today, I am introducing a bill that would help achieve that goal.

Most of us are familiar with the report on medical errors from the Institute of Medicine, also known as the IOM. Many of us may be less familiar with another report that the IOM published earlier this year. That report is called "Fostering Rapid Advances in Healthcare: Learning from System Demonstrations."

Our Secretary of Health and Human Services, Tommy Thompson, challenged the IOM to identify bold ideas that would challenge conventional thinking about some of the most vexing problems facing our healthcare system. In response, an IOM committee developed this report, which identified a set of demonstration projects that committee members felt would break new ground and yield a very high return-on-investment in terms of dollars and health.

Medical liability was one of the areas upon which the IOM committee focused. The IOM suggested that the federal government should support demonstration projects in the states. These demonstrations should be based on "replacing tort liability with a system of patient-centered and safety-focused non-judicial compensation."

The bill I am introducing today is in the spirit of this IOM report. This bill, the Reliable Medical Justice Act, would authorize funding for States to create demonstration programs to test alternatives to current medical tort litigation.

The funding to States under this bill would cover planning grants for developing proposals based on the models or other innovative ideas. Funding to States would also include the initial costs of getting the alternatives up and running.

The Reliable Medical Justice Act would require participating states and the Federal Government to collaborate in continuous evaluations of the results of the alternatives as compared to traditional tort litigation. This way, all States and the federal government can learn from new approaches.

By funding demonstration projects, I believe Congress could enable States to experiment with and learn from ideas that could provide long-term solutions to the current medical liability and litigation crisis.

In introducing this bill, I wanted to provide some alternative ideas that would contribute to the debate. As a result, the bill describes three models to which states could look in designing their alternatives.

For instance, a State could provide healthcare providers and organizations with immunity from lawsuits if they make a timely offer to compensate an injured patient for his or her actual net economic loss, plus a payment for pain and suffering if experts deem such a payment to be appropriate. This could give a healthcare provider who makes an honest mistake the chance to make amends financially with a patient, without the provider fearing that their honesty would land them in a lawsuit.

Another idea would be for a state to set up classes of avoidable injuries and a schedule of compensation for them, and then establish an administrative board to resolve claims related to those injuries. A scientifically rigorous process of identifying preventable injuries and setting appropriate compensation would be preferable to the randomness of the current system.

Still another option would be for a state to establish a special healthcare court for adjudicating medical malpractice cases. For this idea to work, the State would need to ensure that the presiding judges have expertise in and an understanding of healthcare, and allow them to make binding rulings on issues like causation compensation, and standards of care.

We already have specialized courts for complicated issues like taxes and highly charged issues like substance abuse and domestic violence. With all the flaws in our current medical litigation system, perhaps we should consider special courts for the complex and emotional issue of medical malpractice.

I believe one thing in our medical liability debate is absolutely clear—people are demanding change. Ten States have passed some liability reform in the past year, and another 17 have debated it. States are heeding this call for change, and Congress should support those efforts.

My own State, Wyoming, had a lively legislative debate on medical liability reform this year, but we have a constitutional amendment that prohibits limits on the amounts that can be recovered through lawsuits. The Wyoming Senate considered a bill to amend our State's constitution to create a commission on healthcare errors. That commission would have had the power to review claims, decide if healthcare negligence had occurred, and determine the compensation for the death or injury according to a schedule or formula provided by law. However, the bill died in a tie vote on the Wyoming Senate floor.

According to one of the sponsors of the bill, Senator Charlie Scott, one of the biggest obstacles to passage was the uncertainty surrounding this new idea. No one had any basis for knowing what a proper schedule or formula for compensation would be. No one knew how much the system might cost, or how much injured patients would recover compared to what they recover now.

Senator Scott wrote me to say that federal support for finding answers to these questions might help the bill's sponsors sufficiently respond to the legitimate concerns of their fellow Wyoming legislators. We should be helping state legislators like Senator Scott develop thoughtful and innovative ideas such as the one he has proposed. That's one of the reasons I am offering this bill.

Clearly, the American people and their elected representatives have identified the need to reform our current medical litigation system. The United States Senate did not vote to proceed to the Patients First Act this month, but no member of this body denied that there is a medical liability crisis, or that Congress needs to act sooner rather than later.

While we continue that debate, we ought to lend a hand to States that are working to change their current medical litigation systems and to develop creative alternatives that could work much better for patients and providers. The States have been policy pioneers in many areas—workers' compensation, welfare reform, and electricity de-regulation, to name three. Medical litigation should be the next item on the agenda of the laboratories of democracy that are our 50 States.

No one questions the need to restore reliability to our medical justice system. But how do we begin the process? One way is to foster innovation by encouraging States to develop more rational and predictable methods for resolving healthcare injury claims. And that is what the Reliable Medical Justice Act aims to do.

In the long run, we would all be better off with a more reliable system of medical justice than we have today. I know that my fellow Senators recognize this, so I hope my colleagues on both sides of the aisle will work with me on this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reliable Medical Justice Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation that promote early disclosure of health care errors and provide prompt, fair, and reasonable compensation to patients who are injured by health care errors; and

(2) to support and assist States in developing such alternatives.

SEC. 3. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399O. STATE DEMONSTRATION PROGRAM TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.

"(a) IN GENERAL.—The Secretary is authorized to award demonstration grants to States for the development, implementation, and evaluation of alternatives to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations.

"(b) DURATION.—The Secretary may award up to 7 grants under subsection (a) and each grant awarded under such subsection may not exceed a period of 10 years.

"(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

"(1) REQUIREMENTS.—Each State desiring a grant under subsection (a) shall—

"(A) develop an alternative to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations that may be 1 of the models described in subsection (d); and

"(B) establish procedures to allow for patient safety data related to disputes resolved under subparagraph (A) to be collected and analyzed by organizations that engage in voluntary efforts to improve patient safety and the quality of health care delivery, in accordance with guidelines established by the Secretary.

"(2) ALTERNATIVE TO CURRENT TORT LITIGATION.—Each State desiring a grant under subsection (a) shall demonstrate how the proposed alternative described in paragraph (1)(A)—

"(A) makes the medical liability system more reliable;

"(B) enhances patient safety; and

"(C) maintains access to liability insurance.

"(3) SOURCES OF COMPENSATION.—Each State desiring a grant under subsection (a) shall identify the sources from and methods by which compensation would be paid for claims resolved under the proposed alternative to current tort litigation, which may include public or private funding sources, or a combination of such sources. Funding methods may provide financial incentives for activities that improve patient safety.

"(4) SCOPE.—Each State desiring a grant under subsection (a) may establish a scope of jurisdiction (such as a designated geographic region or a designated area of health care practice) for the proposed alternative to current tort litigation that is sufficient to evaluate the effects of the alternative.

"(d) MODELS.—

"(1) IN GENERAL.—Any State desiring a grant under subsection (a) that proposes an alternative described in paragraph (2), (3), or (4) shall be deemed to meet the criteria under subsection (c)(2).

"(2) EARLY DISCLOSURE AND COMPENSATION MODEL.—In the early disclosure and compensation model, the State shall—

"(A) provide immunity from tort liability (except in cases of fraud, or in cases of criminal or intentional harm) to any health care provider or health care organization that enters into an agreement to pay compensation to a patient for an injury;

"(B) set a limited time period during which a health care provider or health care organization may make an offer of compensation benefits under subparagraph (A), with consideration for instances where prompt recognition of an injury is unlikely or impossible;

"(C) require that the compensation provided under subparagraph (A) include—

"(i) payment for the net economic loss of the patient, on a periodic basis, reduced by any payments received by the patient under—

"(I) any health or accident insurance;

"(II) any wage or salary continuation plan; or

"(III) any disability income insurance;

"(ii) payment for the patient's pain and suffering, if appropriate for the injury, based on a capped payment schedule developed by the State in consultation with relevant experts; and

"(iii) reasonable attorney's fees;

"(D) not abridge the right of an injured patient to seek redress through the State tort system if a health care provider does not enter into a compensation agreement with the patient in accordance with subparagraph (A);

"(E) prohibit a patient who accepts compensation benefits in accordance with subparagraph (A) from filing a health care lawsuit against other health care providers or health care organizations for the same injury; and

"(F) permit a health care provider or health care organization that enters into an agreement to pay compensation benefits to an individual under subparagraph (A) to join in the payment of the compensation benefits of any health care provider or health care organization that is potentially liable, in whole or in part, for the injury.

"(3) ADMINISTRATIVE DETERMINATION OF COMPENSATION MODEL.—

"(A) IN GENERAL.—In the administrative determination of compensation model—

"(i) the State shall—

"(I) designate an administrative entity (in this paragraph referred to as the 'Board') that shall include representatives of—

"(aa) relevant State licensing boards;

"(bb) patient advocacy groups;

"(cc) health care providers and health care organizations; and ``(dd) attorneys in relevant practice areas;

``(II) set up classes of avoidable injuries that will be used by the Board to determine compensation under clause (ii)(II) and, in setting such classes, may consider 1 or more factors, including—

``(aa) the severity of the disability arising from the injury;

``(bb) the cause of injury;

``(cc) the length of time the patient will be affected by the injury;

``(dd) the degree of fault of the health care provider or health care organization; and

``(ee) standards of care that the State may adopt and their breach;

``(III) modify tort liability, through statute or contract, to bar negligence claims in court against health care providers and health care organizations for the classes of injuries established under subclause (II), except in cases of fraud, or in cases of criminal or intentional harm;

``(IV) outline a procedure for informing patients about the modified liability system described in this paragraph and, in systems where participation by the health care provider, health care organization, or patient is voluntary, allow for the decision by the provider, organization, or patient of whether to participate to be made prior to the provision of, use of, or payment for the health care service;

``(V) provide for an appeals process to allow for a review of decisions; and

``(VI) establish procedures to coordinate settlement payments with other sources of payment;

``(ii) the Board shall—

``(I) resolve health care liability claims for certain classes of avoidable injuries as determined by the State and determine compensation for such claims; and

``(II) develop a schedule of compensation to be used in making such determinations that includes—

``(aa) payment for the net economic loss of the patient, on a periodic basis, reduced by any payments received by the patient under any health or accident insurance, any wage or salary continuation plan, or any disability income insurance;

``(bb) payment for the patient's pain and suffering, if appropriate for the injury, based on a capped payment schedule developed by the State in consultation with relevant experts; and

``(cc) reasonable attorney's fees; and

``(iii) the Board may—

``(I) develop guidelines relating to—

``(aa) the standard of care; and

``(bb) the credentialing and disciplining of doctors; and

``(II) develop a plan for updating the schedule under clause (ii)(II) on a regular basis.

``(B) Appeals.—The State, in establishing the appeals process described in subparagraph (A)(i)(V), may choose whether to allow for de novo review, review with deference, or some opportunity for parties to reject determinations by the Board and elect to file a civil action after such rejection. Any State desiring to adopt the model described in this paragraph shall indicate how such review method meets the criteria under subsection (c)(2).

``(C) Timeliness.—Any claim handled under the system described in this paragraph shall provide for adjudication that is more timely and expedited than adjudication in a traditional tort system.

``(4) Special health care court model.—In the special health care court model, the State shall—

``(A) establish a special court for adjudication of disputes over injuries allegedly caused by health care providers or health care organizations;

``(B) ensure that such court is presided over by judges with expertise in and an understanding of health care;

``(C) provide authority to such judges to make binding rulings on causation, compensation, standards of care, and related issues;

``(D) provide for an appeals process to allow for a review of decisions; and

``(E) at its option, establish an administrative entity similar to the entity described in paragraph (3)(a)(i)(I) to provide advice and guidance to the special court.

``(e) Application.—Each State desiring a grant under subsection (a) shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

``(f) Report.—Each State receiving a grant under subsection (a) shall submit to the Secretary a report evaluating the effectiveness of activities funded with grants awarded under such subsection at such time and in such manner as the Secretary may require.

``(g) Technical Assistance.—The Secretary shall provide technical assistance to the States awarded grants under subsection (a). Such technical assistance shall include the development, in consultation with States, of common definitions, formats, and data collection infrastructure for States receiving grants under this section to use in reporting to facilitate aggregation and analysis of data both within and between States. States not receiving grants under this section may also use such common definitions, formats, and data collection infrastructure.

``(h) Evaluation.—

``(1) In general.—The Secretary shall enter into a contract with an appropriate research organization to conduct an overall evaluation of the effectiveness of grants awarded under subsection (a) and to annually prepare and submit a report to the appropriate committees of Congress. Such an evaluation shall begin not later than 18 months following the date of implementation of the first program funded by a grant under subsection (a).

``(2) Contents.—The evaluation under paragraph (1) shall include—

``(A) an analysis of the effect of the grants awarded under subsection (a) on the number, nature, and costs of health care liability claims;

``(B) a comparison of the claim and cost information of each State receiving a grant under subsection (a); and

``(C) a comparison between States receiving a grant under this section and States that did not receive such a grant, matched to ensure similar legal and health care environments, and to determine the effects of the grants and subsequent reforms on—

``(i) the liability environment;

``(ii) health care quality; and

``(iii) patient safety.

``(i) Option To Provide for Initial Planning Grants.—Of the funds appropriated pursuant to subsection (k), the Secretary may use a portion not to exceed $500,000 per State to provide planning grants to such States for the development of demonstration proposals meeting the criteria described in subsection (c). In selecting States to receive such planning grants, the Secretary shall give preference to those States in which current law would not prohibit the adoption of an alternative to current tort litigation.

``(j) Definitions.—In this section:

``(1) Health care services.—The term 'health care services' means any services provided by a health care provider, or by any individual working under the supervision of a health care provider, that relate to—

``(A) the diagnosis, prevention, or treatment of any human disease or impairment; or

``(B) the assessment of the health of human beings.

``(2) Health care organization.—The term 'health care organization' means any individual or entity which is obligated to provide, pay for, or administer health benefits under any health plan.

``(3) Health care provider.—The term 'health care provider' means any individual or entity—

``(A) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

``(B) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

``(4) Net economic loss.—The term 'net economic loss' means—

``(A) reasonable expenses incurred for products, services, and accommodations needed for health care, training, and other remedial treatment and care of an injured individual;

``(B) reasonable and appropriate expenses for rehabilitation treatment and occupational training;

``(C) 100 percent of the loss of income from work that an injured individual would have performed if not injured, reduced by any income from substitute work actually performed; and

``(D) reasonable expenses incurred in obtaining ordinary and necessary services to replace services an injured individual would have performed for the benefit of the individual or the family of such individual if the individual had not been injured.

``(k) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

By Mr. BINGAMAN (for himself, Ms. Landrieu, Mrs. Lincoln, Mr. Kerry, Mrs. Clinton, Mrs. Murray, Mr. Lautenberg, and Ms. Mikulski):

S. 1519. A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for qualifying individuals through 2004; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing today emergency legislation with Senators Landrieu, Lincoln, Kerry, Clinton, Murray, Lautenberg, and Mikulski that would extend a critical Federal-State program that assists low-income Medicare beneficiaries in paying their health premiums costs through the Medicaid program. This specific program, for low-income senior and disabled citizens, was enacted as part of the Balanced Budget Act of 1997 and is slated for expiration at the end of fiscal year 2003. The program was extended and is slated for expiration at the end of fiscal year 2003. The program was extended by the two continuing resolutions and the final appropriations bill through September 30, 2003. This legislation would simply further extend it for another year—through the end of 2004.

This program, known as the Qualifying Individual Program, or QI–1, within Medicaid is a block grant payment to states to pay the Medicare Part B premium of $58.70 per month in 2003 for individuals with monthly incomes between $887 and $997 for individuals and between $1,194 and $1,344 for couples. This covers Medicare beneficiaries with income between 120 and 135 percent of the Federal Poverty Level.

This amounts to a benefit of over $700 annually that many older and disabled Americans depend upon to pay for a portion of their health care costs, such as prescription drugs and supplemental coverage. Well over 120,000 people nationwide currently rely on the QI–1 and will be hard pressed to afford Medicare coverage without this assistance. In short, to prevent the erosion of existing low-income protections, Congress must extend the QI–1 program this year.

This is a bipartisan issue as well. President Bush had included QI–1 reauthorization in his fiscal year 2003 budget. Moreover, an extension has been included in S. 1, the "Prescription Drug and Medicare Improvement Act of 2003," but the conference is certainly not going to be completed, passed by both the House and Senate, and signed into law by the President in time before the need for States to send out notices to beneficiaries alerting them to their forthcoming loss of cost sharing protections at the end of September.

As Ron Pollack, Executive Director at Families, USA notes in his letter of support for this legislation, "Without an extension, over 120,000 low-income Medicare beneficiaries will have to be sent notices that the program is expiring. The result will be confusion, fear, and uncertainty among this population. This disruption can all be avoided by the quick and early passage of your extension bill."

At the Federal level, the Congress and Administration are often criticized for failure to understand what are or are not the implications to real people. One hundred and twenty thousand low-income beneficiaries face the prospect of their cost sharing increasing by over $700 per year at the end of September. They cannot be assured that an extension will be passed or done so in a timely fashion. How are they supposed to plan and budget?

When we return in September, we will have just a few legislative days to pass an extension in the Senate, the House, and be signed by the President to stop the process of States having to send out disenrollment letters. We all know this can be very difficult to get through the Congress, as it requires unanimous consent, and may not occur in a timely fashion. If not, States will be forced to send out disenrollment letters to the 120,000 low-income seniors and the disabled that rely on the cost-sharing protections provided by the QI–1 program and begin to shut down their programs.

Again, this is emergency legislation that simply provisions a one-year extension of QI–1 program to prevent the cut-off of cost-sharing protections for 120,000 low-income Medicare beneficiaries. We should be engaging in improving health coverage for low-income elderly and disabled citizens rather than leaving these vulnerable Americans facing fear, uncertainty, disruption, and increasing costs.

I urge immediate passage of this legislation and ask unanimous consent that the text of the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MEDICARE COST-SHARING FOR QUALIFYING INDIVIDUALS THROUGH FISCAL YEAR 2004.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended to read as follows:

"(iv) subject to sections 1933 and 1905(p)(4), for making medical assistance available (but only for premiums payable with respect to months during the period beginning with January 1998, and ending with December 2004) for medicare cost-sharing described in section 1905(p)(3)(A)(ii) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) and is at least 120 percent, but less than 135 percent, of the official poverty line (referred to in such section) for a family of the size involved and who are not otherwise eligible for medical assistance under the State plan;".

(b) STATE ALLOCATIONS.—Section 1933(c) of the Social Security Act (42 U.S.C. 1396u–3(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E)—

(i) by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2004"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(F) the first quarter of fiscal year 2005 is $100,000,000."; and

(2) in paragraph (2)(A), by striking "the sum of" and all that follows through "1902(a)(10)(E)(iv)(II) in the State; to" and inserting "twice the total number of individuals described in section 1902(a)(10)(E)(iv) in the State; to".

By Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, and Mr. ROCKEFELLER):

S. 1520. A bill to amend the National Security Act of 1947 to reorganize and improve the leadership of the intelligence community of the United States, to provide for the enhancement of the counterterrorism activities of the United States Government, and for other purposes; to the Select Committee on Intelligence.

Mr. ROCKEFELLER. Mr. President, I am pleased to be an original cosponsor of the "9–11 Memorial Intelligence Reform Act" which Senator BOB GRAHAM is introducing today to implement the recommendations of the Joint September 11 Inquiry of the Senate and House Intelligence Committees.

I expect that this important legislation will be referred to the Select Committee on Intelligence, on which I serve as vice chairman. I am committed to working with the Chairman and our colleagues to ensure that the matters addressed in the bill receive the full consideration and action that our national security requires. I expect that other committees, such as the Committee on the Judiciary, will have an interest in some matters covered by the bill, and I look forward to working with them.

The 9–11 Memorial Intelligence Reform Act covers matters ranging from the basic structure of the U.S. intelligence community to improvements in the sharing and analysis of intelligence information, reforms in domestic counterterrorism, and other issues identified in the course of the Joint Inquiry. For some matters, notably on reforming the leadership structure of the intelligence community, the bill proposes specific reforms. For various other matters, the bill calls for executive branch reports that can be the basis for subsequent congressional action.

There are two principal aspects of our work ahead.

The first is to systematically and thoroughly examine the steps that the President, the intelligence community, and other departments and agencies have taken to correct deficiencies in U.S. intelligence and counterterrorism. The Joint Inquiry's recommendations were first announced last December. In the months ahead, we should call on the agencies of the intelligence community, and other components of the executive branch, to report on their concrete measures, both since September 11 and since our recommendations were made public, to correct deficiencies. We should then assess those reports and Administration testimony in committee hearings.

Our second task is to consider reform proposals, including those in Senator GRAHAM's bill. In that regard, I should make clear that the answers proposed in the bill are not the last word on any of those subjects. They are, instead, a beginning point for the Senate's consideration of measures to correct the problems identified by the Joint 9–11 Inquiry.

As we address these important tasks, it will be essential that the Congress and the American public have the benefit of the best ideas available. We will welcome proposals by the administration, by other Members of Congress, from the National Commission on Terrorist Attacks Upon the United States, and concerned citizens.

Important ideas should not be bottled up anywhere. They should be put on the public table.

In that regard, I urge the President to release the intelligence reform recommendations that former National Security Adviser Brent Scowcroft has made to the administration. In public testimony before our Joint Inquiry in September 2002, General Scowcroft testified, in response to a question that I asked him, that in May 2001—before September 11, the President had established a process to review the intelligence community. General Scowcroft testified that he chaired the external panel of that review, but that he could not get into much detail because his report was still classified. It is time, I believe, finally to declassify that report to the extent possible. The Congress and the American public should have the benefit of that distinguished public servant's insights about intelligence community reform.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1521. A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the Pahrump American Legion Post Land Conveyance Act. This Act will transfer approximately five acres of BLM land in Pahrump, NV, to the American Legion for the purpose of constructing a post home and other facilities that will benefit veterans' groups and the local community.

The American Legion and other nonprofit organizations that represent our Nation's veterans in the vicinity of Pahrump, NV, have tripled in size over the last 10 years. The local memberships of the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans will soon exceed 1000 members, and will continue to expand with the rest of the fast-growing local community.

The existing facility used by the veterans in Pahrump was built by the Veterans of Foreign Wars in the 1960s. It is much too small and not at all adequate for the veterans' current needs. The nearest facility that can accommodate them is located in Las Vegas, more than 60 miles away.

The Pahrump American Legion would like to build a post building, veterans' garden, and memorial park. These new facilities would benefit not only the local veterans, but would be made available—at no cost—for community activities. The American Legion has tried for over six years to acquire a suitable tract of land to provide a home for a new veterans center. The Legion started a pledge campaign and raised over $16,000 for the building fund before the parcel of land they sought to acquire was removed from consideration by the BLM. Unfortunately, other tracts of land that might represent alternative sites in Pahrump are not suitable.

Mr. President, this situation is intolerable. Without a home, the Pahrump American Legion Post can't offer the kind of services and programs that the veterans in the area deserve. Our veterans aren't the only ones who are suffering, either. All across the United States, the American Legion is deservedly famous for supporting community activities like the Boy Scouts and Girl Scouts, as well as the National Oratorical Contest, American Legion Baseball, Girls and Boys State, and other activities for young people. All of these worthy groups and projects would benefit from the construction of a new post home.

Our bill simply directs the Secretary of the Interior to convey this property from the Bureau of Land Management to American Legion "Edward H McDaniel" Post No. 22 in Pahrump. Because of the great public benefit such a facility will provide, we ask that the land be conveyed for free, but that the American Legion cover the costs of the transaction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the membership of the American Legion and other nonprofit organizations that represent the veterans' community in Pahrump, Nevada, has grown immensely in the last 10 years;

(2) the existing facility used by the veterans community in Pahrump, which was constructed in the 1960's, is too small and is inappropriate for the needs of the veterans community;

(3) the nearest veterans facility that can accommodate the veterans community in Pahrump is located more than 60 miles away in the city of Las Vegas;

(4) the tracts of land that are available for consideration as potential sites for the location of a new veterans facility are not suitable for the facility;

(5) conveyance of a suitable parcel of land for the facility, which consists of an odd, triangular tract of land bounded on 2 sides by private land and cut off from other public land by a major highway, conforms with the objective of the Bureau of Land Management, Las Vegas District 1998 Resource Management Plan by simplifying the land management responsibilities of the Bureau of Land Management; and

(6) because the intent of the American Legion is to make the facility available to other veterans organizations and the public for community activities and events at no cost, it would be in the best interests of the United States to convey the land to the Edward H. McDaniel American Legion Post No. 22.

SEC. 3. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 4. CONVEYANCE OF LAND TO EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 120 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in section (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

By Mr. SMITH (for himself, Mr. JEFFORDS, and Mr. CONRAD):

S. 1523. A bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to court as a work activity under that program care provided to a child with a physical or mental impairment or an adult dependent for care with a physical or mental impairment; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Pathways to Independence Act of 2003, along with Senators CONRAD and JEFFORDS. This bill includes two important provisions that we will work to include in the TANF reauthorization. These provisions will help both TANF recipients with disabilities, and the States as they work with people with disabilities in their respective programs.

In July 2002, the General Accounting Office reported that as many as 44 percent of TANF families have a parent or a child with a physical or mental impairment. This is almost three times as high as among the non-TANF population in the United States. In eight percent of TANF families, there is both a parent and a child with a disability; among non-TANF families, this figure is one percent. The GAO's work confirmed the findings of earlier studies, including work by the Urban Institute and the HHS Inspector General.

These figures mean that we need to make sure that TANF reauthorization legislation give States the ability and incentives to help families meet their current needs, while also helping them to move from welfare to work. This is the lesson that Oregon and many other States have already learned as they developed and refined their TANF programs.

The first provision of my bill provides a pragmatic approach to helping parents with disabilities and substance abuse problems receive the treatment and other rehabilitative services they will need to succeed in a work setting. It is designed so that, over time, States can gradually increase the work activity requirements, while continuing to provide them with rehabilitative services. Under this proposal, much like in other proposals under consideration, a person participating in rehabilitation can be counted as engaged in work activity for three months. After the first three months, if a person continues to need rehabilitative services, the State can continue to count participation in those activities for another three months, so long as that person is engaged in some number of work hours, to be determined by the State.

The next step of my proposal builds on the concept of partial credit that is being considered in the Senate Finance Committee. If, after six months, a State determines that a person has a continuing need for rehabilitative services, the State may create a package that combines work activity with these services. The State will receive credit for the individual's efforts so long as at least one-half of the hours in which the individual participates are in core work activities. For example, if a State receives full credit for a person who works 30 hours per week, and the State has determined that an individual needs rehabilitative services beyond six months, that individual would need to be engaged in core work activities for at least 15 hours per week to get full credit, with the remaining 15 hours spent in rehabilitative services. Similarly, if partial credit is available for a person who works 24 hours per week, then a State could receive that same partial credit if the person was engaged in core work activities for at least 12 hours per week, with the remaining 12 hours spent in rehabilitative services.

This approach is appealing for many reasons. First, it allows States to design a system in which a person can move progressively over time from rehabilitation toward work. Second, it gives States credit for the time and effort they will need to invest to help people move successfully from welfare to work by allowing States to use a range of strategies to help these families. Third, it creates a more realistic structure for individuals with disabilities and addictions who may otherwise fall out of the system either through sanction or discouragement, despite their need for financial support. Finally, this approach is appealing because it is designed to work within the structure of the final TANF reauthorization bill.

The second provision in the bill would allow States the option of counting as work activity the time that an adult in a TANF family spends caring for a child with a disability or an adult relative who is in need of care. The studies reflect that these people often cannot find care for their relative so they can work. They are often forced into the impossible choice of caring for their child with a disability, or leaving that child to go to work in order to continue receiving their TANF grant. This is not a choice a parent should ever have to make.

In order to be able to count the care provided by the TANF recipient as work activity, the State would first be required to determine that the child or adult with a disability is, in fact, truly disabled, and that the person needs substantial ongoing care. Then, the State must decide that the TANF recipient is the most appropriate means for providing the needed care. The State would also have to conduct regular periodic evaluations to determine that the child or adult with a disability continues to need the care provided by the TANF recipient. Nothing in the provision prevents a State from determining that the TANF recipient can work outside the home or engage in other work-related training or other activities that will help the person eventually move to work on a full- or part-time basis.

I would like to submit for the record a letter from close to forty national organizations that are members of the Consortium for Citizens with Disabilities supporting this legislation, as well as a letter of support from my home State of Oregon. I look forward to working with my co-sponsors, Senators CONRAD and JEFFORDS, and with the Chairman of the Finance Committee on these important provisions in the upcoming months, and I urge my colleagues to join us in support of this legislation.

I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

S. 1523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pathways to Independence Act of 2003".

SEC. 2. STATE OPTION TO COUNT REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS AS WORK FOR PURPOSES OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM.

(a) IN GENERAL.—Section 407(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)) is amended by adding at the end the following:

"(E) STATE OPTION TO TREAT AN INDIVIDUAL WITH A DISABILITY, INCLUDING A SUBSTANCE ABUSE PROBLEM, WHO IS PARTICIPATING IN REHABILITATION SERVICES AS BEING ENGAGED IN WORK.—

"(i) INITIAL 3-MONTH PERIOD.—Subject to clauses (ii) and (iii), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may deem an individual described in clause (iv) as being engaged in work for not more than 3 months in any 24-month period. .

"(ii) ADDITIONAL 3-MONTH PERIOD.—A State may extend the 3-month period under clause (i) for an additional 3 months only if, during such additional 3-month period, the individual engages in a work activity described in subsection (d) for such number of hours per month as the State determines appropriate.

"(iii) SUCCEEDING MONTHS.—

"(I) CREDIT FOR INDIVIDUALS PARTICIPATING IN WORK ACTIVITIES AND REHABILITATION SERVICES.—If a State has deemed an individual described in clause (iv) as being engaged in work for 6 months in accordance with clauses (i) and (ii), and the State determines that the individual is unable to satisfy the work requirement under the State program funded under this part that applies to the individual without regard to this subparagraph because of the individual's disability, including a substance abuse problem, the State shall receive the credit determined under subclause (II) toward the monthly participation rate for the State.

"(II) DETERMINATION OF CREDIT.—For purposes of subclause (I), the credit the State shall receive under that subclause is, with respect to a month, the lesser of—

"(aa) the sum of the number of hours the individual participates in an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month and the number of hours that the individual participates in rehabilitation services under this subparagraph for the month; or

"(bb) twice the number of hours the individual participates in an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month.

"(iv) INDIVIDUAL DESCRIBED.—For purposes of this subparagraph, an individual described in this clause is an individual who the State has determined has a disability, including a substance abuse problem, and would benefit from participating in rehabilitative services.

"(v) DEFINITION OF DISABILITY.—In this subparagraph, the term 'disability' means—

"(I) a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(II) a physical or mental impairment that substantially limits 1 or more major life activities.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

SEC. 3. STATE OPTION TO COUNT CARING FOR A CHILD OR ADULT DEPENDENT FOR CARE WITH A PHYSICAL OR MENTAL IMPAIRMENT AS MEETING ALL OR PART OF THE WORK REQUIREMENT.

(a) IN GENERAL.—Section 407(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)), as amended by section 2, is amended by adding at the end the following:

"(F) RECIPIENT CARING FOR A CHILD OR ADULT DEPENDENT FOR CARE WITH A PHYSICAL OR MENTAL IMPAIRMENT DEEMED TO BE MEETING ALL OR PART OF A FAMILY'S WORK PARTICIPATION REQUIREMENTS FOR A MONTH.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may count the number of hours per week that a recipient engages in providing substantial ongoing care for a child or adult dependent for care with a physical or mental impairment if the State determines that—

"(I) the child or adult dependent for care has been verified through a medically acceptable clinical or laboratory diagnostic technique as having a significant physical or mental impairment or combination of impairments and as a result of that impairment, it is necessary that the child or adult dependent for care have substantial ongoing care;

"(II) the recipient providing such care is the most appropriate means, as determined by the State, by which the care can be provided to the child or adult dependent for care;

"(III) for each month in which this subparagraph applies to the recipient, the recipient is in compliance with the requirements of the recipient's self-sufficiency plan; and

"(IV) the recipient is unable to participate fully in work activities, after consideration of whether there are supports accessible and available to the family for the care of the child or adult dependent for care.

"(ii) TOTAL NUMBER OF HOURS LIMITED TO BEING COUNTED AS 1 FAMILY.—In no event may a family that includes a recipient to which clause (i) applies be counted as more than 1 family for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b).

"(iii) STATE REQUIREMENTS.—In the case of a recipient to which clause (i) applies, the State shall—

"(I) conduct regular, periodic evaluations of the recipient's family; and

"(II) include as part of the recipient's self-sufficiency plan, regular updates on what special needs of the child or the adult dependent for care, including substantial ongoing care, could be accommodated either by individuals other than the recipient or outside of the home.

"(iv) 2-PARENT FAMILIES.—

"(I) IN GENERAL.—If a parent in a 2-parent family is caring for a child or adult dependent for care with a physical or mental impairment—

"(aa) the State may treat the family as a 1-parent family for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b); and

"(bb) the State may not count any hours of care for the child or adult dependent for care for purposes of determining such rates.

"(II) SPECIAL RULE.—If the adult dependent for care in a 2-parent family is 1 of the parents and the State has complied with the requirements of clause (iii), the State may count the number of hours per week that a recipient engages in providing substantial ongoing care for that adult dependent for care.

"(v) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as prohibiting a State from including in a recipient's self-sufficiency plan a requirement to engage in work activities described in subsection (d).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

CONSORTIUM FOR CITIZENS
WITH DISABILITIES,
July 31, 2003.

Hon. GORDON SMITH,
U.S. Senate,
Washington, DC.
Hon. JAMES M. JEFFORDS,
U.S. Senate,
Washington, DC.
Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH, CONRAD AND JEFFORDS: We are writing to thank you for introducing legislation that addresses two key problems facing TANF families with a parent or child with a disability. We believe that these provisions, if included in a larger TANF reauthorization bill, will significantly improve the ability of states to help families successfully move from welfare toward work while also ensuring that the needs of family members with disabilities are met. We enthusiastically support this legislation.

The Consortium for Citizens with Disabilities (CCD) is a coalition of national consumer, advocacy, provider and professional organizations headquartered in Washington, DC. We work together to advocate for national public policy that ensures the self determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The CCD TANF Task Force seeks to ensure that families that include persons with disabilities are afforded equal opportunities and appropriate accommodations under the Temporary Assistance for Needy Families (TANF) block grant.

The research is clear that many TANF families include a parent or a child with a disability, and in some families, there is both a child and a parent with a disability. The numbers are high—GAO has found that as many as 44 percent of TANF families have a child or a parent with a disability—and need to be addressed in the policy choices that Congress makes in TANF reauthorization. We believe that, by designing policies that take into account the needs of families with a member with a disability, Congress can help the states move greater numbers of these families off of welfare and toward greater independence. Without reasonable supports, however, and through no fault of their own, these families sometimes fail at work activity and are often subject to inappropriate sanctioning and the crises that flow from abrupt—and often prolonged—loss of income.

Your bill could provide low-income families with members with disabilities real opportunities to achieve self-sufficiency in two significant ways, if included in larger TANF reauthorization legislation:

Allow states to count individuals participating in rehabilitative services beyond three months, while the individual progressively engages in work activity.

Under current law, states have the flexibility—either through a waiver such as Oregon has or as a result of the caseload reduction credit—to ensure that a parent with a disability, including a substance abuse problem, receives the rehabilitative services she needs in order to move towards work. In recent years, increasing numbers of states have used this flexibility as they realized that some parents would need more specialized help if they were going to successfully leave TANF. Some of the current reauthorization proposals, however,—including the House-passed bill, H.R. 4—limit states to counting three months of rehabilitative services as work activity. An arbitrary limit of three months of rehabilitation services would be inadequate to help many families with members with disabilities find and sustain employment, and, in light of proposed increases in state participation rates, would discourage states from designing programs and requirements that work for people with the most severe barriers.

Your bill will allow states to count rehabilitative services as work activity beyond three months as long as the rehabilitative services are mixed with work activity. We believe this mix of activities and supports will help an individual with severe barriers move toward greater independence. First, the provision would extend the period of time during which rehabilitative services, including substance abuse treatment, can count toward the work participation requirements from three months to six months. However, during the second three months, the state would require a small amount of work activity in addition to rehabilitative services. Further, the provision would allow states to count individuals participating in rehabilitative services after this six month period as long as at least one-half of the hours in which the individual participates are in core work activities. This will allow states to create a progression of work activity hours combined with rehabilitative services over time that will assist in moving the family from welfare to work at a pace that is designed to lead to success for that family.

CCD is not asking Congress to exempt individuals, or family members, with disabilities from participation in the TANF program. On the contrary, we are looking for the essential assistance and supports that will help families move off of welfare toward greater independence. Your bill does not create any exemptions from participation requirements, and in fact, provides the necessary assistance and supports that can come with participation in the TANF program. Under the bill, states would have to engage the same number of recipients in welfare-to-work activities as under the standard set in a new reauthorization law. The provision simply allows states to utilize a broader range of activities to help recipients with barriers move to work. In short, this is a way to make the TANF program work for parents with disabilities and substance abuse problems. The provision would give states credit when recipients with barriers are engaged in activities and, thus, will encourage states to assist families with barriers to progress toward work in a manner and at a pace that is more tailored to their needs and disabilities.

Allow states to count as work activity the time that the adult in the TANF family spends caring for a child with a disability or an adult relative with a disability.

It is very difficult to find safe, accessible, and appropriate child care for a child with a disability. This is often the case regardless of the family's income. In addition, the nature of some children's disabilities and health conditions means that parents are called from work regularly to assist a school with the child or to take the child to medical appointments. At the same time, many parents would like to work as much as possible or receive the training they will need to secure a good job when they are no longer needed in the home to care for their children with disabilities.

Your bill will allow states to receive work credit for the time that a parent spends caring for a child with a disability, if the state has determined that this is the best way to secure the child's care. The provision also would apply to providing care for an adult relative with a disability. This would help to address the bind that some TANF recipients face when they are told they must work away from home, but leave an elderly parent or other relative with a disability without the care they need to continue to live in the community. Nothing in the provision would prevent a state from designing a plan with the parent that combines some amount of in-home care as work activity with other activities that will help the parent prepare to enter the workforce at a time that is appropriate in meeting the needs of the child or adult relative with a disability.

Thank you again for introducing this legislation and your leadership on these very important issues. We look forward to working with you and your staffs to ensure that these provisions become law.

Sincerely,

American Association of People with Disabilities, American Association on Mental Retardation, American Congress of Community Supports and Employment Services, American Counseling Association, American Music Therapy Association, American Network of Community Options And Resources, Association of Maternal and Child Health Programs, Association of University Centers on Disability, Bazelon Center for Mental Health Law, Community Legal Services, Council for Exceptional Children, Council for Learning Disabilities, Council of State Administrators of Vocational Rehabilitation, Disability Service Providers of America, Division for Early Childhood of the Council for Exceptional Children, Easter Seals, Epilepsy Foundation, Goodwill Industries International,

Helen Keller National Center, Learning Disabilities Association, National Alliance to End Homelessness, National Association of County Behavioral Health Directors, National Association of Protection and Advocacy Systems, National Association of Social Workers, National Association of State Directors of Special Education, National Association of State Mental Health Program Directors, National Coalition of Parent Center, National Coalition on Deaf-Blindness, National Council for Community Behavioral Healthcare, National Mental Health Association, National Rehabilitation Association, National Organization of Social Security Claimants' Representatives, PACER Center, Spina Bifida Association of America, TASH, The Arc of the United States, United Cerebral Palsy.

OREGON LAW CENTER,
Portland, OR, July 31, 2003.

Hon. GORDON SMITH,
U.S. Senate, Washington, DC.
Hon. JAMES M. JEFFORDS,
U.S. Senate, Washington, DC.
Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATORS SMITH, CONRAD AND JEFFORDS: I am writing on behalf of the clients of the Oregon Law Center to express our enthusiastic support for the Work and Treatment Act of 2003 which you are sponsoring. The Oregon Law Center is a nonprofit law firm with offices throughout Oregon, that advocates on behalf of low income families on a variety of issues including the Temporary Assistance to Needy Families program. The Work and Treatment Act addresses a critical shortcoming in the current TANF law: that is, the failure to address the needs of recipients with disabilities.

Oregon's TANF waiver, which expired on July 1, 2003, allowed the state to address the treatment needs of adults and children with disabilities in the family's self-sufficiency plan. Oregon found, as has substantial national research, that the TANF population contains a high percentage of families who are unemployed or underemployed due to the disability of the head of the household, or due to the need to provide care to household dependents with disabilities. This bill would allow Oregon to continue its work with these families to help them achieve their highest levels of self-sufficiency.

Thanks to all of you and particularly to Senator Smith who has demonstrated great leadership in the TANF debates and great understanding of the desperate needs of low income families in Oregon.

Respectfully submitted,

LOREY H. FREEMAN,
Attorney at Law.

Mr. JEFFORDS. Mr. President, it is a pleasure for me to introduce today, along with my colleagues Senator SMITH of Oregon and Senator CONRAD of North Dakota, the Pathways to Independence Act of 2003.

Let me begin by describing why this legislation is necessary. Currently, States have to meet a certain level of work participation in order to avoid penalties against their welfare funding. This level of work participation can be lowered through the "caseload reduction credit." This means that States receive credit for moving people off of their welfare caseload. The caseload reduction credit has proven to be very successful since welfare reform was enacted in 1996. In fact, most States have received so much credit for moving people off of their caseloads, that their effective work participation rate is 0 percent.

While this approach has been widely regarded as very successful, it has one major flaw. States are rewarded only for removing people from welfare, there is no consideration given to where those people end up. States get the same credit for training someone to be a nurse, electrician, or carpenter as they do for sending that person to live on the streets.

This perverse incentive has been particularly difficult for the many welfare recipients who suffer from a disability or struggle with a substance abuse problem. In many States it is easier to write these people off than to give them the support necessary to become truly independent.

In Vermont, approximately 15 percent of the welfare caseload is diagnosed with a disability and receives services through the Department of Vocational Rehabilitation. However, that treatment is not included in the "core activities" allowed under welfare reform. So the State receives no credit for moving these individuals to independence. This is wrong.

If we truly want welfare to be an initiative that helps people to become independent and self-sufficient, then we must be willing to take the steps necessary to get them there. This legislation would give States the tools necessary to assist them in that effort.

Here is how it would work. The bill will allow States to count people with disabilities or substance abuse problems as working, provided that they are meeting certain criteria. First, a State can count someone as working for three months if they are involved in a treatment program. At the end of this three month period, the State can re-evaluate the status of the individual and decide to continue treatment for another 3 months. Now, the individual must be engaged in work or work-preparation activities in addition to their continuing treatment program. At the end of 6 months, the State can continue treatment with the individual as long as the individual is meeting half of the regular work requirement and following their treatment program for the remaining hours.

This is a common sense proposal. It is consistent with what we know about providing effective support programs to people with disabilities and effective treatment programs for people struggling with substance abuse. Allowing States to count these people in the "working" category provides the States with the necessary incentives to engage their welfare recipients in meaningful interventions. It will allow the States to truly place people with disabilities and substance abuse problems on a pathway to independence.

In addition, this bill includes a provision first put forward by Senator CONRAD that will allow States to exempt people who need to care for a child or family member with a disability. This is a proposal that was part of last year's Senate Finance Committee Work, Opportunity and Responsibility for Kids (WORK) bill, and I applaud Senator CONRAD for his consistent support of that proposal.

It is unclear when a full reauthorization of welfare will occur. It is clear however, that The Pathways to Independence Act of 2003 should be a part of any welfare reform package. I would like to thank the Consortium for Citizens with Disabilities for their help in developing this legislation and their strong letter in support. I especially want to thank my colleague from Oregon, Senator SMITH, and my colleague from North Dakota, Senator CONRAD and their staff for all of the hard work that has gone into producing this proposal.

By Mr. SANTORUM (for himself, Mr. ALLEN, Mr. BUNNING, Mrs. DOLE, and Mr. KYL):

S. 1524. A bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I am introducing the Motorsports Facilities Fairness Act. This bill would clarify the tax treatment of a large and growing industry that contributes to the economies of communities across the country.

The Motorsports Facilities Fairness Act would provide certainty to track and speedway operators regarding the depreciation of their properties. The Internal Revenue Service has just recently raised questions regarding the depreciation treatment used by facility owners. For decades, motorsports facilities were classified as "theme and amusement facilities" for depreciation. This long-standing treatment was widely applied and accepted, until now. Over the years, relying on this understanding of the tax law, facility owners and operators invested hundreds of millions of dollars in building and upgrading these properties.

Pennsylvania is home to many of these facilities, including Pocono Raceway, Nazareth Speedway, Lake Erie Speedway, Jennertown Speedway, Big Diamond Raceway and Motordrome Speedway. These tracks and others boost their local economies. Larger races can draw tens of thousands of fans, some from hundreds of miles away. These facilities are an important part of the fabric of our national economy. As motorsports continues to grow as a national pastime, we must ensure that Federal policy does not unnecessarily impede its contribution to the economy.

To that end I have introduced the Motorsports Facilities Fairness Act. This legislation would simply codify the well-understood, long-standing and widely-accepted treatment of motorsports facilities for depreciation purposes. While modest in scope, it will provide needed clarity to the hundreds of tracks throughout the United States.

I urge my colleagues to join me in supporting the Motorsports Facilities Fairness Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1526. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of Indian tribal governments as State governments for purposes of issuing tax-exempt governmental bonds, and for other purposes; to the Committee on Finance.

Mr. CAMPBELL. Mr. President, I am pleased to be join by Senator INOUYE in introducing the Tribal Government Tax Exempt Bond Fairness Act of 2003.

This bill will assist Indian tribes raise capital in the private markets for purposes of job creation and economic development. The bill complements the other economic development initiative I am introducing today to discipline Federal programs aimed to help tribes strengthen their economies.

While making modest adjustments in current law, this bill will have far-reaching and positive effects for tribal governments and their members around the Nation.

The fact is that like State governments, tribal governments are responsible for a host of services not only to their members but to non-members who live on or hear their lands. These services include fire, police and ambulance service, road and bridge maintenance, and a host of social services.

Unlike State governments, however, tribal governments face severe restrictions in their ability to finance development through debt instruments.

The law forbids tribes from issuing tax-exempt bonds for any project unless it can meet the so-called "essential government function" test.

That is, in order for the holder of a tribal bond issue to receive income from that bond exempt from Federal tax, it must be issued for activities that are "governmental" in nature.

Examples of the kinds of projects that have been ruled by the Internal Revenue Service as falling outside this test are tribal convention centers, hotels, and golf courses.

State governments are not limited by the "essential government function" test when they issue tax-exempt debt. The bill I am introducing today will eliminate the disparate treatment tribes now receive.

Armed with this bonding authority, tribal governments will strengthen their economies, provide for their members and others, and lessen their reliance on Federal programs and services.

These are all worthy goals and I urge my colleagues to join me in supporting this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Government Tax-Exempt Bond Fairness Act of 2003".

SEC. 2. DECLARATIONS AND AFFIRMATIONS.

Congress declares and affirms that—

(1) The United States Constitution, United States Federal court decisions, and United States statutes recognize that Indian tribes are governments, retaining sovereign authority over their lands.

(2) Through treaties, statutes, and Executive orders, the United States set aside Indian reservations to be used as "permanent homelands" for Indian tribes.

(3) As governments, Indian tribes have the responsibility and authority to provide governmental services, develop tribal economies, and build community infrastructure to ensure that Indian reservation lands serve as livable "permanent homelands".

(4) Congress is vested with the authority to regulate commerce with Indian tribes, and hereby exercises that authority and affirms the United States government-to-government relationship with Indian tribes.

SEC. 3. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (c) of section 7871 of the Internal Revenue Code of 1986 (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT BONDS.—

"(1) IN GENERAL.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

"(2) EXCLUSION OF GAMING.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(B) INDIAN RESERVATION.—The term 'Indian reservation' means—

"(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).".

SEC. 4. EXEMPTION FROM REGISTRATION REQUIREMENTS.

The first sentence of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by inserting "or by any Indian tribal government or subdivision thereof (within the meaning of section 7871 of the Internal Revenue Code of 1986)," after "or Territories,".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to obligations issued after the date of the enactment of this Act.

By Mr. SANTORUM (for himself, Mr. DODD, Mr. CHAFEE, Ms. COLLINS, Mr. KERRY, Mr. SCHUMER, Mr. REED, and Mr. LIEBERMAN):

S. 1527. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I am proud to join my colleague, Senator CHRIS DODD of Connecticut, in reintroducing bipartisan legislation to address the ruinous effects of America's most common tick-borne illness, Lyme disease.

I thank the senior Senator from Connecticut for his long involvement and leadership on this very important public health issue. With thousands of Americans contracting Lyme disease each year, it is essential that we work aggressively to wage a comprehensive fight against Lyme and other tick-borne disorders, which cost our country dearly in the way of medical expenditures and human suffering. The current lack of physician knowledge about Lyme and the inadequacies of existing detection methods stand out as deficiencies in our efforts to combat Lyme, and only serve to compound this growing public health hazard.

We have it within our capacity to finally deliver on promises made to Lyme patients and their families to better focus the federal government's efforts to detect and research a cure for Lyme. Toward the end of the last session of Congress, the Senate passed this legislation, but unfortunately the House of Representatives did not have the opportunity to consider it.

This legislation represents years of work with the Lyme advocacy community to reach consensus how we can best move forward on this issue. The goal of our bill is for the federal government to develop more accurate and more reliable diagnostic tools, and to provide access to more effective treatment and ultimately a cure.

Between 1991 and 1999, the annual number of reported cases of Lyme disease increased by an astonishing 72 percent. Even as this dramatic increase took place, poor coordination and the lack of proper funding have left too many questions unanswered.

This legislation will seek to set a new course for our public health strategies toward Lyme by ensuring that the proper collaboration is taking place between the Federal government and the people it serves.

With this consensus legislation we are calling for the formation of a Department of Health and Human Services Advisory Committee that will bring Federal agencies, such as the CDC and the NIH, to the table with patient organizations, clinicians, and members of the scientific community. This Committee will report its recommendations to the Secretary of HHS. It will ensure that all scientific viewpoints are given consideration at NIH and the CDC, and will give a voice to the patient community which has often been left out of the dialogue.

Our legislation will also provide an additional $10 million each year over the next five years for public health agencies to work with researchers around the country to develop better diagnostic tests and to increase their efforts to educate the public about Lyme disease.

I sincerely hope that our colleagues will join Senator DODD and myself in this most worthy cause and cosponsor this important bill. Lyme disease patients and their families have waited too long for a responsive plan of action to address their suffering and needs.

The tremendous efforts of the Lyme patient and advocacy community have been very helpful in raising awareness and mobilizing support for this issue, and for this both Senator DODD and I thank them. I look forward to working with them, Senator DODD, and our colleagues to enact into law strong legislation to help correct the mistakes of the past, and to give greater hope for the future by ensuring patients that the federal government is doing everything in its power to provide better treatments and ultimately a cure.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) If an individual with Lyme disease does not receive treatment, such individual can develop severe heart, neurological, eye, and joint problems.

(5) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other disorders, such as ehrlichiosis, babesiosis, and other strains of Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(6) Although tick-borne disease cases have been reported in 49 States and the District of Columbia, about 90 percent of the 15,000 cases have been reported in the following 10 States: Connecticut, Pennsylvania, New York, New Jersey, Rhode Island, Maryland, Massachusetts, Minnesota, Delaware, and Wisconsin. Studies have shown that the actual number of tick-borne disease cases are approximately 10 times the amount reported due to poor surveillance of the disease.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 2. ESTABLISHMENT OF A TICK-BORNE DISORDERS ADVISORY COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than 180 days after the date of enactment of this Act, there shall be established an advisory committee to be known as the Tick-Borne Disorders Advisory Committee (referred to in this Act as the "Committee") organized in the Office of the Secretary.

(b) DUTIES.—The Committee shall advise the Secretary and Assistant Secretary of Health regarding how to—

(1) assure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne disorders;

(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing tick-borne disorders; and

(3) develop informed responses to constituency groups regarding the Department of Health and Human Services' efforts and progress.

(c) MEMBERSHIP.—

(1) APPOINTED MEMBERS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint voting members to the Committee from among the following member groups:

(i) Scientific community members.

(ii) Representatives of tick-borne disorder voluntary organizations.

(iii) Health care providers.

(iv) Patient representatives who are individuals who have been diagnosed with tick-borne illnesses or who have had an immediate family member diagnosed with such illness.

(v) Representatives of State and local health departments and national organizations who represent State and local health professionals.

(B) REQUIREMENT.—The Secretary shall ensure that an equal number of individuals are appointed to the Committee from each of the member groups described in clauses (i) through (v) of subparagraph (A).

(2) EX OFFICIO MEMBERS.—The Committee shall have nonvoting ex officio members determined appropriate by the Secretary.

(d) CO-CHAIRPERSONS.—The Assistant Secretary of Health shall serve as the co-chairperson of the Committee with a public co-chairperson chosen by the members described under subsection (c). The public co-chairperson shall serve a 2-year term and retain all voting rights.

(e) TERM OF APPOINTMENT.—All members shall be appointed to serve on the Committee for 4 year terms.

(f) VACANCY.—If there is a vacancy on the Committee, such position shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. Members may serve after the expiration of their terms until their successors have taken office.

(g) MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, giving notice to the public of such, and meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items can be added at the request of the Committee members, as well as the co-chairpersons. Meetings shall be conducted, and records of the proceedings kept as required by applicable laws and Departmental regulations.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out under this Act.

(2) CONTENT.—Such reports shall describe—

(A) progress in the development of accurate diagnostic tools that are more useful in the clinical setting; and

(B) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne disorders.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act, $250,000 for each of fiscal years 2004 and 2005. Amounts appropriated under this subsection shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 3. AUTHORIZATION FOR RESEARCH FUNDING.

There are authorized to be appropriated $10,000,000 for each of fiscal years 2004 through 2008 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to prevent Lyme disease and other tick-borne disorders.

SEC. 4. GOALS.

It is the sense of the Senate that, in carrying out this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting as appropriate in consultation with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Committee, and other agencies, should consider carrying out the following:

(1) FIVE-YEAR PLAN.—It is the sense of the Senate that the Secretary should consider the establishment of a plan that, for the five fiscal years following the date of the enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under paragraphs (2) through (4). The plan should, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease and other tick-borne disorders that are conducted or supported by the Federal Government.

(2) FIRST GOAL: DIAGNOSTIC TEST.—The goal described in this paragraph is to develop a diagnostic test for Lyme disease and other tick-borne disorders for use in clinical testing.

(3) SECOND GOAL: SURVEILLANCE AND REPORTING OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to accurately determine the prevalence of Lyme disease and other tick-borne disorders in the United States.

(4) THIRD GOAL: PREVENTION OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to develop the capabilities at the Department of Health and Human Services to design and implement improved strategies for the prevention and control of Lyme disease and other tick-borne diseases. Such diseases may include Masters' disease, ehrlichiosis, babesiosis, other bacterial, viral and rickettsial diseases such as tularemia, tick-borne encephalitis, Rocky Mountain Spotted Fever, and bartonella, respectively.

Mr. DODD. Mr. President, it is with great pleasure that I rise today to introduce legislation for the research, prevention, and treatment of Lyme disease. This bipartisan legislation works toward the goal of eradicating Lyme disease—a devastating disease that has particularly impacted those of us from Connecticut and the Northeast. The Senate showed its strong support for this legislation when it passed it in the last Congress by Unanimous Consent. It is my hope that the Senate will show this same support again to ensure the goals of this legislation are achieved.

Lyme disease can be devastating to those it affects. The disease first achieved prominence in the 1980s in the state of Connecticut and got its name from the town of Lyme, CT. Today, Connecticut residents have the unfortunate distinction of being 10 times more likely to contract Lyme disease than the rest of the nation. However, the incidence of Lyme disease nationwide is on the rise. In fact, cases of Lyme disease have been reported by 49 states and the District of Columbia. Since 1982, the number of Lyme disease cases reported to health officials has exceeded 200,000. Even more disconcerting are reports indicating that the actual incidence of Lyme disease may be significantly greater than what is reported.

Those infected with Lyme disease may experience a number of health problems including facial paralysis, joint swelling, loss of coordination, irregular heartbeat, liver malfunction, depression, and memory loss. Unfortunately, this devastating disease can often be misdiagnosed, due to the fact that the symptoms presented by Lyme disease often look similar to other conditions. The misdiagnosis of this often debilitating illness can result in prolonged pain and suffering, unnecessary tests, expensive treatments, as well as severe emotional consequences for victims and their families.

The legislation we introduce today will build on earlier efforts to tackle the problem of Lyme disease and other tick-borne disorders. Through an amendment that I offered to the Fiscal Year 1999 Department of Defense (DoD) appropriations bill, an additional $3 million was directed toward DoD's research in this area. This was an important first step in the fight to increase our understanding of this disease, but much more remains to be done. This legislation will provide what is necessary to continue the effort to research, prevent and treat Lyme disease and other tick-borne disorders.

A critical component of this legislation is the creation of a federal advisory committee on Lyme disease and other tick-borne disorders. This advisory committee, the first of its kind, will include members of the scientific community, health care providers, and most directly impacted by the disease, Lyme patients and their families. Among its activities, the committee will identify opportunities for coordination and communication between Federal agencies and private organizations in their efforts to combat Lyme disease.

This legislation also includes other key elements designed to conquer Lyme disease and other tick-borne disorders. It provides a framework for the government to establish clear goals in the areas of research, treatment, and prevention of Lyme disease. Crucial to activities in each of these areas, is the fact that this legislation authorizes $10 million in annual funding for federal activities related to the elimination of Lyme disease.

I would like to thank my colleague from Pennsylvania, Senator RICK SANTORUM, the legislation's chief Republican cosponsor, for his dedicated support of this important initiative. I look forward to continuing to work with Senator SANTORUM, my other colleagues, and the Lyme disease community to strengthen our efforts to eradicate Lyme disease. This legislation provides an important step toward reaching this laudable goal.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1528. A bill to establish a procedure to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senator INOUYE in introducing a bill to assist Indian tribes in their efforts to strengthen their economies.

Despite recent success some Indian tribes have had with gaming, tourism and natural resource development, the fact is that most tribes still suffer high unemployment, intense poverty and a lack of physical infrastructure.

Most tribal economies continue to perform poorly despite the expenditure of hundreds of millions—even billions—

of Federal dollars over the years by the Departments of Agriculture, Commerce, Defense, Interior, Labor, and others.

The core problem is not the amount of dollars, but rather how they are being spent.

Numerous hearings by the Committee on Indian Affairs and several General Accounting Office (GAO) reports show that most Federal efforts are poorly timed and coordinated and lack the kind of tribal decision-making to make the efforts succeed.

The bill we are introducing today will go a long way in fixing these problems.

The principles that guide the bill are not new. In 1970 President Nixon issued his "Special Message to Congress on Indian Affairs" that called for significant changes in Federal Indian policy.

Nixon saw that Indians were not in command of the Federal programs and services meant for their benefit and he launched a quiet revolution in Federal Indian policy.

The Indian Self-Determination and Education Assistance Act of 1975 authorizes Indian tribes and tribal consortia to "step into the shoes" of the Federal government to administer programs and services historically provided by the United States.

Currently, one-half of the programs and services of the Bureau of Indian Affairs and the Indian Health Service are now contracted by Indian tribes and consortia. Tribal decisionmaking is paramount, service quality has improved, and tribal capacity has been enhanced significantly.

This bill will expand the principles of Indian self-determination to have the tribes—not the Federal bureaucracy—determine which programs and services should be brought to bear in an integrated and coordinated way to bring hope, jobs, and strengthened economies to their communities.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

The Act may be cited as the "Indian Tribal Development Consolidated Funding Act of 2003".

SEC. 2. FINDINGS; PURPOSES.

(a) Findings.—Congress finds that—

(1) a unique legal and political relationship exists between the United States and Indian tribes that is reflected in article I, section 8, clause 3 of the Constitution, various treaties, Federal statutes, Supreme Court decisions, executive agreements, and course of dealing;

(2) despite the infusion of a substantial amount of Federal funds into Native American communities over several decades, the majority of Native Americans remain mired in poverty, unemployment, and despair;

(3) the efforts of the United States to foster community, economic, and business development in Native American communities have been hampered by fragmentation of authority, responsibility, and performance, and lack of timeliness and coordination in resources and decisionmaking; and

(4) the effectiveness of Federal and tribal efforts in generating employment opportunities and bringing value-added activities and economic growth to Native American communities depends on cooperative arrangements among the various Federal agencies and Indian tribes.

(b) Purposes.—The purposes of this Act are—

(1) to enable Indian tribes and tribal organizations to use available Federal assistance more effectively and efficiently;

(2) to adapt and target such assistance more readily to particular needs through wider use of projects that are supported by more than 1 agency, assistance program, or appropriation of the Federal Government;

(3) to encourage Federal-tribal arrangements under which Indian tribes and tribal organizations may more effectively and efficiently combine Federal and tribal resources to support economic development projects;

(4) to promote the coordination of Native American economic programs to maximize the benefits of those programs to encourage a more consolidated, national policy for economic development; and

(5) to establish a procedure to aid Indian tribes in obtaining Federal resources and in more efficiently administering those resources for the furtherance of tribal self-governance and self-determination.

SEC. 3. DEFINITIONS.

In this Act:

(1) Applicant.—The term "applicant" means an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, that submits an application under this Act for assistance in carrying out a project.

(2) Assistance.—The term "assistance" means the transfer of anything of value for a public purpose, support, or stimulation that is—

(A) authorized by a law of the United States;

(B) provided by the Federal Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and

(C) authorized to include an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, as eligible for receipt of funds under a statutory or administrative formula for the purposes of community, economic, or business development.

(3) Assistance program.—The term "assistance program" means any program of the Federal Government that provides assistance for which Indian tribes or tribal organizations are eligible.

(4) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Project.—

(A) In general.—The term "project" means a community, economic, or business development undertaking that includes components that contribute materially to carrying out a purpose or closely-related purposes that are proposed or approved for assistance under more than 1 Federal Government program.

(B) Inclusion.—The term "project" includes a project designed to improve the environment, a housing facility, a community facility, a business or industrial facility, or transportation, a road, or a highway, with respect to an Indian tribe, tribal organization, or consortium.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Tribal organization.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. LEAD AGENCY.

The Department of the Interior shall be the lead agency for purposes of carrying out this Act.

SEC. 5. SELECTION OF PARTICIPATING TRIBES.

(a) Participants.—

(1) In general.—The Secretary may select from the applicant pool described in subsection (b) Indian tribes or tribal organizations, not to exceed 24 in each fiscal year, to submit an application to carry out a project under this Act.

(2) Consortia.—Two or more Indian tribes or tribal organizations that are otherwise eligible to participate in a program or activity to which this Act applies may form a consortium to participate as an applicant under paragraph (1).

(b) Applicant Pool.—The applicant pool described in this subsection shall consist of each Indian tribe or tribal organization that—

(1) successfully completes the planning phase described in subsection (c);

(2) requests participation in a project under this Act through a resolution or other official action of the tribal governing body; and

(3) demonstrates, for the 3 fiscal years immediately preceding the fiscal year for which participation is requested, financial stability and financial management capability as demonstrated by a showing by the Indian tribe or tribal organization that there were no material audit exceptions in the required annual audit of the self-determination contracts of the Indian tribe or tribal organization.

(c) Planning Phase.—Each applicant—

(1) shall complete a planning phase that includes—

(A) legal and budgetary research; and

(B) internal tribal government and organizational preparation; and

(2) on completion of the planning phase, shall be eligible for joint assistance with respect to a project.

SEC. 6. APPLICATION REQUIREMENTS, REVIEW, AND APPROVAL.

(a) Requirements.—An applicant shall submit to the head of the Federal agency responsible for administering the primary Federal program to be affected by the project an application that—

(1) identifies the programs to be integrated;

(2) proposes programs that are consistent with the purposes described in section 2(b);

(3) describes—

(A) a comprehensive strategy that identifies the manner in which Federal funds are to be integrated and delivered under the project; and

(B) the results expected from the project;

(4) identifies the projected expenditures under the project in a single budget;

(5) identifies the agency or agencies of the tribal government that are to be involved in the project;

(6) identifies any Federal statutory provisions, regulations, policies, or procedures that the applicant requests be waived in order to implement the project; and

(7) is approved by the governing body of the applicant, including, in the case of an applicant that is a consortium or tribes or tribal organizations, the governing body of each affected member tribe or tribal organization.

(b) REVIEW.—On receipt of an application that meets the requirements of subsection (a), the head of the Federal agency receiving the application shall—

(1) consult with the applicant and with the head of each Federal agency that is proposed to provide funds to implement the project; and

(2) consult and coordinate with the Department of the Interior as the lead agency under this Act for the purposes of processing the application.

(c) APPROVAL.—

(1) WAIVERS.—

(A) IN GENERAL.—Subject to subparagraph (B), notwithstanding any other provision of law, the head of the Federal agency responsible for administering any statutory provision, regulation, policy, or procedure that is identified in an application in accordance with subsection (a)(6) or as a result of the consultation required under subsection (b), and that is requested by the applicant to be waived, shall waive the statutory provision, regulation, policy, or procedure.

(B) LIMITATION.—A statutory provision, regulation, policy, or procedure identified for waiver under subparagraph (A) may not be waived by an agency head if the agency head determines that a waiver would be inconsistent with—

(i) the purposes described in section 2(b); or

(ii) any provision of the statute governing the program involved that is specifically applicable to Indian programs.

(2) PROJECT.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt of an application that meets the requirements of subsection (a), the head of the Federal agency receiving the application shall inform the applicant, in writing, of the approval or disapproval of the application, including the approval or disapproval of any waiver sought under paragraph (1).

(B) DISAPPROVAL.—If an application or waiver is disapproved—

(i) the written notice shall identify the reasons for the disapproval; and

(ii) the applicant shall be provided an opportunity to amend the application or to petition the agency head to reconsider the disapproval.

SEC. 7. AUTHORITY OF HEADS OF FEDERAL AGENCIES.

(a) IN GENERAL.—The President, acting through the heads of the appropriate Federal agencies, shall promulgate regulations necessary—

(1) to carry out this Act; and

(2) to ensure that this Act is applied and implemented by all Federal agencies.

(b) SCOPE OF COVERAGE.—The Federal agencies that are included within the scope of this Act shall include—

(1) the Department of Agriculture;

(2) the Department of Commerce;

(3) the Department of Defense;

(4) the Department of Education;

(5) the Department of Energy;

(6) the Department of Health and Human Services;

(7) the Department of Homeland Security;

(8) the Department of Housing and Urban Development;

(9) the Department of the Interior;

(10) the Department of Justice;

(11) the Department of Labor;

(12) the Department of Transportation;

(13) the Department of the Treasury;

(14) the Department of Veterans Affairs;

(15) the Environmental Protection Agency;

(16) the Small Business Administration; and

(17) such other agencies as the President determines to be appropriate.

(c) ACTIVITIES.—Notwithstanding any other provision of law, the head of each Federal agency, acting alone or jointly through an agreement with another Federal agency, may—

(1) identify related Federal programs that are suitable for providing joint financing of specific kinds of projects with respect to Indian tribes or tribal organizations;

(2) assist in planning and developing such projects to be financed through different Federal programs;

(3) with respect to Federal programs or projects that are identified or developed under paragraphs (1) or (2), develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance;

(4) review administrative program requirements to identify requirements that may impede the joint financing of such projects and modify the requirements appropriately;

(5) establish common technical and administrative regulations for related Federal programs to assist in providing joint financing to support a specific project or class of projects; and

(6) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) an agency responsible for processing applications; and

(B) a lead agency responsible for project supervision.

(d) REQUIREMENTS.—In carrying out this Act, the head of each Federal agency shall—

(1) take all appropriate actions to carry out this Act when administering an assistance program;

(2) consult and cooperate with the heads of other Federal agencies; and

(3) assist in the administration of assistance programs of other Federal agencies that may be used to jointly finance projects undertaken by Indian tribes or tribal organizations.

SEC. 8. PROCEDURES FOR PROCESSING REQUESTS FOR JOINT FINANCING.

In processing an application for assistance for a project to be financed in accordance with this Act by at least 2 assistance programs, the head of a Federal agency shall take all appropriate actions to ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known to the head of the Federal agency by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the Federal Government;

(4) an applicant is promptly informed of a decision or problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from 1 Federal agency for a requesting Federal agency in a case in which the requesting agency makes the information or assurances directly.

SEC. 9. UNIFORM ADMINISTRATIVE PROCEDURES.

(a) IN GENERAL.—To make participation in a project simpler than would otherwise be practicable because of the application of inconsistent or conflicting technical or administrative regulations or procedures that are not specifically required by the statute that governs the Federal program under which the project is funded, the head of a Federal agency may promulgate uniform regulations concerning inconsistent or conflicting requirements with respect to—

(1) the financial administration of the project, including with respect to accounting, reporting, and auditing, and maintaining a separate bank account, to the extent consistent with this Act;

(2) the timing of payments by the Federal Government for the project in a case in which 1 payment schedule or a combined payment schedule is to be established for the project;

(3) the provision of assistance by grant rather than procurement contract; and

(4) the accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Federal Government under the project.

(b) REVIEW.—To make the processing of applications for assistance under a project simpler under this Act, the head of a Federal agency may provide for review of proposals for a project by a single panel, board, or committee in any case in which reviews by separate panels, boards, or committees are not specifically required by the statute that authorizes the Federal program under which the project is funded.

SEC. 10. DELEGATION OF SUPERVISION OF ASSISTANCE.

(a) IN GENERAL.—In accordance with regulations promulgated under section 7(a), the head of a Federal agency may delegate or otherwise enter into an arrangement to have another Federal agency carry out or supervise a project or class of projects jointly financed in accordance with this Act.

(b) CONDITIONS.—A delegation or other arrangement under subsection (a)—

(1) shall be made under conditions ensuring that the duties and powers delegated are exercised consistent with Federal law; and

(2) may not be made in a manner that relieves the head of a Federal agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

SEC. 11. JOINT ASSISTANCE FUNDS AND PROJECT FACILITATION.

(a) JOINT ASSISTANCE FUND.—In providing support for a project in accordance with this Act, the head of a Federal agency may provide for the establishment in the Treasury by an applicant of a joint assistance fund to ensure that amounts received by the applicant from more than 1 assistance program or appropriation are effectively administered.

(b) AGREEMENT.—

(1) IN GENERAL.—A joint assistance fund may be established under subsection (a) only in accordance with an agreement by the Federal agencies involved concerning the responsibilities of each such agency.

(2) REQUIREMENTS OF AGREEMENT.—An agreement under paragraph (1) shall—

(A) ensure the availability of necessary information to Federal agencies and Congress; and

(B) provide that the agency providing for the establishment of the fund under subsection (a) is responsible and accountable by program and appropriation for the amounts provided for the purposes of each fund..

(c) USE OF EXCESS FUNDS.—In any project conducted under this Act for which a joint assistance fund has been established under subsection (a) and the actual costs of the project are less than the estimated costs, use of the excess funds shall be determined by the head of the Federal agency administering the joint assistance fund, after consultation with the applicant.

SEC. 12. FINANCIAL MANAGEMENT, ACCOUNTABILITY, AND AUDITS.

(a) SINGLE AUDIT ACT.—Recipients of funding provided in accordance with this Act shall be subject to chapter 75 of title 31, United States Code.

(b) RECORDS.—

(1) IN GENERAL.—With respect to each project financed through an account in a joint assistance fund established under section 11, the recipient of amounts from the fund shall maintain records as required by the head of the Federal agency responsible for administering the fund.

(2) REQUIREMENTS.—Records described in paragraph (1) shall disclose—

(A) the amount and disposition by the recipient of assistance received under each Federal assistance program and appropriation;

(B) the total cost of the project for which such assistance was given or used;

(C) the part of the cost of the project provided from other sources; and

(D) such other information as the head of the Federal agency responsible for administering the fund determines will facilitate the conduct of an audit of the project.

(c) AVAILABILITY.—Records of a recipient related to an amount received from a joint assistance fund under this Act shall be made available, for inspection and audit, to—

(1) the head of the Federal agency responsible for administering the fund; and

(2) the Comptroller General of the United States.

SEC. 13. TECHNICAL ASSISTANCE AND PERSONNEL TRAINING.

Amounts available for technical assistance and personnel training under any Federal assistance program shall be available for technical assistance and training under a project approved for joint financing under this Act if the use of the funds involves the Federal assistance program and the project approved for joint financing.

SEC. 14. JOINT STATE FINANCING FOR FEDERAL-TRIBAL ASSISTED PROJECTS.

(a) IN GENERAL.—Under regulations promulgated under section 7(a), the head of a Federal agency may enter into an agreement with a State to extend the benefits of this Act to a project that involves assistance from—

(1) at least 1 Federal agency;

(2) a State; and

(3) at least 1 tribal agency or instrumentality.

(b) JOINT ACTION.—An agreement under subsection (a) may include arrangements to process requests or administer assistance on a joint basis.

SEC. 15. REPORT TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a report that includes—

(1) a description of actions taken under this Act;

(2) a detailed evaluation of the implementation of this Act, including information on the benefits and costs of jointly financed projects that accrue to participating Indian tribes and tribal organizations; and

(3) recommendations (including legislative recommendations) of the President with respect to improvement of this Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE in introducing the Indian Gaming Regulatory Act Amendments of 2003 to amend and update the act.

In amending the Indian Gaming Regulatory Act of 1988 (IGRA) it is important to keep in mind the twin aims of the act: to ensure that gaming continues to be a tool for Indian economic development; and to ensure that the games conducted are kept free from corrupting forces to maintain the integrity of the industry.

This bill will update the IGRA by clarifying how vacancies in the National Indian Gaming Commission (NIGC) are filled; revising the NIGC statutory rates of pay to correspond with other current Federal rates of pay; and expanding the NIGC's reporting requirements to Congress.

The bill also clarifies the act by making the Johnson Act inapplicable to class II technological aids to bring it in line with the original intent of Congress in 1988.

The bill also requires background checks on class III management contractors, management employees, and gaming commissioners.

When the IGRA was enacted in 1988, Indian gaming was mainly high stakes bingo operations, known as "class II gaming" under the act. Virtually no one thought Indian gaming would become the $14.5 billion dollar industry that it is today, providing tribes with resources for development and employment opportunities where none previously existed.

In response to this success, questions have been raised—some legitimate, some not—about the efficacy of regulation within the industry. This bill requires that the NIGC and the gaming tribes develop and implement a system of minimum internal control, background investigation and licensing standards for all tribes that operate class II and class III gaming.

The bill would also ensure that the NIGC has the resources it needs to fulfill its regulatory duties by increasing the fee cap 50 percent over the next six years. With that budgetary increase, and prior to levying any fees, the NIGC would be required to determine and take into account the nature and level of any tribal or joint tribal-state regulatory activities and to reduce the fees assessed accordingly.

The bill will enable the NIGC to provide technical assistance and training to Indian tribes. The NIGC would be authorized to expend the civil fines it recoups for violations of the IGRA for these purposes.

The last substantive reform in the bill goes to the very heart of the act—economic development for Indian tribes. Because of gaming, some tribes have been very successful, employing thousands of people, both Indian and non-Indian, and reducing poverty and the welfare rolls in their areas.

This success has attracted the attention of other governments, cash-strapped and hungry for new revenues. Many States are looking to gaming tribes to help eliminate their deficits, and some States are reportedly refusing to enter or renew compacts required under IGRA until tribes agree to revenue sharing provisions.

Congress never envisioned that kind of pressure would be applied to tribes and, keeping these facts and the goals of IGRA in mind, the bill includes provisions to ensure that tribal gaming revenues are first used to meet the needs of tribal governments and their members. Only after satisfying those needs, would States and tribes be able to negotiate a revenue-sharing agreement.

To encourage States and tribes to negotiate, the bill requires the Secretary to perform her existing responsibilities under the act within 90 days and, at the back end, when existing compacts are up for renewal, the bill provides a 180 day grace period beyond the expiration date of compacts to encourage tribal-State agreements.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments of 2003".

SEC. 2. PAYMENT AND ADMINISTRATION OF GAMING FEES.

(a) DEFINITIONS.—Section 4(7) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(7)) is amended by adding at the end the following:

"(G) TECHNOLOGICAL AIDS.—Notwithstanding any other provision of law, sections 1 through 7 of the Act of January 2, 1951 (commonly known as the 'Gambling Devices Transportation Act') (15 U.S.C. 1171 through 1177) shall not apply to any gaming described in subparagraph (A)(i) for which an electronic aid, computer, or other technological aid is used in connection with the gaming.".

(b) NATIONAL INDIAN GAMING COMMISSION.—Section 5 of the Indian Gaming Regulatory Act (25 U.S.C. 2704) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) VACANCIES.—

"(1) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

"(2) SUCCESSORS.—Unless a member of the Commission is removed for cause under subsection (b)(6), the member may—

"(A) be reappointed; and

"(B) serve after the expiration of the term of the member until a successor is appointed."; and

(2) in subsection (e), in the last sentence, by inserting "or disability" after "in the absence".

(c) Powers of Chairman.—Section 6 of the Indian Gaming Regulatory Act (25 U.S.C. 2705) is amended by adding at the end the following:

“(c) Delegation.—The Chairman may delegate to an individual Commissioner any of the authorities described in subsection (a).

“(d) Applicable Authority.—In carrying out any function under this section, a Commissioner serving in the capacity of the Chairman shall be governed by—

“(1) such general policies as are formally adopted by the Commission; and

“(2) such regulatory decisions, findings, and determinations as are made by the Commission.”.

(d) Powers of Commission.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) is amended—

(1) in paragraphs (1), (2), and (4) of subsection (b), by striking “class II gaming” each place it appears and inserting “class II gaming and class III gaming”;

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following:

“(c) Strategic Plan.—

“(1) In general.—The Commission shall develop a strategic plan for use in carrying out activities of the Commission.

“(2) Requirements.—The strategic plan shall include—

“(A) a comprehensive mission statement describing the major functions and operations of the Commission;

“(B) a description of the goals and objectives of the Commission;

“(C) a description of the means by which those goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives;

“(D) a performance plan for achievement of those goals and objectives that is consistent with—

“(i) other components of the strategic plan; and

“(ii) section 1115 of title 31, United States Code;

“(E) an identification of the key factors that are external to, or beyond the control of, the Commission that could significantly affect the achievement of those goals and objectives; and

“(F) a description of the program evaluations used in establishing or revising those goals and objectives, including a schedule for future program evaluations.

“(3) Biennial plan.—

“(A) Period covered.—The strategic plan shall cover a period of not less than 5 fiscal years beginning with the fiscal year in which the plan is submitted.

“(B) Updates and revisions.—The strategic plan shall be updated and revised biennially.”; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

“(4) the strategic plan for activities of the Commission described in subsection (c); and”.

(e) Commission Staffing.—Section 8 of the Indian Gaming Regulatory Act (25 U.S.C. 2707) is amended—

(1) in subsection (a), by striking “GS–18 of the General Schedule under section 5332” and inserting “level IV of the Executive Schedule under section 5318”;

(2) in subsection (b)—

(A) by striking “(b) The Chairman” and inserting the following:

“(b) Staff.—

“(1) In general.—The Chairman”; and

(B) by striking the last sentence and inserting the following:

“(2) Compensation.—

“(A) In general.—Staff appointed under paragraph (1) shall be paid without regard to the provision of chapter 51 and subchapter III of chapter 53, of title 5, United States Code, relating to General Schedule pay rates.

“(B) Maximum rate of pay.—The rate of pay for an individual appointed under paragraph (1) shall not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.”; and

(3) by striking subsection (c) and inserting the following:

“(c) Temporary Services.—

“(1) In general.—The Chairman may procure temporary and intermittent services under section 3109 of title 5, United States Code.

“(2) Maximum rate of pay.—The rate of pay for an individual for service described in paragraph (1) shall not exceed the daily equivalent of the maximum rate payable for level IV of the Executive Schedule under section 5318 of title 5, United States Code.

(f) Tribal Gaming Ordinances.—Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) is amended—

(1) in subsection (b)(2)(F), by striking clause (i) and inserting the following:

“(i) ensures that—

“(I) background investigations are conducted on the tribal gaming commissioners, key tribal gaming commission employees, and primary management officials and key employees of the gaming enterprise; and

“(II) oversight of primary management officials and key employees is conducted on an ongoing basis; and”; and

(2) in subsection (d)—

(A) in paragraph (4)—

(i) by striking “(4) Except” and inserting the following:

“(4) Revenue sharing.—

“(A) In general.—Except for any assessments that may be agreed to under paragraph (3)(C)(iii), nothing in this section confers on a State or political subdivision of a State authority to impose any tax, fee, charge, or other assessment on any Indian tribe or any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based on the lack of authority in the State or a political subdivision of the State to impose such a tax, fee, charge, or other assessment.

“(B) Apportionment of revenues.—The Secretary may not approve any Tribal-State compact or other agreement that includes an apportionment of net revenues with a State, local government, or other Indian tribes unless—

“(i) in the case of apportionment with other Indian tribes, the net revenues are not distributable by the other Indian tribes to members of the Indian tribes on a per capita basis;

“(ii) in the case of apportionment with local governments, the total amount of net revenues exceeds the amounts necessary to meet the requirements of clauses (i) and (ii) of subsection (b)(2)(B), but only to the extent that the excess revenues reflect the actual costs incurred by affected local governments as a result of the operation of gaming activities; or

“(iii) in the case of apportionment with a State—

“(I) the total amount of net revenues—

“(aa) exceeds the amounts necessary to meet the requirements of clauses (i) and (ii) of subsection (b)(2)(B) and clause (ii) of this subparagraph, if applicable; and

“(bb) is in accordance with regulations promulgated by the Secretary under subparagraph (C); and

“(II) a substantial economic benefit is rendered by the State to the Indian tribe.

“(C) Regulations.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall promulgate regulations to provide guidance to Indian tribes and States on the scope of allowable assessments negotiated under paragraph (3)(C)(iii) and the apportionment of revenues negotiated in accordance with subparagraph (B).”;

(B) in paragraph (7)(B)(vii), by inserting “not later than 90 days after notification is made” after “the Secretary shall prescribe”; and

(C) by adding at the end the following:

“(10) Extension of term of Tribal-State compact.—Any Tribal-State compact approved by the Secretary in accordance with paragraph (8) shall remain in effect for up to 180 days after expiration of the Tribal-State compact if—

“(A) the Indian tribe certifies to the Secretary that the Indian tribe requested a new compact not later than 90 days before expiration of the compact; and

“(B) a new compact has not been agreed on.”.

(g) Management Contracts.—Section 12 of the Indian Gaming Regulatory Act (25 U.S.C. 2711) is amended—

(1) by striking the section heading and all that follows through “Subject” in subsection (a)(1) and inserting the following:

“SEC. 12. MANAGEMENT CONTRACTS.

“(a) Class II Gaming and Class III Gaming Activities; Information on Operators.—

“(1) Gaming activities.—Subject”; and

(2) in subsection (a)(1), by striking “class II gaming activity that the Indian tribe may engage in under section 11(b)(1) of this Act,” and inserting “class II gaming activity in which the Indian tribe may engage under section 11(b)(1), or a class III gaming activity in which the Indian tribe may engage under section 11(d),”.

(h) Commission Funding.—Section 18 of the Indian Gaming Regulatory Act (25 U.S.C. 2717) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) through (3) and inserting the following:

“(1) Schedule of fees.—

“(A) In general.—Except as provided in this section, the Commission shall establish a schedule of fees to be paid annually to the Commission, on a quarterly basis, by each gaming operation that conducts a class II gaming or class III gaming activity that is regulated, in whole or in part, by this Act.

“(B) Rates.—The rate of fees under the schedule established under subparagraph (A) that are imposed on the gross revenues from each operation that conducts a class II gaming or class III gaming activity described in that paragraph shall be (as determined by the Commission)—

“(i) a progressive rate structure levied on the gross revenues in excess of $1,500,000 from each operation that conducts a class II gaming or class III gaming activity; or "(ii) a flat fee levied on the gross revenues from each operation that conducts a class II gaming or class III gaming activity.

"(C) TOTAL AMOUNT.—The total amount of all fees imposed during any fiscal year under the schedule established under subparagraph (A) shall not exceed—

"(i) $10,000,000 for each of fiscal years 2004 and 2005;

"(ii) $11,000,000 for each of fiscal years 2006 and 2007; and

"(iii) $12,000,000 for each of fiscal years 2008 and 2009."; and

(B) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(2) by redesignating subsection (b) as subsection (d);

(3) in paragraph (2) of subsection (d) (as redesignated by paragraph (2)), by striking "section 19 of this Act" and inserting "section 28"; and

(4) by inserting after subsection (a) the following:

"(b) FEE PROCEDURES.—

"(1) IN GENERAL.—By a vote of not less than 2 members of the Commission, the Commission shall adopt the schedule of fees provided for under this section.

"(2) FEES ASSESSED.—In assessing and collecting fees under this section, the Commission shall take into account the duties of, and services provided by, the Commission under this Act.

"(3) REGULATIONS.—The Commission shall promulgate such regulations as are necessary to carry out this subsection.

"(c) FEE REDUCTION PROGRAM.—

"(1) IN GENERAL.—In making a determination of the amount of fees to be assessed for any class II gaming or class III gaming activity under the schedule of fees under this section, the Commission may provide for a reduction in the amount of fees that otherwise would be collected on the basis of—

"(A) the extent and quality of regulation of the gaming activity provided by a State or Indian tribe, or both, in accordance with an approved State-Tribal compact;

"(B) the extent and quality of self-regulating activities covered by this Act that are conducted by an Indian tribe; and

"(C) other factors determined by the Commission, including—

"(i) the unique nature of tribal gaming as compared with commercial gaming, other governmental gaming, and charitable gaming;

"(ii) the broad variations in the nature, scale, and size of tribal gaming activity;

"(iii) the inherent sovereign rights of Indian tribes with respect to regulating the affairs of Indian tribes;

"(iv) the findings and purposes under sections 2 and 3;

"(v) the amount of interest or investment income derived from the Indian gaming regulation accounts; and

"(vi) any other matter that is consistent with the purposes under section 3.

"(2) RULEMAKING.—The Commission shall promulgate such regulations as are necessary to carry out this subsection.".

(i) ADDITIONAL AMENDMENTS.—The Indian Gaming Regulatory Act is amended—

(1) by striking section 19 (25 U.S.C. 2718);

(2) by redesignating sections 20 through 24 (25 U.S.C. 2719 through 2723) as sections 23 through 27, respectively;

(3) by inserting after section 18 (25 U.S.C. 2717) the following:

"SEC. 19. INDIAN GAMING REGULATION ACCOUNTS.

"(a) IN GENERAL.—All fees and civil forfeitures collected by the Commission in accordance with this Act shall—

"(1) be maintained in separate, segregated accounts; and

"(2) be expended only for purposes described in this Act.

"(b) INVESTMENTS.—

"(1) IN GENERAL.—The Commission shall invest such portion of the accounts maintained under subsection (a) as are not, in the judgment of the Commission, required to meet immediate expenses.

"(2) TYPES OF INVESTMENTS.—Investments may be made only in interest-bearing obligations of the United States guaranteed as to both principal and interest by the United States.

"(c) SALE OF OBLIGATIONS.—Any obligation acquired with funds in an account maintained under subsection (a)(1) (except special obligations issued exclusively to those accounts, which may be redeemed at par plus accrued interest) may be sold by the Commission at the market price.

"(d) CREDITS TO INDIAN GAMING REGULATORY ACCOUNTS.—The interest on, and proceeds from, the sale or redemption of any obligation held in an account maintained under subsection (a)(1) shall be credited to and form a part of the account.

"SEC. 20. MINIMUM STANDARDS.

"(a) CLASS I GAMING.—Notwithstanding any other provision of law, class I gaming on Indian land—

"(1) shall remain within the exclusive jurisdiction of the Indian tribe having jurisdiction over the Indian land; and

"(2) shall not be subject to this Act.

"(b) CLASS II GAMING.—

"(1) IN GENERAL.—Subject to paragraph (2), an Indian tribe shall retain primary jurisdiction over regulation of class II gaming activities conducted by the Indian tribe.

"(2) CONDUCT OF CLASS II GAMING.—Any class II gaming activity shall be conducted in accordance with—

"(A) section 11; and

"(B) regulations promulgated under subsection (d).

"(c) CLASS III GAMING.—

"(1) IN GENERAL.—Subject to paragraph (2), an Indian tribe shall retain primary jurisdiction over regulation of class III gaming activities conducted by the Indian tribe.

"(2) CONDUCT OF CLASS III GAMING.—Any class III gaming operated by an Indian tribe under this Act shall be conducted in accordance with—

"(A) section 11; and

"(B) regulations promulgated under subsection (d).

"(d) RULEMAKING.—

"(1) IN GENERAL.—

"(A) PROMULGATION.—Not later than 180 days after the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, the Commission shall develop procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate regulations relating to—

"(i) the monitoring and regulation of tribal gaming;

"(ii) the establishment and regulation of internal control systems; and

"(iii) the conduct of background investigation.

"(B) PUBLICATION OF PROPOSED REGULATIONS.—Not later than 1 year after the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, the Commission shall publish in the Federal Register proposed regulations developed by a negotiated rulemaking committee in accordance with this section.

"(2) COMMITTEE.—A negotiated rulemaking committee established in accordance with section 565 of title 5, United States Code, to carry out this subsection shall be composed only of Federal and Indian tribal government representatives, a majority of whom shall be nominated by and be representative of Indian tribes that conduct gaming in accordance with this Act.

"(e) ELIMINATION OF EXISTING REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), as of the date that is 1 year after the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, regulations establishing minimum internal control standards promulgated by the Commission that are in effect as of the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003 shall have no force or effect.

"(2) EXCEPTION FOR AFFIRMATION OF EXISTING REGULATIONS.—Notwithstanding paragraph (1), if, before the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, the Commission certifies to the Secretary of the Interior that the Commission has promulgated regulations that establish minimum internal control standards that meet the requirements of subsection (d)(1)(A) and were developed in consultation with affected Indian tribes, the regulations shall—

"(A) be considered to satisfy the requirements of paragraph (1); and

"(B) remain in full force and effect.

"SEC. 21. USE OF NATIONAL INDIAN GAMING COMMISSION CIVIL FINES.

"(a) ACCOUNT.—Amounts collected by the Commission under section 14 shall—

"(1) be deposited in a separate Indian gaming regulation account established under section 19(d)(1)(A); and

"(2) be available to the Commission, as provided for in advance in Acts of appropriation, for use in carrying out this Act.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—The Commission may provide grants and technical assistance to Indian tribes using funds secured by the Commission under section 14.

"(2) USES.—A grant or financial assistance provided under paragraph (1) may be used only—

"(A) to provide technical training and other assistance to an Indian tribe to strengthen the regulatory integrity of Indian gaming;

"(B) to provide assistance to an Indian tribe to assess the feasibility of conducting nongaming economic development activities on Indian land;

"(C) to provide assistance to an Indian tribe to devise and implement programs and treatment services for individuals diagnosed as problem gamblers; or

"(D) to provide to an Indian tribe 1 or more other forms of assistance that are not inconsistent with this Act.

"(c) SOURCE OF FUNDS.—Amounts used to carry out subsection (b) may be derived only from funds—

"(1) collected by the Commission under section 14; and

"(2) authorized for use in advance by an Act of appropriation.

"(d) REGULATIONS.—The Commission may promulgate such regulations as are necessary to carry out this section.

"SEC. 22. TRIBAL CONSULTATION.

"In carrying out this Act, the Secretary of the Interior, Secretary of the Treasury, and

Chairman of the Commission shall involve and consult with Indian tribes to the maximum extent practicable, as appropriate, in a manner that is consistent with the Federal trust and the government-to-government relationship that exists between Indian tribes and the Federal Government.''; and

(4) by inserting after section 27 (as redesignated by paragraph (2)) the following:

"SEC. 28. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—Subject to section 18, there is authorized to be appropriated to carry out this Act, for fiscal year 1998 and each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a).

''(b) ADDITIONAL AMOUNTS.—Notwithstanding section 18, in addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated $2,000,000 to fund the operation of the Commission for fiscal year 1998 and each fiscal year thereafter.''.

By Mr. DASCHLE:

S. 1530. A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, I am pleased to introduce the Lower Brule and Crow Creek Sioux Tribal Parity Act of 2003.

This legislation is intended to provide additional and final compensation to the Lower Brule Sioux and Crow Creek Sioux Tribes for losses from the Pick-Sloan Missouri River Basin Program, commonly known as the "Flood Control Act of 1944".

The Pick-Sloan Program inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribe. Congress has provided compensation to several South Dakota Indian tribes, including Lower Brule and Crow Creek, that border the Missouri River. The compensation provided, however, has not been consistent in terms of either criteria, or methodology.

Based on the methodology determined appropriate by the General Accounting Office and used by Congress to determine the compensation for the Cheyenne River Sioux Tribe, new calculations have determined that Lower Brule is entitled to additional final compensation of $137,065,558 from the United States. The Crow Creek Sioux Tribe is entitled to additional compensation of $100,244,040. The legislation I am introducing will provide parity for the Lower Brule Sioux and Crow Creek Sioux Tribes.

These two tribes are entitled to a final parity payment based upon this GAO-approved methodology. I look forward to moving ahead with this legislation for the benefit of the people of Lower Brule and Crow Creek.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Parity Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 891)), was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(A) are major components of the Pick-Sloan Missouri River Basin Program; and

(B) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, that border the Missouri River and suffered injury as a result of 1 or more Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of 1 or more Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes;

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes.

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Public Law 105–132; 111 Stat. 2565) is amended by striking "$39,300,000" and inserting "$176,398,012".

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104–223; 110 Stat. 3027) is amended by striking "$27,500,000" and inserting "$100,244,040".

By Mr. HATCH (for himself, Mr. LEAHY, Mr. WARNER, Mr. BINGAMAN, Mr. ALLEN, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. LAUTENBERG, Mr. BOND, Mr. HARKIN, Mr. DOMENICI, Mr. JEFFORDS, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mrs. DOLE, and Mr. BREAUX):

S. 1531. A bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HATCH. Mr. President, I rise today in support of S. 1531, the John Marshall Commemorative Coin Act. This bill authorizes the Treasury Department to mint and issue coins bearing the likeness of Chief Justice John Marshall for the purpose of supporting the Supreme Court Historical Society. Sales of the coin would, in addition to raising funds for the Society, also cover all of the costs of minting and issuing these coins, so that the American taxpayer would not bear any cost whatsoever if this legislation were enacted.

Justice Oliver Wendell Holmes once called John Marshall "the great Chief Justice." After 34 years on the bench, from 1801–1835, Marshall earned that title by establishing many of the constitutional doctrines we revere today. Writing over 500 opinions, he truly made the third branch of government co-equal with the legislative and executive branches.

Marshall's greatness lay in his ability to figure out how to put in practice the concept of checks and balances. In powerfully written decisions, the Marshall Court established several constitutional doctrines, forming the bedrock of contemporary jurisprudence including: establishing judicial review, prohibiting State taxation of the Federal Government, making the federal supreme court final arbiter of decisions issued by State supreme courts, and expounding the limits of the contracts and commerce clauses. Indeed, he solidified early Federalist ideas by defining the relationships between the Federal Government and the States; a position that was forgotten and is only very recently re-emerging in our jurisprudence.

Born in 1755, Marshall was a key player in the founding generation who established our constitutional government. He was an early and active member in the revolutionary cause, joining with the revolutionary army and fighting as one of George Washington's Officers in at least four major battles and enduring the winter at Valley Forge. Marshall later served as a member of Congress and as Secretary of State before his ascension to the Supreme Court.

There is a no more fitting likeness for a coin that would support the efforts of the Supreme Court Historical Society. The Society is a non-profit organization whose purpose is to preserve and disseminate the history of the Supreme Court of the United States. Founded by Chief Justice Warren Burger, the Society's mission is to provide information and historical research on our Nations highest court. The Society accomplishes this mission by conducting programs, publishing books, supporting historical research and collecting antiques and artifacts related to the Court's history.

Recent research includes efforts to capture the history of the Court during the Franklin D. Roosevelt period, the Civil War, and the evolution of the Chief Justice's role on the court. Lectures and programs are open to the public as well as Society members. Additionally, the Society seeks to acquire the private papers, period furnishings, and art work relating to court history.

For all of these reasons, I urge my colleagues to join with me in this effort to memorialize the Great Chief Justice John Marshall and assist a worthwhile organization like the Supreme Court Historical Society.

Thank you, Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I join my Judiciary Committee colleague Senator HATCH and others in introducing a bill to authorize the minting of a commemorative coin in honor of United States Supreme Court Chief Justice John Marshall, commonly known as "the Great Chief Justice."

Marshall's contributions to our country have been noted by members of the executive and judicial branches. President John Quincy Adams described his father's appointment of Marshall to the Supreme Court as "one of the most important services rendered by [his father] to his country." Fellow Supreme Court Justice Joseph Story described Marshall in the following terms: "Patience, moderation, candor, urbanity, quickness of perception, dignity of deportment, gentleness of manners, genius which commands respect, and learning which justifies confidence." Congress' passage of the "John Marshall Commemorative Coin Act" in honor of the upcoming 250th anniversary of his birth would be a fitting complement to these, and other, recognitions of "the Great Chief Justice's" extraordinary accomplishments.

Marshall presided over the Supreme Court during the formative years of 1801–1835. Before that time, the Supreme Court played a comparatively minor role in our Federal government. Under Marshall's leadership, the Court evolved into a powerful institution and assumed its role as guardian of the Constitution, and as the arbiter of disputes between the Federal government and the States. As one legal scholar commented: "It is not inconceivable that the Supreme Court would have remained a minor appendage of our government, and our constitutional development taken a distinctly different course, but for the fact that John Marshall occupied the Chief Justice's chair during the first three decades of the nineteenth century."

Marshall is considered the founding father of American Constitutional law. To name just a few of Marshall's groundbreaking opinions, Marbury v. Madison the first instance in which the Supreme Court pronounced an act of Congress unconstitutional is the leading precedent for the Court's power to judge the constitutionality of legislative and executive acts. In McCulloch v. Maryland, Marshall asserted the right of the Supreme Court to decide questions involving the conflicting powers of the Federal and State governments, affirmed Congress' authority to act in furtherance of its enumerated powers, and established the standard for determining when the exercise of a Federal power limits the otherwise sovereign power of a State. In Cohens v. Virginia, Marshall established the authority of the Federal judiciary to review decisions of the highest State courts. As a final illustration of Marshall's many important judicial opinions, in Gibbons v. Ogden, he set forth Congress' power to regulate commerce among the States and with foreign nations.

Aside from the specific constitutional principles Marshall established while on the Court, he made many other important contributions to American constitutional law. For example, Marshall advocated that judges, as ultimate guardians of the Constitution, should be above politics and that the role of the Nation's courts was to mitigate the effects of factional politics. Moreover, Marshall adopted an approach to constitutional interpretation termed "fair construction" which struck a middle ground between an overly restrictive, and an overly broad, reading of the Constitution because he feared that strict construction would ultimately weaken the Constitution and, in due course, the Nation.

In closing, it is difficult to overstate Chief Justice Marshall's contributions to our Nation. Many years ago, when I read Marshall's opinions in my first year of law school, I admired the Chief Justice. Now, having served in Congress and worked within the principles Marshall established, I find him all the more admirable. A commemorative coin in his honor would be a fitting tribute to "the Great Chief Justice."

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Chief Justice John Marshall Commemorative Coin Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) John Marshall served as the Chief Justice of the Supreme Court of the United States from 1801 to 1835, the longest tenure of any Chief Justice in the Nation's history;

(2) Under Marshall's leadership, the Supreme Court expounded the fundamental principles of constitutional interpretation, including judicial review, and affirmed national supremacy, both of which served to secure the newly founded United States against dissolution; and

(3) John Marshall's service to the nascent United States, not only as Chief Justice, but also as a soldier in the Revolutionary War, as a member of the Virginia Congress and the United States Congress, and as Secretary of State, makes him one of the most important figures in our Nation's history.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATION.—In commemoration of the 250th anniversary of the birth of Chief Justice John Marshall, the Secretary of the Treasury (in this Act referred to as the "Secretary") shall mint and issue not more than 400,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of Chief Justice John Marshall and his contributions to the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2005"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, and the Supreme Court Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning on January 1, 2005.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2005.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to pre-paid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Supreme Court Historical Society for the purposes of—

(1) historical research about the Supreme Court and the Constitution of the United States and related topics;

(2) supporting fellowship programs, internships, and docents at the Supreme Court; and

(3) collecting and preserving antiques, artifacts, and other historical items related to the Supreme Court and the Constitution of the United States and related topics.

(c) AUDITS.—The Supreme Court Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Society under subsection (b).

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 3(a) shall result in no net cost to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 3(a) unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

By Ms. STABENOW (for herself, Mr. ENZI, Mr. JOHNSON, Mr. HAGEL, Mr. SCHUMER, Mr. BAYH, Mr. CARPER, and Mr. CORZINE):

S. 1532. A bill to establish the Financial Literacy Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. STABENOW. Mr. President, I rise today to introduce the Financial Literacy Community Outreach Act of 2003. This bill, which I am proud to introduce with my colleague and friend, Mr. ENZI, is the product of several months of work. We have reached out to financial literacy advocates, financial institutions, Federal agencies, and other interested parties to craft a comprehensive bill to streamline, augment, and improve our government's approach to financial literacy.

The need for this legislation is clear. Studies show alarming shortcomings in the state of financial literacy in America. For example, in a survey of consumers 18 years and older conducted by the American Association of Retired Persons in late 1998, only 11 percent of respondents correctly answered 4 basic financial questions. A study by the Jump$tart Coalition for Personal Financial Literacy found that, in 2002, on average, high school seniors could correctly answer only about 50 percent of a set of financial answers put to them a failing grade.

In addition, from 1990 to 2000, the outstanding credit card debt among households more than tripled from $200 billion to $600 billion. And, a 2002 study by John Hancock found that, in a study it did, 50 percent of respondents said they spend half an hour or less per month managing their retirement funds.

These are all very disturbing statistics and, just a few examples of why I feel the need to act to improve our government's approach to this problem. We need a clear and effective strategy to address these problems.

The Federal Government understands that financial literacy is essential to a healthy economy and the protection of consumers. That is why many Federal departments and agencies have employed their resources and expertise to educate the public about how to accomplish such goals as realizing the dreams of homeownership, saving for a child's college education, and planning for a secure retirement. These agencies do this through grant programs, through special training, and by developing financial literacy materials.

Unfortunately, what Mr. ENZI and I, as well as others active on this issue, have come to realize is that these programs are uncoordinated and, in some places, duplicative. There is no mechanism for these agencies to interact and assess the good work they are doing. That is why, in our legislation, we set up a Federal Financial Literacy Commission.

Made up of Federal decision makers with jurisdiction over one or more financial literacy programs, including the Federal Reserve, the FDIC, the Treasury Department, the Department of Housing and Urban Development, the Securities and Exchange Commission, and the Small Business Administration, our Commission, and its constituent members, will take all necessary steps to coordinate, streamline and improve existing programs. The Commission will also make recommendations to Congress on legislation that may be needed to improve financial education.

I am pleased to say that this new Commission will operate as a nexus for all Federal financial literacy materials, grants, and information; spearhead efforts to reach out to the public with financial literacy messages; manage a toll free hotline; operate a website promoting financial literacy and highlighting Federal grants, materials, and programs; and, it may feature private and non-profit resources available to the public.

Improving the state of financial literacy is a common sense thing to do. It is something that we can do through cooperation and strategic thinking about our Federal resources. And, it can be done with the input of all concerned interests. Many people in the Senate have worked diligently on the subject of financial literacy, including Mr. SARBANES, the Ranking Member of the Banking, Housing, and Urban Affairs Committee who has done important work on this subject.

I am pleased that Mr. ENZI is the lead Republican sponsor of this legislation; he is a true leader and cares passionately about this issue. And, I appreciate the leadership of the bipartisan group of Senators who have agreed to cosponsor our bill: Mr. HAGEL, Mr. JOHNSON, Mr. SCHUMER, Mr. BAYH, Mr. CARPER, and Mr. CORZINE. I look forward to working with them and all of my other colleagues in the Senate to ensure that we have an effective, coordinated, and comprehensive Federal approach to improving financial literacy in our country.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Literacy Community Outreach Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) although the evolution of our financial system has offered families in the United States many new opportunities to build wealth and security, the ready availability of credit, an overwhelming array of investment and savings options, and the shifting of responsibility for retirement savings from employer to employee has made the understanding of personal finance ever more important;

(2) many young adults within the United States have demonstrated difficulty understanding basic financial concepts;

(3) in surveys of high school seniors conducted by the JumpStart Coalition for Personal Financial Literacy—

(A) in 1997 participants, on average, failed, and answered only 57 percent of the questions correctly;

(B) in 2000, the average score fell to 51 percent; and

(C) in 2002, disturbingly, on average, only 50 percent of the questions were answered correctly;

(4) in a survey of consumers 18 years and older conducted by the American Association of Retired Persons in late 1998, only 11 percent of respondents correctly answered 4 basic financial questions;

(5) a similar survey of 800 defined benefit contribution plan participants conducted by John Hancock in 2002 found that 50 percent of respondents said they spend half an hour or less per month managing their retirement funds;

(6) households in the United States are not reaching their full potential in financial management, and as a result—

(A) the personal savings rate fell to only 1.6 percent of disposable income in 2001;

(B) from 1990 to 2000, outstanding credit card debt among households more than tripled from $200,000,000,000 to $600,000,000,000;

(C) in 2001, the total household debt exceeded total household disposable income by nearly 10 percent;

(D) less than half of all households hold stock in any form, including mutual funds and 401(k)-style pension plans; and

(E) almost half of all workers have accumulated less than $50,000 for their retirement, and ⅓ have saved less than $10,000;

(7) many Government agencies recognize that the people of the United States lack expertise in financial literacy and are working to help them, including efforts by—

(A) the Department of Labor and the Federal Deposit Insurance Corporation, which have joined together to create "Money Smart", a training program to help adults enhance their money-management skills;

(B) the Department of the Treasury, which has formed the "Financial Services Education Council", and has published a guide called "Helping People in Your Community Understand Basic Financial Services";

(C) the Department of the Treasury in promoting a middle school curriculum called "Money Math: Lessons for Life";

(D) the Federal Trade Commission, which publishes information about credit, including "Credit Matters: How to qualify for credit, keep a good credit history, and protect your credit";

(E) the Department of Agriculture, which runs the "Family Economics Program" to assist educators who deliver basic consumer education and teach personal financial management skills to young people;

(F) the Securities and Exchange Commission, which has an Office of Investor Education and Assistance;

(G) the Board of Governors of the Federal Reserve System, which has developed materials explaining how to use credit responsibly, obtain a mortgage, build wealth, and lease a car;

(H) the Department of Housing and Urban Development in funding housing counseling agencies nationwide that provide advice on how to save for and buy a home; and

(I) the Government Services Administration in hosting the Federal Consumer Information Center, which has an electronic catalogue of information about Federal financial literacy programs;

(8) there is very little coordination among Federal programs, resulting in duplication of effort and a confusing array of information spread among many agencies;

(9) there is a serious problem with financial illiteracy among many low-income consumers, who often—

(A) do not have a relationship with a mainstream financial services provider;

(B) lack experience and information about personal finance; and

(C) are ill-prepared to make informed financial decisions;

(10) many people in the United States—

(A) are in a precarious financial position because they lack an understanding of economic and financial fundamentals and of financial planning;

(B) are forgoing opportunities to build wealth by failing to target their investments to higher yielding, yet secure savings vehicles; and

(C) are failing to adequately plan and save for retirement; and

(11) financial literacy is the foundation that supports—

(A) economic independence for the citizens of the United States; and

(B) the functioning of our free market economy.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Commission" means the Financial Literacy Commission established under section 101; and

(2) the term "financial literacy" means basic personal income and household money management and planning skills, including—

(A) saving and investing;

(B) building wealth;

(C) managing spending, credit, and debt effectively;

(D) tax and estate planning;

(E) the ability to ascertain fair and favorable credit terms and avoid abusive, predatory, or deceptive credit offers;

(F) the ability to understand, evaluate, and compare financial products, services, and opportunities; and

(G) all other related skills.

TITLE I—FINANCIAL LITERACY COMMISSION

SEC. 101. ESTABLISHMENT OF FINANCIAL LITERACY COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the Financial Literacy Commission.

(b) PURPOSE.—The Commission shall serve to improve the financial literacy of persons in the United States by overseeing, implementing, and reporting upon the effects of the performance of the duties of the Commission set forth in section 102.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of not more than 19 members, including—

(A) the Comptroller of the Currency;

(B) the Secretary of Agriculture of the Department of Agriculture;

(C) the Secretary of Education of the Department of Education;

(D) the Secretary of Housing and Urban Development of the Department of Housing and Urban Development;

(E) the Secretary of Labor of the Department of Labor;

(F) the Secretary of the Treasury;

(G) the Chairman of the Federal Deposit Insurance Corporation;

(H) the Chairman of the Board of Governors of the Federal Reserve System;

(I) the Chairman of the Federal Trade Commission;

(J) the Administrator of General Services of the General Services Administration;

(K) the Commissioner of the Internal Revenue Service;

(L) the Chairman of the National Credit Union Administration Board;

(M) the Director of the Office of Thrift Supervision;

(N) the Chairman of the Securities and Exchange Commission;

(O) the Administrator of the Small Business Administration;

(P) the Commissioner of the Social Security Administration; and

(Q) at the discretion of the President, not more than 3 individuals appointed by the President from among the administrative heads of any other Federal agency, department, or other Government entity, whom the President believes would be helpful in implementing the purpose of the Commission.

(2) DESIGNEES.—The individuals referred to in paragraph (1) may appoint a designee from within the department or agency of that individual to serve as a member of the Commission.

(d) FEDERAL EMPLOYEE REQUIREMENT.—Each member of the Commission shall be an officer or employee of the United States.

(e) CHAIRPERSON.—The Commission shall select a Chairperson from among its members. The Secretary of the Treasury, or the designee thereof under subsection (c)(2), shall chair the initial meeting of the Commission.

(f) VICE CHAIRPERSON.—The Commission shall select a Vice Chairperson from among its members.

(g) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment or designation, as provided under subsection (c).

(h) INITIAL MEETING.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

(i) MEETINGS.—

(1) SEMIANNUAL MEETINGS.—The Commission shall hold, at the call of the Chairperson, 1 meeting every 6 months to conduct necessary business. All such meetings shall be open to the public.

(2) DISCRETIONARY MEETINGS.—The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this Act.

(j) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(k) EXECUTIVE COMMITTEE.—

(1) IN GENERAL.—The Commission shall establish an Executive Committee comprised of—

(A) the Chairperson;

(B) the Vice Chairperson; and

(C) 3 at-large members selected by the Commission from among members appointed under subsection (c).

(2) TERM.—Members of the Executive Committee selected under paragraph (1)(C) shall serve for such time as determined by the Commission.

(3) MEETINGS.—The Executive Committee shall hold, at the call of the Chairperson, 1 meeting every 2 months to conduct necessary administrative business.

(4) QUORUM.—A majority of the members of the Executive Committee shall constitute a quorum.

SEC. 102. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission, through the authority of the members referred to in section 101(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy programs, materials, and grants of the Federal Government.

(b) WEBSITE.—

(1) IN GENERAL.—The Commission shall establish and maintain a website, and attempt to register the domain name "FinancialLiteracy.gov", or, if such domain name is not available, a similar domain name.

(2) PURPOSES.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy;

(C) offer information on all Federal grants to promote financial literacy, and offer information to the public on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to private sector efforts, such as the JumpStart Coalition for Personal Financial Literacy, and feature information about private sector financial literacy programs, materials, or campaigns;

(E) highlight information about best practices for teaching and promoting financial literacy; and

(F) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) Toll Free Hotline.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy.

(d) Development and Dissemination of Materials.—The Commission shall—

(1) develop materials to promote financial literacy; and

(2) disseminate such materials to the general public.

(e) Administration of Grant Programs.—

(1) Authority.—The Commission shall be authorized to establish and implement grant programs to promote financial literacy.

(2) Eligibility.—Grants awarded under paragraph (1) may be awarded to schools, non-profit organizations, units of general local government, faith-based organizations, and such other entities as determined eligible by the Commission.

(3) Preferences.—In awarding grants under paragraph (1), the Commission shall—

(A) give preference to entities that have a demonstrated record of serving communities with people who have historically had either limited or no access to financial literacy education; and

(B) to the extent practicable, award grants to as many entities eligible under paragraph (2) as possible.

(f) Initial and Annual Reports.—

(1) Initial report.—

(A) In general.—Not later than 18 months after the date of the first meeting of the Commission, the Commission shall issue an initial report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this Act.

(B) Contents.—The report required under subparagraph (A) shall—

(i) identify all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs; and

(ii) identify all actions that the Commission has taken to streamline, improve, or augment the financial literacy programs, materials, and grants of the Federal Government.

(2) Annual report.—

(A) In general.—Not later than November 30 of each year, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report detailing the activities of the Commission during the preceding fiscal year, and making recommendations on ways to enhance financial literacy in the United States.

(B) Contents.—The report required under subparagraph (A) shall include—

(i) information concerning the content and public use of the website established under subsection (b);

(ii) information concerning the usage of the toll-free telephone number established under subsection (c);

(iii) summaries of the financial literacy materials developed under subsection (d), and data regarding the dissemination of such materials;

(iv) information about the activities of the Commission planned for the next fiscal year;

(v) a summary of all Federal efforts to reach out to communities that have historically lacked access to financial literacy materials and education; and

(vi) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(g) Periodic Studies.—The Commission may conduct periodic studies regarding the state of financial literacy in the United States, as the Commission determines appropriate.

SEC. 103. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Advisory Committees.—The Commission shall establish not fewer than 1 advisory committee, consisting of representatives of lending institutions, financial literacy nonprofit organizations, consumer advocates, State and local governments, and such other individuals that the Commission believes could contribute to the work of the Commission.

(c) Information from Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by members of the Commission.

(2) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) Detail of government employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) Temporary and intermittent services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 105. TERMINATION.

The Commission shall terminate on September 30, 2013.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this Act, including administrative expenses of the Commission.

Mr ENZI. Mr. President, the U.S. economy is still the greatest economy in the world and our credit markets have helped to make that happen. During the past decade, our credit markets have taken advantage of technology and innovation in order to provide more consumers with more timely credit approvals and with more financing options. Nowhere is there a better example of this than our housing market.

Today, the time it takes to review a mortgage application and approve it has been cut drastically by our financial institutions. Consumers find that they have a wide array of financing options they can choose from to secure the purchase of a home—from fixed-rated loans to variable-rate loans, or even adjustable rate loans. While the wide variety of choices has helped more families to purchase homes in the past decade, even more families could buy homes if they understood how the credit market works.

Although there are many pluses to the expansion of the availability of credit there is also a downside. Individuals may get in over their heads when too much credit is made available to them. In addition, identity theft is a bigger problem than it has been before. Consumers need to educate themselves about the potential problems they might face and how to avoid them. Increasing consumer financial literacy is not just about providing information, however, it is about giving families the proper informational tools so that they can put their financial affairs in order.

Today, my friend and colleague, Senator STABENOW and I are introducing the "Financial Literacy Community Outreach Act" to help to bring together all of the federal government's financial literacy programs under one roof.

The Department of Treasury, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Securities and Exchange Commission, the Department of Housing and Urban Development, and the Department of Labor are just a few of the many federal agencies that have established excellent financial literacy programs and initiatives. These programs cover a wide variety of topics ranging from how to save, spend, and invest to programs that provide guidance on how to prepare for retirement, select a pension plan, or purchase a home. Still others help individuals avoid the threat of identity theft.

Unfortunately, consumers attempting to find financial literacy information from the federal government may find that information scattered throughout the government. Our bill would provide a one-stop-shop where consumers could find the appropriate financial literacy programs for their needs. A single web site and a toll-free number will go a long way toward bringing this vital information to the individuals and families who need it.

In addition, the bill establishes the Financial Literacy Commission, a body comprised of the heads of the federal agencies with financial literacy programs. The Commission will ensure that the federal government has a cohesive and coordinated federal policy on financial literacy as it provides Congress with vital information on what can be improved in our government's financial literacy outreach efforts. In addition to the web site and the toll-free number, the Commission will highlight successful public/private partnerships already existing around the country.

One such partnership is thriving in my home state of Wyoming. The Wyoming Partners in HomeBuyer Education, led by the Wyoming Community Development Authority, includes local banks, real estate agents, the University of Wyoming, the U.S. Department of Agriculture, the U.S. Department of Housing and Urban Development, and Fannie Mae, in the effort to provide distance learning to potential home-buyers through the use of compressed video technology. This training program is perfect for a state like Wyoming in that home-buyers in rural communities have access to all of the essential elements of the home buying experience just like their urban community counterparts.

To date, more than 3,000 individuals have completed the training program and it has led to making the home-buying process easier and more understandable for rural and urban families alike.

I strongly believe that this bill will help millions of families find the appropriate financial literacy materials they need to make better credit and investment decisions.

It is my pleasure to be cosponsoring this bill with Senator STABENOW because of our shared concern about making financial literacy available to more families across the country. In addition, I would like to recognize Senator SARBANES' tremendous effort to focus our attention on financial literacy, both when he was Chairman of the Committee on Banking, Housing and Urban Affairs last year and as Ranking Member of the Committee this year. He has been an extraordinary advocate for this important issue. Chairman SHELBY of the Committee has also recognized the importance of this issue, as just this week, it was the subject of a hearing by the Committee. I look forward to working with my colleagues on the Committee and in the full Senate to ensure that we expand and build upon the government's present financial literacy efforts to help individuals and families increase their knowledge of and access to our credit and investment markets.

By Ms. CANTWELL (for herself and Mr. ENZI):

S. 1533. A bill to prevent the crime of identity theft, mitigate the harm to individuals throughout the Nation who have been victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President, I rise today to re-introduce legislation critical to helping victims of identity theft. This legislation, the Identity Theft Victims Assistance Act, passed the Senate by unanimous consent in the 107th Congress, and I look forward to its passage again this Congress. Last year, the legislation had strong bipartisan support, as evidenced by the fact that Senator MIKE ENZI is cosponsoring it again. The bill has broad support from law enforcement, consumers' groups, and privacy advocates. Last year, the National Center for the Victims of Crime, the Fraternal Order of Police, Consumers Union, Identity Theft Resource Center, U.S. Public Interest Group, Police Executive Forum, Privacy Rights Clearinghouse, and Amazon.com supported the bill. Twenty-two state Attorneys General signed a letter supporting the legislation.

Identity theft is the fastest-growing crime in the country. The Federal Trade Commission found that complaints of identity theft increased 87 percent between 2001 and 2002, and over 161,000 complaints were received by the agency last year. A July 2003 study by Gartner Inc. found that there was a 79 percent increase in identity theft in the past year alone. Identity theft now accounts for 43 percent of consumer fraud complaints and leads the list of consumer frauds. It is an insidious crime because it often occurs without the victim's knowledge, yet leaves scars on their credit records and reputations that can last for years, and cost thousands of dollars to repair.

The Secret Service has estimated that consumers lose $745 million to the problem each year, and this number is clearly growing as the number of identity thefts increases. When a victim realizes that his or her identity was stolen it's just the beginning of their troubles. The FTC estimates that it costs the average victim $1,000 in long-distance phone calls, notary charges, mailing costs and lost wages to get his or her financial life back in order after an identity thief strikes. The Identity Theft Resources Center estimates that average identity theft victims spend 175 hours to clear their records.

But the costs are not confined to consumers—identity theft hits businesses and the economy, too. Identity theft-related losses suffered by MasterCard and Visa jumped from $79.9 million in 1996 to $144.3 million in 2000. One study estimates that by 2006 identity theft will cost the financial institution sector alone $8 billion per year.

To take just one of many examples from my state, Jenni D'Avis of Mill Creek, Washington, had her Social Security number stolen when a thief took her mail and found the number listed on a letter from her community college. The criminal used the number to obtain a state identification card, and in turn used that to get credit. In just 23 days, the thief ran up $100,000 in bad debt—all in Jenni's name. Once she became aware of the problem, she had to become a "Nancy Drew," and track down information. Businesses were reluctant to give her the information she needed to determine the extent of the problem and clear her name and credit record. She is still repairing the damage.

Sadly, Jenni's story is not unique. Victims of identity theft have difficulty restoring their credit and regaining control of their identity, in part, because they have no simple means to show creditors and credit reporting agencies that they are who they say they are. In order to prove fraud, a victim often needs copies of creditors records, such as applications and information, and records from the companies the identity thief did business with. Ironically, victims have difficulty obtaining these business records because the victim's personal identifying information does not match the information on file with the business.

This bill fixes that problem. The Identity Theft Victims Assistance Act creates a standardized national process for a person to establish he or she is a victim of identity theft for purposes of tracing fraudulent credit transactions and obtaining the evidence to repair them. It requires the Federal Trade Commission to make available a simple certificate that, when notarized, provides certainty to businesses and financial institutions that the person is who they claim to be, is a victim of identity theft, and has filed claims with both local law enforcement and the FTC. With this document in hand, the victim can then obtain from businesses the records they need.

The need for a national system is readily apparent, as identity theft is increasingly a crime that crosses state lines. One of the greatest challenges identity theft presents to law enforcement is that a stolen identity is used to create false identities in many different localities in different states. Although identity theft is a federal crime, most often, state and local law enforcement agencies are responsible for investigating and prosecuting the crimes. Yet law enforcement has yet to fully recognize the serious nature of the problem or to develop a coordinated investigative strategy. For example, in the case of Michael Calip of Centralia, Washington, identity thieves not only ran up $60,000 in debts, they also committed crimes using his name—trashing his credit record and creating a criminal record. Michael tracked the thieves to Wyoming, but had difficulty convincing local authorities there to pursue his case.

My bill for the first time also permits a victim to designate the investigating agency, either local or state law enforcement or federal investigators, to act as their agents in obtaining evidence of identity theft. This both eases the burden on the victim and aids police in investigating suspected identity theft rings. In addition it requires the existing Identity Theft Coordinating Committee to consult with state and local law enforcement agencies.

Acquiring the evidence of the fraudulent use of identity currently can be an enormous and time-consuming problem for victims. The Identity Theft Victims Assistance Act makes this job easier by establishing that any business presented with the FTC certificate identifying the person as a victim of identity theft, together with a police report and a government issued photo ID must deliver copies of all the financial records that document the fraud to the victim within 20 days. This is a critically important change from current law because it guarantees that victims will be able to obtain the evidence they need while also providing businesses more certainty that they are not violating someone's privacy or providing sensitive information to the wrong parties. It also provides new liability protections for businesses that make a good faith effort to assist victims of identity theft.

Of course, the greatest harm to consumers victimized by theft of their identity is often a bad credit rating or a poor credit score that results from fraudulent use of the consumer's identity. According to the FTC, it often takes about a year for people to discover someone is using personal information for fraudulent purposes, allowing significant damage to otherwise stellar credit records. Even after a consumer reports to a credit reporting agency that they have been victimized by identity theft, the consumer often can not get the reporting agencies to block reporting of activities that resulted from the identity theft.

My bill again requires that presentation of the FTC certificate, police report and photo identification establish that the person is in fact a victim of identity theft and requires credit-reporting agencies to block information that appears on a victim's credit report as a result of the identity theft. It also changes current law that requires individuals to bring suit against a credit reporting agency within two years from the time the agency commits a violation of laws on fair reporting of credit. This makes little sense, since it may be years before a misrepresentation comes to the attention of a victim of identity theft. The bill requires that the statute of limitations begin ticking from the time when a consumer discovers or has reason to know that a misrepresentation by a credit reporting agency has occurred.

The bill leaves in place state laws that are more stringent and provides that either federal prosecutors or State Attorneys General may enforce this law.

Jenni and Michael's stories illustrate the unique problems victims of identity theft face. Although penalties exist for identity thieves, no remedies are available for their victims. The scope of the problem is made worse because it's too easy for a criminal to steal someone's identity and cause serious harm before the theft is even discovered. And when these criminals cross state lines, it can be even harder for victims to trace the problem and repair the damage. For these reasons, it's imperative that we pass federal legislation for the victims of identity theft.

The government, creditors and credit reporting agencies have a shared responsibility to assist identity theft victims mitigate the harm that results from frauds perpetrated in the victim's name. We need to build up the law enforcement network, already started by the Federal Trade Commission and other federal agencies under the Identity Theft and Assumption Deterrence Act of 1998. We need to further improve law enforcement coordination, particularly between the various local and state jurisdictions combating identity theft and the associated crimes.

We also need to provide better and timelier information to businesses so they can head off fraud before it happens. That is why my bill also expands the jurisdiction of the interagency coordinating committee established under the Internet False Identification Act of 2000. Currently, the coordination committee has the mandate to study and report to Congress on federal investigation and enforcement of identity theft crimes. The Identity Theft Victims Assistance Act broadens the mandate for the coordinating committee to consider state and local enforcement of identity theft law and specifically requires the committee to examine and recommend what assistance the federal government can provide state and local law enforcement agencies to better coordinate in the battle against identity theft.

Mr. President, there is no doubt about the scope of the problem: identity theft is already a major problem, and it's getting worse. We must provide victims with the tools they need to regain control of their lives. The Identity Theft Victims Assistance of 2003 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft Victims Assistance Act of 2003".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The crime of identity theft is the fastest growing crime in the United States. According to a recent estimate, 7,000,000 Americans were victims of identity theft in the past year, a 79 percent increase over previous estimates.

(2) Stolen identities are often used to perpetuate crimes in many cities and States, making it more difficult for consumers to restore their respective identities.

(3) Identity theft cost consumers more than $745,000,000 in 1998 and has increased dramatically in the last few years. The credit card industry alone lost an estimated $144.3 million in 2000.

(4) Identity theft is ruinous to the good name and credit of consumers whose identities are misappropriated, and consumers may be denied otherwise deserved credit and may have to spend enormous time, effort, and money to restore their respective identities.

(5) Victims are often required to contact numerous Federal, State, and local law enforcement agencies and creditors over many years as each event of fraud arises.

(6) As of the date of enactment of this Act, a national mechanism does not exist to assist identity theft victims to obtain evidence of identity theft, restore their credit, and regain control of their respective identities.

(7) Victims of identity theft need a nationally standardized means of—

(A) establishing their true identities and claims of identity theft to all business entities, credit reporting agencies, and Federal and State law enforcement agencies;

(B) obtaining information documenting fraudulent transactions from business entities;

(C) reporting identity theft to consumer credit reporting agencies.

(8) One of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes.

(9) Law enforcement, business entities, credit reporting agencies, and government agencies have a shared responsibility to assist victims of identity theft to mitigate the harm caused by any fraud perpetrated in the name of the victims.

SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028 the following:

"§1028A. Treatment of identity theft mitigation

"(a) Definitions.—As used in this section—

"(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

"(A) account numbers and balances;

"(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

"(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

"(5) the term 'identity theft' means a violation of section 1028 or any other similar provision of applicable Federal or State law;

"(6) the term 'means of identification' has the same meaning given the term in section 1028;

"(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or with the intent to aid or abet, an identity theft; and

"(8) the terms not defined in this section or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

"(b) Information Available to Victims.—

"(1) In general.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided credit, provided, for consideration, products, goods, or services, accepted payment, otherwise entered into a commercial transaction for consideration with a person that has made unauthorized use of the means of identification of the victim, or possesses information relating to such transaction, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

"(2) Rule of construction.—

"(A) In general.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

"(B) Limitation.—Except as provided in subparagraph (A), nothing in this section permits a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

"(c) Verification of Identity and Claim.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

"(1) as proof of positive identification, at the election of the business entity—

"(A) the presentation of a government-issued identification card;

"(B) if providing proof by mail, a copy of a government-issued identification card; or

"(C) upon the request of the person seeking business records, the business entity may inform the requesting person of the categories of identifying information that the unauthorized person provided the business entity as personally identifying information, and may require the requesting person to provide identifying information in those categories; and

"(2) as proof of a claim of identity theft, at the election of the business entity—

"(A) a copy of a police report evidencing the claim of the victim of identity theft;

"(B) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(C) any properly completed affidavit of fact that is acceptable to the business entity for that purpose.

"(d) Limitation on Liability.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

"(1) the business entity complies with subsection (c); and

"(2) such disclosure was made—

"(A) for the purpose of detection, investigation, or prosecution of identity theft; or

"(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

"(e) Authority To Decline To Provide Information.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity determines that—

"(1) this section does not require disclosure of the information;

"(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

"(3) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

"(f) No New Recordkeeping Obligation.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

"(g) Affirmative Defense.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

"(1) the business entity has made a reasonable diligent search of its available business records; and

"(2) the records requested under this section do not exist or are not available.

"(h) No Private Right of Action.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

"(i) Enforcement.—

"(1) Injunctive actions by the attorney general.—

"(A) In general.—Whenever it appears that a business entity to which this section applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this section, the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to—

"(i) enjoin such act or practice;

"(ii) enforce compliance with this section; and

"(iii) obtain such other equitable relief as the court determines to be appropriate.

"(B) Other injunctive relief.—Upon a proper showing in the action under subparagraph (A), the court shall grant a permanent injunction or a temporary restraining order without bond.

"(2) Administrative enforcement.—

"(A) Federal trade commission.—

"(i) In general.—Except to the extent that administrative enforcement is specifically committed to another agency under subparagraph (B), a violation of this section shall be deemed an unfair or deceptive act or practice in violation of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), for purposes of the exercise by the Federal Trade Commission of its functions and powers under that Act.

"(ii) Available functions and powers.—All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this section.

"(B) Other federal agencies.—Compliance with any requirements under this section may be enforced—

"(i) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)—

"(I) by the Office of the Comptroller of the Currency, with respect to national banks, and Federal branches and Federal agencies of foreign banks (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(II) by the Board of Governors of the Federal Reserve System, with respect to member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.);

"(III) by the Board of Directors of the Federal Deposit Insurance Corporation, with respect to banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers); and

“(IV) by the Director of the Office of Thrift Supervision, with respect to savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

“(ii) by the Board of the National Credit Union Administration, under the Federal Credit Union Act (12 U.S.C. 1751 et seq.), with respect to any federally insured credit union, and any subsidiaries of such credit union;

“(iii) by the Securities and Exchange Commission, under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), with respect to any broker or dealer;

“(iv) by the Securities and Exchange Commission, under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), with respect to investment companies;

“(v) by the Securities and Exchange Commission, under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), with respect to investment advisers registered with the Commission under such Act;

“(vi) by the Secretary of Transportation, under subtitle IV of title 49, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

“(vii) by the Secretary of Transportation, under part A of subtitle VII of title 49, with respect to any air carrier or any foreign air carrier subject to that part; and

“(viii) by the Secretary of Agriculture, under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), except as provided in section 406 of that Act (7 U.S.C. 226, 2271), with respect to any activities subject to that Act.

“(C) Agency powers.—

“(i) In general.—A violation of any requirement imposed under this section shall be deemed to be a violation of a requirement imposed under any Act referred to under subparagraph (B), for the purpose of the exercise by any agency referred to under subparagraph (B) of its powers under any such Act.

“(ii) Rule of construction.—Nothing in this section shall be construed to prevent a Federal agency from exercising the powers conferred upon such agency by Federal law to—

“(I) conduct investigations;

“(II) administer oaths or affirmations; or

“(III) compel the attendance of witnesses or the production of documentary or other evidence.

“(3) Parens patriae authority.—

“(A) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

“(i) enjoin that practice;

“(ii) enforce compliance with this section;

“(iii) obtain damages—

“(I) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of the State; and

“(II) punitive damages, if the violation is willful or intentional; and

“(iv) obtain such other equitable relief as the court may consider to be appropriate.

“(B) Notice.—Before filing an action under subparagraph (A), the attorney general of the State involved shall, if practicable, provide to the Attorney General of the United States, and where applicable, to the appropriate Federal agency with the authority to enforce this section under paragraph (2)—

“(i) a written notice of the action; and

“(ii) a copy of the complaint for the action.

“(4) Intervention.—

“(A) In general.—On receiving notice of an action under paragraph (3), the Attorney General of the United States, and any Federal agency with authority to enforce this section under paragraph (2), shall have the right to intervene in that action.

“(B) Effect of intervention.—Any person or agency under subparagraph (A) that intervenes in an action under paragraph (2) shall have the right to be heard on all relevant matters arising therein.

“(C) Service of process.—Upon the request of the Attorney General of the United States or any Federal agency with the authority to enforce this section under paragraph (2), the attorney general of a State that has filed an action under this section shall, pursuant to rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Attorney General of the United States or the head of such Federal agency, with a copy of the complaint.

“(5) Construction.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

“(A) conduct investigations;

“(B) administer oaths or affirmations; or

“(C) compel the attendance of witnesses or the production of documentary and other evidence.

“(6) Limitation on state action while federal action is pending.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States, or appropriate Federal regulator authorized under paragraph (2), for a violation of this section, no State may, during the pendency of that action, institute an action under this section against any defendant named in the complaint in that action for such violation.

“(7) Venue; service of process.—

“(A) Venue.—Any action brought under this subsection may be brought in the district court of the United States—

“(i) where the defendant resides;

“(ii) where the defendant is doing business; or

“(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

“(B) Service of process.—In an action brought under this subsection, process may be served in any district in which the defendant—

“(i) resides;

“(ii) is doing business; or

“(iii) may be found.”.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

“1028A. Treatment of identity theft mitigation.”.

SEC. 4. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) Consumer Reporting Agency Blocking of Information Resulting From Identity Theft.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681*i*) is amended by adding at the end the following:

“(e) Block of Information Resulting From Identity Theft.—

“(1) Block.—Except as provided in paragraphs (4) and (5) and not later than 30 days after the date of receipt of—

“(A) proof of the identity of a consumer; and

“(B) an official copy of a police report evidencing the claim of the consumer of identity theft,

a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

“(2) Reinvestigation.—A consumer reporting agency shall reinvestigate any information that a consumer has requested to be blocked under paragraph (1) in accordance with the requirements of subsections (a) through (d).

“(3) Notification.—A consumer reporting agency shall, within the time period specified in subsection (a)(2)(A)—

“(A) provide the furnisher of the information identified by the consumer under paragraph (1) with the information described in subsection (a)(2); and

“(B) notify the furnisher—

“(i) that the information may be a result of identity theft;

“(ii) that a police report has been filed;

“(iii) that a block has been requested under this subsection; and

“(iv) of the effective date of the block.

“(4) Authority to decline or rescind.—

“(A) In general.—A consumer reporting agency may at any time decline to block, or may rescind any block, of consumer information under this subsection if—

“(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

“(I) the block was issued, or the request for a block was made, based on a misrepresentation of fact by the consumer relevant to the request to block; or

“(II) the consumer knowingly obtained possession of goods, services, or money as a result of a transaction for which a block has been requested, or the consumer should have known that the consumer obtained possession of goods, services, or money as a result of a transaction for which a block has been requested; or

“(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

“(B) Notification to consumer.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified, in the same manner and within the same time period as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

“(C) Significance of block.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the transaction that was blocked.

“(5) Exception.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

“(A) dishonored checks;

“(B) accounts closed for cause;

“(C) substantial overdrafts;

“(D) abuse of automated teller machines; or

"(E) other information which indicates a risk of fraud occurring.".

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681*i*(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.".

(c) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 5 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 2 years from the date of enactment of this Act.

SEC. 5. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years after the effective date of this Act." and inserting "on December 28, 2005.".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2003), including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

"(A) the Committee on the Judiciary of the Senate;

"(B) the Committee on the Judiciary of the House of Representatives;

"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(D) the Committee on Financial Services of the House of Representatives.";

(2) in subparagraph (E), by striking "and" at the end; and

(3) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft; and

"(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of cases involving—

"(I) identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.".

Mr. ENZI. Mr. President, every morning, from the time we wake up to the time we turn out the lights and go to sleep, we all spend a good portion of our day in cyberspace. Probably without thinking, each time we head out to the internet, we broadcast some very specific information about our lives as we use our computers for email. Each time we use our cell phones we rely on a sense of privacy about the information we convey, which may not be present. And, when we use hand held devices to send quick messages back and forth to friends, coworkers and family we assume no one else is listening or receiving our information, which often includes social security numbers, family names and even credit card and pin numbers.

Cyberspace is a high tech criminal's dream and it has helped contribute to the fastest growing crime in America—identity theft.

Simply put, identity theft is the ability to impersonate someone else and steal their credit, their money and even their identity for their own use.

Although the use of high-tech devices has certainly contributed to the proliferation of identity theft, many individuals have been victimized by simple criminals who have carefully picked through trash cans and mailboxes to find old receipts and social security numbers. Regardless of the medium through which the information is collected, identity theft is the result of criminals who have learned how to manipulate a growing network of information—some public, some private—and then use that data to their own advantage.

The problem with identity theft is that it is not confined to one state. It affects Americans from every walk of life from coast to coast. Some Americans may discover that someone else has been using their social security number to obtain fraudulent employment, while others learn that people have been using fraudulent identification cards to obtain lines of credit and then leaving innocent victims to deal with the bills they left behind.

People from small States like Wyoming are not immune to this new crime wave. Although there are only 493,000 people in Wyoming, we have the same rate of identity theft per capita as is present anywhere else in the United States. That is why we have to approach this issue from every angle, taking a systemic approach that includes prevention, enforcement and assistance to victims of identity theft.

Today, we will take the first step with victim's assistance for this crime. I believe we have to provide some real options for our constituents who are trying to recover from the trauma that identity theft has caused in their lives. That is why my colleague from Washington and I are introducing legislation that will make it easier for victims to get the information they need to begin reversing the damage and lasting effects of this crime. Our bill, the Identity Theft Victim's Assistance Act of 2003, is very similar to a bill we offered last year that passed the Senate unanimously in November. I expect and hope for the same result this year since this is a growing problem and the need for action on this issue grows more urgent with each passing day.

Our bill includes key provisions that would allow victims to work with businesses to obtain information related to cases of identity theft and then contact credit reporting agencies to block false information on credit reports. In drafting this legislation we worked with all of the stakeholders to ensure a balance between the needs of consumers and the needs of small businesses, banks and other credit agencies.

The reintroduction of this bill is timely given the recent hearings in the Senate Banking and Commerce Committees and recent action by both the House and Administration.

Earlier this month, the House Financial Services Subcommittee reported a bill called the Fair and Accurate Credit Transactions Act. Also known as the FACT Act, the bill includes a provision nearly identical to Section 4 of our bill. Section 4 of our bill requires consumer credit reporting agencies to block information that appears on a victim's credit report as a result of identity theft, provided the victim did not knowingly obtain goods, services or money as a result of the blocked transaction.

Our provision, which amends the Fair Credit Reporting Act, was also addressed in a recent hearing before the Senate Banking Committee. On July 10, the Chairman of the Federal Trade Commission testified that "blocking would mitigate the harm to consumers' credit record that can result from identity theft" and recommended that this practice be codified.

I am also encouraged by similar recommendations from the Treasury Department that would require credit reporting agencies to cease reporting allegedly fraudulent account information on consumer reports when the consumer submits a police report or similar document, unless there is a reason to believe the report is false.

Providing consumers with the tools necessary to recover from identity theft is the first step in providing real relief to the hundreds of thousands of individuals whose lives have already been turned upside down by identity theft. I urge my colleagues to work with me as we move forward on this important issue and make progress on the reauthorization of critical legislation like the Fair Credit Reporting Act. We must take action this year before the crime of identity theft hurts the hundreds of thousands of working people and families who are expected to become victims this year.

By Mr. REID:

S. 1534. A bill to limit the closing and consolidation of certain post offices in rural communities, and for other purposes; to the Committee on Governmental Affairs.

Mr. REID. Mr. President, I am pleased today to introduce the Rural Post Office and Community Preservation Act of 2003.

My legislation would prohibit the Postal Service from closing post offices in our Nation's small rural communities. Where the Postal Service has closed a rural post office, my legislation directs the Postal Service to provide a plan for the rehabilitation and economic development of such closed offices in consultation with the local community affected. It also authorizes $10 million in grants to local communities to assist in such rehabilitation. Finally, it provides that the Postal Service shall transfer the closed post office in Ely, NV, to White Pine County for such rehabilitation.

All across the Nation, the Postal Service is closing, consolidating, and moving post offices in our rural communities. Oftentimes, the Postal Service sells off centrally located and in many cases historic post offices in favor of moving the office to cheaper land on the outskirts of town. While this may result in a short-term economic gain to the Postal Service, there is both an immediate and long-term negative impact on the community.

A 1993 study by the National Trust for Historic Preservation tells us what we intuitively already know. That is, in rural communities, the post office is often the economic and social anchor of the town. When post offices are closed in our rural communities, nearby businesses suffer and the small-town character of the community is diminished.

Nevada knows the harm caused by closing rural post offices first hand.

Take the small town of Ely, NV, where roughly 3,700 Nevadans make their home. Located in northeastern Nevada, Ely is a charming small town surrounded by beautiful mountains and the cleanest air in America. Decades ago, Ely was a main stopover for public officials and movie stars alike as they traveled through the West, and was briefly the hometown of Pat Ryan who later became Pat Nixon, the First Lady of the United States. At the time, Ely's six-story Hotel Nevada was the tallest structure in the whole State of Nevada. Near the Hotel Nevada, Ely had a quaint post office that helped form the center of town. Today if you go to Ely, you will still find the Hotel Nevada. The mountains are just as beautiful. But you won't find the Ely Post Office in the center of town. Last year, over my objection and the objection of the people of Ely, the Postal Service closed the office.

My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community.

My legislation is not intended to be a criticism of the Postal Service. Many fine men and women work there. In fact, my bill is really a testament to the importance of our post offices and the Postal Service. It recognizes that over the history of our Nation, post offices have come to symbolize and offer more than just the practical service of keeping people in touch with friends and families in distant locales. Increasingly, the local post office has become the heart of the community, a place where people within small rural communities keep in touch with one and other.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Post Office and Community Preservation Act of 2003".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) a 1993 study by the National Trust for Historic Preservation found that approximately 80 percent of people in small communities plan their trips around a visit to a post office;

(2) the Postal Service is increasingly closing small, rural post offices in the center of town and replacing such services with more distant post offices on the outskirts of such communities; and

(3) closing post offices in the centers of small, rural communities removes the hub of such communities and has a deleterious effect on the economies and quality of life in such communities.

(b) PURPOSE.—It is the purpose of this Act to limit the closure of centrally located rural post offices, and to enhance the economic health and quality of life of rural communities.

SEC. 3. MAINTAINING CENTRALLY LOCATED RURAL POST OFFICES.

Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(3)(A) In this paragraph, the term 'rural community' means a city, town, or unincorporated area with a population of not more than 20,000 people.

"(B) The Postal Service may not make a determination to close or consolidate a post office in a rural community, unless the Postal Service makes a determination that such closing or consolidation will have a positive economic impact on that community and enhance the quality of life in that community.

"(C) In making a determination under subparagraph (B), the Postal Service shall presume that the relocation of a centrally located post office in a rural community to the boundaries of that community will have a negative economic impact on that community and will not enhance the quality of life in that community.

"(D) If the Postal Service makes a determination to close or consolidate a post office in a rural community, the Postal Service shall develop a plan, in consultation with people in the rural community, to provide for the rehabilitation and use of the post office for purposes favored by the people of that community. Such plan shall be developed before the closing or consolidation takes effect.".

SEC. 4. GRANTS FOR REHABILITATION OF POST OFFICES IN RURAL COMMUNITIES.

(a) DEFINITION.—In this section, the term 'rural community' means a city, town, or unincorporated area with a population of not more than 20,000 people.

(b) GRANTS.—The Postal Service may award grants to State and local governments, private organizations, or individuals to provide for the rehabilitation of any closed post office in a rural community.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2003 through 2007 to carry out this section.

SEC. 5. TRANSFER OF CLOSED POST OFFICE IN ELY, NEVADA.

The Postal Service shall transfer the real property (including all buildings and improvements) located at 415 5th Street in Ely, Nevada, and occupied by the closed post office, to the local county government of Ely County, Nevada.

By Mr. LEVIN (for himself and Ms. Collins):

S. 1535. A bill to amend title 23, United States Code, to establish programs to facilitate international and interstate trade; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am introducing today, with Senator Collins, the National Highway Borders and Trade Act. As a resident of the State of Michigan, the primary gateway for U.S.-Canadian trade, I am familiar with the pressures being placed on our Nation's highways, especially the major trade corridors. Six years ago Congress recognized the need for highway programs dedicated to interregional and international trade corridors. Since then the funds provided under the Borders and Corridors programs have helped make improvements to thousands of highway miles.

Although much progress has been made in improving transportation efficiencies, the Nation's freight infrastructure needs additional improvements. Increased international trade has put strains on the highway system that carries 70 percent of the total goods shipped in the United States and the total freight traffic is expected to more than double by the year 2020. When the Federal Highway Administration studied border crossing times for trucks in 2001 it found that some trucks experienced delays of over 83 minutes. These delays pose significant obstacles to industries dependent on just-in-time deliveries.

The National Highway Borders and Trade Act of 2003 will help reduce border crossing times and improve the highway corridors important for international and interstate commerce. Although there are only fifteen land border States, the goods that arrive via those States eventually travel to every one of the contiguous U.S. States plus Alaska. So our bill will benefit all 50 States.

The National Highway Borders and Trade Act reflects the growth in international trade and highway traffic being experienced by many States. It would increase funding for these programs and authorize $400 million a year for 6 years for the combined programs. To ensure more stability and predictability for states' border region projects, it would make the existing borders program half formula based and half discretionary.

The National Highway Borders and Trade Act also clarifies which other roads are eligible for funding to help State transportation departments plan for and manage highway commercial traffic in borders regions. Using he definition of "borders region" adopted by international law, roads that go through any border region would be eligible for funding.

Eligibility for funding under the Borders program will also be broadened to include certain projects in Canada or Mexico, something that many State departments of transportation have been urging for some time. By placing inspection stations and other facilities in our neighboring countries, we can more efficiently manage border traffic and check for dangerous materials before vehicles enter our country. This will also help facilitate establishing reverse customs inspection at certain border crossings.

Our bill will also help to relieve congestion and delays at the border. According to the Federal Highway Administration, congestion at border crossings can lead to long delays. The lost productivity from this congestion has a negative impact on the Nation's economy. It also causes environmental problems in the border regions. We need to get people and commerce across the borders more quickly and with greater safety.

The bill would also focus the corridors program on roads connecting to a land border and expand it to allow for funding for road connectors to water ports that accept international trade. These changes will increase the number of eligible roads but also preserve the purpose of the program as facilitating international trade. Water ports play a very important role in international trade. For many sectors of the economy the vast majority of their supplies travels through these ports. The growth in truck traffic at the intermodal ports is taking a toll on the connecting highways. Many of these intermodal road connectors are in a state of severe deterioration.

Through TEA-21, 41 States have received funding from the corridors program. Because goods imported from Canada and Mexico end up in virtually every place in the U.S., improving the Borders and Corridors program will benefit every State and the nation's economy as a whole. Our bill will grant eligibility to roads in all 50 States.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Highway Borders and Trade Act of 2003".

SEC. 2. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. Coordinated border infrastructure program

"(a) Definitions.—In this section:

"(1) Border region.—The term 'border region' means the portion of a border State that is located within 100 kilometers of a land border crossing with Canada or Mexico.

"(2) Border state.—The term 'border State' means any State that has a boundary in common with Canada or Mexico.

"(3) Commercial vehicle.—The term 'commercial vehicle' means a vehicle that is used for the primary purpose of transporting cargo in international or interstate commercial trade.

"(4) Passenger vehicle.—The term 'passenger vehicle' means a vehicle that is used for the primary purpose of transporting individuals.

"(b) Program.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary shall make allocations to border States for projects within a border region to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

"(c) Eligible Uses.—Allocations to States under this section may only be used in a border region for—

"(1) improvements to transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

"(2) construction of highways and related safety and safety enforcement facilities that will facilitate vehicle and cargo movements relating to international trade;

"(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross-border vehicle and cargo movement;

"(4) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross-border vehicle and cargo movements;

"(5) projects in Canada or Mexico proposed by 1 or more border States that directly and predominantly facilitate cross-border vehicle and commercial cargo movements at the international gateways or ports of entry into a border region; and

"(6) planning and environmental studies.

"(d) Mandatory and Discretionary Programs.—

"(1) Mandatory program.—

"(A) In general.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in subparagraph (B), funds to be used in accordance with subsection (c).

"(B) Formula.—Subject to subparagraph (C), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

"(i) 25 percent in the ratio that—

"(I) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(II) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

"(ii) 25 percent in the ratio that—

"(I) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(II) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

"(iii) 25 percent in the ratio that—

"(I) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(II) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

“(iv) 25 percent in the ratio that—

“(I) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

“(II) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

“(C) DATA SOURCE.—

“(i) IN GENERAL.—The data used by the Secretary in making allocations under paragraph (1) shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

“(ii) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

“(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

“(2) OTHER FACTORS.—

“(A) IN GENERAL.—In addition to funds provided under paragraph (1), the Secretary shall select and make allocations to border States under this paragraph based on the factors described in subparagraph (B).

“(B) FACTORS.—The factors referred to in subparagraph (A) are, with respect to a project to be carried out under this section in a border State—

“(i) any expected reduction in, or improvement in the reliability of, commercial and other motor vehicle travel time through an international border crossing as a result of the project;

“(ii) strategies to increase the use of underused border crossing facilities and approaches;

“(iii) leveraging of Federal funds provided under this section, including—

“(I) the use of innovative financing;

“(II) the combination of those funds with funding provided for other provisions of this title; and

“(III) the combination of those funds with funds from other Federal, State, local, or private sources;

“(iv)(I) the degree of multinational involvement in the project; and

“(II) demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and their counterpart agencies in Canada and Mexico;

“(v) the degree of demonstrated coordination with Federal inspection agencies;

“(vi) the extent to which the innovative and problem-solving techniques of the proposed project would be applicable to other border stations or ports of entry;

“(vii) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

“(viii) such other factors as the Secretary determines to be appropriate to promote border transportation efficiency and safety.

“(e) COST SHARING.—The Federal share of the cost of a project carried out using funds allocated under this section shall not exceed 80 percent.

“(f) TRANSFER OF FUNDS TO THE ADMINISTRATOR OF GENERAL SERVICES.—

“(1) IN GENERAL.—At the request of a State, funds allocated to the State under this section shall be transferred to the Administrator of General Services for the purpose of funding a project under the administrative jurisdiction of the Administrator in a border State if the Secretary determines, after consultation with the State transportation department, as appropriate, that—

“(A) the Administrator should carry out the project; and

“(B) the Administrator agrees to use the funds to carry out the project.

“(2) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred under paragraph (1) shall not be deemed to be an augmentation of the amount of appropriations made to the General Services Administration.

“(3) ADMINISTRATION.—Funds transferred under paragraph (1) shall be administered in accordance with the procedures applicable to the General Services Administration, except that the funds shall be available for obligation in the same manner as other funds apportioned under this chapter.

“(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the Administrator of General Services in the same manner and amount as funds are transferred for a project under paragraph (1).

“(g) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009, of which—

“(A) $100,000,000 shall be used to carry out subsection (d)(1); and

“(B) $100,000,000 shall be used to carry out subsection (d)(2).

“(2) OBLIGATION AUTHORITY.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.

“(3) EXCLUSION FROM CALCULATION OF MINIMUM GUARANTEE.—The Secretary shall calculate the amounts to be allocated among the States under section 105 without regard to amounts made available to the States under this subsection.”.

SEC. 3. NATIONAL TRADE CORRIDOR PROGRAM.

Subchapter I of chapter 1 of title 23, United States Code (as amended by section 2), is amended by adding at the end the following:

“§ 166. National trade corridor program

“(a) DEFINITION OF INTERMODAL ROAD CONNECTOR.—In this section, the term ‘intermodal road connector’ means a connector highway that provides motor vehicle access between a route on the National Highway System and 1 or more major intermodal water port facilities at least 1 of which accepts at least 50,000 20-foot equivalent units of container traffic (or 200,000 tons of container or noncontainer traffic) per year of international trade or trade between Alaska or Hawaii and the 48 contiguous States.

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a program to allocate funds to States to be used for coordinated planning, design, and construction of corridors of national significance.

“(2) APPLICATIONS.—A State that seeks to receive an allocation under this section shall submit to the Secretary an application in such form, and containing such information, as the Secretary may request.

“(c) ELIGIBILITY OF CORRIDORS.—The Secretary may make allocations under this section with respect to—

“(1) a high priority corridor in a State—

“(A) that is identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031); and

“(B) any part of which is located in a border region (as defined in section 165(a)); and

“(2) an intermodal road connector.

“(d) ELIGIBLE USES OF FUNDS.—A State may use an allocation under this section to carry out, for an eligible corridor described in subsection (c)—

“(1) a feasibility study;

“(2) a comprehensive corridor planning and design activity;

“(3) a location and routing study;

“(4) multistate and intrastate coordination for each corridor;

“(5) environmental review; and

“(6) construction.

“(e) ALLOCATION FORMULA.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall allocate funds among States under this section in accordance with a formula determined by the Secretary after taking into consideration, with respect to the applicable corridor in the State—

“(A) the average annual weight of freight transported on the corridor;

“(B) the percentage by which freight traffic increased, during the most recent 5-year period for which data are available, on the corridor; and

“(C) the annual average number of tractor-trailer trucks that use the corridor to access other States.

“(2) MAXIMUM ALLOCATION.—Not more than 10 percent of the funds made available for a fiscal year for allocation under this section may be allocated to any State for the fiscal year.

“(f) COORDINATION OF PLANNING.—Planning with respect to a corridor for which an allocation is made under this section shall be coordinated with—

“(1) transportation planning being carried out by the States and metropolitan planning organizations along the corridor; and

“(2) to the extent appropriate, transportation planning being carried out by—

“(A) Federal land management agencies;

“(B) tribal governments; and

“(C) government agencies in Mexico or Canada.

“(g) COST SHARING.—The Federal share of the cost of a project carried out using funds allocated under this section shall not exceed 80 percent.

“(h) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009.

“(2) OBLIGATION AUTHORITY.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.”.

SEC. 4. CONFORMING AMENDMENTS.

(a) Section 1101(a) of the Transportation Equity Act for the 21st Century (112 Stat. 111) is amended by striking paragraph (9) and inserting the following:

“(9) COORDINATED BORDER INFRASTRUCTURE PROGRAM AND NATIONAL TRADE CORRIDOR PROGRAM.—For the coordinated border infrastructure program and national trade corridor program under sections 165 and 166, respectively, of title 23, United States Code, $400,000,000 for each of fiscal years 2004 through 2009.”.

(b) Sections 1118 and 1119 of the Transportation Equity Act for the 21st Century (112 Stat. 161) are repealed.

(c) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 164 the following:

"165. Coordinated border infrastructure program.
"166. National trade corridor program.".

By Mr. EDWARDS (for himself and Mr. JEFFORDS):

S. 1536. A bill to provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. EDWARDS. I ask unanimous consent that a letter from Sandra Grissom be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CARY, NC,
July 31, 2003.

DEAR SENATOR: The Ricky Ray Hemophilia Relief Fund Act of 1998 compensated individuals with hemophilia who had received contaminated blood products. Unfortunately, it excluded people like my husband, Steven Grissom, who received contaminated blood transfusions while undergoing treatment for leukemia (AML). He died July 31, he was 52. Steven was a veteran, an avid pilot, a loving father, a loyal and honorable husband and a proud American. This year marked our 29th year of marriage, seventeen of which my husband was ill with AIDS. Since his death, I have experienced the deepest sadness I have ever known. He represented the best of mankind. He was everything to me.

For my husband, there were too many trips to the hospital to recall, too many nights when our children and I sat by his bedside, crying, not knowing whether he would open his eyes again, too many pills at incredible cost, too many HMO battles, disabilities, wheelchairs, oxygen . . .

There are many other victims who, like Steven, became infected with HIV from contaminated blood transfusions. They are children, mothers, fathers, husbands, and wives who relied on the federal government to protect the blood supply. Yet a report issued by the Institute of Medicine found that in the 1980's the government failed to do just that. The IOM found that despite warnings from the Centers for Disease Control, the Food and Drug Administration failed to require blood banks to perform screening tests on donated blood and neglected to require proper screening of blood donors. The FDA failed to require the recall of contaminated products, nor did it require that recipients of contaminated blood products be promptly notified so they could prevent passing the virus to their loved ones.

People like us deserve the same consideration given to those in the hemophilia community who suffered the same fate. Congress passed legislation in 1998, to help patients with hemophilia who contracted HIV-tainted blood. Those like Steven who received contaminated blood through transfusions were left out.

My husband may be gone, but I hope that the Steven Grissom Relief Fund Act will be his legacy to the community of Americans with transfusion AIDS, an expression of compassion to a community nearly forgotten.

Sincerely,

SANDRA GRISSOM.

By Mrs. LINCOLN:

S. 1537. A bill to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY IN POPE COUNTY, ARKANSAS.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 90 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretary"), shall convey to the New Hope Cemetery Association (referred to in this section as the "association"), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) that—

(1) is known as "New Hope Cemetery Tract 6686c";

(2) consists of approximately 1.1 acres; and

(3) is more particularly described as a portion of the SE ¼ of the NW ¼ of section 30, T. 11, R. 17W, Pope County, Arkansas.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The association shall use the parcel conveyed under subsection (a) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the association and an opportunity for a hearing, makes a finding that the association has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the association fails to discontinue that use, title to the parcel shall, at the option of the Secretary, revert to the United States, to be administered by the Secretary.

By Mr. REED (for himself, Mr. VOINOVICH, Mr. SARBANES, Ms. SNOWE, Mr. JEFFORDS, Mr. LEVIN, and Mr. HARKIN):

S. 1539. A bill to amend the Federal Water Pollution Control Act to establish a National Clean and Safe Water Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act and the Safe Drinking Water Act, and for other purposes; to the Committee on Environment and Public Works.

Mr. REED. Mr. President, we often don't think about how important water is to our everyday lives, for our health and for our economy. As Americans, we take for granted that when we turn on the tap that clean and safe water will flow from the faucet.

Over the last three decades, the United States has made substantial progress in reducing the pollution flowing into our waters and safeguarding drinking water supplies for our communities. Despite our progress, we still face many challenges.

Population growth is increasing demand for water, and pollution from point and nonpoint sources threaten the quality and quantity of water available to us. According to EPA, the overwhelming majority of the population of the United States—218 million people—live within 10 miles of a polluted river, lake, or coastal water. Nearly 40 percent of these waters are not safe for fishing, swimming, boating, drinking water, or other needs. And while overall water pollution levels decreased dramatically over the last 30 years, recent data may be revealing a disturbing trend. Indeed, EPA's most recent National Water Quality Inventory found that the number of polluted rivers and estuaries increased between 1998 and 2000. Water pollution represents a real and daily threat to public health and to the wildlife that depend on clean water.

This year, we are celebrating the Year of Clean Water. To honor our national commitment to reduce the pollution flowing into our waters and provide safe drinking water for our communities, I am introducing the National Clean and Safe Water Fund Act of 2003. The legislation, cosponsored by Senators VOINOVICH, SARBANES, SNOWE, JEFFORDS, LEVIN and HARKIN will create a fund to carry out projects to promote water quality and protect watersheds and aquifers. It would establish a fund whose sole purpose is to advance the restoration of U.S. waters, particularly in the watersheds where these violations occurred. The bill is supported by a wide variety of organizations, including: the Narragansett Bay Commission, the Association of Metropolitan Water Agencies, American Rivers, Environmental Integrity Project, Friends of the Earth, National Audubon Society, Natural Resources Defense Council, The Ocean Conservancy and the U.S. Public Interest Research Group. I asked unanimous consent that the bill and letters of support be included in the record following my statement.

Last year, the Federal Government collected $52 million in civil and criminal penalties from violations of the Clean Water Act and Safe Drinking Water Acts. The money was deposited in the Treasury with no guarantee that the fines collected would be used to correct the water pollution for which the penalties were levied. Our legislation would make these funds available to local communities, tribes, States and non-profit organizations to protect and preserve watersheds and aquifers and to improve water quality.

This legislation would target this money to worthy projects, such as wetland protection and stream buffers to help filter out pathogens and pollutants that contaminate drinking water; land acquisition and conservation easements to protect watershed and aquifers; best management practices to prevent pollution in the first place; and, treatment works to control combined sewer or sanitary sewer overflows. Our legislation will continue progress to reduce the number of impaired waterways in our Nation, and to reduce, or better yet, prevent contamination of groundwater and drinking water sources.

It is imperative that we increase Federal investment in clean water and drinking water infrastructure and devote greater resources and attention to protecting and improving our watersheds and aquifers.

The Congressional Budget Office released a report that estimated the spending gap for clean water needs could reach as high as $388 billion and the spending gap for drinking water needs could reach $362 billion over 20 years. The CBO concluded the current funding from all levels of government and current revenue generated from ratepayers will not be sufficient to meet the Nation's future demand for water infrastructure. Yet, despite these grim statistics, the Federal Government is investing only $1.35 billion in Clean Water infrastructure each year and $850 million in Drinking Water infrastructure. And unfortunately, the President's budget proposes to cut this funding by $500 million this year.

Given the tremendous need in our communities, and the importance of water infrastructure to our economy, it is vital that the Federal Government maintain a strong partnership with States and local governments to avert this massive funding gap. We need to find new funding sources for watershed and aquifer protection. Clean, safe and abundant drinking water can no longer be taken for granted.

The costs of building new reservoirs and treatment facilities threaten to overrun our ability to pay, especially during the current fiscal crisis. Technology also has limitations in its ability to treat polluted water. Many water agencies are focusing on protecting watersheds and aquifers and conserving valuable clean water resources. In my State, the Providence Water Supply Board collects 1 cent per 100 gallons in a water usage tax to fund watershed acquisition. This may be our best and cheapest way to guarantee water quality and quantity.

Congress needs to increase support for efforts to protect our water resources. Polluted runoff from urban and agricultural land is now the most significant source of water pollution in the nation and the greatest threat to our drinking water. Our greatest future gains in pollution control will, therefore, come from reducing non-point source pollution.

There are cost-effective and environmentally sound projects that could help reduce this pollution, but currently, many non-point source projects cannot participate in the State revolving loan programs since they often do not have a guaranteed source of revenue. Also, without making new Federal resources available it is unlikely we will be able support increased investment in green infrastructure projects such as wetland conservation and stream buffers. The legislation that we are introducing today will make greater funding available for water quality projects.

I hope that my colleagues will join Senators VOINOVICH, SARBANES, SNOWE, JEFFORDS, LEVIN, HARKIN and me in supporting this legislation. Creating this fund will help further the Nation's goals of providing safe and clean water for our communities and restoring water quality for wildlife.

Mr. President, I ask unanimous consent that the text of bill and letters of support be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Clean and Safe Water Fund Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Administrator of the Environmental Protection Agency has determined that more than 40 percent of the assessed water of the United States does not meet applicable water quality standards established by States, territories, and Indian tribes;

(2) the water described in paragraph (1) includes approximately 300,000 miles of rivers and shorelines, and approximately 5,000,000 acres of lakes, that are polluted by sediments, excess nutrients, and harmful microorganisms;

(3) Congress enacted—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to maintain the chemical, physical, and biological integrity of water of the United States; and

(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to protect public health by regulating the public drinking water supply of the United States;

(4) because criminal, civil, and administrative penalties assessed under the Acts referred to in paragraph (3) are returned to the Treasury, those amounts are not available to protect, preserve, or enhance the quality of water in watersheds in which violations of those Acts occur; and

(5) the establishment of a national clean and safe water fund would help States in achieving the goals described in paragraph (1) by providing funding to protect and improve watersheds and aquifers.

SEC. 3. NATIONAL CLEAN AND SAFE WATER FUND.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) NATIONAL CLEAN AND SAFE WATER FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the 'National Clean and Safe Water Fund' (referred to in this subsection as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—Notwithstanding any other provision of law, for fiscal year 2003 and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the Fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other funds collected as a result of enforcement actions brought under this section, section 505(a)(1), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.), excluding any amounts ordered to be used to carry out projects in accordance with subsection (d).

"(3) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

"(B) ADMINISTRATION.—The obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, the obligations shall be credited to the Fund in accordance with section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR WATER QUALITY PROJECTS.—

"(A) IN GENERAL.—Amounts in the Fund shall be available to the Administrator, subject to appropriation, to carry out projects the primary purpose of which is water quality maintenance or improvement, including—

"(i) water conservation projects;

"(ii) wetland protection and restoration projects;

"(iii) contaminated sediment projects;

"(iv) drinking water source protection projects;

"(v) projects consisting of best management practices that reduce pollutant loads in an impaired or threatened body of water;

"(vi) decentralized stormwater or wastewater treatment projects, including low-impact development practices;

"(vii) projects consisting of conservation easements or land acquisition for water quality protection;

"(viii) projects consisting of construction or maintenance of stream buffers;

"(ix) projects for planning, design, and construction of treatment works to remediate or control combined or sanitary sewer overflows; and

"(x) such other similar projects as the Administrator determines to be appropriate.

"(B) LIMITATIONS ON USE OF FUNDS.—Amounts in the Fund—

"(i)(I) shall be used only to carry out projects described in subparagraph (A); and

"(II) shall not be used by the Administrator to pay the cost of any legal or administrative expense incurred by the Administrator (except a legal or administrative expense relating to administration of the Fund); and

"(ii) shall be in addition to any amount made available to carry out projects described in subparagraph (A) under any other provision of law.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting among projects eligible for assistance under this subsection, the Administrator shall give priority to a project described in paragraph (4) that is located in a watershed in a State in which there has occurred a violation under this Act or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) for which an enforcement action was brought that resulted in the payment of an amount into the general fund of the Treasury.

"(B) SELECTION CRITERIA.—The Administrator, in consultation with the United States Geological Survey and other appropriate agencies, shall establish criteria that maximize water quality improvement in watersheds and aquifers for use in selecting projects to carry out under this subsection.

"(C) COORDINATION WITH STATES.—In selecting a project to carry out under this subsection, the Administrator shall coordinate with the State in which the Administrator is considering carrying out the project.

"(6) IMPLEMENTATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may carry out a project under this subsection making grants to—

"(i) another Federal agency;

"(ii) a State agency;

"(iii) a political subdivision of a State;

"(iv) a publicly-owned treatment works;

"(v) a nonprofit entity;

"(vi) a public water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f));

"(vii) a Federal interstate water compact commission;

"(viii) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); or

"(ix) a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11710)).

"(B) EXCLUSION.—Under subparagraph (A), the Administrator may not make any grant to or enter into any contract with any private entity that is subject to regulation under—

"(i) this Act; or

"(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection and biennially thereafter, the Administrator shall submit to Congress a report that—

"(A) identifies the projects selected for funding under this subsection during the period covered by the report;

"(B) details the selection criteria established under paragraph (5)(B) that were used to select those projects;

"(C) describes the ways in which the Administrator coordinated with States under paragraph (5)(C) in selecting those projects; and

"(D) describes the priorities for use of funds from the Fund in future years in order to achieve water quality goals in bodies of impaired or threatened water.

"(8) NO EFFECT ON OBLIGATION TO COMPLY.—Nothing in this subsection affects the obligation of any person subject to this Act or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to comply with either of those Acts.".

SEC. 4. USE OF CIVIL PENALTIES FOR REMEDIAL PROJECTS.

(a) IN GENERAL.—Section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may order that a civil penalty assessed under this Act or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) (other than a civil penalty that would otherwise be deposited in the Oil Spill Liability Trust Fund under section 9509 of the Internal Revenue Code of 1986) be used to carry out 1 or more projects in accordance with clauses (i) through (iv) of subsection (h)(4)(A).".

(b) CONFORMING AMENDMENT.—Section 505(a) of the Federal Water Pollution Control Act (33 U.S.C. 1365(a)) is amended in the last sentence by inserting before the period at the end the following: ", including ordering the use of a civil penalty for carrying out projects in accordance with section 309(d)".

ASSOCIATION OF METROPOLITAN
WATER AGENCIES,
Washington, DC, July 31, 2003.

Hon. JACK REED,
U.S. Senate,
Washington, DC.

DEAR SENATOR REED: I write today to express the support of the Association of Metropolitan Water Agencies (AMWA) for your National Clean and Safe Water Fund Act of 2003.

AMWA is an association of the nation's largest publicly owned drinking water systems. AMWA members serve safe drinking water to more than 110 million Americans.

Funded with fines collected due to violations of the Clean Water Act and the Safe Drinking Water Act, the National Clean and Safe Water Fund could provide much-needed resources to improve the rivers and lakes that serve as sources of drinking water for millions of Americans.

Agricultural run-off remains the largest contributor of nonpoint source pollution in our nation's waters. According to the Environmental Protection Agency and the U.S. Geological Survey, agricultural pollution—such as siltation, animal waste, pesticides and fertilizers—contributes to 59 percent of reported water quality problems in impaired rivers and streams.

These and other water quality problems in our nation's sources of drinking water could be reduced with the assistance of land acquisition, reduced pollutant loading, wetlands restoration, wastewater treatment works and other projects eligible for funding in the National Clean and Safe Water Fund Act of 2003.

Sincerely,

DIANE VANDE HEI,
Executive Director.

THE NARRAGANSETT BAY COMMISSION,
Providence, RI, July 29, 2003.

Hon. JACK REED,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR REED: On behalf of the Narragansett Bay Commission, I am writing to express support for the Clean and Safe Water Fund Legislation, as proposed by you and Senators Voinovich and Sarbanes.

According to the EPA, the Congressional Budget Office, and the Water Infrastructure Network, the nation faces a funding gap as high as $46 billion per year for necessary and mandated water and wastewater infrastructure projects. The burden of paying for these mandated projects currently falls almost exclusively on municipalities. This legislation will be an important first step in moving toward a national trust fund for water and wastewater infrastructure.

We applaud you and your fellow Senator for your recognition of the importance of a dedicated funding source for water and wastewater infrastructure and we are pleased to support this bill.

Sincerely,

PAUL PINAULT, P.E.,
Executive Director.

AMERICAN RIVERS ENVIRONMENTAL INTEGRITY PROJECT, FRIENDS OF THE EARTH, NATIONAL AUDUBON SOCIETY, NATURAL RESOURCES DEFENSE COUNCIL, THE OCEAN CONSERVANCY, U.S. PUBLIC INTEREST RESEARCH GROUP,
July 2003.

DEAR SENATOR REED: On behalf of our organizations and the millions of members we represent, we are writing to express our support for your new legislation, the National Clean and Safe Water Fund Act of 2003. Currently, funds from violators of the Clean Water Act and Safe Drinking Water Act go into the general Treasury, and are not specifically earmarked for the protection and enhancement of water quality. This legislation would establish a fund whose sole purpose is to advance the restoration of U.S. waters, particularly in the areas in which violations of those acts occur.

This year marks the 30th anniversary of the Clean Water Act, but unfortunately we remain far behind the goals of the authors of the Act. The Environmental Protection Agency acknowledges that over 40 percent of our nation's waters remain unfit for fishing and swimming. We need to do a better job of enforcing the laws that are already on the books, as well as adopting new strategies to ensure that penalties from violations of clean water laws are used to restore the impacted watersheds. The National Clean and Safe Water Fund Act of 2003 outlines many projects for which penalties collected from violators of the Clean Water Act and Safe Drinking Water Act would go towards, including drinking water source protection, wetland protection and restoration, and stormwater and wastewater treatment projects.

We appreciate your leadership in introducing this legislation, and look forward to working with you to see it passed into law.

ELLEN ATHAS,
Director, Clean Oceans Programs, The Ocean Conservancy.

RICHARD CAPLAN,
Environmental Advocate, U.S. Public Interest Research Group.

MICHELE M. MERKEL,
Senior Counsel, Environmental Integrity Project.

BETSY OTTO,
Senior Director, Watersheds Program, American Rivers.

PERRY PLUMART,
Director of Government Relations, National Audubon Society.

NANCY STONER,
Director, Clean Water Project, Natural Resources Defense Council.

SARA ZDEB,
Legislative Director, Friends of the Earth.

By Mr. DASCHLE:

S. 1540. A bill to provide for the payment of amounts owed to Indian Tribes and individual Indian money account holders; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, the legislation I am introducing today should be important to all Americans—Indians and non-Indians alike. The primary goal of the "Indian Trust Payment Equity Act of 2003" is to start a process for repaying the debt owed by the United States of America to Indian tribes and individual American Indians.

For over one hundred years, the Department of Interior has managed a trust fund containing the proceeds of leasing of oil, gas, land and mineral rights on Indian land for the benefit of Indian people. Today, far from enjoying a sense of security about the investment of these assets, tribal and individual Indian account holders cannot even be assured of the accuracy of the balances that the Department of Interior claims are in their accounts. It is estimated that the trust fund may owe anywhere from $10 billion to over $100 billion to Indian tribes and Indian people. This is money that everyone agrees is rightfully theirs and desperately needed to address a host of human needs.

There is little disagreement that the Interior Department's stewardship of the trust fund, through administrations of both political parties, has been a colossal failure. Rather than just continue the debate over how best to reorganize the Department of Interior, this legislation is intended to jumpstart the process of repayment by establishing an Equity Payment Trust Fund.

The Indian Trust Payment Equity Act calls for appropriating $10 billion to the Trust Fund over five years, as $10 billion is an undeniably low estimate of what is owed by the United States. If an account holder accepts the results of a certified audit of their account, then the Equity Payment Trust Fund would provide for a partial payment until a full accounting is satisfied. Indian tribes would be able to voluntarily contract with the Secretary to assist in the audit process.

This bill provides a means for tribes to assist individual allottees to obtain an accounting and a more prompt settlement than any proposal put forward to date.

Treaties entered into by the United States constitute a significant element of the law of the land. Unfortunately, the Untied States has abridged its treaty obligations by grossly mismanaging the trust fund it holds as trustee for Indian tribes and people. It is a particularly sad story given the high level of human need that exists on Indian reservations throughout South Dakota and across the country.

Last Friday, Senators McCAIN, JOHNSON and I introduced S. 1459, "the American Indian Trust Fund Management Reform Act Amendments Act of 2003." We were joined in this effort by Representatives MARK UDALL and NICK RAHALL who introduced the House companion measure, H.R. 2981, that same day. The Indian Trust Payment Equity Act of 2003 is intended to complement S. 1459 and create a multi-faceted solution to the underlying problem of trust fund mismanagement.

Restoring accountability and efficiency to trust management, and paying account holders what they are owed, is a matter of fundamental justice. And nowhere do the principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets clearly owed to Indian tribes and Indian people.

It is time to expedite the historical accounting of what is owed and deal with the trust management issue once and for all. This legislation makes a strong statement about the importance of completing the historical accounting and making payments to the tribes and individual Indian allottees who are waiting for what is rightfully theirs. They have waited long enough.

I look forward to comments, suggestions and feedback from those interested in this issue and hope this bill can serve as a basis for serious discussion. I do believe this issue should be of interest and of importance to all Americans and, therefore, all members of Congress, as it addresses a debt and responsibility of the United States. I hope I can count on the support of my Senate colleagues for this effort to address the challenging and complex Indian trust reform issue.

By Mrs. CLINTON (for herself, Mr. ENSIGN, and Mr. BINGAMAN):

S. 1543. A bill to amend and improve provisions relating to the workforce investment and adult education systems of the Nation; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise to announce that today I am introducing The Access to Employment and English Acquisition Act with Senator ENSIGN and Senator BINGAMAN. I am grateful to both Senators for working with me to develop this legislation. I consider them partners in the important effort to expand opportunities for job training for Limited English Proficient individuals. I also want to thank the dedicated individuals at the New York Immigration Coalition, the National Immigration Law Center, the National Council at La Raza and the Immigration Forum for their significant contributions to this proposal.

It is vitally important that our workforce investment system be responsive to the needs of those who do not speak English. Immigrants and Limited English Proficient individuals play a crucial role in the New York State and U.S. economy. Immigrants account for nearly half of the growth in the civilian labor force between 1990 and 2000 and immigrants are projected to account for all of the growth in the prime-age labor force between 2000 and 2020.

Immigrants fill critical jobs, are the backbone of many industries, and are net contributors to the Nation's tax base. Without current and future immigrants in the workforce, our aging society will be short of workers; short of savings and investment to support national economic growth; and short of tax revenues to finance government services and Social Security outlays.

The Health, Education, Labor and Pensions Committee on which I serve, is in the process of reauthorizing the Workforce Investment (WIA). WIA reauthorization provides a valuable opportunity for Congress to improve our Nation's workforce development system to effectively serve immigrants and persons who are Limited English proficient. And I look forward to working with my colleagues on the HELP Committee to incorporate this legislation into the reauthorization bill.

The Access to Employment and English Acquisition Act will reduce barriers to job training for English language learners by creating incentives for training providers to serve these individuals. It will also make programs that integrate job training and language acquisition more accessible. Employees have found that integrated programs offer a significant return on their investment because they improve productivity, reduce attendance problems, increase job retention rates, and promote overall quality control. Limited English Proficient persons also benefit from integrated training through improved job security, increased job advancement, and a greater ability to participate in society.

There is no question that English proficiency is critical to economic advancement and improved quality of life for LEP workers and their families. Workers who are fluent in oral and written English earn about 24 percent more than those who lack fluency, regardless of their qualifications. These individuals are better able to participate in the civic life of their community, which so many LEP individuals in New York tell me they want to do.

I look forward to continuing the work with Senator ENSIGN and Senator BINGAMAN to improve job training services for immigrants and LEP individuals.

By Mr. FEINGOLD:

S. 1544. A bill to provide for data-mining reports to Congress; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to offer the Data-Mining Reporting Act of 2003. The untested and controversial intelligence procedure known as data-mining is capable of maintaining extensive files containing both public and private records on each and every American. Almost weekly, we learn about a new data-mining program under development like the newly named Terrorism Information Awareness program. Congress should not be learning the details about these programs after millions of dollars are spent testing and using data-mining against unsuspecting Americans.

Coupled with the expanded domestic surveillance already undertaken by this Administration, the unchecked development of data-mining is a dangerous step that threatens one of the most important values that we are fighting for in the war against terrorism—freedom. My bill would require all Federal agencies to report to Congress within 90 days and every year thereafter on data-mining programs used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If it was necessary, information in the various reports would even be classified.

The bill does not end funding for any program, determine the rules for use of the technology or threaten any ongoing investigation that uses data-mining technology. But, with complete information about the current data-mining plans and practices of the Federal Government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data-mining on a program by program basis and make considered judgments about which programs should go forward and which should not.

My bill would provide Congress with information about the nature of the technology and the data that will be used. The Data-Mining Reporting Act would require all government agencies to assess the efficacy of the data-mining technology and whether the technology can deliver on the promises of each program. In addition, my bill would make sure that the federal agencies using data-mining technology have considered and developed policies to protect the privacy and due process rights of individuals and ensure that only accurate information is collected and used.

Without Congressional review and oversight, government agencies like the Department of Homeland Security, the Department of Justice and the Department of Defense will be able to collect and analyze a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computer and monitored and reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past events, like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's credit report make the prospect of ensnaring many innocents is real.

Most Americans believe that their private lives should remain private. Data-mining programs ran the risk of intruding into the lives of individuals who have nothing to do with terrorism but who trust that their credit reports, shopping habits and doctor visits would not become a part of a gigantic computerized search engine, operating without any controls or oversight.

The Administration should be required to report to Congress about the impact of the various data-mining programs now underway or being studied, and the impact those programs may have on our privacy and civil liberties so that Congress can determine whether the proposed benefits of this practice come at too high a price to our privacy and personal liberties.

I urge my colleagues to support this bill. All it asks for is information to which Congress and the American people are entitled.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Data-Mining Reporting Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) Data-mining.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) Database.—The term "database" does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA-MINING ACTIVITIES.

(a) Requirement for Report.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(b) Content of Report.—A report submitted under subsection (a) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(1) A thorough description of the data-mining technology and the data that will be used.

(2) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(3) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(4) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(5) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(6) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(A) protect the privacy and due process rights of individuals; and

(B) ensure that only accurate information is collected and used.

(7) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(8) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(c) Time for Report.—Each report required under subsection (a) shall be—

(1) submitted not later than 90 days after the date of the enactment of this Act; and

(2) updated once a year and include any new data-mining technologies.

By Mr. HATCH (for himself, Mr. Durbin, Mr. Lugar, Mr. Leahy, Mr. Craig, Mr. Feingold, Mr. Crapo, and Mr. Grassley):

S. 1545. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce legislation that will help make the American dream a reality for many young people. "The Development, Relief and Education for Alien Minors Act," or "The DREAM Act," resolves immigration status problems that plague undocumented immigrants who came to our country as youths. It also removes barriers to education so that they are better equipped to succeed in our society.

Each year, about fifty thousand young undocumented immigrants graduate from high school in the United States. Most of them came to this country with their parents as small children and have been raised here just like their U.S. citizen classmates. They view themselves as Americans, and are loyal to our country. Some may not even realize that they are here in violation of our immigration laws. They grow up to become honest and hardworking adolescents and young adults, and strive for academic as well as professional excellence.

Many of these youngsters find themselves caught in a catch-22 situation. As illegal immigrants, they cannot work legally. Moreover, they are effectively barred from developing academically beyond high school because of the high cost of pursuing higher education. Private colleges and universities are very expensive, and under current federal law, state institutions cannot grant in-state tuition to illegal immigrants, regardless of how long they have resided in that state. To make matters worse, as illegal immigrants, these young people are ineligible for federal tuition assistance. Moreover, these young people have no independent way of becoming legal residents of the United States.

In short, though these children have built their lives here, they have no possibility of achieving and living the American dream. What a tremendous loss to our society.

One young man who is in this predicament lives in my home State of Utah. His name is Danny Cairo. Danny came to the United States at the age of six with his mother who abandoned him eights years later. Danny had to drop out of school in order to support himself. Fortunately, he met Kevin King, who adopted Danny in 2001. With the help of Mr. King, Danny is presently attending the University of Utah.

This story, however, does not necessarily have a happy ending. Because of the date of the adoption, Danny is unable to derive immigration status from Mr. King. He, therefore, lives in legal limbo and faces the threat of deportation daily. In addition, he may never be able to legally work in the United States.

As Mr. King wrote to me, "Danny is exactly what our country needs more of. He is a natural born leader with charisma and intelligence and a drive that will take him wherever he wants to go. But this will not be possible if Danny is unable to obtain permanent residency."

Our laws should not discourage those with bright young minds from seeking higher education. We should instead assist and encourage the many "Dannys" who are in the United States and who have the dedication and drive to achieve their worthy goals. I am proud that the DREAM Act provides illegal alien children with options for higher education, as well as the opportunity to earn legal residence in the United States.

First, the DREAM Act repeals the provision of Federal law that prevents States from granting in-State tuition to undocumented aliens, leaving this issue at the discretion of the States. My own State of Utah passed a law that will allow in-State tuition for aliens who have been residents in Utah for at least three years. My States have either passed or are considering the passage of similar legislation.

But the fact of the matter is that cheaper tuition at State schools, no matter how beneficial for these young people, will not solve the larger problem: their illegal immigration status. While I do not advocate granting unchecked amnesty to illegal immigrants, I am, however, in favor of providing children--children who did not make the decision to enter the United States illegally—the opportunity to earn the privilege of remaining here legally. The DREAM Act will do just that. It provides young men and women who immigrated to the United States prior to the age of sixteen, who have lived in this country at least five years, and who are of good moral character a chance to earn their conditional resident status upon acceptance by an institution of higher learning or upon graduation from high school. The DREAM Act allows these special young people to pursue their worthy goals and aspirations.

The bill I am introducing today will extend DREAM Act benefits to a group of people who were excluded from a similar bill negotiated during the 107th Congress. Today's bill removes the age ceiling so that no one will be arbitrarily cut-off from benefits. Moreover, while the version from the last Congress requires high school graduation as a provision for obtaining legal status, the bill I am introducing today contains a provision that allows high school students who have been accepted into an institution of higher learning, but who have not yet graduated from high school, to obtain conditional resident status. This provision enables these high school students to get an earlier start on procuring the necessary funds for financing their education.

Of course, we have to be mindful that the opportunity provided by the DREAM Act is a privilege and not an entitlement. We must make sure that those who reap the benefits of the Act are, in fact, worthy of such benefits. For this reason, the bill I am introducing today tightens certain requirements and eliminates waivers for those who have serious criminal records that would qualify them for deportation.

In addition, while I always want to encourage educational advancement, I recognize that not everyone's circumstances allow for full-time attendance at a four-year college. For this reason, the DREAM Act provides for certain alternatives like attending community college, trade school, serving in our armed forces, or performing community service.

The purpose of the DREAM Act is to create incentives for out-of-status youngsters to achieve as much as they can in life and to contribute to the greatness of the United States. I recognize that if the bill's requirements are so high that they simply operate as barriers to legalizing status, the bill defeats its own stated purpose. That is why I am committed to ensuring that the requirements imposed by this bill are reasonable and can be met by youngsters who are willing to work hard. The DREAM Act will enable youngsters who have ambition and motivation to obtain permanent legal status.

During the 107th Congress, I introduced a version of the DREAM Act, S. 1291. Since then, it has been replaced in favor of the Durbin/Hatch/Kennedy/Brownback substitute. The substitute was put on the Senate calendar but did not receive a vote. The House Judiciary Committee debated identical legislation during the last Congress but it was defeated. The House Judiciary Committee has not yet moved similar legislation this Congress. I want to make sure that the DREAM Act we introduce in the 108th Congress will not die in the hopper as it did in the House last year.

By introducing this bill, I know I am subjecting myself to criticism from both sides of the aisle on my immigration policy. Some proponents of strict immigration enforcement argue that the DREAM Act will encourage illegal entry into the United States. However, the DREAM Act was carefully drafted to avoid this precise problem. The Act specifically limits eligibility to those who entered the United States five years or more prior to the bill's enactment. It applies to a limited number of people who already reside in the United States and who have demonstrated favorable equities in and significant ties to the United States. Anyone who entered the United States less than five years prior to the enactment of this bill or who plans to illegally enter the United States in the future will not be covered by the DREAM Act.

On the other hand, proponents for providing general amnesty contend that there shouldn't be any requirements after high school graduation. I agree that for some of these children, graduation from high school is a grand enough accomplishment in itself. My bill recognizes this achievement by providing these graduates with the reward of conditional resident status so that they may work toward permanent status without fear of deportation.

Nonetheless, some critics argue that most immigrant children cannot go to college, nor can they meet the standards set by the current version of the DREAM Act. They cite statistics showing that only a small percentage of illegal immigrant children ever attend college and they argue that this DREAM bill will benefit very few. What these critics overlook, however, is that without the DREAM Act, illegal immigrant children simply do not have the means nor the incentive to obtain a higher education. Since the DREAM Act will remove substantial obstacles to higher education, I am confident that many of the children who are currently illegal U.S. residents will seek higher education.

Some critics also contend that these immigrant children do not have the aptitude to attend community college or trade school and that even joining the military or performing a few hours a week of community service is out of reach for them. To this criticism I stress that this is not only wholly inaccurate, but it is also an elitist attitude to which I cannot subscribe. Immigrant children, whether legal or otherwise, are no less capable than other children. They just need the opportunity to reach their potential.

I also want to point out that everyone who was eligible for benefits under last year's bill will be eligible again this year. In fact, as I explained earlier, those who were left out of last year's bill are included in this year's bill. The only difference is that now, the applicant has to contribute more to American society before transitioning from conditional resident status to permanent resident status.

I believe the DREAM Act will live up to its name. It will allow these illegal immigrant children the opportunity to not only dream of the infinite possibilities that their futures may hold in the United States, but it will also afford them the opportunity to realize their dreams. With the passage of the DREAM Act, the United States stands to benefit enormously. Once these children become legal residents of this Nation, they will prove to be motivated, hard-working, and educated contributors to our society. I am pleased and proud once again to work with Senator DURBIN on this important legislation.

Mr. DURBIN. Mr. President, today, my colleague Senator HATCH and I are again introducing legislation that would provide immigration relief to undocumented students of good moral character who want to pursue a better life for themselves and their families. It would benefit the American economy by unleashing the potential of these students, who have grown up in the U.S. and graduated from high school or obtained an equivalent degree. The DREAM Act is a bipartisan bill which has broad support in the Hispanic, religious and immigrant communities.

Each year, approximately 50–60,000 undocumented children, including honors students and valedictorians, graduate from our nation's high schools or receive an equivalent degree. Many of these students were brought to the U.S. by their parents at an age when they were too young to appreciate the legal consequences of their actions. Despite long-term residency in the U.S. and a demonstrated commitment to obtaining an education, these students have no avenue for adjusting their immigration status and it is very difficult for them to attend college or work. Instead, they face possible deportation.

Although these young people are entitled to a free public education at the primary and secondary level, Federal law strongly discourages states from extending in-state college tuition rates to them. Additionally, they cannot legally work, are ineligible for federal tuition assistance, and have great difficulty obtaining private loans.

These roadblocks to higher education hurt our society because we are deprived of future leaders, and the increased tax revenues and economic growth they would produce. Young people with great potential and ambitions are limited to the employment options available to those without a college degree. In fact, many of these students do not even finish high school, further limiting their options and ability to contribute to our economy, because they drop out of school once they realize that they will be unable to attend college.

The DREAM Act would provide meaningful relief to many of these students. It would repeal a provision of federal law that makes it prohibitively expensive for states to grant post-secondary benefits, such as in-state tuition rates, to undocumented children. The bill would also provide an earned adjustment mechanism by which young people who are long-term U.S. residents may become lawful permanent residents.

Approving this bill would give accomplished young people the opportunity to pursue the American dream. I urge my colleagues to support it.

By Mr. McCONNELL (for himself and Mr. LIEBERMAN):

S. 1546. A bill to provide small businesses certain protection from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Committee on the Judiciary.

Mr. McCONNELL. Mr. President, today Senator LIEBERMAN and I introduced the "Small Business Liability Reform Act of 2003," which aims to restore common sense to the way our civil litigation system treats small businesses. Small businesses form the backbone of America's economy. But in our legal system, small businesses are often forced to defend themselves in court for actions they did not commit and pay damages for harms they did not cause. These businesses also frequently find themselves faced with extraordinarily high punitive damages awards. These unfortunate realities threaten the very existence of many small businesses, and when American small businesses go under, our economy is harmed as new products are not developed, produced, or sold, and employers cannot retain employees or hire new ones.

Small businesses—those with 25 or fewer full-time employees—employ almost 60 percent of the American workforce. Because the majority of small business owners earn less than $50,000 a year, they often lack the resources to fight unfair lawsuits which could put them out of business. When faced with such a lawsuit, many of these entrepreneurs must either risk a lengthy battle in court, in which they may be subjected to large damage awards, or settle the dispute out of court for a significant amount. Either way, our current system jeopardizes the livelihood and futures of small business owners and their employees.

The Small Business Liability Reform Act of 2003 would remedy these ills with three common-sense solutions, all of which protect our nation's entrepreneurs from unfair lawsuits and excessive damage awards. First, it would allow a punitive damages award against a small business only upon clear and convincing evidence, rather than upon a simple preponderance of the evidence, and it would set reasonable limits on the size of punitive damages awards—the lesser of $250,000 or three times compensatory damages.

Second, our bill would restore basic fairness to the law by eliminating joint and several liability for small businesses for non-economic damages, such as pain and suffering, so a small defendant is not forced to pay for harms it did not cause. Under the current joint and several liability rules, if a small business is found liable with other defendants, the small business may be forced to pay a disproportionate amount of the damages if it has "deep pockets" relative to the other responsible parties. For example, a small business that was found responsible for only 10 percent of the harm in a case may have to pay half, two-thirds or even all of the damages. This legislation would prevent this unfair situation, but it would not change a small business's joint and several liability for economic damages, such as medical expenses and lost wages; because a small business could still be responsible for all economic damages, regardless of its degree of fault, plaintiffs will still be able to recover all of their out of pocket costs. By protecting small businesses from having to pay non-economic damages for which they are not responsible, though, the Small Business Liability Reform Act of 2003 partially relieves a potentially unfair situation.

Third, our bill addresses some of the iniquities facing non-manufacturing product sellers. Currently, a person who has nothing to do with a defective and harmful product other than simply selling it can be sued with the manufacturer. Under the reforms in the Small Business Liability Reform Act of 2003, however, a product seller can only be held liable for harms caused by his own negligence, intentional wrongdoing, or breach of his own warranty.

This bill would provide much needed protection and relief to small business owners, workers, and consumers. By making our legal system reasonable and fair to small businesses, we will remove one of the greatest barriers to starting and maintaining a small business: the threat of crippling, excessive, and unfair lawsuits. That means increased competition, better and more affordable goods, and more jobs at a time when America could use them all. The Small Business Liability Reform Act of 2003 is a win for all Americans, and it is my hope that the Senate will pass this bipartisan bill. Finally, I would ask unanimous consent that letters in support of this legislation from the National Federation of Independent Business, the National Association of Wholesale-Distributors, the Motorcycle Industry Council, and the Small Business Legal Reform Coalition be printed in the Record.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

July 31, 2003.

Hon. Mitch McConnell,
U.S. Senate, Washington, DC.

Dear Senator McConnell: On behalf of the Small Business Legal Reform Coalition, we are writing to thank you for sponsoring the Small Business Liability Reform Act of 2003, and to express our strong support for its passage. We commend you for your efforts to restore common sense to our civil justice system—one that takes a particularly heavy toll on the smallest of America's businesses.

The frequency and high cost of litigation is a matter of growing concern to small businesses across the country. Today's civil justice system presents a significant disincentive to business start-ups and continued operations. If sued, business owners know they have to choose between a long and costly trial or an expensive settlement. Business owners across the nation risk losing their livelihood, their employees and their future every time they are confronted with an unnecessary lawsuit.

The Small Business Liability Reform Act of 2003 would make two reforms that have topped the small business community's agenda for years: cap punitive damages and abolish joint liability for non-economic damages for those with fewer than 25 employees. These reforms have been among the recommendations of the White House Conference on Small Business since the early 1980s—and the time has come to protect the smallest of small businesses from excessive damage awards and frivolous suits.

This legislation would also hold non-manufacturing product sellers liable in product liability cases when their own wrongful conduct is responsible for the harm and thus reduce the exposure of innocent product sellers, lessors and renters to lawsuits when they are simply present in a product's chain of distribution or solely due to product ownership. Should the manufacturer be judgment-proof, the product seller would be responsible for any damage award, ensuring that deserving claimants recover fully for their injuries.

In the end, we believe that enactment of the Small Business Liability Reform Act of 2003 will inject more fairness into the legal system and reduce unnecessary litigation and legal costs. We also believe that it protects the rights of those with legitimate claims. We thank you again for your support of these common sense reforms and look forward to working with you to ensure the success of this important legislation.

Sincerely,

American Automotive Leasing Association.
American Council of Engineering Companies.
American Insurance Association.
American Machine Tool Distributors Association.
American Rental Association.
Associated Builders and Contractors.
Associated Equipment Distributors.
Automotive Parts and Service Alliance.
Citizens for Civil Justice Reform.
Coalition for Uniform Product Liability Law.
Equipment Leasing Association.
Independent Insurance Agents and Brokers of America.
International Housewares Association.
International Mass Retail Association.
Motorcycle Industry Council.
National Association of Convenience Stores.
National Association of Manufacturers.
National Association of Wholesaler-Distributors.
National Federation of Independent Business.
National Grocers Association.
National Restaurant Association.
National Retail Federation.
National Small Business United.
NPES—Association for Suppliers of Printing, Publishing & Converting Technologies.
Plumbing-Heating-Cooling Contractors—National Association.
Small Business Legislative Council.
Society of Independent Gasoline Marketers of America.
Specialty Equipment Market Association.
Tire Industry Association.
Truck Renting and Leasing Association.
U.S. Chamber of Commerce.

Motorcycle Industry Council,
Arlington, VA, July 30, 2003.

Hon. Mitch McConnell,
U.S. Senate, Washington, DC.

Dear Senator McConnell: On behalf of the over 300 members of the Motorcycle Industry Council (MIC), I want to express our strong support for the "Small Business Liability Reform Act of 2003" and extend sincere thanks for your sponsorship of this important legislation. MIC is a nonprofit national trade association that represents manufacturers and distributors of motorcycles, motorcycle parts and accessories, and members of allied trades. A large number of our member companies are small businesses.

This Act, which would cap punitive damages and abolish joint liability for non-economic damages for businesses with fewer than 25 employees, is a common sense approach to sustaining the health of America's small businesses. It would hold non-manufacturing product sellers liable in product liability cases when they own wrongful conduct is responsible for the harm and thus reduce the exposure of innocent product sellers to lawsuits when they are simply present in a product's chain of distribution. Should the manufacturer be judgment-proof, the product seller would be responsible for any damage award, ensuring that deserving claimants recover fully for their injuries.

The frequency and high cost of litigation is a matter of great concern to the business community. Few companies have been left unmarked by the steep increases in product liability insurance costs or the crises in the availability of product liability insurance. The impact on small businesses is especially burdensome. The current civil justice system puts small business owners across the country in jeopardy of losing their livelihood, their employees and their futures when faced with involvement in lawsuits through no fault of their own. This Act would serve to help protect these businesses from excessive damage awards and the costs of defending against frivolous suits.

Sensible reform brings predictability to the product liability process, stabilizes product liability insurance rates and reduces the overall costs related to product liability litigation imposed on manufacturers, sellers, and ultimately, consumers. This legislation is an important step in alleviating the devastating effects that the current system can have on small businesses and their millions of employees, which continuing to ensure that businesses remain accountable for negligence and intentional wrongdoing and that consumers have full access to the court system for redress.

Again, thank you for your sponsorship of this legislation which is so important to our small business member companies.

Sincerely,

Kathy R. Van Kleeck,
Vice President, Government Relations.

National Association
of Wholesaler-Distributors,
Washington, DC, July 30, 2003.

Hon. Mitch McConnell,
Hon. Joe Lieberman,
U.S. Senate, Washington, DC.

Dear Senators McConnell and Lieberman: I write on behalf of the National Association of Wholesaler-Distributors (NAW) to express our strong support for the "Small Business Liability Reform Act of 2003."

For nearly two decades, NAW has vigorously advocated Federal civil justice reform legislation to curb unnecessary lawsuits and the wasteful legal costs they generate. Title I of the bill (Small Business Lawsuit Abuse Protection), which proposes modest restraints in the application of joint liability and punitive damages with regard to small business defendants, takes a major step in that direction.

So, too, does the product seller liability standard proposed in Title II (Product Seller Fair Treatment). Currently in a majority of states, non-manufacturing product sellers such as wholesaler-distributors and retailers may be sued for product-related injuries on the same basis as the product manufacturer. Consequently, product sellers are routinely joined in product liability lawsuits regardless of fault. Despite the fact that product sellers are rarely ultimately responsible for the damages awarded to successful claimants, they do have to mount their defense and pay the legal costs attendant to it. This unnecessary litigation drives up costs that must be passed along and absorbed by consumers in the form of higher prices, and serves the interests of no one.

By providing that non-manufacturing product sellers will be liable for product-related injuries that are caused by their own negligence, intentional misconduct, breaches of their own express warranties, and when the liable manufacturer is unreachable by judicial process, Title II of the bill corrects this serious flaw in our product liability system. This standard of liability is balanced and fair. It appropriately reflects the different roles of manufacturers, wholesaler-distributors and other non-manufacturing product sellers in the chain of production and distribution, promotes product safety by laying responsibility for harm at the doorstep of the culpable party, and ensures that those who are harmed through no fault of their own by defective, unreasonably dangerous products are fully compensated for their injuries.

Thank you for your leadership in sponsoring this important legislation. I look forward to working with you toward its prompt enactment.

Sincerely,

JAMES A. ANDERSON, Jr.,
Vice President—Government Relations.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington DC, July 30, 2003.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I would like to express our strong support for the Small business Liability Reform Act of 2003. NFIB strongly supports this legislation which would restore common sense to our civil justice system—one that takes a particularly heavy toll on the smallest of America's businesses.

The frequency and high cost of litigation is a matter of growing concern to small businesses across the country. Today's civil justice system presents a significant disincentive to business start-ups and continued operations. If sued, business owners know they have to choose between a long and costly trial or an expensive settlement. Business owners across the nation risk losing their livelihood, their employees and their future every time they are confronted with an unnecessary lawsuit.

This legislation would make two reforms that have topped the small business community's agenda for years: cap punitive damages and abolish joint liability for non-economic damages for those with fewer than 25 employees. These reforms have been among the recommendations of the White House Conference on Small Business since the early 1980s—and the time has come to protect the smallest of small businesses from excessive damage awards and frivolous suits.

This bill would also hold non-manufacturing product sellers liable in product liability cases when their own wrongful conduct is responsible for the harm and thus reduce the exposure of innocent product sellers, lessors and renters to lawsuits when they are simply present in a product's chain of distribution or solely due to product ownership. Should the manufacturer be judgment-proof, the product seller would be responsible for any damage award, ensuring that deserving claimants recover fully for their injuries.

In the end, we believe that enactment of the Small Business Liability Reform Act will inject more fairness into the legal system and reduce unnecessary litigation and legal costs. We also believe that it protects the rights of those with legitimate claims. We thank you for your consideration of these common sense reforms and look forward to working with you to ensure the success of this important legislation.

Sincerely,

DAN DANNER,
Senior Vice President,
Public Policy.

S. 1546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Liability Reform Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS LAWSUIT ABUSE PROTECTION

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Limitation on punitive damages for small businesses.
Sec. 104. Limitation on joint and several liability for noneconomic loss for small businesses.
Sec. 105. Exceptions to limitations on liability.
Sec. 106. Preemption and election of State nonapplicability.

TITLE II—PRODUCT SELLER FAIR TREATMENT

Sec. 201. Findings; purposes.
Sec. 202. Definitions.
Sec. 203. Applicability; preemption.
Sec. 204. Liability rules applicable to product sellers, renters, and lessors.
Sec. 205. Federal cause of action precluded.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—SMALL BUSINESS LAWSUIT ABUSE PROTECTION

SEC. 101. FINDINGS.

Congress finds that—

(1) the United States civil justice system is inefficient, unpredictable, unfair, costly, and impedes competitiveness in the marketplace for goods, services, business, and employees;

(2) the defects in the United States civil justice system have a direct and undesirable effect on interstate commerce by decreasing the availability of goods and services in commerce;

(3) there is a need to restore rationality, certainty, and fairness to the legal system;

(4) the spiralling costs of litigation and the magnitude and unpredictability of punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years;

(5) the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legitimate interest of the government in the punishment and deterrence of unlawful conduct;

(6) just as punitive damage awards can be grossly excessive, so can it be grossly excessive in some circumstances for a party to be held responsible under the doctrine of joint and several liability for damages that party did not cause;

(7) as a result of joint and several liability, entities including small businesses are often brought into litigation despite the fact that their conduct may have little or nothing to do with the accident or transaction giving rise to the lawsuit, and may therefore face increased and unjust costs due to the possibility or result of unfair and disproportionate damage awards;

(8) the costs imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear those costs and to challenge unwarranted lawsuits;

(9) due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through interstate insurance markets to cover their activities;

(10) liability reform for small businesses will promote the free flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and

(11) legislation to address these concerns is an appropriate exercise of the powers of Congress under clauses 3, 9, and 18 of section 8 of article I of the Constitution of the United States, and the 14th amendment to the Constitution of the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) CRIME OF VIOLENCE.—The term "crime of violence" has the same meaning as in section 16 of title 18, United States Code.

(2) DRUG.—The term "drug" means any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) that was not legally prescribed for use by the defendant or that was taken by the defendant other than in accordance with the terms of a lawfully issued prescription.

(3) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(4) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property.

(5) HATE CRIME.—The term "hate crime" means a crime described under section 1(b) of the Hate Crime Statistics Act (28 U.S.C. 534 note).

(6) INTERNATIONAL TERRORISM.—The term "international terrorism" has the same meaning as in section 2331 of title 18, United States Code.

(7) NONECONOMIC LOSS.—The term "noneconomic loss" means loss for physical or emotional pain, suffering, inconvenience,

physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(8) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person or entity to punish or deter such person, entity, or others from engaging in similar behavior in the future. Such term does not include any civil penalties, fines, or treble damages that are assessed or enforced by an agency of State or Federal government pursuant to a State or Federal statute.

(10) SMALL BUSINESS.—

(A) IN GENERAL.—The term "small business" means any unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has fewer than 25 full-time employees as determined on the date the civil action involving the small business is filed.

(B) CALCULATION OF NUMBER OF EMPLOYEES.—For purposes of subparagraph (A), the number of employees of a subsidiary of a wholly owned corporation includes the employees of—

(i) a parent corporation; and

(ii) any other subsidiary corporation of that parent corporation.

(11) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.

SEC. 103. LIMITATION ON PUNITIVE DAMAGES FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, punitive damages may, to the extent permitted by applicable Federal or State law, be awarded against the small business only if the claimant establishes by clear and convincing evidence that conduct carried out by that defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action.

(b) LIMITATION ON AMOUNT.—In any civil action against a small business, punitive damages awarded against a small business shall not exceed the lesser of—

(1) three times the total amount awarded to the claimant for economic and noneconomic losses; or

(2) $250,000,

except that the court may make this subsection inapplicable if the court finds that the plaintiff established by clear and convincing evidence that the defendant acted with specific intent to cause the type of harm for which the action was brought.

(c) APPLICATION BY THE COURT.—The limitation prescribed by this section shall be applied by the court and shall not be disclosed to the jury.

SEC. 104. LIMITATION ON JOINT AND SEVERAL LIABILITY FOR NONECONOMIC LOSS FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, the liability of each defendant that is a small business, or the agent of a small business, for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—In any civil action described in subsection (a)—

(A) each defendant described in that subsection shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable; and

(B) the court shall render a separate judgment against each defendant described in that subsection in an amount determined under subparagraph (A).

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the harm to the claimant, regardless of whether or not the person is a party to the action.

SEC. 105. EXCEPTIONS TO LIMITATIONS ON LIABILITY.

The limitations on liability under sections 103 and 104 do not apply—

(1) to any defendant whose misconduct—

(A) constitutes—

(i) a crime of violence;

(ii) an act of international terrorism; or

(iii) a hate crime;

(B) results in liability for damages relating to the injury to, destruction of, loss of, or loss of use of, natural resources described in—

(i) section 1002(b)(2)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(A)); or

(ii) section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C));

(C) involves—

(i) a sexual offense, as defined by applicable State law; or

(ii) a violation of a Federal or State civil rights law; or

(D) occurred at the time the defendant was under the influence (as determined under applicable State law) of intoxicating alcohol or a drug, and the fact that the defendant was under the influence was the cause of any harm alleged by the plaintiff in the subject action; or

(2) to any cause of action which is brought under the provisions of title 31, United States Code, relating to false claims (31 U.S.C. 3729 through 3733) or to any other cause of action brought by the United States relating to fraud or false statements.

SEC. 106. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—Subject to subsection (b), this title preempts the laws of any State to the extent that State laws are inconsistent with this title.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title does not apply to any action in a State court against a small business in which all parties are citizens of the State, if the State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this title does not apply as of a date certain to such actions in the State; and

(3) containing no other provision.

TITLE II—PRODUCT SELLER FAIR TREATMENT

SEC. 201. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although damage awards in product liability actions may encourage the production of safer products, they may also have a direct effect on interstate commerce and consumers of the United States by increasing the cost of, and decreasing the availability of, products;

(2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that may be inequitable with respect to plaintiffs and defendants and may impose burdens on interstate commerce;

(3) product liability awards may jeopardize the financial well-being of individuals and industries, particularly the small businesses of the United States;

(4) because the product liability laws of a State may have adverse effects on consumers and businesses in many other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) under clause 3 of section 8 of article I of the United States Constitution, it is the constitutional role of the Federal Government to remove barriers to interstate commerce.

(b) PURPOSES.—The purposes of this title, based on the powers of the United States under clause 3 of section 8 of article I of the United States Constitution, are to promote the free flow of goods and services and lessen the burdens on interstate commerce, by—

(1) establishing certain uniform legal principles of product liability that provide a fair balance among the interests of all parties in the chain of production, distribution, and use of products; and

(2) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harms both plaintiffs and defendants.

SEC. 202. DEFINITIONS.

In this title:

(1) ALCOHOL PRODUCT.—The term "alcohol product" includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) COMMERCIAL LOSS.—The term "commercial loss" means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and noneconomic losses.

(5) DRAM-SHOP.—The term "dram-shop" means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(8) MANUFACTURER.—The term "manufacturer" means—

(A) any person who—

(i) is engaged in a business to produce, create, make, or construct any product (or component part of a product); and

(ii)(I) designs or formulates the product (or component part of the product); or

(II) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) that are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term "noneconomic loss" means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(10) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(12) PRODUCT LIABILITY ACTION.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the term "product liability action" means a civil action brought on any theory for a claim for any physical injury, illness, disease, death, or damage to property that is caused by a product.

(B) The following claims are not included in the term "product liability action":

(i) NEGLIGENT ENTRUSTMENT.—A claim for negligent entrustment.

(ii) NEGLIGENCE PER SE.—A claim brought under a theory of negligence per se.

(iii) DRAM-SHOP.—A claim brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor.

(13) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.

SEC. 203. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.

(2) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss shall be governed only by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any State law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8))).

SEC. 204. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action covered under this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of this title to any person subject to that paragraph, the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 202(13)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of

renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 205. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under this title based on section 1331 or 1337 of title 28, United States Code.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act shall take effect with respect to any civil action commenced after the date of the enactment of this Act without regard to whether the harm that is the subject of the action occurred before such date.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1547. A bill to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; considered and passed.

Mr. BINGAMAN. Mr. President, last evening, I introduced two bills with Senator DOMENICI and yet another one today to address a technical, but very important problem that the State of New Mexico and a number of other States, including that of the Majority Leader, have faced with respect to the Children's Health Insurance Program, or CHIP. When CHIP was established by President Clinton and the Congress in 1997, an inequity was built into the program whereby certain states that had been more progressive and had expanded coverage to children through Medicaid prior to the enactment of the bill were penalized.

In the last Congress and again this year, I introduced the "Children's Health Equity Act of 2003" to address this problem for a number of States, including New Mexico, Vermont, Washington, and Tennessee. Our states have been unable to fully access Federal CHIP funds because the previous expansion of Medicaid to children was not recognized or "grandfathered," while certain other States such as New York, Florida, and Pennsylvania were explicitly "grandfathered" in and their State expansions to children were allowed to be covered with CHIP dollars.

The National Governors' Association has long recognized this inequity and has, in fact, a policy that read, "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states."

S. 621, the "Children's Health Equity Act," did precisely that and the critical language from our legislation was included in S. 312 by Senators Rockefeller and Chafee, which addressed both expired and expiring CHIP funds and the problem addressed by S. 621. We appreciated their recognition of that issue and supported the passage of that legislation after an extensive set of negotiations and compromises on the language.

For New Mexico, an important issue is that our State expanded coverage up to 185 percent of poverty prior to the enactment of CHIP. Because of this, the children in our State between 100 percent and 185 percent of poverty are ineligible for CHIP. Thus, New Mexico has been allocated $266 million from CHIP between fiscal years 1998 and 2002, and yet has only been able to spend slightly over $26 million as of the end of the last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its Federal CHIP allocations. This, despite the fact our State ranks 2nd in the Nation in the percentage of children who are uninsured.

It is a travesty that money set-aside for New Mexico to address our children's coverage problem is not available to be spent and is thereby redistributed to other States who have far lower uninsured rates and whose children between 100 and 185 percent of poverty are eligible for Federal CHIP dollars. The children in those States are certainly no more worthy of health insurance coverage than the children of New Mexico.

The consequences for the children of New Mexico are enormous. According to the Census Bureau, New Mexico has an estimated 114,000 uninsured children. Put another way, almost 21 percent of all the children in New Mexico are uninsured, despite the fact New Mexico has expanded coverage all the way to 235 percent of poverty. Again, this is the 2nd highest rate of uninsured children in the country.

This is a result of the fact that an estimated 80 percent of the uninsured children in New Mexico are below 200 percent of poverty. These children are often eligible for either Medicaid or CHIP but currently unenrolled. With the exception of those few children between 185 and 200 percent of poverty who are eligible for the enhanced federal CHIP dollars, all of the remaining children below 185 percent of poverty in New Mexico are denied CHIP funding despite their need.

For New Mexico, the Senate language that was in S. 621 and included in S. 312 would have allowed New Mexico to spend up to 20 percent of its Federal CHIP allotments on children enrolled between 150 and 185 percent of poverty. Unfortunately, the House of Representatives chose to modify the Senate language in such a manner through the introduction and passage of H.R. 2854 that New Mexico may no longer be eligible.

The House of Representatives, which did not include language addressing New Mexico's problem in the first place, chose to edit the Senate language that "grandfathered" States that had previous expanded coverage "up to" 185 percent of poverty and above and replaced it with language that the State had to have expanded coverage to "at least" 185 percent of poverty.

This sounds rather technical, but this slight difference may ironically allow all the other states our bill intended to help, who expanded coverage beyond 185 percent of poverty, such as Vermont and Washington, to be "grandfathered" but not New Mexico. It is my contention, after reviewing the materials from our State that our State expanded coverage to 185 percent of poverty and operates a full Medicaid benefit at 185 percent of poverty and therefore should qualify as a State to be "grandfathered." Unfortunately, the language change has left the Centers for Medicare and Medicaid Services, or CMS, uncertain of our State's eligibility, as some believe the State has only some up to 185 percent of poverty, or just short of that level, and therefore does not meet the test of "at least" 185 percent of poverty.

For six long years, the States of Washington, New Mexico, Vermont, and others have sought to fix the inequity in CHIP. Senator Slade Gorton of Washington had the original legislation to fix this problem and I picked up, modified, and reintroduced that legislation in the last two sessions of Congress. After six long years, to now find that New Mexico may be the only State excluded by the House change and 0.0001 percentage points, is both outrageous and unacceptable.

I contend that the Centers for Medicare and Medicaid Services, or CMS, can still make a determination that New Mexico meets this revised standard under H.R. 2854 and urge them to do so as soon possible.

However, in the meantime, since New Mexico's status is now in question, I introduced two bills last night and another one today with Senator DOMENICI that all clarify that New Mexico qualifies. The first includes New Mexico as a "qualified state" explicitly. This would leave no question at all. The second bill clarifies that a State found to be a partial percentage point below 185 percent of poverty would round up to the nearest number, that being 185 percent of poverty, and be eligible. That would also undoubtedly ensure New Mexico's eligibility. In order to release our hold, I have asked that the bill I introduced changing the percentage that a qualified state must be changed from 185 to 184 percent of poverty be approved by the State in conjunction with H.R. 2854. Unfortunately, our bill will then have to be taken up and passed by the House of Representatives and signed into law by the President.

I have received a letter from Chairman TAUZIN, and Ranking Member DINGELL of the House Energy and Commerce Committee ensuring the intent of H.R. 2854 is to include New Mexico and provides their commitment that they will ensure any technical problem our State has with the language will be fixed immediately upon return from the August recess. I thank them for their commitment to New Mexico.

Once again, many States are accessing their CHIP allotments to cover kids at poverty levels far below New Mexico's current or past eligibility levels. The children in those states are certainly no more worthy and the children of New Mexico deserve better than they are getting from the Federal Government. I accept the commitment made by the leadership of the Senate Finance Committee and the House Energy and Commerce Committee to fix this problem and therefore urge the passage of both H.R. 2854 and the original legislation that I introduced today.

I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 31, 2003.

Senator JEFF BINGAMAN,
Senator PETE DOMENICI.
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS BINGAMAN AND DOMENICI:

We are writing to provide our commitment to pass a technical corrections bill in September that will provide the proper technical fix that will allow New Mexico to use 20% of their SCHIP allotments to pay for certain Medicaid eligible children.

Prior to House passage of H.R. 2854, CMS had provided technical assistance that indicated that New Mexico would be covered under the language in the bill. The authors of the bill intended that New Mexico would be covered, and drafted the language accordingly, based on the information provided by CMS.

We have subsequently learned that New Mexico may not be able to use the 20% because of potential flaws in the language contained in H.R. 2854. This was not our intent, and we are committing to passing a technical corrections bill in September that will allow New Mexico to use these funds.

Sincerely,

CONGRESSMAN BILLY TAUZIN,
Chairman of the House Committee on Energy & Commerce.
CONGRESSMAN JOHN D. DINGELL,
Ranking Member of the House Committee on Energy & Commerce.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. FRIST, Mr. DASCHLE, Mr. DOMENICI, Mr. BINGAMAN, Mr. INHOFE, Mr. JEFFORDS, Mr. THOMAS, Mr. VOINOVICH, Mr. CONRAD, Mrs. LINCOLN, Mr. COLEMAN, Mr. DORGAN, Mr. BOND, Mr. HARKIN, Mr. DAYTON, Mr. DURBIN, Mr. TALENT, Mr. NELSON of Nebraska, and Mr. BROWNBACK):

S. 1548. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, as Members of the this Senate are well aware, I have worked for many years on the development of renewable fuels in the marketplace. Twenty-five years ago we created an alcohol fuels tax incentive to promote the use of ethanol. Today, I am introducing legislation that will simplify the excise tax collection system for all transportation and renewable fuels.

This legislation reforms the alcohol fuels tax credit and creates a new "Volumetric Ethanol Excise Tax Credit" (VEETC). In addition to streamlining the alcohol fuels tax credit, this legislation creates a new tax credit for biodiesel.

Under the VEETC we accomplish three objectives: First, improve the tax collection system for renewable fuels; second, increase the revenue source for the Highway Trust Fund.

This is because the full amount of user excise taxes levied will be collected and remitted to the Highway Trust Fund (HTF). In simplifying the tax collection system, all user excise taxes levied on both gasoline and ethanol blended fuels would be collected at 18.4 cents per gallon; and all excise taxes levied on diesel and biodiesel blended fuels would be collected at 24.4 cents per gallon.

On average, the proposal would generate more than $2 billion per year in additional HTF revenue, which would improve the ability of the federal government to address the nation's transportation infrastructure needs; and third, we will enhance the delivery of renewable fuels in the marketplace.

The federal government's tax collection system will work in concert with the petroleum industry's and independent terminal's fuel delivery system.

The Grassley/Baucus amendment provides tremendous new flexibility to gasoline refiners, marketers, and ethanol producers.

It eliminates the restrictive blend levels, 5.7 percent, 7.7 percent and 10 percent dictated by the Tax Code to reflect obsolete Clean Air Act requirements, providing significant flexibility to oil companies to blend as much or as little ethanol or biodiesel to meet their octane or volume needs.

It streamlines the tax collection system to avoid the potential for fraud while accelerating the refund mechanism.

It provides new market opportunities for ethanol and biodiesel in off-road uses, E-85 and ETBE, and, of course, it resolves a longstanding issue with regard to the Highway Trust Fund.

The "Volumetric Ethanol Excise Tax Credit Act of 2003" is a forward-thinking piece of legislation that deserves universal support and it will address a number of tax issues that have created roadblocks for the renewable industry for a number of years.

Specifically, the tax amendment will do the following: eliminate the negative impact of the ethanol tax incentive on the Highway Trust Fund; eliminate the waste, fraud and abuse of the excise tax collection system, which means that 18.4¢ per gallon of each gallon of ethanol-blend fuel will be remitted to the U.S. Treasury; streamline the delivery of renewable fuels to petroleum blenders at the terminal rack because fuel mixtures will not be based on the Clean Air Act requirements of 5.7, 7.7 or 10 percent blends—the tax credit is allowed for any blend of ethanol and gasoline; streamline the tax refund system for below the rack blenders to allow a tax refund of 52 cents per gallon on each gallon of ethanol blended with gasoline to be paid within 20 days of blending gasoline with ethanol; Eliminate the need of the alcohol fuels income tax credit that is subject to the alternative minimum tax; any taxpayer eligible for the alcohol fuels tax credit will be able to use the volume ethanol excise tax credit system, which means they will be able to file for a refund for every gallon of ethanol used in the marketplace without regard to the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.

Create a new tax credit for biodiesel—$1.00 per gallon for biodiesel made from virgin oils derived from agricultural products and animal fats; and $.50 per gallon for biodiesel made from agricultural products and animal fats.

Allow the credit to be claimed in both taxable and nontaxable markets; tax exempt fleet fuel programs; off road diesel markets (died diesel).

Streamline the use of biodiesel at the terminal rack—the tax structure and credit will encourage petroleum blenders to blend biodiesel as far upstream as possible, which under the RFS and Minnesota's 2 percent volume requirement will allow more biodiesel to be used in the marketplace.

Streamline the tax refund system for below the rack blenders to allow a tax refund of the biodiesel tax credit on each gallon of biodiesel blended with diesel, dyed and undyed, to be paid within 20 days of blending.

The alternative minimum tax (AMT) will not be an issue for biodiesel; any taxpayer eligible for the biodiesel tax credit will be able use the volume biodiesel excise tax credit system, which means they will be able to file for a refund for every gallon of biodiesel used in the marketplace regard to the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.

No affect on the Highway Trust Fund—the biodiesel tax credit will be paid for out of the "General fund" not the "Highway Trust Fund."

Eliminate the E85 AMT issue: any taxpayer eligible for the alcohol fuels tax credit will be able use the volume ethanol excise tax credit system, which means they will be able to file for a refund for every gallon of ethanol used in the marketplace without regard to the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.

Allow the alcohol fuels tax credit to be claimed in both taxable and nontaxable markets;

Streamline the tax refund system for below the rack blenders to allow a tax refund of the alcohol fuels credit on each gallon of ethanol blended with gasoline to be paid within 20 days of blending.

I feel strongly about the legislation because it eliminates the tax infrastructure, and fuel delivery impediments that have been problematic throughout the history of the renewable duels industry and encourage you to join us in working to enact this legislation during this Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2003".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCENTIVES FOR BIODIESEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—

"(A) In general.—Subject to subparagraph (B), in the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(B) Certification for agri-biodiesel.—Subparagraph (A) shall apply only if the taxpayer described in paragraph (1)(A) or (2)(A) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any agri-biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such agri-biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter for use in diesel-powered engines which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Biodiesel mixture not used as a fuel, etc.—

"(A) Imposition of tax.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of the mixture.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold after December 31, 2005.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.".

(2)(A) Section 87, as amended by this Act, is amended—

(i) by striking "and" at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting ", and",

(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).", and

(iv) by striking "**FUEL CREDIT**" in the heading and inserting "**AND BIODIESEL FUELS CREDITS**".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) Effective Date.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 3. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' is a mixture which—

"(A) consists of alcohol and a taxable fuel, and

"(B) is sold for use or used as a fuel by the taxpayer producing the mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any qualified biodiesel mixture.

"(2) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(ii) CERTIFICATION FOR AGRI-BIODIESEL.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

"(3) DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2005.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or qualified biodiesel mixture, respectively, and

"(B) any person—

"(i) separates such alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a) (relating to registration) is amended by inserting "and every person producing biodiesel (as defined in section 40B(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4091".

(c) CONFORMING AMENDMENTS.—

(1) Section 40(c) is amended by striking "section 4081(c), or section 4091(c)" and inserting "section 4091(c), section 6426, section 6427(e), or section 6427(f)".

(2) Section 40(d)(4)(B) is amended by striking "or 4081(c)".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Paragraph (1) of section 4041(k) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).".

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 6426(b)(4)(A)), and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40B(d)(1)) or agri-biodiesel (as defined in section 40B(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40B(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2005.".

(10) Subsection (f) of section 6427 is amended to read as follows:

"(f) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.".

(11) Paragraphs (1) and (2) of section 6427(i) are amended by inserting "(f)," after "(d),".

(12) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(D) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(E) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(13) Section 6427(o) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) any tax is imposed by section 4081, and",

(B) by striking "such gasohol" in paragraph (2) and inserting "the alcohol fuel mixture (as defined in section 6426(b)(3))",

(C) by striking "gasohol" both places it appears in the matter following paragraph (2) and inserting "alcohol fuel mixture", and

(D) by striking "GASOHOL" in the heading and inserting "ALCOHOL FUEL MIXTURE".

(14) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(15) Section 9503(b)(4) is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) is amended by inserting "(other than subsection (e) thereof)" after "section 6427".

(17) Section 9503(e)(2) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (b)(12)(D)) not later than September 30, 2003.

By Mr. GREGG.

S. 1550. A bill to change the 30-year treasury bond rate to a composite corporate rate, and to establish a commission on defined benefit plans; to the Committee on Finance.

Mr. GREGG. Mr. President, I come to the floor today to offer legislation to solve a pension funding crisis in our country. The approach incorporated in this bill has been supported in the past by both the American Federation of Labor-Congress of Industrial Organizations and the American business community. As Chairman of the Senate Labor Committee, I must say that these two groups do not often agree and I want to take this historic opportunity to memorialize their agreement.

These groups have supported the approach taken by this legislation because it will generate jobs, improve the financial strength of our corporations, and promote capital investment, all at a time when our economy sorely needs a shot in the arm.

My colleagues will remember that Congress adopted a temporary fix to the problem raised by the artificially low interest rate set by the 30-year Treasury bond. Pension law relies on that the 30-year Treasury bond, which is no longer being issued, to determine funding levels. A low interest rate means employers must put more cash in their plans to satisfy full funding requirements. That temporary fix, enacted in March 2002, is set to expire at the end of this year.

If no action is taken soon, companies will be required to divert billions of dollars from capital investment and job growth in order to satisfy the arbitrary funding rules. For example, General Motors will have to contribute $7 billion if no action is taken by the end of this year. Compounded in businesses across the nation, the total liability adds up to—as the late Carl Sagan used to say—"Billions and Billions."

Both for collective bargaining and corporate financial planning purposes, a new fix needs to be in place this summer.

In a nutshell, the Pension Stability Act, the legislation I am introducing today, does four things.

First, it extends the temporary fix for a longer period of time—five years—in order to give Congress time to craft a permanent solution. The five year period is important because businesses and their unions need time to plan ahead and to make commitments that they can live up to.

Second, the bill temporarily switches form the out-of-date 30-year Treasury bond as the benchmark rate and adopts for this five-year period a rate based on a high-quality corporate bond index or composite of indices. In shifting to this rate, the legislation assumes that the highest permissible rate of interest is 105 percent of the four-year weighted average of that rate for the first two years—2004 and 2005. For the remaining three years—so as not to permit long term underfunding of pensions—the highest permissible rate of interest drops down to 100 percent of the weighted average.

Third, the legislation incorporates a smooth transition from the out-of-date 30-year Treasury Bond rate to the composite rate that will be used for determining funding obligations. No change in the lump sum distribution rate is made for the first two years. Then, in 20 percent increments, the new rate is phased in. My bill does not take the interest rate to 100 percent of the composite rate, as most commentators assert is the appropriate rate. But my bill makes significant progress toward that goal, and gives Congress time to make informed decisions on this important issue that affects very many lives.

Finally, the Pension Stability Act acknowledges that reasonable people can differ on the best permanent solution to the pension funding issues. The amendment calls for the creation of an independent commission to consider all of the issues relevant to funding of pensions, and making concrete recommendations to Congress. The goal is to take controversy and politics out of the deliberation.

The issues confronting our pension system are too important, and the dollar figures too large, for an internal task force within any administration. Stakeholders in this debate include company financial and human resources officers, stockholders, plan participants and beneficiaries, unions, and financial markets. If they are not included in the process, they are more likely to oppose the proffered solutions. The intent with this legislation is to create a bipartisan commission that includes business, union and pension rights groups. Such a panel would be able to address both the funding issues presented here, including the "private yield curve" approach, and evaluate other ideas for revitalizing the defined benefit system.

I urge my colleagues to support this amendment.

By Mr. McCAIN.

S. 1551. A bill to provide educational opportunities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. McCAIN. Mr. President, today, I am pleased to reintroduce legislation to authorize a three-year nationwide school choice demonstration program targeted at children from economically disadvantaged families. The Excellence Through Choice to Elevate Learning Act, or the EXCEL Act, will expand educational opportunities for low-income children by providing parents and students the freedom to choose the best school for their unique academic needs while encouraging schools to be creative and responsive to the needs of all students.

This bill authorizes $1.8 billion annually for fiscal years 2004 through 2007 to be used to provide school choice vouchers to economically disadvantaged children throughout the nation. The funds allocated by the bill will be divided among states based upon the number of children they have enrolled in public schools. States will then conduct a lottery among low-income children who attend the public schools with the lowest academic performance in their State. Each child selected in the lottery would receive $2,000 per year for three years to be used to pay tuition at any school of their choice in the State, including private or religious schools. The money could also be used to pay for transportation to the school or supplementary educational services to meet the unique needs of the individual student.

In total, this bill authorizes $5.4 billion for the three-year school choice demonstration program, as well as an evaluation of the program by the General Accounting Office. The cost of this important test of school vouchers is fully offset by eliminating more than $5.4 billion in unnecessary pork and inequitable corporate tax loopholes.

We all know that one of the most important issues facing our nation is the education of our children. We must strive to develop and implement initiatives which strengthen and improve our education system thereby ensuring that our children are provided with the essential academic tools for succeeding professionally, economically and personally. I am sure we all agree that increasing the academic performance and skills of all our nation's students must be the paramount goal of any education reform we implement.

School vouchers are a viable method of allowing all American children access to high quality schools, including private and religious schools. Every parent, not just the wealthy, should be able to obtain the highest quality education for their children. Tuition vouchers would provide low-income children trapped in poor or mediocre schools the same educational choices as children of economic privilege.

Some of my colleagues may argue that vouchers would divert money away from our Nation's public schools. They will claim it is better to pour more and more money into poor performing public schools, rather than promote competition in our school systems. I respectfully disagree. While I support strengthening financial support for education in our nation, the solution to what ails our system is not money alone.

Currently our nation spends significantly more money on education than most countries and yet our students consistently score lower than their peers. Students in countries which are struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current structure in order to improve our children's academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate training and quality academic preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high. It does not bode well for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage public schools, communities and parents to work together to raise the level of education for all students. Through this bill, we have the opportunity to replicate these important benefits throughout all our nation's communities.

Thomas Jefferson said, "The purpose of education is to create young citizens with knowing heads and loving hearts." If we fail to give our children the education they need to nurture their heads and hearts, then we threaten their futures and the future of our nation. Each of us is responsible for ensuring that our children have both the love in their hearts and the knowledge in their heads to not only dream, but to make their dreams a reality.

The time has come for us to finally conduct a national demonstration of school choice to determine the benefits or perhaps disadvantages of providing educational choices to all students, not just those who are fortunate enough to be born into a wealthy family. I urge my colleagues to support this bill and put the needs of America's school children ahead of pork barrel projects and tax loopholes benefitting only special interests and big business.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Excellence through Choice to Elevate Learning Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist States to—

(A) give children from low-income families the same choices among all elementary and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in their children's schooling; and

(2) to demonstrate, through a 3-year national grant program, the effects of a voucher program that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this Act (other than section 11) $1,800,000,000 for each of fiscal years 2004 through 2007.

(b) Evaluation.—There is authorized to be appropriated to carry out section 11 $17,000,000 for fiscal years 2005 through 2008.

SEC. 4. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall make grants to States, from allotments made under section 5 to enable the States to carry out educational choice programs that provide scholarships, in accordance with this Act.

(b) Limit on Federal Administrative Expenditures.—The Secretary may reserve not more than $1,000,000 of the amounts appropriated under section 3(a) for a fiscal year to pay for the costs of administering this Act.

SEC. 5. ALLOTMENTS TO STATES.

(a) Allotments.—The Secretary shall make the allotments to States in accordance with a formula specified in regulations issued in accordance with subsection (b). The formula shall provide that the Secretary shall allot to each State an amount that bears the same relationship to the amounts appropriated under section 3(a) for a fiscal year (other than funds reserved under section 4(b)) as the number of covered children in the State bears to the number of covered children in all such States.

(b) Formula.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations specifying the formula referred to in subsection (a).

(c) Limit on State Administrative Expenditures.—The State may reserve not more than 1 percent of the funds made available through the State allotment to pay for the costs of administering this Act.

(d) Definition.—In this section, the term "covered child" means a child who is enrolled in a public school (including a charter school) that is an elementary school or secondary school.

SEC. 6. ELIGIBLE SCHOOLS.

(a) Eligibility.—

(1) In general.—Schools identified by a State under paragraph (2) shall be considered to be eligible schools under this Act.

(2) Determination.—Not later than 180 days after the date the Secretary issues regulations under section 5(b), each State shall identify the public elementary schools and secondary schools in the State that are at or below the 25th percentile for academic performance of schools in the State.

(b) Performance.—The State shall determine the academic performance of a school under this section based on such criteria as the State may consider to be appropriate.

SEC. 7. SCHOLARSHIPS.

(a) In General.—

(1) Scholarship awards.—With funds awarded under this Act, each State awarded a grant under this Act shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The State shall ensure that the scholarships may be redeemed for elementary or secondary education for the children at any of a broad variety of public and private schools, including religious schools, in the State.

(2) Scholarship amount.—The amount of each scholarship shall be $2000 per year.

(3) Tax exemption.—Scholarships awarded under this Act shall not be considered income of the parents for Federal income tax

purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILDREN.—To be eligible to receive a scholarship under this Act, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this Act, the State shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the State by the State educational agency.

(2) CONTINUING ELIGIBILITY.—Each State receiving a grant under this Act to carry out an educational choice program shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line; or

(D) the child is expelled or convicted of a felony, including felonious drug possession, possession of a weapon on school grounds, or a violent act against an other student or a member of the school's faculty.

SEC. 8. USES OF FUNDS.

Any scholarship awarded under this Act for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this Act;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. 9. STATE REQUIREMENT.

A State that receives a grant under this Act shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. 10. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this Act, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this Act shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this Act shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this Act at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this Act shall, as a condition of participation under this Act, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this Act and the nature, variety, and missions of schools and providers that may participate in providing services to children under this Act.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or to the parents of any child under this Act in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this Act shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this Act.

SEC. 11. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this Act. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this Act and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. 12. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this Act.

(b) PRIVATE CAUSE.—No provision or requirement of this Act shall be enforced through a private cause of action.

SEC. 13. FUNDING.

The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending (including loopholes to revenue raising tax provisions) by the Federal Government as a means of providing funding for this Act. Not later than 60 days after the date of enactment of this Act, the committees referred to in the preceding sentence shall jointly prepare and submit to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, a report concerning the spending (and loopholes) identified under such sentence.

SEC. 14. DEFINITIONS.

In this Act:

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "parent", "secondary school", and "State educational agency" have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) STATE.—The term "State" means each of the 50 States.

By Mr. CRAIG:

S. 1553. A bill to amend title 18, United States Code, to combat, deter, and punish individuals and enterprises engaged in organized retail theft; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, today I am introducing legislation to respond to a growing crime problem that is harming honest businesses, endangering public health, and dragging down our economy.

The problem I am talking about is organized retail theft.

Organized retail theft is a quantum leap in criminality beyond petty shoplifting. It involves professional gangs or theft rings that move quickly from store to store, from community to community, and across State lines to pilfer large amounts of merchandise that can be easily sold through fencing operations, flea markets, swap meets and shady storefront operations.

This type of criminal activity is a growing problem throughout the United States, harming many segments of the retail community, including supermarkets, chain drug stores, independent pharmacies, convenience stores, large discount operations, mass merchandisers, and specialty shops, among others. Organized retail theft has become the most pressing security problem confronting retailers and their suppliers, accounting for an estimated $30 billion in losses at the retail level annually, according to the Federal Bureau of Investigation's interstate theft task force.

This kind of theft also presents significant health and safety risks for consumers. While items that are in high demand and prized by these organized gangs include software, videos, DVDs and CDs, razor blades, camera film, and batteries—they also include over-the-counter drug products, such as analgesics, cough and cold medications, and infant formula. Professional theft rings do not provide ideal or required storage conditions for consumable items, and as a result, the integrity and nutrient content of these products is often compromised. Furthermore, when products are near the end of their expiration date, it is not uncommon for unscrupulous middlemen to change the expiration date, lot numbers, and labels to falsely extend the shelf-life of the products or to disguise the fact that the merchandise has been stolen.

Clearly, theft of this kind adversely affects both retailers and consumers in a variety of ways. For example, because theft by professional gangs has become so rampant in certain product categories, such as infant formula, many retail stores are taking the product off the shelves and placing them behind the counter or under lock and key. In some cases, products are simply unavailable due to high pilferage rates.

Let me commend the Federal Bureau of Investigation and the Department of Justice for their work in this area. I know the Department has successfully prosecuted a number of cases against professional shoplifting rings. However, retail organizations and individual companies are crying out for help because this type of criminal activity is escalating, and there is no federal statute that specifically addresses organized retail theft. I believe more can be done to help in the investigation, apprehension, and prosecution of these criminal gangs.

The legislation that I am introducing is in response to the concerns that have been brought to my attention by the retailing community. I hope my colleagues will join me in this effort. While this bill is not a cure-all, I hope it will help to highlight the magnitude of the problem so that we can begin considering appropriate initiatives with all interested parties, including our federal law enforcement agencies, on how to effectively combat and deter organized retail theft in the future.

I ask unanimous consent that the text of the Organized Retail Theft Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organized Retail Theft Act of 2003".

SEC. 2. PROHIBITION AGAINST ORGANIZED RETAIL THEFT.

(a) In General.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2120. Organized retail theft

"(a) In General.—Whoever in any material way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by taking possession of, carrying away, or transferring or causing to be carried away, with intent to steal, any goods offered for retail sale with a total value exceeding $1,000, but not exceeding $5,000, during any 180-day period shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

"(b) High Value.—Whoever in any material way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by taking possession of, carrying away, or transferring or causing to be carried away, with intent to steal, any goods offered for retail sale with a total value exceeding $5,000, during any 180-day period, shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Receipt and Disposal.—Whoever receives, possesses, conceals, stores, barters, sells, disposes of, or travels in interstate or foreign commerce, with the intent to distribute, any property which the person knows, or should know has been taken or stolen in violation of subsection (a) or (b), or who travels in interstate or foreign commerce, with the intent to distribute the proceeds of goods which the person knows or should know to be the proceeds of an offense described in subsection (a) or (b), or to otherwise knowingly promote, manage, carry on, or facilitate an offense described in subsection (a) or (b), shall be fined or imprisoned as provided in subsection (a) if the actions involved a violation of subsection (a) and as provided in subsection (b) if the actions involved a violation of subsection (b).

"(d) Enhanced Penalties.—

"(1) Assault.—Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title, imprisoned not more than 25 years, or both.

"(2) Death and kidnapping.—Whoever, in committing any offense under this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than 10 years, or if death results shall be punished by death or life imprisonment.

"(e) Forfeiture and Disposition of Goods.—

"(1) In general.—Whoever violates this section shall forfeit to the United States, irrespective of any provision of State law any interest in the retail goods the person knows or should know to have been acquired or maintained in violation of this section.

"(2) Injunctions and impounding, forfeiture, and disposition of goods.—

"(A) Injunctions and impounding.—In any prosecution under this subsection, upon motion of the United States, the court may—

"(i) grant 1 or more temporary, preliminary, or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain the alleged violation; and

"(ii) at any time during the proceedings, order the impounding on such terms as the court determines to be reasonable, of any good that the court has reasonable cause to believe was involved in the violation.

"(B) Forfeiture and disposition of goods.—Upon conviction of any person of a violation under this subsection, the court shall—

"(i) order the forfeiture of any good involved in the violation or that has been impounded under subparagraph (A)(ii);

"(ii) either—

"(I) order the disposal of the good by delivery to such Federal, State, or local government agencies as, in the opinion of the court, have a need for such good, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such good, if such disposition would not otherwise be in violation of law and if the manufacturer consents to such disposition; or

"(II) order the return of any goods seized or impounded under subparagraph (A)(ii) to their rightful owner; and

"(iii) find that the owner of the goods seized or impounded under subparagraph (A)(ii) aided in the investigation and order that such owner be reimbursed for the expenses associated with that aid.

"(C) Terms.—For purposes of remission and mitigation of goods forfeited to the Government under this subsection, the provisions of section 981(d) of this title shall apply.

"(f) Civil Remedies.—

"(1) In general.—Any person injured by a violation of this section, or who demonstrates the likelihood of such injury, may bring a civil action in an appropriate United States district court against the alleged violator. The complaint shall set forth in detail the manner and form of the alleged violation.

"(2) Injunctions and impounding and disposition of goods.—In any action under paragraph (1), the court may—

"(A) grant 1 or more temporary, preliminary, or permanent injunctions upon the posting of a bond at least equal to the value of the goods affected and on such terms as the court determines to be reasonable to prevent or restrain the violation;

"(B) at any time while the action is pending, order the impounding upon the posting of a bond at least equal to the value of the goods affected and, on such terms as the court determines to be reasonable, if the court has reasonable cause to believe the goods were involved in the violation; and

"(C) as part of a final judgment or decree, in the court's discretion, order the restitution of any good involved in the violation or that has been impounded under subparagraph (B).

"(3) Damages.—In any action under paragraph (1), the plaintiff shall be entitled to recover the actual damages suffered by the plaintiff as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages. In establishing the violator's profits, the plaintiff shall be required to present proof only of the violator's sales, and the violator shall be required to prove all elements of cost or deduction claimed.

"(4) Costs and attorney's fees.—In any action under paragraph (1), in addition to any damages recovered under paragraph (3), the court in its discretion may award the prevailing party its costs in the action and its reasonable attorney's fees.

"(5) Repeat violations.—

"(A) Treble damages.—In any case in which a person violates this section within 3 years after the date on which a final judgment was entered against that person for a previous violation of this section, the court may, in its discretion, in an action brought under this subsection, increase the award of damages for the later violation to not more than 3 times the amount that would otherwise be awarded under paragraph (3), as the court considers appropriate.

"(B) Burden of proof.—A plaintiff that seeks damages described in subparagraph (A) shall bear the burden of proving the existence of the earlier violation.

"(h) Definition.—In this section, the term 'value' has the meaning given that term in section 2311 of this title.".

(b) Conforming Amendment.—The table of sections for chapter 103 of title 18, United States Code, is amended by inserting at the end the following:

"2120. Organized retail theft.".

SEC. 3. COMMISSION OF ORGANIZED RETAIL THEFT A PREDICATE FOR RICO CLAIM.

Section 1961(1) of title 18, United States Code, is amended by adding ", section 2120 (relating to organized retail theft)" before ", sections 2251".

SEC. 4. FLEA MARKETS.

(a) Prohibitions.—No person at a flea market shall sell, offer for sale, or knowingly permit the sale of any of the following products:

(1) Baby food, infant formula, or similar products used as a sole or major source of nutrition, manufactured and packaged for sale for consumption primarily by children under 3 years of age.

(2) Any drug, food for special dietary use, cosmetic, or device, as such terms are defined in the Federal Food, Drug, and Cosmetic Act and regulations issued under that Act.

(b) Exclusion.—Nothing in this section shall prohibit a person from engaging in activity otherwise prohibited by subsection (a), in the case of a product described in subsection (a)(2), if that person maintains for public inspection written documentation identifying the person as an authorized representative of the manufacturer or distributor of that product.

(c) Flea Market Defined.—

(1) In general.—As used in this section, the term "flea market" means any physical location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as transient or limited vendors.

(2) Exclusion.—For purposes of paragraph (1), transient or limited vendors shall not include those persons who sell by sample or catalog for future delivery to the purchaser.

(d) Criminal Penalties.—Any person who willfully violates this section shall be punished as provided in section 2120 of title 18, United States Code.

SEC. 5. ATTORNEY GENERAL REPORTING REQUIREMENTS.

Beginning with the first year after the date of enactment of this Act, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, United States Code, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve organized retail theft (as punishable under section 2120 of title 18, United States Code, as added by this Act), including—

(1) the number of open investigations;

(2) the number of cases referred by the United States Customs Service;

(3) the number of cases referred by other agencies or sources; and

(4) the number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under section 2120 of title 18, United States Code.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 208—EXPRESSING THE SENSE OF THE SENATE IN SUPPORT OF IMPROVING AMERICAN DEFENSES AGAINST THE SPREAD OF INFECTIOUS DISEASES

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Res. 208

Whereas the Central Intelligence Agency's January 2000 National Intelligence Estimate (NIE), The Global Infectious Disease Threat and Its Implications for the United States, found that infectious diseases are a leading cause of death worldwide and that "New and reemerging infectious diseases will pose a rising global health threat and will complicate U.S. and global security over the next 20 years";

Whereas the World Health Organization estimates that infectious diseases accounted for more than 11,000,000 deaths in 2001;

Whereas the NIE observed the number of infectious diseases related deaths within the United States had increased, having doubled to 170,000 since 1980;

Whereas the General Accounting Office noted in its August 2001 report, Global Health: Challenges in Improving Infectious Disease Surveillance Systems, that most of the infectious disease deaths occur in the developing world, but that infectious diseases pose a threat to people in all parts of the world because diseases know no boundaries;

Whereas the NIE remarked that the increase in international air travel and trade will "dramatically increase the prospects," that infectious diseases will "spread quickly around the globe, often in less time than the incubation period of most diseases";

Whereas, the NIE commented that many infectious diseases, like the West Nile virus, come from outside U.S. borders and are introduced by international travelers, immigrants, returning U.S. military personnel, or imported animals or foodstuffs;

Whereas diseases coming from overseas such as Acquired Immune Deficiency Syndrome (AIDS), Severe Acute Respiratory Syndrome (SARS), and West Nile virus have had or could have a serious impact on the health and welfare of the U.S. population;

Whereas the NIE found that war, natural disasters, economic collapse, and human complacency around the world are causing a breakdown in health care delivery and helping the emergence or reemergence of infectious diseases;

Whereas, the danger of an outbreak of a deadly disease overseas affecting the United States is increasing;

Whereas the rapid and easy transport of diseases to the United States underscores that Americans are now part of a global public health system;

Whereas the General Accounting Office emphasized that "disease surveillance provides national and international public health authorities with information they need to plan and manage to control these diseases";

Whereas the early warning of a disease outbreak is key to its identification, the quick application of countermeasures and the development of cures;

Whereas the United States should strengthen its ability to detect foreign diseases before such diseases reach U.S. borders;

Whereas the G–8 group of industrialized countries at the 2003 Evian summit made a commitment to fight against AIDS, tuberculosis, and malaria; encouraged research into diseases affecting mostly developing countries; committed to working closely with the World Health Organization; and recognized that the spread of SARS "demonstrates the importance of global collaboration, including global disease surveillance, laboratory, diagnostic and research efforts, and prevention, care, and treatment";

Whereas the Centers for Disease Control and Prevention (CDC) plays an important role in foreign disease surveillance, and a key CDC program to strengthen global disease surveillance is its training of foreign specialists in modern epidemiology through its Field Epidemiology Training Programs (FETPs);

Whereas the CDC's FETPs have existed for almost 20 years working with ministries of health around the world and the World Health Organization, and that currently FETPs are in 30 countries throughout the world to support disease detection and provide an essential link in global surveillance; and

Whereas the work of the FETPs is critical to establishing a first line of defense overseas to protect the health of American citizens: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Centers for Disease Control and Prevention's Field Epidemiology Training Programs and related epidemic services and global surveillance programs should receive full support;

(2) the President should require an annual National Intelligence Estimate on the global infectious disease threat and its implications for the United States;

(3) the President should propose to the G-8 that the G–8 develop and implement a program to train foreign epidemiological specialists in the developing world; and

(4) the international community should increase funding for the World Health Organization's global disease surveillance capability.

Mr. AKAKA. Mr. President, I rise to submit a sense of the Senate resolution that the Senate supports improving American defenses against the spread of infectious diseases from abroad. The United States and other nations have a serious global problem in confronting the natural outbreak or deliberate spread of infectious diseases. The Central Intelligence Agency's January 2000 National Intelligence Estimate, NIE, The Global Infectious Disease Threat and Its Implications for the United States found that infectious diseases are a leading cause of death worldwide and that "New and reemerging infectious diseases will pose a rising global health threat and will complicate U.S. and global security over the next 20 years."

I have been concerned about the bioterrorist threat to this country for some time. In 2001, as chairman of the

Senate Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, I chaired hearings that addressed the Nation's preparedness to respond to a bioterrorist attack. Sadly, the SARS outbreak demonstrated that naturally occurring diseases can be spread extraordinarily quickly through international air travel. This raises questions over our Nation's ability to counter a bioterrorist attack and protect our public health in general. Preparations that organize our health care network against a naturally occurring disease outbreak can also help guard Americans against a bioterrorist attack. Our first line of defense must be pushed beyond the borders of the United States to countries overseas. We should help stop the spread of a disease at its source before tens or hundreds of air-travelers inadvertently spread it around the globe.

The World Health Organization, WHO, World Health Report 2002 estimates that infectious diseases accounted for more than 11 million deaths in 2001. Most of these infectious disease deaths occurred in the developing world, where they imposed a terrible burden on societies whose public health systems were already stretched beyond their limits. Infectious diseases, however, pose a threat to people in all parts of the world. Diseases easily spread beyond national borders.

The NIE noted that many infectious diseases come from outside U.S. borders and are introduced by international travelers, immigrants, returning U.S. military personnel, or imported animals or foodstuffs. The report states the increase in international air travel and trade will "dramatically increase the prospects," that infectious diseases will "spread quickly around the globe, often in less time than the incubation period of most diseases."

Diseases that originated overseas, such as HIV/AIDS, have had a serious impact on the health and welfare of U.S. population. For example, according to the Centers for Disease Control and Prevention, CDC, since the beginning of the HIV/AIDS epidemic, there have been almost 450,000 deaths. There are an estimated 800,000 to 900,000 people currently living with human immunodeficiency virus in the United States with approximately 40,000 new human immunodeficiency virus infections occurring in the U.S. every year. SARS and the West Nile virus have also had an impact in the United States.

The danger of an outbreak of a deadly disease overseas affecting the United States is increasing. The NIE found that war, natural disasters, economic collapse, and human complacency around the world are causing a breakdown in health care delivery and helping the emergence or reemergence of infectious diseases.

To be forewarned is to be forearmed. The early warning of a disease outbreak is key to its identification; the quick application of countermeasures; and the development of cures. The General Accounting Office, GAO, noted in its August 2001 report, Global Health: Challenges in Improving Infectious Disease Surveillance Systems, that "disease surveillance provides national and international public health authorities with information they need to plan and manage to control these diseases."

The next disease to strike the United States, like SARS, may be an unrecognized pathogen. As of July 2003, the SARS virus has sickened more than 8,000 people, including over 35 in the United States. The disease has killed more than 800 since the outbreak began in southern China, and has had severe economic repercussions in the countries beset by the outbreak. Although the disease appears to be under control for the moment, many fear there will be resurgence of SARS in the fall when the general flu and cold season begins. We have to do a better job next time, and by helping others we will help ourselves to do so. We need to strengthen our ability to detect foreign diseases before they cross our borders. The CDC has played a significant role in foreign disease surveillance for many years. Its Field Epidemiology Training Programs is an important program that strengthens global disease surveillance by training foreign specialists in modern epidemiology. FETPs have existed for almost 20 years and involve working with ministries of health around the world and the World Health Organization. Currently FETPs are in 30 countries throughout the world, supporting disease detection efforts and providing an essential link in global surveillance. The work of the FETPs is critical to establishing a first line of defense overseas to protect the health of local populations and of American citizens from the spread of deadly infectious diseases. This work is more timely and necessary than ever. As Dr. James Hughes, Director of the National Center for Infectious Diseases at the CDC told the Governmental Affairs Committee's Permanent Subcommittee on Investigations on July 30th, the lessons learned from the SARS outbreak show, "The SARS experience reinforces the importance of global surveillance," as well as having prompt reporting and a strong laboratory capability.

We need to ensure that the CDC work in this area, which is at times heroic, is given the funding it requires. We also need to keep this question prominently on our national agenda. We need attention focused on infectious diseases on an annual basis. We need to understand better the political and economic implications of the spread of infectious diseases for foreign countries and the United States, and we need to know what are likely future trends depending on the level of intervention to address this problem. I suggest that a NIE on infectious diseases should be produced each year so that we have a comprehensive analysis of worldwide infectious disease and health developments.

The G–8 group of leading industrialized nations is playing a role on global health issues. At the 2003 Evian summit, the G–8 made a commitment to fight against the so-called big three diseases of AIDS, tuberculosis, and malaria. But the G–8 recognized the spread of SARS demonstrated "the importance of global collaboration, including global disease surveillance." These words need to be backed by vigorous, coordinated actions. I urge the President to work with the G–8 to create regional FETP programs so that every part of the world can be covered by a strong public health disease surveillance system.

Moreover, we should support the World Health Organization, whose work provides a critical underpinning to the efforts of the global public health community. The World Health Organization's regular budget has been more or less flat since the mid-1990s in nominal terms, around $420 million a year. In real terms, some estimate this means it has been reduced by 25 percent or more. WHO receives additional extra budgetary funding of several hundred million dollars a year. But most of this is project specific and does not directly support the basic public health activities of WHO and is not a substitute for funding core WHO activities. WHO global surveillance activities have been built with very modest extra budgetary contributions on top of a modest amount of core resources. But WHO's global disease surveillance work is underfunded and is being conducted in an overall context of declining real WHO core funding.

The rapid and easy transport of diseases to and throughout the United States underscores that Americans are now part of a global public health system. I have been impressed by the commendable effort that the Bill and Melinda Gates Foundation has made to improve health in the developing world. The foundation has spent over $3 billion for this goal. Such visionary leadership should not only exist in the world of philanthropy. This country should take a stronger lead in improving public health and disease surveillance systems overseas.

SENATE RESOLUTION 209—RECOGNIZING AND HONORING WOODSTOCK, VERMONT, NATIVE HIRAM POWERS FOR HIS EXTRAORDINARY AND ENDURING CONTRIBUTIONS TO AMERICAN SCULPTURE

Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. WARNER, Ms. STABENOW, and Mr. DODD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 209

Whereas Hiram Powers is one of the pre-eminent artists in American sculpture;

Whereas Hiram Powers, in the words of the director and curator of the Houston Museum of Fine Arts, was the artist who "put American sculpture on the map," gaining international fame and providing unprecedented support for the notion of the United States as a country capable of producing artists equal to or better than their international counterparts;

Whereas Powers' 1844 sculpture "Greek Slave" became, in the words of Powers biographer Richard Wunder, "a telling symbol" of freedom for Americans in the pre-Civil War years and remains unequaled in popularity among American sculptures;

Whereas Powers' bust of President Andrew Jackson is widely considered the finest portrait ever sculpted of the president, as well as one of the noblest examples of portraiture ever created by an American sculptor;

Whereas the Congress of the United States, in recognition of Powers' extraordinary talents, awarded him commissions to execute the statues of John Marshall, Benjamin Franklin, and Thomas Jefferson that stand today in the United States Capitol;

Whereas Powers preserved through his sculpture the memory of numerous other great Americans, including George Washington, John Quincy Adams, Daniel Webster, John C. Calhoun, Martin Van Buren, and Henry Wadsworth Longfellow;

Whereas Powers was born in 1805 in Woodstock, Vermont, and happily spent his early years in that town;

Whereas throughout his life, Powers held sacred the memories of his childhood in Woodstock and drew upon these memories as inspiration for his work, saying, "dreams often take me back to Woodstock and set me down upon the green hills"; and

Whereas the citizens of Woodstock, Vermont, are preparing to celebrate the bicentennial of Hiram Powers' birth with exhibits, symposiums, and other commemorative activities: Now, therefore, be it

Resolved, That the Senate recognizes and honors Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture.

Mr. JEFFORDS. Mr. President, I rise to submit a resolution honoring Hiram Powers, a 19th Century American sculptor. He was born in Woodstock, VT in 1805 and chose a career in sculpting that bolstered the image of the United States in the world of art.

I invite all of my colleagues to join me in this effort by cosponsoring this resolution.

I realize many people have never head of Hiram Powers, but we have all seen his work. Just outside the Senate Chamber's doors, stands an 8-foot-tall marble statute of Benjamin Franklin. Hiram Powers made the statue in 1862.

On the House side, stands a similar statue of Thomas Jefferson. Hiram Powers also made that statue. In the Old Supreme Court Chamber, sits the bust of one of the Supreme Court's greatest Chief Justices, John Marshall, yes, Hiram Powers made that one too.

In fact, in 1836, when Congress passed a resolution calling for the creation of a marble bust for John Marshall, Congress wanted it to be prepared by "an artist of merit and reputation." Congress decided that Hiram Powers was that artist.

His work is not limited to the U.S. Capitol. He also created a bust of Andrew Jackson for the White House. This work is widely considered one of the noblest examples of portraiture ever created by an American sculptor.

Perhaps his most well known work is not of a famous historical figure, but a symbol representing the most tragic episode in our country's history.

In the years prior to the Civil War, Hiram Powers was an outspoken abolitionist, and in 1844 he created his first rendition of the "Greek Slave," a neoclassical statue of a young woman wearing contemporary American manacles. This work can be seen in the Corcoran Gallery of Art.

Congress paid Hiram Powers a commission for the works he created over 160 years ago. I believe it is now time for Congress to thank Hiram Powers, an artist of merit and reputation, for his work that continues to inspire us to this day, and for generations to come.

Mr. President, I encourage all of my colleagues to join me in cosponsoring this resolution that I send to the desk.

SENATE RESOLUTION 210—EXPRESSING THE SENSE OF THE SENATE THAT SUPPORTING A BALANCE BETWEEN WORK AND PERSONAL LIFE IS IN THE BEST INTEREST OF NATIONAL WORKER PRODUCTIVITY, AND THAT THE PRESIDENT SHOULD ISSUE A PROCLAMATION DESIGNATING OCTOBER AS "NATIONAL WORK AND FAMILY MONTH"

Mr. HATCH (for himself, Mr. KENNEDY, Mr. DODD, and Mr. ALEXANDER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 210

Whereas the quality of workers' jobs and the supportiveness of their workplaces are key predictors of job productivity, job satisfaction, commitment to employers, and retention;

Whereas there is a clear link between work-family policies and lower absenteeism;

Whereas the more overworked employees feel, the more likely they are to report making mistakes, feel anger and resentment toward employers and coworkers, and look for a new job;

Whereas employees who feel overworked tend to feel less successful in their relationships with their spouses, children, and friends, and tend to neglect themselves, feel less healthy, and feel more stress;

Whereas 85 percent of U.S. wage and salaried workers have immediate, day-to-day family responsibilities off the job;

Whereas 46 percent of wage and salaried workers are parents with children under the age of 18 who live with them at least half-time;

Whereas job flexibility allows parents to be more involved in their children's lives, and parental involvement is associated with children's higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates;

Whereas a lack of job flexibility for working parents negatively affects children's health in ways that range from children being unable to make needed doctors' appointments, to children receiving inadequate early care, leading to more severe and prolonged illness;

Whereas nearly one out of every four Americans—over 45 million Americans—provided or arranged care for a family member or friend in the past year;

Whereas nearly all working adults are concerned about spending more time with their immediate family; and

Whereas as an increasing number of baby boomers reach retirement age in record numbers, more and more Americans are faced with the challenge of caring for older parents: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) reducing the conflict between work and family life should be a national priority; and

(B) the month of October should be designated as "National Work and Family Month"; and

(2) the Senate requests that the President issue a proclamation calling upon the people of the United States to observe "National Work and Family Month" with appropriate ceremonies and activities.

Mr. HATCH. Mr. President, I rise today in support of S. Res. 210, which would proclaim the month of October as "National Work and Family Month."

In Congress, we talk a lot about the importance of productivity in the workplace. We've all heard it many times: When workers are more productive, their wages and their living standards increase. American workers are just about the most productive in the world, and that's the reason we have the highest living standard of any large country. But this abstract idea we call productivity doesn't really capture what makes modern life so much more comfortable than life in the old days. And for most Americans, the days have gotten a lot nicer over the decades, and that includes the time that Americans spend at work.

In my lifetime, the workplace has changed so much that it is unrecognizable. Work in America is a lot less backbreaking than it used to be, it involves a lot more thinking and typing on average and a lot less lifting and hauling and welding and soldering. It involves a balance, a balance between business and personal activities, and between giving and receiving. That's a great thing. In just about every way imaginable, most Americans work in places that are far more family-friendly than in the past.

Flexible work schedules are becoming much more common, too. In 1985, just 14 percent of workers were on flexible schedules, but now 28 percent of workers are. Flexible schedules make it easier to balance work and family. And the workweek is getting shorter, too. In 1890, the average workweek was 60 hours; by 1950 it was down to 40, and now it's down to 35 hours a week for factory workers.

The major reason for these changes is the constantly innovating free-market economy. As any employer can tell you, the competition for workers is usually just as cutthroat as the competition for customers. Very few employees in the U.S. today would put up with 1950s style working conditions, let alone 1890s style work conditions. In most cases, if employers treat their workers wrong for very long, those workers will find something else to do with their time. Every day in every State across this Nation, people quit jobs they hate so they can look for something better. Stacks of business magazines extol the virtues of the worker-friendly, family friendly workplace, and study after study points out that in many cases, a family-friendly workplace more than pays for itself.

But in too many cases, our Nation's laws haven't kept up with changes in the real-world workplace. We have laws from an industrial era that have lagged far behind changes in the economy. And more importantly, our laws have lagged behind changes in people's personal lives. Yes, we've made some progress over the years, but there's still a lot to be done, such as in the areas of early childhood education and elder care, two areas that I have worked on in the past, and where I know we need to do more work in the future.

Today I'd like to focus on one area where we are on the cusp of making a lot more progress, and that is the area of flex time for America's workers. Right now, millions of employees in both the public and private sectors enjoy flexible work schedules. But our industrial-era laws completely shut millions of hourly wage-earners out of the world of flex-time. Over the last few Congresses, a number of proposals have been offered, by President Clinton, by President Bush, and by many members of Congress, to give hourly workers in the private sector the same job flexibility that government workers already enjoy.

Right now, federal law decrees that any hourly wage-earner who works more than forty hours per week must be paid overtime at time-and-one-half. But these rules, which I admit sound quite sensible at first, mean that hourly workers in the private sector can't have the "nine-nines" workweek that so many federal and state government employees take advantage of.

Under the nine-nines workweek, a worker works for nine hours per day for eight days, then works for eight hours on the ninth day, and then the worker can take every other Friday or every other Monday off as a holiday. This adds up to eighty hours over two weeks, but it turns every other weekend into a three-day weekend.

Millions of hourly wage-earners would love to be able to have this kind of work schedule, but our industrial-age rules make it impossible for companies to do that without paying overtime wages. It's illegal. If we can amend Federal law to change the standard work period from forty hours every week to eighty hours every two weeks, that would be a great help to America's hourly workers. And it would make it easier for millions of workers to take more weekend trips with the kids, to make doctor's appointments without taking time off of work, and to just live a life that is a little bit less hectic. And that's what family-friendly business policies are all about.

Right now, we're seeing a fair amount of controversy over another family-friendly work proposal that goes by the name of comp-time legislation. This is another idea that has been around here for too long, and it's time for it to become law.

Comp time would allow workers who work overtime a choice: either they could receive overtime pay in the form of time-and-one-half in cash, or they could receive their pay as time-and-a-half in the form of paid time off. Ten hours of overtime this week could mean fifteen hours off next week, all of it paid time off. This would be unbelievably valuable for workers who would appreciate some extra time with their families. And despite some of the false claims made about comp time, the law would let unionized workers negotiate comp-time agreements through their unions, so it would completely respect worker's rights to organize.

As I said earlier, the flex-time and comp-time proposals would provide private sector employees the same opportunities that Federal employees currently have. These proposals would help husbands and wives balance the demands of work and family. This is the kind of legislation that Congress should be enacting to bring our laws into the 21st century. I keep hearing from working parents who struggle to balance the worlds of work and family, and I'm convinced that changing our industrial-era wages and hours laws will give them the flexibility they so desire.

I would like to say a little bit more about what Congress can do in the critical area of elder care. I come from a state with a large proportion of elderly citizens, and I know that this is an issue that weighs heavily on the minds of a lot of working families. Our society often overlooks the importance of caring for elderly parents, but I know how hard it is for a husband or a wife to concentrate on work when they have to be concerned about a frail parent. I've sponsored legislation to help our medical system help our nation's frail elderly. One of the major benefits of this kind of reform is that adult children won't have to live in fear of whether or not their parents will be cared for. The Medicare Improvements for Special Needs Beneficiaries Act, which I introduced in the 107th Congress, would be a big help to elderly Americans who have complex, long-term care needs. And it would be a great relief to their adult children.

There is a joy in giving the gift of our skills at work, at giving ourselves to the task at hand so thoroughly that we accomplish a task and can say to ourselves, "well done." Fortunately, most working Americans also have the reassurance that they can draw a healthy line, a healthy boundary, between their family and their job, caring for both their loved ones and their work. The rise of flex-time in salaried jobs is a great example of this. When people are able to find a job where they can draw this line, we are happier and more content individuals. I hope that Congress can remove some of the legal barriers that stand between the American people and their ability to draw that line where they see fit.

For all of these reasons, I urge my colleagues to join with Senator KENNEDY and myself to bring attention to the need for a family-friendly work environment. I urge them to cosponsor this resolution. Our industrial-era labor laws and labor regulations are a barrier to a healthy work environment, and they need serious reform. As I said, I've been working on this along with my old friend Senator KENNEDY, and I'm also grateful to have the help of Senator DODD and Senator ALEXANDER. The four of us may not always see eye to eye on the precise way to help the private sector to build a family-friendly workplace, but I know we agree on the goal: A better life for American families.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senators HATCH, ALEXANDER and DODD, in introducing this Senate resolution to declare October National Work-Family Month.

Eighty-five percent of Americans have day-to-day family responsibilities. Many care for children, a spouse or partner, or another family member. As our population ages, an increasing number must care for their own parents. Numerous studies have shown that in addition to increased personal responsibilities, these hard-working men and women are also spending more and more time on the job putting in longer and longer hours. As a result, many employees suffer from burnout, fatigue, or even serious illness.

These concerns affect us all. Parents say their biggest daily challenge is balancing their work and their family responsibilities. It is clear that sick children recover more quickly when cared for by a parent. Senior citizens are relying more and more on their working adult children to care for them when they are ill. In fact, a study by the Kaiser Foundation in 2000 found that 34 percent of women and 24 percent of men say they have missed work as a result of caring for an aging parent.

The Family and Medical Leave Act has been a significant first step in dealing with this issue but it is far from enough. The resolution to declare October National Work-Family Month will bring new attention to this important issue.

SENATE RESOLUTION 211—EXPRESSING THE SENSE OF THE SENATE REGARDING THE TEMPORARY ENTRY PROVISIONS IN THE CHILE AND SINGAPORE FREE TRADE AGREEMENTS

Mr. SESSIONS (for himself, Mr. Kyl, Mrs. Feinstein, Mr. Craig, Mr. Graham of South Carolina, Mr. Chambliss, Mr. Feingold, Mr. Byrd, Mr. Dorgan, Mr. Kohl, Mr. Dayton, and Ms. Mikulski) submitted the following resolution, which was considered and agreed to:

S. Res. 211

Whereas the transmittal of the legislation implementing the Chile and Singapore Free Trade Agreements to the Senate on July 15, 2003, was preceded by debate over whether temporary entry provisions in both the underlying language of the Chile and Singapore Free Trade Agreements and in the implementing legislation should be included;

Whereas article I, section 8, clause 3 of the Constitution authorizes Congress "to regulate Commerce with foreign Nations, and among the several States", and article I, section 8, clause 4 of the Constitution provides that Congress shall have power to "establish an uniform Rule of Naturalization";

Whereas the Supreme Court has long interpreted these provisions of the Constitution to grant Congress plenary power over immigration policy;

Whereas members of the Senate often disagree about immigration policy, but agree that the formulation of immigration policy belongs to Congress; and

Whereas the practice of negotiating temporary entry provisions in the context of bilateral or multilateral trade agreements curtails the ability of Congress to regulate the Nation's immigration policies, including the admission of foreign nationals: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and

(2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

SENATE RESOLUTION 212—WELCOMING HIS HOLINESS THE FOURTEENTH DALAI LAMA AND RECOGNIZING HIS COMMITMENT TO NON-VIOLENCE, HUMAN RIGHTS, FREEDOM, AND DEMOCRACY

Mrs. FEINSTEIN (for herself, Mr. Brownback, and Mr. Biden) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 212

Whereas for over 40 years in exile, His Holiness the Fourteenth Dalai Lama has used his position and leadership to promote compassion and non-violence as a solution to not only the present crisis in Tibet, but to other long-running conflicts around the world;

Whereas the Dalai Lama was awarded the Nobel Peace Prize in 1989 in recognition of his efforts to seek a peaceful resolution to the situation in Tibet, and to promote nonviolent methods for resolving conflict;

Whereas the Dalai Lama has been strong voice for the basic human fights of all peoples, particularly freedom of region;

Whereas the Dalai Lama has personally promoted democratic self-government for Tibetans in exile as a model for securing freedom for all Tibet, including relinquishing his political positions and turning these authorities over to elected Tibetan representatives;

Whereas the Dalai Lama seeks a solution for Tibet that provides genuine autonomy for the Tibetan people and does not call for independence and separation from the People's Republic of China;

Whereas the envoys of the Dalai Lama have traveled to China and Tibet twice in the past year to begin discussions with Chinese authorities on a permanent negotiated settlement of the Tibet issue;

Whereas the successful advancement of these discussions is in the strong interest of both the Chinese and Tibetan people; and

Whereas it is the policy of the United States to support substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the visit of the Dalai Lama to the United States in September 2003 is warmly welcomed;

(2) the Dalai Lama should be recognized and congratulated for his consistent efforts to promote dialogue to peacefully resolve the Tibet issue and to increase the religious and cultural autonomy of the Tibetan people; and

(3) all parties to the current discussions should be encouraged by the Government of the United States to deepen these contacts in order to achieve the aspirations of the people of Tibet for genuine autonomy and basic human rights.

SENATE RESOLUTION 213—DESIGNATING AUGUST 2003, AS "NATIONAL MISSING ADULT AWARENESS MONTH"

Mrs. LINCOLN (for herself, Mr. Kennedy, and Mr. Edwards) submitted the following resolution; which was considered and agreed to:

S. Res. 213

Whereas our Nation must acknowledge that missing adults are a growing group of victims, who range in age from young adults to senior citizens and reach across all lifestyles;

Whereas every missing adult has the right to be searched for and to be remembered, regardless of the adult's age;

Whereas our world does not suddenly become a safe haven when an individual becomes an adult;

Whereas there are tens of thousands of endangered or involuntarily missing adults over the age of 17 in our Nation, and daily, more victims are reported missing;

Whereas the majority of missing adults are unrecognized and unrepresented;

Whereas our Nation must become aware that there are endangered and involuntarily missing adults, and each one of these individuals is worthy of recognition and deserving of a diligent search and thorough investigation;

Whereas every missing adult is someone's beloved grandparent, parent, child, sibling, or dearest friend;

Whereas families, law enforcement agencies, communities, and States should unite to offer much needed support and to provide a strong voice for the endangered and involuntarily missing adults of our Nation;

Whereas we must support and encourage the citizens of our Nation to continue with efforts to awaken our Nation's awareness to the plight of our missing adults;

Whereas we must improve and promote reporting procedures involving missing adults and unidentified deceased persons; and

Whereas our Nation's awareness, acknowledgment, and support of missing adults, and encouragement of efforts to continue our search for these adults, must continue from this day forward: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 2003, as "National Missing Adult Awareness Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 214—CONGRATULATING LANCE ARMSTRONG FOR WINNING THE 2003 TOUR DE FRANCE

Mrs. HUTCHISON (for herself, Mr. Cornyn, Ms. Snowe, Mr. Brownback, Mr. Chambliss, Mr. Bond, Ms. Collins, Mr. Ensign, Mr. Daschle, Mr. Nickles, Mr. Lautenberg, Mr. Biden, Mr. Inouye, Mrs. Clinton, Mr. Allard, Mrs. Murray, Mr. Dorgan, Mr. Wyden, and Mr. Pryor) submitted the following resolution; which was considered and agreed to:

S. Res. 214

Whereas Lance Armstrong won the 2003 Tour de France, the 100th anniversary of the race, by completing the 2,125-mile, 23-day course in 83 hours, 41 minutes, and 12 seconds, finishing 1 minute and 1 second ahead of his nearest competitor;

Whereas Lance Armstrong's win on July 27, 2003, marks his fifth Tour de France victory;

Whereas, with this victory, Lance Armstrong joined Miguel Indurain as the only riders in history to win cycling's most prestigious race in 5 consecutive years;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership in prevailing over the mountainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to winning the premier cycling event in the world;

Whereas, in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 6 years;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas Lance Armstrong's courage and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong continues to be the face of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, cancer survivor, and advocate have made him an inspiration to millions of people around the world: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Lance Armstrong and the United States Postal Service team on their historic victory in the 2003 Tour de France; and

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong.

Sec. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to Lance Armstrong.

SENATE RESOLUTION 215—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF WAGNER V. UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, ET AL.

Mr. FRIST (for himself and Mr. Daschle) submitted the following resolution; which was considered and agreed to:

S. Res. 215

Whereas, the United States Senate Committee on the Judiciary and Senator Orrin G. Hatch have been named as defendants in the case of Wagner v. United States Senate Committee on the Judiciary, et al., No. 1:03CV01225 (RMU), pending in the United States District Court for the District of Columbia.

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend in civil actions Committees of the Senate, and Members of the Senate relating to the Members' official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate Committee on the Judiciary and Senator Orrin G. Hatch in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1436. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1437. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1438. Mr. DAYTON (for himself and Mr. Bond) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1439. Mr. WYDEN (for himself, Mr. Brownback, and Mr. Craig) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1440. Mr. WYDEN (for himself, Mr. Smith, and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1441. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1442. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1443. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1444. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1445. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1446. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1447. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1448. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1449. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1450. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1451. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1452. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1453. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1454. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1458. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1459. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1460. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1461. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1462. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1463. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1464. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1465. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1466. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1467. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1468. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1469. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1470. Ms. CANTWELL (for herself and Mr. Schumer) submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1471. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1473. Mr. SMITH (for himself and Ms. Murkowski) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1474. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1475. Mr. SANTORUM (for himself and Mr. Rockefeller) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. Grassley (for himself, Mr. Baucus, Mr. Domenici, and Mr. Bingaman) and intended to be proposed to the bill S. 14, supra; which was ordered to lie on the table.

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1477. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1478. Mr. BINGAMAN (for himself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1480. Mr. BINGAMAN (for himself, Ms. Collins, Mr. Jeffords, Mr. Chafee, Mr. Dorgan, and Ms. Cantwell) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1481. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1482. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1483. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1484. Mr. REID (for himself and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1485. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1486. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1487. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1488. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1489. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1490. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1491. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1492. Mr. DURBIN (for himself and Ms. Stabenow) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1493. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1494. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1495. Mr. ROCKEFELLER (for himself and Mr. Santorum) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1496. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1497. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1498. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1499. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1500. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1501. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1502. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1503. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1504. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1505. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1506. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1507. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1508. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1509. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1510. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1511. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1512. Mr. SCHUMER (for himself and Mrs. Clinton) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1513. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1514. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1515. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1516. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1518. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1519. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1520. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1521. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 864 proposed by Mr. Campbell to the bill S. 14, supra; which was ordered to lie on the table.

SA 1522. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1523. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1524. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1525. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1526. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1527. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1528. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1529. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1530. Mr. JEFFORDS (for himself, Mr. Kerry, Mr. Reid, Mr. Durbin, and Mr. Lautenberg) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1531. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1532. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1533. Mr. DURBIN (for himself and Mr. Conrad) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1534. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill S.

14, supra; which was ordered to lie on the table.

SA 1535. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1536. Mr. DURBIN (for himself and Mr. Conrad) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. FRIST (for himself and Mr. Daschle) proposed an amendment to the bill H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

SA 1538. Mr. SUNUNU (for Mr. Roberts (for himself and Mr. Rockefeller)) proposed an amendment to the bill H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

SA 1539. Mr. SUNUNU (for Mr. Hatch) proposed an amendment to the concurrent resolution S. Con. Res. 25, recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

TEXT OF AMENDMENTS

SA 1436. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, between lines 11 and 12, insert the following:

SEC. 5 . AUTHORIZATION OF APPROPRIATIONS FOR REGIONAL FIELD VERIFICATION PROGRAM.

There is authorized to be appropriated to carry out the regional field verification program of the Department of Energy $4,000,000 for each of fiscal years 2004 through 2007.

SA 1437. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 9 . DEPARTMENT OF ENERGY GLOBAL CHANGE SCIENCE RESEARCH.

(a) In General.—The Secretary, acting through the Director of Science, shall conduct a comprehensive research program to understand the global climate system and to investigate and analyze the effects of energy production and use on that system.

(b) Program Elements.—The program under subsection (a) shall include the following elements:

(1) Research and modeling activities on the radiation balance from the surface of the Earth to the top of the atmosphere, including the effects of aerosols and clouds.

(2) Research and modeling activities to investigate and understand the global carbon cycle, including the role of the terrestrial biosphere as a source or sink for carbon dioxide, and to develop, test, and improve carbon-cycle models.

(3) Research activities to understand the scales of response of complex ecosystems to environmental changes, including identifying the underlying causal mechanisms and pathways and how they are linked, and research and modeling activities on the response of terrestrial ecosystems to changes in climate, atmospheric composition, and land use.

(4) Research and modeling activities to develop integrated assessments of the economic, social, and environmental implications of climate change and policies related to climate change, with emphasis on improving the resolution of models for integrated assessments on a regional basis (including States and territories of the United States in the Pacific, on the Gulf of Mexico, or in agricultural or forested areas of the continental United States), developing and improving models for technology innovation and diffusion, and developing and improving models of the economic costs and benefits of climate change and policies related to climate change.

(5) Development of high-end computational resources, information technologies, and data assimilation methods to carry out the program under subsection (a), to make more effective use of large and distributed data sets and observational data streams, and to increase the availability and utility of climate change and energy simulations to researchers and policy makers.

(c) Education and Information Dissemination.—

(1) In general.—The Secretary shall include education and training of undergraduate and graduate students as an integral part of the program under subsection (a), in collaboration with similar programs in other Federal agencies.

(2) Carbon dioxide information and analysis center.—The Secretary shall support a Carbon Dioxide Information and Analysis Center to serve as a resource to researchers and others interested in global climate change and to accommodate data and information requests related to the greenhouse effect and global climate change.

(d) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this section—

(A) $150,000,000 for fiscal year 2004;

(B) $175,000,000 for fiscal year 2005;

(C) $200,000,000 for fiscal year 2006;

(D) $230,000,000 for fiscal year 2007; and

(E) $266,000,000 for fiscal year 2008.

(2) Availability of funds.—Amounts made available under paragraph (1) shall remain available until expended.

(3) Limitation on funds.—Amounts made available under paragraph (1) shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SA 1438. Mr. DAYTON (for himself and Mr. Bond) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle E—Bioenergy Program

SEC. 541. BIOENERGY PROGRAM.

Section 9010 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108) is amended—

(1) in subsection (b)(3), by adding at the end the following:

"(C) Base biodiesel production gross payable units.—The quantity of base biodiesel production gross payable units under the program for an eligible producer shall be determined by—

"(i) dividing—

"(I) the base production; by

"(II) the biodiesel conversion factor of 1.4; and

"(ii) multiplying the result by—

"(I) in the case of the first year of participation by the eligible producer in the program, 0.5;

"(II) in the case of the second year of participation by the eligible producer in the program, 0.3;

"(III) in the case of the third year of participation by the eligible producer in the program, 0.15; and

"(IV) in the case of the fourth and subsequent year of participation by the eligible producer in the program, 0."; and

(2) in subsection (c)(1), by striking "not more than".

SA 1439. Mr. WYDEN (for himself, Mr. Brownback, and Mr. Craig) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —SOIL AND FOREST CARBON SEQUESTRATION PROGRAM

SEC. 01. DEFINITIONS.

In this title:

(1) Advisory panel.—The term "Advisory Panel" means the Soil and Forestry Carbon Sequestration Panel established under section 05.

(2) Eligible forest carbon activity.—The term "eligible forest carbon activity" means a forest management action that—

(A)(i) helps restore forest land that has been underproducing or understocked for more than 5 years; or

(ii) maintains natural forest under a permanent conservation easement;

(B) provides for protection of a forest from nonforest use;

(C) allows a variety of sustainable management alternatives;

(D) maintains or improves a watershed or fish and wildlife habitat; or

(E) demonstrates permanence of carbon sequestration and promotes and sustains native species.

(3) Forest carbon reservoir.—The term "forest carbon reservoir" means carbon that is stored in aboveground or underground soil and other biomass that are associated with a forest ecosystem.

(4) Forest carbon sequestration program.—The term "forest carbon sequestration program" means the program established under section 02.

(5) Forest land.—

(A) In general.—The term "forest land" means a parcel of land that is, or has been, at least 10 percent stocked by forest trees of any size.

(B) Inclusions.—The term "forest land" includes—

(i) land on which forest cover may be naturally or artificially regenerated; and

(ii) a transition zone between a forested area and nonforested area that is capable of sustaining forest cover.

(6) Forest management action.—

(A) In general.—The term "forest management action" means an action that—

(i) applies forestry principles to the regeneration, management, use or conservation of forests to meet specific goals and objectives;

(ii) demonstrates permanence of carbon sequestration and promotes and sustains native species; and

(iii) maintains the ecological sustainability and productivity of the forests or protects natural forests under a permanent conservation easement.

(B) INCLUSIONS.—The term "forest management action" includes management and use of forest land for the benefit of aesthetics, fish, recreation, urban values, water, wilderness, wildlife, wood products, or other forest values.

(7) REFORESTATION.—

(A) IN GENERAL.—The term "reforestation" means the reestablishment of forest cover naturally or artificially.

(B) INCLUSIONS.—The term "reforestation" includes planned replanting, reseeding, and natural regeneration.

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(9) SOIL CARBON SEQUESTRATION PROGRAM.—The term "soil carbon sequestration program" means the program established under section 03.

(10) STATE.—The term "State" includes a political subdivision of a State.

(11) WILLING OWNER.—The term "willing owner" means a State or local government, Indian tribe, private entity, or other person or non-Federal organization that owns forest land and is willing to participate in the forest carbon sequestration program.

SEC. 02. FOREST CARBON SEQUESTRATION PROGRAM.

(a) IN GENERAL.—The, Secretary, acting through the Chief of the Forest Service and in collaboration with State foresters, State resource management agencies, and interested nongovernmental organizations, shall establish a forest carbon sequestration program under which the Secretary, directly or through agreements with 1 or more States, may enter into cooperative agreements with willing owners of forest land to carry out forest management actions or eligible forest carbon activities on not more than a total of 5,000 acres of forest land holdings to create or maintain a forest carbon reservoir.

(b) ASSISTANCE TO STATES.—

(1) IN GENERAL.—The Secretary shall provide assistance to States for the purpose of entering into cooperative agreements with willing owners of forest land to carry out eligible forest carbon activities on forest land.

(2) REPORTING.—As a condition of receiving assistance under paragraph (1), a State shall annually submit to the Secretary a report disclosing the estimated quantity of carbon stored through the cooperative agreement.

(c) BONNEVILLE POWER ADMINISTRATION.—Each of the States of Washington, Oregon, Idaho, and Montana may apply for funding from the Bonneville Power Administration for purposes of funding a cooperative agreement that meets the fish and wildlife objectives and priorities of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), but only to the extent the cooperative agreement also meets the objectives of this section.

SEC. 03. SOIL CARBON SEQUESTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Natural Resources Conservation Service and in cooperation with the Consortium for Agricultural Soils Mitigation of Greenhouse Gases, shall carry out 4 or more pilot programs to—

(A) develop, demonstrate, and verify the best management practices for enhanced soil carbon sequestration on agricultural land; and

(B) evaluate and establish standardized monitoring and verification methods and protocols.

(2) CRITERIA.—The Secretary shall select a pilot program based on—

(A) the merit of the proposed program; and

(B) the diversity of soil types, climate zones, crop types, cropping patterns, and sequestration practices available at the site of the proposed program.

(b) REQUIREMENTS.—A pilot program carried out under this section shall—

(1) involve agricultural producers in—

(A) the development and verification of best management practices for carbon sequestration; and

(B) the development and evaluation of carbon monitoring and verification methods and protocols on agricultural land;

(2) involve research and testing of the best management practices and monitoring and verification methods and protocols in various soil types and climate zones;

(3) analyze the effects of the adoption of the best management practices on—

(A) greenhouse gas emissions, water quality, and other aspects of the environment at the watershed level; and

(B) the full range of greenhouse gases; and

.(4) use the results of the research conducted under the program to—

(A)(i) develop best management practices for use by agricultural producers;

(ii) provide a comparison of the costs and net greenhouse effects of the best management practices; and

(iii) encourage agricultural producers to adopt the best management practices; and

(B) develop best management practices on a regional basis for use in watersheds and States not participating in the pilot programs.

SEC. 04. SOIL AND FORESTRY CARBON SEQUESTRATION PANEL.

(a) ESTABLISHMENT.—The Secretary (acting through the Chief of the Forest Service and the Natural Resources Conservation Service) and the Secretary of Energy (acting through the Administrator of the Energy Information Administration) shall establish a Soil and forestry Carbon Sequestration Panel for the purposes of—

(1) advising the Secretary and the Secretary of Energy in the development and updating of guidelines for accurate voluntary reporting of greenhouse gas sequestration from forest management actions and agricultural best management practices;

(2) evaluating the potential effectiveness (including cost effectiveness) of the guidelines, in verifying carbon inputs and outputs and assessing impacts on other greenhouse gases from various forest management strategies and agricultural best management practices;

(3) estimating the effect of proposed implementation of the guidelines on—

(A) carbon sequestration and storage; and

(B) the net emissions of other greenhouse gases;

(4) providing estimates on the rates of carbon sequestration and net nitrous oxide and methane impacts for forests and various plants, agricultural commodities, and agricultural practices for the purpose of assisting the Secretary in determining the acceptability of the cooperative agreement offers made by willing owners;

(5) proposing to the Secretary and the Secretary of Energy standardized methods for—

(A) measuring carbon sequestered in soils and in forests; and

(B) estimating the impacts of the forest carbon sequestration program and the soil carbon sequestration program on other greenhouse gases; and

(6) assisting the Secretary and the Secretary of Energy in reporting to Congress on the results of the forest carbon sequestration program and the soil carbon sequestration program.

(b) MEMBERSHIP.—The Advisory Panel shall be composed of the following members with interest and expertise in soil carbon sequestration and forestry management, appointed jointly by the Secretary and the Secretary of Energy:

(1) 1 member representing national professional forestry organizations.

(2) 1 member representing national agriculture organizations.

(3) 2 members representing environmental or conservation organizations.

(4) 1 member representing Indian tribes.

(5) 3 members representing the academic scientific community.

(6) 2 members representing State forestry organizations.

(7) 2 members representing State agricultural organizations.

(8) 1 member representing the Environmental Protection Agency.

(9) 1 member representing the Department of Agriculture.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2) a member of the Advisory Panel shall be appointed for a term of 3 years.

(2) INITIAL TERMS.—Of the members first appointed to the Advisory Panel—

(A) 1 member appointed under each paragraphs (2), (4), (6), and (8) shall serve an initial term of 1 year; and

(B) 1 member appointed under each of paragraphs (1), (3), (5), (7), and (9) shall serve an initial term of 2 years.

(3) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Advisory Panel shall be filled in the manner in which the original appointment was made.

(B) PARTIAL TERM.—A member appointed to fill a vacancy occurring before the expiration of the term shall be appointed only for the remainder of the term.

(C) SUCCESSIVE TERMS.—An individual may not be appointed to serve on the Advisory Panel for more than 2 full consecutive terms.

(d) EXISTING COUNCILS.—The Secretary and the Secretary of Energy may use an existing council to perform the tasks of the Advisory Panel if—

(1) representation on the council, the terms and background of members of the council, and the responsibilities of the council reflect those of the Advisory Panel; and

(2) those responsibilities are a priority for the council.

SEC. 05. STANDARDIZATION OF CARBON SEQUESTRATION MEASUREMENT PROTOCOLS.

(a) ACCURATE MONITORING, MEASUREMENT, AND REPORTING.—

(1) IN GENERAL.—The Secretary and the Secretary of Energy, in collaboration with the States, shall—

(A) develop standardized measurement protocols for—

(i) carbon sequestered in soils and trees; and

(ii) impacts on other greenhouse gases;

(B)(i) develop standardized forms to monitor sequestration improvements made as a result of the forest carbon sequestration program and the soil carbon sequestration program; and

(ii) distribute the forms to participants in the forest carbon sequestration program and the soil carbon sequestration program; and

(C) at least once every 5 years, submit to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources of the Senate and the Committee on Agriculture and the Committee on Resources of the House of Representatives a report on the forest carbon sequestration program and the soil carbon sequestration program.

(2) CONTENTS OF REPORT.—A report under paragraph (1)(C) shall describe—

(A) carbon sequestration improvements made as a result of the forest carbon sequestration program and the soil carbon sequestration program;

(B) carbon sequestration practices on land owned by participants in the forest carbon sequestration program and the soil carbon sequestration program; and

(C) the degree of compliance with any cooperative agreements, contracts, or other arrangements entered into under this title.

(b) EDUCATIONAL OUTREACH.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, and in consultation with the Consortium for Agricultural Soils Mitigation of Greenhouse Gases, shall conduct an educational outreach program to collect and disseminate to owners and operators of agricultural and forest land research-based information on agriculture and forest management practices that will increase the sequestration of carbon, without threat to the social and economic well-being of communities.

(c) PERIODIC REVIEW.—At least once every 2 years, the Secretary and the Secretary of Energy shall—

(1) convene the Advisory Panel to evaluate the latest scientific and observational information on reporting, monitoring, and verification of carbon storage from forest management and soil sequestration actions; and

(2) issue revised recommendations for reporting, monitoring, and verification of carbon storage from forest management actions and agricultural best management practices as necessary.

SEC. 06. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SA 1440. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —MISCELLANEOUS

SEC. . OFFICE OF CONSUMER ADVOCACY.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) ENERGY CUSTOMER.—The term "energy customer" means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(3) NATURAL GAS COMPANY.—The term "natural gas company" has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

(4) OFFICE.—The term "Office" means the Office of Consumer Advocacy established by subsection (b)(1).

(5) PUBLIC UTILITY.—The term "public utility" has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(6) SMALL COMMERCIAL CUSTOMER.—The term "small commercial customer" means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(b) OFFICE.—

(1) ESTABLISHMENT.—There is established within the Department of Energy the Office of Consumer Advocacy.

(2) DIRECTOR.—The Office shall be headed by a Director to be appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES.—The Office may represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission—

(A) at hearings of the Commission;

(B) in civil actions brought in connection with any function carried out by the Commission, except as provided in section 518 of title 28, United States Code; and

(C) at hearings or proceedings of other Federal regulatory agencies and commissions.

SA 1441. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. . ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION FOR EXHAUSTEES.

(a) ADDITIONAL WEEKS.—Section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by adding at the end the following:

"(d) INCREASED AMOUNTS IN ACCOUNT FOR CERTAIN EXHAUSTEES.—

"(1) IN GENERAL.—In the case of an eligible exhaustee, this Act shall be applied as follows:

"(A) Subsection (b)(1)(A) shall be applied by substituting '100 percent' for '50 percent'.

"(B) Subsection (b)(1)(B) shall be applied by substituting '26 times' for '13 times'.

"(C) Subsection (c)(1) shall be applied by substituting '7 times the individual's average weekly benefit amount for the benefit year' for 'the amount originally established in such account (as determined under subsection (b)(1))'.

"(D) Section 208(b) shall be applied—

"(i) in paragraph (1), as if ", including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section" were inserted before the period at the end;

"(ii) as if paragraph (2) had not been enacted; and

"(iii) in paragraph (3), by substituting "the date that is 21 weeks after the date of enactment of Energy Policy Act of 2003" for "March 31, 2004".

"(2) ELIGIBLE EXHAUSTEE DEFINED.—For purposes of this subsection, the term 'eligible exhaustee' means an individual—

"(A) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this subsection; and

"(B) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account, including amounts deposited in such account by reason of subsection (c)) before such date of enactment.".

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendment made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an eligible exhaustee's (as defined in section 203(d)(2) of the Temporary Extended Unemployment Compensation Act of 2002, as added by subsection (a)) temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as "TEUC–X amounts") prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as "TEUC amounts").

(3) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR ALL ELIGIBLE EXHAUSTEES.—The determination of whether the eligible exhaustee's (as so defined) State was in an extended benefit period under section 203(c) of such Act that was made prior to the date of enactment of this Act shall be disregarded and the determination under such section, as amended by subsection (a) with respect to eligible exhaustees (as so defined), shall be made as follows:

(A) ELIGIBLE EXHAUSTEES WHO RECEIVED AND EXHAUSTED TEUC–X AMOUNTS.—In the case of an eligible exhaustee whose temporary extended unemployment account was augmented under such section 203(c) before the date of enactment of this Act, the determination shall be made as of such date of enactment.

(B) ELIGIBLE EXHAUSTEES WHO EXHAUSTED TEUC AMOUNTS BUT WERE NOT ELIGIBLE FOR TEUC–X AMOUNTS.—In the case of an eligible exhaustee whose temporary extended unemployment account was not augmented under such section 203(c) as of the date of enactment of this Act, the determination shall be made at the time that the individual's account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28), as amended by subsection (a), is exhausted.

SEC. . TEMPORARY AVAILABILITY OF EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT FOR EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.

Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

"(D) TEMPORARY AVAILABILITY OF EXTENDED UNEMPLOYMENT BENEFITS FOR EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.—

"(i) IN GENERAL.—Subject to clause (ii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph applies to an employee who has 10 or more years of service (as so defined).

"(ii) APPLICATION.—Clause (i) shall apply to—

"(I) an employee who received normal benefits for days of unemployment under this Act during the period beginning on July 1, 2002, and ending on December 31, 2003; and

"(II) days of unemployment beginning on or after the date of enactment of the this subparagraph.".

SA 1442. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, add the following:

SEC. . CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/2006" and inserting "12/31/2012".

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00).	Free	No change	No change	On or before 12/31/2012	".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2005.

SA 1443. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, between liens 14 and 15, insert the following:

SEC. 44 . FERNALD URANIUM PROCESSING FACILITY OF THE DEPARTMENT OF ENERGY.

(a) DEFINITIONS.—In this section:

(1) BYPRODUCT MATERIAL.—The term "byproduct material" has the meaning given the term in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

(2) COMMISSION.—The term "Commission" means the Nuclear Regulatory Commission.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) FERNALD FACILITY MATERIAL.—Notwithstanding any other provision of law, the material contained in concrete silos at the Fernald uranium processing facility managed, as of the date of enactment of this Act, by the Department of Energy, shall be considered to be byproduct material.

(c) DISPOSAL.—With respect to the material described in subsection (b)—

(1) the Secretary may dispose of the material in a facility under the jurisdiction of the Commission or a State; and

(2) on disposal of the material in a facility under paragraph (1), the material shall be regulated by the Commission or the State with jurisdiction over the facility.

(d) JURISDICTION AND APPLICABLE AUTHORITY.—Material described in subsection (b)—

(1) shall remain subject to the jurisdiction of the Secretary until such time as the material is received at a commercial disposal facility that is licensed by the Commission or a State; and

(2) after being received at a facility described in paragraph (1), shall be subject to the health and safety requirements of the Commission or State, as the case may be, with jurisdiction over the facility.

SA 1444. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII add the following:

Subtitle D—Advanced Clean Vehicle Demonstration Program

SEC. 741. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" means a vehicle propelled solely on an alternative fuel as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), except the term does not include any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term "fuel cell vehicle" means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term "neighborhood electric vehicle" means a motor vehicle capable of traveling at speeds of 25 miles per hour that is—

(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations;

(B) a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations; and

(C) otherwise lawful to use on local streets.

(5) PILOT PROGRAM.—The term "pilot program" means the competitive grant program established under section 742.

(6) STATE.—The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(7) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term "ultra-low sulfur diesel vehicle" means a vehicle manufactured in model year 2002, 2003, 2004, 2005, or 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2002 and 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 742. GRANT PILOT PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—The Secretary of Energy shall establish a competitive grant pilot program to provide project grants to eligible recipients to carry out a project or projects for the purposes described in subsection (c).

(b) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under the pilot program:

(1) A State government.

(2) The government of a political subdivision of a State.

(3) Any person other than an individual.

(4) Any combination of entities described in paragraphs (1), (2), and (3), acting together to carry out one or more projects for the purposes described in subsection (c).

(c) GRANT PURPOSES.—Grants under this section may be used for the following purposes:

(1) The acquisition of qualified alternative fueled vehicles or fuel cell vehicles for routine operation in service normal for motor vehicles, including (among other vehicles)—

(A) passenger vehicles, including neighborhood electric vehicles; and

(B) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of qualified alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles for regular and routine operation in service normal for motor vehicles, including (among other vehicles)—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services;

(C) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(D) vehicles used for the collection of recyclable garbage or other garbage.

(3) The acquisition of ultra-low sulfur diesel vehicles for regular and routine operation in service normal for motor vehicles.

(4) Infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(d) QUALIFIED VEHICLES.—An alternative fueled vehicle, hybrid vehicle, or fuel cell vehicle is qualified for the purposes of subsection (c) if—

(1) in the case of a vehicle to which an emission standard applies under law, the emissions resulting from the operation of such vehicle are less than the applicable standard; or

(2) in the case of any gasoline-consuming motor vehicle, the fuel economy of such vehicle (as defined in section 32901(a) of title 49, United States Code) exceeds by at least 25 percent the average fuel economy standard applicable to the vehicle under chapter 329 of title 49, United States Code.

(e) APPLICATIONS.—

(1) REQUIREMENTS.—The Secretary shall prescribe the requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications include, for each project proposed in the application, the following:

(A) A description of the project, including how the project meets the requirements of this subtitle.

(B) An estimate of the ridership or degree of use of the project.

(C) An estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, together with a plan to collect and disseminate environmental data, related to the project over the expected life of the project.

(D) A description of how the project is to be sustainable without Federal assistance after the completion of the term of the grant.

(E) A complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project.

(F) A description of which costs of the project are to be supported by Federal assistance under this subtitle.

(G) In the case of a project involving diesel-fueled vehicles, documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, together with a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out any project under the pilot program in partnership with public and private entities.

(f) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) propose one or more projects that are most likely—

(A) to cost-effectively reduce vehicle operation emissions; and

(B) to cost-effectively reduce use of fossil fuel in the operation of vehicles;

(2) propose one or more projects that are—

(A) to be carried out or sponsored by a government referred to in paragraph (1) or (2) of subsection (b); or

(B) coordinated with such a government or with a metropolitan planning organization of such a government;

(3) demonstrate the greatest commitment on the part of the applicant or applicants to ensure funding for the proposed project or projects and the greatest likelihood that each project will be maintained or expanded after Federal assistance under this subtitle is completed; and

(4) exceed the minimum requirements of subsection (e)(1).

(g) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program for any project.

(2) COST SHARING.—

(A) FEDERAL SHARE.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(B) APPLICANT SHARE.—The applicant or applicants for a grant for a project under the pilot program shall provide funding for the project in an amount that equals or exceeds the higher of the following amounts:

(i) $1,000,000.

(ii) The amount equal to 20 percent of the total cost of the project.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure—

(A) a broad geographic distribution of project sites under the pilot program; and

(B) the operation of vehicles acquired with the proceeds of pilot program grants under a variety of vehicle operating environments, including exposure to extreme weather conditions and operation of the vehicles in various modes of service under a variety of operational demands.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(h) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a solicitation of applications for grants for projects under the pilot program. Applications shall be due within 180 days after the publication of the first published notice.

(2) COMPETITIVE SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(h) FUNDING FOR ULTRA-LOW SULFUR DIESEL VEHICLES.—Of the total amount available for a fiscal year for grants under the pilot program, not less than 20 percent and not more than 25 percent of the grant funding shall be available only for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 743. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Energy for carrying out this subtitle, $40,000,000 for each of fiscal years 2004, 2005, 2006, 2007, and 2008, to remain available until expended.

SA 1445. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII add the following:

SEC. 736. GRANTS TO INCREASE PRODUCTION OF ENGINES FOR HEAVY-DUTY CLEAN DIESEL TRUCKS.

(a) GRANTS.—The Secretary of Energy (in this section referred to as the "Secretary") may award grants to heavy-duty engine manufacturers for the purpose of funding the early production of a higher number of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles than would otherwise be produced.

(b) 2007 EMISSIONS STANDARD-COMPLIANT HEAVY-DUTY VEHICLES.—For the purposes of this section, a 2007 emissions standard-compliant heavy-duty vehicle is a heavy-duty vehicle that is powered by a heavy-duty diesel engine and designed and manufactured to comply with the heavy-duty emission standards of 2007 (as that term is defined in section 734(c)).

(c) USE OF FUNDS.—The Secretary may not award a grant to a heavy-duty engine manufacturer under this section unless the manufacturer agrees to use the grant—

(1) to produce, not later than June 30, 2006, new heavy-duty diesel engines for the field testing program; or

(2) to improve infrastructure related to the production of such engines.

(d) APPLICATION.—To seek a grant under this section, a heavy-duty engine manufacturer shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) GUIDELINES FOR AWARD OF GRANTS.—In the awarding of grants under this section, the following guidelines shall apply:

(1) PURPOSE.—The purpose of the grant program is to accelerate and increase the production of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles.

(2) PROGRESSIVELY DECREASING AMOUNTS OF AWARDS.—

(A) IN GENERAL.—In order to encourage early production of such engines, the Secretary shall administer the grant program so as to provide higher amounts in grants awarded early in the program than the grants that are awarded later in the program.

(B) DELIVERY PERIODS.—The Secretary shall divide the grant program into four successive periods for delivery of 2007 emissions standard-compliant heavy-duty vehicles, as follows:

(i) Period I shall be the period beginning upon commencement of the pilot program and ending on December 31, 2004.

(ii) Period II shall be the period beginning on January 1, 2005, and ending on June 30, 2005.

(iii) Period III shall be the period beginning on July 1, 2005, and ending on December 31, 2005.

(iv) Period IV shall be the period beginning on January 1, 2006, and ending on June 30, 2006.

(C) COMPUTATION OF TOTAL GRANT AMOUNT.—The amount of a grant for a recipient under the pilot program shall be the product of—

(i) an amount determined appropriate by the Secretary for each emissions standard-compliant heavy-duty vehicle that is powered by a heavy-duty diesel engine manufactured by the recipient and is delivered to user; and

(ii) the number of such vehicles that are delivered to users.

(D) Per vehicle amount.—The amount for each emissions standard-compliant heavy-duty vehicle shall be significantly higher for a vehicle that is delivered to the user in a period defined in subparagraph (B) than the amount for each such vehicle that is delivered to the user in the next successive period. The amount for each emissions standard-compliant heavy-duty vehicle that is delivered to the user in period IV shall be significantly lower than the amount for each such vehicle that is delivered to the user in period I. A vehicle delivered to the user after the end of period IV shall not be counted in the computation under subparagraph (C).

(3) Maximum amount per recipient.—No grant recipient may receive more than 30 percent of the total amount disbursed as grant proceeds under the grant program.

(f) Refund of Grant Proceeds.—

(1) In general.—The Secretary shall require a grant recipient to refund some or all of the grant proceeds the recipient received for the promise to manufacture a heavy-duty diesel engine for use in a 2007 emissions standard-compliant heavy-duty vehicle for delivery during a delivery period under subsection (e)(2)(B) if such vehicle is delivered later than the promised delivery period (in this section referred to as a "late delivery").

(2) Amount of refund.—The amount of grant proceeds refunded to the Secretary under paragraph (1) for a late delivery shall be—

(A) greater than or equal to the difference between—

(i) the amount that was awarded for the promise to deliver the vehicle during a delivery period under subsection (e)(2)(B); and

(ii) the amount that would have been awarded for the delivery of such vehicle during the period in which it was in fact delivered; and

(B) less than or equal to 100 percent of the amount awarded for the delivery of such vehicle.

(g) Award and Refund Criteria.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator, develop and publish the criteria for—

(1) awarding grants pursuant to the guidelines in subsection (e); and

(2) calculating the amount of grant proceeds required to be refunded under subsection (f) in connection with late deliveries.

(h) Consultation.—The Secretary shall consult with manufacturers of heavy-duty diesel engines to determine the costs associated with the accelerated and increased production of such engines for field testing purposes.

(i) Dissemination of Information.—The Secretary shall—

(1) in consultation with the Administrator, determine whether and how to share information regarding the performance of heavy-duty diesel engines developed and tested under the grant program, including information regarding durability, maintenance, and fuel economy; and

(2) publish the rationale for such determination in the Federal Register.

(j) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Field testing.—The term "field testing" means the testing prior to mass production of 2007 emissions standard-compliant heavy-duty vehicles by fleets in coordination with heavy-duty diesel engine manufacturers.

(3) Heavy-duty diesel engine.—The term "heavy-duty diesel engine" means a diesel engine used to power a truck that is operated on public streets, roads, or highways and has a gross vehicle weight rating in excess of 8,500 pounds.

(4) Heavy-duty diesel engine manufacturer.—The term "heavy-duty diesel engine manufacturer" means, with respect to a heavy-duty diesel engine, the company of record holding the engine certification issued by the United States for the manufacture of such engine.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the grant program under this section.

SA 1446. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII add the following:

SEC. 736. GRANTS TO INCREASE PRODUCTION OF CLEAN DIESEL MOTOR VEHICLES, HYBRID VEHICLES, AND FUEL CELL VEHICLES.

(a) Grants.—The Secretary of Commerce (in this section referred to as the "Secretary") may award grants to States and cities for use to assist one or more commercial enterprises in converting existing manufacturing facilities to produce—

(1) clean diesel motor vehicles;

(2) hybrid vehicles;

(3) fuel cell vehicles; or

(4) engines for use in such vehicles.

(b) Use of Funds.—The proceeds of a grant may only be used for the following purposes:

(1) The conversion of manufacturing facilities as described in subsection (a).

(2) The improvement of infrastructure related to any such facility.

(c) Application.—To seek a grant under this section, a State or city shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) Definitions.—In this section:

(1) Clean diesel motor vehicle.—The term "clean diesel motor vehicle" means a motor vehicle that—

(A) is powered by a diesel-fueled internal combustion engine; and

(B) meets the tier 2 emission standards.

(2) Fuel cell vehicle.—The term "fuel cell vehicle" means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(e) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SA 1447. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII add the following:

SEC. 736. GRANTS TO INCREASE PRODUCTION OF ENGINES FOR HEAVY-DUTY CLEAN DIESEL TRUCKS.

(a) Grants.—The Secretary of Energy (in this section referred to as the "Secretary") may award grants to heavy-duty engine manufacturers for the purpose of funding the early production of a higher number of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles than would otherwise be produced.

(b) 2007 Emissions Standard-Compliant Heavy-Duty Vehicles.—For the purposes of this section, a 2007 emissions standard-compliant heavy-duty vehicle is a heavy-duty vehicle that is powered by a heavy-duty diesel engine and designed and manufactured to comply with the heavy-duty emission standards of 2007 (as that term is defined in section 734(c)).

(c) Use of Funds.—The Secretary may not award a grant to a heavy-duty engine manufacturer under this section unless the manufacturer agrees to use the grant—

(1) to produce, not later than June 30, 2006, new heavy-duty diesel engines for the field testing program; or

(2) to improve infrastructure related to the production of such engines.

(d) Application.—To seek a grant under this section, a heavy-duty engine manufacturer shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) Guidelines for Award of Grants.—In the awarding of grants under this section, the following guidelines shall apply:

(1) Purpose.—The purpose of the grant program is to accelerate and increase the production of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles.

(2) Progressively decreasing amounts of awards.—

(A) In general.—In order to encourage early production of such engines, the Secretary shall administer the grant program so as to provide higher amounts in grants awarded early in the program than the grants that are awarded later in the program.

(B) Delivery periods.—The Secretary shall divide the grant program into four successive periods for delivery of 2007 emissions standard-compliant heavy-duty vehicles, as follows:

(i) Period I shall be the period beginning upon commencement of the pilot program and ending on December 31, 2004.

(ii) Period II shall be the period beginning on January 1, 2005, and ending on June 30, 2005.

(iii) Period III shall be the period beginning on July 1, 2005, and ending on December 31, 2005.

(iv) Period IV shall be the period beginning on January 1, 2006, and ending on June 30, 2006.

(C) Computation of total grant amount.—The amount of a grant for a recipient under the pilot program shall be the product of—

(i) an amount determined appropriate by the Secretary for each emissions standard-compliant heavy-duty vehicle that is powered by a heavy-duty diesel engine manufactured by the recipient and is delivered to user; and

(ii) the number of such vehicles that are delivered to users.

(D) Per vehicle amount.—The amount for each emissions standard-compliant heavy-duty vehicle shall be significantly higher for a vehicle that is delivered to the user in a period defined in subparagraph (B) than the amount for each such vehicle that is delivered to the user in the next successive period. The amount for each emissions standard-compliant heavy-duty vehicle that is delivered to the user in period IV shall be significantly lower than the amount for each such vehicle that is delivered to the user in period I. A vehicle delivered to the user after the end of period IV shall not be counted in the computation under subparagraph (C).

(3) Maximum amount per recipient.—No grant recipient may receive more than 30 percent of the total amount disbursed as grant proceeds under the grant program.

(f) Refund of Grant Proceeds.—

(1) In general.—The Secretary shall require a grant recipient to refund some or all of the grant proceeds the recipient received for the promise to manufacture a heavy-duty diesel engine for use in a 2007 emissions standard-compliant heavy-duty vehicle for delivery during a delivery period under subsection (e)(2)(B) if such vehicle is delivered later than the promised delivery period (in this section referred to as a "late delivery").

(2) Amount of refund.—The amount of grant proceeds refunded to the Secretary under paragraph (1) for a late delivery shall be—

(A) greater than or equal to the difference between—

(i) the amount that was awarded for the promise to deliver the vehicle during a delivery period under subsection (e)(2)(B); and

(ii) the amount that would have been awarded for the delivery of such vehicle during the period in which it was in fact delivered; and

(B) less than or equal to 100 percent of the amount awarded for the delivery of such vehicle.

(g) Award and Refund Criteria.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator, develop and publish the criteria for—

(1) awarding grants pursuant to the guidelines in subsection (e); and

(2) calculating the amount of grant proceeds required to be refunded under subsection (f) in connection with late deliveries.

(h) Consultation.—The Secretary shall consult with manufacturers of heavy-duty diesel engines to determine the costs associated with the accelerated and increased production of such engines for field testing purposes.

(i) Dissemination of Information.—The Secretary shall—

(1) in consultation with the Administrator, determine whether and how to share information regarding the performance of heavy-duty diesel engines developed and tested under the grant program, including information regarding durability, maintenance, and fuel economy; and

(2) publish the rationale for such determination in the Federal Register.

(j) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Field testing.—The term "field testing" means the testing prior to mass production of 2007 emissions standard-compliant heavy-duty vehicles by fleets in coordination with heavy-duty diesel engine manufacturers.

(3) Heavy-duty diesel engine.—The term "heavy-duty diesel engine" means a diesel engine used to power a truck that is operated on public streets, roads, or highways and has a gross vehicle weight rating in excess of 8,500 pounds.

(4) Heavy-duty diesel engine manufacturer.—The term "heavy-duty diesel engine manufacturer" means, with respect to a heavy-duty diesel engine, the company of record holding the engine certification issued by the United States for the manufacture of such engine.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the grant program under this section.

Subtitle D—Advanced Clean Vehicle Demonstration Program

SEC. 741. DEFINITIONS.

In this subtitle:

(1) Alternative fueled vehicle.—The term "alternative fueled vehicle" means a vehicle propelled solely on an alternative fuel as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), except the term does not include any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) Fuel cell vehicle.—The term "fuel cell vehicle" means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) Hybrid vehicle.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) Neighborhood electric vehicle.—The term "neighborhood electric vehicle" means a motor vehicle capable of traveling at speeds of 25 miles per hour that is—

(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations;

(B) a zero-emission vehicle, as such term is defined in section 86.1702–99 of title 40, Code of Federal Regulations; and

(C) otherwise lawful to use on local streets.

(5) Pilot program.—The term "pilot program" means the competitive grant program established under section 742.

(6) State.—The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(7) Ultra-low sulfur diesel vehicle.—The term "ultra-low sulfur diesel vehicle" means a vehicle manufactured in model year 2002, 2003, 2004, 2005, or 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2002 and 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 742. GRANT PILOT PROGRAM.

(a) Requirement for Program.—The Secretary of Energy shall establish a competitive grant pilot program to provide project grants to eligible recipients to carry out a project or projects for the purposes described in subsection (c).

(b) Eligible Recipients.—The following entities are eligible to receive a grant under the pilot program:

(1) A State government.

(2) The government of a political subdivision of a State.

(3) Any person other than an individual.

(4) Any combination of entities described in paragraphs (1), (2), and (3), acting together to carry out one or more projects for the purposes described in subsection (c).

(c) Grant Purposes.—Grants under this section may be used for the following purposes:

(1) The acquisition of qualified alternative fueled vehicles or fuel cell vehicles for routine operation in service normal for motor vehicles, including (among other vehicles)—

(A) passenger vehicles, including neighborhood electric vehicles; and

(B) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of qualified alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles for regular and routine operation in service normal for motor vehicles, including (among other vehicles)—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services;

(C) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(D) vehicles used for the collection of recyclable garbage or other garbage.

(3) The acquisition of ultra-low sulfur diesel vehicles for regular and routine operation in service normal for motor vehicles.

(4) Infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(d) Qualified Vehicles.—An alternative fueled vehicle, hybrid vehicle, or fuel cell vehicle is qualified for the purposes of subsection (c) if—

(1) in the case of a vehicle to which an emission standard applies under law, the emissions resulting from the operation of such vehicle are less than the applicable standard; or

(2) in the case of any gasoline-consuming motor vehicle, the fuel economy of such vehicle (as defined in section 32901(a) of title 49,

United States Code) exceeds by at least 25 percent the average fuel economy standard applicable to the vehicle under chapter 329 of title 49, United States Code.

(e) Applications.—

(1) Requirements.—The Secretary shall prescribe the requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications include, for each project proposed in the application, the following:

(A) A description of the project, including how the project meets the requirements of this subtitle.

(B) An estimate of the ridership or degree of use of the project.

(C) An estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, together with a plan to collect and disseminate environmental data, related to the project over the expected life of the project.

(D) A description of how the project is to be sustainable without Federal assistance after the completion of the term of the grant.

(E) A complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project.

(F) A description of which costs of the project are to be supported by Federal assistance under this subtitle.

(G) In the case of a project involving diesel-fueled vehicles, documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, together with a commitment by the applicant to use such fuel in carrying out the project.

(2) Partners.—An applicant under paragraph (1) may carry out any project under the pilot program in partnership with public and private entities.

(f) Selection Criteria.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) propose one or more projects that are most likely—

(A) to cost-effectively reduce vehicle operation emissions; and

(B) to cost-effectively reduce use of fossil fuel in the operation of vehicles;

(2) propose one or more projects that are—

(A) to be carried out or sponsored by a government referred to in paragraph (1) or (2) of subsection (b); or

(B) coordinated with such a government or with a metropolitan planning organization of such a government;

(3) demonstrate the greatest commitment on the part of the applicant or applicants to ensure funding for the proposed project or projects and the greatest likelihood that each project will be maintained or expanded after Federal assistance under this subtitle is completed; and

(4) exceed the minimum requirements of subsection (e)(1).

(g) Pilot Project Requirements.—

(1) Maximum amount.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program for any project.

(2) Cost sharing.—

(A) Federal share.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(B) Applicant share.—The applicant or applicants for a grant for a project under the pilot program shall provide funding for the project in an amount that equals or exceeds the higher of the following amounts:

(i) $1,000,000.

(ii) The amount equal to 20 percent of the total cost of the project.

(3) Maximum period of grants.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) Deployment and distribution.—The Secretary shall seek to the maximum extent practicable to ensure—

(A) a broad geographic distribution of project sites under the pilot program; and

(B) the operation of vehicles acquired with the proceeds of pilot program grants under a variety of vehicle operating environments, including exposure to extreme weather conditions and operation of the vehicles in various modes of service under a variety of operational demands.

(5) Transfer of information and knowledge.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(h) Schedule.—

(1) Publication.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a solicitation of applications for grants for projects under the pilot program. Applications shall be due within 180 days after the publication of the first published notice.

(2) Competitive selection.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(h) Funding for Ultra-Low Sulfur Diesel Vehicles.—Of the total amount available for a fiscal year for grants under the pilot program, not less than 20 percent and not more than 25 percent of the grant funding shall be available only for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 743. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Energy for carrying out this subtitle, $40,000,000 for each of fiscal years 2004, 2005, 2006, 2007, and 2008, to remain available until expended.

SA 1448. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.

(a) Modifications to Light Duty Hybrids.—

(1) Increase in credit amounts after 2004.—

(A) In general.—Section 30B(c)(2), as added by section 201(a), is amended—

(i) by striking clause (i) of subparagraph (A) and inserting the following new clause:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"(I) If such vehicle is placed in service after the date of the enactment of this section and before January 1, 2005:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

"(II) If such vehicle is placed in service after December 31, 2004:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$350
At least 10 percent but less than 20 percent	$600
At least 20 percent but less than 30 percent	$850
At least 30 percent	$1,100.",

(ii) by striking "$500" in subparagraph (B)(i)(I) and inserting "$500 ($600 in the case of any vehicle placed in service after December 31, 2004)",

(iii) by striking "$1,000" in subparagraph (B)(i)(II) and inserting "$1,000 ($1,100 in the case of any vehicle placed in service after December 31, 2004)",

(iv) by striking "$1,500" in subparagraph (B)(i)(III) and inserting "$1,500 ($1,600 in the case of any vehicle placed in service after December 31, 2004)",

(v) by striking "$2,000" in subparagraph (B)(i)(IV) and inserting "$2,000 ($2,100 in the case of any vehicle placed in service after December 31, 2004)",

(vi) by striking "$2,500" in subparagraph (B)(i)(V) and inserting "$2,500 ($2,600 in the case of any vehicle placed in service after December 31, 2004)", and

(vii) by striking "$3,000" in subparagraph (B)(i)(VI) and inserting "$3,000 ($3,100 in the case of any vehicle placed in service after December 31, 2004)".

(B) Effective date.—The amendments made by this paragraph shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

(2) Option to use like vehicle.—

(A) In general.—Section 30B(c)(2), as added by section 201(a), is amended—

(i) by adding at the end of subparagraph (B) the following new clause:

"(iii) Option to use like vehicle.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.", and

(ii) by adding at the end of subparagraph (D) the following new clause:

"(iii) Like vehicle.—For purposes of subparagraph (B)(iii), the term 'like vehicle' for a new qualified hybrid motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

"(I) Body style (2-door or 4-door).

"(II) Transmission (automatic or manual).

"(III) Acceleration performance (± 0.05 seconds).

"(IV) Drivetrain (2-wheel drive or 4-wheel drive).

"(V) Certification by the Administrator of the Environmental Protection Agency.".

(B) Effective date.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(b) HYBRID VEHICLE CREDIT FOR LIFETIME FUEL SAVINGS.—

(1) IN GENERAL.—Section 30B(c)(2), as added by section 201(a) and amended by this section, is amended—

(A) by redesignating subparagraph (D) as subparagraph (E),

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) CONSERVATION CREDIT.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a passenger automobile, medium duty passenger vehicle, or light truck shall be increased by—

"(I) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

"(II) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

"(III) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

"(IV) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

"(ii) LIFETIME FUEL SAVINGS FOR LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the lifetime fuel savings fuel may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.", and

(C) by adding at the end of subparagraph (E) (as redesignated by subparagraph (A)) the following new clause:

"(iv) LIFETIME FUEL SAVINGS.—For purposes of subparagraph (D), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(c) CHANGE IN EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (h) of section 30B, as added by section 201(a), is amended to read as follows:

"(h) APPLICATION OF SECTION.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle (as described in subsection (b)) placed in service after December 31, 2004, and purchased before January 1, 2014,

"(2) any new qualified hybrid motor vehicle (as described in subsection (c)) placed in service after the date of the enactment of this section, and purchased before January 1, 2010, and

"(3) any other property placed in service after such date of enactment, and purchased before January 1, 2007.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 30B(b)(3), as added by section 201(a), is amended to read as follows:

"(B) which, in the case of a passenger automobile or light truck for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

(d) CREDIT FOR ADVANCED LEAN BURN DIESEL TECHNOLOGY.—

(1) IN GENERAL.—Section 30B, as added by section 201(a) and amended by this section, is amended—

(A) by striking "and" at the end of subsection (a)(2),

(B) by striking the period at the end of subsection (a)(3) and inserting ", and",

(C) by adding at the end of subsection (a) the following new paragraph:

"(4) the advanced lean burn technology motor vehicle credit determined under subsection (g).", and

(D) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

"(i) $350, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(ii) $600, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(iii) $850, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy, and

"(iv) $1,100, if such vehicle achieves at least 200 percent of the 2002 model year city fuel economy.

For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to an advanced lean burn technology motor vehicle shall be increased by—

"(i) $350, if such vehicle achieves a lifetime fuel savings of at least 1,200 but less than 1,800 gallons of gasoline,

"(ii) $600, if such vehicle achieves a lifetime fuel savings of at least 1,800 but less than 2,400 gallons of gasoline,

"(iii) $850, if such vehicle achieves a lifetime fuel savings of at least 2,400 but less than 3,000 gallons of gasoline, and

"(iv) $1,100, if such vehicle achieves a lifetime fuel savings of at least 3,000 gallons of gasoline.

"(C) OPTION TO USE LIKE VEHICLE.—At the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new advanced lean-burn technology motor vehicle to a like vehicle.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'new advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine—

"(i) which is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

"(ii) which incorporates direct injection,

"(iii) which achieves at least 125 percent of the 2002 model year city fuel economy,

"(iv) which, for 2005 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission levels for passenger vehicles established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, except any manufacturer may provide not to exceed 5,000 passenger vehicles per year which are Tier II compliant,

"(v) the original use of which commences with the taxpayer,

"(vi) which is acquired for use or lease by the taxpayer and not for resale, and

"(vii) which is made by a manufacturer.

"(B) LIKE VEHICLE.—The term 'like vehicle' for an advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

"(i) Body style (2-door or 4-door),

"(ii) Transmission (automatic or manual),

"(iii) Acceleration performance (± 0.05 seconds).

"(iv) Drivetrain (2-wheel drive or 4-wheel drive).

"(v) Certification by the Administrator of the Environmental Protection Agency.

"(C) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy for the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. . CREDIT FOR CLEAN HEAVY-DUTY DIESEL VEHICLES.

(a) IN GENERAL.—Section 30B(a), as added by section 201(a) and amended by this Act, is amended—

(1) by striking "and" at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting ", and",

(3) by adding at the end the following new paragraph:

"(5) the clean heavy-duty diesel motor vehicle credit determined under subsection (h).".

(b) CLEAN HEAVY-DUTY DIESEL MOTOR VEHICLE CREDIT.—Section 30B, as added by section 201(a) and amended by this Act, is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h) CLEAN HEAVY-DUTY DIESEL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the clean heavy-duty diesel motor vehicle credit determined under this subsection with respect to a new clean heavy-duty diesel motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—The credit amount determined under this paragraph shall be the sum of—

"(A) for any 2006 model vehicle, 50 percent of the incremental cost of such vehicle, if such vehicle meets the heavy-duty emission standards of 2007, plus

"(B) for any 2006 or later model vehicle, $2,500, if such vehicle meets the heavy-duty emission standards of 2010.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NEW HEAVY-DUTY DIESEL MOTOR VEHICLE.—The term 'new heavy-duty diesel motor vehicle' means a motor vehicle with a diesel-fueled internal combustion engine—

"(i) which has a gross vehicle weight rating of at least 8,500 pounds,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired for use or lease by the taxpayer and not for resale, and

"(iv) which is made by a manufacturer.

"(B) INCREMENTAL COST.—The incremental cost of any new clean heavy-duty diesel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a motor vehicle of the same model described in subparagraph (A) without regard to clause (ii) thereof, to the extent such amount does not exceed $5,000.

"(C) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The term 'heavy-duty emission standards of 2007' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

"(D) HEAVY-DUTY EMISSION STANDARDS OF 2010.—The term 'heavy-duty emission standards of 2010' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2010 vehicle model year.

(d) CHANGE IN EFFECTIVE DATES.—Subsection (j) of section 30B, as redesignated by subsection (b), is amended to read as follows:

"(j) APPLICATION OF SECTION.—This section shall apply to——

"(1) any new qualified fuel cell motor vehicle (as described in subsection (b)) placed in service after December 31, 2004, and purchased before January 1, 2014,

"(2) any new qualified hybrid motor vehicle (as described in subsection (c)) placed in service after the date of the enactment of this section, and purchased before January 1, 2010, and

"(3) any new clean heavy-duty diesel motor vehicle (as described in subsection (h)) placed in service after December 31, 2005, and purchased before January 1, 2010, and

"(4) any other property placed in service after such date of enactment, and purchased before January 1, 2007.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. . CREDIT FOR PRODUCING LOW SULFUR CONTENT DIESEL FUEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits), as amended by this Act, is amended by inserting after section 30C the following new section:

"SEC. 30D. CREDIT FOR PRODUCING CLEAN DIESEL FUEL.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) the applicable dollar amount, multiplied by

"(2) the barrel-of-oil equivalent of clean diesel fuel—

"(A) sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) APPLICABLE DOLLAR AMOUNT.—For purposes of subsection (a)(1), the applicable dollar amount for fuel sold during the period—

"(1) beginning on the date which is 90 days after the date of the enactment of this section and ending before June 1, 2006, is $4.20, and

"(2) beginning after May 31, 2006, and ending before January 1, 2007, $2.10.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—

"(A) IN GENERAL.—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(i) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(I) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(II) proceeds of any issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

"(III) the aggregate amount of subsidized energy financing (within the meaning of section 48(a)(6)(C)) provided in connection with the project, and

"(ii) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

"(B) AMOUNTS DETERMINED AT CLOSE OF YEAR.—The amounts under subparagraph (A) for any taxable year shall be determined as of the close of the taxable year.

"(2) CREDIT REDUCED FOR ENHANCED OIL RECOVERY CREDIT AND ENVIRONMENTAL TAX CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after application of paragraphs (1) and (3)) shall be reduced by the excess (if any) of—

"(A) the aggregate amount allowed under section 38 for the taxable year and any prior taxable year by reason of any enhanced oil recovery credit determined under section 43 and any environmental tax credit determined under section 45L with respect to such project, over

"(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A) under this paragraph for any prior taxable year.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and this subpart (other than this section), over

"(B) the tentative minimum tax for the taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN DIESEL FUEL.—The term 'clean diesel fuel' means motor vehicle diesel fuel which upon sale has a sulfur content as low as feasible, as determined by the Administrator of the Environmental Protection Agency taking into consideration costs, but not higher than 15 ppm.

"(2) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to diesel fuel the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a property or facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the property or facility (as the case may be) shall be allocated among such persons in proportion to their respective interests in the gross sales from such property or facility.

"(4) BARREL-OF-OIL EQUIVALENT.—The term 'barrel-of-oil equivalent' with respect to any fuel means that amount of such fuel which has a Btu content of 5.8 million.

"(5) BARREL DEFINED.—The term 'barrel' means 42 United States gallons.

"(6) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling clean diesel fuel to an unrelated person if such fuel is sold to such a person by another member of such group.

"(7) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply with respect to clean diesel fuel which is sold at retail after December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 53(d)(1)(B)(iii), as amended by this Act, is amended by striking "or" and inserting before the period at the end the following: ", or under section 30D solely by reason of the application of section 30D(b)(3)".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ", 30D(b)(3)," after "30(b)(2)".

(3) Section 772 is amended—

(A) in subsection (a), by striking "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following new paragraph:

"(11) the credit allowable under section 30D, and", and

(B) in subsection (d)(5), by striking "and", and by inserting before the period the following: ", and the credit allowable under section 30D".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30C the following new item:

"Sec. 30D. Credit for producing clean diesel fuel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on and after the date which is 90 days after the date of the enactment of this Act.

SEC. . PREVENTING CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SA 1449. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 202 and insert the following:

SEC. 202. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR GASIFICATION.—In allocating the funds made available under section 201, the Secretary shall ensure that at least 80 percent of the funds are used for coal-based gasification technologies, including projects that include gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion, and coal-based oxidation technologies that result in concentrated streams of carbon dioxide for capture and sequestration. The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able to—

(1) remove 99 percent of sulfur dioxide;

(2) emit no more than .05 lbs of NOx per million Btu;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 60 percent for coal of more than 9,000 Btu;

(B) 59 percent for coal of 7,000 to 9,000 Btu; and

(C) 57 percent for coal of less than 7,000 Btu.

(c) TECHNICAL CRITERIA FOR OTHER PROJECTS.—For projects not described in subsection (b), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able to—

(1) remove 97 percent of sulfur dioxide;

(2) emit no more than .08 lbs of NOx per million Btu;

(3) achieve substantial reductions in mercury emissions; and

(4) achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu;

(B) 44 percent for coal of 7,000 to 9,000 Btu; and

(C) 42 percent for coal of less than 7,000 Btu.

(d) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraphs (b)(4) and (c)(4), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(e) CONSULTATION.—Before setting the technical milestones under subsections (b) and (c), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(f) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient has an adequate financial plan for carrying out the project;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(g) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of this section and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy while complying with environmental standards;

(2) improve the competitiveness of coal among various forms of energy; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(2) REPAYMENT TERMS.—The Secretary shall not require repayment for the Federal share of the cost of a coal or related technology project selected under this section.

(i) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SA 1450. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 973. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) DEFINITION OF SECRETARY.—In this section, the term "Secretary" means the Secretary of Energy.

(b) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(c) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(d) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues; and

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2004;

(2) $10,000,000 for fiscal year 2005;

(3) $13,000,000 for fiscal year 2006;

(4) $16,000,000 for fiscal year 2007; and

(5) $19,000,000 for fiscal year 2008.

SA 1451. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 308 ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

At the appropriate place, insert the following to paragraph (5)(A)(iv), after "capacities" and before the parenthesis:

or 45% in the case of a system which uses biomass, as defined in section 45(c)(3)(A)(III), as the principal fuel.

On page 134, between lines 12 and 13, insert the following at the end of (5)(A)(v) the following:

(vi) Coordination with Section 38(b)(8)—No credit shall be allowed under section 38(b)(1) (investment credit) because such property qualifies as combined heat and power system property under this paragraph.

SA 1452. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division B add the following:

SEC. 310. EXPANSION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY TO INCLUDE ELECTRIC THERMAL STORAGE UNIT.

(a) IN GENERAL.—Section 25C(b)(1)(C) (relating to maximum credit), as added by this Act, is amended—

(1) by striking "and" at the end of clause (v),

(2) by striking the period at the end of clause (vi) and inserting ", and", and

(3) by adding at the end the following new clause:

"(vii) $250 for each electric thermal storage unit.".

(b) ELECTRIC THERMAL STORAGE UNIT.—Section 25C(d)(6)(B), as added by this Act, is amended—

(1) by striking "and" at the end of clause (v),

(2) by striking the period at the end of clause (vi) and inserting ", and", and

(3) by adding at the end the following new clause:

"(vii) an electric thermal storage unit which converts low-cost, off-peak electricity to heat and stores such heat for later use in specially designed ceramic bricks.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

SA 1453. MR. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, beginning on page 7, line 24, strike all through page 8, line 3, and insert the following:

"(1) WIND FACILITY.—

"(A) IN GENERAL.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2009.

"(B) SPECIAL RULE.—In the case of electricity produced after 2003 at any facility described in subparagraph (A) which is placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003, subsection (a)(1) shall be applied by substituting '1.8 cents' for '1.5 cents'.

On page 14, line 15, insert "(other than subsection (d)(1)(B))" after "section".

SA 1454. Mr. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 932 and insert the following:

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITION.—In this section, the term "cellulosic biomass" means any portion of a crop containing lignocellulose or hemicellulose or any crop grown specifically for the purpose of producing cellulosic feedstocks.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bio-based products;

(4) integrated biorefineries that may produce biopower, biofuels, and bio-based products;

(5) cross-cutting research and development in feedstocks and enzymes; and

(6) economic analysis.

(c) BIOFUELS AND BIO-BASED PRODUCTS.—The goals of the biofuels and bio-based products programs shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making biofuels and biobased products from a variety of feedstocks, including grains, cellulosic biomass, and other agricultural by-products, that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles; and

(2) advanced biotechnology processes capable of making biofuels and bio-based products with emphasis on development of biorefinery technologies using enzyme-based processing systems.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, after line 22, add the following:

SEC. 115. EXTENSION OF DEEPWATER PORT ACT OF 1974 TO NATURAL GAS LIQUIDS, LIQUEFIED PETROLEUM GASES, AND CONDENSATES RECOVERED FROM NATURAL GAS.

Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended—

(1) by striking "including compressed" and inserting "including—

"(A) compressed"; and

(2) by adding at the end the following:

"(B) natural gas liquid, liquefied petroleum gas, and condensate recovered from natural gas;".

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 467, after line 16, add the following:

TITLE —MISCELLANEOUS

SEC. . DEEPWATER PORT LICENSING.

Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505) is amended by adding at the end the following:

"(d) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 5(f)—

"(1) to the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may use the information derived from those activities in lieu of directly conducting such activities; and

"(2) the Secretary may use information obtained from any State or local government or from any person."

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 467, after line 16, add the following:

TITLE —MISCELLANEOUS

SEC. . DEEPWATER PORT LICENSING.

Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505) is amended by adding at the end the following:

"(d) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 5(f)—

"(1) to the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may use the information derived from those activities in lieu of directly conducting such activities; and

"(2) the Secretary may use information obtained from any State or local government or from any person."

SA 1458. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1182 and insert the following:

SEC. . MARKET-BASED RATES.

(a) APPROVAL OF MARKET-BASED RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(h) MARKET-BASED RATES.—

"(1) IN GENERAL.—In determining whether to grant a public utility authority to sell wholesale electric energy at a market-based rate, the Commission shall consider—

"(A) whether the seller and affiliates of the seller have, or have adequately mitigated, market power in the generation and transmission of electric energy;

"(B) whether the sale is made in an effectively competitive market;

"(C) whether market mechanisms function adequately;

"(D) the adequacy of reserve margins; and

"(E) such other matters as the Commission considers to be appropriate and in the public interest.

"(2) ANNUAL REVIEW.—

"(A) IN GENERAL.—For each public utility granted the authority by the Commission to sell wholesale electric energy at a market-based rate, the Commission shall review, at least annually, the characteristics of each market in which the public utility is authorized to sell wholesale electric energy at a market-based rate to determine whether sales by the public utility in that market are subject to effective competition.

"(B) CORRECTIVE ACTION.—If, in a review under subparagraph (A), the Commission determines that effective competition does not exist, the Commission shall take appropriate corrective action.".

(b) REVIEW OF MARKET-BASED RATES.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(f) MARKET-BASED RULES.—If the Commission, after a hearing on its own motion or on complaint, finds that a rate charged by a public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, or unduly discriminatory or preferential, the Commission shall—

"(1) determine the just and reasonable rate and fix the rate by order in accordance with this section; or

"(2) order such other action as will, in the judgment of the Commission, ensure a just and reasonable market-based rate.".

SA 1459. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1172 and insert the following:

SEC. 1172. MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (as amended by section 1171) is amended by adding at the end the following:

"SEC. 219. PROHIBITION ON MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.".

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219".

(c) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219, the Commission shall, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.".

SA 1460. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1182 and insert the following:

SEC. . PROHIBITION OF MARKET-BASED RATES.

Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by adding at the end the following: "Nothing in this Act confers on the Commission authority to authorize market-based rates for the sale of electric energy at wholesale.".

SA 1461. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In section 216 of the Federal Power Act (as added by section 1131), strike subsection (f).

In section 218 of the Federal Power Act (as added by section 1171), strike the second sentence of subsection (b).

SA 1462. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G, add the following:

SEC. 11 . RELIEF FOR RATEPAYERS.

Any contract for the sale of electric energy at wholesale that contains rates, terms, or conditions affected by any manipulative, deceptive, or fraudulent activity by a party to the contract shall be unenforceable.

SA 1463. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1132.

SA 1464. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G, add the following:

SEC. 11 . RELIEF FOR WESTERN RATEPAYERS.

Any contract for the sale of electric energy at wholesale within the Western Systems Coordinating Council region that was executed by Enron Corporation, Enron Power Marketing Incorporated, Enron Energy Services Incorporated, Enron North America, or the Enron Group during the period of December 25, 2000, through June 20, 2001, shall, for the purposes of section 206 of the Federal Power Act (16 U.S.C. 824e), be considered to be unjust and unreasonable and not in the public interest.

SA 1465. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —MISCELLANEOUS

SEC. . PROHIBITION OF LOBBYING FOR NOMINATIONS TO THE FEDERAL ENERGY REGULATORY COMMISSION.

Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

"SEC. 33. PROHIBITION OF LOBBYING FOR NOMINATIONS TO THE FEDERAL ENERGY REGULATORY COMMISSION.

"It shall be unlawful for any person that is an officer or employee of, or has any financial relationship to, a licensee under this Act or of any person, firm, association, municipality, or corporation engaged in the generation, transmission, distribution, or sale of natural gas or electric power, to communicate with any officer or employee of the executive or legislative branch of the Federal Government with the intent of advancing—

"(1) the candidacy of a specific individual to be nominated by the President to be a member of the Commission; or

"(2) the confirmation by the Senate of such a nomination.".

SA 1466. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —MISCELLANEOUS

SEC. . FERC RULES REGARDING EX PARTE COMMUNICATIONS.

(a) EXISTING RULE.—Section 385.2201 of title 18, United States Code, is vacated.

(b) STANDARDS OF CONDUCT.—Part I of the Federal Power Act is amended by inserting after the first section (16 U.S.C. 792) the following:

"SEC. 1A. STANDARDS OF CONDUCT.

"(a) EX PARTE COMMUNICATIONS.—Unless required for the disposition of ex parte matters authorized by law, members of the commission or administrative law judges assigned to render a decisions or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of law or fact with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. Members of the commission or administrative law judges assigned to render a decision or to make findings of fact or conclusions of law in a contested case may communicate ex parte with employees of the commission who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the commission and its staff in evaluating the evidence.

"(b) STANDARDS FOR RECUSAL OF COMMISSIONERS.—A commissioner shall recuse himself or herself from sitting in a proceeding, or from deciding one or more issues in a proceeding, in which any one or more of the following circumstances exist:

"(1) the commissioner in fact lacks impartiality, or the commissioner's impartiality has been reasonably questioned;

"(2) the commissioner, or any relative of the commissioner, is a party or has a financial interest in the subject matter of the issue or in one of the parties, or the commissioner has any other interest that could be substantially affected by the determination of the issue; or

"(3) the commissioner or a relative of the commissioner has participated as counsel, advisor, or witness in the proceeding or matter in controversy.

"(c) MOTIONS FOR DISQUALIFICATION OR RECUSAL OF A COMMISSIONER.—

"(1) Any party may move for disqualification or recusal of a commissioner stating with particularity grounds why the commissioner should not sit. Such a motion must be filed prior to the date the commission is scheduled to consider the matter unless the information upon which the motion is based was not known or discoverable with reasonable effort prior to that time. The grounds may include any disability or matter not limited to those set forth in subsection (d) of this section. The motion shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall be verified by affidavit.

"(2) Subject to the provisions of paragraph (1) of this subsection the motion shall be filed within 10 working days after the facts that are the basis of the motion become know to the party or within 15 days of the commencement of the proceeding, whichever is later. The motion shall be served on all parties by hand delivery, facsimile transmission, or overnight courier delivery.

"(3) Parties may file written responses to the motion within 7 working days from the date of filing the motion. The commission may require that responses be made orally at an open meeting.

"(4) The commissioner sought to be disqualified shall issue a decision as to whether he or she agrees that recusal or disqualification is appropriate or required before the commission is scheduled to act on the matter for which recusal is sought, or within 15 days after filing of the motion, whichever occurs first.

"(5) The parties to a proceeding may waive any ground for recusal or disqualification after it is fully disclosed on the record, either expressly or by their failure to take action on a timely basis.

"(6) Recusal or disqualification of a commission in and of itself has no effect upon the validity of rulings made or orders issued prior to the time the motion for recusal was filed."

SA 1467. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of Title VII, add the following:

"SEC. 7 . AVIATION EFFICIENCY.

"(a) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Administrator of the National Aeronautics and Space Administration, Administrator of the Environmental Protection Agency and, where applicable, the Secretary of Defense, shall establish a cost-shared public-private research partnership to develop and demonstrate aviation-related technologies, including fuel cell technology, that increase fuel efficiency, reduce emissions and lower costs of operation. Such partnership shall involve the Federal Government, commercial airlines, universities, and aviation manufacturers and equipment suppliers.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $50,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, and $100,000,000 for fiscal year 2006."

SA 1468. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At an appropriate place in the bill, add the following:

"SEC. . COST RECOVERY FOR QUALIFIED ENERGY MANAGEMENT DEVICES AND QUALIFIED ENERGY MANAGEMENT SOFTWARE.

(a) QUALIFIED ENERGY MANAGEMENT DEVICE DEFINED AS 3-YEAR PROPERTY.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.

Nothing in any other provision of this title shall be construed to treat property as not being described in clause (iv) by reason of its use in connection with public utility property (within the meaning of subsection (i)(9)).".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) QUALIFIED ENERGY MANAGEMENT DEVICE—

"(A) IN GENERAL.—The term "qualified energy management device" means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term "energy management device" means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) EXPENSING OF QUALIFIED ENERGY MANAGEMENT SOFTWARE.—

Section 167 is amended by redesignating subsection (h) as subsection (i) and adding the following new subsection:

"(h) TREATMENT OF QUALIFIED ENERGY MANAGEMENT SOFTWARE.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of qualified energy management software placed in service during the taxable year and before January 1, 2008.

"(2) QUALIFIED ENERGY MANAGEMENT SOFTWARE.—For purposes of this subsection, qualified energy management software is computer software (as described in subsection (f)(1)(B)) for which a depreciation deduction would be allowable (but for this subsection) under subsection (a), and which is used by the taxpayer primarily—

"(i) to collect electricity usage data from one or more qualified energy management devices (as defined in section 168(i)(15)),

"(ii) to present or display to the consumer electricity usage data collected by such devices, or

"(iii) to manage or control a consumer's electricity load.

"(3) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by paragraph (1).

"(4) CERTAIN REGULATED COMPANIES—This subsection shall not apply to any qualified energy management software that is public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use a normalization method of accounting (within the meaning of section 168(i)(9))."

(d) CONFORMING AMENDMENTS—

(1) Section 263(a)(1) is amended by striking 'or' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ', or', and by inserting after subparagraph (H) the following new subparagraph:

"(i) expenditures for which a deduction is allowed under section 167(h)(1).".

(2) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by inserting after paragraph (28) the following new paragraph:

"(29) to the extent provided in section 167(h)(1)."

(3) Section 1245(a) is amended by inserting "167(h)(1)," before "179," both places it appears in paragraphs (2)(C) and (3)(C).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date."

SA 1469. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At an appropriate place in the bill, add the following:

SEC. . DEFINITIONS.

In this Act:

(1) ELIGIBLE UTILITY.—The term 'eligible utility' means an electric utility that, during any 12-month period beginning on or after January 1, 2000, increased or increases the rates charged to all categories of its customers by a weighted average of 20 percent or more in order to cover increases in the cost of generating or acquiring electricity.

(2) ENERGY PRODUCTIVITY PROJECT.—The term 'energy productivity project' means a project to.—

(A) construct a facility or install equipment that uses energy-efficient technology in the generation or use of electric energy; or

(B) conduct a program, not conducted by the applicant for a grant under section 4 before the date of application for the grant, to increase the productivity of a utility.

(3) Fund.—The term 'Fund' means the "Savings Through Energy Productivity (STEP) Fund" established by section 4.

(4) Secretary.—The term 'Secretary' means the Secretary of Energy.

(5) Utility.—The term 'utility' means an electric utility (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)) that is subject to regulation by a State commission (as defined in that section).

SEC. . IMMEDIATE ELECTRIC ENERGY COST RELIEF FOR CONSUMERS THAT REDUCE ENERGY CONSUMPTION.

(a) In General.—The Secretary shall establish a program, to be known as the 'STEP Emergency Rebate Program', under which the Secretary makes grants to eligible utilities to pay the costs of providing rebates or credits against the amounts of electric bills of customers that reduce the amount of electric energy consumed by the customer.

(b) Credits For Reduction of Electric Energy Consumption.—

(1) In general.—To receive a grant under subsection (a), an eligible utility shall agree to provide its customers rebates and credits as provided in this subsection.

(2) First period of qualification.—During the first 12-month period in which a utility customer qualifies for rebates or credits under this section, the customer shall be entitled to a rebate of a portion of the amount of an electric bill paid, or a credit against the amount of an electric bill, for each billing period, in an amount that is proportionate to the percentage by which the amount of electric energy consumed by the customer during the billing period is less than the amount consumed during the equivalent billing period in the preceding year (referred to in this section as the 'base billing period').

(3) Second period of qualification.—During the second 12-month period in which a utility customer qualifies for rebates or credits under this section, the customer shall be entitled to a rebate of a portion of the amount of an electric bill paid, or a credit against the amount of an electric bill, for each billing period, in an amount that is proportionate to the percentage by which the amount of electric energy consumed by the customer during the billing period is less than the amount consumed during the base billing period.

(4) New customers.—In the case of a customer to which an eligible utility has sold electric energy for less than a year, the proportion by which the customer shall be considered to have reduced electric energy consumption during a month shall be determined by comparing the amount of electric energy consumed by the customer during the month against a local area baseline determined in accordance with regulations promulgated by the Secretary.

(5) Percentage reduction.—

(A) Limitation.—A utility customer shall be entitled to a rebate or credit only to the extent that the percentage described in paragraph (3) or (4) is between 5.0 percent and 20.0 percent, inclusive.

(B) Rounding.—For the purposes of determining the amount of a rebate or credit, as described in paragraph (3) or (4) shall be rounded to the nearest tenth of a percent.

(c) Action By the Secretary.—

(1) Expeditious relief.—In order to provide energy cost relief to consumers as expeditiously as possible, the Secretary shall act on an application for a grant under subsection (a) within 30 days after receiving the application.

(2) Failure to act.—If the Secretary fails to act on an application for a grant within 30 days after receiving the application, the application shall be deemed to be granted.

(3) Denial of application.—If the Secretary denies an application, the Secretary shall include in the denial—

(A) a detailed statement of the reasons for the denial; and

(B) a description any action that the applicant may make to obtain approval of the application.

(d) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 2004 and 2005.

(2) Administrative expenses.—The Secretary shall use not more than 5 percent of the amount made available to carry out this section for a fiscal year to pay administrative expenses.

(e) Cessation of Effectiveness.—

(1) In general.—This section ceases to be in effect on October 1, 2005.

(2) Transfer to the fund.—Any balance of the amounts made available to carry out this section that remain unexpended on September 30, 2005, shall be transferred to the Fund.

SEC. 4. STEP FUND.

(a) Establishment.—There is established in the Treasury of the United States a revolving fund to be known as the 'STEP Fund', consisting of—

(1) amounts appropriated to the Fund under subsection (f);

(2) amounts of loans repaid to the Fund under subsection (b)(2)(B);

(3) amounts of interest earned on investment of amounts in the Fund under subsection (c); and

(4) amounts transferred to the Fund under section 3(e)(2).

(b) Loan Program.—

(1) In general.—The Secretary shall establish a program under which the Secretary, using amounts in the Fund, makes loans to utilities and nonprofit organizations, at no interest, to pay up to 100 percent of the cost of an energy productivity project.

(2) Repayment.—

(A) Schedule.—The Secretary shall require repayment of a loan on a schedule that takes into account the length of time that will be required for the amount of savings that is expected to be realized from an energy productivity project to equal the cost of the energy productivity project.

(B) Deposit in fund.—The Secretary shall deposit amounts received in repayment of a loan in the Fund.

(c) Investment of Amounts.—

(1) In general.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations.—For the purpose of investments under paragraph (1), obligations may be acquired.—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) Availability.—Amounts in the Fund shall be available to the Secretary, without further appropriation, to make loans under subsection (b).

(e) Reports.—Not later than 1 year after the date on which a utility or nonprofit organization receives a loan under this section, and annually thereafter until such date as the loan is repaid in full, the loan recipient shall submit to the Secretary of Energy a report that describes—

(1) any electricity savings or peak demand reductions resulting from the implementation of activities carried out using loan funds; and

(2) an estimate of the annual cost-effectiveness of all programs carried out by the loan recipient in the year for which the report is submitted.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

(g) Cessation of Effectiveness.—This section ceases to be in effect on the date that is 10 years after the date of enactment of this Act.

SA 1470. Ms. CANTWELL (for herself and Mr. Schumer) submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of Title VII, add the following:

SEC. 7 . MOTOR VEHICLE TIRES SUPPORTING MAXIMUM FUEL EFFICIENCY.

(a) Standards for Tires Manufactured for Interstate Commerce.—Section 30123 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting after the first sentence the following: "The grading system shall include standards for rating the fuel efficiency of tires designed for use on passenger cars and light trucks."; and

(2) by adding at the end the following:

"(d) National Tire Fuel Efficiency Program.—(1) The Secretary shall develop and carry out a national tire fuel efficiency program for tires designed for use on passenger cars and light trucks.

"(2) The program shall include the following:

"(A) Policies and procedures for testing and labeling tires for fuel economy to enable tire buyers to make informed purchasing decisions about the fuel economy of tires.

"(B) Policies and procedures to promote the purchase of energy-efficient replacement tires, including purchase incentives, website listings on the Internet, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide tire buyers with fuel-efficiency information on tires.

"(C) Minimum fuel economy standards for tires, promulgated by the Secretary.

"(3) The minimum fuel economy standards for tires shall—

"(A) ensure that the fuel economy of replacement tires is equal to or better than the average fuel economy of tires sold as original equipment;

"(B) secure the maximum technically feasible and cost-effective fuel savings;

"(C) not adversely affect tire safety;

“(D) not adversely affect the average tire life of replacement tires;

“(E) incorporate the results from—

“(i) laboratory testing; and

“(ii) to the extent appropriate and available, on-road fleet testing programs conducted by the manufacturers; and

“(F) not adversely affect efforts to manage scrap tires.

“(4) The policies, procedures, and standards developed under paragraph (2) shall apply to all types and models of tires that are covered by the uniform tire quality grading standards under section 575.104 of title 49, Code 16 of Federal Regulations (or any successor regulation).

“(5) Not less often than every three years, the Secretary shall review the minimum fuel economy standards in effect for tires under this subsection and revise the standards as necessary to ensure compliance with requirements under paragraph (3). The Secretary may not, however, reduce the average fuel economy standards applicable to replacement tires.

“(6) Nothing in this chapter shall be construed to preempt any provision of State law relating to higher fuel economy standards applicable to replacement tires designed for use on passenger cars and light trucks.

“(7) Nothing in this chapter shall apply to—

“(A) a tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually;

“(B) a deep tread, winter-type snow tire, spacesaver tire, or temporary use spare tire;

“(C) a tire with a normal rim diameter of 12 inches or less;

“(D) a motorcycle tire; or

“(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

“(8) In this subsection, the term ‘fuel economy’, with respect to tires, means the extent to which the tires contribute to the fuel economy of the motor vehicles on which the tires are mounted.

(b) Conforming Amendment.—Section 30103(b) of title 49, United States Code, is amended in paragraph (1) by striking “When” and inserting “Except as provided in section 30123(d) of this title, when”.

(c) Time for Implementation.—The Secretary of Transportation shall ensure that the national tire fuel efficiency program required under subsection (d) of section 30123 of title 49, United States Code (as added by subsection (a)(2)), is administered so as to apply the policies, procedures, and standards developed under paragraph (2) of such subsection (d) beginning not later than March 31, 2006.

SA 1471. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1141 and insert the following:

SEC. 1141. NET METERING.

(a) Adoption of Standard.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(11) Net metering.—

“(A) In general.—On the request of any electric consumer served by an electric utility, the electric utility shall make available to the electric consumer net metering as provided in section 115(i).

“(B) Consideration by state regulatory authorities.—Notwithstanding subsections (b) and (c) of section 112, not later than 1 year after the date of enactment of this paragraph, a State regulatory authority may consider and make a determination concerning whether it is in the public interest to decline to implement subparagraph (A) in the State.

“(C) Incentives.—Nothing in this paragraph precludes a State from establishing incentives to encourage on-site generating facilities and net metering in addition to the requirement under this subsection.

“(D) Reports.—Not later than 1 year after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to Congress a report that—

“(i) describes the status of implementation by the States of subparagraph (A);

“(ii) contains a list of pre-approved systems and equipment eligible for uniform interconnection treatment; and

“(iii) describes the public benefits that have been derived from net metering and interconnection standards.”.

(b) Special Rules for Net Metering.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

“(i) Net Metering.—

“(1) Definitions.—In this subsection:

“(A) Eligible on-site generating facility.—The term ‘eligible on-site generating facility’ means—

“(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 25 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; and

“(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 1000 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high-efficiency system.

“(B) High efficiency system.—The term ‘high efficiency system’ means a system that is comprised of—

“(i) fuel cells; or

“(ii) combined heat and power.

“(C) Net metering service.—The term ‘net metering service’ means service to an electric consumer, as provided in section 111(d)(11), under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

“(D) Renewable energy resource.—The term ‘renewable energy resource’ means solar, wind, biomass, micro-freeflow-hydro, or geothermal energy.

“(2) Net metering service.—For the purposes of undertaking the consideration and making the determination with respect to the standard concerning net metering established by section 111(d)(11), the term ‘net metering service’ means a service provided in accordance with this subsection.

“(3) Charges by an electric utility.—An electric utility—

“(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

“(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

“(4) Measurement of quantities.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period with a single bi-directional meter or otherwise in accordance with reasonable metering practices.

“(5) Quantity sold in excess of quantity supplied.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

“(6) Quantity supplied in excess of quantity sold.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

“(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (5); and

“(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period with—

“(i) a kilowatt-hour credit appearing on the bill for the following billing period; or

“(ii) a cash refund.

“(7) Compliance with standards.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

“(8) Requirements.—The Commission, after consideration of all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, and consultation with State regulatory authorities and unregulated electric utilities, and after notice and opportunity for comment, shall promulgate additional control, testing, and interconnection requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.”.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle F of Title IX and insert the following:

SEC. 961. SCIENCE.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 967(c)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, and research analysis and infrastructure support—

(1) for fiscal year 2004, $3,785,000,000;

(2) for fiscal year 2005, $4,153,000,000;

(3) for fiscal year 2006, $4,586,000,000;

(4) for fiscal year 2007, $5,000,000,000; and

(5) for fiscal year 2008, $5,400,000,000.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities of the Fusion Energy Sciences Program, including activities under section 962—

(A) for fiscal year 2004, $335,000,000;

(B) for fiscal year 2005, $349,000,000;

(C) for fiscal year 2006, $362,000,000;

(D) for fiscal year 2007, $377,000,000; and

(E) for fiscal year 2008, $393,000,000.

(2) For the Spallation Neutron Source—

(A) for construction in fiscal year 2004, $124,600,000;

(B) for construction in fiscal year 2005, $79,800,000;

(C) for completion of construction in fiscal year 2006, $41,100,000; and

(D) for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment related to construction), $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

(3) For Catalysis Research activities under section 965—

(A) for fiscal year 2004, $33,000,000;

(B) for fiscal year 2005, $35,000,000;

(C) for fiscal year 2006, $36,500,000;

(D) for fiscal year 2007, $38,200,000; and

(E) for fiscal year 2008, $40,100,000.

(4) For Nanoscale Science and Engineering Research activities under section 966—

(A) for fiscal year 2004, $270,000,000;

(B) for fiscal year 2005, $290,000,000;

(C) for fiscal year 2006, $310,000,000;

(D) for fiscal year 2007, $330,000,000; and

(E) for fiscal year 2008, $375,000,000.

(5) For activities under subsection 966(c), from the amounts authorized under subparagraph (4)—

(A) for fiscal year 2004, $135,000,000;

(B) for fiscal year 2005, $150,000,000;

(C) for fiscal year 2006, $120,000,000;

(D) for fiscal year 2007, $100,000,000; and

(E) for fiscal year 2008, $125,000,000.

(6) For activities in the Genomes to Life Program under section 968—

(A) for fiscal year 2004, $100,000,000;

(B) for fiscal year 2005, $170,000,000;

(C) for fiscal year 2006, $325,000,000;

(D) for fiscal year 2007, $415,000,000; and

(E) for fiscal year 2008, $455,000,000.

(7) For construction and ancillary equipment of the Genomes to Life User Facilities under section 968(d), of funds authorized under (6)—

(A) for fiscal year 2004, $16,000,000;

(B) for fiscal year 2005, $70,000,000;

(C) for fiscal year 2006, $175,000,000;

(D) for fiscal year 2007, $215,000,000; and

(E) for fiscal year 2008, $205,000,000.

(8) For activities in the Water Supply Technologies Program under section 970, $30,000,000 for each of fiscal years 2004 through 2008.

(c) In addition to the funds authorized under subsection (b)(1), the following sums are authorized for construction costs associated with the ITER project under section 962—

(1) for fiscal year 2006, $55,000,000;

(2) for fiscal year 2007, $95,000,000; and

(3) for fiscal year 2008, $115,000,000.

(d)(1) In addition to the funds authorized under subsection (b)(1), there are authorized to be appropriated to the Secretary, for crosscutting programs under section 968(e), $25,000,000 for each of fiscal years 2004 through 2008.

(2) From the sums authorized in paragraph (1), at least one consortium under section 968(e) shall be provided with not less than $10,000,000 in each fiscal year.

SEC. 962. UNITED STATES PARTICIPATION IN ITER.

(a) PARTICIPATION.—

(1) The Secretary of Energy is authorized to undertake full scientific and technological cooperation in the International Thermonuclear Experimental Reactor project (referred to in this title as "ITER").

(2) In the event that ITER fails to go forward within a reasonable period of time, the Secretary shall send to Congress a plan, including costs and schedules, for implementing the domestic burning plasma experiment known as the Fusion Ignition Research Experiment. Such a plan shall be developed with full consultation with the Fusion Energy Sciences Advisory Committee and be reviewed by the National Research Council.

(3) It is the intent of Congress that such sums shall be largely for work performed in the United States and that such work contributes the maximum amount possible to the U.S. scientific and technological base.

(b) PLANNING.—

(1) Not later than 180 days of the date of enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential international partners, for the implementation of the goals of this section. The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling and simulation are strengthened;

(C) new magnetic and inertial fusion research facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) in coordination with the program in section 969, the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

SEC. 963. SPALLATION NEUTRON SOURCE.

(a) DEFINITION.—For the purposes of this section, the term "Spallation Neutron Source" means Department Project 9909E 09334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

(c) AUTHORIZATION OF APPROPRIATIONS.—The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

SEC. 964. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all national laboratories and single-purpose research facilities. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) The Secretary shall prepare and transmit, along with the President's budget request to the Congress for fiscal year 2006, a report containing the strategy developed under subsection (a).

(2) For each national laboratory and single-purpose research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 965. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Office of Science, shall support a program of research and development in catalysis science consistent with the Department's statutory authorities related to research and development. The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and sub-nanometer scales in situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out this program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators

to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other federal agencies.

(c) Triennial Assessment.—The National Academy of Sciences shall review the catalysis program every three years to report on gains made in the fundamental science of catalysis and its progress towards developing new fuels for energy production and material fabrication processes.

SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) Establishment.—The Secretary, acting through the Office of Science, shall support a program of research, development, demonstration, and commercial application in nanoscience and nanoengineering. The program shall include efforts to further the understanding of the chemistry, physics, materials science, and engineering of phenomena on the scale of nanometers and to apply this knowledge to the Department's mission areas.

(b) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and teams of investigators, including multidisciplinary teams;

(2) carry out activities under subsection (c);

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with other DOE programs, industry and other Federal agencies.

(c) Nanoscience and Nanoengineering Research Centers and Major Instrumentation.—

(1) The Secretary shall carry out projects to develop, plan, construct, acquire, operate, or support special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) Projects under paragraph (1) may include the measurement of properties at the scale of nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) In General.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge, computationally based, science problems related to departmental missions.

(b) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms in collaboration with other DOE program offices;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets;

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address departmental missions are available; and

(5) explore new computing approaches and technologies that promise to advance scientific computing including developments in quantum computing.

(c) High-Performance Computing Act of 1991 Amendments.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3) by striking "means" and inserting and 'networking and information technology' mean", and by striking "(including vector supercomputers and large scale parallel systems)"; and

(B) in paragraph (4), by striking "packet switched"; and

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after "As part of the" and inserting: "Networking and Information Technology Research and Development Program, the Secretary of Energy shall conduct basic and applied research in networking and information technology, with emphasis on supporting fundamental research in the physical sciences and engineering, and energy applications; providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and developing tools for distributed scientific collaboration.";

(B) in subsection (b), by striking "Program" and inserting "Networking and Information Technology Research and Development Program"; and

(C) by amending subsection (e) to read as follows:

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2008.".

(d) Coordination.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) Establishment.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the Genomes to Life Program, in systems biology and proteomics consistent with the Department's statutory authorities.

(b) Planning.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities would be developed by the program and applied to Department missions relating to energy security, environmental cleanup, and national security.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary's annual budget submission.

(c) Program Execution.—In carrying out the program under this Act, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) Genomes to Life User Facilities and Ancillary Equipment.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

(e) Crosscutting Research with Nanotechnology Programs.—The Secretary shall support one or more consortia to integrate nanotechnology and microfluidic tools with research and development in genomics, systems biology, immunology, and molecular imaging.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President's fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the Department's fusion energy program. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark models against existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) ESTABLISHMENT.—There is established within the Office of Science, Office of Biological and Environmental Research, the "Energy-Water Supply Technologies Program," to study energy-related issues associated with water resources and municipal waterworks and to study water supply issues related to energy production.

(b) DEFINITIONS.—

(1) The term "Foundation" means the American Water Works Association Research Foundation.

(2) The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) The term "Program" means the Water Supply Technologies Program established by section 970(a).

(c) PROGRAM AREAS.—The program shall conduct research and development, including—

(1) arsenic removal under subsection (d);

(2) desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) ARSENIC REMOVAL PROGRAM.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to utilize the facilities, institutions and relationships established in the "Consolidated Appropriations Resolution, 2003" as described in Senate Report 107–220 that will carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities or Indian tribes.

(5) The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other federal agencies, state programs and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed in Title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate Report 107–39 under the heading "WATER AND RELATED RESOURCES" in the "BUREAU OF RECLAMATION" section.

(2) The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the January 2003 national Desalination and Water Purification Technology Roadmap for next-generation desalination technology;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater and other saline water supplies; disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) Under the desalination program, funds made available may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program. The steering committee shall be jointly chaired by 1 representative from this Program and 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) The Secretary shall carry out a research program to develop understanding and technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) Under this program and in collaboration with other programs within the Department including those within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy, the Secretary of the Interior, Army Corps of Engineers, Environmental Protection Agency, Department of Commerce, Department of Defense, state agencies, non-governmental agencies and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a by-product of oil and gas extraction;

(D) use of impaired and non-traditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technology development needs and activities required to support long-term water needs and planning for energy sustainability, use of impaired water for energy production and other uses, and reduction of water use in energy production;

(B) carry out the research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies and strategies;

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under subparagraph (B) and assess the viability of these tools at the scale of river basins with at least one demonstration involving an international border; and

(D) transfer these tools to other federal agencies, state agencies, non-profit organizations, industry and academia for use in their energy and water sustainability efforts.

(4) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research elements described under paragraph (2), and makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) Research projects under this section shall not require cost-sharing.

(2) Each demonstration project carried out under the Program shall be carried out on a cost-shared basis, as determined by the Secretary.

(3) With respect to a demonstration project, the Secretary may accept in-kind contributions, and waive the cost-sharing requirement in appropriate circumstances.

SA 1473. Mr. SMITH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

Subtitle I—Miscellaneous

SEC. 1195. ENERGY SECURITY OF ISRAEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may export oil to, or secure oil for, any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(b) MEMORANDUM OF AGREEMENT.—The following agreements shall be deemed to have entered into force by operation of law and shall be deemed to have no termination date:

(1) The agreement entitled "Agreement amending and extending the memorandum of agreement of June 22, 1979", entered into force November 13, 1994 (TIAS 12580).

(2) The agreement entitled "Agreement amending the contingency implementing arrangements of October 17, 1980", entered into force June 27, 1995 (TIAS 12670).

SA 1474. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B, add the following:

SEC. 102. EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE INCREMENTAL HYDROPOWER.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(I) incremental hydropower.".

(b) Incremental Hydropower.—Section 45(c), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Incremental hydropower.—

"(i) In general.—The term 'incremental hydropower' means for any taxable year an amount equal to the percentage of total kilowatt hours of electricity produced from a hydropower facility described in subsection (d)(8) attributable to efficiency improvements or additions of capacity as determined under clause (ii).

"(ii) Determination of incremental hydropower production.—For purposes of clause (i), incremental hydropower production for any hydropower facility for any taxable year shall be determined by establishing a percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Secretary in consultation with the Federal Energy Regulatory Commission. For purposes of the preceding sentence, the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.".

(c) Incremental Hydropower Facility.—Section 45(d) (relating to qualified facilities), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Incremental hydropower facility.—

"(A) In general.—In the case of a facility using incremental hydropower to produce electricity, the term 'qualified facility' means any non-Federal hydroelectric facility owned by the taxpayer the efficiency improvements or additions of capacity to which are originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2009.

"(B) Special rules.—

"(i) 4-year period.—In the case of a qualified facility described in subparagraph (A), the 4-year period beginning on the date the efficiency improvements or additions of capacity to the facility are originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(ii) Noncompliance with pollution laws.—For purposes of this paragraph, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.".

(d) Effective Date.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 1475. Mr. SANTORUM (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. BINGAMAN) and intended to be proposed to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 221 of Division B, after line 24, insert the following:

(e) Clarification Relating to Coal Waste Sludge.—

(1) In general.—Subsection (c) of section 29 (relating to definition of qualified fuels) is amended by inserting at the end the following new paragraph:

"(4) Coal waste sludge.—

"(A) In general.—The term 'solid synthetic fuels produced from coal' includes liquefied coal waste sludge.

"(B) Coal waste sludge.—For purposes of this section, the term 'coal waste sludge' means the tar decanter sludge and related byproducts of the coking process which are liquefied and processed with coal into a feedstock for the manufacture of coke.".

(2) Denial of double benefit.—Subsection (d) of section 29, as amended by subsection (b), is amended by inserting at the end the following new paragraph:

"(10) Denial of double benefit.—No credit shall be allowed under this section for a qualified fuel produced from coal and liquefied coal waste sludge to the extent to which a credit is also allowed for the production of any coal waste sludge used in the production of such qualified fuel.".

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike "ending on—" and all that follows through "2007." on line 21 and insert "ending on December 31, 2007.".

SA 1477. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike lines 12-16 and insert the following:

"(ii) which has an electrical capacity of no more than 15,000 kilowatts or a mechanical energy capacity of no more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,".

On page 134, line 4, strike "(70 percent" and all that follows through "capacities)" on line 10.

On page 136, strike lines 16 through "section 168." on line 22.

SA 1478. Mr. BINGAMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division B, insert the following:

SEC. . ALLOWANCE OF DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

"(a) Allowance of Deduction.—In the case of a taxpayer who is a supplier of electric energy or a provider of electric energy services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

"(b) Maximum Deduction.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

"(c) Qualified Energy Management Device.—The term 'qualified energy management device' means any meter or metering device which is used by the taxpayer—

"(1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(2) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(d) Property Used Outside the United States Not Qualified.—No deduction shall be allowed under subsection (a) with respect to property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) Basis Reduction.—

"(1) In general.—For purposes of this subtitle, if a deduction is allowed under this section with respect to a qualified energy management device, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(2) Ordinary income recapture.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(f) Termination.—This section shall not apply to any qualified energy management device placed in service after December 31, 2007.".

(b) Conforming Amendments.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179C" each place it appears in the heading and text and inserting "179C, or 179D".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 179D(e)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179C the following new item:

"Sec. 179D. Deduction for qualified energy management devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike title XI.

SA 1480. Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. JEFFORDS, Mr. CHAFEE, Mr. DORGAN, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United states, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V renewables add the following.

Subtitle E—Renewable Portfolio Standard

SEC. 541 RENEWABLE PORTFOLIO STANDARD.

Titel VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

"(a) RENEWABLE ENERGY REQUIREMENTS.—

"(1) IN GENERAL.—Each electric utility that sells electricity to electric consumers shall obtain a percentage of the base amount of electricity it sells to electric consumers in any calendar year from new renewable energy or existing renewable energy. The percentage obtained in a calendar year shall not be less than the amount specified in the following table:

"Calendar year	**Minimum annual percentage**
2008 through 2011	2.5
2012 through 2015	5.0
2016 through 2019	7.5
2020 through 2030	10.0

"(2) MEANS OF COMPLIANCE.—An electric utility shall meet the requirements of paragraph (1) by—

"(A) generating electric energy using new renewable energy or existing renewable energy;

"(B) purchasing electric energy generated by new renewable energy or existing renewable energy;

"(C) Purchasing renewable energy credits issued under subsection (b); or

"(D) A combination of the foregoing.

"(b) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

"(1) Not later than January 1, 2005, the Secretary shall establish a renewable energy credit trading program to permit an electric utility that does not generate or purchase enough electric energy from renewable energy to meet its obligations under subsection (a)(1) to safisfy such requirements by purchasing sufficient renewable energy credits.

"(2) As part of such program the Secretary shall—

"(A) issue renewable energy credits to generators of electric energy from new renewable energy;

"(B) sell renewable energy credits to electric utilities at the rate of 1.5 cents per kilowatt-hour (as adjusted for inflation under subsection (g));

"(C) ensure that a kilowatt hour, including the associated renewable energy credits, shall be used only once for purposes of compliance with this section;

"(D) allow double credits for generation from facilities on Indian Lands, and triple credits for generation from small renewable distributed generators, i.e., those no larger than one megawatt.

"(3) Credits under paragraph (2)(A) may only be used for compliance with this section for 3 years from the data issued.

"(c) ENFORCEMENT.—

"(1) CIVIL PENALTIES.—Any electric utility that fails to meet the energy renewable requirements of subjection (a) shall be subject to a civil penalty.

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty shall be determined by multiplying the number of kilowatt-hours of electric energy sold to electric consumers in violation of subjection (a) by the greater of 1.5 cents (adjusted for inflation under subsection (g)) or 200 percent of the average market value of renewable energy credits during the year in which the violation occurred.

"(3) MITIGATION OR WAIVER.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility was unable to comply with subjection (a) for reasons outside of the reasonable control of the utility.

"(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

"(d) STATE RENEWABLE ENERGY ACCOUNT PROGRAM.—

"(1) The Secretary shall establish, not later than December 31, 2008, a State renewable energy account program.

"(2) All money collected by the Secretary from the sale of renewable energy credits and the assessment of civil penalties under this section shall be deposited into the renewable energy account established pursuant to this subsection. The State renewable energy account shall be held by the Secretary and shall not be transferred to the Treasury Department.

"(3) Proceeds deposited in the State renewable energy account shall be used by the Secretary, subject to appropriations, for a program to provide grants to the State agency responsible for developing State energy conservation plans under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322) for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the use of electricity at customer sites such as solar water heating.

"(4) The Secretary may issue guidelines and criteria for grants awarded under this subsection. State energy offices receiving grants under this section shall maintain such records and evidence of compliance as the Secretary may require.

"(5) In allocating funds under this program, the Secretary shall give preference to States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and to State programs to stimulate or enhance innovative renewable energy technologies.

"(e) RULES.—The Secretary shall issue rules implementing this section not later than one year after the date of enactment of this section.

"(f) EXEMPTIONS.—This section shall not apply in any calendar year to an electric utility

"(1) that sold less than 4,000,000 megawatt-hours of electric energy to electric consumers during the preceding calendar year; or

"(2) in Hawaii.

"(g) INFLATION ADJUSTMENT.—Not later than December 31 of each year beginning in 2008, the Secretary shall adjust for inflation the price of a renewable energy credit under subsection (b)(2)(B) and the amount of the civil penalty per kilowatt-hour under subsection (c)(2).

"(h) STATE PROGRAMS.—Nothing in this section shall diminish any authority of a State or political subdivision thereof to adopt or enforce any law or regulation respecting renewable energy, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this section. The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term 'base amount of electricity' means the total amount of electricity sold by an electric utility to electric consumers in a calendar year, excluding—

"(A) electricity generated by a hydroelectric facility (except incremental hydropower); and

"(B) electricity generated through the incineration of municipal solid waste.

"(2) The term 'existing renewable energy' means, except as provided in paragraph (3)(B), electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section from solar, wind, ocean, current, wave, tidal or goethermal energy; biomass (as defined in section 504(b)); or landfill gas.

"(3) The term 'new renewable energy' means—

"(A) electric energy generated at a facility (including a distributed generation facility) placed in service on or after the date of enactment of this section from solar, wind, ocean, current, wave, tidal or geothermal energy; biomass (as defined in section 504(b)); landfill, gas; or incremental hydropower; and

"(B) for electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section—

"(i) the additional energy above the average generation in the 3 years preceding the date of enactment of this section at the facility from solar, wind, or ocean energy; biomass (as defined in section 504(b)); landfill gas or incremental hydropower.

"(ii) the incremental geothermal production.

"(4) The term 'distributed generation facility' means a facility at a customer site.

"(5) The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions made on or after the date of enactment of this section or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date. The term does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions. Efficiency improvements and capacity additions shall be measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission.

"(6) Geothermal Energy.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

"(7) Incremental Geothermal Production.—

"(A) In general.—The term'; incremental geothermal production' means for any year the excess of—

"(i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy, over

"(ii) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of enactment of this section after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

"(B) Special rule.—A facility described in subparagraph (A) which was placed in service at least 7 years before the date of enactment of this section shall commencing with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

"(j) Sunset.—This section expires on December 31, 2030.".

SA 1481. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, strike section 715 and insert the following:

SEC. 715. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Advanced truck stop electrification system.—The term "advanced truck stop electrification system" means a stationary and independent electrification system that delivers heat, air conditioning, electricity, communications, and other convenient services, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) Auxiliary power unit.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator of the Environmental Protection Agency under part 89 of title 40, Code of Federal Regulations (or successor regulations), as meeting applicable emission standards.

(4) Heavy-duty vehicle.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) Idle reduction technology.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or another device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) Long-duration idling.—

(A) In general.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) Exclusions.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) Idle Reduction Technology Benefits, Programs, and Studies.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) Deadline for completion.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) Discretionary inclusions.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) Idle reduction deployment program.—

(A) In general.—Not later than 90 days after the date of the enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.

(B) Authorization of appropriations.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out subparagraph (A).

(5) Idling location study.—

(A) In general.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Administrator, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) Deadline for completion.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) Vehicle Weight Exemption.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) Heavy-duty vehicles.—

"(A) In general.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) Maximum weight increase.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

"(C) Proof.—On request by a regulatory or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

SA 1482. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike the text starting on page 159, line 14, through page 165, line 14, and insert the following:

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Alternative Mandatory Conditions.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

"(A) provides no less protection for the reservation than provided by the condition deemed necessary by the Secretary; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production,

as compared to the condition deemed necessary by the Secretary.

"(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.".

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

"(A) will be no less effective than the fishway initially prescribed by the Secretary, and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially prescribed by the Secretary.

"(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.".

SA 1483. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike the text starting on page 159, line 14, through page 165, line 14, and insert the following:

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant or any party to the licensing proceeding, including States and Indian tribes, may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

"(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.".

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or any other party to the licensing proceeding, including States and Indian tribes, may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative fishway referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

"(A) will be no less effective than the fishway initially prescribed by the Secretary; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

"(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others."

SA 1484. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, insert the following:

SEC. 4 . WHISTLEBLOWER PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking "that is indemnified" and all that follows through "12344." and inserting "or the Commission; and"; and

(3) by adding at the end the following:

"(E) the Department of Energy and the Commission.".

(b) DE NOVO JUDICIAL DETERMINATION.—Section 211(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following:

"(4) DE NOVO JUDICIAL DETERMINATION.—If the Secretary does not issue a final decision within 180 days after the filing of a complaint under paragraph (1) and the Secretary does not show that the delay is caused by the bad faith of the claimant, the claimant may bring a civil action in United States district court for a determination of the claim by the court de novo.".

SA 1485. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, lines 14 and 15, strike "(ii) or (iii)" and insert "(ii), (iii), or (iv)".

On page 47, between lines 10 and 11, insert the following:

"(iv) if such vehicle is a 2-wheel electric cycle that has a vehicle identification number and meets all applicable Federal motor vehicle safety standards, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price, or

"(II) $200.

On page 48, between lines 18 and 19, insert the following:

(3) VEHICLES WITH LESS THAN 4 WHEELS.—Section 30(c)(2) is amended by striking "4" and inserting "2".

On page 40, line 7, after "30(c)(2)" insert ", except that '4 wheels' shall be substituted for '2 wheels'".

On page 58, line 16, after "30(c)(2)" insert ", except that '4 wheels' shall be substituted for '2 wheels'".

SA 1486. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XII—NATURAL GAS

SEC. 1201. REDUCTION OF DEPENDENCE ON NATURAL GAS.

(a) Report.—

(1) In general.—Not later than February 1, 2004, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing excessive dependence on natural gas by 2015 and 2025.

(2) Contents.—The report under paragraph (1) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to natural gas production and efficiency;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1);

(C) describe the progress in developing and implementing measures under subsection (b); and

(D) identify opportunities to reduce natural gas demand further through new legislative initiatives.

(b) Measures To Reduce Natural Gas Dependence Through Increased Efficiency and Conservation.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve natural gas in end uses (not including electrical generation) throughout the economy of the United States sufficient to reduce total end use demand for natural gas in the United States by at least 10 percent from the amount projected for calendar year 2015, and by at least 20 percent from the amount projected for 2025, in the reference case contained in the report of the Energy Information Administration entitled "Annual Energy Outlook 2003".

(2) Basis of calculations.—For the purpose of developing measures under paragraph (1), the President shall calculate levels of demand and demand reduction in such a manner as to account only for efficiency increases and conservation and not reflect changes caused by fuel switching to or from natural gas.

(3) Contents.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(4) Implementation.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 1487. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 32(d) of the Outer Continental Shelf Lands Act (as added by section 111), add the following:

"(5) Coastal impact assistance plans of coastal political subdivisions.—

"(A) In general.—A Coastal Impact Assistance Plan for the State of Louisiana shall include a coastal impact assistance plan developed by each coastal political subdivision in the State of Louisiana.

"(B) Approval.—In approving the plans of the coastal political subdivisions, the Governor of the State of Louisiana shall have the authority only to ensure that the proposed uses of funds that are included in the plans of the coastal political subdivisions are consistent with the authorized uses under subsection (e).

SA 1488. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division B, insert the following:

SEC. . QUALIFIED DUCT SEALING SERVICES AND QUALIFIED AIR INFILTRATION REDUCTION SERVICES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25D the following new section:

"SEC. 25E. QUALIFIED DUCT SEALING SERVICES AND QUALIFIED AIR INFILTRATION REDUCTION SERVICES.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the amount paid or incurred by the taxpayer for qualified duct sealing services or qualified air infiltration reduction services performed during such year.

"(b) Limitation.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year..

"(d) Qualified Duct Sealing Services; Qualified Air Infiltration Reduction Services.—For purposes of this section—

"(1) Qualified duct sealing services.—

"(A) In general.—The term 'qualified duct sealing services' means services which bring the duct system of a dwelling into compliance with the Energy Star Duct Specifications published by the Environmental Protection Agency if such service is performed with regard to a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

"(B) Certification required.—Services shall not be considered to be qualified duct sealing services unless the dwelling is determined to be not in compliance with such Energy Star Duct Specifications before such services and certified to be in compliance with such Energy Star Duct Specifications after such services.

"(2) Qualified air infiltration reduction services.—

"(A) In general.—The term 'qualified air infiltration reduction services' means services which bring the air infiltration of a dwelling into compliance with the infiltration requirements in the Energy Star Home Sealing Specifications published by the Environmental Protection Agency, if such service is performed with regard to a dwelling which—

"(i) is located in the United States,

"(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

"(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

"(B) Certification required.—Services shall not be considered to be qualified air infiltration reduction services unless the dwelling is determined to not be in compliance with such Energy Star Home Sealing Specifications before such services and is certified to be in compliance with such Energy Star Home Sealing Specifications after such services.

"(e) Certification.—

"(1) Methods of certification.—

"(A) Qualified duct sealing services.—The determination and certification described in paragraph (1) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Duct Specifications.

"(B) Qualified air infiltration reduction services.—The determination and certification described in paragraph (2) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Home Sealing Specifications.

"(2) Provider.—A determination or certification described in subsection (d) shall be provided by a State-licensed contractor.

"(3) Form.—A certification described in subsection (d) shall be made in writing on forms which provide test data on air infiltration and duct leakage, as appropriate, both before and after services are provided, provide a signed certification that all relevant aspects of the appropriate Environmental Protection Agency specifications have been met, and include a permanent label affixed to the electrical distribution panel of the dwelling.

"(f) Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for qualified duct sealing services or qualified air infiltration reduction services made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified duct sealing services or qualified air infiltration reduction services expenditures made by such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified duct sealing services or qualified air infiltration reduction services expenditures made by such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) TERMINATION.—Subsection (a) shall not apply to qualified duct sealing services or qualified air infiltration reduction services performed after December 31, 2005.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25E(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) DOLLAR AMOUNT.—The credit", and

(B) by adding at the end the following new paragraph:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25E(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "sections 25C and 25D" and inserting "sections 25C, 25D, and 25E".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25E," after "25D,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23, 25C, and 25D" and inserting "23, 25C, 25D, and 25E".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25E," after "sections 25D".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25E," after "25D,".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting "; and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25E(g), in the case of amounts with respect to which a credit has been allowed under section 25E.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "sections 25C and 25D" and inserting "sections 25C, 25D, and 25E".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Qualified duct sealing services and qualified air infiltration reduction services.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SA 1489. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division B, insert the following:

SEC. . REPLACEMENT NATURAL GAS OR PROPANE FURNACE OR BOILER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25D the following new section:

"SEC. 25E. REPLACEMENT NATURAL GAS OR PROPANE FURNACE OR BOILER.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the cost of each replacement natural gas or propane furnace or boiler installed by the taxpayer during the taxable year in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(b) LIMITATIONS.—The credit allowed under subsection (a) for any dwelling unit shall not exceed $300 over the aggregate cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) REPLACEMENT NATURAL GAS OR PROPANE FURNACE OR BOILER.—

"(1) IN GENERAL.—For purposes of this section, the term 'replacement natural gas furnace or boiler' means a natural gas or propane furnace or boiler which achieves at least 90 percent annual fuel utilization efficiency (AFUE) and replaces an existing natural gas or propane furnace or boiler which has an AFUE of less than 78 percent or which does not include a power burner or induced draft exhaust.

"(2) LABOR COSTS.—Labor costs properly allocable to the onsite preparation, assembly, or original installation of a replacement natural gas or propane furnace or boiler and for piping or wiring to interconnect such natural gas or propane furnace or boiler to the dwelling unit shall be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—No credit shall be allowed under subsection (a) to the extent that the property is paid for by subsidized energy financing (as defined in section 48(a)(5)(C)).

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(3) BASIS ADJUSTMENTS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

"(4) JOINT OCCUPANCY, HOUSING COOPERATIVES, ETC.—Rules similar to the rules of paragraphs (1), (2), (3), and (5) of section 25C(e) shall apply.

"(f) TERMINATION.—The credit allowed under this section shall not apply to replacement natural gas or propane furnaces or boilers installed after December 31, 2005.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25E(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) DOLLAR AMOUNT.—The credit", and

(B) by adding at the end the following new paragraph:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) Conforming amendments.—

(A) Section 25E(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(2)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "sections 25C and 25D" and inserting "sections 25C, 25D, and 25E".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25E," after "25D,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23, 25C, and 25D" and inserting "23, 25C, 25D, and 25E".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25D" and inserting "25D, and 25E".

(c) Additional Conforming Amendments.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25E," after "sections 25D".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25E," after "25D,".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting "; and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25E(e)(3), in the case of amounts with respect to which a credit has been allowed under section 25E.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "sections 25C and 25D" and inserting "sections 25C, 25D, and 25E".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Replacement natural gas or propane furnace or boiler.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of the enactment of this Act, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SA 1490. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, beginning on page 220, line 21, strike all through page 221, line 2, and insert the following:

(c) Extension and Expansion for Certain Fuel Produced at Existing Facilities.—

(1) Extension.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2007, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(2) Transferability of credit.—Section 29, as amended by subsection (a), is amended by adding the end the following new subsection:

"(i) Treatment of Persons Not Able To Use Entire Credit.—

"(1) Allowance of credit.—

"(A) In general.—Any credit allowable under subsection (a) with respect to any natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B) owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection and the determination as whether the credit allowable shall be made without regard to the tax-exempt status of the person.".

"(B) Persons described.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C) or subsidiaries of such organization,

"(iii) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(iv) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(2) Transfer of credit.—

"(A) In general.—A person described in paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (a) is assigned once and not reassigned by such other person.

"(C) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(4) Credit not income.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of this title.

"(5) Treatment of unrelated persons.—For purposes of subsection (a)(2)(A), sales of qualified fuels among and between persons described in paragraph (1)(B) shall be treated as sales between unrelated parties.".

SA 1491. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of division B, insert the following:

SEC. 210. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) Allowance of Qualifying Pollution Control Equipment Credit.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following new paragraph:

"(5) the qualifying pollution control equipment credit.".

(b) Amount of Qualifying Pollution Control Equipment Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following new section:

"SEC. 48B. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

"(b) Qualifying Pollution Control Equipment.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

"(c) Qualifying Facility.—For purposes of this section, the term 'qualifying facility' means any facility the exclusive use of which is for the production of ethanol.

"(d) Special Rule for Certain Subsidized Property.—Rules similar to section 48(a)(6) shall apply for purposes of this section.

"(e) Certain Qualified Progress Expenditures Rules Made Applicable.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.".

(c) Special Rule for Basis Reduction; Recapture of Credit.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by inserting "or qualifying pollution control equipment credit" after "reforestation credit".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 1492. Mr. DURBIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CONSUMER AND SMALL BUSINESS ENERGY COMMISSION.

(a) FINDINGS.—Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics;

(B) electricity price spikes during the California energy crisis of 2001; and

(C) the Midwest gasoline price spikes in spring 2001;

(3) shifts in energy regulation, including the allowance of greater flexibility in competition and trading, have affected price stability and consumers in ways that are not fully understood;

(4) price spikes undermine the ability of low-income families, the elderly, and small businesses (including farmers and other agricultural producers) to afford essential energy services and products;

(5) energy price spikes can exacerbate a weak economy by creating uncertainties that discourage investment, growth, and other activities that contribute to a strong economy;

(6) the Department of Energy has determined that the economy would be likely to perform better with stable or predictable energy prices;

(7) price spikes can be caused by many factors, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(8) consumers and small businesses have few options other than to pay higher energy costs when prices spike, resulting in reduced investment and slower economic growth and job creation;

(9) the effect of price spikes, and possible responses to price spikes, on consumers and small businesses should be examined; and

(10) studies have examined price spikes of specific energy products in specific contexts or for specific reasons, but no study has examined price spikes comprehensively with a focus on the impacts on consumers and small businesses.

(b) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term "consumer energy product" means—

(A) electricity;

(B) gasoline;

(C) home heating oil;

(D) natural gas; and

(E) propane.

(3) CONSUMER GROUP FOCUSING ON ENERGY ISSUES.—The term "consumer group focusing on energy issues" means—

(A) an organization that is a member of the National Association of State Utility Consumer Advocates;

(B) a nongovernmental organization representing the interests of residential energy consumers; and

(C) a nongovernmental organization that—

(i) receives not more than ¼ of its funding from energy industries; and

(ii) represent the interests of energy consumers.

(4) ENERGY CONSUMER.—The term "energy consumer" means an individual or small business that purchases 1 or more consumer energy products.

(5) ENERGY INDUSTRY.—The term "energy industry" means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(6) EXECUTIVE COMMITTEE.—The term "Executive Committee" means the executive committee of the Commission.

(7) SMALL BUSINESS.—The term "small business" has the meaning given the term "small business concern" in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) CONSUMER ENERGY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "Consumer and Small Business Energy Commission".

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Commission shall be comprised of 20 members.

(B) APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(i) 2 shall represent consumer groups focusing on energy issues;

(ii) 1 shall represent small businesses; and

(iii) 1 shall represent the energy industry.

(C) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 1 member from each of—

(i) the Energy Information Administration of the Department of Energy;

(ii) the Federal Energy Regulatory Commission;

(iii) the Federal Trade Commission; and

(iv) the Commodities Future Trading Commission.

(D) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(3) TERM.—A member shall be appointed for the life of the Commission.

(4) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(A) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(B) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(5) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under clauses (ii), (iii), and (iv) of paragraph (2)(C).

(6) EXECUTIVE COMMITTEE.—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under clauses (ii), (iii), and (iv) of paragraph (2)(C).

(7) INFORMATION AND ADMINISTRATIVE EXPENSES.—The Federal agencies specified in paragraph (2)(C) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(8) DUTIES.—

(A) STUDY.—

(i) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(ii) MATTERS TO BE STUDIED BY THE COMMISSION.—In conducting the study, the Commission shall—

(I) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(II) examine the effects of price spikes on consumers and small businesses;

(III) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(IV) consider—

(aa) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(bb) proposals for legislative action; and

(cc) proposals for voluntary actions by energy consumers and the energy industry.

(B) REPORT.—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(i) a detailed statement of the findings and conclusions of the Commission; and

(ii) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(9) TERMINATION.—

(A) DEFINITION OF LEGISLATIVE DAY.—In this subsection, the term "legislative day" means a day on which both Houses of Congress are in session.

(B) DATE OF TERMINATION.—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under paragraph (8)(B).

SA 1493. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, strike lines 13 and 14 and insert the following:

"(B) uses an input of at least 75 percent coal to produce 50 percent or more of its thermal output as electricity.

SA 1494. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes;

which was ordered to lie on the table; as follows:

Beginning on page 157, strike line 22 and all that follows through page 158, line 2, and insert the following:

(2) The term "renewable energy" means—

(A) electric energy generated from a solar, wind, biomass, geothermal, or municipal solid waste source;

(B) new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project; and

(C) hydroelectric energy generated at a hydroelectric facility that—

(i) is constructed and operated under an order of the Federal Energy Regulatory Commission issued before January 1, 2003;

(ii) is located at a federally owned dam; and

(iii) is placed in service on or after the date of enactment of this Act.

SA 1495. Mr. ROCKEFELLER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 218 of Division B, after line 23, insert the following:

"(6) FACILITIES PRODUCING COKE.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing coke which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) COKE.—For purposes of this paragraph, the term 'coke' means the residue from the destructive distillation of coal in coke ovens.

"(C) COVERED FACILITIES.—A facility is described in this paragraph if such facility qualifies as a new source under section 112 of the Clean Air Act (42 U.S.C. 7412).

On page 219, line 1, strike "(6)" and insert "(7)".

SA 1496. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, insert the following:

SEC. . OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS OF AN ELIGIBLE TAXPAYER FROM WIND ENERGY FACILITIES.

(a) IN GENERAL.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n) and by inserting after subsection (k) the following new subsection:

"(l) OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS FROM WIND ENERGY FACILITIES.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the portion of the passive activity loss, or the deduction equivalent (within the meaning of subsection (j)(5)) of the portion of the passive activity credit, for any taxable year which is attributable to all interests of an eligible taxpayer in qualified facilities described in section 45(c)(3)(A).

"(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer the adjusted gross income (taxable income in the case of a corporation) of which does not exceed $1,000,000.

"(B) RULES FOR COMPUTING ADJUSTED GROSS INCOME.—Adjusted gross income shall be computed in the same manner as under subsection (i)(3)(F).

"(C) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer for purposes of this paragraph.

"(D) PASS-THRU ENTITIES.—In the case of a pass-thru entity, this paragraph shall be applied at the level of the person to which the credit is allocated by the entity."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. . CREDIT FOR WIND ENERGY FACILITIES OF AN ELIGIBLE TAXPAYER ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULES FOR WIND ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of the wind energy credit of an eligible taxpayer—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the wind energy credit).

"(B) WIND ENERGY CREDIT.—For purposes of this subsection, the term 'wind energy credit' means the portion of the renewable electric production credit under section 45 determined with respect to a facility using wind to produce electricity.

"(C) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' has the meaning given such term by section 469(l)(2)."

(b) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, and subclause (II) of section 38(c)(5)(A)(ii), as added by this Act, are each amended by inserting "or wind energy credit" after "natural gas".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4. APPLICATION OF CREDIT TO COOPERATIVES.

(a) IN GENERAL.—Section 45(e), as redesignated and amended by this Act, (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) ALLOCATION OF CREDIT TO SHAREHOLDERS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned pro rata among shareholders of the organization on the basis of the capital contributions of the shareholders to the organization.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any shareholders under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of the shareholder with or within which the taxable year of the organization ends.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such shareholders under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 1497. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B, insert the following:

SEC. . FURTHER MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXTENSION OF PLACED IN SERVICE DATE.—

(1) IN GENERAL.—Section 45(c), as amended by this Act, is amended by striking "January 1, 2007" each place it appears and inserting "January 1, 2014".

(2) BIOMASS.—Paragraph (3)(A)(ii) of section 45(c), as amended by this Act, is amended by striking "January 1, 2005" and inserting "January 1, 2014".

(b) RESTORATION OF INFLATION ADJUSTMENT.—Section 45(b)(2), as amended by this Act, is amended by striking the last sentence.

(c) CREDIT ALLOWABLE FOR PRODUCTION OF HYDROGEN.—Section 45, as amended by this Act, is amended by inserting at the end the following new subsection:

"(f) HYDROGEN PRODUCED FROM RENEWABLE RESOURCES.—

"(1) IN GENERAL.—In the case of hydrogen produced from qualified energy sources at qualified facilities, subsection (a) shall be applied by substituting 'the hydrogen kilowatt hour equivalent unit' for 'the kilowatt hours of electricity' in paragraph (2).

"(2) HYDROGEN KILOWATT HOUR EQUIVALENT UNIT.—For purposes of this section, the term 'hydrogen kilowatt hour equivalent unit' means each measurement of hydrogen having the Btu equivalent of one kilowatt hour of electricity, as determined by the Secretary in consultation with the Secretary of Energy.".

(d) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the provisions of section 101 to which they relate.

(2) SUBSECTION (b).—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to hydrogen produced and sold after December 31, 2004, in taxable years ending after such date.

SA 1498. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title IX, add the following:

SEC. 9 . FEDERAL GOVERNMENT GREENHOUSE GAS EMISSIONS GOAL.

(a) ACTIONS.—Not later than January 1, 2004, the President shall take such actions as are necessary, including preparing and submitting to Congress any necessary statutory changes, to reduce the net greenhouse gas emissions of the Federal Government to 1990 levels by 2013, including steps to procure—

(1) only highly energy-efficient products, services, and facilities;

(2) electricity generated from renewable sources; and

(3) alternative fuel vehicles.

(b) REPORT.—The President shall direct the appropriate Federal agencies to study and submit to Congress, not later than July 1, 2005, a report on the most cost-effective policy options through which the Federal Government could reduce the net greenhouse gas emissions of the Federal Government to zero by 2025.

SA 1499. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, between lines 4 and 5, insert the following:

SEC. 97 . GLOBAL CLIMATE CHANGE RESEARCH AND DEVELOPMENT.

No later than July 1, 2004, the Chairman of the Council on Environmental Quality, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the National Aeronautic and Space Administration, and representatives of States, academic institutions, environmental groups, and the public, shall submit to Congress a report that includes—

(1) a definition of the term "dangerous anthropogenic interference with the climate system", as used in the United Nations Framework Convention on Climate Change; and

(2) a description of each of the specific elements of the global climate change research and development activities of the United States that are directed at detecting and averting that interference.

SA 1500. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title IX, add the following:

SEC. 9 . CLIMATE CHANGE IN ENVIRONMENTAL IMPACT STATEMENTS.

In any case in which a Federal agency prepares an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Federal agency shall consider and evaluate—

(1) the impact that the Federal action or project necessitating the statement or analysis will have in terms of net changes in greenhouse gas emissions; and

(2) how climate changes may affect the action or project in the short term and the long term.

SA 1501. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title IX, add the following:

SEC. 9 . GRANTS FOR REDUCTION OF GREENHOUSE GAS EMISSIONS.

(a) IN GENERAL.—The President, acting through the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, may provide grants to States or local governments for the purpose of—

(1) preparing, completing, or operating greenhouse gas data collection, inventory, or trading systems;

(2) implementing greenhouse gas emission reduction or sequestration projects, including programs conducted jointly with industry or nonprofit organizations; and

(3) conducting research, long-term planning, and modeling efforts intended to reduce net greenhouse gas emissions in the United States through sustainable economic development.

(b) SET ASIDE FOR MOST EFFECTIVE PROJECTS.—For each fiscal year, 50 percent of the grant funds awarded under subsection (a) shall be awarded competitively for projects that will reduce net greenhouse gas emissions—

(1) in the greatest quantity;

(2) most rapidly; and

(3) with the greatest degree of permanence.

(c) ANNUAL REPORTING BY GRANT RECIPIENTS.—As a condition of receipt of a grant under this section, each recipient shall submit to the Federal agency that provided the grant an annual report on the extent to which the emission reductions that were anticipated in the application for the grant have occurred.

(d) ANNUAL SUMMARY.—The President shall annually compile and publish in the Federal Register a summary of—

(1) the grants made under this section; and

(2) the net emission reductions due to the activities assisted with the grants.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000,000 for each fiscal year.

SA 1502. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —GREENHOUSE GAS EMISSIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "National Greenhouse Gas Emissions Inventory and Registry Act of 2003".

SEC. 02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) human activities have caused rapid increases in atmospheric concentrations of carbon dioxide and other greenhouse gases in the last century;

(2) according to the Intergovernmental Panel on Climate Change and the National Research Council—

(A) the Earth has warmed in the last century; and

(B) the majority of the observed warming is attributable to human activities;

(3) despite the fact that many uncertainties in climate science remain, the potential impacts from human-induced climate change pose a substantial risk that should be managed in a responsible manner; and

(4) to begin to manage climate change risks, public and private entities will need a comprehensive, accurate inventory, registry, and information system of the sources and quantities of United States greenhouse gas emissions.

(b) PURPOSE.—The purpose of this title is to establish a mandatory greenhouse gas inventory, registry, and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies;

(3) will encourage greenhouse gas emission reductions; and

(4) can be used to establish a baseline in the event of any future greenhouse gas emission reduction requirements affecting major emitters in the United States.

SEC. 03. GREENHOUSE GAS EMISSIONS.

The Clean Air Act (42 U.S.C. 1701 et seq.) is amended by adding at the end the following:

"TITLE VII—GREENHOUSE GAS EMISSIONS

"SEC. 701. DEFINITIONS.

"In this title:

"(1) COVERED ENTITY.—The term 'covered entity' means an entity that emits more than a threshold quantity of greenhouse gas emissions.

"(2) DIRECT EMISSIONS.—The term 'direct emissions' means greenhouse gas emissions from a source that is owned or controlled by an entity.

"(3) ENTITY.—The term 'entity' includes a firm, a corporation, an association, a partnership, and a Federal agency.

"(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) hydrofluorocarbons;

"(E) perfluorocarbons; and

"(F) sulfur hexafluoride.

"(5) GREENHOUSE GAS EMISSIONS.—The term 'greenhouse gas emissions' means emissions of a greenhouse gas, including—

"(A) stationary combustion source emissions, which are emitted as a result of combustion of fuels in stationary equipment such as boilers, furnaces, burners, turbines, heaters, incinerators, engines, flares, and other similar sources;

“(B) process emissions, which consist of emissions from chemical or physical processes other than combustion;

“(C) fugitive emissions, which consist of intentional and unintentional emissions from—

“(i) equipment leaks such as joints, seals, packing, and gaskets; and

“(ii) piles, pits, cooling towers, and other similar sources; and

“(D) mobile source emissions, which are emitted as a result of combustion of fuels in transportation equipment such as automobiles, trucks, trains, airplanes, and vessels.

“(6) GREENHOUSE GAS EMISSIONS RECORD.—The term ‘greenhouse gas emissions record’ means all of the historical greenhouse gas emissions and project reduction data submitted by an entity under this title, including any adjustments to such data under section 704(c).

“(7) GREENHOUSE GAS REPORT.—The term ‘greenhouse gas report’ means an annual list of the greenhouse gas emissions of an entity and the sources of those emissions.

“(8) INDIRECT EMISSIONS.—The term ‘indirect emissions’ means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from sources owned or controlled by another entity.

“(9) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—The term ‘national greenhouse gas emissions information system’ means the information system established under section 702(a).

“(10) NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.—The term ‘national greenhouse gas emissions inventory’ means the national inventory of greenhouse gas emissions established under section 705.

“(11) NATIONAL GREENHOUSE GAS REGISTRY.—The term ‘national greenhouse gas registry’ means the national greenhouse gas registry established under section 703(a).

“(12) PROJECT REDUCTION.—The term ‘project reduction’ means—

“(A) a greenhouse gas emission reduction achieved by carrying out a greenhouse gas emission reduction project; and

“(B) sequestration achieved by carrying out a sequestration project.

“(13) REPORTING ENTITY.—The term ‘reporting entity’ means an entity that reports to the Administrator under subsection (a) or (b) of section 704.

“(14) SEQUESTRATION.—The term ‘sequestration’ means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

“(15) THRESHOLD QUANTITY.—The term ‘threshold quantity’ means a threshold quantity for mandatory greenhouse gas reporting established by the Administrator under section 704(a)(3).

“(16) VERIFICATION.—The term ‘verification’ means the objective and independent assessment of whether a greenhouse gas report submitted by a reporting entity accurately reflects the greenhouse gas impact of the reporting entity.

“SEC. 702. NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.

“(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas emissions information system to collect information reported under section 704(a).

“(b) SUBMISSION TO CONGRESS OF DRAFT DESIGN.—Not later than 180 days after the date of enactment of this title, the Administrator shall submit to Congress a draft design of the national greenhouse gas emissions information system.

“(c) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas emissions information system through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

“(d) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the extent practicable, the Administrator shall ensure coordination between the national greenhouse gas emissions information system and existing and developing Federal, regional, and State greenhouse gas registries.

“(e) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the extent practicable, the Administrator shall integrate information in the national greenhouse gas emissions information system with other environmental information managed by the Administrator.

“SEC. 703. NATIONAL GREENHOUSE GAS REGISTRY.

“(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas registry to collect information reported under section 704(b).

“(b) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas registry through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

“(c) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the maximum extent feasible and practicable, the Administrator shall ensure coordination between the national greenhouse gas registry and existing and developing Federal, regional, and State greenhouse gas registries.

“(d) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the maximum extent practicable, the Administrator shall integrate all information in the national greenhouse gas registry with other environmental information collected by the Administrator.

“SEC. 704. REPORTING.

“(a) MANDATORY REPORTING TO NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—

“(1) INITIAL REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—Not later than April 30, 2004, in accordance with this paragraph and the regulations promulgated under section 706(e)(1), each covered entity shall submit to the Administrator, for inclusion in the national greenhouse gas emissions information system, the greenhouse gas report of the covered entity with respect to—

“(i) calendar year 2003; and

“(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

“(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A)—

“(i) shall include estimates of direct stationary combustion source emissions;

“(ii) shall express greenhouse gas emissions in metric tons of the carbon dioxide equivalent of each greenhouse gas emitted;

“(iii) shall specify the sources of greenhouse gas emissions that are included in the greenhouse gas report;

“(iv) shall be reported on an entity-wide basis and on a facility-wide basis; and

“(v) to the maximum extent practicable, shall be reported electronically to the Administrator in such form as the Administrator may require.

“(C) METHOD OF REPORTING OF ENTITY-WIDE EMISSIONS.—Under subparagraph (B)(iv), entity-wide emissions shall be reported on the bases of financial control and equity share in a manner consistent with the financial reporting practices of the covered entity.

“(2) FINAL REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—Not later than April 30, 2005, and each April 30 thereafter (except as provided in subparagraph (B)(vii)), in accordance with this paragraph and the regulations promulgated under section 706(e)(2), each covered entity shall submit to the Administrator the greenhouse gas report of the covered entity with respect to—

“(i) the preceding calendar year; and

“(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

“(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A) shall include—

“(i) the required elements specified in paragraph (1);

“(ii) estimates of indirect emissions from imported electricity, heat, and steam;

“(iii) estimates of process emissions described in section 701(5)(B);

“(iv) estimates of fugitive emissions described in section 701(5)(C);

“(v) estimates of mobile source emissions described in section 701(5)(D), in such form as the Administrator may require;

“(vi) in the case of a covered entity that is a forest product entity, estimates of direct stationary source emissions, including emissions resulting from combustion of biomass;

“(vii) in the case of a covered entity that owns more than 250,000 acres of timberland, estimates, by State, of the timber and carbon stocks of the covered entity, which estimates shall be updated every 5 years; and

“(viii) a description of any adjustments to the greenhouse gas emissions record of the covered entity under subsection (c).

“(3) ESTABLISHMENT OF THRESHOLD QUANTITIES.—For the purpose of reporting under this subsection, the Administrator shall establish threshold quantities of emissions for each combination of a source and a greenhouse gas that is subject to the mandatory reporting requirements under this subsection.

“(b) VOLUNTARY REPORTING TO NATIONAL GREENHOUSE GAS REGISTRY.—

“(1) IN GENERAL.—Not later than April 30, 2004, and each April 30 thereafter, in accordance with this subsection and the regulations promulgated under section 706(f), an entity may voluntarily report to the Administrator, for inclusion in the national greenhouse gas registry, with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

“(A) project reductions;

“(B) transfers of project reductions to and from any other entity;

"(C) project reductions and transfers of project reductions outside the United States;

"(D) indirect emissions that are not required to be reported under subsection (a)(2)(B)(ii) (such as product transport, waste disposal, product substitution, travel, and employee commuting); and

"(E) product use phase emissions.

"(2) TYPES OF ACTIVITIES.—Under paragraph (1), an entity may report activities that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

"(A) fuel switching;

"(B) energy efficiency improvements;

"(C) use of renewable energy;

"(D) use of combined heat and power systems;

"(E) management of cropland, grassland, and grazing land;

"(F) forestry activities that increase carbon stocks;

"(G) carbon capture and storage;

"(H) methane recovery; and

"(I) carbon offset investments.

"(c) ADJUSTMENT FACTORS.—

"(1) IN GENERAL.—Each reporting entity shall adjust the greenhouse gas emissions record of the reporting entity in accordance with this subsection.

"(2) SIGNIFICANT STRUCTURAL CHANGES.—

"(A) IN GENERAL.—A reporting entity that experiences a significant structural change in the organization of the reporting entity (such as a merger, major acquisition, or divestiture) shall adjust its greenhouse gas emissions record for preceding years so as to maintain year-to-year comparability.

"(B) MID-YEAR CHANGES.—In the case of a reporting entity that experiences a significant structural change described in subparagraph (A) during the middle of a year, the greenhouse gas emissions record of the reporting entity for preceding years shall be adjusted on a pro-rata basis.

"(3) CALCULATION CHANGES AND ERRORS.—The greenhouse gas emissions record of a reporting entity for preceding years shall be adjusted for—

"(A) changes in calculation methodologies; or

"(B) errors that significantly affect the quantity of greenhouse gases in the greenhouse gas emissions record.

"(4) ORGANIZATIONAL GROWTH OR DECLINE.—The greenhouse gas emissions record of a reporting entity for preceding years shall not be adjusted for any organizational growth or decline of the reporting entity such as—

"(A) an increase or decrease in production output;

"(B) a change in product mix;

"(C) a plant closure; and

"(D) the opening of a new plant.

"(5) EXPLANATIONS OF ADJUSTMENTS.—A reporting entity shall explain, in a statement included in the greenhouse gas report of the reporting entity for a year—

"(A) any significant adjustment in the greenhouse gas emissions record of the reporting entity; and

"(B) any significant change between the greenhouse gas emissions record for the preceding year and the greenhouse gas emissions reported for the current year.

"(d) QUANTIFICATION AND VERIFICATION PROTOCOLS AND TOOLS.—

"(1) IN GENERAL.—The Administrator and the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly work with the States, the private sector, and nongovernmental organizations to develop—

"(A) protocols for quantification and verification of greenhouse gas emissions;

"(B) electronic methods for quantification and reporting of greenhouse gas emissions; and

"(C) greenhouse gas accounting and reporting standards.

"(2) BEST PRACTICES.—The protocols and methods developed under paragraph (1) shall conform, to the maximum extent practicable, to the best practice protocols that have the greatest support of experts in the field.

"(3) INCORPORATION INTO REGULATIONS.—The Administrator shall incorporate the protocols developed under paragraph (1)(A) into the regulations promulgated under section 706.

"(4) OUTREACH PROGRAM.—The Administrator, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly conduct an outreach program to provide information to all reporting entities and the public on the protocols and methods developed under this subsection.

"(e) VERIFICATION.—

"(1) PROVISION OF INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Administrator to verify, in accordance with greenhouse gas accounting and reporting standards developed under subsection (d)(1)(C), that the greenhouse gas report of the reporting entity—

"(A) has been accurately reported; and

"(B) in the case of each project reduction, represents actual reductions in greenhouse gas emissions or actual increases in net sequestration, as applicable.

"(2) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

"(A) obtain independent third-party verification; and

"(B) present the results of the third-party verification to the Administrator for consideration by the Administrator in carrying out paragraph (1).

"(f) ENFORCEMENT.—The Administrator may bring a civil action in United States district court against a covered entity that fails to comply with subsection (a), or a regulation promulgated under section 706(e), to impose a civil penalty of not more than $25,000 for each day that the failure to comply continues.

"SEC. 705. NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.

"Not later than April 30, 2004, and each April 30 thereafter, the Administrator shall publish a national greenhouse gas emissions inventory that includes—

"(1) comprehensive estimates of the quantity of United States greenhouse gas emissions for the second preceding calendar year, including—

"(A) for each greenhouse gas, an estimate of the quantity of emissions contributed by each key source category;

"(B) a detailed analysis of trends in the quantity, composition, and sources of United States greenhouse gas emissions; and

"(C) a detailed explanation of the methodology used in developing the national greenhouse gas emissions inventory; and

"(2) a detailed analysis of the information reported to the national greenhouse gas emissions information system and the national greenhouse gas registry.

"SEC. 706. REGULATIONS.

"(a) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out this title.

"(b) BEST PRACTICES.—In developing regulations under this section, the Administrator shall seek to leverage leading protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions.

"(c) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas emissions information system.

"(d) NATIONAL GREENHOUSE GAS REGISTRY.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas registry.

"(e) MANDATORY REPORTING REQUIREMENTS.—

"(1) INITIAL REPORTING REQUIREMENTS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the initial mandatory reporting requirements under section 704(a)(1).

"(2) FINAL REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Administrator shall promulgate such regulations as are necessary to implement the final mandatory reporting requirements under section 704(a)(2).

"(f) VOLUNTARY REPORTING PROVISIONS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations and issue such guidance as are necessary to implement the voluntary reporting provisions under section 704(b).

"(g) ADJUSTMENT FACTORS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the adjustment factors under section 704(c).".

SA 1503. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, between lines 4 and 5, insert the following:

SEC. 97 . REPORT ON COSTS TO HUMAN HEALTH AND THE ENVIRONMENT OF EXTRACTION, PRODUCTION, CONSUMPTION, AND USE OF PRIMARY ENERGY RESOURCES.

(a) DEFINITIONS.—In this section:

(1) COSTS TO HUMAN HEALTH AND THE ENVIRONMENT.—The term "costs to human health and the environment" includes costs of air pollution, global warming, water pollution, toxic contamination, morbidity, and transgenerational effects.

(2) PRIMARY ENERGY RESOURCE.—The term "primary energy resource" includes a fossil fuel, nuclear energy, a renewable energy source, and electricity.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy, after consultation with the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences under which the Academy shall complete and submit to Congress, not later than 2 years after the date of enactment of this Act, a report that describes and, to the maximum extent practicable, quantifies, the costs to human health and the environment in the United States of the extraction, production, consumption, and use of primary energy resources that, as of the date of enactment of this Act, are not reflected in retail prices paid by consumers for the primary energy resources.

SA 1504. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 327, between lines 14 and 15, insert the following:

SEC. 936. ASSISTANCE FOR ENERGY RESEARCH, ASSESSMENT, AND DEVELOPMENT.

The Secretary of Energy shall provide $3,500,000 for fiscal year 2004 and $5,000,000 for each of fiscal years 2005 and 2006, for use in carrying out research, assessment, and development activities (including the procurement of necessary research equipment) relating to—

(1) woody-lignocellulosic biomass;

(2) biotechnically produced and stored hydrogen; and

(3) bioproduct and sustainable industrial chemical research and development.

SA 1505. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VI, add the following:

SEC. 6 . MANHATTAN PROJECT FOR ENERGY INDEPENDENCE.

(a) Findings.—Congress finds that—

(1) the welfare and security of the United States require that adequate provision be made for activities relating to the development of energy-efficient technologies; and

(2) those activities should be the responsibility of, and should be directed by, an independent establishment exercising control over activities relating to the development and promotion of energy-efficient technologies sponsored by the United States.

(b) Purpose.—The purpose of this section is to establish the Energy Efficiency Development Administration to develop technologies to increase energy efficiency and to reduce the demand for energy.

(c) Definitions.—In this section:

(1) Administration.—The term "Administration" means the Energy Efficiency Development Administration established by subsection (d)(1).

(2) Administrator.—The term "Administrator" means the head of the Administration appointed under subsection (d)(3)(A).

(3) Advisory committee.—The term "Advisory Committee" means the Policy Advisory Committee established by subsection (f)(1)(A).

(4) Energy-efficient technology activity.—

(A) In general.—The term "energy-efficient technology activity" means an activity that improves the energy efficiency of any sector of the economy, including the transportation, building design, electrical generation, appliance, and power transmission sectors.

(B) Inclusion.—The term "energy-efficient technology activity" includes an activity that produces energy from a sustainable biomass, wind, small-scale hydroelectric, solar, geothermal, or other renewable source.

(d) Energy Efficiency Development Administration.—

(1) Establishment.—There is established as an independent establishment in the executive branch the Energy Efficiency Development Administration.

(2) Mission.—The mission of the Administration shall be to reduce United States imports of oil by—

(A) 5 percent by 2007;

(B) 20 percent by 2010; and

(C) 50 percent by 2014.

(3) Administrator; deputy administrator.—

(A) Administrator.—

(i) Appointment.—The Administration shall be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(ii) Pay.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Energy Efficiency Development Administration.".

(iii) Duties.—The Administrator shall—

(I) exercise all powers and perform all duties of the Administration; and

(II) have authority over all personnel and activities of the Administration.

(iv) Limitation on rulemaking authority.—The Administrator shall not modify any energy-efficiency standards or related standards in effect on the date of enactment of this Act that would result in the reduction of energy efficiency in any product.

(B) Deputy administrator.—

(i) Appointment.—There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

(ii) Pay.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Administrator, Energy Efficiency Development Administration.".

(iii) Duties.—The Deputy Administrator shall—

(I) supervise the project development and engineering activities of the Administration;

(II) exercise such other powers and perform such duties as the Administrator may prescribe; and

(III) act for, and exercise the powers of, the Administrator during the absence or disability of the Administrator.

(4) Transfer of functions.—

(A) Definition of function.—In this paragraph, the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(B) Transfer of functions.—

(i) In general.—There are transferred to the Administrator—

(I) all functions previously exercised by the Assistant Secretary of Energy for Efficiency and Renewable Energy; and

(II) any authority to promulgate regulations relating to fuel efficiency previously exercised by the Secretary of Transportation.

(ii) Inclusions.—Functions transferred under clause (i) include all real and personal property, personnel funds, and records of the Office of Energy Efficiency and Renewable Energy of the Department of Energy.

(iii) Determination of functions.—The Director of the Office of Management and Budget shall determine the functions that are transferred under clause (i).

(C) Presidential transfers.—

(i) In general.—The President, until the date that is 4 years after the date of enactment of this Act, may transfer to the Administrator—

(I) any function of any other department or agency of the United States, or of any officer or organizational entity of any department or agency, that relates primarily to the duties of the Administrator under this section; and

(II) any records, property, personnel, and funds that are necessary to carry out that function.

(ii) Reports.—The President shall submit to Congress a report that describes the nature and effect of any transfer made under clause (i).

(D) Abolishment of office.—The Office of Energy Efficiency and Renewable Energy of the Department of Energy is abolished.

(5) Duties.—

(A) In general.—The Administrator shall—

(i) plan, direct, and conduct energy-efficient technology activities; and

(ii) provide for the widest appropriate dissemination of information concerning the activities of the Administration and the results of those activities.

(B) Objectives.—The energy-efficient technology activities of the United States carried out from the Administrator or carried out with financial assistance by the Administrator shall be conducted so as to contribute significantly to 1 or more of the following objectives:

(i) Expansion of knowledge about energy-efficient technologies and the use of those technologies.

(ii) Improvement of existing energy-efficient technologies or development of new energy-efficient technologies.

(iii) Identification of mechanisms to introduce energy-efficient technologies into the marketplace.

(iv) Conduct of studies of—

(I) the potential benefits gained, such as environmental protection, increasing energy independence, and reducing costs to consumers; and

(II) the problems involved in the development and use of energy-efficient technologies.

(v) The most effective use of the scientific resources of the United States, with close cooperation among all interested agencies of the United States so as to avoid duplication of effort, facilities, and equipment.

(e) Powers.—The Administrator shall—

(1) not later than 180 days after the date of enactment of this Act, submit to Congress a personnel plan for the Administration that—

(A) specifies the initial number and qualifications of employees needed for the Administration;

(B) describes the functions and General Service classification and pay rates of the initial employees; and

(C) specifies how the Administrator will adhere to or deviate from the civil service system;

(2) appoint and fix the compensation of such officers and employees as are necessary to carry out the functions of the Administration;

(3) establish the entrance grade for scientific personnel without previous service in the Federal Government at a level up to 2 grades higher than the grade provided for such personnel in the General Schedule (within the meaning of section 5104 of title 5, United States Code) and fix the compensation of the personnel accordingly, as the Administrator considers necessary to recruit specially qualified scientific, environmental, and industry-related expertise;

(4) acquire, construct, improve, repair, operate, and maintain such laboratories, research and testing sites and facilities, and such other real and personal property or interests in real and personal property, as the Administrator determines to be necessary for the performance of the functions of the Administration;

(5) enter into and perform such contracts, leases, cooperative agreements, or other

transactions as are necessary in the performance of the duties of the Administrator with any—

(A) agency or instrumentality of the United States;

(B) State, Territory, or possession;

(C) political subdivision of any State, Territory, or possession; or

(D) person, firm, association, corporation, or educational institution;

(6)(A) with the consent of Federal and other agencies, with or without reimbursement, use the services, equipment, personnel, and facilities of those agencies; and

(B) cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities; and

(7) establish within the Administration such offices and procedures as the Administrator considers appropriate to provide for the greatest possible coordination of the activities of the Administration with related scientific and other activities of other public and private agencies and organizations.

(f) ORGANIZATIONAL STRUCTURE.—

(1) POLICY ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established in the Administration a Policy Advisory Committee.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Advisory Committee shall be composed of 12 members, of whom—

(I) 4 members shall be representatives of the energy efficiency and environmental protection community;

(II) 4 members shall be representatives of—

(aa) industries involved in the generation, transmission, or distribution of energy products; or

(bb) the transportation industry; and

(III) 4 members shall be representatives of the scientific and university research community.

(ii) APPOINTMENT.—The Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate shall each appoint 1 member described in subclauses (I), (II), and (III) of clause (i).

(C) DUTIES.—The Advisory Committee shall—

(i) act as a steering committee for the Administration; and

(ii) formulate a long-term strategy for—

(I) achieving the mission of the Administration under subsection (d)(2); and

(II) identifying energy-efficient technologies and initiatives that—

(aa) have the potential to increase energy efficiency over the long term; and

(bb) should be further explored by the Administration.

(D) STAFF.—The Advisory Committee may appoint not more than 24 employees to assist in carrying out the duties of the Advisory Committee, of whom—

(i) 8 shall report to the members appointed under subparagraph (B)(i)(I);

(ii) 8 shall report to the members appointed under subparagraph (B)(i)(II); and

(iii) 8 shall report to the members appointed under subparagraph (B)(i)(III).

(E) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Committee.

(2) OFFICE OF ADMINISTRATION.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Administration.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—The head of the Office of Administration shall be an Assistant Deputy Administrator for Administration, to be appointed by the Administrator.

(C) PUBLIC INFORMATION DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration a Public Information Division.

(ii) DUTIES.—The Public Information Division shall serve as a liaison between the Administration, the public, and other entities.

(D) ENERGY EFFICIENCY ECONOMICS DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Energy Efficiency Economics Division.

(ii) STAFF.—The Energy Efficiency Economics Division shall be composed of economists and individuals with expertise in energy markets, consumer behavior, and the economic impacts of energy policy

(iii) DUTIES.—The Energy Efficiency Economics Division shall study the effects of existing and proposed energy-efficient technologies on the economy of the United States, with an emphasis on assessing—

(I) the impacts of those technologies on consumers; and

(II) the contributions of those technologies on the economic development of the United States.

(E) INCENTIVES DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Incentives Division.

(ii) DUTIES.—The Incentives Division shall—

(I) conduct a study of economic incentives that would assist the Administration in—

(aa) developing energy-efficient technologies; and

(bb) introducing those technologies into the marketplace; and

(II) submit to Congress a report on the results of the study conducted under subclause (I).

(F) EDUCATION DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Education Division.

(ii) DUTIES.—The Education Division shall provide—

(I) to the public, information concerning—

(aa) how to conserve energy, including—

(AA) what type of products are energy-efficient; and

(BB) where such products may be purchased; and

(bb) the importance of conserving energy; and

(II) provide to building owners, engineers, contractors, and other businesspersons training in energy-efficient technologies.

(G) LEGISLATIVE COUNSEL DIVISION.—There is established in the Office of Administration a Legislative Counsel Division to provide legal assistance to the Administrator.

(3) OFFICE OF POLICY, RESEARCH, AND DEVELOPMENT.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Policy, Research, and Development to establish the organizational structure of the Administration relating to the project development and engineering activities of the Administration.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—The head of the Office of Policy, Research, and Development shall be an Assistant Deputy Administrator for Policy, Research, and Development, to be appointed by the Administrator.

(C) POWERS.—In establishing the organizational structure under subparagraph (A), the Office of Policy, Research, and Development may—

(i) incorporate a flat organizational structure comprised of project-based teams;

(ii) focus on accelerating the development of energy-efficient technologies during the period from fundamental research to implementation;

(iii) coordinate with the private sector; and

(iv) adopt organizational models used by other Federal agencies conducting advanced research.

(4) OFFICE OF VENTURE CAPITAL.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Venture Capital.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—The head of the Office of Venture Capital shall be an Assistant Deputy Administrator for Venture Capital, to be appointed by the Administrator.

(C) DUTIES.—The Office of Venture Capital shall—

(i) accept applications from companies requesting financial assistance for energy-efficient technology proposals;

(ii) accept recommendations and input from the Deputy Administrator and the Policy Advisory Committee on applications submitted under clause (i); and

(iii) from among the applications submitted under clause (i), award financial assistance to applicants to carry out the proposals that are most likely to improve energy efficiency.

(g) INITIAL TECHNOLOGY SOLICITATIONS.—

(1) IN GENERAL.—The Administrator may, based on the criteria described in paragraph (2), initiate the development of technologies for—

(A) fuel-efficient tires;

(B) construction of a hydrogen infrastructure;

(C) high-temperature superconducting cable;

(D) improved switches, resistors, capacitors, software and smart meters for electrical transmission systems;

(E) combined heat and power;

(F) micro turbines;

(G) fuel cells;

(H) energy-efficient lighting;

(I) energy efficiency training for building contractors;

(J) retrofitting or rehabilitation of existing structures to incorporate energy-efficient technologies; and

(K) efficient micro-channel heat exchangers.

(2) CRITERIA.—In determining which technologies to develop under paragraph (1), the Administrator shall consider—

(A) the current status of development of the technology;

(B) the potential for widespread use of the technology in commercial markets;

(C) the time and costs of efforts needed to bring the technology to full implementation; and

(D) the potential of the technology to contribute to the goals of the Administration.

(3) REPORT.—As soon as practicable after the date of enactment of this Act, but not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report that—

(A) assesses the potential for the technologies described in paragraph (1) to contribute to the goals of the Administration; and

(B) describes the plans of the Administration to develop the technologies under paragraph (1).

(h) REPORTS.—

(1) BY THE ADMINISTRATOR.—Semiannually and at such other times as the Administrator considers appropriate, the Administrator shall submit to the President a report

that describes the activities and accomplishments of the Administration.

(2) BY THE PRESIDENT.—In January of each year, the President shall submit to Congress a report that includes—

(A) a description of the activities and accomplishments of all agencies of the United States in the field of energy efficiency during the preceding calendar year;

(B) an evaluation of the activities and accomplishments of the Administrator in attaining the objectives of this section; and

(C) such recommendations for additional legislation as the Administrator or the President considers appropriate for the attainment of the objectives described in this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $5,000,000,000 for fiscal year 2004;

(2) $6,000,000,000 for fiscal year 2005;

(3) $7,500,000,000 for each of fiscal years 2006 and 2007;

(4) $9,000,000,000 for each of fiscal years 2008 and 2009; and

(5) $10,000,000,000 for each of fiscal years 2010 through 2014.

SA 1506. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, add the following:

SEC. 4 . PLAN FOR TRANSFER OF WESTERN NEW YORK SERVICE CENTER.

Not later than the date that is 1 year after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the President of the New York State Energy Research and Development Authority, develop and submit to Congress a plan for the transfer to the Secretary of Energy of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center, West Valley, New York.

SA 1507. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 15 and 16, insert the following:

Subtitle D—Preservation of Availability of Natural Gas-Base Liquefiable Hydrocarbon Supplies in Concert With Pipeline Operational Safety and Environmental Protection

SEC. 151. NATURAL GAS LIQUIDS.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) DEPENDENT INDUSTRY.—

(A) IN GENERAL.—The term "dependent industry" means an industry that is dependent on receiving supplies of liquefiable hydrocarbons transported in interstate commerce.

(B) INCLUSIONS.—The term "dependent industry" includes—

(i) the petrochemical industry, with respect to ethane and other natural gas-based feedstocks;

(ii) the propane-butane distribution industry, with respect to propane and propane-butane mixes delivered to residential and agricultural users for use in heating; and

(iii) the refining-blending industry, with respect to the manufacture of gasoline and other motor fuels.

(3) LIQUEFIABLE HYDROCARBON.—

(A) IN GENERAL.—The term "liquefiable hydrocarbon" means a hydrocarbon in natural gas that is capable of being separated from the natural gas through—

(i) absorption;

(ii) condensation;

(iii) adsorption; or

(iv) any other method of separation used in a natural gas processing or cycling facility.

(B) INCLUSIONS.—The term "liquefiable hydrocarbon" includes—

(i) ethane;

(ii) propane;

(iii) butane; and

(iv) a heavier hydrocarbon that is commonly referred to as a condensate, natural gasoline, or liquefied petroleum gas.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Commission shall promulgate regulations applicable to the transportation of natural gas in interstate commerce that require the extraction from natural gas streams of liquefiable hydrocarbons in quantities that are sufficient—

(A) to protect against the formation of liquids in downstream delivery systems for natural gas that interfere with the safe and efficient operation of those delivery systems; and

(B) to ensure the availability of historical levels of the extracted liquefiable hydrocarbons to dependent industries.

(2) REQUIREMENTS.—The regulations promulgated under this subsection may be structured—

(A) to require the extraction of excess liquefiable hydrocarbons from a natural gas stream before receipt of the natural gas by an interstate transporter of natural gas; or

(B) to permit the extraction to occur at 1 or more processing plants that are located—

(i) on the delivery system for the natural gas; and

(ii) downstream of the point of receipt of the natural gas by the interstate transporter.

(3) PROTECTION FROM ECONOMIC LOSS.—To the maximum extent practicable, the Commission shall, in accordance with regulations promulgated under this subsection, provide for the protection of a transporter of natural gas described in paragraph (2) from any economic loss suffered by the transporter as a result of the requirement that the natural gas stream of the transporter be subject to the extraction of excess liquefiable hydrocarbons described in paragraph (2).

SA 1508. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165, between lines 14 and 15, insert the following:

SEC. 5 . REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696.

(a) DEFINITIONS.—

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) TOWN.—The term "town" means the town of Stuyvesant, New York, the holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787.

(b) REINSTATEMENT AND TRANSFER.—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision of that Act, the Commission shall, not later than 30 days after the date of enactment of this Act—

(1) reinstate the license for Project No. 2696; and

(2) transfer the license to the town.

(c) HYDROELECTRIC INCENTIVES.—Project No. 2696 shall be entitled to the full benefit of any Federal law that—

(1) promotes hydroelectric development; and

(2) that is enacted within 2 years before or after the date of enactment of this Act.

(d) CO-LICENSEE.—Notwithstanding the issuance of a preliminary permit to the town and any consideration of municipal preference, the town may at any time add as a co-licensee to the reinstated license a private or public entity.

(e) PROJECT FINANCING.—The town may receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702, 2703) or similar programs for the reimbursement of the costs of any feasibility studies and project costs incurred during the period beginning on January 1, 2001 and ending on December 31, 2006.

(f) ENERGY CREDITS.—Any power produced by the project shall be deemed to be incremental hydropower for purposes of qualifying for energy credits or similar benefits.

SA 1509. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 434, strike lines 6 and 7 and insert the following:

not later than 1 year after the date of enactment of this paragraph.

"(D) NO PRECLUSION OF STATE ACTIVITY.—Nothing in this paragraph precludes a State from establishing incentives to encourage onsite generation of electricity or net metering in addition to the incentives established under this section as of the date of enactment of this paragraph.

"(E) REPORTS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall complete a report that assesses the impact that the establishment of a national net metering and generating facility interconnection standard would have on—

"(I) electric generating resource diversity;

"(II) air quality;

"(III) national energy security;

"(IV) transmission system congestion relief; and

"(V) customer alternatives for electricity supply.

"(ii) ANNUAL REPORTS ON STANDARDS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to Congress a report on State net metering and interconnection standards that—

"(I) compares the State standards with any national standards;

"(II) assesses the compliance of individual utilities with applicable standards; and

"(III) includes a list of preapproved systems and equipment that would be subject to a national net metering and generating facility interconnection standard described in clause (i), taking into consideration State input and all applicable standards of the Department of Energy.".

SA 1510. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 433, between liens 8 and 9, insert the following:

SEC. 1134. CONNECTION OF STATIONARY FUEL CELLS TO ELECTRICITY GRIDS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall develop and submit to Congress a plan and implementation schedule for the connection of stationary fuel cells to electricity grids throughout the United States.

(b) QUANTITY OF FUEL CELLS.—The plan and implementation schedule shall provide for the connection in accordance with subsection (a) of at least—

(1) 50,000 stationary fuel cells by January 1, 2010; and

(2) 1,000,000 stationary fuel cells by January 1, 2020.

SA 1511. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 15 and 16, insert the following:

Subtitle D—Miscellaneous

SEC. 1 . STRATEGIC PETROLEUM RESERVE DRAWDOWN AUTHORITY

Section 161(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6241(d)(2)) is amended—

(1) by striking "(A) an emergency" and inserting "(A)(i) an emergency";

(2) by striking "(B) a severe" and inserting "(ii) a severe";

(3) by striking "(C) such price" and inserting "(iii) such price";

(4) by striking "economy." and inserting "economy; or"; and

(5) by adding at the end the following:

"(B) there exist severe economic conditions or volatility in the price of petroleum or petroleum products that pose a significant threat to economic stability that could be mitigated by a drawdown and sale of petroleum products from the Strategic Petroleum Reserve.".

SA 1512. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle D—Miscellaneous

SEC. . FINGER LAKES NATIONAL FOREST WITHDRAWAL.

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws; and

(2) disposition under all laws relating to oil and gas leasing.

SA 1513. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 466, after line 22, add the following:

Subtitle —Miscellaneous

SEC. 11 . TRANSMISSION FACILITIES CROSSING STATE BOUNDARIES.

(a) PURPOSE.—The purpose of this section is to provide for the use of completed but unused or underused electric transmission facilities that cross the boundary between 2 States if such use would, without additional construction or significant adverse environmental impact, add electric transfer capability for the benefit of areas that are subject to risk of electricity shortages, outages, or curtailments under reasonably anticipated conditions.

(b) AMENDMENT.—Section 202 of the Federal Power Act (16 U.S.C. 824a) is amended by adding at the end the following:

"(h) UNUSED OR UNDERUSED TRANSMISSION FACILITIES.—

"(1) IN GENERAL.—Notwithstanding any other law, if, not later than 90 days after the date on which a motion is made by the Secretary of Energy or a State for the commercial operation of completed but unused or underused interstate electric transmission facilities, and not less than 30 days after the date on which the Secretary of Energy provides to affected State commissions and regional transmission organizations written notice of the motion, the Secretary of Energy makes the determinations required under paragraph (2), the Secretary of Energy shall by order authorize, in coordination with other regional transmission facilities, such commercial operation.

"(2) DETERMINATIONS.—The Secretary of Energy shall issue an order under paragraph (1) if the Secretary of Energy determines that—

"(A) the unused or underused electric transmission facilities—

"(i) cross the boundary between 2 States; and

"(ii) are in existence on the date of enactment of this subsection;

"(B) no incremental construction is required to make the electric transmission facilities operational;

"(C) the operation of the electric transmission facilities would be unlikely to cause significant adverse environmental impacts;

"(D) affected States, State commissions, and other interested persons have had a reasonable opportunity to raise issues concerning—

"(i) the lack of benefits from the transmission capacity or electric energy to be transmitted; or

"(ii) any potential adverse environmental impacts from such transmission; and

"(E) any issues raised under paragraph (D) have been duly considered and found to be—

"(i) without merit; or

"(ii) without negative weight sufficient to offset the benefits of operating the electric transmission facilities.".

SA 1514. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table: as follows:

On page 150, between lines 14 and 15, insert the following:

SEC. 443. SENSE OF THE SENATE CONCERNING REGULATIONS REGARDING THE EXPORT OF HIGHLY ENRICHED URANIUM.

(a) FINDINGS.—Congress finds that—

(1) the prevention of the proliferation of weapons-grade or highly enriched uranium has taken on an enhanced level of importance, given that evidence has been clearly and repeatedly presented that terrorist groups and hostile regimes have sought to acquire highly enriched uranium and associated technologies for the purpose of developing nuclear weapons;

(2) terrorist entities do not distinguish between uranium exported for medical use versus other uses when seeking to acquire material for nuclear weapons and radiological dispersal devices;

(3) the terrorist attacks of September 11, 2001, clearly demonstrated that terrorist organizations are capable of carrying out attacks against the United States that are more sophisticated, coordinated, and destructive than was previously thought possible or likely;

(4) a successful terrorist attack against the United States using a nuclear weapon or radiological dispersal device could result in catastrophic loss of life, environmental damage, and economic consequences;

(5) increasing exports, transmissions, and volumes of highly enriched uranium will consequently increase the possibility that such material will be lost, diverted, stolen, or improperly sold;

(6) regulations in effect on the date of enactment of this Act are designed to apply explicitly to materials used in isotope production;

(7) the regulations were promulgated for the purpose of encouraging research reactors and medical isotope producers to switch from highly enriched uranium to low-enriched uranium fuels and targets, thereby decreasing the risk of weapons grade material being lost, diverted, stolen, or improperly sold;

(8) under the regulations, operators of research reactors and medical isotope manufacturers must commit to transitioning from highly enriched uranium to low-enriched uranium in order to continue receiving highly enriched uranium fuel and targets from the United States;

(9) a repeal of the regulations would unnecessarily weaken anti-proliferation efforts and reduce safeguards for highly enriched uranium;

(10) the regulations place access to a reliable and sufficient supply of medical isotopes in no jeopardy;

(11) no foreign isotope producer has been denied a request for exports of highly enriched uranium so long as a producer has agreed to continue cooperating with the requirement to eventually shift to low-enriched uranium;

(12) the regulations have been successful in enticing 3 of Europe's 4 main highly enriched uranium fueled reactors to pledge that the reactors will be converted to low-enriched uranium, influencing the construction of a new, large low-enriched uranium reactor in France, and influencing facilities in Australia, Indonesia, and Argentina to convert to low-enriched uranium;

(13) without the regulations, foreign isotope producers would likely abandon efforts to convert to low-enriched uranium, thereby increasing the risks associated with proliferation and nuclear terrorism;

(14) in Australia, low-enriched uranium is already used in the production of isotopes,

clearly demonstrating that there is no technological barrier to effective low-enriched uranium use; and

(15) there has been growing concern regarding the ability to safeguard highly enriched uranium supplies at medical isotope production facilities and research reactors in more than 50 countries worldwide.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) there is no compelling need to repeal highly enriched uranium export regulations in effect on the date of enactment of this Act;

(2) efforts to repeal the regulations needlessly create an additional threat to the national security of the United States; and

(3) Congress should take no steps to repeal the regulations.

SA 1515. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 7 . MOTOR VEHICLE TIRES SUPPORTING MAXIMUM FUEL EFFICIENCY.

(a) STANDARDS FOR TIRES MANUFACTURED FOR INTERSTATE COMMERCE.—Section 30123 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting after the first sentence the following: "The grading system shall include standards for rating the fuel efficiency of tires designed for use on passenger cars and light trucks."; and

(2) by adding at the end the following:

"(d) NATIONAL TIRE FUEL EFFICIENCY PROGRAM.—(1) The Secretary shall develop and carry out a national tire fuel efficiency program for tires designed for use on passenger cars and light trucks.

"(2) The program shall include the following:

"(A) Policies and procedures for testing and labeling tires for fuel economy to enable tire buyers to make informed purchasing decisions about the fuel economy of tires.

"(B) Policies and procedures to promote the purchase of energy-efficient replacement tires, including purchase incentives, website listings on the Internet, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide tire buyers with fuel-efficiency information on tires.

"(C) Minimum fuel economy standards for tires, promulgated by the Secretary.

"(3) The minimum fuel economy standards for tires shall—

"(A) ensure that the fuel economy of replacement tires is equal to or better than the average fuel economy of tires sold as original equipment;

"(B) secure the maximum technically feasible and cost-effective fuel savings;

"(C) not adversely affect tire safety;

"(D) not adversely affect the average tire life of replacement tires;

"(E) incorporate the results from—

"(i) laboratory testing; and

"(ii) to the extent appropriate and available, on-road fleet testing programs conducted by the manufacturers; and

"(F) not adversely affect efforts to manage scrap tires.

"(4) The policies, procedures, and standards developed under paragraph (2) shall apply to all types and models of tires that are covered by the uniform tire quality grading standards under section 575.104 of title 49, Code of Federal Regulations (or any successor regulation).

"(5) Not less often than every three years, the Secretary shall review the minimum fuel economy standards in effect for tires under this subsection and revise the standards as necessary to ensure compliance with requirements under paragraph (3). The Secretary may not, however, reduce the average fuel economy standards applicable to replacement tires.

"(6) Nothing in this chapter shall be construed to preempt any provision of State law relating to higher fuel economy standards applicable to replacement tires designed for use on passenger cars and light trucks.

"(7) Nothing in this chapter shall apply to—

"(A) a tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually;

"(B) a deep tread, winter-type snow tire, space-saver tire, or temporary use spare tire;

"(C) a tire with a normal rim diameter of 12 inches or less;

"(D) a motorcycle tire; or

"(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

"(8) In this subsection, the term 'fuel economy', with respect to tires, means the extent to which the tires contribute to the fuel economy of the motor vehicles on which the tires are mounted.

(b) CONFORMING AMENDMENT.—Section 30103(b) of title 49, United States Code, is amended in paragraph (1) by striking "When" and inserting "Except as provided in section 30123(d) of this title, when".

(c) TIME FOR IMPLEMENTATION.—The Secretary of Transportation shall ensure that the national tire fuel efficiency program required under subsection (d) of section 30123 of title 49, United States Code (as added by subsection (a)(2)), is administered so as to apply the policies, procedures, and standards developed under paragraph (2) of such subsection (d) beginning not later than March 31, 2006.

SA 1516. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, strike section 715 and insert the following:

SEC. 715. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary and independent electrification system that delivers heat, air conditioning, electricity, communications, and other convenient services, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator of the Environmental Protection Agency under part 89 of title 40, Code of Federal Regulations (or successor regulations), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or another device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out subparagraph (A).

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Administrator, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY-DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

"(C) PROOF.—On request by a regulatory or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."

SA 1517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, between lines 14 and 15, insert the following:

SEC. 4 . COVERAGE UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITY OR BERYLLIUM VENDOR FACILITY DURING PERIOD OF RESIDUAL CONTAMINATION.

(a) ATOMIC WEAPONS EMPLOYEES.—Paragraph (3) of section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841) is amended to read as follows:

"(3) The term 'atomic weapons employee' means an individual employed at an atomic weapons employer facility during a period when—

"(A) the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; or

"(B) as specified by the National Institute for Occupational Safety and Health in the final report required by section 3151(b)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384 note) or any supplement thereto or subsequent report, significant contamination (as that term is defined in section 3151(b)(4)(B) of that Act) resulting from activities described in subparagraph (A) remained after such facility discontinued such activities.".

(b) BERYLLIUM EMPLOYEES.—Paragraph (7) of that section is amended by adding at the end the following new subparagraph:

"(D) A current or former employee at a facility of a beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, during a period when, as specified by the National Institute for Occupational Safety and Health in the final report required by section 3151(b)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384 note) or any supplement thereto or subsequent report, significant contamination (as that term is defined in section 3151(b)(4)(B) of that Act) of beryllium resulting from activities described in subparagraph (C) remained after such facility discontinued such activities.".

(c) SUPPLEMENTAL REPORTS.—(1) Not later than June 30 of each of 2004, 2005, and 2006, the National Institute for Occupational Safety and Health shall submit to the applicable congressional committees a supplement to the final report required by subsection (b)(2)(A)(ii) of section 3151 of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384 note).

(2) Each supplement under paragraph (1) shall—

(A) for each atomic weapons facility or facility of a beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, for which more evaluation is required as of the date of such final report to determine the extent of residual contamination at such facility, include the results of any completed study of whether there is significant residual contamination at such facility;

(B) for each atomic weapons facility or facility of a beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, at which residual contamination remained as of June 30, 2003, according to such final report, identify the date as of which such residual contamination was or will be removed from such facility; and

(C) for each atomic weapons facility or facility of a beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, for which new information on residual contamination has been made available to the Institute after the submittal of such final report, identify any revisions to the evaluation of residual contamination at such facility set forth in such final report that are warranted in light of such information.

(3) Each supplement under paragraph (1) shall also be made available to the public in paper and electronic form.

(4) In this subsection, the term "applicable congressional committees" has the meaning given that term in subsection (b)(2)(B) of section 3151 of the National Defense Authorization Act for Fiscal Year 2002.

SA 1518. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —MISCELLANEOUS

SEC. . RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

(a) IN GENERAL.—The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) is amended—

(1) by redesignating sections 310 and 311 as sections 311 and 312, respectively; and

(2) by inserting after section 309 the following:

"SEC. 310. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

"(a) PURPOSES.—The purposes of the programs established under this section are—

"(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

"(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies; and

"(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies.

"(b) DEFINITIONS.—In this section:

"(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

"(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

"(B) 1890 Institutions (as defined in section 2 of that Act); and

"(C) 1994 Institutions (as defined in section 2 of that Act).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

"(1) the Secretary shall provide grants to sun grant centers specified in subsection (d)(1); and

"(2) the sun grant centers shall use the grants in accordance with this section.

"(d) GRANTS TO CENTERS.—

"(1) IN GENERAL.—The Secretary shall use amounts made available for a fiscal year under subsection (i) to provide a grant to each of the following sun grant centers:

"(A) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

"(B) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

"(i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

"(ii) the Commonwealth of Puerto Rico; and

"(iii) the United States Virgin Islands.

"(C) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

"(D) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

"(i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

"(ii) territories and possessions of the United States (other than the territories referred to in clauses (ii) and (iii) of subparagraph (B)).

"(E) Northeastern center.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

"(2) Equal amounts.—Of the amount of funds that are made available for grants for a fiscal year under paragraph (1), the Secretary shall provide an equal amount of grants to each of the sun grant centers specified in paragraph (1).

"(e) Use of Funds.—

"(1) Centers of excellence.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration and support centers of excellence in science, engineering, and economics at the university to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

"(2) Grants to land-grant colleges and universities.—

"(A) In general.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

"(i) research, extension, and educational programs on technology development; and

"(ii) integrated research, extension, and educational programs on technology implementation.

"(B) Programs.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

"(i) not less than 20 percent of the funds to carry out programs described in subparagraph (A)(i); and

"(ii) not less than 20 percent of the funds to carry out programs described in subparagraph (A)(ii).

"(3) Indirect costs.—

"(A) In general.—Except as provided in subparagraph (B), a sun grant center may recover the indirect costs of making grants under this subsection.

"(B) Other land-grant colleges and universities.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

"(f) Plan.—Subject to the availability of funds under subsection (i), in cooperation with other land-grant colleges and universities and private industry, the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing the biomass research priorities of the office of energy efficiency a renewable energy and for the making of grants under paragraphs (1) and (2) of subsection (e) for programs that will facilitate the development of—

"(1) not later than January 1, 2005, critical biobased-based products industries;

"(2) not later than January 1, 2006—

"(A) a biobased transportation fuels production industry; and

"(B) an independent biobased power production industry; and

"(3) not later than January 1, 2007, biobased hydrogen production systems.

"(g) Grants to Other Land-Grant Colleges and Universities.—

"(1) Priority for grants.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

"(2) Term of grants.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

"(3) Coordination with bioenergy and biobased product development programs.—The sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for coordination of activities of the centers with, and input from—

"(A) the bioenergy and biobased product development programs of the Secretary of Energy, including those conducted at the Oak Ridge National Laboratory and the National Renewable Energy Laboratory; and

"(B) the biobased research and development programs of the Secretary of Agriculture.

"(h) Grant Information Analysis Center.—The sun grant centers shall maintain a Sun Grant Information Analysis Center to provide sun grant centers analysis and data management support.

"(i) Annual Reports.—Not later than March 1 following the end of each fiscal year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the fiscal year, including a description of progress made in facilitating the priorities described in subsection (f).

"(j) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2004 through 2010, of which $4,000,000 for each fiscal year shall be made available to carry out subsection (h).".

(b) Conforming Amendment.—Subsections (a) and (b) of section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) (as redesignated by subsection (a)(1)) are amended by inserting "(other than section 310)" after "this title".

SEC. . BIOMASS RESEARCH AND DEVELOPMENT.

(a) Board.—Section 305(b) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

"(3) a representative of the Cooperative Research, Extension, and Educational Service;"; and

(3) in paragraph (5) (as redesignated by paragraph (1)), by striking "(3)" and inserting "(4)".

(b) Technical Advisory Committee.—Section 306(b)(1) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

"(J) a representative of sun grant centers specified in section 310(d)(1); and".

SA 1519. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 69 strike line 6 and all that follows through line 7, page 70.

SA 1520. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, strike line 8 and all that follows through line 7, page 77.

SA 1521. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 864 proposed by Mr. Campbell to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike line 11 and all that follows through line 17 and insert:

"(f) Effect on Existing Law.—

"(1) Nothing in this section shall relieve the Secretary of any obligation to conduct environmental or other reviews or take any other actions required of the Secretary as of the date of enactment of this section for activities on tribal lands pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 2901 et seq.); the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); the Endangered Species Act (16 U.S.C. 1531 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); or any other Federal law for the protection of the environment or environmental quality.

"(2) Nothing in this section affects the application of—

"(A) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.);

"(B) the Atomic Energy Act of 1954 (42 U.S.C. 2011) or any Federal law respecting nuclear or radioactive waste or mining of radioactive materials; or

"(C) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.)."

SA 1522. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landrieu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Kyl, Mr. Nelson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . ENERGY EFFICIENCY PERFORMANCE STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"SEC. 607. FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARD.

"(a) Each electric retail supplier shall implement energy efficiency and load reduction programs and measures to achieve verified improvements in energy efficiency and peak load reduction in retail customer facilities and the distribution systems that serve them.

"(b) Such programs shall produce savings in total peak power demand and total electricity use by retail customers by an amount that is equal to or greater than the following percentages relative to the peak demand and electricity used in that year by the retail electric supplier's customers:

[Amounts in percent]

	Reduction in demand (kW)	Reductions in use (kWh)
In calendar year 2004	1	.75
In calendar year 2005	2	1.5
In calendar year 2007	4	3.0
In calendar year 2009	6	4.5
In calendar year 2011	8	6.9
In calendar year 2013	10	7.5

"(c) For purposes of this section, savings shall be counted only for measures installed after January 1, 2003.

"(d) The Secretary of Energy is directed to establish, by rule, procedures and standards for counting and independently verifying energy and demand savings calculations for purposes of enforcing the energy efficiency performance standards imposed by this section. Such rule shall also include procedures and a schedule of reporting findings to the Department of Energy and for making such reports available to the public. The Secretary shall consult with the association representing the nation's public utility regulators, and with the association representing the nation's state energy officials in developing these procedures and standards. This rulemaking shall be completed no later than June 30, 2004.

"(e) By June 30, 2006, and every two years thereafter, each retail electric supplier shall file with the state public utilities commission in each state in which it supplies service to retail customers, a report demonstrating that it has taken action to comply with the energy efficiency performance standards of this section. These reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary. A state public utilities commission may accept such report as filed, or may review and investigate the accuracy of the report. Each state public utilities commission shall make findings on any deficiencies relative to the requirements in section 2, and shall create a remedial order for the correction of any deficiencies that are found.

"(f) Electric retail suppliers not subject to the jurisdiction of state public utilities commissions shall report to their governing bodies. Such reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary.

"(g) Electric retail suppliers may demonstrate satisfaction of this standard, in whole or part, by savings achieved through participation in statewide, regional, or national programs that can be demonstrated to significantly improve the efficiency of electric distribution and use. Verified efficiency savings resulting from such programs may be assigned to each participating retail supplier based upon their degree of participation in such programs. Electric retail suppliers may also purchase rights to extra savings achieved by other electric retail suppliers, provided that the selling supplier does not also take credit for those savings.

"(h) In the event that any retail electric supplier fails to achieve its energy savings and/or load reduction target for a specific year, any aggrieved party may enter suit and seek prompt remedial action before the state public utilities commission or the appropriate governing body in the case of electric retail suppliers not subject to state public utility commission jurisdiction. The state public utilities commission or other appropriate governing body shall have a maximum of one year to craft a remedy. However, if a public utilities commission or other governing body certifies that it has inadequate resources or authority to promptly resolve enforcement actions under this section, or fails to take action within the time period specified above, enforcement may be sought in Federal district court. If a commission or court determines that energy savings and/or load reduction targets for a specific year have not been achieved, the commission or court shall determine the amount of the deficit and shall fashion an equitable remedy to restore the lost savings as soon as practicable. Such remedies may include a refund to retail electric customers of an amount equal to the average retail rate multiplied by the deficit in kW and/or kWh, and the appointment of a special master to administer a bidding system to procure the energy and demand savings equal to 125% of the deficit.

SA 1523. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14 to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, after line 7, insert the following:

Subtitle I—System Benefits

SEC. 1192. SYSTEM BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term "Board" means the Board established under this section.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) FUND.—The term "Fund" means the System Benefits Trust Fund established by this section.

(5) RENEWABLE ENERGY.—The term "renewable energy" means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), or biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic source. For purposes of this paragraph, a farm system is an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste produced by farming that is located on the farm where substantially all of the waste used is produced.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) BOARD.—

(1) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund Board to carry out the functions and responsibilities described in this section.

(2) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission;

(B) 2 representatives of the Secretary of Energy appointed by the Secretary of Energy;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissions and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer Advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person nominated by the National Energy Assistance Directors' Association and appointed by the Secretary; and

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at one or more financial institutions, which account or accounts shall be known as the System Benefits Trust Fund consisting of amounts deposited in the fund under subsection (d).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States.

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUND.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs relating to—

(A) energy conservation and efficiency;

(b) renewable energy sources;

(C) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, matching funds distributed to the States and Indian tribes shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the Nation's aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary of Energy.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2002, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how System Benefit Trust Fund funds from the previous calendar year (if any) were spent by the State and what the State accomplished as a result of these expenditures.

(e) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than August 1 of each year, the Board shall determine and inform the Federal Energy Regulatory Commission of the aggregate amount of wires charges that will be necessary to be paid into the Fund to pay matching funds to States and Indian tribes and pay the operating costs of the Board in the following fiscal year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Federal Energy Regulatory Commission shall impose a nonbypassable, competitively neutral wires charge, to be paid directly into the Fund by the operator of the wire, on electricity carried through the wire (measured as it exists the busbar at a generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator's system) in interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of

(i) 2.0 mills per kilowatt hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the Board under subsection (c).

(4) PENALTIES.—The Federal Energy Regulatory Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(e) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary of Energy and the Federal Energy Regulatory Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary of Energy, the Federal Energy Regulatory Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary of Energy or the Federal Energy Regulatory Commission may have.

SA 1524. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) LICENSE TERMS.—Section 6 and section 101(i) of the Federal Power Act (16 U.S.C. 799 and 803(i) are each amended by striking "fifty" and inserting "thirty" and section 15(e) of such Act is amended by striking "not less than 30 years, nor more than 50" and inserting "not more than 15."

SA 1525. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 54 strike line 14 and all that follows through line 24, page 55, and insert:

(b) DESIGNATION OF QUALIFIED STAFF.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the Chief of the Corps of Engineers may assign persons under their employment to each of the field offices identified in subsection (c) upon each making a determination as to such employees that to make such assignments shall not create undue staffing shortages within their respective agencies; that all statutory obligations fulfilled by such employees will continue to be fully met in accordance with existing law; and that no other undue administrative or other burdens shall be created by virtue of such assignments. Employees available for such assignments may include those having expertise in the Endangered Species Act; the Clean Air Act; the Clean Water Act; the National Environmental Policy Act; the National Forest Management Act; or such other expertise as the Administrator of the Environmental Protection Agency, the Secretary of Agriculture or the Chief of the Corps of Engineers may find appropriate for persons within their employment.

(c) FIELD OFFICES.—The following BLM Field Offices shall serve as the Federal Permit Streamlining Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming;

(3) Miles City, Montana;

(4) Farmington, New Mexico;

(5) Carlsbad, New Mexico;

(6) Glenwood Springs, Colorado.

(d) REPORTS.—The Secretary, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the Chief of the Corps of Engineers shall submit a report to Congress 1 year following the date of enactment of this section, outlining the results of the Pilot Project and including a recommendation to the President as to whether the Pilot Project should be implemented nationwide.

(e) ADDITIONAL PERSONNEL.—The Secretary shall assign to each of the BLM Field Offices listed in subsection (c) such additional personnel of the Department of the Interior as is necessary to ensure the effective implementation of—

SA 1526. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 53 strike line 5 and all that follows through line 22.

SA 1527. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURKOWSKI, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 19 strike Line 7 and all that follows through page 21, line 16, and insert:

(a) ADOPTION OF STANDARD.—At the end of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) add the following:

"TITLE NET METERING

"SEC. . NET METERING STANDARDS.

"(a) REQUIREMENT TO PROVIDE SERVICE.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves in accordance with this section.

"(b) ESTABLISHMENT OF STANDARDS.—Net metering service under this section shall be provided in accordance with the following standards:

"(1) AN ELECTRIC UTILITY.—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with reasonable metering practices.

"(3) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with reasonable metering practices.

"(4) If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

"(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

"(5) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electric Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

(c) Definitions.—For purposes of this section:

"(1) the term 'eligible on-site generating facility' means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

"(2) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

"(3) The term 'high efficiency system' means fuel cells or combined heat and power.

"(4) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.".

SA 1528. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14 to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert:

(d) Annual Licenses.—Section 15(a)(1) of the Federal Power Act (16 U.S.C. 808(a)(1)) is amended by adding the following at the end thereof: "Annual licenses shall contain such terms and conditions appropriate for the duration of the annual license which are identified by the Secretary of the Interior and the Secretary of Agriculture as necessary for the protection and utilization of the reservation within which the project is located; by the Secretary of the Interior and the Secretary of Commerce for the protection and enhancement of fish and wildlife, including related spawning grounds and habitat; and by the Governor of the State in which the project is located for compliance with water standards and other legal requirements for beneficial uses of affected water. The terms of any new license for a project shall be reduced by one year for each annual license issued for such project."

SA 1529. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 114, add the following:

SEC. . RISK-BASED DATA MANAGEMENT SYSTEMS.

(a) In General.—The Secretary of Energy shall make grants to the Ground Water Protection Council to develop risk-based data management systems.

(b) Report.—Not later than sixty days after the end of each fiscal year, the Ground Water Protection Council shall report to the Secretary on the progress in developing risk-based data management systems and on any other functions or activities undertaken including the identification of any other individuals or entities that receive secondary grants, using funds provided under this section.

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal years 2004–2007.

SA 1530. Mr. JEFFORDS (for himself, Mr. Kerry, Mr. Reid, Mr. Durbin, and Mr. Lautenberg) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 467, after line 16, add the following:

Subtitle I—Renewable Portfolio Standard

SEC. 192. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

"(a) Renewable Energy Requirements.—

"(1) In general.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

"(2) Carryover.—A renewable energy for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next two years.

"(b) Required Annual Percentage.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

[In percent]

Calendar years:	Percentage of renewable energy each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20

"(c) Submission of Renewable Energy Credits.—

"(1) In general.—To meet the requirements under subsection (a), a retail electric supplier shall submit to the Secretary either—

"(A) renewable energy credits issued to the retail electric supplier under subsection (e);

"(B) renewable energy credits obtained by purchase or exchange under subsection (f);

"(C) renewable energy credits purchased from the United States under subsection (g); or

"(D) any combination of credits under subsections (e), (f) or (g).

"(2) Prohibition on double counting.—A credit may be counted toward compliance with subsection (a) only once.

"(d) Renewable Energy Credit Program.—The Secretary shall establish, not later than 1 year after the date of enactment of this Act, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

"(e) Issuance of Renewable Energy Credits.—

"(1) In general.—Under the program established in subsection (d), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

"(2) Application.—An application for the issuance of renewable energy credits shall indicate—

"(A) the type of renewable energy resource used to produce the electric energy;

"(B) the State in which the electric energy was produced; and

"(C) any other information the Secretary determines appropriate.

"(3) Credit value.—Except as provided in subparagraph (4), the Secretary shall issue to an entity applying under this subsection one renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this Act and in each subsequent calendar year.

"(4) Credit value for distributed generation.—The Secretary shall issue three renewable energy credits for each kilowatt-hour of distributed generation.

"(5) Vesting.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless such owner explicitly transfers the credit.

"(6) Credit eligibility.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits on the proportion of the renewable energy resource used.

"(7) Identifying credits.—The Secretary shall identify renewable energy credits by the type and date of generation.

"(8) Sale under purpa contract.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a–3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this Act for the duration of the contracts.

"(f) Sale or Exchange of Renewable Energy Credits.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

"(g) Purchase From the United States.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2006, the Secretary shall adjust for inflation the price charged per credit for such calendar year.

"(h) State Programs.—Nothing in this section shall preclude any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

"(i) Consumer Allocation.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (a). A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (a).

"(j) Enforcement.—A retail electric supplier that does not submit renewable energy credits as required under subsection (a) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.

"(k) Information Collection.—The Secretary may collect the information necessary to verify and audit—

"(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

"(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

"(3) the quantity of electricity sales of all retail electric suppliers.

"(l) Voluntary Participation.—The Secretary may issue a renewable energy credit pursuant to subsection (e) to any entity not subject to the requirements of this Act only if the entity applying for such credit meets the terms and conditions of this Act to the same extent as entities subject to this Act.

"(m) State Renewable Energy Grant Program.—

"(1) Distribution to states.—The Secretary shall distribute amounts received from sales under subsection (g) and from amounts received under subsection (j) to States to be used for the purposes of this section.

"(2) Regional equity program.—

"(A) Establishment of program.—Within one year from the date of enactment of this Act, the Secretary shall establish a program to promote renewable energy production and use consistent with the purposes of this section.

"(B) Eligibility.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—

"(i) renewable energy research and development;

"(ii) loan guarantees to encourage construction of renewable energy facilities;

"(iii) consumer rebate or other programs of offset costs of small residential or small commercial renewable energy systems including solar hot water; or

"(iv) promoting distributed generation.

"(3) Allocation preferences.—In allocating funds under the program, the Secretary shall give preference to—

"(A) States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

"(B) State grant programs most likely to stimulate or enhance innovative renewable energy technologies.

"(n) Definitions.—In this section.

"(1) Biomass.—

"(A) In general.—The term "biomass" means—

"(i) organic material from a plant that is planted for the purpose of being used to produce energy;

"(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

"(I) a forest-related resource, including—

"(aa) mill and harvesting residue;

"(bb) precommercial thinnings;

"(cc) slash; and

"(dd) brush;

"(II) agricultural resources, including—

"(aa) orchard tree crops;

"(bb) vineyards;

"(cc) grains;

"(dd) legumes;

"(ee) sugar; and

"(ff) other crop by-products or residues; or

"(III) miscellaneous waste such as—

"(aa) waste pallet;

"(bb) crate; and

"(cc) landscape or right-of-way tree trimmings;

"(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

"(B) Exclusions.—The term 'biomass' shall not include—

"(i) municipal solid waste that is incinerated;

"(ii) recyclable post-consumer waste paper;

"(iii) painted, treated, or pressurized wood;

"(iv) wood contaminated with plastics or metals; or

"(v) tires.

"(2) Distributed generation.—The term 'distributed generation' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

"(3) Incremental hyrdopower.—The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

"(4) Landfill gas.—The term 'landfill gas' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal (42 U.S.C. 6941 et seq.)).

"(5) Renewable energy.—The term 'renewable energy' means electricity generated from—

"(A) A renewable energy source; or

"(B) hydrogen that is produced from a renewable energy source.

"(5) The term 'renewable energy source' means—

"(A) wind;

"(B) oceans waves;

"(C) biomass;

"(D) solar;

"(E) landfill gas;

"(F) incremental hydropower; or

"(G) geothermal.

"(6) Retail electric supplier.—The term 'retail electric supplier' means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatts of electric energy to consumers for purposes other than resale during the preceding calendar year.

"(7) Secretary.—The term 'Secretary' means the Secretary of Energy.

SA 1531. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In section 32 of the Outer Continental Shelf Lands Act (as added by section 111), strike subsections (c) and (d) and insert the following:

"(c) Impact Assistance Payments to States and Political Subdivisions.—The Secretary shall make payments from the amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

"(1) Of the amounts appropriated, the allocation for each Producing Coastal State shall be calculated based on the ratio of qualified Outer Continental Shelf revenues generated off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues generated off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State's allocation for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary.

"(2)(A) Thirty-five percent of each Producing Coastal State's allocable share as determined under paragraph (1) shall be paid directly to the coastal political subdivisions by the Secretary based on the following formula:

"(i) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions in the Producing Coastal State.

"(ii) Twenty-five percent shall be allocated based on the ratio of such coastal political subdivision's coastline miles to the coastline miles of a coastal political subdivision in the Producing Coastal State except that for those coastal political subdivisions in the State of Louisiana without a coastline, the coastline for purposes of this element of the formula shall be the average length of the coastline of the remaining coastal subdivisions in the state.

"(iii) Fifty percent shall be allocated based on the relative distance of such coastal political subdivision from any leased tract used to calculate the Producing Coastal State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary, except that in the State of Alaska, the funds for this element of the formula shall be divided equally among the two closest coastal political subdivisions. For purposes of the calculations under this clause, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on January

"(B) Of the allocable share of the State of Louisiana as determined under paragraph (1), the Secretary shall pay—

"(i) 17.5 percent directly to coastal political subdivisions in the State of Louisiana in accordance with the formula described in clauses (i) through (iii) of subparagraph (A) to be used for—

"(I) wetland protection and restoration;

"(II) land and water conservation;

"(III) flood control and drainage;

"(IV) watewater treatment;

"(V) parks and recreation; and

"(VI) bridge repair and replacement;

"(ii) 17.5 percent to a coastal infrastructure restoration fund maintained by the State of Louisiana to be used for—

"(I) barrier island restoration;

"(II) wildlife and wetland research and education;

"(III) Atchafalaya Basin preservation;

"(IV) State Land and Water Conservation Fund activities; and

"(V) coastal commerce and development.

"(3) Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold a Producing Coastal State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.

"(4) For purposes of this subsection, calculations of payments for fiscal years 2004 through 2006 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003, and calculations of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2006.

"(d) Coastal Impact Assistance Plan.—

"(1) The Governor of each Producing Coastal State shall prepare, and submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts received by Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Producing Coastal State's Coastal Impact Assistance Plan.

"(2) The Secretary shall approve a plan under paragraph (1) prior to disbursement of amounts under this section. The Secretary shall approve the plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (f) of this section and if the plan contains—

"(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

"(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

"(C) a contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section;

"(D) certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan; and

"(E) measures for taking into account other relevant Federal resources and programs.

"(3) The Secretary shall approve or disapprove each plan or amendment within 90 days of its submission.

"(4) Any amendment to the plan shall be prepared in accordance with the requirements of this subsection and shall be submitted to the Secretary for approval or disapproval.

"(5) Coastal impact assistance plans of coastal political subdivisions.—

"(A) In general.—A Coastal Impact Assistance Plan for the State of Louisiana shall include a coastal impact assistance plan developed by each coastal political subdivision in the State of Louisiana.

"(B) Approval.—In approving the plans of the coastal political subdivisions, the Governor of the State of Louisiana shall have the authority only to ensure that the proposed uses of funds that are included in the plans of the coastal political subdivisions are consistent with the authorized uses under subsection (e).

SA 1532. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B add the following:

SEC. 102. EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE WAVE ENERGY.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(I) wave energy.".

(b) Wave Energy.—Section 45(c), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Wave energy.—The term 'wave energy' means energy derived from the energy stored in ocean waves.".

(c) Wave Energy Facility.—Section 45(d) (relating to qualified facilities), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Wave energy facility.—In the case of a facility using wave energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.".

(d) Effective Date.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 1533. Mr. DURBIN (for himself and Mr. Conrad) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, insert the following:

SEC. . MODIFICATION OF CREDIT FOR RESIDENTIAL WIND ENERGY PROPERTY.

(a) Definition of Qualified Wind Energy Property.—Section 25C, as added by this Act, is amended by striking paragraph (5) of subsection (d) and inserting the following:

"(5) Qualified wind energy property expenditure defined.—

"(A) In general.—The term 'qualified wind energy property expenditure' means an expenditure for qualified wind energy property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, including all necessary installation fees and charges.

"(B) Qualified wind energy property.—The term 'qualified wind energy property' means a qualifying wind turbine—

"(i) the original use of which commences with the taxpayer, and

"(ii) which carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for any qualifying wind turbine that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

"(C) Qualifying wind turbine.—The term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which at the time of manufacture and not more than 1 year from the date of purchase meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.".

(b) Amount of Credit.—

(1) In general.—Subsection (b)(1) of section 25C, as added by this Act, is amended by striking "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following:

"(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(5), and".

(2) Conforming amendment.—Subparagraph (A) of section 25C(b)(1), as added by this Act, is amended by striking ", (2), or (5)" and inserting "or (2)".

(c) Other Modifications.—

(1) Paragraph (7) of section 25C(d) (relating to labor costs), as added by this Act, is amended by inserting "or the local energy grid" after "dwelling unit".

(2) Paragraph (5) of section 25C(e) (relating to special rules), as added by this Act, is amended by inserting "and, in the case of qualified wind energy property, the property has begun to be used to generate electricity" before the period.

(c) Effective Date.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. . CREDIT FOR BUSINESS INSTALLATION OF SMALL WIND ENERGY PROPERTY.

(a) In General.—Subparagraph (A) of section 48(a)(3), as amended by this Act, (defining energy property) is amended by striking "or" at the end of clause (iii), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property installed before January 1; 2009,".

(b) Qualified Wind Energy Property.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) Qualified wind energy property.—For purposes of this subsection—

"(A) In general.—The term 'qualified wind energy property' means a qualifying wind turbine—

"(i) installed on or in connection with a farm (as defined in section 6420(c)), a ranch, or an establishment of an eligible small business (as defined in section 44(b)) which is located in the United States and which is owned and used by the taxpayer,

"(ii) the original use of which commences with the taxpayer, and

"(iii) which carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for any qualifying wind turbine that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

"(B) Limitation.—In the case of any qualified wind energy property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(i) 30 percent of the basis of such property, including all necessary installation fees and charges, or

"(ii) $1,000 for each kilowatt of capacity of such property.

"(C) Qualifying wind turbine.—For purposes of this paragraph the term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which at the time of manufacture and not more than 1 year after the date of purchase meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.

"(D) Safety certifications.—No credit shall be allowed under this section for any qualified wind energy property unless such property meets appropriate fire and electric code requirements.".

(c) Limitation.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended redesignating clause (ii) as clause (iii), by striking "and" at the end of clause (i), and by inserting after clause (i) the following new clause:

"(ii) in the case of qualified wind energy property, 30 percent, and".

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(e) Effective Date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 1534. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place strike Section 715 and insert the following:

SEC. 715. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Advanced truck stop electrification system.—The term "advanced truck stop electrification system" means a stationary and independent electrification system that delivers heat, air conditioning, electricity, communications, and other convenient services, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) Auxiliary power unit.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator of the Environmental Protection Agency under part 89 of title 40, Code of Federal Regulations (or successor regulations), as meeting applicable emission standards.

(4) Heavy-duty vehicle.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) Idle reduction technology.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or another device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) Long-duration idling.—

(A) In general.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) Exclusions.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) Idle Reduction Technology Benefits, Programs, and Studies.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) Deadline for completion.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) Discretionary inclusions.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) Idle reduction deployment program.—

(A) In general.—Not later than 90 days after the date of the enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.

(B) Authorization of appropriations.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out subparagraph (A).

(5) Idling location study.—

(A) In general.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Administrator, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) Deadline for completion.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) Vehicle Weight Exemption.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) Heavy-duty vehicles.—

"(A) In general.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) Maximum weight increase.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

"(C) Proof.—On request by a regulatory or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."

SA 1535. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page ___, strike lines ___ and insert the following:

"(B) uses an input of at least 75 percent coal to produce 50 percent or more of its thermal output as electricity,

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SA 1536. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, insert the following:

SEC. ___. CREDIT FOR BUSINESS INSTALLATION OF SMALL WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, (defining energy property) is amended by striking "or" at the end of clause (iii), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property installed before January 1, 2009,".

(b) QUALIFIED WIND ENERGY PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified wind energy property' means a qualifying wind turbine—

"(i) installed on or in connection with a farm (as defined in section 6420(c)), a ranch, or an establishment of an eligible small business (as defined in section 44(b)) which is located in the United States and which is owned and used by the taxpayer,

"(ii) the original use of which commences with the taxpayer, and

"(iii) which carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for any qualifying wind turbine that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

"(B) LIMITATION.—In the case of any qualified wind energy property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to—10 percent of the basis of such property, including all necessary installation fees and charges.

"(C) QUALIFYING WIND TURBINE.—For purposes of this paragraph the term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which at the time of manufacture and not more than 1 year after the date of purchase meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.

"(D) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for any qualified wind energy property unless such property meets appropriate fire and electric code requirements.".

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended redesignating clause (ii) as clause (iii), by striking "and" at the end of clause (i), and by inserting after clause (i) the following new clause:

"(ii) in the case of qualified wind energy property, 10 percent, and".

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(6)(C)" and inserting "section 48(a)(7)(C)".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 1537. Mr. FRIST (for himself and Mr. DASCHLE) proposed an amendment to the bill H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes; as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Policy Act of 2003".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

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TITLE I—REGIONAL COORDINATION

SEC. 101. POLICY ON REGIONAL COORDINATION.

(a) STATEMENT OF POLICY.—It is the policy of the Federal Government to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable energy services to the public while minimizing the impact of providing energy services on communities and the environment.

(b) DEFINITION OF ENERGY SERVICES.—For purposes of this section, the term "energy services" means—

(1) the generation or transmission of electric energy,

(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum product, or natural gas, or

(3) the reduction in load through increased efficiency, conservation, or load control measures.

SEC. 102. FEDERAL SUPPORT FOR REGIONAL COORDINATION.

(a) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in coordinating their energy policies on a regional basis. Such technical assistance may include assistance in—

(1) identifying the areas with the greatest energy resource potential, and assessing future supply availability and demand requirements,

(2) planning, coordinating, and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to maximize the efficiency of energy resources and infrastructure and meet regional needs with the minimum adverse impacts on the environment,

(3) identifying and resolving problems in distribution networks,

(4) developing plans to respond to surge demand or emergency needs, and

(5) developing renewable energy, energy efficiency, conservation, and load control programs.

(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—

(1) ANNUAL CONFERENCE.—The Secretary of Energy shall convene an annual conference to promote regional coordination on energy policy and infrastructure issues.

(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives of Federal, State, and regional energy organizations, and other interested parties.

(3) STATE AND FEDERAL AGENCY COOPERATION.—The Secretary of Energy shall consult and cooperate with State and regional energy organizations, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality in the planning and conduct of the conference.

(4) AGENDA.—The Secretary of Energy, in consultation with the officials identified in paragraph (3) and participants identified in paragraph (2), shall establish an agenda for each

conference that promotes regional coordination on energy policy and infrastructure issues.

(5) RECOMMENDATIONS.—Not later than 60 days after the conclusion of each annual conference, the Secretary of Energy shall report to the President and the Congress recommendations arising out of the conference that may improve—

(A) regional coordination on energy policy and infrastructure issues, and

(B) Federal support for regional coordination.

TITLE II—ELECTRICITY

Subtitle A—Amendments to the Federal Power Act

SEC. 201. DEFINITIONS.

(a) DEFINITION OF ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

"(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency.".

(b) DEFINITION OF TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity (including any entity described in section 201(f)) that owns or operates facilities used for the transmission of electric energy in—

"(A) interstate commerce; or

"(B) for the sale of electric energy at wholesale.".

SEC. 202. ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

"(C) purchase, acquire, or take any security of any other public utility, or

"(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.

"(2) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

"(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

"(A) will be consistent with the public interest;

"(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any party to the transaction;

"(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public; and

"(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.

"(6) For purposes of this subsection, the terms 'associate company', 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2003.".

SEC. 203. MARKET-BASED RATES.

(a) APPROVAL OF MARKET-BASED RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(h) The Commission may determine whether a market-based rate for the sale of electric energy subject to the jurisdiction of the Commission is just and reasonable and not unduly discriminatory or preferential. In making such determination, the Commission shall consider such factors as the Commission may deem to be appropriate and in the public interest, including to the extent the Commission considers relevant to the wholesale power market—

"(1) market power;

"(2) the nature of the market and its response mechanisms; and

"(3) reserve margins.".

(b) REVOCATION OF MARKET-BASED RATES.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate and fix the same by order.".

SEC. 204. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) striking "60 days after" in the third sentence and inserting "of"; and

(3) striking "expiration of such 60-day period" in the third sentence and inserting "publication date".

SEC. 205. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.

Part II of the Federal Power Act is further amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

"SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

"(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(d) In exercising its authority under paragraph (1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(f) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(g) For purposes of this subsection, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

"(2) is either an entity described in section 201(f) or a rural electric cooperative.".

SEC. 206. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting the following after section 215 as added by this Act:

"SEC. 216. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section—

"(1) 'bulk-power system' means the network of interconnected transmission facilities and generating facilities;

"(2) 'electric reliability organization' means a self-regulating organization certified by the Commission under subsection (c) whose purpose is to promote the reliability of the bulk-power system; and

"(3) 'reliability standard' means a requirement to provide for reliable operation of the bulk-power system approved by the Commission under this section.

"(b) JURISIDICTION AND APPLICABILITY.—The Commission shall have jurisdiction, within the United States, over an electric reliability organization, any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(c) CERTIFICATION.—(1) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(2) Following the issuance of a Commission rule under paragraph (1), any person may submit an application to the Commission for certification as an electric reliability organization. The Commission may certify an applicant if the Commission determines that the applicant—

"(A) has the ability to develop, and enforce reliability standards that provide for an adequate level of reliability of the bulk-power system;

"(B) has established rules that—

"(i) assure its independence of the users and owners and operators of the bulk-power system; while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any committee or subordinate organizational structure;

"(ii) allocate equitably dues, fees, and other charges among end users for all activities under this section;

"(iii) provide fair and impartial procedures for enforcement of reliability standards through imposition of penalties (including limitations on activities, functions, or operations, or other appropriate sanctions); and

"(iv) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.

"(3) If the Commission receives two or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.

"(d) Reliability Standards.—(1) An electric reliability organization shall file a proposed reliability standard or modification to a reliability standard with the Commission.

"(2) The Commission may approve a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a proposed standard or modification to a reliability standard, but shall not defer with respect to its effect on competition.

"(3) The electric reliability organization and the Commission shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the electric reliability organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order an electric reliability organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(e) Enforcement.—(1) An electric reliability organization may impose a penalty on a user or owner or operator of the bulk-power system if the electric reliability organization, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator of the bulk-power system has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice with the Commission, which shall affirm, set aside or modify the action.

"(2) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has violated or threatens to violate a reliability standard.

"(3) The Commission shall establish regulations authorizing the electric reliability organization to enter into an agreement to delegate authority to a regional entity for the purpose of proposing and enforcing reliability standards (including related activities) if the regional entity satisfies the provisions of subsection (c)(2) (A) and (B) and the agreement promotes effective and efficient administration of bulk-power system reliability, and may modify such delegation. The electric reliability organization and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the electric reliability organization's authority to enforce reliability standards directly to a regional entity consistent with the requirements of this paragraph.

"(4) The Commission may take such action as is necessary or appropriate against the electric reliability organization or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.

"(f) Changes in Electricity Relialbility Organization Rules.—An electric reliability organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the electric reliability organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c)(2).

"(g) Coordination With Canada and Mexico.—(1) The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

"(2) The President shall use his best efforts to enter into international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the electric reliability organization in the United States and Canada or Mexico.

"(h) Reliability Reports.—The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America.

"(i) Savings Provisions.—(1) The electric reliability organization shall have authority to develop and enforce compliance with standards for the reliable operation of only the bulk-power system.

"(2) This section does not provide the electric reliability organization or the Commission with the authority to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

"(4) Within 90 days of the application of the electric reliability organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the electric reliability organization.

"(5) The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) Application of Antitrust Laws.—

"(1) In general.—To the extent undertaken to develop, implement, or enforce a reliability standard, each of the following activities shall not, in any action under the antitrust laws, be deemed illegal per se—

"(A) activities undertaken by an electric reliability organization under this section, and

"(B) activities of a user or owner or operator of the bulk-power system undertaken in good faith under the rules of an electric reliability organization.

"(2) Rule of Reason.—In any action under the antitrust laws, an activity described in paragraph (1) shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition and reliability.

"(3) Definition.—For purposes of this subsection, 'antitrust laws' has the meaning given the term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that it includes section 5 of the Federal Trade Commission Act (15 U. S.C. 45) to the extent that section 5 applies to unfair methods of competition.

"(k) Regional Advisory Bodies.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the electric reliability organization, a regional reliability entity, or the Commission regarding the governance of an existing or proposed regional reliability entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

"(l) Application to Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.".

SEC. 207. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 216. MARKET TRANSPARENCY RULES.

"(a) Commission Rules.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

"(b) Information Required.—The Commission shall require—

"(1) each regional transmission organization to provide statistical information about the available capacity and capacity constraints of transmission facilities operated by the organization; and

"(2) each broker, exchange, or other market-making entity that matches offers to sell and offers to buy wholesale electric energy in interstate commerce to provide statistical information about the amount and sale price of sales of electric energy at wholesale in interstate commerce it transacts.

"(c) TIMELY BASIS.—The Commission shall require the information required under subsection (b) to be posted on the Internet as soon as practicable and updated as frequently as practicable.

"(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure commercial or financial information that the Commission, by rule or order, determines to be privileged, confidential, or otherwise sensitive.".

SEC. 208. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

"(a) FAIR TREATMENT OF INTERMITTENT GENERATORS.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not unduly prejudice or disadvantage such generators for characteristics that are—

"(1) inherent to intermittent energy resources; and

"(2) are beyond the control of such generators.

"(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include the following:

"(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not unduly prejudice or disadvantage intermittent generator customers for scheduling deviations.

"(2) The Commission may exempt a transmitting utility from the requirement set forth in paragraph (1) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have an adverse impact on the reliability of the transmitting utility's system.

"(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to such intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated or some other method to ensure that they are fully recovered by the transmitting utility.

"(4) The Commission shall require transmitting utilities to offer to intermittent generators, and may require transmitting utilities to offer to all transmission customers, access to nonfirm transmission service.

"(c) DEFINITIONS.—As used in this section:

"(1) The term 'intermittent generator' means a facility that generates electricity using wind or solar energy and no other energy source.

"(2) The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

"(3) The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.".

SEC. 209. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting "electric utility," after "Any person,"; and

(2) inserting "transmitting utility," after "licensee" each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting "or transmitting utility" after "any person" in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "Any person," in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is repealed.

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

SEC. 210. ELECTRIC POWER TRANSMISSION SYSTEMS.

The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2003".

SEC. 222. DEFINITIONS.

For purposes of this subtitle:

(1) The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term "associate company" of a company means any company in the same holding company system with such company.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term "holding company system" means a holding company, together with its subsidiary companies.

(10) The term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term "person" means an individual or company.

(13) The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term "public utility company" means an electric utility company or a gas utility company.

(15) The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 224. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts,

memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) Confidentiality.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 225. STATE ACCESS TO BOOKS AND RECORDS.

(a) In General.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail by the State commission;

(2) the State commission deems are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) Limitation.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) Confidentiality of Information.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) Effect on State Law.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) Court Jurisdiction.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 226. EXEMPTION AUTHORITY.

(a) Rulemaking.—Not later than 90 days after the effective date of this subtitle, the Commission shall promulgate a final rule to exempt from the requirements of section 224 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) Other Authority.—The Commission shall exempt a person or transaction from the requirements of section 224, if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 227. AFFILIATE TRANSACTIONS.

(a) Commission Authority Unaffected.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the promulgation of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) Recovery of Costs.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 228. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

SEC. 229. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 230. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 231. SAVINGS PROVISIONS.

(a) In General.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this subtitle.

(b) Effect on Other Commission Authority.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 232. IMPLEMENTATION.

Not later than 18 months after the date of enactment of this subtitle, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle (other than section 225); and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 233. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 234. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) Task Force.—There is established an inter-agency task force, to be known as the "Electric Energy Market Competition Task Force" (referred to in this section as the "task force"), which shall consist of—

(1) one member each from—

(A) the Department of Justice, to be appointed by the Attorney General of the United States;

(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission; and

(C) the Federal Trade Commission, to be appointed by the chairman of that Commission; and

(2) two advisory members (who shall not vote), of whom—

(A) one shall be appointed by the Secretary of Agriculture to represent the Rural Utility Service; and

(B) one shall be appointed by the Chairman of the Securities and Exchange Commission to represent that Commission.

(b) Study and Report.—

(1) Study.—The task force shall perform a study and analysis of the protection and promotion of competition within the wholesale and retail market for electric energy in the United States.

(2) Report.—

(A) Final report.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.

(B) Public comment.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.

(c) Focus.—The study required by this section shall examine—

(1) the best means of protecting competition within the wholesale and retail electric market;

(2) activities within the wholesale and retail electric market that may allow unfair and unjustified discriminatory and deceptive practices;

(3) activities within the wholesale and retail electric market, including mergers and acquisitions, that deny market access or suppress competition;

(4) cross-subsidization that may occur between regulated and nonregulated activities; and

(5) the role of State public utility commissions in regulating competition in the wholesale and retail electric market.

(d) Consultation.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.

SEC. 235. GAO STUDY ON IMPLEMENTATION.

(a) Study.—The Comptroller General shall conduct a study of the success of the Federal Government and the States during the 18-month period following the effective date of this subtitle in—

(1) the prevention of anticompetitive practices and other abuses by public utility holding companies, including cross-subsidization and other market power abuses; and

(2) the promotion of competition and efficient energy markets to the benefit of consumers.

(b) Report to Congress.—Not earlier than 18 months after the effective date of this subtitle or later than 24 months after that effective date, the Comptroller General shall submit a report to the Congress on the results of the study conducted under subsection (a), including probable causes of its findings and recommendations to the Congress and the States for any necessary legislative changes.

SEC. 236. EFFECTIVE DATE.

This subtitle shall take effect 18 months after the date of enactment of this subtitle.

SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 238. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) Conflict of Jurisdiction.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g) of the Federal Power Act (16 U.S.C. 824(g)) is amended by striking "1935" and inserting "2002".

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "2002".

Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 241. REAL-TIME PRICING AND TIME-OF-USE METERING STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a real-time rate schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's wholesale power cost. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time metering and communications technology.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.

"(12) TIME-OF-USE METERING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a time-of-use rate schedule which enables the electric consumer to manage energy use and cost through time-of-use metering and technology.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.".

(b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(i) REAL-TIME PRICING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same real-time metering and communication service as a direct retail electric consumer of the electric utility.

"(j) TIME-OF-USE METERING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same time-of-use metering and communication service as a direct retail electric consumer of the electric utility.".

SEC. 242. ADOPTION OF ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

"(6) DISTRIBUTED GENERATION.—Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

"(7) DISTRIBUTION INTERCONNECTIONS.—No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

"(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY STANDARD.—Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(9) FOSSIL FUEL EFFICIENCY.—Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation and shall monitor and report to its State regulatory authority excessive greenhouse gas emissions resulting from the inefficient operation of its fossil fuel generating plants.".

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

"(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.".

SEC. 243. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

"(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as he determines appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).".

SEC. 244. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

"(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

"(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(4) RECOVERY OF COSTS.—

"(A) REGULATION.—To ensure recovery by an electric utility that purchases electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under this section before the date of enactment of this subsection, of all prudently incurred costs associated with the purchases, the Commission shall issue and enforce such regulations as may be required to ensure that the electric utility shall collect the prudently incurred costs associated with such purchases.

"(B) ENFORCEMENT.—A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).".

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.".

(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.".

SEC. 245. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is further amended by adding at the end the following:

"(13) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.".

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

"(k) NET METERING.—

"(1) RATES AND CHARGES.—An electric utility—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

"(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

"(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

"(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

"(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'eligible on-site generating facility' means—

"(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or

"(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

"(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

"(C) The term 'high efficiency system' means fuel cells or combined heat and power.

"(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.".

Subtitle D—Consumer Protections

SEC. 251. INFORMATION DISCLOSURE.

(a) OFFERS AND SOLICITATIONS.—The Federal Trade Commission shall issue rules requiring each electric utility that makes an offer to sell electric energy, or solicits electric consumers to purchase electric energy to provide the electric consumer a statement containing the following information—

(1) the nature of the service being offered, including information about interruptibility of service;

(2) the price of the electric energy, including a description of any variable charges;

(3) a description of all other charges associated with the service being offered, including access charges, exit charges, back-up service charges, stranded cost recovery charges, and customer service charges; and

(4) information the Federal Trade Commission determines is technologically and economically feasible to provide, is of assistance to electric consumers in making purchasing decisions, and concerns—

(A) the product or its price;

(B) the share of electric energy that is generated by each fuel type; and

(C) the environmental emissions produced in generating the electric energy.

(b) PERIODIC BILLINGS.—The Federal Trade Commission shall issue rules requiring any electric utility that sells electric energy to transmit to each of its electric consumers, in addition to the information transmitted pursuant to section 115(f) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625(f)), a clear and concise statement containing the information described in subsection (a)(4) for each billing period (unless such information is not reasonably ascertainable by the electric utility).

SEC. 252. CONSUMER PRIVACY.

(a) PROHIBITION.—The Federal Trade Commission shall issue rules prohibiting any electric utility that obtains consumer information in connection with the sale or delivery of electric energy to an electric consumer from using, disclosing, or permitting access to such information unless the electric consumer to whom such information relates provides prior written approval.

(b) PERMITTED USE.—The rules issued under this section shall not prohibit any electric utility from using, disclosing, or permitting access to consumer information referred to in subsection (a) for any of the following purposes—

(1) to facilitate an electric consumer's change in selection of an electric utility under procedures approved by the State or State regulatory authority;

(2) to initiate, render, bill, or collect for the sale or delivery of electric energy to electric consumers or for related services;

(3) to protect the rights or property of the person obtaining such information;

(4) to protect retail electric consumers from fraud, abuse, and unlawful subscription in the sale or delivery of electric energy to such consumers;

(5) for law enforcement purposes; or

(6) for purposes of compliance with any Federal, State, or local law or regulation authorizing disclosure of information to a Federal, State, or local agency.

(c) AGGREGATE CONSUMER INFORMATION.—The rules issued under this subsection may permit a person to use, disclose, and permit access to aggregate consumer information and may require an electric utility to make such information available to other electric utilities upon request and payment of a reasonable fee.

(d) DEFINITIONS.—As used in this section:

(1) The term "aggregate consumer information" means collective data that relates to a group or category of retail electric consumers, from which individual consumer identities and characteristics have been removed.

(2) The term "consumer information" means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to any retail electric consumer.

SEC. 253. OFFICE OF CONSUMER ADVOCACY.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) ENERGY CUSTOMER.—The term "energy customer" means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(3) NATURAL GAS COMPANY.—The term "natural gas company" has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

(4) OFFICE.—The term "Office" means the Office of Consumer Advocacy established by subsection (b)(1).

(5) PUBLIC UTILITY.—The term "public utility" has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(6) SMALL COMMERCIAL CUSTOMER.—The term "small commercial customer" means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(b) OFFICE.—

(1) ESTABLISHMENT.—There is established within the Department of Justice the Office of Consumer Advocacy.

(2) DIRECTOR.—The Office shall be headed by a Director to be appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES.—The Office may represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission—

(A) at hearings of the Commission;

(B) in judicial proceedings in the courts of the United States;

(C) at hearings or proceedings of other Federal regulatory agencies and commissions.

SEC. 254. UNFAIR TRADE PRACTICES.

(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

SEC. 255. APPLICABLE PROCEDURES.

The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule required by this subtitle.

SEC. 256. FEDERAL TRADE COMMISSION ENFORCEMENT.

Violation of a rule issued under this subtitle shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices. All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this subtitle notwithstanding any jurisdictional limits in such Act.

SEC. 257. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures regarding the practices which are the subject of this section.

SEC. 258. APPLICATION OF SUBTITLE.

The provisions of this subtitle apply to each electric utility if the total sales of electric energy by such utility for purposes other than resale exceed 500 million kilowatt-hours per calendar year. The provisions of this subtitle do not apply to the operations of an electric utility to the extent that such operations relate to sales of electric energy for purposes of resale.

SEC. 259. DEFINITIONS.

As used in this subtitle:

(1) The term "aggregate consumer information" means collective data that relates to a group or category of electric consumers, from which individual consumer identities and identifying characteristics have been removed.

(2) The term "consumer information" means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to an electric consumer.

(3) The terms "electric consumer", "electric utility", and "State regulatory authority" have the meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle E—Renewable Energy and Rural Construction Grants

SEC. 261. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking "and which satisfies" and all that follows through "Secretary shall establish." and inserting the following: ". The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.".

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting the following: "a nonprofit electrical cooperative, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,"; and

(2) by inserting "landfill gas, incremental hydropower, ocean" after "wind, biomass,".

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section" and inserting "before October 1, 2013".

(d) PAYMENT PERIOD.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended by inserting "or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility" after "eligible for such payments".

(e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting "landfill gas, incremental hydropower, ocean" after "wind, biomass,".

(f) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking "the expiration of" and all that follows through "of this section" and inserting "September 30, 2023".

(g) INCREMENTAL HYDROPOWER; AUTHORIZATION OF APPROPRIATIONS.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is further amended by striking subsection (g) and inserting the following:

"(g) INCREMENTAL HYDROPOWER.—

"(1) PROGRAMS.—Subject to subsection (h)(2), if an incremental hydropower program meets the requirements of this section, as determined by the Secretary, the incremental hydropower program shall be eligible to receive incentive payments under this section.

"(2) DEFINITION OF INCREMENTAL HYDROPOWER.—In this subsection, the term 'incremental hydropower' means additional generating capacity achieved from increased efficiency or additions of new capacity at a hydroelectric facility in existence on the date of enactment of this paragraph.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.

"(2) LIMITATION ON FUNDS USED FOR INCREMENTAL HYDROPOWER PROGRAMS.—Not more than 30 percent of the amounts made available under paragraph (1) shall be used to carry out programs described in subsection (g)(2).

"(3) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.".

SEC. 262. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 3 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources available within the United States, including solar, wind, biomass, ocean, geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources, and

(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

SEC. 263. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year—

(1) not less than 3 percent in fiscal years 2003 through 2004,

(2) not less than 5 percent in fiscal years 2005 through 2009, and

(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter,

shall be renewable energy. The President shall encourage the use of innovative purchasing practices by Federal agencies.

(b) DEFINITION.—For purposes of this section, the term "renewable energy" means electric energy generated from solar, wind, biomass, geothermal, fuel cells, municipal solid waste, or additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity.

(c) TRIBAL POWER GENERATION.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than one-tenth of the amount specified in subsection (a) shall be renewable energy that is generated by an Indian tribe or by a corporation, partnership, or business association which is wholly or majority owned, directly or indirectly, by an Indian tribe. For purposes of this subsection, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) BIENNIAL REPORT.—In 2004 and every 2 years thereafter, the Secretary of Energy shall report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress of the Federal Government in meeting the goals established by this section.

SEC. 264. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:

"SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

"(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning in calendar year 2005, each retail electric supplier shall submit to the Secretary, not later than April 1 of the following calendar year, renewable energy credits in an amount equal to the required annual percentage specified in subsection (b).

"(b) REQUIRED ANNUAL PERCENTAGE.—(1) For calendar years 2005 through 2020, the required annual percentage of the retail electric supplier's base amount that shall be generated from renewable energy resources shall be the percentage specified in the following table:

"Calendar Years	**Required annual percentage**
2005 through 2006	1.0
2007 through 2008	2.2
2009 through 2010	3.4
2011 through 2012	4.6
2013 through 2014	5.8
2015 through 2016	7.0
2017 through 2018	8.5
2019 through 2020	10.0.

"(2) Not later than January 1, 2015, the Secretary may, by rule, establish required annual percentages in amounts not less than 10.0 for calendar years 2020 through 2030.

"(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of subsection (a) through the submission of renewable energy credits—

"(A) issued to the retail electric supplier under subsection (d);

"(B) obtained by purchase or exchange under subsection (e); or

"(C) borrowed under subsection (f).

"(2) A credit may be counted toward compliance with subsection (a) only once.

"(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits.

"(2) Under the program, an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall indicate—

"(A) the type of renewable energy resource used to produce the electricity,

"(B) the location where the electric energy was produced, and

"(C) any other information the Secretary determines appropriate.

"(3)(A) Except as provided in paragraphs (B), (C), and (D), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates from the date of enactment of this section and in each subsequent calendar year through the *use of a renewable energy resource at an eligible facility.*

"(B) For incremental hydropower the credits shall be calculated based on the expected increase in average annual generation resulting from the efficiency improvements or capacity additions. The number of credits shall be calculated using the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission. The calculation of the credits for incremental hydropower shall not be based on any operational changes at the hydroelectric facility not directly associated with the efficiency improvements or capacity additions.

"(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated and supplied to the grid in that calendar year through the use of a renewable energy resource at an eligible facility located on Indian land. For purposes of this paragraph, renewable energy generated by biomass cofired with other fuels is eligible for two credits only if the biomass was grown on the land eligible under this paragraph.

"(D) For renewable energy resources produced from a generation offset, the Secretary shall issue two renewable energy credits for each kilowatt-hour generated.

"(E) To be eligible for a renewable energy credit, the unit of electric energy generated through the use of a renewable energy resource may be sold or may be used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue credits based on the proportion of the renewable energy resource used. The Secretary shall identify renewable energy credits by type and date of generation.

"(5) When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

"(6) The Secretary may issue credits for existing facility offsets to be applied against a retail electric supplier's own required annual percentage. The credits are not tradeable and may only be used in the calendar year generation actually occurs.

"(e) CREDIT TRADING.—A renewable energy credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the credit. A renewable energy credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use within the next 4 years.

"(f) CREDIT BORROWING.—At any time before the end of calendar year 2005, a retail electric supplier that has reason to believe it will not have sufficient renewable energy credits to comply with subsection (a) may—

"(1) submit a plan to the Secretary demonstrating that the retail electric supplier will earn sufficient credits within the next 3 calendar years which, when taken into account, will enable the retail electric supplier's to meet the requirements of subsection (a) for calendar year 2005 and the subsequent calendar years involved; and

"(2) upon the approval of the plan by the Secretary, apply credits that the plan demonstrates will be earned within the next 3 calendar years to meet the requirements of subsection (a) for each calendar year involved.

"(g) CREDIT COST CAP.—The Secretary shall offer renewable energy credits for sale at the lesser of 3 cents per kilowatt-hour or 200 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2005, the Secretary shall adjust for inflation the price charged per credit for such calendar year, based on the Gross Domestic Product Implicit Price Deflator.

"(h) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a), unless the retail electric supplier was unable to comply with subsection (a) for reasons outside of the supplier's reasonable control (including weather-related damage, mechanical failure, lack of transmission capacity or availability, strikes, lockouts, actions of a governmental authority). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than the greater of 3 cents or 200 percent of the average market value of credits for the compliance period for each renewable energy credit not submitted.

"(i) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

"(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section,

"(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and

"(3) the quantity of electricity sales of all retail electric suppliers.

"(j) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.

"(k) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State, or from specifying technology mix.

"(l) DEFINITIONS.—For purposes of this section:

"(1) BIOMASS.—The term 'biomass' means any organic material that is available on a renewable or recurring basis, including dedicated energy crops, trees grown for energy production, wood waste and wood residues, plants (including aquatic plants, grasses, and agricultural crops), residues, fibers, animal wastes and other organic waste materials, and fats and oils, except that with respect to material removed from National Forest System lands the term includes only organic material from—

"(A) thinnings from trees that are less than 12 inches in diameter;

"(B) slash;

"(C) brush; and

"(D) mill residues.

"(2) ELIGIBLE FACILITY.—The term 'eligible facility' means—

"(A) a facility for the generation of electric energy from a renewable energy resource that is placed in service on or after the date of enactment of this section; or

"(B) a repowering or cofiring increment that is placed in service on or after the date of enactment of this section at a facility for the generation of electric energy from a renewable energy resource that was placed in service before that date.

"(3) ELIGIBLE RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means solar, wind, ocean, or geothermal energy, biomass (excluding solid waste and paper that is commonly recycled), landfill gas, a generation offset, or incremental hydropower.

"(4) GENERATION OFFSET.—The term 'generation offset' means reduced electricity usage metered at a site where a customer consumes energy from a renewable energy technology.

"(5) EXISTING FACILITY OFFSET.—The term 'existing facility offset' means renewable energy generated from an existing facility, not classified as an eligible facility, that is owned or under contract to a retail electric supplier on the date of enactment of this section.

"(6) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation that is achieved from increased efficiency or additions of capacity after the date of enactment of this section at a hydroelectric dam that was placed in service before that date.

"(7) INDIAN LAND.—The term 'Indian land' means—

"(A) any land within the limits of any Indian reservation, pueblo, or rancheria,

"(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,

"(C) any dependent Indian community, and

"(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

"(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(9) RENEWABLE ENERGY.—The term 'renewable energy' means electric energy generated by a renewable energy resource.

"(10) RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means solar, wind, ocean, or geothermal energy, biomass (including municipal solid waste), landfill gas, a generation offset, or incremental hydropower.

"(11) REPOWERING OR COFIRING INCREMENT.—The term 'repowering or cofiring increment' means the additional generation from a modification that is placed in service on or after the date of enactment of this section to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section, or the additional generation above the average generation in the 3 years preceding the date of enactment of this section, to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section.

"(12) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person that sells electric energy to electric consumers and sold not less than 1,000,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year; except that such term does not include the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a rural electric cooperative.

"(13) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by—

"(A) an eligible renewable energy resource;

"(B) municipal solid waste; or

"(C) a hydroelectric facility.

"(m) SUNSET.—This section expires December 31, 2030.".

SEC. 265. RENEWABLE ENERGY ON FEDERAL LAND.

(a) COST-SHARE DEMONSTRATION PROGRAM.—Within 12 months after the date of enactment of this section, the Secretaries of the Interior, Agriculture, and Energy shall develop guidelines for a cost-share demonstration program for the development of wind and solar energy facilities on Federal land.

(b) DEFINITION OF FEDERAL LAND.—As used in this section, the term "Federal land" means land owned by the United States that is subject to the operation of the mineral leasing laws; and is either—

(1) public land as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1702(e)); or

(2) a unit of the National Forest System as that term is used in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(c) RIGHTS-OF-WAY.—The demonstration program shall provide for the issuance of rights-of-way pursuant to the provisions of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) by the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and by the Secretary of Agriculture with respect to Federal lands under the jurisdiction of the Department of Agriculture.

(d) AVAILABLE SITES.—For purposes of this demonstration program, the issuance of rights-of-way shall be limited to areas—

(1) of high energy potential for wind or solar development;

(2) that have been identified by the wind or solar energy industry, through a process of nomination, application, or otherwise, as being of particular interest to one or both industries;

(3) that are not located within roadless areas;

(4) where operation of wind or solar facilities would be compatible with the scenic, recreational, environmental, cultural, or historic values of the Federal land, and would not require the construction of new roads for the siting of lines or other transmission facilities; and

(5) where issuance of the right-of-way is consistent with the land and resource management plans of the relevant land management agencies.

(e) COST-SHARE PAYMENTS BY DOE.—The Secretary of Energy, in cooperation with the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and the Secretary of Agriculture with respect to Federal land under the jurisdiction of the Department of Agriculture, shall determine if the portion of a project on Federal land is eligible for financial assistance pursuant to this section. Only those projects that are consistent with the requirements of this section and further the purposes of this section shall be eligible. In the event a project is selected for financial assistance, the Secretary of Energy shall provide no more than 15 percent of the costs of the project on the Federal land, and the remainder of the costs shall be paid by non-Federal sources.

(f) REVISION OF LAND USE PLANS.—The Secretary of the Interior shall consider development of wind and solar energy, as appropriate, in revisions of land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall consider development of wind and solar energy, as appropriate, in revisions of land and resource management plans under section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). Nothing in this subsection shall preclude the issuance of a right-of-way for the development of a wind or solar energy project prior to the revision of a land use plan by the appropriate land management agency.

(g) REPORT TO CONGRESS.—Within 24 months after the date of enactment of this section, the Secretary of the Interior shall develop and report to Congress recommendations on any statutory or regulatory changes the Secretary believes would assist in the development of renewable energy on Federal land. The report shall include—

(1) a five-year plan developed by the Secretary of the Interior, in cooperation with the Secretary of Agriculture, for encouraging the development of wind and solar energy on Federal land in an environmentally sound manner; and

(2) an analysis of—

(A) whether the use of rights-of-ways is the best means of authorizing use of Federal land for the development of wind and solar energy, or whether such resources could be better developed through a leasing system, or other method;

(B) the desirability of grants, loans, tax credits or other provisions to promote wind and solar energy development on Federal land; and

(C) any problems, including environmental concerns, which the Secretary of the Interior or the Secretary of Agriculture have encountered in managing wind or solar energy projects on Federal land, or believe are likely to arise in relation to the development of wind or solar energy on Federal land;

(3) a list, developed in consultation with the Secretaries of Energy and Defense, of lands under the jurisdiction of the Departments of Energy and Defense that would be suitable for development for wind or solar energy, and recommended statutory and regulatory mechanisms for such development.

(h) NATIONAL ACADEMY OF SCIENCES STUDY.—Within 90 days after the enactment of this Act, the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf; assess existing Federal authorities for the development of such resources; and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to Congress within 24 months after the enactment of this Act.

Subtitle F—General Provisions

SEC. 271. CHANGE 3 CENTS TO 1.5 CENTS.

Not withstanding any other provision in this Act, "3 cents" shall be considered by law to be "1.5 cents" in any place "3 cents" appears in title II of this Act.

SEC. 272. BONNEVILLE POWER ADMINISTRATION BONDS.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through "(a) The Administrator" and inserting the following:

"SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

"(a) BONDS.—

"(1) IN GENERAL.—The Administrator"; and

(2) by adding at the end the following:

"(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any one time—

"(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

"(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).".

TITLE III—HYDROELECTRIC RELICENSING

SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

"(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

"(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.".

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

"(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

"(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

"(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.".

(c) TIME OF FILING APPLICATION.—Section 15(c)(1) of the Federal Power Act (16 U.S.C. 808(c)(1)) is amended by striking the first sentence and inserting the following:

"(1) Each application for a new license pursuant to this section shall be filed with the Commission—

"(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and

"(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year thereafter.".

TITLE IV—INDIAN ENERGY

SEC. 401. COMPREHENSIVE INDIAN ENERGY PROGRAM.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following:

"SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

"(2) the term 'Indian land' means—

"(A) any land within the limits of an Indian reservation, pueblo, or rancheria;

"(B) any land not within the limits of an Indian reservation, pueblo, or rancheria whose title is held—

"(i) in trust by the United States for the benefit of an Indian tribe,

"(ii) by an Indian tribe subject to restriction by the United States against alienation, or

"(iii) by a dependent Indian community; and

"(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

"(b) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting their energy education, research and development, planning, and management needs.

"(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

"(A) renewable energy, energy efficiency, and conservation programs;

"(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

"(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities; and

"(D) developing, constructing, and interconnecting electric power transmission facilities with transmission facilities owned and operated by a Federal power marketing agency or an electric utility that provides open access transmission service.

"(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

"(A) the total number of acres of Indian land owned by an Indian tribe;

"(B) the total number of households on the Indian tribe's Indian land;

"(C) the total number of households on the Indian tribe's Indian land that have no electricity service or are under-served; and

"(D) financial or other assets available to the Indian tribe from any source.

"(4) In making a grant under paragraph (2), the Director shall give priority to an application received from an Indian tribe that is not served or is served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-Federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

"(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

"(6) The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

"(c) LOAN GUARANTEE PROGRAM.—

"(1) AUTHORITY.—The Secretary may guarantee not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development, including the planning, development, construction, and maintenance of electrical generation plants, and for transmission and delivery mechanisms for electricity produced on Indian land. A loan guaranteed under this subsection shall be made by—

"(A) a financial institution subject to the examination of the Secretary; or

"(B) an Indian tribe, from funds of the Indian tribe, to another Indian tribe.

"(2) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated to cover the cost of loan guarantees shall be available without fiscal year limitation to the Secretary to fulfill obligations arising under this subsection.

"(3) AUTHORIZATION OF APPROPRIATIONS.—(A) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

"(B) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the administrative expenses related to carrying out the loan guarantee program established by this subsection.

"(4) LIMITATION ON AMOUNT.—The aggregate outstanding amount guaranteed by the Secretary of Energy at any one time under this subsection shall not exceed $2,000,000,000.

"(5) REGULATIONS.—The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

"(d) INDIAN ENERGY PREFERENCE.—(1) An agency or department of the United States Government may give, in the purchase of electricity, oil, gas, coal, or other energy product or by-product, preference in such purchase to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by a tribal government.

"(2) In implementing this subsection, an agency or department shall pay no more than the prevailing market price for the energy product or by-product and shall obtain no less than existing market terms and conditions.

"(e) EFFECT ON OTHER LAWS.—This section does not—

"(1) limit the discretion vested in an Administrator of a Federal power marketing agency to market and allocate Federal power, or

"(2) alter Federal laws under which a Federal power marketing agency markets, allocates, or purchases power.".

SEC. 402. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

Title II of the Department of Energy Organization Act is amended by adding at the end the following:

"OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

"SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

"(1) promote tribal energy efficiency and utilization;

"(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

"(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

"(4) lower or stabilize energy costs; and

"(5) electrify tribal members' homes and tribal lands.

"(c) The Director shall carry out the duties assigned the Secretary or the Director under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).".

SEC. 403. CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

(b) TABLE OF CONTENTS.—The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

"Sec. 217. Office of Indian Energy Policy and Programs.".

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 404. SITING ENERGY FACILITIES ON TRIBAL LANDS.

(a) DEFINITIONS.—For purposes of this section:

(1) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, except that such term does not include any Regional Corporation as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(2) INTERESTED PARTY.—The term "interested party" means a person whose interests could be adversely affected by the decision of an Indian tribe to grant a lease or right-of-way pursuant to this section.

(3) PETITION.—The term "petition" means a written request submitted to the Secretary for the review of an action (or inaction) of the Indian tribe that is claimed to be in violation of the approved tribal regulations.

(4) Reservation.—The term "reservation" means—

(A) with respect to a reservation in a State other than Oklahoma, all land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination;

(B) with respect to a reservation in the State of Oklahoma, all land that is—

(i) within the jurisdictional area of an Indian tribe, and

(ii) within the boundaries of the last reservation of such tribe that was established by treaty, executive order, or secretarial order.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

(6) Tribal lands.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.

(b) Leases Involving Generation, Transmission, Distribution or Energy Processing Facilities.—An Indian tribe may grant a lease of tribal land for electric generation, transmission, or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, and such leases shall not require the approval of the Secretary if the lease is executed under tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed 30 years.

(c) Rights-of-Way for Electric Generation, Transmission, Distribution or Energy Processing Facilities.—An Indian tribe may grant a right-of-way over tribal lands for a pipeline or an electric transmission or distribution line without separate approval by the Secretary, if—

(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary and the term of the right-of-way does not exceed 30 years; and

(2) the pipeline or electric transmission or distribution line serves—

(A) an electric generation, transmission or distribution facility located on tribal land, or

(B) a facility located on tribal land that processes or refines renewable or nonrenewable energy resources developed on tribal lands.

(d) Renewals.—Leases or rights-of-way entered into under this subsection may be renewed at the discretion of the Indian tribe in accordance with the requirements of this section.

(e) Tribal Regulation Requirements.—(1) The Secretary shall have the authority to approve or disapprove tribal regulations required under this subsection. The Secretary shall approve such tribal regulations if they are comprehensive in nature, including provisions that address—

(A) securing necessary information from the lessee or right-of-way applicant;

(B) term of the conveyance;

(C) amendments and renewals;

(D) consideration for the lease or right-of-way;

(E) technical or other relevant requirements;

(F) requirements for environmental review as set forth in paragraph (3);

(G) requirements for complying with all applicable environmental laws; and

(H) final approval authority.

(2) No lease or right-of-way shall be valid unless authorized in compliance with the approved tribal regulations.

(3) An Indian tribe, as a condition of securing Secretarial approval as contemplated in paragraph (1), must establish an environmental review process that includes the following—

(A) an identification and evaluation of all significant environmental impacts of the proposed action as compared to a no action alternative;

(B) identification of proposed mitigation;

(C) a process for ensuring that the public is informed of and has an opportunity to comment on the proposed action prior to tribal approval of the lease or right-of-way; and

(D) sufficient administrative support and technical capability to carry out the environmental review process.

(4) The Secretary shall review and approve or disapprove the regulations of the Indian tribe within 180 days of the submission of such regulations to the Secretary. Any disapproval of such regulations by the Secretary shall be accompanied by written documentation that sets forth the basis for the disapproval. The 180-day period may be extended by the Secretary after consultation with the Indian tribe.

(5) If the Indian tribe executes a lease or right-of-way pursuant to tribal regulations required under this subsection, the Indian tribe shall provide the Secretary with—

(A) a copy of the lease or right-of-way document and all amendments and renewals thereto; and

(B) in the case of regulations or a lease or right-of-way that permits payment to be made directly to the Indian tribe, documentation of the payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under existing law.

(6) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under this subsection, including the Indian tribe.

(7)(A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of the Indian tribe with any tribal regulations approved under this subsection. If upon such review, the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding or holding the lease or right-of-way in abeyance until the violation is cured. The Secretary may also rescind the approval of the tribal regulations and reassume the responsibility for approval of leases or rights-of-way associated with the facilities addressed in this section.

(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall—

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the Indian tribe with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy or the rescission of the approval of the regulations involved and reassumption of the lease or right-of-way approval responsibility, provide the Indian tribe with a hearing and a reasonable opportunity to cure the alleged violation.

(C) The tribe shall retain all rights to appeal as provided by regulations promulgated by the Secretary.

(f) Agreements.—(1) Agreements between an Indian tribe and a business entity that are directly associated with the development of electric generation, transmission or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, shall not separately require the approval of the Secretary pursuant to section 18 of title 25, United States Code, so long as the activity that is the subject of the agreement has been the subject of an environmental review process pursuant to subsection (e) of this section.

(2) The United States shall not be liable for any losses or damages sustained by any party, including the Indian tribe, that are associated with an agreement entered into under this subsection.

(g) Disclaimer.—Nothing in this section is intended to modify or otherwise affect the applicability of any provision of the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a–396g); Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108); Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1328); any amendments thereto; or any other laws not specifically addressed in this section.

SEC. 405. INDIAN MINERAL DEVELOPMENT ACT REVIEW.

(a) In General.—The Secretary of the Interior shall conduct a review of the activities that have been conducted by the governments of Indian tribes under the authority of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the review;

(2) recommendations designed to help ensure that Indian tribes have the opportunity to develop their nonrenewable energy resources; and

(3) an analysis of the barriers to the development of energy resources on Indian land, including Federal policies and regulations, and make recommendations regarding the removal of those barriers.

(c) Consultation.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations as provided in this subsection.

SEC. 406. RENEWABLE ENERGY STUDY.

(a) In General.—Not later than 2 years after the date of the enactment of this Act, and once every 2 years thereafter, the Secretary of Energy shall transmit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on energy consumption and renewable energy development potential on Indian land. The report shall identify barriers to the development of renewable energy by Indian tribes, including Federal policies and regulations, and make recommendations regarding the removal of such barriers.

(b) Consultation.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations as provided in this section.

SEC. 407. FEDERAL POWER MARKETING ADMINISTRATIONS.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501) (as amended by section 201) is amended by adding at the end the following:

"SEC. 2608. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) Definition of Administrator.—In this section, the term 'Administrator' means—

"(1) the Administrator of the Bonneville Power Administration; or

"(2) the Administrator of the Western Area Power Administration.

"(b) Assistance for Transmission Studies.—(1) Each Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power. The costs of such technical assistance shall be funded—

"(A) by the Administrator using non-reimbursable funds appropriated for this purpose, or

"(B) by the Indian tribe.

"(2) Priority for assistance for transmission studies.—In providing discretionary assistance to Indian tribes under paragraph (1),

each Administrator shall give priority in funding to Indian tribes that have limited financial capability to conduct such studies.

"(c) POWER ALLOCATION STUDY.—(1) Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on Indian tribes' utilization of Federal power allocations of the Western Area Power Administration, or power sold by the Southwestern Power Administration, and the Bonneville Power Administration to or for the benefit of Indian tribes in their service areas. The report shall identify—

"(A) the amount of power allocated to tribes by the Western Area Power Administration, and how the benefit of that power is utilized by the tribes;

"(B) the amount of power sold to tribes by other Power Marketing Administrations; and

"(C) existing barriers that impede tribal access to and utilization of Federal power, and opportunities to remove such barriers and improve the ability of the Power Marketing Administration to facilitate the utilization of Federal power by Indian tribes.

"(2) The Power Marketing Administrations shall consult with Indian tribes on a government-to-government basis in developing the report provided in this section.

"(d) AUTHORIZATION FOR APPROPRIATION.—There are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to carry out the purposes of this section.".

SEC. 408. FEASIBILITY STUDY OF COMBINED WIND AND HYDROPOWER DEMONSTRATION PROJECT.

(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

(b) SCOPE OF STUDY.—The study shall—

(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

(3) assess the wind energy resource potential on tribal lands and projected cost savings through a blend of wind and hydropower over a thirty-year period;

(4) include a preliminary interconnection study and a determination of resource adequacy of the Upper Great Plains Region of the Western Area Power Administration;

(5) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

(6) include an independent tribal engineer as a study team member.

(c) REPORT.—The Secretary of Energy and Secretary of the Army shall submit a report to Congress not later than 1 year after the date of enactment of this title. The Secretaries shall include in the report—

(1) an analysis of the potential energy cost savings to the customers of the Western Area Power Administration through the blend of wind and hydropower;

(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production and provide Missouri River management flexibility;

(3) recommendations for a demonstration project which the Western Area Power Administration could carry out in partnership with an Indian tribal government or tribal government energy consortium to demonstrate the feasibility and potential of using wind energy produced on Indian lands to supply firming energy to the Western Area Power Administration or other Federal power marketing agency; and

(4) an identification of the economic and environmental benefits to be realized through such a Federal-tribal partnership and identification of how such a partnership could contribute to the energy security of the United States.

(d) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations provided in this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to carry out this section, which shall remain available until expended. All costs incurred by the Western Area Power Administration associated with performing the tasks required under this section shall be nonreimbursable.

TITLE V—NUCLEAR POWER

Subtitle A—Price-Anderson Act Reauthorization

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Price-Anderson Amendments Act of 2003".

SEC. 502. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "LICENSES" and inserting "LICENSEES"; and

(2) by striking "August 1, 2002" each place it appears and inserting "August 1, 2012".

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ", until August 1, 2002,".

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking "August 1, 2002" each place it appears and inserting "August 1, 2012".

SEC. 503. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

"(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.".

(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:

"(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.".

(c) LIABILITY LIMIT.—Section 170e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking "the maximum amount of financial protection required under subsection b. or"; and

(2) by striking "paragraph (3) of subsection d., whichever amount is more" and inserting "paragraph (2) of subsection d.".

SEC. 504. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 505. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2008".

SEC. 506. INFLATION ADJUSTMENT.

Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) that date, in the case of the first adjustment under this paragraph; or

"(B) the previous adjustment under this paragraph.".

SEC. 507. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

"d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties assessed under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

"(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

SEC. 508. TREATMENT OF MODULAR REACTORS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

"(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a

single facility having a rated capacity of 100,000 electrical kilowatts or more.

"(B) A combination of facilities referred to in subparagraph (A) is two or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.".

SEC. 509. EFFECTIVE DATE.

The amendments made by sections 503(a) and 504 do not apply to any nuclear incident that occurs before the date of the enactment of this subtitle.

Subtitle B—Miscellaneous Provisions

SEC. 511. URANIUM SALES.

(a) INVENTORY SALES.—Section 3112(d) of the USEC Privatization Act (42 U.S.C. 2297h–10(d)) is amended to read as follows:

"(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (b), (c), and (e), the Secretary may, from time to time, sell or transfer uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) from the Department of Energy's stockpile.

"(2) Except as provided in subsections (b), (c), and (e), the Secretary may not deliver uranium in any form for consumption by end users in any year in excess of the following amounts:

"Annual Maximum Deliveries to End Users

"Year:	**(Million lbs. U_3O_8 equivalent)**
2003 through 2009–	3
2010–	5
2011–	5
2012–	7
2013 and each year thereafter–	10.

"(3) Except as provided in subsections (b), (c), and (e), no sale or transfer of uranium in any form shall be made unless—

"(A) the President determines that the material is not necessary for national security needs;

"(B) the Secretary determines, based on the written views of the Secretary of State and the Assistant to the President for National Security Affairs, that the sale or transfer will not adversely affect the national security interests of the United States;

"(C) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement; and

"(D) the price paid to the Secretary will not be less than the fair market value of the material.".

(b) EXEMPT TRANSFERS AND SALES.—Section 3112(e) of the USEC Privatization Act (42 U.S.C. 2297h–10(e)) is amended to read as follows:

"(e) EXEMPT SALES OR TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell uranium—

"(1) to the Tennessee Valley Authority for use pursuant to the Department of Energy's highly enriched uranium or tritium program, to the extent provided by law;

"(2) to research and test reactors under the University Reactor Fuel Assistance and Support Program or the Reduced Enrichment for Research and Test Reactors Program;

"(3) to USEC Inc. to replace contaminated uranium received from the Department of Energy when the United States Enrichment Corporation was privatized;

"(4) to any person for emergency purposes in the event of a disruption in supply to end users in the United States; and

"(5) to any person for national security purposes, as determined by the Secretary.".

SEC. 512. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) REIMBURSEMENT OF THORIUM LICENSEES.—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

(1) by striking "$140,000,000" and inserting "$365,000,000"; and

(2) by adding at the end the following: "Such payments shall not exceed the following amounts:

"(i) $90,000,000 in fiscal year 2002.

"(ii) $55,000,000 in fiscal year 2003.

"(iii) $20,000,000 in fiscal year 2004.

"(iv) $20,000,000 in fiscal year 2005.

"(v) $20,000,000 in fiscal year 2006.

"(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Energy Policy Act of 1992 (42 U.S.C. 2296a–2) is amended by striking "$490,000,000" and inserting "$715,000,000".

(c) DECONTAMINATION AND DECOMMISSIONING FUND.—Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1(a)) is amended—

(1) by striking "$488 333,333" and inserting "$518,233,333"; and

(2) by inserting after "inflation" the following: "beginning on the date of enactment of the Energy Policy Act of 1992".

SEC. 513. FAST FLUX TEST FACILITY.

The Secretary of Energy shall not reactivate the Fast Flux Test Facility to conduct—

(1) any atomic energy defense activity,

(2) any space-related mission, or

(3) any program for the production or utilization of nuclear material if the Secretary has determined, in a record of decision, that the program can be carried out at existing operating facilities.

SEC. 514. NUCLEAR POWER 2010.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) OFFICE.—The term "Office" means the Office of Nuclear Energy Science and Technology of the Department of Energy.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Nuclear Energy Science and Technology of the Department of Energy.

(4) PROGRAM.—The term "Program" means the Nuclear Power 2010 Program.

(b) ESTABLISHMENT.—The Secretary shall carry out a program, to be managed by the Director.

(c) PURPOSE.—The program shall aggressively pursue those activities that will result in regulatory approvals and design completion in a phased approach, with joint government/industry cost sharing, which would allow for the construction and startup of new nuclear plants in the United States by 2010.

(d) ACTIVITIES.—In carrying out the program, the Director shall—

(1) issue a solicitation to industry seeking proposals from joint venture project teams comprised of reactor vendors and power generation companies to participate in the Nuclear Power 2010 program;

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear steam supply systems and major equipment suppliers, and plant owner/operators, with strong and common incentives to build and operate new plants in the United States;

(3) conduct the Nuclear Power 2010 program consistent with the findings of "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" issued by the Near-Term Deployment Working Group of the Nuclear Energy Research Advisory Committee of the Department of Energy;

(4) rely upon the expertise and capabilities of the Department of Energy national laboratories and sites in the areas of advanced nuclear fuel cycles and fuels testing, giving consideration to existing lead laboratory designations and the unique capabilities and facilities available at each national laboratory and site;

(5) pursue deployment of both water-cooled and gas-cooled reactor designs on a dual track basis that will provide maximum potential for the success of both;

(6) include participation of international collaborators in research and design efforts where beneficial; and

(7) seek to accomplish the essential regulatory and technical work, both generic and design-specific, to make possible new nuclear plants within this decade.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section such sums as are necessary for fiscal year 2003 and for each fiscal year thereafter.

SEC. 515. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) before the Federal Government takes any irreversible action relating to the disposal of spent nuclear fuel, Congress must determine whether the spent fuel in the repository should be treated as waste subject to permanent burial or should be considered an energy resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

(b) DEFINITIONS.—In this section:

(1) ASSOCIATE DIRECTOR.—The term "Associate Director" means the Associate Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) ESTABLISHMENT.—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(d) HEAD OF OFFICE.—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(e) DUTIES OF THE ASSOCIATE DIRECTOR.—

(1) IN GENERAL.—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) PARTICIPATION.—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(3) ACTIVITIES.—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to the health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United States if the country in which the collaborator is located is unable to provide for their support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles and reactors conducted by the Office of Nuclear Energy Science and Technology.

(f) GRANT AND CONTRACT AUTHORITY.—The Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in this section.

(g) REPORT.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

SEC. 516. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998, Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

Subtitle C—Growth of Nuclear Energy

SEC. 521. COMBINED LICENSE PERIODS.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking "c. Each such" and inserting the following:

"c. LICENSE PERIOD.—

"(1) IN GENERAL.—Each such"; and

(2) by adding at the end the following:

"(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.".

Subtitle D—NRC Regulatory Reform

SEC. 531. ANTITRUST REVIEW.

(a) IN GENERAL.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

"d. ANTITRUST LAWS.—

"(1) NOTIFICATION.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.

"(2) ACTION BY THE ATTORNEY GENERAL.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.

"(3) INFORMATION.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).

"(4) APPLICABILITY.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.".

(b) CONFORMING AMENDMENT.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

"(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.".

SEC. 532. DECOMMISSIONING.

(a) AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking "and (3)" and inserting "(3)"; and

(2) by inserting before the semicolon at the end the following: ", and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility".

(b) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

"(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

"(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

"(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.".

Subtitle E—NRC Personnel Crisis

SEC. 541. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

"y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.".

SEC. 542. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 through 2006.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

DIVISION B—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE VI—OIL AND GAS PRODUCTION

SEC. 601. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

"SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended."; and

(2) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act) and its heading.

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.";

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act) and its heading.

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended by striking the items relating to part D of title I and part D of title II.

SEC. 602. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—

(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b).

SEC. 603. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after "acreage held in special tar sand areas" the following: "as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement, or for which royalty, including compensatory royalty or royalty in kind, was paid in the preceding calendar year,".

SEC. 604. ORPHANED AND ABANDONED WELLS ON FEDERAL LAND.

(a) Establishment.—(1) The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program to ensure within 3 years after the date of enactment of this Act, remediation, reclamation, and closure of orphaned oil and gas wells located on lands administered by the land management agencies within the Department of the Interior and the United States Forest Service that are—

(A) abandoned;

(B) orphaned; or

(C) idled for more than 5 years and having no beneficial use.

(2) The program shall include a means of ranking critical sites for priority in remediation based on potential environmental harm, other land use priorities, and public health and safety.

(3) The program shall provide that responsible parties be identified wherever possible and that the costs of remediation be recovered.

(4) In carrying out the program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located, and shall consult with the Secretary of Energy, and the Interstate Oil and Gas Compact Commission.

(b) Plan.—Within 6 months from the date of enactment of this section, the Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a). Copies of the plan shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of the Interior $5,000,000 for each of fiscal years 2003 through 2005 to carry out the activities provided for in this section.

SEC. 605. ORPHANED AND ABANDONED OIL AND GAS WELL PROGRAM.

(a) Establishment.—The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned and abandoned exploration or production well sites on State and private lands. The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore abandoned and orphaned wells on State and private lands.

(b) Program Elements.—The program should include—

(1) mechanisms to facilitate identification of responsible parties wherever possible;

(2) criteria for ranking critical sites based on factors such as other land use priorities, potential environmental harm and public visibility; and

(3) information and training programs on best practices for remediation of different types of sites.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy for the activities under this section $5,000,000 for each of fiscal years 2003 through 2005 to carry out the provisions of this section.

SEC. 606. OFFSHORE DEVELOPMENT.

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

"(k) Suspension of Operations for Subsalt Exploration.—Notwithstanding any other provision of law or regulation, the Secretary may grant a request for a suspension of operations under any lease to allow the lessee to reprocess or reinterpret geologic or geophysical data beneath allocthonous salt sheets, when in the Secretary's judgment such suspension is necessary to prevent waste caused by the drilling of unnecessary wells, and to maximize ultimate recovery of hydrocarbon resources under the lease. Such suspension shall be limited to the minimum period of time the Secretary determines is necessary to achieve the objectives of this subsection.".

SEC. 607. COALBED METHANE STUDY.

(a) Study.—The National Academy of Sciences shall conduct a study on the effects of coalbed methane production on surface and water resources.

(b) Data Analysis.—The study shall analyze available hydrogeologic and water quality data, along with other pertinent environmental or other information to determine—

(1) adverse effects associated with surface or subsurface disposal of waters produced during extraction of coalbed methane;

(2) depletion of groundwater aquifers or drinking water sources associated with production of coalbed methane;

(3) any other significant adverse impacts to surface or water resources associated with production of coalbed methane; and

(4) production techniques or other factors that can mitigate adverse impacts from coalbed methane development.

(c) Recommendations.—The study shall analyze existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or water resources attributable to coalbed methane development.

(d) Completion of Study.—The National Academy of Sciences shall submit the study to the Secretary of the Interior within 18 months after the date of enactment of this Act, and shall make the study available to the public at the same time.

(e) Report to Congress.—The Secretary of the Interior shall report to Congress within 6 months of her receipt of the study on—

(1) the findings and recommendations of the study;

(2) the Secretary's agreement or disagreement with each of its findings and recommendations; and

(3) any recommended changes in funding to address the effects of coalbed methane production on surface and water resources.

SEC. 608. FISCAL POLICIES TO MAXIMIZE RECOVERY OF DOMESTIC OIL AND GAS RESOURCES.

(a) Evaluation.—The Secretary of Energy, in coordination with the Secretaries of the Interior, Commerce, and Treasury, Indian tribes and the Interstate Oil and Gas Compact Commission, shall evaluate the impact of existing Federal and State tax and royalty policies on the development of domestic oil and gas resources and on revenues to Federal, State, local and tribal governments.

(b) Scope.—The evaluation under subsection (a) shall—

(1) analyze the impact of fiscal policies on oil and natural gas exploration, development drilling, and production under different price scenarios, including the impact of the individual and corporate Alternative Minimum Tax, State and local production taxes and fixed royalty rates during low price periods;

(2) assess the effect of existing Federal and State fiscal policies on investment under different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, deep and deviated wells, coalbed methane and other unconventional oil and gas formations;

(3) assess the extent to which Federal and State fiscal policies negatively impact the ultimate recovery of resources from existing fields and smaller accumulations in offshore waters, especially in water depths less than 800 meters, of the Gulf of Mexico;

(4) compare existing Federal and State policies with tax and royalty regimes in other countries with particular emphasis on similar geological, developmental and infrastructure conditions; and

(5) evaluate how alternative tax and royalty policies, including counter-cyclical measures, could increase recovery of domestic oil and natural gas resources and revenues to Federal, State, local and tribal governments.

(c) Policy Recommendations.—Based upon the findings of the evaluation under subsection (a), a report describing the findings and recommendations for policy changes shall be provided to the President, the Congress, the Governors of the member States of the Interstate Oil and Gas Compact Commission, and Indian tribes having an oil and gas lease approved by the Secretary of the Interior. The recommendations should ensure that the public interest in receiving the economic benefits of tax and royalty revenues is balanced with the broader national security and economic interests in maximizing recovery of domestic resources. The report should include recommendations regarding actions to—

(1) ensure stable development drilling during periods of low oil and/or natural gas prices to maintain reserve replacement and deliverability;

(2) minimize the negative impact of a volatile investment climate on the oil and gas service industry and domestic oil and gas exploration and production;

(3) ensure a consistent level of domestic activity to encourage the education and retention of a technical workforce; and

(4) maintain production capability during periods of low oil and/or natural gas prices.

(d) Royalty Guidelines.—The recommendations required under (c) should include guidelines for private resource holders as to the appropriate level of royalties given geology, development cost, and the national interest in maximizing recovery of oil and gas resources.

(e) Report.—The study under subsection (a) shall be completed not later than 18 months after the date of enactment of this section. The report and recommendations required in (c) shall be transmitted to the President, the Congress, Indian tribes, and the Governors of the member States of the Interstate Oil and Gas Compact Commission.

SEC. 609. STRATEGIC PETROLEUM RESERVE.

(a) Full Capacity.—The President shall—

(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) to full capacity as soon as practicable;

(2) acquire petroleum for the Strategic Petroleum Reserve by the most practicable and cost-effective means, including the acquisition of crude oil the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) ensure that the fill rate minimizes impacts on petroleum markets.

(b) Recommendations.—Not later than 180 days after the date of enactment of this Act, the

Secretary of Energy shall submit to Congress a plan to—

(1) eliminate any infrastructure impediments that may limit maximum drawdown capability; and

(2) determine whether the capacity of the Strategic Petroleum Reserve on the date of enactment of this section is adequate in light of the increasing consumption of petroleum and the reliance on imported petroleum.

SEC. 610. HYDRAULIC FRACTURING.

Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by adding at the end the following:

"(e) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—

"(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.—

"(A) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, and within specific regions, States, or portions of States.

"(B) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.

"(C) STUDY ELEMENTS.—The study conducted under subparagraph (A) shall, at a minimum, examine and make findings as to whether—

"(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, States or portions of States;

"(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and

"(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.

"(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation:

"(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (1) (B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

"(ii) At the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State. Subparagraph (4) of this subsection shall apply to any such determination by the Administrator.

"(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking her broad study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

"(2) INDEPENDENT SCIENTIFIC REVIEW.—

"(A) IN GENERAL.—Prior to the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.

"(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on the—

"(i) findings related to the study conducted by the Administrator under paragraph (1);

"(ii) the scientific and technical basis for such findings; and

"(iii) recommendations, if any, for modifying the findings of the study.

"(3) REGULATORY DETERMINATION.—

"(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed or accumulated in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either—

"(i) that regulation of hydraulic fracturing under this part is necessary to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State; or

"(ii) that regulation described under clause (i) is unnecessary.

"(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

"(4) PROMULGATION OF REGULATIONS.—

"(A) REGULATION NECESSARY.—If the Administrator determines under paragraph (3) that regulation by hydraulic fracturing under this part is necessary to ensure that hydraulic fracturing does not endanger underground drinking water sources on a nationwide basis, or within a specific region, State or portions of a State, the Administrator shall, within 6 months after the issuance of that determination, and after public notice and opportunity for comment, promulgate regulations under section 1421 (42 U.S.C. 300h) to ensure that hydraulic fracturing will not endanger such underground sources of drinking water. However, for purposes of the Administrator's approval or disapproval under section 1422 of any State underground injection control program for regulating hydraulic fracturing, a State at any time may make the alternative demonstration provided for in section 1425 of this title.

"(B) REGULATION UNNECESSARY.—The Administrator shall not regulate or require States to regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This provision shall not apply to any State which has a program for the regulation of hydraulic fracturing that was approved by the Administrator under this part prior to the effective date of this subsection.

"(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

"(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term 'hydraulic fracturing' means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

"(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 300i).".

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000 for fiscal year 2003, to remain available until expended, for a grant to the State of Alabama to assist in the implementation of its regulatory program under section 1425 of the Safe Drinking Water Act.

SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.

The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.

SEC 613. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.

TITLE VII—NATURAL GAS PIPELINES

Subtitle A—Alaska Natural Gas Pipeline

SEC. 701. SHORT TITLE.

This subtitle may be cited as the "Alaska Natural Gas Pipeline Act of 2003".

SEC. 702. FINDINGS.

The Congress finds that:

(1) Construction of a natural gas pipeline system from the Alaskan North Slope to United States markets is in the national interest and will enhance national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(2) The Commission issued a conditional certificate of public convenience and necessity for the Alaska Natural Gas Transportation System, which remains in effect.

SEC. 703. PURPOSES.

The purposes of this subtitle are—

(1) to provide a statutory framework for the expedited approval, construction, and initial operation of an Alaska natural gas transportation project, as an alternative to the framework provided in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o), which remains in effect;

(2) to establish a process for providing access to such transportation project in order to promote competition in the exploration, development and production of Alaska natural gas;

(3) to clarify Federal authorities under the Alaska Natural Gas Transportation Act; and

(4) to authorize Federal financial assistance to an Alaska natural gas transportation project as provided in this subtitle.

SEC. 704. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C.

719–719o), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska Natural Gas Transportation System.

(b) ISSUANCE OF CERTIFICATE.—(1) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 705.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 706, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons, be consistent with the purposes set forth in section 703(2) and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations no later than 120 days after the enactment of this subtitle.

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State's royalty gas for local consumption needs within the State: Provided, That the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 705. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 704 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 704. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 704 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

SEC. 706. PIPELINE EXPANSION.

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.

(b) REQUIREMENTS.—Before ordering an expansion the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.

(d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(e) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 707. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established as an independent establishment in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) THE FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—

(1) be appointed by the President, by and with the advice of the Senate,

(2) hold office at the pleasure of the President, and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—(1) All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.

(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.

(3) Unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of the project.

(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to

monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

SEC. 708. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle;

(2) the constitutionality of any provision of this subtitle, or any decision made or action taken thereunder; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest as described in section 702 of this subtitle.

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by adding the following paragraph:

"(2) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest described in section 2 of this Act.".

SEC. 709. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717), and therefore not subject to the jurisdiction of the Federal Energy Regulatory Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in subsection 704(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. In exercising such authority, the Commission, pursuant to Section 17(b) of the Natural Gas Act (15 U.S.C. 717p), shall confer with the State of Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

SEC. 710. LOAN GUARANTEE.

(a) AUTHORITY.—The Secretary of Energy may guarantee not more than 80 percent of the principal of any loan made to the holder of a certificate of public convenience and necessity issued under section 704(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) for the purpose of constructing an Alaska natural gas transportation project.

(b) CONDITIONS.—(1) The Secretary of Energy may not guarantee a loan under this section unless the guarantee has filed an application for a certificate of public convenience and necessity under section 704(b) of this Act or for an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) with the Commission not later than 18 months after the date of enactment of this subtitle.

(2) A loan guaranteed under this section shall be made by a financial institution subject to the examination of the Secretary.

(3) Loan requirements, including term, maximum size, collateral requirements and other features shall be determined by the Secretary.

(c) LIMITATION ON AMOUNT.—Commitments to guarantee loans may be made by the Secretary of Energy only to the extent that the total loan principal, any part of which is guaranteed, will not exceed $10,000,000,000.

(d) REGULATIONS.—The Secretary of Energy may issue regulations to carry out the provisions of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

SEC. 711. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission within 18 months after the date of enactment of this title, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.

(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.

(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).

(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), he shall submit a report containing the results of the study, his recommendations, and any proposals for legislation to implement his recommendations to the Congress within 6 months after the expiration of the Secretary of Energy's authority to guarantee a loan under section 710.

SEC. 712. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or any Presidential findings or waivers issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska Natural Gas Transportation System as designated and described in section 2 of the President's Decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska Natural Gas Transportation System to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's Decision.

SEC. 713. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Alaska natural gas" means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) The term "Alaska natural gas transportation project" means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o); or

(B) section 704 of this subtitle.

(3) The term "Alaska Natural Gas Transportation System" means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's Decision.

(4) The term "Commission" means the Federal Energy Regulatory Commission.

(5) The term "President's Decision" means the Decision and Report to Congress on the Alaska Natural Gas Transportation system issued by the President on September 22, 1977 pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719c) and approved by Public Law 95–158.

SEC. 714. SENSE OF THE SENATE.

It is the sense of the Senate that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, the Senate urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 715. ALASKAN PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) Within six months after enactment of this Act, the Secretary of Labor (in this section referred to as the "Secretary") shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives setting forth a program to train Alaska residents in the skills and crafts required in the design, construction, and operation of an Alaska gas pipeline system and that will enhance employment and contracting opportunities for Alaskan residents. The report shall also describe any laws, rules, regulations and policies which act as a deterrent to hiring Alaskan residents or contracting with Alaskan residents to perform work on Alaska gas pipelines, together with any recommendations for change. For purposes of this subsection, Alaskan residents shall be defined as those individuals eligible to vote within the State of Alaska on the date of enactment of this Act.

(b) Within 1 year of the date the report is transmitted to Congress, the Secretary shall establish within the State of Alaska, at such locations as are appropriate, one or more training

centers for the express purpose of training Alaskan residents in the skills and crafts necessary in the design, construction and operation of gas pipelines in Alaska. Each such training center shall also train Alaskan residents in the skills required to write, offer, and monitor contracts in support of the design, construction, and operation of Alaska gas pipelines.

(c) In implementing the report and program described in this subsection, the Secretary shall consult with the Alaskan Governor.

(d) There are authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000 for the purposes of this subsection.

Subtitle B—Operating Pipelines

SEC. 721. ENVIRONMENTAL REVIEW AND PERMITTING OF NATURAL GAS PIPELINE PROJECTS.

(a) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.

(b) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—

(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,

(2) the Chairman of the Federal Energy Regulatory Commission,

(3) the Director of the Bureau of Land Management,

(4) the Director of the United States Fish and Wildlife Service,

(5) the Commanding General, United States Army Corps of Engineers,

(6) the Chief of the Forest Service,

(7) the Administrator of the Environmental Protection Agency,

(8) the Chairman of the Advisory Council on Historic Preservation, and

(9) the heads of such other agencies as the Chairman of the Council on Environmental Quality and the Chairman of the Federal Energy Regulatory Commission deem appropriate.

(c) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the interagency task force shall enter into the memorandum of understanding not later than 1 year after the date of the enactment of this section.

Subtitle C—Pipeline Safety

PART I—SHORT TITLE; AMENDMENT OF TITLE 49

SEC. 741. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Pipeline Safety Improvement Act of 2003".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

PART II—PIPELINE SAFETY IMPROVEMENT ACT OF 2003

SEC. 761. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this subtitle, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 762. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 763. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry and employee organization responses to those actions and recommendations.

(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 764. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

"(c) INTEGRITY MANAGEMENT.—

"(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than 1 year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2003, whichever is sooner.

"(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

"(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods. The assessment period shall be no less than every 5 years unless the Department of Transportation Inspector General, after consultation with the Secretary determines there is not a sufficient capability or it is deemed unnecessary because of more technically appropriate monitoring or creates undue interruption of necessary supply to fulfill the requirements under this paragraph;

"(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and

"(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

"(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.

"(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

"(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity

management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

"(6) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—

"(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

"(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

"(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;

"(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

"(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.".

SEC. 765. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is, or would be, constructed or operated, or a component of the facility is, or would be, constructed or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment."; and

(2) by striking "is hazardous," in subsection (d) and inserting "is, or would be, hazardous,".

SEC. 766. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT-TO-KNOW.

(a) Section 60116 is amended to read as follows:

"§ 60116. Public education, emergency preparedness, and community right-to-know

"(a) PUBLIC EDUCATION PROGRAMS.—(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

"(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

"(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

"(b) EMERGENCY PREPAREDNESS.—

"(1) OPERATOR LIAISON.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

"(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

"(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;

"(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;

"(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

"(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

"(E) a point of contact to respond to questions from emergency response representative.

"(3) SMALLER COMMUNITIES.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

"(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

"(c) COMMUNITY RIGHT-TO-KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

"(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—

"(1) make available to the public—

"(A) a safety-related condition report filed by an operator under section 60102(h);

"(B) a report of a pipeline incident filed by an operator;

"(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

"(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and

"(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.".

(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking "authorities." and inserting "officials, including the local emergency responders.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

"60116. Public education, emergency preparedness, community right-to-know.".

SEC. 767. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking "$25,000" in subsection (a)(1) and inserting "$500,000";

(2) by striking "$500,000" in subsection (a)(1) and inserting "$1,000,000";

(3) by adding at the end of subsection (a)(1) the following: "The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121."; and

(4) by striking subsection (b) and inserting the following:

"(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

"(B) other matters that justice requires.".

(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking "knowingly and willfully";

(2) by inserting "knowingly and willfully" before "engages" in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

"(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.".

SEC. 768. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) by striking "GENERAL AUTHORITY.—" in subsection (a) and inserting "AGREEMENTS WITHOUT CERTIFICATION.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

"(b) AGREEMENTS WITH CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

"(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2003 if—

"(A) the State authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:

"(e) ENDING AGREEMENTS.—

"(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

"(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

SEC. 769. IMPROVED DATA AND DATA AVAILABILITY.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting "(1)" before "To";

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

"(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than 5 gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

"(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request."; and

(4) indenting the first word of the last sentence and inserting "(4)" before "The Secretary" in that sentence.

(c) PENALTY AUTHORITIES.—(1) Section 60122(a) is amended by striking "60114(c)" and inserting "60117(b)(3)".

(2) Section 60123(a) is amended by striking "60114(c)," and inserting "60117(b)(3),".

(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:

"(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.".

SEC. 770. RESEARCH AND DEVELOPMENT.

(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—

(1) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) PIPELINE SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety reseatch and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

(F) improve the capability, reliability, and practicality of external leak detection devices;

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) POINTS OF CONTACT.—

(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) DUTIES.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 771. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 770(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—$30,000,000 for each of the fiscal years 2003, 2004, and 2005 of which $23,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title.".

(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:

"(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—$20,000,000 for the fiscal years 2003, 2004, and 2005 of which $18,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title.".

(c) OIL SPILLS.—Section 60125 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:

"(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this title for each of fiscal years 2003, 2004, and 2005.".

(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 770(b) and 771 of this subtitle $3,000,000, to be derived from user fees under section 60301 of title 49, United States Code, for each of the fiscal years 2003 through 2007.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention and mitigation of oil spills under sections 770(b) and 771 of this subtitle for each of the fiscal years 2003 through 2007.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 770(b) and 771 of this subtitle such sums as may be necessary for each of the fiscal years 2003 through 2007.

SEC. 773. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by inserting "(1)" after "CORRECTIVE ACTION ORDERS.—"; and

(2) by adding at the end the following:

"(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

"(A) the Secretary determines, after notice and an opportunity for a hearing, that the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

"(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 763 of the Pipeline Safety Improvement Act of 2003 and can safely perform those activities.

"(3) Action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.".

SEC. 774. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

"§60129. Protection of employees providing pipeline safety information

"(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any *violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;*

"(3) testified or is about to testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

SEC. 775. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 776. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 777. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

SEC. 778. STUDY OF NATURAL GAS RESERVE.

(a) FINDINGS.—Congress finds that:

(1) In the last few months, natural gas prices across the country have tripled.

(2) In California, natural gas prices have increased twenty-fold, from $3 per million British thermal units to nearly $60 per million British thermal units.

(3) One of the major causes of these price increases is a lack of supply, including a lack of natural gas reserves.

(4) The lack of a reserve was compounded by the rupture of an El Paso Natural Gas Company pipeline in Carlsbad, New Mexico on August 1, 2000.

(5) Improving pipeline safety will help prevent similar accidents that interrupt the supply of natural gas and will help save lives.

(6) It is also necessary to find solutions for the lack of natural gas reserves that could be used during emergencies.

(b) STUDY BY THE NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to—

(1) conduct a study to—

(A) determine the causes of recent increases in the price of natural gas, including whether the increases have been caused by problems with the supply of natural gas or by problems with the natural gas transmission system;

(B) identify any Federal or State policies that may have contributed to the price increases; and

(C) determine what Federal action would be necessary to improve the reserve supply of natural gas for use in situations of natural gas shortages and price increases, including determining the feasibility and advisability of a Federal strategic natural gas reserve system; and

(2) not later than 60 days after the date of enactment of this Act, submit to Congress a report on the results of the study.

SEC. 779. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network. In carrying out the study, the Commission shall consider—

(1) the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers;

(2) capacity constraints during unusual weather periods;

(3) potential constraint points in regional, interstate, and international pipeline capacity serving New England; and

(4) the quality and efficiency of the Federal environmental review and permitting process for natural gas pipelines.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Senate Committee on Energy and Natural Resources and the appropriate committee of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

PART III—PIPELINE SECURITY SENSITIVE INFORMATION

SEC. 781. MEETING COMMUNITY RIGHT TO KNOW WITHOUT SECURITY RISKS.

Section 60117 is amended by adding at the end the following:

"(l) WITHHOLDING CERTAIN INFORMATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter requiring the Secretary to provide information obtained by the Secretary or an officer, employee, or agent in carrying out this chapter to State or local government officials, the public, or any other person, the Secretary shall withhold such information if it is information that is described in section 552(b)(1)(A) of title 5, United States Code.

"(2) CONDITIONAL RELEASE.—Notwithstanding paragraph (1), upon the receipt of assurances satisfactory to the Secretary that the information will be handled appropriately, the Secretary may provide information permitted to be withheld under that paragraph—

"(A) to the owner or operator of the affected pipeline system;

"(B) to an officer, employee or agent of a Federal, State, tribal, or local government, including a volunteer fire department, concerned with carrying out this chapter, with protecting the facilities, with protecting public safety, or with national security issues;

"(C) in an administrative or judicial proceeding brought under this chapter or an administrative or judicial proceeding that addresses terrorist actions or threats of such actions; or

"(D) to such other persons as the Secretary determines necessary to protect public safety and security.

"(3) REPORT TO CONGRESS.—The Secretary shall provide an annual report to the Congress, in appropriate form as determined by the Secretary, containing a summary of determinations made by the Secretary during the preceding year to withhold information from release under paragraph (1).".

SEC. 782. TECHNICAL ASSISTANCE FOR SECURITY OF PIPELINE FACILITIES.

The Secretary of Transportation may provide technical assistance to an operator of a pipeline facility or to State, tribal, or local officials to prevent or respond to acts of terrorism that may impact the pipeline facility, including—

(1) actions by the Secretary that support the use of National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack;

(2) use of resources available to the Secretary to develop and implement security measures for a pipeline facility;

(3) identification of security issues with respect to the operation of a pipeline facility; and

(4) the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.

SEC. 783. CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.

Section 60123(b) of title 49, United States Code, is amended—

(1) by striking "or" after "gas pipeline facility" and inserting a comma; and

(2) by inserting after "liquid pipeline facility" the following: ", or either an intrastate gas pipeline facility or an intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce".

DIVISION C—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE VIII—FUELS AND VEHICLES

Subtitle A—CAFE Standards, Alternative Fuels, and Advanced Technology

SEC. 801. INCREASED FUEL ECONOMY STANDARDS.

(a) REQUIREMENT FOR NEW REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for automobiles that are determined on the basis of the maximum feasible average fuel economy levels for the automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(2) TIME FOR ISSUING REGULATIONS.—

(A) NON-PASSENGER AUTOMOBILES.—For non-passenger automobiles, the Secretary of Transportation shall issue the final regulations not later than 15 months after the date of the enactment of this Act.

(B) PASSENGER AUTOMOBILES.—For passenger automobiles, the Secretary of Transportation shall issue—

(i) the proposed regulations not later than 180 days after the date of the enactment of this Act; and

(ii) the final regulations not later than 2 years after that date.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: "or such other number as the Secretary prescribes under subsection (c)".

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under this section, the Secretary of Transportation shall also issue an environmental assessment of the effects of the implementation of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Transportation for fiscal year 2003, to remain available until expended, $2,000,000 to carry out this section.

SEC. 802. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 801, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: "A bill to establish new average fuel economy standards for certain motor vehicles.".

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

"That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

"'( ) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final *regulations relating to passenger automobiles, the following text:*

"That, section 32902(b) of title 49, United States Code, is amended to read as follows:

"'(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year   shall be   miles per gallon.'", the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed pursuant to subparagraph (A) of this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

SEC. 803. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) Technological feasibility.

"(2) Economic practicability.

"(3) The effect of other motor vehicle standards of the Government on fuel economy.

"(4) The need of the United States to conserve energy.

"(5) The desirability of reducing United States dependence on imported oil.

"(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

"(7) The effects of increased fuel economy on air quality.

"(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

"(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

"(10) The cost and lead time necessary for the introduction of the necessary new technologies.

"(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

"(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

"(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.".

SEC. 804. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

Section 32906(a)(1) of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "1993–2004" and inserting "1993 through 2008"; and

(2) in subparagraph (B), by striking "2005–2008" and inserting "2009 through 2012".

SEC. 805. PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) LIGHT DUTY TRUCKS.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the agency to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies—

(A) 5 percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and

(B) 10 percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.

(2) COUNTING OF TRUCKS.—Light duty trucks acquired for an agency of the executive branch that are counted to comply with section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) for a fiscal year shall be counted to determine the total number of light duty trucks procured for that agency for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.

(c) DEFINITIONS.—In this section:

(1) HYBRID VEHICLE.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(2) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(d) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 806. USE OF ALTERNATIVE FUELS.

(a) EXCLUSIVE USE OF ALTERNATIVE FUELS IN DUAL FUELED VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, not later than January 1, 2009, the fuel actually used in the fleet of dual fueled vehicles used by the agency is an alternative fuel.

(b) WAIVER AUTHORITY.—

(1) CAPABILITY WAIVER.—

(A) AUTHORITY.—If the Secretary of Transportation determines that not all of the dual fueled vehicles can operate on alternative fuels at all times, the Secretary may waive the requirement of subsection (a) in part, but only to the extent that—

(i) not later than January 1, 2009, not less than 50 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels; and

(ii) not later than January 1, 2011, not less than 75 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels.

(B) EXPIRATION.—In no case may a waiver under subparagraph (A) remain in effect after December 31, 2012.

(2) REGIONAL FUEL AVAILABILITY WAIVER.—The Secretary may waive the applicability of the requirement of subsection (a) to vehicles used by an agency in a particular geographic area where the alternative fuel otherwise required to be used in the vehicles is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency.

(c) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL.—The term "alternative fuel" has the meaning given that term in section 32901(a)(1) of title 49, United States Code.

(2) DUAL FUELED VEHICLE.—The term "dual fueled vehicle" has the meaning given the term "dual fueled automobile" in section 32901(a)(8) of title 49, United States Code.

(3) FLEET.—The term "fleet", with respect to dual fueled vehicles, has the meaning that is given that term with respect to light duty motor vehicles in section 301(9) of the Energy Policy Act of 1992 (42 U.S.C. 13211(9)).

SEC. 807. HYBRID ELECTRIC AND FUEL CELL VEHICLES.

(a) EXPANSION OF SCOPE.—The Secretary of Energy shall expand the research and development program of the Department of Energy on advanced technologies for improving the environmental cleanliness of vehicles to emphasize research and development on the following:

(1) Fuel cells, including—

(A) high temperature membranes for fuel cells; and

(B) fuel cell auxiliary power systems.

(2) Hydrogen storage.

(3) Advanced vehicle engine and emission control systems.

(4) Advanced batteries and power electronics for hybrid vehicles.

(5) Advanced fuels.

(6) Advanced materials.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2003, the amount of $225,000,000 for carrying out the expanded research and development program provided for under this section.

SEC. 808. DIESEL FUELED VEHICLES.

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOAL.—

(1) COMPLIANCE WITH TIER 2 EMISSION STANDARDS BY 2010.—The Secretary shall carry out subsection (a) with a view to developing and demonstrating diesel technology meeting tier 2 emission standards not later than 2010.

(2) TIER 2 EMISSION STANDARDS DEFINED.—In this subsection, the term "tier 2 emission standards" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under sections 202 and 211 of the Clean Air Act to apply to passenger cars, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

SEC. 809. FUEL CELL DEMONSTRATION.

(a) PROGRAM REQUIRED.—The Secretary of Energy and the Secretary of Defense shall jointly carry out a program to demonstrate—

(1) fuel cell technologies developed in the PNGV and Freedom Car programs;

(2) fuel cell technologies developed in research and development programs of the Department of Defense; and

(3) follow-on fuel cell technologies.

(b) PURPOSES OF PROGRAM.—The purposes of the program are to identify and support technological advances that are necessary to achieve accelerated availability of fuel cell technology for use both for nonmilitary and military purposes.

(c) COOPERATION WITH INDUSTRY.—

(1) IN GENERAL.—The demonstration program shall be carried out in cooperation with industry, including the automobile manufacturing industry and the automotive systems and component suppliers industry.

(2) COST SHARING.—The Secretary of Energy and the Secretary of Defense shall provide for industry to bear, in cash or in kind, at least one-half of the total cost of carrying out the demonstration program.

(d) DEFINITIONS.—In this section:

(1) PNGV PROGRAM.—The term "PNGV program" means the Partnership for a New Generation of Vehicles, a cooperative program engaged in by the Departments of Commerce, Energy, Transportation, and Defense, the Environmental Protection Agency, the National Science Foundation, and the National Aeronautics and Space Administration with the automotive industry for the purpose of developing a new generation of vehicles with capabilities resulting in significantly improved fuel efficiency together with low emissions without compromising the safety, performance, affordability, or utility of the vehicles.

(2) FREEDOM CAR PROGRAM.—The term "Freedom Car program" means a cooperative research program engaged in by the Department of Energy with the United States Council on Automotive Research as a follow-on to the PNGV program.

SEC. 810. BUS REPLACEMENT.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine how best to provide for converting the composition of the fleets of buses in metropolitan areas and school systems from buses utilizing current diesel technology to—

(1) buses that draw propulsion from onboard fuel cells;

(2) buses that are hybrid electric vehicles;

(3) buses that are fueled by clean-burning fuels, such as renewable fuels (including agriculture-based biodiesel fuels), natural gas, and ultra-low sulphur diesel;

(4) buses that are powered by clean diesel engines; or

(5) an assortment of buses described in paragraphs (1), (2), (3), and (4).

(b) REPORT.—

(1) REQUIREMENT.—The Secretary of Transportation shall submit a report on the results of the study on bus fleet conversions under subsection (a) to Congress.

(2) CONTENT.—The report on bus fleet conversions shall include the following:

(A) An assessment of effectuating conversions by the following means:

(i) Replacement of buses.

(ii) Replacement of power and propulsion systems in buses utilizing current diesel technology.

(iii) Other means.

(B) Feasible schedules for carrying out the conversions.

(C) Estimated costs of carrying out the conversions.

(D) An assessment of the benefits of the conversions in terms of emissions control and reduction of fuel consumption.

SEC. 811. AVERAGE FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS.

(a) IN GENERAL.—Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting "(1)" after "AUTOMOBILES.—"; and

(2) by adding at the end the following new paragraph:

"(2) The average fuel economy standard for pickup trucks manufactured by a manufacturer in a model year after model year 2004 shall be no higher than 20.7 miles per gallon. No average fuel economy standard prescribed under another provision of this section shall apply to pickup trucks.".

(b) DEFINITION OF PICKUP TRUCK.—Section 32901(a) of such title is amended by adding at the end the following new paragraph:

"(17) 'pickup truck' has the meaning given that term in regulations prescribed by the Secretary for the administration of this chapter, as in effect on January 1, 2002, except that such term shall also include any additional vehicle that the Secretary defines as a pickup truck in regulations prescribed for the administration of this chapter after such date.".

SEC. 812. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a)(1) of title 23, United States Code, is amended by inserting after "required" the following: "(unless, in the discretion of the State transportation department, the vehicle is being operated on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))".

SEC. 813. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

"(m) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information retrospectively to 1998, both on a national basis and a regional basis, including—

(1) the quantity of renewable fuels produced;

(2) the cost of production;

(3) the cost of blending and marketing;

(4) the quantity of renewable fuels blended;

(5) the quantity of renewable fuels imported; and

(6) market price data.

SEC. 814. GREEN SCHOOL BUS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy and the Secretary of Transportation shall jointly establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) Buses.—Funding under a grant made under this section may only be used to demonstrate the use of new alternative fuel school buses or ultra-low sulfur diesel school buses that—

(1) have a gross vehicle weight greater than 14,000 pounds;

(2) are powered by a heavy duty engine;

(3) in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model year 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) in the case of ultra-low sulfur diesel school buses, emit not more than the lesser of—

(A) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of the same class of ultra-low sulfur diesel school buses commercially available at the time the grant is made; or

(B) the applicable following amounts—

(i) for buses manufactured in model year 2002 or 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(ii) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(h) Deployment and Distribution.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) Limit on Funding.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) Definitions.—For purposes of this section—

(1) the term "alternative fuel school bus" means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume;

(2) the term "idling" means not turning off an engine while remaining stationary for more than approximately 3 minutes; and

(3) the term "ultra-low sulfur diesel school bus" means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) Reduction of School Bus Idling.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

SEC. 815. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) Establishment of Program.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than two units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) Cost Sharing.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) Funding.—No more than $25,000,000 of the amounts authorized under section 815 may be used for carrying out this section for the period encompassing fiscal years 2003 through 2006.

(d) Reports to Congress.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Energy for carrying out sections 814 and 815, to remain available until expended—

(1) $50,000,000 for fiscal year 2003;

(2) $60,000,000 for fiscal year 2004;

(3) $70,000,000 for fiscal year 2005; and

(4) $80,000,000 for fiscal year 2006.

SEC. 817. TEMPORARY BIODIESEL CREDIT EXPANSION.

(a) Biodiesel Credit Expansion.—Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:

"(2) Use.—

"(A) In general.—A fleet or covered person—

"(i) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V; but

"(ii) may use credits allocated under subsection (a) to satisfy 100 percent of the alternative fueled vehicle requirements of a fleet or covered person under title V for 1 or more of model years 2002 through 2005.

"(B) Applicability.—Subparagraph (A) does not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).".

(b) Treatment as Section 508 Credits.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) in the subsection heading, by striking "Credit not" and inserting "Treatment as"; and

(2) by striking "shall not be considered" and inserting "shall be treated as".

(c) Alternative Fueled Vehicle Study and Report.—

(1) Definitions.—In this subsection:

(A) Alternative fuel.—The term "alternative fuel" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(B) Alternative fueled vehicle.—The term "alternative fueled vehicle" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(C) Light duty motor vehicle.—The term "light duty motor vehicle" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(D) Secretary.—The term "Secretary" means the Secretary of Energy.

(2) Biodiesel credit extension study.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study—

(A) to determine the availability and cost of light duty motor vehicles that qualify as alternative fueled vehicles under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.); and

(B) to compare—

(i) the availability and cost of biodiesel; with

(ii) the availability and cost of fuels that qualify as alternative fuels under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.).

(3) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(A) describes the results of the study conducted under paragraph (2); and

(B) includes any recommendations of the Secretary for legislation to extend the temporary credit provided under subsection (a) beyond model year 2005.

SEC. 818. NEIGHBORHOOD ELECTRIC VEHICLES.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) by striking "or a dual fueled vehicle" and inserting ", a dual fueled vehicle, or a neighborhood electric vehicle";

(2) by striking "and" at the end of paragraph (13);

(3) by striking the period at the end of subparagraph (14) and inserting "; and"; and

(4) by adding at the end the following:

"(15) the term 'neighborhood electric vehicle' means a motor vehicle that qualifies as both—

"(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and

"(B) a zero-emission vehicle, as such term is defined in section 86.1703–99 of title 40, Code of Federal Regulations.".

SEC. 819. CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.

Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:

"(p) Credits for New Qualified Hybrid Motor Vehicles.—

"(1) Definitions.—In this subsection:

"(A) 2000 model year city fuel efficiency.—The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2000 model year city fuel efficiency is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg

"If vehicle inertia weight class is:	The 2000 model year city fuel efficiency is:
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2000 model year city fuel efficiency is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

"(B) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(C) ENERGY STORAGE DEVICE.—The term 'energy storage device' means an onboard rechargeable energy storage system or similar storage device.

"(D) FUEL EFFICIENCY.—The term 'fuel efficiency' means the percentage increased fuel efficiency specified in table 1 in paragraph (2)(C) over the average 2000 model year city fuel efficiency of vehicles in the same weight class.

"(E) MAXIMUM AVAILABLE POWER.—The term 'maximum available power', with respect to a new qualified hybrid motor vehicle that is a passenger vehicle or light truck, means the quotient obtained by dividing—

"(i) the maximum power available from the electrical storage device of the new qualified hybrid motor vehicle, during a standard 10-second pulse power or equivalent test; by

"(ii) the sum of—

"(I) the maximum power described in clause (i); and

"(II) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.

"(F) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

"(G) NEW QUALIFIED HYBRID MOTOR VEHICLE.—The term 'new qualified hybrid motor vehicle' means a motor vehicle that—

"(i) draws propulsion energy from both—

"(I) an internal combustion engine (or heat engine that uses combustible fuel); and

"(II) an energy storage device;

"(ii) in the case of a passenger automobile or light truck—

"(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the applicable qualifying California low emissions vehicle standards established under authority of section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

"(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the level established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

"(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

"(H) VEHICLE INERTIA WEIGHT CLASS.—The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(2) ALLOCATION.—

"(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

"(B) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

"(i) the partial credits determined under table 1 in subparagraph (C); and

"(ii) the partial credits determined under table 2 in subparagraph (C).

"(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

"Table 1

"Partial credit for increased fuel efficiency:	Amount of credit:
At least 125% but less than 150% of 2000 model year city fuel efficiency	0.14
At least 150% but less than 175% of 2000 model year city fuel efficiency	0.21
At least 175% but less than 200% of 2000 model year city fuel efficiency	0.28
At least 200% but less than 225% of 2000 model year city fuel efficiency	0.35
At least 225% but less than 250% of 2000 model year city fuel efficiency	0.50.

"Table 2

"Partial credit for 'Maximum Available Power':	Amount of credit:
At least 5% but less than 10%	0.125
At least 10% but less than 20%	0.250
At least 20% but less than 30%	0.375
At least 30% or more	0.500.

"(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

"(3) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

"(q) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEDICATED VEHICLE.—The term' 'dedicated vehicle' includes—

"(i) a light, medium, or heavy duty vehicle; and

"(ii) a neighborhood electric vehicle.

"(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—

"(i) operates solely on alternative fuel; and

"(ii)(I) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

"(II) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

"(C) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' (equal to 1 full credit) means not less than $15,000 in cash or in kind services, as determined by the Secretary.

"(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

"(3) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

"(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

"(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

"(r) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

"(1) DEFINITIONS.—In this section, the term 'qualifying infrastructure' means—

"(A) equipment required to refuel or recharge alternative fueled vehicles;

"(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

"(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

"(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

"(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

"(3) AMOUNT.—For the purposes of credits under this subsection—

"(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

"(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

"(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.".

SEC. 820. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

"(o) RENEWABLE FUEL PPROGRAM.—

"(1) DEFINITIONS.—In this section:

"(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

"(B) RENEWABLE FUEL.—

"(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

"(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) RENEWABLE FUEL PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

"(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

"Calendar year:	***(In billions of gallons)***
2004	*2.3*
2005	*2.6*
2006	*2.9*
2007	*3.2*
2008	*3.5*
2009	*3.9*
2010	*4.3*
2011	*4.7*
2012	*5.0.*

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2004 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The two periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2004 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2004, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2004. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

"(9) SMALL REFINERIES.—

"(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

"(B) ECONOMIC HARDSHIP.—

"(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

"(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" each place it appears and inserting "(n) or (o)"; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) EXCLUSION FROM ETHANOL WAIVER.—

"(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in the area during the high ozone season.

"(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) EFFECTIVE DATE.—

"(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

"(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for two additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2005, and annually thereafter, the Administrator shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(e) RENEWABLE FUELS SAFE HARBOR.—

(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, no renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel, shall be deemed defective in design or manufacture by virtue of the fact that it is, or contains, such a renewable fuel, if it does not violate a control or prohibition imposed by the Administrator under section 211 of the Clean Air Act, as amended by this Act, and the manufacturer is in compliance with all requests for information under section 211(b) of the Clean Air Act, as amended by this Act. In the event that the safe harbor under this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law.

(2) EXCEPTIONS.—This subsection shall not apply to ethers.

(3) EFFECTIVE DATE.—This subsection shall be effective as of the date of enactment and shall apply with respect to all claims filed on or after that date.

SEC. 820A. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in paragraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

"(3) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 312.

"(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of 'fleet' by subparagraphs (A) through (H) of section 301(9).".

SEC. 820B. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

Subtitle B—Additional Fuel Efficiency Measures

SEC. 821. FUEL EFFICIENCY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

"§32917. Standards for executive agency automobiles

"(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

"(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

"(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

"(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

"(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

"(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

"(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.".

SEC. 822. IDLING REDUCTION SYSTEMS IN HEAVY DUTY VEHICLES.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:

"PART K—REDUCING TRUCK IDLING

"SEC. 400AAA. REDUCING TRUCK IDLING.

"(a) STUDY.—Not later than 18 months after the date of enactment of this section, the Secretary shall, in consultation with the Secretary of Transportation, commence a study to analyze the potential fuel savings resulting from long duration idling of main drive engines in heavy-duty vehicles.

"(b) REGULATIONS.—Upon completion of the study under subsection (a), the Secretary may issue regulations requiring the installation of idling reduction systems on all newly manufactured heavy-duty vehicles.

"(c) DEFINITIONS.—As used in this section:

"(1) The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

"(2) The term 'idling reduction system' means a device or system of devices used to reduce long duration idling of a diesel engine in a vehicle.

"(3) The term 'long duration idling' means the operation of a main drive engine of a heavy-duty vehicle for a period of more than 15 consecutive minutes when the main drive engine is not engaged in gear, except that such term does not include idling as a result of traffic congestion or other impediments to the movement of a heavy-duty vehicle.

"(4) The term 'vehicle' has the meaning given such term in section 4 of title 1, United States Code.".

SEC. 823. CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than 2 years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation $5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this section.

SEC. 824. FUEL CELL VEHICLE PROGRAM.

Not later than 1 year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget.

Subtitle C—Federal Reformulated Fuels

SEC. 831. SHORT TITLE.

This subtitle may be cited as the "Federal Reformulated Fuels Act of 2003".

SEC. 832. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by inserting "and section 9010" before "if"; and

(2) by adding at the end the following:

"(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

"(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

"(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

"(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

"SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

"(1) by a State (pursuant to section 9003(h)(7)) acting under—

"(A) a program approved under section 9004; or

"(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

"(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

"SEC. 9011. BEDROCK BIOREMEDIATION.

"The Administrator shall establish, at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) with established expertise in bioremediation of contaminated bedrock aquifers, a resource center—

"(1) to conduct research concerning bioremediation of methyl tertiary butyl ether in contaminated underground aquifers, including contaminated bedrock; and

"(2) to provide for States a technical assistance clearinghouse for information concerning innovative technologies for bioremediation described in paragraph (1).

"SEC. 9012. SOIL REMEDIATION.

"The Administrator may establish a program to conduct research concerning remediation of methyl tertiary butyl ether contamination of soil, including granitic or volcanic soil.

"SEC. 9013. AUTHORIZATION OF APPROPRIATIONS.

"In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

"(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended;

"(2) to carry out section 9010—

"(A) $50,000,000 for fiscal year 2003; and

"(B) $30,000,000 for each of fiscal years 2004 through 2008;

"(3) to carry out section 9011—

"(A) $500,000 for fiscal year 2003; and

"(B) $300,000 for each of fiscal years 2004 through 2008; and

"(4) to carry out section 9012—

"(A) $100,000 for fiscal year 2003; and

"(B) $50,000 for each of fiscal years 2004 through 2008.

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

"Sec. 9010. Release prevention and compliance.
"Sec. 9011. Bedrock bioremediation.
"Sec. 9012. Soil remediation.
"Sec. 9013. Authorization of appropriations.".

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking "sustances" and inserting "substances".

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

SEC. 833. AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygen standard, Congress was aware that significant use of MTBE could result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act; and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) PROHIBITION ON USE OF MTBE.—

"(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane and alkylates.

"(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane and alkylates is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this provision.

"(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives that, consistent with 211(c)—

"(i) unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment;

"(ii) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

"(iii) will contribute to replacing gasoline volumes lost as a result of paragraph (5).

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2003 through 2005.".

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act regarding the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 834. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v);

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii); and

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITIONS.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery or importer (other than a refinery or importer in a State that has received a waiver under section 209(b) with regard to gasoline produced for use in that state), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

"(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000.

"(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

"(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (iii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

"(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).".

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.

(e) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

"(11) DETERMINATION REGARDING A STATE PETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, not less than 30 days after enactment of this paragraph the Administrator must determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements of paragraph (2)(B).

"(B) APPROVAL.—If the determination in (A) is not made within thirty days of enactment of this paragraph, the petition shall be deemed approved.".

SEC. 835. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether;

"(II) tertiary amyl methyl ether;

"(III) di-isopropyl ether;

"(IV) tertiary butyl alcohol;

"(V) other ethers and heavy alcohols, as determined by then Administrator;

"(VI) ethanol;

"(VII) iso-octane; and

"(VIII) alkylates; and

"(ii) conduct a study on the effects on public health, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements otherwise applicable under sections 211(k)(1) and 211(k)(3) of the Clean Air Act.

"(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of these studies.

"(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities including but not limited to National Energy Laboratories and institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).".

SEC. 836. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 820(a)) is amended by inserting after subsection (o) the following:

"(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

"(1) ANTI-BACKSLIDING ANALYSIS.—

"(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Federal Reformulated Fuels Act of 2003.

"(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.".

SEC. 837. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) OPT-IN AREAS.—(A) Upon" and inserting the following:

"(6) OPT-IN AREAS.—

"(A) CLASSIFIED AREAS.—

"(i) IN GENERAL.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) OZONE TRANSPORT REGION.—

"(i) APPLICATION OF PROHIBITION.—

"(I) IN GENERAL.—In addition to the provisions of subparagraph (A), upon the application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

"(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

"(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

"(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

"(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

"(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

"(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

"(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

"(bb) may renew the extension under item (aa) for two additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 838. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking "(C) A State" and inserting the following:

"(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

"(i) IN GENERAL.—A State"; and

(2) by adding at the end the following:

"(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.".

SEC. 839. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental' Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 840. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

TITLE IX—ENERGY EFFICIENCY AND ASSISTANCE TO LOW INCOME CONSUMERS

Subtitle A—Low Income Assistance and State Energy Programs

SEC. 901. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION ASSISTANCE, AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2003 through 2005.".

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended by striking "$600,000,000" and inserting "$1,000,000,000".

(3) Section 2609A(a) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended by striking "not more than $300,000" and inserting: "not more than $750,000".

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary." and inserting: "$325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.".

SEC. 902. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322)) is amended by adding at the end the following:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals.".

(b) STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2003 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.".

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary." and inserting: "$100,000,000 for each of fiscal years 2003 and 2004; $125,000,000 for fiscal year 2005; and such sums as may be necessary for each fiscal year thereafter.".

SEC. 903. ENERGY EFFICIENT SCHOOLS.

(a) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Schools Program (in this section referred to as the "Program").

(b) GRANTS.—The Secretary of Energy may make grants to a State energy office—

(1) to assist school districts in the State to improve the energy efficiency of school buildings;

(2) to administer the Program; and

(3) to promote participation in the Program.

(c) GRANTS TO ASSIST SCHOOL DISTRICTS.—The Secretary shall condition grants under subsection (b)(1) on the State energy office using the grants to assist school districts that have demonstrated—

(1) a need for the grants to build additional school buildings to meet increasing elementary or secondary enrollments or to renovate existing school buildings; and

(2) a commitment to use the grant funds to develop high performance school buildings in accordance with a plan that the State energy office, in consultation with the State educational agency, has determined is feasible and appropriate to achieve the purposes for which the grant is made.

(d) GRANTS FOR ADMINISTRATION.—Grants under subsection (b)(2) shall be used to—

(1) evaluate compliance by school districts with requirements of this section;

(2) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing facilities;

(3) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings;

(4) obtain technical services and assistance in planning and designing high performance school buildings; or

(5) collect and monitor data and information pertaining to the high performance school building projects.

(e) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy savings performance contracts, working with school administrations, students, and communities, and coordinating public benefit programs.

(f) SUPPLEMENTING GRANT FUNDS.—The State energy office shall encourage qualifying school districts to supplement funds awarded pursuant to this section with funds from other sources in the implementation of their plans.

(g) ALLOCATIONS.—Except as provided in subsection (h), funds appropriated to carry out this section shall be allocated as follows:

(1) 70 percent shall be used to make grants under subsection (b)(1).

(2) 15 percent shall be used to make grants under subsection (b)(2).

(3) 15 percent shall be used to make grants under subsection (b)(3).

(h) OTHER FUNDS.—The Secretary of Energy may retain an amount, not to exceed $300,000 per year, to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance school buildings.

(i) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (b) there are authorized to be appropriated—

(1) $200,000,000 for fiscal year 2003;

(2) $210,000,000 for fiscal year 2004;

(3) $220,000,000 for fiscal year 2005;

(4) $230,000,000 for fiscal year 2006; and

(5) such sums as may be necessary for fiscal year 2007 and each fiscal year thereafter through fiscal year 2012.

(j) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term "high performance school building" means a school building that, in its design, construction, operation, and maintenance—

(A) maximizes use of renewable energy and energy-efficient technologies and systems;

(B) is cost-effective on a life-cycle basis;

(C) achieves either—

(i) the applicable Energy Star building energy performance ratings; or

(ii) energy consumption levels at least 30 percent below those of the most recent version of ASHRAE Standard 90.1;

(D) uses affordable, environmentally preferable, and durable materials;

(E) enhances indoor environmental quality;

(F) protects and conserves water; and

(G) optimizes site potential.

(2) RENEWABLE ENERGY.—The term "renewable energy" means energy produced by solar, wind, biomass, ocean, geothermal, or hydroelectric power.

(3) SCHOOL.—The term "school" means—

(A) an "elementary school" as that term is defined in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)),

(B) a "secondary school" as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)), or

(C) an elementary or secondary Indian school funded by the Bureau of Indian Affairs.

(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the same meaning given such term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

(5) STATE ENERGY OFFICE.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State.

SEC. 904. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative renewable and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy an amount not to exceed $20,000,000 for fiscal year 2003 and each fiscal year thereafter through fiscal year 2005.

SEC. 905. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.

Subtitle B—Federal Energy Efficiency

SEC. 911. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation

Policy Act (42 U.S.C. 8253(a)(1)) is amended to read as follows:

"(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2002 through 2011 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:

"Fiscal Year	*Percentage reduction*
2002	*2*
2003	*4*
2004	*6*
2005	*8*
2006	*10*
2007	*12*
2008	*14*
2009	*16*
2010	*18*
2011	*20.".*

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

"(3) Not later than December 31, 2010, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for calendar years 2012 through 2021.".

(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended to read as follows:

"(1)(A) An agency may exclude, from the energy performance requirement for a calendar year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

"(i) compliance with those requirements would be impracticable;

"(ii) the agency has completed and submitted all federally required energy management reports;

"(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executives Orders, and other Federal law; and

"(iv) the agency has implemented all practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

"(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

"(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

"(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.".

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking "impracticability standards" and inserting "standards for exclusion"; and

(2) by striking "a finding of impracticability" and inserting "the exclusion".

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

"(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).".

(f) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting "THE PRESIDENT AND" before "CONGRESS"; and

(2) by inserting "President and" before "Congress".

(g) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking "the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a))." and inserting "each of the energy reduction goals established under section 543(a).".

SEC. 912. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

"(e) METERING OF ENERGY USE.—

"(1) DEADLINE.—By October 1, 2004, all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2). Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

"(2) GUIDELINES.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration and representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

"(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

"(i) take into consideration—

"(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

"(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

"(III) the measurement and verification protocols of the Department of Energy;

"(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

"(iii) establish one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

"(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimus quantity of energy use of a Federal building, industrial process, or structure.

"(3) PLAN.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.".

SEC. 913. FEDERAL BUILDING PERFORMANCE STANDARDS.

(a) REVISED STANDARDS.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking "CABO Model Energy Code, 1992" and inserting "the 2000 International Energy Conservation Code"; and

(2) by adding at the end the following:

"(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective—

"(i) new commercial buildings and multifamily high rise residential buildings be constructed so as to achieve the applicable Energy Star building energy performance ratings or energy consumption levels at least 30 percent below those of the most recent ASHRAE Standard 90.1, whichever results in the greater increase in energy efficiency;

"(ii) new residential buildings (other than those described in clause (i)) be constructed so as to achieve the applicable Energy Star building energy performance ratings or achieve energy consumption levels at least 30 percent below the requirements of the most recent version of the International Energy Conservation Code, whichever results in the greater increase in energy efficiency; and

"(iii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

"(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

"(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

"(i) a list of all new Federal buildings of the Federal agency; and

"(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph, including a monitoring and commissioning report that is in compliance with the measurement and verification protocols of the Department of Energy.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph and to implement the revised standards established under this paragraph.".

(b) ENERGY LABELING PROGRAM.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is further amended by adding at the end the following:

"(e) ENERGY LABELING PROGRAM.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.".

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

“(a) DEFINITIONS.—In this section:

“(1) ENERGY STAR PRODUCT.—The term ‘Energy Star product’ means a product that is rated for energy efficiency under an Energy Star program.

“(2) ENERGY STAR PROGRAM.—The term ‘Energy Star program’ means the program established by section 324A of the Energy Policy and Conservation Act.

“(3) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“(4) FEMP DESIGNATED PRODUCT.—The term ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

“(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

“(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure—

“(A) an Energy Star product; or

“(B) a FEMP designated product.

“(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if—

“(A) an Energy Star product or FEMP designated product is not cost effective over the life cycle of the product; or

“(B) no Energy Star product or FEMP designated product is reasonably available that meets the requirements of the executive agency.

“(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

“(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to section 551 the following:

“Sec. 552. Federal Government procurement of energy efficient products.”

(c) REGULATIONS.—Not later than 180 days after the effective date specified in subsection (f), the Secretary of Energy shall issue guidelines to carry out section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).

(d) DESIGNATION OF ENERGY STAR PRODUCTS.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall expedite the process of designating products as Energy Star products (as defined in section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).

(e) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days of the enactment of this paragraph, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

(f) EFFECTIVE DATE.—Subsection (a) and the amendment made by that subsection take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 915. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 916. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

“(2) The term ‘energy savings’ means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

“(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

“(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

“(C) the increased efficient use of existing water sources.”.

(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

“(3) The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.”.

(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

“(4) The term ‘energy or water conservation measure’ means—

“(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

“(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.”.

SEC. 917. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 918. FEDERAL ENERGY BANK.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

“SEC. 553. FEDERAL ENERGY BANK.

“(a) DEFINITIONS.—In this section:

“(1) BANK.—The term ‘Bank’ means the Federal Energy Bank established by subsection (b).

“(2) ENERGY OR WATER EFFICIENCY PROJECT.—The term ‘energy or water efficiency project’ means a project that assists a Federal agency in meeting or exceeding the energy or water efficiency requirements of—

“(A) this part;

“(B) title VIII;

“(C) subtitle F of title I of the Energy Policy Act of 1992 (42 U.S.C. 8262 et seq.); or

“(D) any applicable Executive order, including Executive Order No. 13123.

“(3) FEDERAL AGENCY.—The term ‘Federal agency’ means—

“(A) an Executive agency (as defined in section 105 of title 5, United States Code);

“(B) the United States Postal Service;

“(C) Congress and any other entity in the legislative branch; and

“(D) a Federal court and any other entity in the judicial branch.

“(b) ESTABLISHMENT OF BANK.—

“(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Federal Energy Bank’, consisting of—

“(A) such amounts as are deposited in the Bank under paragraph (2);

“(B) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

“(C) any interest earned on investment of amounts in the Bank under paragraph (3).

“(2) DEPOSITS IN BANK.—

“(A) IN GENERAL.—Subject to the availability of appropriations and to subparagraph (B), the Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2003 and in each fiscal year thereafter.

“(B) MAXIMUM AMOUNT IN BANK.—Deposits under subparagraph (A) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

“(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

“(c) LOANS FROM THE BANK.—

“(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

“(2) LOAN PROGRAM.—

“(A) ESTABLISHMENT.—

“(i) IN GENERAL.—In accordance with subsection (d), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

“(ii) COMMENCEMENT OF OPERATIONS.—The Secretary may begin—

“(I) accepting applications for loans from the Bank in fiscal year 2002; and

“(II) making loans from the Bank in fiscal year 2003.

“(B) ENERGY SAVINGS PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

“(C) PURPOSES OF LOAN.—

“(i) IN GENERAL.—A loan from the Bank may be used to pay—

''(I) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);

''(II) the costs of an energy metering plan and metering equipment installed pursuant to section 543(e) or for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or

''(III) at the time of contracting, the costs of cofunding of an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of the energy savings performance contract.

''(ii) LIMITATION.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

''(iii) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.—Not more than 25 percent of the amount on loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Orders)).

''(D) REPAYMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) through (iv), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

''(ii) WAIVER OR REDUCTION OF INTEREST.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

''(iii) DETERMINATION OF INTEREST RATE.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fully fund the operations of the Bank.

''(iv) INSUFFICIENCY OF APPROPRIATIONS.—

''(I) REQUEST FOR APPROPRIATIONS.—As part of the budget request of the Federal agency for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

''(II) SUSPENSION OF REPAYMENT REQUIREMENT.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

''(E) FEDERAL AGENCY ENERGY BUDGETS.—Until a loan is repaid, a Federal agency budget submitted by the President to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

''(F) NO RESCISSION OR REPROGRAMMING.—A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as permitted under guidelines issued under subparagraph (G).

''(G) GUIDELINES.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

''(d) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the selection of projects to be awarded loans in accordance with paragraph (2).

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—The Secretary may make loans from the Bank only for a project that—

''(i) is technically feasible;

''(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

''(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

''(I) commission energy savings for new and existing Federal facilities;

''(II) monitor and improve energy efficiency management at existing Federal facilities; and

''(III) verify the energy savings under an energy savings performance contract under title VIII; and

''(iv)(I) in the case of a renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

''(II) in the case of any other project, has a simple payback period of not more than 10 years.

''(B) PRIORITY.—In selecting projects, the Secretary shall give priority to projects that—

''(i) are a component of a comprehensive energy management project for a Federal facility; and

''(ii) are designed to significantly reduce the energy use of the Federal facility.

''(e) REPORTS AND AUDITS.—

''(1) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

''(A) states whether the project meets or fails to meet the energy savings projections for the project; and

''(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

''(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

''(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

''(A) the total receipts by the Bank;

''(B) the total amount of loans from the Bank to each Federal agency; and

''(C) the estimated cost and energy savings resulting from projects funded with loans from the Bank.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 919. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end:

''SEC. 554. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

''(a) IN GENERAL.—The Architect of the Capitol—

''(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section ,as the ''plan'') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

''(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

''(b) PLAN REQUIREMENTS.—The plan shall include—

''(1) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

''(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

''(3) a strategy for installation of life cycle cost effective energy and water conservation measures;

''(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

''(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

''(c) CONTRACTING AUTHORITY.—The Architect—

''(1) may contract with nongovernmental entities and use private sector capital to finance energy conservation projects and meet energy performance requirements; and

''(2) may use innovative contracting methods that will attract private sector funding for the installation of energy efficient and renewable energy technology, such as energy savings performance contracts described in title VIII.

''(d) CAPITOL VISITOR CENTER.—The Architect—

''(1) shall ensure that state-of-the-art energy efficiency and renewable energy technologies are used in the construction and design of the Visitor Center; and

''(2) shall include in the Visitor Center an exhibit on the energy efficiency and renewable energy measures used in congressional buildings.

''(e) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;—

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

SEC. 920. INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term ''agency head'' means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term ''cement or concrete project'' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term ''recovered material'' means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Within 1 year of the release of the report in accordance with subsection (c)(3), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

Subtitle C—Industrial Efficiency and Consumer Products

SEC. 921. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.

(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 2.5 percent each year from 2002 through 2012.

(c) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(d) DEFINITION.—In this section, the term "energy intensity" means the primary energy consumed per unit of physical output in an industrial process.

(e) TECHNICAL ASSISTANCE.—An entity that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance as appropriate to assist in the achievement of those goals.

(f) REPORT.—Not later than June 30, 2008 and June 30, 2012, the Secretary shall submit to Congress a report that evaluates the success of the voluntary agreements, with independent verification of a sample of the energy savings estimates provided by participating firms.

SEC. 922. AUTHORITY TO SET STANDARDS FOR COMMERCIAL PRODUCTS.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended as follows:

(1) In the heading for such part, by inserting "AND COMMERCIAL" after "CONSUMER".

(2) In section 321(2), by inserting "or commercial" after "consumer".

(3) In paragraphs (4), (5), and (15) of section 321, by striking "consumer" each place it appears and inserting "covered".

(4) In section 322(a), by inserting "or commercial" after "consumer" the first place it appears in the material preceding paragraph (1).

(5) In section 322(b), by inserting "or commercial" after "consumer" each place it appears.

(6) In section 322 (b)(1)(B) and (b)(2)(A), by inserting "or per-business in the case of a commercial product" after "per-household" each place it appears.

(7) In section 322 (b)(2)(A), by inserting "or businesses in the case of commercial products" after "households" each place it appears.

(8) In section 322 (B)(2)(C)—

(A) by striking "term" and inserting "terms"; and

(B) by inserting "and 'business'" after "'household'".

(9) In section 323 (b)(1) (B) by inserting "or commercial" after "consumer".

SEC. 923. ADDITIONAL DEFINITIONS.

Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

"(32) The term 'battery charger' means a device that charges batteries for consumer products.

"(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—

"(A) is not a consumer product regulated under this Act; and

"(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

"(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

"(35) The term 'illuminated exit sign' means a sign that—

"(A) is designed to be permanently fixed in place to identify an exit; and

"(B) consists of—

"(i) an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators; and

"(ii) provides contrast between the legend, any directional indicators, and the background.

"(36)(A) Except as provided in subsection (B), the term 'low-voltage dry-type transformer' means a transformer that—

"(i) has an input voltage of 600 volts or less;

"(ii) is air-cooled;

"(iii) does not use oil as a coolant; and

"(iv) is rated for operation at a frequency of 60 Hertz.

"(B) The term 'low-voltage dry-type transformer' does not include—

"(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

"(ii) transformers that are designed to be used in a special purpose application, such as transformers commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers; or

"(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.

"(37) The term 'standby mode' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.

"(38) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

"(39) The term 'transformer' means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

"(40) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

"(41) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.".

SEC. 924. ADDITIONAL TEST PROCEDURES.

(a) EXIT SIGNS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding at the end the following:

"(9) Test procedures for illuminated exit signs shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for illuminated exit signs, as in

effect on the date of enactment of this paragraph.

"(10) Test procedures for low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure based on future revisions to such standard test method.

"(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.".

(b) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is further amended by adding at the end the following:

"(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, commercial unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.".

SEC. 925. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 15 months of the date of enactment of this subparagraph.".

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

"(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in subsections (u) and (v) of section 325, and within 18 months of enactment of this paragraph for products referred to in subsections (w) through (y) of section 325, prescribe, by rule, labeling requirements for such products. Labeling requirements adopted under this paragraph shall take effect on the same date as the standards set pursuant to sections 325 (v) through (y).".

SEC. 926. ENERGY STAR PROGRAM.

The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting after section 324 the following:

"ENERGY STAR PROGRAM

"SEC. 324A. There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

"(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

"(3) preserve the integrity of the Energy Star label; and

"(4) solicit the comments of interested parties in establishing a new Energy Star product category or in revising a product category, and upon adoption of a new or revised product category provide an explanation of the decision that responds to significant public comments.".

SEC. 927. ENERGY CONSERVATION STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS.

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

"(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).".

SEC. 928. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

"(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

"(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

"(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

"(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

"(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

"(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any noncovered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; providing that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

"(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

"(i) standby mode power consumption compared to overall product energy consumption; and

"(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

"(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

"(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to section 325 should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of this subsection.

"(4) RULEMAKING FOR STANDBY MODE.—(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in section 325 and the criteria set forth in paragraph 2(B) of this subsection.

"(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

"(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

"(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

"(6) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(v) SUSPENDED CEILING FANS, VENDING MACHINES, UNIT HEATERS, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

"(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency as in effect on the date of enactment of this subsection.

"(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

"(1) shall consume not more than 190 watts of power; and

"(2) shall not be capable of operating with lamps that total more than 190 watts.

"(y) LOW VOLTAGE DRY-TYPE TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for low voltage dry-type transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–1996).

"(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.".

SEC. 929. CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING, AND VENTILATION MAINTENANCE.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(c) HVAC MAINTENANCE.—(1) For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems.

"(2) The Secretary may carry out the program in cooperation with industry trade associations, industry members, and energy efficiency organizations.

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.".

SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress.

Subtitle D—Housing Efficiency

SEC. 931. CAPACITY BUILDING FOR ENERGY EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

SEC. 932. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the period at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

SEC. 933. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting "or paragraph (10)"; and

(2) by striking "20 percent" and inserting "30 percent".

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking "20 per centum" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 per centum" and inserting "30 percent".

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

SEC. 934. PUBLIC HOUSING CAPITAL FUND.

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.".

SEC. 935. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.".

SEC. 936. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m–3) is amended by adding at the end the following:

"SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

"Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.".

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), as amended by section 934, is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (L), by striking the period at the end and inserting "; and";

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The" and inserting the following:

"(i) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

"(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.".

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; and

(iv) by adding at the end the following:

"(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development; and

(B) in paragraph (2), by striking "Council of American" and all that follows through "life-cycle cost basis" and inserting "2000 International Energy Conservation Code";

(2) in subsection (b)—

(A) by striking "the date of the enactment of the Energy Policy Act of 1992" and inserting "September 30, 2002"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code"; and

(3) in subsection (c)—

(A) in the heading, by striking "MODEL ENERGY CODE" and inserting "THE INTERNATIONAL ENERGY CONSERVATION CODE"; and

(B) by striking "CABO" and all that follows through "1989" and inserting "the 2000 International Energy Conservation Code".

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) ENERGY MANAGEMENT OFFICE.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management, energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

Subtitle E—Rural and Remote Communities

SEC. 941. SHORT TITLE.

This subtitle may be cited as the "Rural and Remote Community Fairness Act".

SEC. 942. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a modern infrastructure, including energy-efficient housing, electricity, telecommunications, bulk fuel, wastewater and potable water service, is a necessary ingredient of a modern society and development of a prosperous economy;

(2) the Nation's rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;

(3) in the past, Federal assistance has been instrumental in establishing electric and other utility service in many developing regions of the Nation, and that Federal assistance continues to be appropriate to ensure that electric and other utility systems in rural areas conform with modern standards of safety, reliability, efficiency and environmental protection; and

(4) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural and remote communities as social, economic and political entities.

(b) PURPOSE.—The purpose of this subtitle is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, wastewater, and bulk fuel, telecommunications and utility services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.

SEC. 943. DEFINITIONS.

As used in this subtitle:

(1) The term "unit of general local government" means any city, county, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify.

(2) The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(3) The term "Native American group" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) The term "Secretary" means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(5) The term "rural and remote community" means a unit of local general government or Native American group which is served by an electric utility that has 10,000 or less customers with an average retail cost per kilowatt hour of electricity that is equal to or greater than 150 percent of the average retail cost per kilowatt hour of electricity for all consumers in the United States, as determined by data provided by the Energy Information Administration of the Department of Energy.

(6) The term "alternative energy sources" include nontraditional means of providing electrical energy, including, but not limited to, wind, solar, biomass, municipal solid waste, hydroelectric, geothermal and tidal power.

(7) The term "average retail cost per kilowatt hour of electricity" has the same meaning as "average revenue per kilowatt hour of electricity" as defined by the Energy Information Administration of the Department of Energy.

SEC. 944. AUTHORIZATION OF APPROPRIATIONS.

The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of this subtitle. For purposes of assistance under section 947, there are authorized to be appropriated $100,000,000 for each of fiscal years 2003 through 2009.

SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.

(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the agency providing funding a final statement of rural and remote community development objectives and projected use of funds.

(b) PUBLIC NOTICE.—In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

(1) furnish citizens information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

(2) publish a proposed statement in such manner to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

(3) provide citizens with reasonable access to records regarding the past use of funds received under section 947 by the grantee; and

(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 947 from one eligible activity to another.

The final statement shall be made available to the public, and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same. Procedures required in this paragraph are for the preparation and submission of such statement.

(c) PERFORMANCE AND EVALUATION REPORT.—Each grantee shall submit to the appropriate Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 947, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b). The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee's program objectives, and indications of how the grantee would change its programs as a result of its experiences.

(d) RETENTION OF INCOME.—

(1) IN GENERAL.—Any rural and remote community may retain any program income that is realized from any grant made by the Secretary under section 947 if—

(A) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and

(B) such unit of general local government has agreed that it will utilize the program income for eligible rural and remote community development activities in accordance with the provisions of this title.

(2) EXCEPTION.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable administrative burden on the rural and remote community.

SEC. 946. ELIGIBLE ACTIVITIES.

(a) ACTIVITIES INCLUDED.—Eligible activities assisted under this subtitle may include only—

(1) weatherization and other cost-effective energy-related repairs of homes and other buildings;

(2) the acquisition, construction, repair, reconstruction, or installation of reliable and cost-

efficient facilities for the generation, transmission or distribution of electricity, and telecommunications, for consumption in a rural and remote community or communities;

(3) the acquisition, construction, repair, reconstruction, remediation or installation of facilities for the safe storage and efficient management of bulk fuel by rural and remote communities, and facilities for the distribution of such fuel to consumers in a rural or remote community;

(4) facilities and training to reduce costs of maintaining and operating generation, distribution or transmission systems to a rural and remote community or communities;

(5) the institution of professional management and maintenance services for electricity generation, transmission or distribution to a rural and remote community or communities;

(6) the investigation of the feasibility of alternate energy sources for a rural and remote community or communities;

(7) acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water or wastewater service;

(8) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for eligible rural and remote community development activities; and

(9) activities necessary to develop and implement a comprehensive rural and remote development plan, including payment of reasonable administrative costs related to planning and execution of rural and remote community development activities.

(b) ACTIVITIES UNDERTAKEN THROUGH ELECTRIC UTILITIES.—Eligible activities may be undertaken either directly by the rural and remote community, or by the rural and remote community through local electric utilities.

SEC. 947. ALLOCATION AND DISTRIBUTION OF FUNDS.

For each fiscal year, of the amount approved in an appropriation Act under section 903 for grants in any year, the Secretary shall distribute to each rural and remote community which has filed a final statement of rural and remote community development objectives and projected use of funds under section 945, an amount which shall be allocated among the rural and remote communities that filed a final statement of rural and remote community development objectives and projected use of funds under section 945 proportionate to the percentage that the average retail price per kilowatt hour of electricity for all classes of consumers in the rural and remote community exceeds the national average retail price per kilowatt hour for electricity for all consumers in the United States, as determined by data provided by the Department of Energy's Energy Information Administration. In allocating funds under this section, the Secretary shall give special consideration to those rural and remote communities that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.

SEC. 948. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

"(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to—

"(1) a unit of local government of a State or territory; or

"(2) an Indian tribe or Tribal College or University as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

"(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

"(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

"(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(g) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated to the Secretary $20,000,000 for each of the 7 fiscal years following the date of enactment of this subsection.".

SEC. 949. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2009 to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for the purposes of funding the power cost equalization program.

SEC. 950. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low per capita income levels.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term "eligible unit of general local government" means a unit of general local government that is the governing body of a rural recovery area.

(2) ELIGIBLE INDIAN TRIBE.—The term "eligible Indian tribe" means the governing body of an Indian tribe that is located in a rural recovery area.

(3) GRANTEE.—The term "grantee" means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

(4) NATIVE AMERICAN GROUP.—The term "Native American group" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) RURAL RECOVERY AREA.—The term "rural recovery area" means any geographic area represented by a unit of general local government or a Native American group—

(A) the borders of which are not adjacent to a metropolitan area;

(B) in which—

(i) the population outmigration level equals or exceeds 1 percent over the most recent 5 year period, as determined by the Secretary of Housing and Urban Development; and

(ii) the per capita income is less than that of the national nonmetropolitan average; and

(C) that does not include a city with a population of more than 15,000.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term "unit of general local government" means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia.

(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency, community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community.

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(d) ELIGIBILITY REQUIREMENTS.—

(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—

(A) shall—

(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government, Native American group or eligible Indian tribe, as applicable, on the proposed statement and the proposed eligible activities, and the overall community development performance of the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable; and

(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

(i) a final statement of rural development objectives;

(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

(iii) a certification that the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—

(A) a copy of the final statement submitted under paragraph (1)(B);

(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe under this section in any preceding fiscal year; and

(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from one eligible activity to another.

(e) DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government, Native American groups and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount described in paragraph (2).

(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population outmigration level (as determined by the Secretary of Housing and Urban Development) and the per capita income for the rural recovery area served by the grantee; or

(B) $200,000.

(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for one or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee—

(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;

(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

(4) activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; or

(5) affordable housing initiatives.

(g) PERFORMANCE AND EVALUATION REPORT.—

(1) IN GENERAL.—Each grantee shall annually submit to the appropriate Secretary a performance and evaluation report, concerning the use of amounts received under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—

(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—

(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

(2) the—

(A) grantee agrees to utilize the income for one or more eligible activities; or

(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2009.

DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLE X—NATIONAL CLIMATE CHANGE POLICY

Subtitle A—Sense of Congress

SEC. 1001. SENSE OF CONGRESS ON CLIMATE CHANGE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.

(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that "there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities" and that the Earth's average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.

(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that "the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue" and that "there is general agreement that the observed warming is real and particularly strong within the past twenty years". The National Academy of Sciences also noted that "because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments upward or downward".

(4) The IPCC has stated that in the last 40 years, the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.

(5) In October 2000, a United States Government report found that global climate change may harm the United States by altering crop yields, accelerating sea-level rise, and increasing the spread of tropical infectious diseases.

(6) In 1992, the United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner".

(7) The UNFCCC stated in part that the Parties to the Convention are to implement policies "with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases" under the principle that "policies and measures . . . should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change".

(8) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases and developing nations' emissions will significantly increase in the future.

(9) The UNFCCC further stated that "developed country Parties should take the lead in combating climate change and the adverse effects thereof", as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that "steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas".

(10) Senate Resolution 98 of the One Hundred Fifth Congress, which expressed that developing nations must also be included in any future, binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable responsibilities for addressing climate change by all nations, including commitments by the largest developing country emitters in a future, binding climate change treaty.

(11) It is the position of the United States that it will not interfere with the plans of any nation that chooses to ratify and implement the Kyoto Protocol to the UNFCCC.

(12) American businesses need to know how governments worldwide will address the risks of climate change.

(13) The United States benefits from investments in the research, development and deployment of a range of clean energy and efficiency technologies that can reduce the risks of climate change and its impacts and that can make the United States economy more productive, bolster energy security, create jobs, and protect the environment.

(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by—

(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;

(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions; and

(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States participation in a future

binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.

Subtitle B—Climate Change Strategy

SEC. 1011. SHORT TITLE.

This subtitle may be cited as the "Climate Change Strategy and Technology Innovation Act of 2003".

SEC. 1012. DEFINITIONS.

In this subtitle:

(1) CLIMATE-FRIENDLY TECHNOLOGY.—The term "climate-friendly technology" means any energy supply or end-use technology that, over the life of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—

(A) results in reduced emissions of greenhouse gases;

(B) may substantially lower emissions of other pollutants; and

(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(3) DEPARTMENT OFFICE.—The term "Department Office" means the Office of Climate Change Technology of the Department established by section 1015(a).

(4) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" in section 551 of title 5, United States Code.

(5) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(6) INTERAGENCY TASK FORCE.—The term "Interagency Task Force" means the Interagency Task Force established under section 1014(e).

(7) KEY ELEMENT.—The term "key element", with respect to the Strategy, means—

(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States public and private sectors; and

(ii) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(C) climate adaptation research that focuses on actions necessary to adapt to climate change—

(i) that may have already occurred; or

(ii) that may occur under future climate change scenarios;

(D) climate science research that—

(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this subtitle; and

(ii) focuses on reducing the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.

(8) LONG-TERM GOAL OF THE STRATEGY.—The term "long-term goal of the Strategy" means the long-term goal in section 1013(a)(1).

(9) MITIGATION.—The term "mitigation" means actions that reduce, avoid, or sequester greenhouse gases.

(10) NATIONAL ACADEMY OF SCIENCES.—The term "National Academy of Sciences" means the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council.

(11) QUALIFIED INDIVIDUAL.—

(A) IN GENERAL.—The term "qualified individual" means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change challenge.

(B) FIELDS OF KNOWLEDGE.—The fields of knowledge referred to in subparagraph (A) are—

(i) the science of climate change and its impacts;

(ii) energy and environmental economics;

(iii) technology transfer and diffusion;

(iv) the social dimensions of climate change;

(v) climate change adaptation strategies;

(vi) fossil, nuclear, and renewable energy technology;

(vii) energy efficiency and energy conservation;

(viii) energy systems integration;

(ix) engineered and terrestrial carbon sequestration;

(x) transportation, industrial, and building sector concerns;

(xi) regulatory and market-based mechanisms for addressing climate change;

(xii) risk and decision analysis;

(xiii) strategic planning; and

(xiv) the international implications of climate change strategies.

(12) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(13) STABILIZATION OF GREENHOUSE GAS CONCENTRATIONS.—The term "stabilization of greenhouse gas concentrations" means the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(14) STRATEGY.—The term "Strategy" means the National Climate Change Strategy developed under section 1013.

(15) WHITE HOUSE OFFICE.—The term "White House Office" means the Office of National Climate Change Policy established by section 1014(a).

SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY.

(a) IN GENERAL.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—

(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations;

(2) recognize that accomplishing the long-term goal of the Strategy will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) incorporate the four key elements;

(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with United States treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner;

(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(9) take into account—

(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(10) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy;

(11) in the final recommendations of the Strategy—

(A) emphasize policies and actions that achieve the long-term goal of the Strategy; and

(B) provide specific recommendations concerning—

(i) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—

(I) produce measurable net reductions in United States emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and

(II) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States;

(ii) the development of technologies that have the potential for long-term implementation—

(I) giving preference to technologies that have the potential to reduce significantly the overall cost of achieving the long-term goal of the Strategy; and

(II) considering a full range of energy sources, energy conversion and use technologies, and efficiency options;

(iii) such changes in institutional and technology systems are necessary to adapt to climate change in the short-term and the long-term;

(iv) such review, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and

(v) changes that should be made to project and grant evaluation criteria under other Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;

(12) recognize that the Strategy is intended to guide the Nation's effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the Strategy;

(13) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;

(14) be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in accordance with subsections (b)(3)(C)(iv)(II) and (e)(3)(B)(ii) of section 1014;

(15) address how the United States should engage State, tribal, and local governments in developing and carrying out a response to climate change;

(16) promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues;

(17) provide a detailed explanation of how the measures recommended by the Strategy will ensure that they do not result in serious harm to the economy of the United States;

(18) provide a detailed explanation of how the measures recommended by the Strategy will achieve its long-term goal;

(19) include any recommendations for legislative and administrative actions necessary to implement the Strategy;

(20) serve as a framework for climate change actions by all Federal agencies;

(21) recommend which Federal agencies are, or should be, responsible for the various aspects of implementation of the Strategy and any budgetary implications;

(22) address how the United States should engage foreign governments in developing an international response to climate change; and

(23) incorporate initiatives to open markets and promote the deployment of a range of climate-friendly technologies developed in the United States and abroad.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the President, through the Interagency Task Force and the Director, shall submit to Congress the Strategy, in the form of a report that includes—

(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;

(2) an inventory and evaluation of Federal programs and activities intended to carry out the Strategy;

(3) a description of how the Strategy will serve as a framework of climate change response actions by all Federal agencies, including a description of coordination mechanisms and interagency activities;

(4) evidence that the Strategy is consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(5) a description of provisions in the Strategy that ensure that it minimizes any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the Strategy is developed in an economically and environmentally sound manner;

(6) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties;

(7) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues; and

(8) recommendations for legislative or administrative changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaption activities.

(c) UPDATES.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 4-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 31, United States Code, the President shall submit to Congress a report that—

(1) describes the Strategy, its goals, and the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaptation activities;

(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;

(3) assesses the progress in implementation of the Strategy;

(4) incorporates the technology program reports required pursuant to section 1015(a)(3) and subsections (d) and (e) of section 1321;

(5) describes any changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;

(6) describes all Federal spending on climate change for the current fiscal year and each of the 5 years previous; categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education, and other activities);

(7) estimates the budgetary impact for the current fiscal year and each of the 5 years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities;

(8) estimates the amount, in metric tons, of net greenhouse gas emissions reduced, avoided, or sequestered directly or indirectly as a result of the implementation of the Strategy;

(9) evaluates international research and development and market-based activities and the mitigation actions taken by the United States and other nations to achieve the long-term goal of the Strategy; and

(10) makes recommendations for legislative or administrative actions or adjustments that will accelerate progress towards meeting the near-term and long-term goals contained in the Strategy.

(e) NATIONAL ACADEMY OF SCIENCES REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of publication of the Strategy under subsection (b) and each update under subsection (c), the Director of the National Science Foundation, on behalf of the Director of the White House Office and the Interagency Task Force, shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of the Strategy or update.

(2) CRITERIA.—The review by the National Academy of Sciences shall evaluate the goals and recommendations contained in the Strategy or update, taking into consideration—

(A) the adequacy of effort and the appropriateness of focus of the totality of all public, private, and public-private sector actions of the United States with respect to the Strategy, including the four key elements;

(B) the adequacy of the budget and the effectiveness with which each Federal agency is carrying out its responsibilities;

(C) current scientific knowledge regarding climate change and its impacts;

(D) current understanding of human social and economic responses to climate change, and responses of natural ecosystems to climate change;

(E) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of climate change;

(F) current understanding of economic costs and benefits of mitigation or adaptation activities;

(G) the existence of alternative policy options that could achieve the Strategy goals at lower economic, environmental, or social cost; and

(H) international activities and the actions taken by the United States and other nations to achieve the long-term goal of the Strategy.

(3) REPORT.—Not later than 1 year after the date of submittal to the Congress of the Strategy or update, as appropriate, the National Academy of Sciences shall prepare and submit to the Congress and the President a report concerning the results of its review, along with any recommendations as appropriate. Such report shall also be made available to the public.

(4) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this subsection, there are authorized to be appropriated to the National Science Foundation such sums as may be necessary.

SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Executive Office of the President, the Office of National Climate Change Policy.

(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.

(3) DUTIES.—Consistent with paragraph (2), the White House Office shall—

(A) establish policies, objectives, and priorities for the Strategy;

(B) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;

(D) advise the President concerning necessary changes in organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response activities; and

(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of the Strategy.

(b) DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report

directly to the President, and shall consult with the appropriate economic, environmental, national security, domestic policy, science and technology and other offices with the Executive Office of the President.

(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES OF THE DIRECTOR OF THE WHITE HOUSE OFFICE.—

(A) STRATEGY.—In accordance with section 1013, the Director of the White House Office shall coordinate the development and updating of the Strategy.

(B) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chair of the Interagency Task Force.

(C) ADVISORY DUTIES.—

(i) ENERGY, ECONOMIC, ENVIRONMENTAL, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which United States energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—

(I) specifies, to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and

(II) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(iv) CONSULTATION.—

(I) WITH MEMBERS OF INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.

(II) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in the development and updating of the Strategy.

(D) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(4) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare the annual reports for submission by the President to Congress under section 1013(d).

(5) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.

(c) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Executive Office of the President to carry out the duties of the White House Office under this subtitle, $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(e) INTERAGENCY TASK FORCE.—

(1) IN GENERAL.—The Director of the White House Office shall establish the Interagency Task Force.

(2) COMPOSITION.—The Interagency Task Force shall be composed of—

(A) the Director of the White House Office, who shall serve as Chair;

(B) the Secretary of State;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Secretary of Transportation;

(F) the Secretary of Agriculture;

(G) the Administrator of the Environmental Protection Agency;

(H) the Chairman of the Council of Economic Advisers;

(I) the Chairman of the Council on Environmental Quality;

(J) the Director of the Office of Science and Technology Policy;

(K) the Director of the Office of Management and Budget; and

(L) the heads of such other Federal agencies as the President considers appropriate.

(3) STRATEGY.—

(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly assist the Director of the White House Office in—

(i) developing and updating the Strategy; and

(ii) preparing annual reports under section 1013(d).

(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—

(i) take into account the long-term goal and other requirements of the Strategy specified in section 1013(a);

(ii) consult with State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and

(iii) build consensus around a Strategy that is based on strong scientific, technical, and economic analyses.

(4) WORKING GROUPS.—The Chair, in consultation with the members of the Interagency Task Force, may establish such topical working groups as are necessary to carry out the duties of the Interagency Task Force and implement the Strategy, taking into consideration the key elements of the Strategy. Such working groups may be comprised of members of the Interagency Task Force or their designees.

(f) STAFF.—In accordance with procedures established by the Chair of the Interagency Task Force, the Federal agencies represented on the Interagency Task Force shall provide staff from the agencies to support information, data collection, and analyses required by the Interagency Task Force.

(g) HEARINGS.—Upon request of the Chair, the Interagency Task Force may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Interagency Task Force considers to be appropriate.

SEC. 1015. OFFICE OF CLIMATE CHANGE TECHNOLOGY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Department, the Office of Climate Change Technology.

(2) DUTIES.—The Department Office shall—

(A) manage an energy technology research and development program that directly supports the Strategy by—

(i) focusing on high-risk, bold, breakthrough technologies that—

(I) have significant promise of contributing to the long-term goal of the Strategy by—

(aa) mitigating the emissions of greenhouse gases;

(bb) removing and sequestering greenhouse gases from emission streams; or

(cc) removing and sequestering greenhouse gases from the atmosphere;

(II) are not being addressed significantly by other Federal programs; and

(III) would represent a substantial advance beyond technology available on the date of enactment of this subtitle;

(ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve the long-term goal of the Strategy at the lowest possible cost;

(iii) forging international research and development partnerships that are in the interests of the United States and make progress on achieving the long-term goal of the Strategy;

(iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and

(v) transferring research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;

(B) through active participation in the Interagency Task Force and utilization of the analytical capabilities of the Department Office, share analyses of alternative climate change strategies with other agencies represented on the Interagency Task Force to assist them in understanding—

(i) the scale of the climate change challenge; and

(ii) how actions of the Federal agencies on the Interagency Task Force positively or negatively contribute to climate change solutions;

(C) provide analytical support to the White House Office, particularly in support of the development of the Strategy and associated progress reporting;

(D) foster the development of tools, data, and capabilities to ensure that—

(i) the United States has a robust capability for evaluating alternative climate change response scenarios; and

(ii) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents;

(E) identify the total contribution of all Department programs to the Strategy; and

(F) advise the Secretary on all aspects of climate change-related issues, including necessary changes in Department organization, management, budgeting, and personnel allocation in the programs involved in climate change response-related activities.

(3) ANNUAL REPORTS.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—

(A) assesses progress toward meeting the goals of the energy technology research and development program described in this section;

(B) assesses the activities of the Department Office;

(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy; and

(D) make recommendations for actions by the Department and other Federal agencies to address the components of technology development that are necessary to support the Strategy.

(b) DIRECTOR OF THE DEPARTMENT OFFICE.—

(1) IN GENERAL.—The Department Office shall be headed by a Director, who shall be a qualified individual appointed by the President, and who shall be compensated at a rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) REPORTING.—The Director of the Department Office shall report directly to the Under Secretary for Energy and Science.

(3) VACANCIES.—A vacancy in the position of the Director of the Department Office shall be filled in the same manner as the original appointment was made.

(c) INTERGOVERNMENTAL PERSONNEL.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other departmental personnel authorities, to obtain staff for appointments of a limited term.

(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—

(1) initiated only after consultation with one or more other appropriate program offices of the Department that support research and development in the areas relating to the project;

(2) managed by the Department Office; and

(3) in the case of a project that reaches a sufficient level of maturity, with the concurrence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to continue the project to the point at which non-Federal funding can provide substantial support for the project.

(e) COLLABORATION AND COST SHARING.—

(1) WITH OTHER FEDERAL AGENCIES.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, commercialization, or transfer of energy, transportation, industrial, agricultural, forestry, or other climate change-related technology.

(2) WITH THE PRIVATE SECTOR.—

(A) IN GENERAL.—Notwithstanding section 1403, the Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.

(B) REQUIREMENTS.—Although cost sharing in some cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovations.

(C) REEVALUATION ON TRANSFER.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is transferred to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program shall be reevaluated.

(D) PUBLICATION IN FEDERAL REGISTER.—Each cost-sharing agreement entered into under this paragraph shall be published in the Federal Register.

(f) ANALYSIS OF CLIMATE CHANGE STRATEGY.—

(1) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other Federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(2) PROGRAMS.—

(A) IN GENERAL.—The Department Office shall—

(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other Federal agencies, are necessary to support the design and implementation of the Strategy; and

(ii) track United States and international progress toward the long-term goal of the Strategy.

(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon dioxide sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to ascertain—

(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;

(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.

(3) AREAS OF EXPERTISE.—

(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;

(ii) to design effective research and development programs; and

(iii) to assist with the development and implementation of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States and foreign markets.

(4) DISSEMINATION OF INFORMATION.—The Department Office shall ensure, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.

(5) ASSESSMENTS.—In a manner consistent with the Strategy, the Department shall conduct assessments of deployment of climate-friendly technology.

(6) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Director of the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this subtitle is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this subtitle until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, to carry out the duties of the Department Office under this subtitle, $4,750,000.000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(3) ADDITONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—

(A) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and

(B) amounts made available under other provisions of law for energy research and development.

SEC. 1016. ADDITIONAL OFFICES AND ACTIVITIES.

The Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies may establish such offices and carry out such activities, in addition to those established or authorized by this Act, as are necessary to carry out this Act.

Subtitle C—Science and Technology Policy

SEC. 1021. GLOBAL CLIMATE CHANGE IN THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

Section 101(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601(b)) is amended—

(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change;".

SEC. 1022. DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.

(a) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—Section 204(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6613(b)(1)) is amended by inserting "global climate change," after "to,".

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the Director shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.".

Subtitle D—Miscellaneous Provisions

SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action and any reasonable alternatives to the action.

SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.

(a) METHODOLOGY.—Not later than 1 year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual net greenhouse gas emissions from all federally owned, leased, or operated facilities and emission sources, including stationary, mobile, and indirect emissions as may be determined to be feasible.

(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all federally owned, leased, or operated facilities and emission sources, using the methodology published under subsection (a).

TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term "baseline" means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term "facility" means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term "indirect emissions" means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) REGISTRY.—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) SEQUESTRATION.—

(A) IN GENERAL.—The term "sequestration" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term "sequestration" includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:

(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and

analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

(3) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—

(A) for the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity;

(B) for the tracking of the reductions associated with the serial numbers; and

(C) that the reductions may be applied, as determined to be appropriate by any Act of Congress enacted after the date of enactment of this Act, toward a Federal requirement under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the greenhouse gas emissions from fossil fuel combusted by products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and

(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) Exception.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) Data infrastructure.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) Additional issues to be considered.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) Annual Report.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) Standards.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) Requirements.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) Review and Revision.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) Public Participation.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) Experts and Consultants.—

(1) In general.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) Available arrangements.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) In General.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) Review of Scientific Methods.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) In General.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) Increased Applicability of Requirements.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) Resolution of Disapproval.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 1201. SHORT TITLE.

This division may be cited as the "Energy Science and Technology Enhancement Act of 2003".

SEC. 1202. FINDINGS.

The Congress finds the following:

(1) A coherent national energy strategy requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry.

(2) An aggressive national energy research, development, demonstration, and technology deployment program is an integral part of a national climate change strategy, because it can reduce—

(A) United States energy intensity by 1.9 percent per year from 1999 to 2020;

(B) United States energy consumption in 2020 by 8 quadrillion Btu from otherwise expected levels; and

(C) United States carbon dioxide emissions from expected levels by 166 million metric tons in carbon equivalent in 2020.

(3) An aggressive national energy research, development, demonstration, and technology deployment program can help maintain domestic United States production of energy, increase United States hydrocarbon reserves by 14 percent, and lower natural gas prices by 20 percent, compared to estimates for 2020.

(4) An aggressive national energy research, development, demonstration, and technology deployment program is needed if United States suppliers and manufacturers are to compete in future markets for advanced energy technologies.

SEC. 1203. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) DEPARTMENTAL MISSION.—The term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) NATIONAL LABORATORY.—The term "National Laboratory" means any of the following multipurpose laboratories owned by the Department of Energy—

(A) Argonne National Laboratory;

(B) Brookhaven National Laboratory;

(C) Idaho National Engineering and Environmental Laboratory;

(D) Lawrence Berkeley National Laboratory;

(E) Lawrence Livermore National Laboratory;

(F) Los Alamos National Laboratory;

(G) National Energy Technology Laboratory;

(H) National Renewable Energy Laboratory;

(I) Oak Ridge National Laboratory;

(J) Pacific Northwest National Laboratory; or

(K) Sandia National Laboratory.

(5) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(6) TECHNOLOGY DEPLOYMENT.—The term "technology deployment" means activities to promote acceptance and utilization of technologies in commercial application, including activities undertaken pursuant to section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) or section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12007).

SEC. 1204. CONSTRUCTION WITH OTHER LAWS.

Except as otherwise provided in this title and title XIV, the Secretary shall carry out the research, development, demonstration, and technology deployment programs authorized by this title in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), or any other Act under which the Secretary is authorized to carry out such activities.

Subtitle A—Energy Efficiency

SEC. 1211. ENHANCED ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance energy efficiency in buildings, industry, power technologies, and transportation.

(b) PROGRAM GOALS.—

(1) ENERGY-EFFICIENT HOUSING.—The goal of the energy-efficient housing program shall be to develop, in partnership with industry, enabling technologies (including lighting technologies), designs, production methods, and supporting activities that will, by 2010—

(A) cut the energy use of new housing by 50 percent, and

(B) reduce energy use in existing homes by 30 percent.

(2) INDUSTRIAL ENERGY EFFICIENCY.—The goal of the industrial energy efficiency program shall be to develop, in partnership with industry, enabling technologies, designs, production methods, and supporting activities that will, by 2010, enable energy-intensive industries such as the following industries to reduce their energy intensity by at least 25 percent—

(A) the wood product manufacturing industry;

(B) the pulp and paper industry;

(C) the petroleum and coal products manufacturing industry;

(D) the mining industry;

(E) the chemical manufacturing industry;

(F) the glass and glass product manufacturing industry;

(G) the iron and steel mills and ferroalloy manufacturing industry;

(H) the primary aluminum production industry;

(I) the foundries industry; and

(J) United States agriculture.

(3) TRANSPORTATION ENERGY EFFICIENCY.—The goal of the transportation energy efficiency program shall be to develop, in partnership with industry, technologies that will enable the achievement—

(A) by 2010, passenger automobiles with a fuel economy of 80 miles per gallon;

(B) by 2010, light trucks (classes 1 and 2a) with a fuel economy of 60 miles per gallon;

(C) by 2010, medium trucks and buses (classes 2b through 6 and class 8 transit buses) with a fuel economy, in ton-miles per gallon, that is three times that of year 2000 equivalent vehicles;

(D) by 2010, heavy trucks (classes 7 and 8) with a fuel economy, in ton-miles per gallon, that is two times that of year 2000 equivalent vehicles; and

(E) by 2015, the production of fuel-cell powered passenger vehicles with a fuel economy of 110 miles per gallon.

(4) ENERGY EFFICIENT DISTRIBUTED GENERATION.—The goals of the energy efficient on-site generation program shall be to help remove environmental and regulatory barriers to on-site, or distributed, generation and combined heat and power by developing technologies by 2015 that achieve—

(A) electricity generating efficiencies greater than 40 percent for on-site generation technologies based upon natural gas, including fuel cells, microturbines, reciprocating engines and industrial gas turbines;

(B) combined heat and power total (electric and thermal) efficiencies of more than 85 percent;

(C) fuel flexibility to include hydrogen, biofuels and natural gas;

(D) near zero emissions of pollutants that form smog and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent;

(F) packaged system integration at end user facilities providing complete services in heating, cooling, electricity and air quality; and

(G) increased reliability for the consumer and greater stability for the national electricity grid.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $700,000,000 for fiscal year 2003;

(2) $784,000,000 for fiscal year 2004;

(3) $878,000,000 for fiscal year 2005; and

(4) $983,000,000 for fiscal year 2006.

(d) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (c) may be used for the following programs of the Department—

(1) Weatherization Assistance Program;

(2) State Energy Program; or

(3) Federal Energy Management Program.

SEC. 1212. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT AND AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1211(c), there are authorized to be appropriated not more than $50,000,000 in any fiscal year, for an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations of the United States House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, an annual report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 1213. NEXT GENERATION LIGHTING INITIATIVE.

(a) ESTABLISHMENT.—There is established in the Department a Next Generation Lighting Initiative to research, develop, and conduct demonstration activities on advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—

(1) IN GENERAL.—The objectives of the initiative shall be to develop, by 2011, advanced solid-state lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—

(A) longer lasting;

(B) more energy-efficient; and

(C) cost-competitive.

(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to inorganic white light emitting diodes shall be to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime.

(3) ORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to organic white light emitting diodes shall be to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—

(A) illuminates over a full color spectrum;

(B) covers large areas over flexible surfaces; and

(C) does not contain harmful pollutants typical of fluorescent lamps such as mercury.

(c) CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall initiate and manage basic and manufacturing-related research on advanced solid-state lighting technologies based on white light emitting diodes for the initiative, in cooperation with the Next Generation Lighting Initiative Consortium.

(2) COMPOSITION.—The consortium shall be composed of firms, national laboratories, and

other entities so that the consortium is representative of the United States solid-state lighting research, development, and manufacturing expertise as a whole.

(3) FUNDING.—The consortium shall be funded by—

(A) participation fees; and

(B) grants provided under subsection (e)(1).

(4) ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—

(A) enter into a consortium participation agreement that—

(i) is agreed to by all participants; and

(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and

(B) develop an annual program plan.

(5) INTELLECTUAL PROPERTY.—Participants in the consortium shall have royalty-free nonexclusive rights to use intellectual property derived from consortium research conducted under subsection (e)(1).

(d) PLANNING BOARD.—

(1) IN GENERAL.—Not later than 90 days after the establishment of the consortium, the Secretary shall establish and appoint the members of a planning board, to be known as the "Next Generation Lighting Initiative Planning Board", to assist the Secretary in carrying out this section.

(2) COMPOSITION.—The planning board shall be composed of—

(A) four members from universities, national laboratories, and other individuals with expertise in advanced solid-state lighting and technologies based on white light emitting diodes; and

(B) three members from a list of not less than six nominees from industry submitted by the consortium.

(3) STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary appoints members to the planning board, the planning board shall complete a study on strategies for the development and implementation of advanced solid-state lighting technologies based on white light emitting diodes.

(B) REQUIREMENTS.—The study shall develop a comprehensive strategy to implement, through the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.

(C) IMPLEMENTATION.—As soon as practicable after the study is submitted to the Secretary, the Secretary shall implement the initiative in accordance with the recommendations of the planning board.

(4) TERMINATION.—The planning board shall terminate upon completion of the study under paragraph (3).

(e) GRANTS.—

(1) FUNDAMENTAL RESEARCH.—The Secretary, through the consortium, shall make grants to conduct basic and manufacturing-related research related to advanced solid-state lighting technologies based on white light emitting diode technologies.

(2) TECHNOLOGY DEVELOPMENT AND DEMONSTRATION.—The Secretary shall enter into grants, contracts, and cooperative agreements to conduct or promote technology research, development, or demonstration activities. In providing funding under this paragraph, the Secretary shall give preference to participants in the consortium.

(3) CONTINUING ASSESSMENT.—The consortium, in collaboration with the Secretary, shall formulate annual operating and performance objectives, develop technology roadmaps, and recommend research and development priorities for the initiative. The Secretary may also establish or utilize advisory committees, or enter into appropriate arrangements with the National Academy of Sciences, to conduct periodic reviews of the initiative. The Secretary shall consider the results of such assessment and review activities in making funding decisions under paragraphs (1) and (2) of this subsection.

(4) TECHNICAL ASSISTANCE.—The National Laboratories shall cooperate with and provide technical assistance to persons carrying out projects under the initiative.

(5) AUDITS.—

(A) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds made available under this section have been expended in a manner that is consistent with the objectives under subsection (b) and, in the case of funds made available to the consortium, the annual program plan of the consortium under subsection (c)(4)(B).

(B) REPORTS.—The auditor shall submit to Congress, the Secretary, and the Comptroller General of the United States an annual report containing the results of the audit.

(6) APPLICABLE LAW.—Grants, contracts, and cooperative agreements under this section shall not be subject to the Federal Acquisition Regulation.

(f) PROTECTION OF INFORMATION.—Information obtained by the Federal Government on a confidential basis under this section shall be considered to constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.

(g) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 1211(c), there are authorized to be appropriated for activities under this section $50,000,000 for each of fiscal years 2003 through 2011.

(h) DEFINITIONS.—In this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) CONSORTIUM.—The term "consortium" means the Next Generation Lighting Initiative Consortium under subsection (c).

(3) INITIATIVE.—The term "initiative" means the Next Generation Lighting Initiative established under subsection (a).

(4) INORGANIC WHITE LIGHT EMITTING DIODE.—The term "inorganic white light emitting diode" means an inorganic semiconducting package that produces white light using externally applied voltage.

(5) ORGANIC WHITE LIGHT EMITTING DIODE.—The term "organic white light emitting diode" means an organic semiconducting compound that produces white light using externally applied voltage.

(6) WHITE LIGHT EMITTING DIODE.—The term "white light emitting diode" means—

(A) an inorganic white light emitting diode; or

(B) an organic white light emitting diode.

SEC. 1214. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall, in cooperation with the Secretaries of Transportation and Defense, and the Administrator of the Environmental Protection Agency, establish a public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers, and the Association of American Railroads. The goal of the initiative shall include developing and demonstrating locomotive technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the requirements of this section $60,000,000 for fiscal year 2003 and $70,000,000 for fiscal year 2004.

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 1216. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, through national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.

Subtitle B—Renewable Energy

SEC. 1221. ENHANCED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance the use of renewable energy.

(b) PROGRAM GOALS.—

(1) WIND POWER.—The goals of the wind power program shall be to develop, in partnership with industry, a variety of advanced wind turbine designs and manufacturing technologies that are cost-competitive with fossil-fuel generated electricity, with a focus on developing advanced low wind speed technologies that, by 2007, will enable the expanding utilization of widespread class 3 and 4 winds.

(2) PHOTOVOLTAICS.—The goal of the photovoltaic program shall be to develop, in partnership with industry, total photovoltaic systems with installed costs of $4,000 per peak kilowatt by 2005 and $2,000 per peak kilowatt by 2015.

(3) SOLAR THERMAL ELECTRIC SYSTEMS.—The goal of the solar thermal electric systems program shall be to develop, in partnership with industry, solar power technologies (including baseload solar power) that are competitive with fossil-fuel generated electricity by 2015, by combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles.

(4) BIOMASS-BASED POWER SYSTEMS.—The goal of the biomass program shall be to develop, in partnership with industry, integrated power-generating systems, advanced conversion, and feedstock technologies capable of producing electric power that is cost-competitive with fossil-fuel generated electricity by 2010, together with the production of fuels, chemicals, and other products under paragraph (6).

(5) GEOTHERMAL ENERGY.—The goal of the geothermal program shall be to develop, in partnership with industry, technologies and processes based on advanced hydrothermal systems and advanced heat and power systems, including geothermal heat pump technology, with a specific focus on—

(A) improving exploration and characterization technology to increase the probability of drilling successful wells from 20 percent to 40 percent by 2006;

(B) reducing the cost of drilling by 2008 to an average cost of $150 per foot; and

(C) developing enhanced geothermal systems technology with the potential to double the useable geothermal resource base.

(6) BIOFUELS.—The goal of the biofuels program shall be to develop, in partnership with industry—

(A) advanced biochemical and thermochemical conversion technologies capable of making liquid and gaseous fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell vehicles by 2010; and

(B) advanced biotechnology processes capable of making biofuels, biobased polymers, and chemicals, with particular emphasis on the development of biorefineries that use enzyme based processing systems.

For purposes of this paragraph, the term "cellulosic feedstock" means any portion of a food crop not normally used in food production or any nonfood crop grown for the purpose of producing biomass feedstock.

(7) HYDROGEN-BASED ENERGY SYSTEMS.—The goals of the hydrogen program shall be to support research and development on technologies for production, storage, and use of hydrogen, including fuel cells and, specifically, fuel-cell vehicle development activities under section 1211.

(8) HYDROPOWER.—The goal of the hydropower program shall be to develop, in partnership with industry, a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems.

(9) ELECTRIC ENERGY SYSTEMS AND STORAGE.—The goals of the electric energy and storage program shall be to develop, in partnership with industry—

(A) generators and transmission, distribution, and storage systems that combine high capacity with high efficiency;

(B) technologies to interconnect distributed energy resources with electric power systems, comply with any national interconnection standards, have a minimum 10-year useful life;

(C) advanced technologies to increase the average efficiency of electric transmission facilities in rural and remote areas, giving priority for demonstrations to advanced transmission technologies that are being or have been field tested;

(D) the use of new transmission technologies, including flexible alternating current transmission systems, composite conductor materials, advanced protection devices, controllers, and other cost-effective methods and technologies;

(E) the use of superconducting materials in power delivery equipment such as transmission and distribution cables, transformers, and generators;

(F) energy management technologies for enterprises with aggregated loads and distributed generation, such as power parks;

(G) economic and system models to measure the costs and benefits of improved system performance;

(H) hybrid distributed energy systems to optimize two or more distributed or on-site generation technologies; and

(I) real-time transmission and distribution system control technologies that provide for continual exchange of information between generation, transmission, distribution, and end-user facilities.

(c) SPECIAL PROJECTS.—In carrying out this section, the Secretary shall demonstrate—

(1) the use of advanced wind power technology, biomass, geothermal energy systems, and other renewable energy technologies to assist in delivering electricity to rural and remote locations;

(2) the combined use of wind power and coal gasification technologies; and

(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems.

(d) FINANCIAL ASSISTANCE TO RURAL AREAS.—In carrying out special projects under subsection (c), the Secretary may provide financial assistance to rural electric cooperatives and other rural entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $500,000,000 for fiscal year 2003;

(2) $595,000,000 for fiscal year 2004;

(3) $683,000,000 for fiscal year 2005; and

(4) $733,000,000 for fiscal year 2006, of which $100,000,000 may be allocated to meet the goals of subsection (b)(1).

SEC. 1222. BIOENERGY PROGRAMS.

(a) PROGRAM DIRECTION.—The Secretary shall carry out research, development, demonstration, and technology development activities related to bioenergy, including programs under paragraphs (4) and (6) of section 1221(b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) BIOPOWER ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biopower energy systems—

(A) $60,300,000 for fiscal year 2003;

(B) $69,300,000 for fiscal year 2004;

(C) $79,600,000 for fiscal year 2005; and

(D) $86,250,000 for fiscal year 2006.

(2) BIOFUELS ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biofuels energy systems—

(A) $57,500,000 for fiscal year 2003;

(B) $66,125,000 for fiscal year 2004;

(C) $76,000,000 for fiscal year 2005; and

(D) $81,400,000 for fiscal year 2006.

(3) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—The Secretary may use funds authorized under paragraph (1) or (2) for programs, projects, or activities that integrate applications for both biopower and biofuels, including cross-cutting research and development in feedstocks and economic analysis.

SEC. 1223. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Hydrogen Future Act of 2003".

(b) PURPOSES.—Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) to direct the Secretary to develop a program of technology assessment, information transfer, and education in which Federal agencies, members of the transportation, energy, and other industries, and other entities may participate;

"(3) to develop methods of hydrogen production that minimize production of greenhouse gases, including developing—

"(A) efficient production from nonrenewable resources; and

"(B) cost-effective production from renewable resources such as biomass, geothermal, wind, and solar energy; and

"(4) to foster the use of hydrogen as a major energy source, including developing the use of hydrogen in—

"(A) isolated villages, islands, and communities in which other energy sources are not available or are very expensive; and

"(B) foreign economic development, to avoid environmental damage from increased fossil fuel use.".

(c) REPORT TO CONGRESS.—Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12402) is amended—

(1) in subsection (a), by striking "January 1, 1999," and inserting "1 year after the date of enactment of the Hydrogen Future Act of 2003, and biennially thereafter,";

(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

"(1) an analysis of hydrogen-related activities throughout the United States Government to identify productive areas for increased intragovernmental collaboration;

"(2) recommendations of the Hydrogen Technical Advisory Panel established by section 108 for any improvements in the program that are needed, including recommendations for additional legislation; and

"(3) to the extent practicable, an analysis of State and local hydrogen-related activities."; and

(3) by adding at the end the following:

"(c) COORDINATION PLAN.—The report under subsection (a) shall be based on a comprehensive coordination plan for hydrogen energy prepared by the Secretary in consultation with other Federal agencies.".

(d) HYDROGEN RESEARCH AND DEVELOPMENT.—Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12403) is amended—

(1) in subsection (b)(1), by striking "marketplace;" and inserting "marketplace, including foreign markets, particularly where an energy infrastructure is not well developed;";

(2) in subsection (e), by striking "this chapter" and inserting "this Act";

(3) by striking subsection (g) and inserting the following:

"(g) COST SHARING.—

"(1) INABILITY TO FUND ENTIRE COST.—The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains a certification that—

"(A) reasonable efforts to obtain non-Federal funding in the amount necessary to pay 100 percent of the cost of the project have been made; and

"(B) non-Federal funding in that amount could not reasonably be obtained.

"(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—The Secretary shall require a commitment from non-Federal sources of at least 25 percent of the cost of the project.

"(B) REDUCTION OR ELIMINATION.—The Secretary may reduce or eliminate the cost-sharing requirement under subparagraph (A) for the proposed research and development project, including for technical analyses, economic analyses, outreach activities, and educational programs, if the Secretary determines that reduction or elimination is necessary to achieve the objectives of this Act.";

(4) in subsection (i), by striking "this chapter" and inserting "this Act".

(e) DEMONSTRATIONS.—Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12404) is amended by striking subsection (c) and inserting the following:

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

"(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.".

(f) TECHNOLOGY TRANSFER.—Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12405) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "The Secretary shall conduct a program designed to accelerate wider application" and inserting the following:

"(1) IN GENERAL.—The Secretary shall conduct a program designed to—

"(A) accelerate wider application"; and

(ii) by striking "private sector" and inserting "private sector; and

"(B) accelerate wider application of hydrogen technologies in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects."; and

(B) in the second sentence, by striking "The Secretary" and inserting the following:

"(2) ADVICE AND ASSISTANCE.—The Secretary"; and

(2) in subsection (b)—

(A) in paragraph (2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(C) by striking "The Secretary, in" and inserting the following:

"(1) IN GENERAL.—The Secretary, in";

(D) by striking "The information" and inserting the following:

"(2) ACTIVITIES.—The information"; and

(E) in paragraph (1) (as designated by subparagraph (C))—

(i) in subparagraph (A) (as redesignated by subparagraph (B)), by striking "an inventory" and inserting "an update of the inventory"; and

(ii) in subparagraph (B) (as redesignated by subparagraph (B)), by striking "develop" and all that follows through "to improve" and inserting "develop with the National Aeronautics and Space Administration, the Department of Energy, other Federal agencies as appropriate, and industry, an information exchange program to improve".

(g) TECHNICAL PANEL REVIEW.—

(1) IN GENERAL.—Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407) is amended—

(A) in subsection (b)—

(i) by striking "(b) MEMBERSHIP.—The technical panel shall be appointed" and inserting the following:

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The technical panel shall be comprised of not fewer than 9 nor more than 15 members appointed";

(ii) by striking the second sentence and inserting the following:

"(2) TERMS.—

"(A) IN GENERAL.—The term of a member of the technical panel shall be not more than 3 years.

"(B) STAGGERED TERMS.—The Secretary may appoint members of the technical panel in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the technical panel.

"(C) REAPPOINTMENT.—A member of the technical panel whose term expires may be reappointed."; and

(iii) by striking "The technical panel shall have a chairman," and inserting the following:

"(3) CHAIRPERSON.—The technical panel shall have a chairperson,"; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "the following items";

(ii) in paragraph (1), by striking "and" at the end;

(iii) in paragraph (2), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(3) the plan developed by the interagency task force under section 202(b) of the Hydrogen Future Act of 1996.".

(2) NEW APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary—

(A) shall review the membership composition of the Hydrogen Technical Advisory Panel; and

(B) may appoint new members consistent with the amendments made by subsection (a).

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408) is amended—

(1) in paragraph (8), by striking "and";

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(10) $65,000,000 for fiscal year 2003;

"(11) $70,000,000 for fiscal year 2004;

"(12) $75,000,000 for fiscal year 2005; and

"(13) $80,000,000 for fiscal year 2006.".

(i) FUEL CELLS.—

(1) INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 201 of the Hydrogen Future Act of 1996 is amended—

(A) in subsection (a) by striking "(a) Not later than 180 days after the date of enactment of this section, and subject" and inserting "(a) IN GENERAL.—Subject";

(B) by striking "with—" and all that follows and inserting "into Federal, State, and local government facilities for stationary and transportation applications.";

(C) in subsection (b), by striking "gas is" and inserting "basis";

(D) in subsection (c)(2), by striking "systems described in subsections (a)(1) and (a)(2)" and inserting "projects proposed"; and

(E) by striking subsection (d) and inserting the following:

"(d) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

"(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.".

(2) COOPERATIVE AND COST-SHARING AGREEMENTS; INTEGRATION OF TECHNICAL INFORMATION.—Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) is amended by striking section 202 and inserting the following:

"SEC. 202. INTERAGENCY TASK FORCE.

"(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this section, the Secretary shall establish an interagency task force led by a Deputy Assistant Secretary of the Department of Energy and comprised of representatives of—

"(1) the Office of Science and Technology Policy;

"(2) the Department of Transportation;

"(3) the Department of Defense;

"(4) the Department of Commerce (including the National Institute for Standards and Technology);

"(5) the Environmental Protection Agency;

"(6) the National Aeronautics and Space Administration; and

"(7) other agencies as appropriate.

"(b) DUTIES.—

"(1) IN GENERAL.—The task force shall develop a plan for carrying out this title.

"(2) FOCUS OF PLAN.—The plan shall focus on development and demonstration of integrated systems and components for—

"(A) hydrogen production, storage, and use in Federal, State, and local government buildings and vehicles;

"(B) hydrogen-based infrastructure for buses and other fleet transportation systems that include zero-emission vehicles; and

"(C) hydrogen-based distributed power generation, including the generation of combined heat, power, and hydrogen.

"SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.

"The Secretary shall enter into cooperative and cost-sharing agreements with Federal, State, and local agencies for participation by the agencies in demonstrations at facilities administered by the agencies, with the aim of integrating high efficiency hydrogen systems using fuel cells into the facilities to provide immediate benefits and promote a smooth transition to hydrogen as an energy source.

"SEC. 204. INTEGRATION AND DISSEMINATION OF TECHNICAL INFORMATION.

"The Secretary shall—

"(1) integrate all the technical information that becomes available as a result of development and demonstration projects under this title;

"(2) make the information available to all Federal and State agencies for dissemination to all interested persons; and

"(3) foster the exchange of generic, nonproprietary information and technology developed under this title among industry, academia, and Federal, State, and local governments, to help the United States economy attain the economic benefits of the information and technology.

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, for activities under this title—

"(1) $25,000,000 for fiscal year 2003;

"(2) $30,000,000 for fiscal year 2004;

"(3) $35,000,000 for fiscal year 2005; and

"(4) $40,000,000 for fiscal year 2006.".

Subtitle C—Fossil Energy

SEC. 1231. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to enhance fossil energy.

(b) PROGRAM GOALS.—

(1) CORE FOSSIL RESEARCH AND DEVELOPMENT.—The goals of the core fossil research and development program shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2015 with the capability of realizing—

(A) electricity generating efficiencies of 60 percent for coal and 75 percent for natural gas;

(B) combined heat and power thermal efficiencies of more than 85 percent;

(C) fuels utilization efficiency of 75 percent for the production of liquid transportation fuels from coal;

(D) near zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent through efficiency improvements and 100 percent with sequestration; and

(F) improved reliability, efficiency, reductions of air pollutant emissions, or reductions in solid waste disposal requirements.

(2) OFFSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the offshore oil and natural gas resources program shall be to develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico.

(3) ONSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the onshore oil and natural gas resources program shall be to advance

the science and technology available to domestic onshore petroleum producers, particularly independent operators, through—

(A) advances in technology for exploration and production of domestic petroleum resources, particularly those not accessible with current technology;

(B) improvement in the ability to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(C) development of technologies and practices that reduce the threat to the environment from petroleum exploration and production and decrease the cost of effective environmental compliance.

(4) TRANSPORTATION FUELS.—The goals of the transportation fuels program shall be to increase the price elasticity of oil supply and demand by focusing research on—

(A) reducing the cost of producing transportation fuels from coal and natural gas; and

(B) indirect liquefaction of coal and biomass.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this section—

(A) $485,000,000 for fiscal year 2003;

(B) $508,000,000 for fiscal year 2004;

(C) $532,000,000 for fiscal year 2005; and

(D) $558,000,000 for fiscal year 2006.

(2) LIMITS ON USE OF FUNDS.—None of the funds authorized in paragraph (1) may be used for—

(A) fossil energy environmental restoration;

(B) import/export authorization;

(C) program direction; or

(D) general plant projects.

(3) COAL-BASED PROJECTS.—The coal-based projects funded under this section shall be consistent with the goals in subsection (b). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, hybrid gasification/combustion, or other technology with the potential to address the goals in subparagraphs (D) or (E) of subsection (b)(1).

SEC. 1232. POWER PLANT IMPROVEMENT INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to demonstrate commercial applications of advanced lignite and coal-based technologies applicable to new or existing power plants (including co-production plants) that advance the efficiency, environmental performance, and cost-competitiveness substantially beyond technologies that are in operation or have been demonstrated by the date of enactment of this subtitle.

(b) TECHNICAL MILESTONES.—

(1) IN GENERAL.—The Secretary shall set technical milestones specifying efficiency and emissions levels that projects shall be designed to achieve. The milestones shall become more restrictive over the life of the program.

(2) 2010 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2010 interim thermal efficiency of—

(A) forty-five percent for coal of more than 9,000 Btu;

(B) forty-four percent for coal of 7,000 to 9,000 Btu; and

(C) forty-two percent for coal of less than 7,000 Btu.

(3) 2020 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2020 thermal efficiency of—

(A) sixty percent for coal of more than 9,000 Btu;

(B) fifty-nine percent for coal of 7,000 to 9,000 Btu; and

(C) fifty-seven percent for coal of less than 7,000 Btu.

(4) EMISSIONS MILESTONES.—The milestones shall include near zero emissions of mercury and greenhouse gases and of emissions that form fine particles, smog, and acid rain.

(5) REGIONAL AND QUALITY DIFFERENCES.—The Secretary may consider regional and quality differences in developing the efficiency milestones.

(c) PROJECT CRITERIA.—The demonstration activities proposed to be conducted at a new or existing coal-based electric generation unit having a nameplate rating of not less than 100 megawatts, excluding a co-production plant, shall include at least one of the following—

(1) a means of recycling or reusing a significant portion of coal combustion wastes produced by coal-based generating units, excluding practices that are commercially available by the date of enactment of this subtitle;

(2) a means of capture and sequestering emissions, including greenhouse gases, in a manner that is more effective and substantially below the cost of technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle;

(3) a means of controlling sulfur dioxide and nitrogen oxide or mercury in a manner that improves environmental performance beyond technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle—

(A) in the case of an existing unit, achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(i) 7 percent for coal of more than 9,000 Btu;

(ii) 6 percent for coal of 7,000 to 9,000 Btu; or

(iii) 4 percent for coal of less than 7,000 Btu; or

(B) in the case of a new unit, achieve the efficiency milestones set for in subsection (b) compared to the efficiency of a typical unit as operated on the date of enactment of this subtitle, before any retrofit, repowering, replacement, or installation.

(d) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and interested entities (including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers), shall conduct an assessment that identifies performance criteria that would be necessary for coal-based technologies to meet, to enable future reliance on coal in an environmentally sustainable manner for electricity generation, use as a chemical feedstock, and use as a transportation fuel.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out activities under this section $200,000,000 for each of fiscal years 2003 through 2011.

(2) LIMITATION ON FUNDING OF PROJECTS.—Eighty percent of the funding under this section shall be limited to—

(A) carbon capture and sequestration technologies;

(B) gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion; or

(C) other technology either by itself or in conjunction with other technologies that has the potential to achieve near zero emissions.

SEC. 1233. RESEARCH AND DEVELOPMENT FOR ADVANCED SAFE AND EFFICIENT COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish a cooperative research partnership involving appropriate Federal agencies, coal producers, including associations, equipment manufacturers, universities with mining engineering departments, and other relevant entities to—

(1) develop mining research priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) establish a process for conducting joint industry-Government research and development; and

(3) expand mining research capabilities at institutions of higher education.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out activities under this section, $12,000,000 in fiscal year 2003 and $15,000,000 in fiscal year 2004.

(2) LIMIT ON USE OF FUNDS.—Not less than 20 percent of any funds appropriated in a given fiscal year under this subsection shall be dedicated to research carried out at institutions of higher education.

SEC. 1234. ULTRA-DEEPWATER AND UNCONVENTIONAL RESOURCE EXPLORATION AND PRODUCTION TECHNOLOGIES.

(a) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Ultra-Deepwater and Unconventional Resource Technology Advisory Committee established under subsection (c).

(2) AWARD.—The term "award" means a cooperative agreement, contract, award or other types of agreement as appropriate.

(3) DEEPWATER.—The term "deepwater" means a water depth that is greater than 200 but less than 1,500 meters.

(4) ELIGIBLE AWARD RECIPIENT.—The term "eligible award recipient" includes—

(A) a research institution;

(B) an institution of higher education;

(C) a corporation; and

(D) a managing consortium formed among entities described in subparagraphs (A) through (C).

(5) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) MANAGING CONSORTIUM.—The term "managing consortium" means an entity that—

(A) exists as of the date of enactment of this section;

(B)(i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) is exempt from taxation under section 501(a) of that Code;

(C) is experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration; and

(D) has demonstrated capabilities and experience in representing the views and priorities of industry, institutions of higher education and other research institutions in formulating comprehensive research and development plans and programs.

(7) PROGRAM.—The term "program" means the program of research, development, and demonstration established under subsection (b)(1)(A).

(8) ULTRA-DEEPWATER.—The term "ultra-deepwater" means a water depth that is equal to or greater than 1,500 meters.

(9) ULTRA-DEEPWATER ARCHITECTURE.—The term "ultra-deepwater architecture" means the integration of technologies to explore and produce natural gas or petroleum products located at ultra-deepwater depths.

(10) ULTRA-DEEPWATER RESOURCE.—The term "ultra-deepwater resource" means natural gas

or any other petroleum resource (including methane hydrate) located in an ultra-deepwater area.

(11) UNCONVENTIONAL RESOURCE.—The term "unconventional resource" means natural gas or any other petroleum resource located in a formation on physically or economically inaccessible land currently available for lease for purposes of natural gas or other petroleum exploration or production.

(b) ULTRA-DEEPWATER AND UNCONVENTIONAL EXPLORATION AND PRODUCTION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a program of research into, and development and demonstration of, ultra-deepwater resource and unconventional resource exploration and production technologies.

(B) LOCATION; IMPLEMENTATION.—The program under this subsection shall be carried out—

(i) in areas on the outer Continental Shelf that, as of the date of enactment of this section, are available for leasing; and

(ii) on unconventional resources.

(2) COMPONENTS.—The program shall include one or more programs for long-term research into—

(A) new deepwater ultra-deepwater resource and unconventional resource exploration and production technologies; or

(B) environmental mitigation technologies for production of ultra-deepwater resource and unconventional resource.

(c) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the "Ultra-Deepwater and Unconventional Resource Technology Advisory Committee".

(2) MEMBERSHIP.—

(A) COMPOSITION.—Subject to subparagraph (B), the advisory committee shall be composed of seven members appointed by the Secretary that—

(i) have extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry; and

(ii) are not Federal employees or employees of contractors to a Federal agency.

(B) EXPERTISE.—Of the members of the advisory committee appointed under subparagraph (A)—

(i) at least four members shall have extensive knowledge of ultra-deepwater resource exploration and production technologies;

(ii) at least three members shall have extensive knowledge of unconventional resource exploration and production technologies.

(3) DUTIES.—The advisory committee shall advise the Secretary in the implementation of this section.

(4) COMPENSATION.—A member of the advisory committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) AWARDS.—

(1) TYPES OF AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—

(i) IN GENERAL.—The Secretary shall make awards for research into, and development and demonstration of, ultra-deepwater resource exploration and production technologies—

(I) to maximize the value of the ultra-deepwater resources of the United States;

(II) to increase the supply of ultra-deepwater resources by lowering the cost and improving the efficiency of exploration and production of such resources; and

(III) to improve safety and minimize negative environmental impacts of that exploration and production.

(ii) ULTRA-DEEPWATER ARCHITECTURE.—In furtherance of the purposes described in clause (i), the Secretary shall, where appropriate, solicit proposals from a managing consortium to develop and demonstrate next-generation architecture for ultra-deepwater resource production.

(B) UNCONVENTIONAL RESOURCES.—The Secretary shall make awards—

(i) to carry out research into, and development and demonstration of, technologies to maximize the value of unconventional resources; and

(ii) to develop technologies to simultaneously—

(I) increase the supply of unconventional resources by lowering the cost and improving the efficiency of exploration and production of unconventional resources; and

(II) improve safety and minimize negative environmental impacts of that exploration and production.

(2) CONDITIONS.—An award made under this subsection shall be subject to the following conditions:

(A) MULTIPLE ENTITIES.—If an award recipient is composed of more than one eligible organization, the recipient shall provide a signed contract, agreed to by all eligible organizations comprising the award recipient, that defines, in a manner that is consistent with all applicable law in effect as of the date of the contract, all rights to intellectual property for—

(i) technology in existence as of that date; and

(ii) future inventions conceived and developed using funds provided under the award.

(B) COMPONENTS OF APPLICATION.—An application for an award for a demonstration project shall describe with specificity any intended commercial applications of the technology to be demonstrated.

(C) COST SHARING.—Non-Federal cost sharing shall be in accordance with section 1403.

(e) PLAN AND FUNDING.—

(1) IN GENERAL.—The Secretary, and where appropriate, a managing consortium under subsection (d)(1)(A)(ii), shall formulate annual operating and performance objectives, develop multiyear technology roadmaps, and establish research and development priorities for the funding of activities under this section which will serve as guidelines for making awards including cost-matching objectives.

(2) INDUSTRY INPUT.—In carrying out this program, the Secretary shall promote maximum industry input through the use of managing consortia or other organizations in planning and executing the research areas and conducting workshops or reviews to ensure that this program focuses on industry problems and needs.

(f) AUDITING.—

(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds authorized by this section, provided through a managing consortium, are expended in a manner consistent with the purposes of this section.

(2) REPORTS.—The auditor retained under paragraph (1) shall submit to the Secretary, and the Secretary shall transmit to the appropriate congressional committees, an annual report that describes—

(A) the findings of the auditor under paragraph (1); and

(B) a plan under which the Secretary may remedy any deficiencies identified by the auditor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(h) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 2009.

(i) SAVINGS PROVISION.—Nothing in this section is intended to displace, duplicate or diminish any previously authorized research activities of the Department of Energy.

SEC. 1235. RESEARCH AND DEVELOPMENT FOR NEW NATURAL GAS TRANSPORTATION TECHNOLOGIES.

The Secretary of Energy shall conduct a comprehensive 5-year program for research, development and demonstration to improve the reliability, efficiency, safety and integrity of the natural gas transportation and distribution infrastructure and for distributed energy resources (including microturbines, fuel cells, advanced engine-generators, gas turbines, reciprocating engines, hybrid power generation systems, and all ancillary equipment for dispatch, control and maintenance).

SEC. 1236. AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF ARCTIC ENERGY.

There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) such sums as may be necessary, but not to exceed $25,000,000 for each of fiscal years 2003 through 2011.

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC22–91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

Subtitle D—Nuclear Energy

SEC. 1241. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct an energy research, development, demonstration, and technology deployment program to enhance nuclear energy.

(b) PROGRAM GOALS.—The program shall—

(1) support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while optimizing their current operations for greater efficiencies;

(2) examine—

(A) advanced proliferation-resistant and passively safe reactor designs;

(B) new reactor designs with higher efficiency, lower-cost, and improved safety;

(C) in coordination with activities carried out under the amendments made by section 1223, designs for a high temperature reactor capable of producing large-scale quantities of hydrogen using thermochemical processes;

(D) proliferation-resistant and high-burn-up nuclear fuels;

(E) minimization of generation of radioactive materials;

(F) improved nuclear waste management technologies; and

(G) improved instrumentation science;

(3) attract new students and faculty to the nuclear sciences and nuclear engineering and related fields (including health physics and nuclear and radiochemistry) through—

(A) university-based fundamental research for existing faculty and new junior faculty;

(B) support for the re-licensing of existing training reactors at universities in conjunction with industry; and

(C) completing the conversion of existing training reactors with proliferation-resistant fuels that are low enriched and to adapt those reactors to new investigative uses;

(4) maintain a national capability and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in partnership with industry;

(5) ensure that our nation has adequate capability to power future satellite and space missions; and

(6) maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can use these facilities.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) CORE NUCLEAR RESEARCH PROGRAMS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under subsection (b)(1) through (3)—

(A) $100,000,000 for fiscal year 2003;

(B) $110,000,000 for fiscal year 2004;

(C) $120,000,000 for fiscal year 2005; and

(D) $130,000,000 for fiscal year 2006.

(2) SUPPORTING NUCLEAR ACTIVITIES.—There are authorized to be appropriated to the Secretary for carrying out activities under subsection (b)(4) through (6), as well as nuclear facilities management and program direction—

(A) $200,000,000 for fiscal year 2003;

(B) $202,000,000 for fiscal year 2004;

(C) $207,000,000 for fiscal year 2005; and

(D) $212,000,000 for fiscal year 2006.

SEC. 1242. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall support a program to maintain the nation's human resource investment and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—In carrying out the program under this section, the Secretary shall—

(1) develop a graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include:

(1) Converting research reactors to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among universities.

(2) Providing technical assistance, in collaboration with the United States nuclear industry, in re-licensing and upgrading training reactors as part of a student training program.

(3) Providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments. The Secretary may provide for fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a university research reactor used in the research project, on a cost-shared basis with the university.

(f) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c)(1), the following amounts are authorized for activities under this section—

(1) $33,000,000 for fiscal year 2003;

(2) $37,900,000 for fiscal year 2004;

(3) $43,600,000 for fiscal year 2005; and

(4) $50,100,000 for fiscal year 2006.

SEC. 1243. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Research Initiative for grants for research relating to nuclear energy.

(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

SEC. 1244. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Plant Optimization Program for grants to improve nuclear energy plant reliability, availability, and productivity. Notwithstanding section 1403, the program shall require industry cost-sharing of at least 50 percent and be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

SEC. 1245. NUCLEAR ENERGY TECHNOLOGY DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Technology Development Program to develop a technology roadmap to design and develop new nuclear energy powerplants in the United States.

(b) GENERATION IV REACTOR STUDY.—The Secretary shall, as part of the program under subsection (a), also conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment. The study shall examine advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiency, lower cost and improved safety, proliferation-resistant and high burn-up fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science. Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized to be appropriated under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.

Subtitle E—Fundamental Energy Science

SEC. 1251. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall—

(1) conduct a comprehensive program of fundamental research, including research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;

(2) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and ensure that they are an integral part of the departmental mission for exploring the frontiers of fundamental science;

(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research; and

(4) ensure that its fundamental science programs, where appropriate, help inform the applied research and development programs of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $3,785,000,000 for fiscal year 2003;

(2) $4,153,000,000 for fiscal year 2004;

(3) $4,586,000,000 for fiscal year 2005; and

(4) $5,000,000,000 for fiscal year 2006.

SEC. 1252. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in nanoscience and nanoengineering consistent with the Department's statutory authorities related to research and development. The program shall include efforts to further the understanding of the chemistry, physics, materials science and engineering of phenomena on the scale of 1 to 100 nanometers.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) pursuant to subsection (c), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research and development in nanoscience and nanoengineering;

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—

(1) AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the amounts specified under subsection (d)(2) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) PROJECTS.—Projects under paragraph (1) may include the measurement of properties at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) FACILITIES.—Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities and related instrumentation science.

(4) COLLABORATION.—The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. At least one facility under this subsection shall have a specific mission of technology transfer to other institutions and to industry.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) TOTAL AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the following amounts are authorized for activities under this section—

(A) $270,000,000 for fiscal year 2003;

(B) $290,000,000 for fiscal year 2004;

(C) $310,000,000 for fiscal year 2005; and

(D) $330,000,000 for fiscal year 2006.

(2) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—Of the amounts under paragraph (1), the following amounts are authorized to carry out subsection (c)—

(A) $135,000,000 for fiscal year 2003;

(B) $150,000,000 for fiscal year 2004;

(C) $120,000,000 for fiscal year 2005; and

(D) $100,000,000 for fiscal year 2006.

SEC. 1253. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge computationally based science problems related to departmental missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets; and

(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address DOE missions are available; explore new computing approaches and technologies that promise to advance scientific computing.

(c) HIGH-PERFORMANCE COMPUTING ACT PROGRAM.—Section 203(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(a)) is amended—

(1) in paragraph (3), by striking "and";

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding after paragraph (4) the following:

"(5) conduct an integrated program of research, development, and provision of facilities to develop and deploy to scientific and technical users the high-performance computing and collaboration tools needed to fulfill the statutory missions of the Department of Energy in conducting basic and applied energy research.".

(d) COORDINATION WITH THE DOE NATIONAL NUCLEAR SECURITY AGENCY ACCELERATED STRATEGIC COMPUTING INITIATIVE AND OTHER NATIONAL COMPUTING PROGRAMS.—The Secretary shall ensure that this program, to the extent feasible, is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Agency; and

(2) other national efforts related to advanced scientific computing for science and engineering.

(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), the following amounts are authorized for activities under this section—

(1) $285,000,000 for fiscal year 2003;

(2) $300,000,000 for fiscal year 2004;

(3) $310,000,000 for fiscal year 2005; and

(4) $320,000,000 for fiscal year 2006.

SEC. 1254. FUSION ENERGY SCIENCES PROGRAM AND PLANNING.

(a) OVERALL PLAN FOR FUSION ENERGY SCIENCES PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this subtitle, the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop and transmit to the Congress a plan to ensure a strong scientific base for the Fusion Energy Sciences Program within the Office of Science and to enable the experiments described in subsections (b) and (c).

(2) OBJECTIVES OF PLAN.—The plan under this subsection shall include as its objectives—

(A) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(B) to ensure a strengthened fusion science theory and computational base;

(C) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(D) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(E) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in subsections (b) and (c); and

(F) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

(b) PLAN FOR UNITED STATES FUSION EXPERIMENT.—

(1) IN GENERAL.—The Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for construction in the United States of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences and shall transmit the plan and the review to the Congress by July 1, 2004.

(2) REQUIREMENTS OF PLAN.—The plan described in paragraph (1) shall—

(A) address key burning plasma physics issues; and

(B) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) PLAN FOR PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (b), the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost-effective relative to the cost and scientific benefits of a domestic experiment described in subsection (b). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b)(2), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academy of Sciences of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

(d) AUTHORIZATION FOR RESEARCH AND DEVELOPMENT.—The Secretary, through the Office of Science, may conduct any research and development necessary to fully develop the plans described in this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251, the following amounts are authorized for activities under this section and for activities of the Fusion Energy Science Program—

(1) for fiscal year 2003, $335,000,000;

(2) for fiscal year 2004, $349,000,000;

(3) for fiscal year 2005, $362,000,000; and

(4) for fiscal year 2006, $377,000,000.

Subtitle F—Energy, Safety, and Environmental Protection

SEC. 1261. CRITICAL ENERGY INFRASTRUCTURE PROTECTION RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall carry out a research, development, demonstration and technology deployment program, in partnership with industry, on critical energy infrastructure protection, consistent with the roles and missions outlined for the Secretary in Presidential Decision Directive 63, entitled "Critical Infrastructure Protection". The program shall have the following goals:

(1) Increase the understanding of physical and information system disruptions to the energy infrastructure that could result in cascading or widespread regional outages.

(2) Develop energy infrastructure assurance "best practices" through vulnerability and risk assessments.

(3) Protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents within the energy infrastructure.

(b) PROGRAM SCOPE.—The program under subsection (a) shall include research, development, deployment, technology demonstration for—

(1) analysis of energy infrastructure interdependencies to quantify the impacts of system vulnerabilities in relation to each other;

(2) probabilistic risk assessment of the energy infrastructure to account for unconventional and terrorist threats;

(3) incident tracking and trend analysis tools to assess the severity of threats and reported incidents to the energy infrastructure; and

(4) integrated multisensor, warning and mitigation technologies to detect, integrate, and localize events affecting the energy infrastructure including real time control to permit the reconfiguration of energy delivery systems.

(c) REGIONAL COORDINATION.—The program under this section shall cooperate with Departmental activities to promote regional coordination under section 102 of this Act, to ensure that the technologies and assessments developed by the program are transferred in a timely manner to State and local authorities, and to the energy industries.

(d) COORDINATION WITH INDUSTRY RESEARCH ORGANIZATIONS.—The Secretary may enter into grants, contracts, and cooperative agreements with industry research organizations to facilitate industry participation in research under this section and to fulfill applicable cost-sharing requirements.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section—

(1) $25,000,000 for fiscal year 2003;

(2) $26,000,000 for fiscal year 2004;

(3) $27,000,000 for fiscal year 2005; and

(4) $28,000,000 for fiscal year 2006.

(f) CRITICAL ENERGY INFRASTRUCTURE FACILITY DEFINED.—For purposes of this section, the term "critical energy infrastructure facility" means a physical or cyber-based system or service for the generation, transmission or distribution of electrical energy, or the production, refining, transportation, or storage of petroleum, natural gas, or petroleum product, the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States. The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104b of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).

SEC. 1262. RESEARCH AND DEMONSTRATION FOR REMEDIATION OF GROUNDWATER FROM ENERGY ACTIVITIES.

(a) In General.—The Secretary shall carry out a research, development, demonstration, and technology deployment program to improve methods for environmental restoration of groundwater contaminated by energy activities, including oil and gas production, surface and underground mining of coal, and in-situ extraction of energy resources.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) Program Direction.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) Program Elements.—

(1) Climate modeling.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) Carbon cycle.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) Ecological processes.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) Integrated assessment.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) Authorization of Appropriations.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.-

(d) Limitation on Funds.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following:

"(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

"(A) reduce or avoid anthropogenic emissions of greenhouse gases;

"(B) remove and sequester greenhouse gases from emissions streams; and

"(C) remove and sequester greenhouse gases from the atmosphere."; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "subsection (a)(1) through (3)" and inserting "paragraphs (1) through (4) of subsection (a)"; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

"(i) renewable energy systems;

"(ii) advanced fossil energy technology;

"(iii) advanced nuclear power plant design;

"(iv) fuel cell technology for residential, industrial and transportation applications;

"(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

"(vi) efficient electrical generation, transmission and distribution technologies; and

"(vii) efficient end use energy technologies.".

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) Basic Research.—

(1) In general.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) Agricultural research service.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) Cooperative state research, extension, and education service.—

(A) In general.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) Consultation on research topics.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) Applied Research.—

(1) In general.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and

(C) evaluate leakage and performance issues.

(2) Requirements.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) Minimization of adverse environmental impacts.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) Natural resources conservation service.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) Cooperative state research, extension, and education service.—

(A) In general.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) Consultation on research topics.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) Research Consortia.—

(1) In general.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) STANDARDS OF PRECISION.—

(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(b) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouse gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

SEC. 1313. CARBON STORAGE AND SEQUESTRATION ACCOUNTING RESEARCH.

(a) IN GENERAL.—The Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage and sequestration accounting models, reference tables, or other tools that can assist landowners and others in cost-effective and reliable quantification of the carbon release, sequestration, and storage expected to result from various resource uses, land uses, practices, activities or forest, agricultural, or cropland management practices over various periods of time.

(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to not more than five eligible entities to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that can assist in developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.

Subtitle C—International Energy Technology Transfer

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term "clean energy technology" means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term "interagency working group" means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the United States Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of the Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies;

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to assess what policies would help open markets and improve United States clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;

(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on April 1st of each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and United States clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:

“(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ‘international energy deployment project’ means a project to construct an energy production facility outside the United States—

“(i) the output of which will be consumed outside the United States; and

“(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

“(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

“(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

“(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

“(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ‘qualifying international energy deployment project’ means an international energy deployment project that—

“(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

“(ii) uses technology that has been successfully developed or deployed in the United States;

“(iii) meets the criteria of subsection (k);

“(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

“(v) complies with such terms and conditions as the Secretary establishes by regulation.

“(C) UNITED STATES.—For purposes of this paragraph, the term ‘United States’, when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

“(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

“(C) FINANCIAL ASSISTANCE.—

“(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

“(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

“(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

“(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

“(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 10 percent contribution towards the total cost of the loan or loan guarantee by the host country.

“(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

“(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

“(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

“(F) RECOMMENDATION.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.”.

Subtitle D—Climate Change Science and Information

PART I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking "Earth and Environmental Sciences" inserting "Global Change Research".

SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2932) is amended—

*(1) by striking "**EARTH AND ENVIRONMENTAL SCIENCES**" in the section heading and inserting "**GLOBAL CHANGE RESEARCH**";*

(2) by striking "Earth and Environmental Sciences" in subsection (a) and inserting "Global Change Research";

(3) by striking the last sentence of subsection (b) and inserting "The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).";

(4) by striking "Chairman of the Council," in subsection (c) and inserting "Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and";

(5) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

"(d) SUBCOMMITTEES AND WORKING GROUPS.—

"(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

"(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

"(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

"(B) such additional members as the Chair of the Committee may, from time to time, appoint.

"(3) CHAIR.—A high ranking official of one of the departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.

"(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.".

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting "short-term and long-term" before "goals" in subsection (b)(1);

(2) by striking "usable information on which to base policy decisions related to" in subsection (b)(1) and inserting "information relevant and readily usable by local, State, and Federal decisionmakers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigating, and adapting to";

(3) by adding at the end of subsection (c) the following:

"(6) Methods for integrating information to provide predictive and other tools for planning and decisionmaking by governments, communities and the private sector.";

(4) by striking subsection (d)(3) and inserting the following:

"(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policymakers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.";

(5) by striking "and" in subsection (d)(2);

(6) by striking "change." in subsection (d)(3) and inserting "change; and";

(7) by adding at the end of subsection (d) the following:

"(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes."; and

(8) by adding at the end the following:

"(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).".

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

"(a) INTEGRATED PROGRAM OFFICE.—

"(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

"(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

"(3) FUNCTION.—The integrated program office shall—

"(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

"(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

"(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

"(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

"(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.";

(3) by striking "Committee." in paragraph (2) of subsection (c), as redesignated, and inserting "Committee and the Integrated Program Office."; and

(4) by inserting "and the Integrated Program Office" after "Committee" in paragraph (1) of subsection (d), as redesignated.

SEC. 1336. RESEARCH GRANTS.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) RESEARCH GRANTS.—

"(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

"(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

"(3) FUNDING THROUGH NSF.—

"(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

"(B) AUTHORIZATION.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.".

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2936) is amended—

*(1) by striking "**Scientific**" in the section heading;*

(2) by striking "and" after the semicolon in paragraph (2); and

(3) by striking "years." in paragraph (3) and inserting "years; and"; and

(4) by adding at the end the following:

"(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.".

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

SEC. 1342. CHANGES IN FINDINGS.

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking "Weather and climate change affect" in paragraph (1) and inserting "Weather, climate change, and climate variability affect public safety, environmental security, human health.";

(2) by striking "climate" in paragraph (2) and inserting "climate, including seasonal and decadal fluctuations,";

(3) by striking "changes." in paragraph (5) and inserting "changes and providing free exchange of meteorological data."; and

(4) by adding at the end the following:

"(7) The present rate of advance in research and development and application of such advances is inadequate and new developments

must be incorporated rapidly into services for the benefit of the public.

"(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.".

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

"(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decisionmaking on land use, water hazards, and related issues;";

(3) by inserting "sharing," after "collection," in paragraph (5), as redesignated;

(4) by striking "experimental" each place it appears in paragraph (9), as redesignated;

(5) by striking "preliminary" in paragraph (10), as redesignated;

(6) by striking "this Act," the first place it appears in paragraph (10), as redesignated, and inserting "the Global Climate Change Act of 2002,"; and

(7) by striking "this Act," the second place it appears in paragraph (10), as redesignated, and inserting "that Act,".

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking "1979," and inserting "2002,";

(2) by striking "1980," and inserting "2003,";

(3) by striking "1981," and inserting "2004,"; and

(4) by striking "$25,500,000" and inserting "$75,500,000".

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

"SEC. 6. NATIONAL CLIMATE SERVICE PLAN.

"Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

"(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;

"(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

"(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long- and short-term time schedule and at a range of spatial scales;

"(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

"(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

"(6) a program for long-term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

"(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.".

SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) Atmospheric Monitoring and Verification Program.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) Annual Reporting.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.

(a) Arctic Research Commission.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—

(1) by striking "exceed 90 days" in the second sentence of paragraph (1) and inserting "exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,";

(2) by striking "Chairman" in paragraph (2) and inserting "chairperson".

(b) Grants.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

"(c) Funding for Arctic Research.—

"(1) In general.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

"(A) make grants to persons to conduct research concerning the Arctic; and

"(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

"(2) Effect of action by executive director.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.

"(3) Authorization of appropriations.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.".

SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.

(a) In General.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) Abrupt Climate Change Defined.—In this section, the term "abrupt climate change" means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) Establishment.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;

(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;

(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;

(7) reducing and mitigating ocean and coastal pollution; and

(8) providing information that contributes to public awareness of the state and importance of the oceans.

(b) Council Functions.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;

(B) determines how current and planned observing activities can be integrated in a cost-effective manner;

(C) provides for regional and concept demonstration projects;

(D) describes the role and estimated budget of each Federal agency in implementing the plan;

(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and

(F) makes recommendations for coordination of ocean observing activities of the United States

with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;

(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;

(B) standards for quality control and assessment of data;

(C) design, testing and employment of forecast models for ocean conditions;

(D) data management, including data transfer protocols and archiving; and

(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) by striking "and" after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and".

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) noncarbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

"(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

"(b) RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

"(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

"(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

"(B) to assist in establishing a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

"(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouse gases; and

"(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

"(c) NATIONAL MEASUREMENT LABORATORIES.—

"(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

"(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

"(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

"(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

"(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low- or no-emission technologies into building designs.

"(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building subsystems and 'smart buildings', and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

"(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.".

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new "green" manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the Environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities, including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act *that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—*

(1) to reduce vulnerability of human life and property;

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological and ecological processes.

(e) Information and Technology.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.

(a) Coastal Vulnerability.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economies, including the impact on abundance or distribution of economically important living marine resources.

(b) Coastal Adaptation Plan.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaptation plans that recommend targets and strategies to address coastal impacts associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) Technical Planning Assistance.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) Coastal Adaptation Grants.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) Coastal Response Pilot Program.—

(1) In general.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) Eligible projects.—A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) Funding share.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other noncash support of any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.

(f) Definitions.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) Authorization of Appropriations.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) Establishment.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) In General.—The Administrator of the National Aeronautics and Space Administration may establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(b) Preferred Projects.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) Opportunities.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaptation to coastal and land use consequences of global climate change or climate variability.

(d) Duration.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) Responsibilities of Grantees.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) Regulations.—The Center shall issue regulations establishing application, selection, and

implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. AIR QUALITY RESEARCH, FORECASTS AND WARNINGS.

(a) REGIONAL STUDIES.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), conduct regional studies of the air quality within specific regions of the United States. Such studies should assess the effects of in situ emissions of air pollutants and their precursors, transport of such emissions and precursors from outside the region, and production of air pollutants within the region via chemical reactions.

(b) FORECASTS AND WARNINGS.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.

(c) DEFINITION.—For the purposes of this section, the term "specific regions of the United States" means the following geographical areas:

(1) the Northeast, composed of Main, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia;

(2) the Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida;

(3) the Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan;

(4) the South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas;

(5) the High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas;

(6) the Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming;

(7) the Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico;

(8) Alaska; and

(9) Hawaii.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for studies pursuant to subsection (b) of this section, and $5,000,000 for fiscal year 2003 and such sums as may be necessary for subsequent fiscal years for the forecast and warning program pursuant to subsection (c) of this section.

SEC. 1384. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term "Center" means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1385. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;

(2) $20,000,000 for fiscal year 2004;

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

TITLE XIV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 1401. DEFINITIONS.

In this title:

(1) APPLICABILITY OF DEFINITIONS.—The definitions in section 1203 shall apply.

(2) SINGLE-PURPOSE RESEARCH FACILITY.—The term "single-purpose research facility" means any of the following primarily single purpose entities owned by the Department of Energy—

(A) Ames Laboratory;

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Fernald Environmental Management Project;

(E) Fermi National Accelerator Laboratory;

(F) Kansas City Plant;

(G) Nevada Test Site;

(H) New Brunswick Laboratory;

(I) Pantex Weapons Facility;

(J) Princeton Plasma Physics Laboratory;

(K) Savannah River Technology Center;

(L) Stanford Linear Accelerator Center;

(M) Thomas Jefferson National Accelerator Facility;

(N) Y–12 facility at Oak Ridge National Laboratory;

(O) Waste Isolation Pilot Plant; or

(P) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities.

SEC. 1402. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department of Energy under title XII, title XIII, and title XV shall remain available until expended.

SEC. 1403. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and technology deployment activities funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs of the project directly and specifically related to any demonstration or technology deployment activity. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.

SEC. 1404. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under title XII, subtitle A of title XIII, and title XV shall be made only after an independent review of the scientific and technical merit of the proposals for such awards has been made by the Department of Energy.

SEC. 1405. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—(1) The Secretary shall establish an advisory board to oversee Department research and development programs in each of the following areas—

(A) energy efficiency;

(B) renewable energy;

(C) fossil energy;

(D) nuclear energy; and

(E) climate change technology, with emphasis on integration, collaboration, and other special features of the cross-cutting technologies supported by the Office of Climate Change Technology.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of experts drawn from industry, academia, Federal laboratories, research institutions, or State, local, or tribal governments, as appropriate.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and technology deployment program. The advisory board shall also review the adequacy and relevance of the goals established for each program by Congress and the President, and may otherwise advise on promising future directions in research and development that should be considered by each program.

SEC. 1406. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

"(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

"(A) have extensive background in scientific or engineering fields; and

"(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

"(3) The Under Secretary for Energy and Science shall—

"(A) serve as the Science and Technology Advisor to the Secretary;

"(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

"(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

"(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

"(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic *and applied research activities of the Department; and*

"(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.".

(b) Reconfiguration of Position of Director of the Office of Science.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

"(a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary of Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Assistant Secretary of Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

"(c) It shall be the duty and responsibility of the Assistant Secretary of Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.".

(c) Additional Assistant Secretary Position To Enable Improved Management of Nuclear Energy Issues.—

(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking "There shall be in the Department six Assistant Secretaries" and inserting "Except as provided in section 209, there shall be in the Department seven Assistant Secretaries".

(2) It is the sense of the Senate that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) Technical and Conforming Amendments.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

"(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

(2) Section 5314 of title 5, United States Code, is amended by striking "Under Secretaries of Energy (2)" and inserting "Under Secretaries of Energy (3)".

(3) Section 5315 of title 5, United States Code, is amended by—

(A) striking "Director, Office of Science, Department of Energy."; and

(B) striking "Assistant Secretaries of Energy (6)" and inserting "Assistant Secretaries of Energy (8)".

(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking "Section 209" and inserting "Sec. 209";

(B) by striking "213." and inserting "Sec. 213.";

(C) by striking "214." and inserting "Sec. 214.";

(D) by striking "215." and inserting "Sec. 215."; and

(E) by striking "216." and inserting "Sec. 216.".

SEC. 1407. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.

(a) Technology Transfer Coordinator.—The Secretary shall appoint a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Partnerships Working Group, and shall oversee the expenditure of funds allocated to the Technology Partnership Working Group.

(b) Technology Partnership Working Group.—The Secretary shall establish a Technology Partnership Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department.

SEC. 1408. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) Establishment.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(b) Purpose.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories or single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories or single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or single-purpose research facilities and—

(A) institutions of higher education,

(B) technology-related business concerns,

(C) nonprofit institutions, and

(D) agencies of State, tribal, or local governments,

that can support departmental missions at the National Laboratories and single-purpose research facilities.

(c) Projects.—The Secretary shall authorize the Director of each National Laboratory or facility to implement the Technology Infrastructure Program at such National Laboratory or single-purpose research facility through projects that meet the requirements of subsections (d) and (e).

(d) Program Requirements.—Each project funded under this section shall meet the following requirements:

(1) Minimum participants.—Each project shall at a minimum include—

(A) a National Laboratory or single-purpose research facility; and

(B) one of the following entities—

(i) a business,

(ii) an institution of higher education,

(iii) a nonprofit institution, or

(iv) an agency of a State, local, or tribal government.

(2) Cost sharing.—

(A) Minimum amount.—Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources.

(B) Qualified funding and resources.—(i) The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project.

(ii) Independent research and development expenses of Government contractors that qualify for reimbursement under section 31–205–18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended either before the start of a project under this section or outside the project's scope of work shall be credited toward the costs paid by the non-Federal sources to the project.

(3) Competitive selection.—All projects in which a party other than the Department, a National Laboratory, or a single-purpose research facility receives funding under this section shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary.

(4) Accounting standards.—Any participant that receives funds under this section, other than a National Laboratory or single-purpose research facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) Limitations.—No Federal funds shall be made available under this section for—

(A) construction; or

(B) any project for more than 5 years.

(e) Selection Criteria.—

(1) Threshold funding criteria.—The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) Additional criteria.—The Secretary shall require the Director of the National Laboratory or single-purpose research facility managing a project under this section to consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan;

(B) the potential of the project to promote the development of a commercially sustainable technology cluster, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(C) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its departmental mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(D) the commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;

(E) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility

and that will make substantive contributions to achieving the goals of the project;

(F) the extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project;

(G) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves such small business concerns substantively in the project; and

(H) such other criteria as the Secretary determines to be appropriate.

(f) Report to Congress.—Not later than January 1, 2004, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.

(g) Definitions.—In this section:

(1) Technology cluster.—The term "technology cluster" means a concentration of—

(A) technology-related business concerns;

(B) institutions of higher education; or

(C) other nonprofit institutions;

that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(2) Technology-related business concern.—The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research,

(B) develops new technologies,

(C) manufactures products based on new technologies, or

(D) performs technological services.

(h) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2003 and 2004.

SEC. 1409. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) Small Business Advocate.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to appoint a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.

(b) Establishment of Small Business Assistance Program.—The Secretary shall require the Director of each National Laboratory, and may require the director of a single-purpose research facility, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) Use of Funds.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

(d) Definitions.—In this section:

(1) Small business concern.—The term "small business concern" has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) Socially and economically disadvantaged small business concerns.—The term "socially and economically disadvantaged small business concerns" has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

SEC. 1410. OTHER TRANSACTIONS.

(a) In General.—Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

"(g) Other Transactions Authority.—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

"(2)(A) The Secretary of Energy shall ensure that—

"(i) to the maximum extent practicable, no transaction entered into under paragraph (1) provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy; and

"(ii) to the extent that the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction.

"(B) A transaction authorized by paragraph (1) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

"(3)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-Federal entity under paragraph (1) that is privileged and confidential.

"(B) The Secretary shall not disclose, for 5 years after the date the information is received, any other information submitted by a non-Federal entity under paragraph (1), including any proposal, proposal abstract, document supporting a proposal, business plan, or technical information that is privileged and confidential.

"(C) The Secretary may protect from disclosure, for up to 5 years, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.".

(b) Implementation.—Not later than 6 months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions.

SEC. 1411. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the enactment of this section, the Secretary, acting through the Technology Transfer Coordinator under section 1407, shall determine whether each contractor operating a National Laboratory or single-purpose research facility has policies and procedures that do not create disincentives to the transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities.

SEC. 1412. NATIONAL ACADEMY OF SCIENCES REPORT.

Within 90 days after the date of enactment of this Act, the Secretary shall contract with the National Academy of Sciences to—

(1) conduct a study on the obstacles to accelerating the innovation cycle for energy technology, and

(2) report to the Congress recommendations for shortening the cycle of research, development, and deployment.

SEC. 1413. REPORT ON TECHNOLOGY READINESS AND BARRIERS TO TECHNOLOGY TRANSFER.

(a) In General.—The Secretary, acting through the Technology Partnership Working Group and in consultation with representatives of affected industries, universities, and small business concerns, shall—

(1) assess the readiness for technology transfer of energy technologies developed through projects funded from appropriations authorized under subtitles A through D of title XIV, and

(2) identify barriers to technology transfer and cooperative research and development agreements between the Department or a National Laboratory and a non-Federal person; and

(3) make recommendations for administrative or legislative actions needed to reduce or eliminate such barriers.

(b) Report.—The Secretary shall provide a report to Congress and the President on activities carried out under this section not later than 1 year after the date of enactment of this section, and shall update such report on a biennial basis, taking into account progress toward eliminating barriers to technology transfer identified in previous reports under this section.

SEC. 1414. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) Finding.—Congress finds that the economic and energy security of the United States and Mexico is furthered through collaboration between the United States and Mexico on research related to energy technologies.

(b) Program.—

(1) In general.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall establish a collaborative research, development, and deployment program to promote energy efficient, environmentally sound economic development along the United States-Mexico border to—

(A) mitigate hazardous waste;

(B) promote energy efficient materials processing technologies that minimize environmental damage; and

(C) protect the public health.

(2) Consultation.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall consult with the Office of Energy Efficiency and Renewable Energy in carrying out paragraph (1)(B).

(c) Program Management.—The program under subsection (b) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(d) Cost Sharing.—The cost of any project or activity carried out using funds provided under this section shall be shared as provided in section 1403.

(e) Technology Transfer.—In carrying out projects and activities under this section to mitigate hazardous waste, the Secretary shall emphasize the transfer of technology developed under the Environmental Management Science Program of the Department of Energy.

(f) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered between the United States and Mexico regarding intellectual property protection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2003 and $6,000,000 for each of fiscal years 2004 through 2006, to remain available until expended.

TITLE XV—PERSONNEL AND TRAINING

SEC. 1501. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary of Energy (in this title referred to as the "Secretary"), acting through the Administrator of the Energy Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy-efficiency, the oil and gas industry, the electric power generation industry (including the nuclear power industry), the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) ANNUAL REPORTS.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce trends in the annual reports of the Energy Information Administration.

(3) SPECIAL REPORTS.—The Secretary shall report to the appropriate committees of Congress whenever the Secretary determines that significant shortfalls of technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR TECHNICALLY SKILLED PERSONNEL.—

(1) GRANT PROGRAMS.—The Secretary shall establish grant programs in the appropriate offices of the Department to enhance training of technically skilled personnel for which a shortfall is determined under subsection (a).

(2) ELIGIBLE INSTITUTIONS.—As determined by the Secretary to be appropriate to the particular workforce shortfall, the Secretary shall make grants under paragraph (1) to—

(A) an institution of higher education;

(B) a postsecondary educational institution providing vocational and technical education (within the meaning given those terms in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302));

(C) appropriate agencies of State, local, or tribal governments; or

(D) joint labor and management training organizations with State or federally recognized apprenticeship programs and other employee-based training organizations as the Secretary considers appropriate.

(c) DEFINITION.—For purposes of this section, the term "skilled technical personnel" means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.

SEC. 1502. POSTDOCTORAL AND SENIOR RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice. In establishing a program under this subsection, the Secretary may enter into appropriate arrangements with the National Academy of Sciences to help administer the program.

(b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.

SEC. 1503. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) MODEL GUIDELINES.—The Secretary shall, in cooperation with electric generation, transmission, and distribution companies and recognized representatives of employees of those entities, develop model employee training guidelines to support electric supply system reliability and safety.

(b) CONTENT OF GUIDELINES.—The guidelines under this section shall include—

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1504. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall establish a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial and residential buildings. The National Center shall be established in cooperation with—

(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;

(2) contractors that install and maintain heating, ventilation and air-conditioning systems and equipment;

(3) manufacturers of heating, ventilation and air-conditioning systems and equipment;

(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as appropriate.

SEC. 1505. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

"(c) PROGRAMS FOR WOMEN AND MINORITY STUDENTS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage women and minority students to pursue scientific and technical careers.".

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

"SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

"(a) DEFINITIONS.—In this section:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 1203 of the Energy Science and Technology Enhancement Act of 2003.

"(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 1401 of the Energy Science and Technology Enhancement Act of 2003.

"(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(b) EDUCATION PARTNERSHIP.—

"(1) IN GENERAL.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

"(2) ACTIVITIES.—An activity under paragraph (1) may include—

"(A) collaborative research;

"(B) a transfer of equipment;

"(C) training of personnel at a National Laboratory or science facility; and

"(D) a mentoring activity by personnel at a National Laboratory or science facility.

"(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the activities carried out under this section.".

SEC. 1506. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish a National Power Plant Operations Technology and Education Center (the "Center"), to address the need for training and educating certified operators for electric power generation plants.

(b) ROLE.—The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall establish the Center at an institution of higher education with expertise in plant technology and operation and that can provide on-site as well as Internet-based training.

SEC. 1507. FEDERAL MINE INSPECTORS.

In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.

DIVISION F—TECHNOLOGY ASSESSMENT AND STUDIES

TITLE XVI—TECHNOLOGY ASSESSMENT

SEC. 1601. NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following:

"TITLE VII—NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

"SEC. 701. ESTABLISHMENT.

"There is hereby created a Science and Technology Assessment Service (hereinafter referred to as the 'Service'), which shall be within and responsible to the legislative branch of the Government.

"SEC. 702. COMPOSITION.

"The Service shall consist of a Science and Technology Board (hereinafter referred to as the 'Board') which shall formulate and promulgate the policies of the Service, and a Director who shall carry out such policies and administer the operations of the Service.

"SEC. 703. FUNCTIONS AND DUTIES.

"The Service shall coordinate and develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. In developing such technical assessments for Congress, the Service shall utilize, to the extent practicable, experts selected in coordination with the National Research Council.

"SEC. 704. INITIATION OF ACTIVITIES.

"Science and technology assessment activities undertaken by the Service may be initiated upon the request of—

"(1) the Chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

"(2) the Board; or

"(3) the Director.

"SEC. 705. ADMINISTRATION AND SUPPORT.

"The Director of the Science and Technology Assessment Service shall be appointed by the Board and shall serve for a term of 6 years unless sooner removed by the Board. The Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Director shall contract for administrative support from the Library of Congress.

"SEC. 706. AUTHORITY.

"The Service shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—

"(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

"(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(3) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Service and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation; and

"(4) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Service.

"SEC. 707. BOARD.

"The Board shall consist of 13 members as follows—

"(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;

"(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and

"(3) the Director, who shall not be a voting member.

"SEC. 708. REPORT TO CONGRESS.

"The Service shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. The annual report shall be submitted not later than March 15 of each year.

"SEC. 709. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Service such sums as are necessary to fulfill the requirements of this title.".

TITLE XVII—STUDIES

SEC. 1701. REGULATORY REVIEWS.

(a) REGULATORY REVIEWS.—Not later than 1 year after the date of enactment of this section and every 5 years thereafter, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to—

(A) market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, and small-scale renewable energy), and

(B) market development and expansion for existing energy technologies (including combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies and to market expansion for existing technologies,

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every 5 years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes,

(2) actions taken, or proposed to be taken, to remove such barriers, and

(3) recommendations for changes in laws or regulations that may be needed to—

(A) expedite the siting and development of energy production and distribution facilities,

(B) encourage the adoption of energy efficiency and process improvements,

(C) facilitate the expanded use of existing energy conservation technologies, and

(D) reduce the environmental impacts of energy facilities and processes through transparent and flexible compliance methods.

SEC. 1702. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in paragraph (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in part, through one or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, a report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1703. STUDY OF SITING AN ELECTRIC TRANSMISSION SYSTEM ON AMTRAK RIGHT-OF-WAY.

(a) STUDY.—The Secretary of Energy shall contract with Amtrak to conduct a study of the feasibility of building and operating a new electric transmission system on the Amtrak right-of-way in the Northeast Corridor.

(b) SCOPE OF THE STUDY.—The study shall focus on siting the new system on the Amtrak right-of-way within the Northeast Corridor between Washington, D.C., and New Rochelle, New York, including the Amtrak right-of-way between Philadelphia, Pennsylvania and Harrisburg, Pennsylvania.

(c) CONTENTS OF THE STUDY.—The study shall consider—

(1) alternative geographic configuration of a new electronic transmission system on the Amtrak right-of-way;

(2) alternative technologies for the system;

(3) the estimated costs of building and operating each alternative;

(4) alternative means of financing the system;

(5) the environmental risks and benefits of building and operating each alternative as well as environmental risks and benefits of building and operating the system on the Northeast Corridor rather than at other locations;

(6) engineering and technological obstacles to building and operating each alternative; and

(7) the extent to which each alternative would enhance the reliability of the electric transmission grid and enhance competition in the sale of electric energy at wholesale within the Northeast Corridor.

(d) RECOMMENDATIONS.—The study shall recommend the optimal geographic configuration, the optimal technology, the optimal engineering design, and the optimal means of financing for the new system from among the alternatives considered.

(e) REPORT.—The Secretary of Energy shall submit the completed study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than 270 days after the date of enactment of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "Amtrak" means the National Railroad Passenger Corporation established under chapter 243 of title 49, United States Code; and

(2) the term "Northeast Corridor" shall have the meaning given such term under section 24102(7) of title 49, United States Code.

SEC. 1704. UPDATING OF INSULAR AREA RENEWABLE ENERGY AND ENERGY EFFICIENCY PLANS.

Section 604 of Public Law 96–597 (48 U.S.C. 1492) is amended—

(1) in subsection (a) at the end of paragraph (4) by striking "resources." and inserting "resources; and

"(5) the development of renewable energy and energy efficiency technologies since publication of the 1982 Territorial Energy Assessment prepared under subsection (c) reveals the need to reassess the state of energy production, consumption, efficiency, infrastructure, reliance on imported energy, and potential of the indigenous renewable energy resources and energy efficiency in regard to the insular areas."; and

(2) by adding at the end of subsection (e) "The Secretary of Energy, in consultation with the Secretary of the Interior and the chief executive officer of each insular area, shall update the plans required under subsection (c) and draft long-term energy plans for each insular area that will reduce, to the extent feasible, the reliance of the insular area on energy imports by the year 2010, and maximize, to the extent feasible, use of renewable energy resources and energy efficiency opportunities. Not later than December 31, 2002, the Secretary of Energy shall submit the updated plans to Congress.".

SEC. 1705. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Consumer Energy Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 11 members who shall be appointed within 30 days from the date of enactment of this section and who shall serve for the life of the Commission.

(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The Majority Leader and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint 2 members—

(A) one of whom shall represent consumer groups focusing on energy issues; and

(B) one of whom shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint three members—

(A) one of whom shall represent consumer groups focusing on energy issues;

(B) one of whom shall represent the energy industry; and

(C) one of whom shall represent the Department of Energy.

(c) INITIAL MEETING.—Not later than 60 days after the date of enactment of this Act, the Commission shall hold the first meeting of the Commission regardless of the number of members that have been appointed and shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(d) ADMINISTRATIVE EXPENSES.—Members of the Commission shall serve without compensation, except for per diem and travel expenses which shall be reimbursed, and the Department of Energy shall pay expenses as necessary to carry out this section, with the expenses not to exceed $400,000.

(e) STUDIES.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane with a focus on their causes including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, demand growth, reliance on imported supplies, insufficient availability of alternative energy sources, abuse of market power, market concentration and any other relevant factors.

(f) REPORT.—Not later than 180 days after the date of the first meeting of the Commission, the Commission shall submit to Congress a report that contains the findings and conclusions of the Commission and any recommendations for legislation, administrative actions, and voluntary actions by industry and consumers to protect consumers and small businesses from future price spikes in consumer energy products.

(g) CONSULTATION.—The Commission shall consult with the Federal Trade Commission, the Federal Energy Regulatory Commission, the Department of Energy and other Federal and State agencies as appropriate.

(h) SUNSET.—The Commission shall terminate within 30 days after the submission of the report to Congress.

SEC. 1706. STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.

(a) DEFINITIONS.—In this section:

(1) GREAT LAKE.—The term "Great Lake" means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—

(A) conduct a study of—

(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.

(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

SEC. 1707. NATIONAL ACADEMY OF SCIENCES STUDY OF PROCEDURES FOR SELECTION AND ASSESSMENT OF CERTAIN ROUTES FOR SHIPMENT OF SPENT NUCLEAR FUEL FROM RESEARCH NUCLEAR REACTORS.

(a) IN GENERAL.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences under which agreement the National Academy of Sciences shall conduct a study of the procedures by which the Department of Energy, together with the Department of Transportation and the Nuclear Regulatory Commission, selects routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department of Energy facilities currently licensed to accept such spent nuclear fuel.

(b) ELEMENTS OF STUDY.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—

(1) selects potential routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department facilities currently licensed to accept such spent nuclear fuel;

(2) selects such a route for a specific shipment of such spent nuclear fuel; and

(3) conducts assessments of the risks associated with shipments of such spent nuclear fuel along such a route.

(c) CONSIDERATIONS REGARDING ROUTE SELECTION.—The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of that subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from research nuclear reactors through densely populated areas.

(2) Current traffic and accident data with respect to the routes under consideration.

(3) The quality of the roads comprising the routes under consideration.

(4) Emergency response capabilities along the routes under consideration.

(5) The proximity of the routes under consideration to places or venues (including sports stadiums, convention centers, concert halls and theaters, and other venues) where large numbers of people gather.

(d) RECOMMENDATIONS.—In conducting the study under subsection (a), the National Academy of Sciences shall also make such recommendations regarding the matters studied as

the National Academy of Sciences considers appropriate.

(e) Deadline for Dispersal of Funds for Study.—The Secretary shall disperse to the National Academy of Sciences the funds for the cost of the study required by subsection (a) not later than 30 days after the date of the enactment of this Act.

(f) Report on Results of Study.—Not later than 6 months after the date of the dispersal of funds under subsection (e), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a), including the recommendations required by subsection (d).

(g) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

SEC. 1708. REPORT ON ENERGY SAVINGS AND WATER USE.

(a) Report.—The Secretary of Energy shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and wastewater treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring, and reporting; and public education.

(b) Submission of Report.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than 2 years from the date of enactment of this section.

(c) Authorization.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1709. REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs

SEC. 1801. DEFINITIONS.

In this title:

(1) Critical energy infrastructure.—

(A) In general.—The term "critical energy infrastructure" means a physical or cyber-based system or service for—

(i) the generation, transmission or distribution of electric energy; or

(ii) the production, refining, or storage of petroleum, natural gas, or petroleum product—

the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States.

(B) Exclusion.—The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).

(2) Department; national laboratory; secretary.—The terms "Department", "National Laboratory", and "Secretary" have the meaning given such terms in section 1203.

SEC. 1802. ROLE OF THE DEPARTMENT OF ENERGY.

Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended by adding at the end the following:

"(20) To ensure the safety, reliability, and security of the Nation's energy infrastructure, and to respond to any threat to or disruption of such infrastructure, through activities including—

"(A) research and development;

"(B) financial assistance, technical assistance, and cooperative activities with States, industry, and other interested parties; and

"(C) education and public outreach activities.".

SEC. 1803. CRITICAL ENERGY INFRASTRUCTURE PROGRAMS.

(a) Programs.—In addition to the authorities otherwise provided by law (including section 1261), the Secretary is authorized to establish programs of financial, technical, or administrative assistance to—

(1) enhance the security of critical energy infrastructure in the United States;

(2) develop and disseminate, in cooperation with industry, best practices for critical energy infrastructure assurance; and

(3) protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents affecting critical energy infrastructure.

(b) Requirements.—A program established under this section shall—

(1) be undertaken in consultation with the advisory committee established under section 1804;

(2) have available to it the scientific and technical resources of the Department, including resources at a National Laboratory; and

(3) be consistent with any overall Federal plan for national infrastructure security developed by the President or his designee.

SEC. 1804. ADVISORY COMMITTEE ON ENERGY INFRASTRUCTURE SECURITY.

(a) Establishment.—The Secretary shall establish an advisory committee, or utilize an existing advisory committee within the Department, to advise the Secretary on policies and programs related to the security of United States energy infrastructure.

(b) Balanced Membership.—The Secretary shall ensure that the advisory committee established or utilized under subsection (a) has a membership with an appropriate balance among the various interests related to energy infrastructure security, including—

(1) scientific and technical experts;

(2) industrial managers;

(3) worker representatives;

(4) insurance companies or organizations;

(5) environmental organizations;

(6) representatives of State, local, and tribal governments; and

(7) such other interests as the Secretary may deem appropriate.

(c) Expenses.—Members of the advisory committee established or utilized under subsection (a) shall serve without compensation, and shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.

SEC. 1805. BEST PRACTICES AND STANDARDS FOR ENERGY INFRASTRUCTURE SECURITY.

The Secretary, in consultation with the advisory committee under section 1804, shall enter into appropriate arrangements with one or more standard-setting organizations, or similar organizations, to assist the development of industry best practices and standards for security related to protecting critical energy infrastructure.

Subtitle B—Department of the Interior Programs

SEC. 1811. OUTER CONTINENTAL SHELF ENERGY INFRASTRUCTURE SECURITY.

(a) Definitions.—In this section:

(1) Approved state plan.—The term "approved State plan" means a State plan approved by the Secretary under subsection (c)(3).

(2) Coastline.—The term "coastline" has the same meaning as the term "coast line" as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

(3) Critical OCS energy infrastructure facility.—The term "OCS critical energy infrastructure facility" means—

(A) a facility located in an OCS Production State or in the waters of such State related to the production of oil or gas on the Outer Continental Shelf; or

(B) a related facility located in an OCS Production State or in the waters of such State that carries out a public service, transportation, or infrastructure activity critical to the operation of an Outer Continental Shelf energy infrastructure facility, as determined by the Secretary.

(4) Distance.—The term "distance" means the minimum great circle distance, measured in statute miles.

(5) Leased tract.—

(A) In general.—The term "leased tract" means a tract that—

(i) is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335, 1337) for the purpose of drilling for, developing, and producing oil or natural gas resources; and

(ii) consists of a block, a portion of a block, a combination of blocks or portions of blocks, or a combination of portions of blocks, as—

(I) specified in the lease; and

(II) depicted on an outer Continental Shelf official protraction diagram.

(B) Exclusion.—The term "leased tract" does not include a tract described in subparagraph (A) that is located in a geographic area subject to a leasing moratorium on January 1, 2001, unless the lease was in production on that date.

(6) OCS political subdivision.—The term "OCS political subdivision" means a county, parish, borough or any equivalent subdivision of an OCS Production State all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)).

(7) OCS production state.—The term "OCS Production State" means the State of—

(A) Alaska;

(B) Alabama;

(C) California;

(D) Florida;

(E) Louisiana;

(F) Mississippi; or

(G) Texas.

(8) Production.—The term "production" has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(9) Program.—The term "program" means the Outer Continental Shelf Energy Infrastructure Security Program established under subsection (b).

(10) Qualified outer continental shelf revenues.—The term "qualified Outer Continental Shelf revenues" means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any State, including bonus bids, rents, royalties

(including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(12) STATE PLAN.—The term "State plan" means a State plan described in subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the "Outer Continental Shelf Energy Infrastructure Security Program", under which the Secretary shall provide funds to OCS Production States to implement approved State plans to provide security against hostile and natural threats to critical OCS energy infrastructure facilities and support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure activities. For purposes of this program, restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.

(c) STATE PLANS.—

(1) INITIAL PLAN.—Not later than 180 days after the date of enactment of this Act, to be eligible to receive funds under the program, the Governor of an OCS Production State shall submit to the Secretary a plan to provide security against hostile and natural threats to critical energy infrastructure facilities in the OCS Production State and to support any of the necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure facilities. Such plan shall include—

(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;

(C) a contact for each OCS political subdivision and description of how such political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section; and

(D) measures for taking into account other relevant Federal resources and programs.

(2) ANNUAL REVIEWS.—Not later than 1 year after the date of submission of the plan and annually thereafter, the Governor of an OCS Production State shall—

(A) review the approved State plan; and

(B) submit to the Secretary any revised State plan resulting from the review.

(3) APPROVAL OF PLANS.—

(A) IN GENERAL.—In consultation with appropriate Federal security officials and the Secretaries of Commerce and Energy, the Secretary shall—

(i) approve each State plan; or

(ii) recommend changes to the State plan.

(B) RESUBMISSION OF STATE PLANS.—If the Secretary recommends changes to a State plan under subparagraph (A)(ii), the Governor of the OCS Production State may resubmit a revised State plan to the Secretary for approval.

(4) AVAILABILITY OF PLANS.—The Secretary shall provide to Congress a copy of each approved State plan.

(5) CONSULTATION AND PUBLIC COMMENT.—

(A) CONSULTATION.—The Governor of an OCS Production State shall develop the State plan in consultation with Federal, State, and local law enforcement and public safety officials, industry, Indian tribes, the scientific community, and other persons as appropriate.

(B) PUBLIC COMMENT.—The Governor of an OCS Production State may solicit public comments on the State plan to the extent that the Governor determines to be appropriate.

(d) ALLOCATION OF AMOUNTS BY THE SECRETARY.—The Secretary shall allocate the amounts made available for the purposes of carrying out the program provided for by this section among OCS Production States as follows:

(1) twenty-five percent of the amounts shall be divided equally among OCS Production States.

(2) seventy-five percent of the amounts shall be divided among OCS Production States on the basis of the proximity of each OCS Production State to offshore locations at which oil and gas are being produced.

(e) CALCULATION.—The amount for each OCS Production State under paragraph (d)(2) shall be calculated based on the ratio of qualified OCS revenues generated off the coastline of the OCS Production State to the qualified OCS revenues generated off the coastlines of all OCS Production States for the prior 5-year period. Where there is more than one OCS Production State within 200 miles of a leased tract, the amount of each OCS Production State's payment under paragraph (d)(2) for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary. A leased tract or portion of a leased tract shall be excluded if the tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(f) PAYMENTS TO OCS POLITICAL SUBDIVISIONS.—Thirty-five percent of each OCS Production State's allocable share as determined under subsection (e) shall be paid directly to the OCS political subdivisions by the Secretary based on the following formula:

(1) twenty-five percent shall be allocated based on the ratio of such OCS political subdivision's population to the population of all OCS political subdivisions in the OCS Production State.

(2) twenty-five percent shall be allocated based on the ratio of such OCS political subdivision's coastline miles to the coastline miles of all OCS political subdivisions in the OCS Production State. For purposes of this subsection, those OCS political subdivisions without coastlines shall be considered to have a coastline that is the average length of the coastlines of all political subdivisions in the State.

(3) fifty percent shall be allocated based on the relative distance of such OCS political subdivision from any leased tract used to calculate that OCS Production State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.

(g) FAILURE TO HAVE PLAN APPROVED.—Any amount allocated to an OCS Production State or OCS political subdivision but not disbursed because of a failure to have an approved Plan under this section shall be allocated equally by the Secretary among all other OCS Production States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold an OCS Production State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Plan.

(h) USE OF AMOUNTS ALLOCATED BY THE SECRETARY.—

(1) IN GENERAL.—Amounts allocated by the Secretary under subsection (d) may be used only in accordance with a plan approved pursuant to subsection (c) for—

(A) activities to secure critical OCS energy infrastructure facilities from human or natural threats; and

(B) support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical OCS energy infrastructure facilities.

(2) RESTORATION OF COASTAL WETLAND.—For the purpose of subparagraph (1)(A), restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.

(i) FAILURE TO HAVE USE.—Any amount allocated to an OCS political subdivision but not disbursed because of a failure to have a qualifying use as described in subsection (h) shall be allocated by the Secretary to the OCS Production State in which the OCS political subdivision is located except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the use of the funds.

(j) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by an OCS Production State or an OCS political subdivision is not consistent with the uses authorized in subsection (h), the Secretary shall not disburse any further amounts under this section to that OCS Production State or OCS political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.

(k) RULEMAKING.—The Secretary may promulgate such rules and regulations as may be necessary to carry out the purposes of this section, including rules and regulations setting forth an appropriate process for appeals.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $450,000,000 for each of the fiscal years 2003 through 2008 to carry out the purposes of this section.

DIVISION H—ENERGY TAX INCENTIVES

SEC. 1900. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Energy Tax Incentives Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 1901. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking "January 1, 2004" and inserting "January 1, 2007".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold

after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CLOSED-LOOP BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

"(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

"(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.", and

(2) by adding at the end the following new subparagraph:

"(D) BIOMASS FACILITY.—

"(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

"(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

"(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

"(II) the 3-year period beginning after December 31, 2002, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.".

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(D) biomass (other than closed-loop biomass).".

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

"(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

"(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.".

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.".

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting "AND SPECIAL RULES" after "DEFINITIONS".

(2) The heading for subsection (d) of section 45 is amended by inserting "ADDITIONAL" before "DEFINITIONS".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after December 31, 2002.

SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a). EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

"(E) swine and bovine waste nutrients,

"(F) geothermal energy, and

"(G) solar energy.".

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

"(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

"(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).".

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

"(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

"(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

"(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any

loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

"(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).", and

(5) by striking "TAX-EXEMPT BONDS," in the heading and inserting "CERTAIN".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) small irrigation power.".

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.".

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1906. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G), and by adding at the end the following new subparagraphs:

"(H) municipal biosolids, and

"(I) recycled sludge.".

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

"(G) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

"(H) RECYCLED SLUDGE FACILITY.—

"(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

"(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.".

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

"(8) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

"(9) RECYCLED SLUDGE.—

"(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

"(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 2001. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

"(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2000 model year city fuel economy is:**
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2000 model year city fuel economy is:**
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use, "(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 5 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$1,000
At least 30 percent but less than 40 percent	$1,750
At least 40 percent but less than 50 percent	$2,000
At least 50 percent but less than 60 percent	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$4,000
At least 30 percent but less than 40 percent	$4,500
At least 40 percent but less than 50 percent	$5,000
At least 50 percent but less than 60 percent	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$6,000
At least 30 percent but less than 40 percent	$7,000
At least 40 percent but less than 50 percent	$8,000
At least 50 percent but less than 60 percent	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

"(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$3,500
2003	$3,000
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$9,000
2003	$7,750
2004	$6,500
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	**The increased credit amount is:**
2002	$14,000
2003	$12,000
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

"(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower-hour of oxides of nitrogen and 0.01 per brake horsepower-hour of particulate matter.

"(II) A rechargeable energy storage system.

"(iii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(A) which draws propulsion energy from onboard sources of stored energy which are both—

"(i) an internal combustion or heat engine using combustible fuel, and

"(ii) a rechargeable energy storage system,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with *respect to any new qualified alternative fuel motor vehicle is—*

"(A) 40 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(5).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3)".

(3) Section 6501(m) is amended by inserting "30B(f)(10)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) Amount of Credit.—

(1) In general.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) Limitation of credit according to type of vehicle.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) Limitation according to type of vehicle.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

"(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(ii) $1,500.

"(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) $3,500, or

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 11,000 pounds, $10,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) Conforming amendments.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(3) Section 55(c)(2), as amended by this Act, is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) Qualified Battery Electric Vehicle.—

(1) In general.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) Leased vehicles.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) Conforming amendments.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "Battery" after "Qualified".

*(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".*

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "Battery" before "Electric".

(c) Additional Special Rules.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Carryback and carryforward allowed.—

"(A) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) Credit Allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) Limitation.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) Year Credit Allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

"(d) Definitions.—For purposes of this section—

"(1) Qualified clean-fuel vehicle refueling property.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) Residential clean-fuel vehicle refueling property.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) Retail clean-fuel vehicle refueling property.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) No Double Benefit.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) Refueling Property Installed for Tax-Exempt Entities.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) Carryforward Allowed.—

"(1) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) Special Rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2006.".

(b) Incentive for Production of Hydrogen at Qualified Clean-Fuel Vehicle Refueling Property.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(c) Conforming Amendments.—(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by

striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e)".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2004. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	**The applicable amount is—**
2002 and 2003	30 cents
2004	40 cents
2005 and 2006	50 cents.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the alternative fuel retail sales credit determined under section 40A(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2002.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after September 30, 2002, in taxable years ending after such date.

SEC. 2005. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

"(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).".

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting "or the small ethanol producer credit" after "employee credit".

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2006. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

SEC. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

"(i) CREDIT MAY BE TRANSFERRED.—

"(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

"(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term 'qualified assignee' means any person who—

"(A) is liable for taxes imposed under section 4081,

"(B) is required to register under section 4101, and

"(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.".

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

"SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.

"(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

"(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

"(2) the taxpayer or qualified assignee elects to claim such credit under this section.

"(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

"(c) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.".

(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking "or section 4091(c)" and inserting "section 4091(c), or section 4104".

(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Credit against motor fuels taxes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

"(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

"(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

"(2) QUALIFIED BIODIESEL MIXTURE.—

"(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

"(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

"(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

"(II) for the taxable year in which such sale or use occurs.

"(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

"(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

"(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

"(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

"(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(ii) the requirements of the American Society of Testing and Materials D6751.

"(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

"(A) IMPOSITION OF TAX.—If—

"(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates such biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

"(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

"(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.".

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the biodiesel fuels credit determined under section 40B(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.".

(B) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f),".

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) TAX PRIOR TO MIXING.—

"(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

"(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).".

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

SEC. 2009. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45N. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

"(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the commercial power takeoff vehicles credit under section 45N(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45N. Commercial power takeoff vehicles credit.".

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2010. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "5 percent" and inserting "4 percent".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) ",

(B) by striking "2005" in clause (ii) and inserting "2006 (calendar year 2010 in the case of property relating to hydrogen)", and

(C) by striking "2006" in clause (iii) and inserting "2007 (calendar year 2011 in the case of property relating to hydrogen)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 2101. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,250, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new

home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

"(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

"(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

"(B) exterior windows (including skylights) and doors.

"(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—

"(I) heated by the same energy source and heating system type, and

"(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the new energy efficient home credit determined under section 45G(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).".

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(13) NO-CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of section 45G.".

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45G(a).".

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45G. New energy efficient home credit.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2102. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

“(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

“(1) APPLICABLE AMOUNT.—The applicable amount is—

“(A) $50, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

“(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

“(B) $100, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

“(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

“(2) ELIGIBLE PRODUCTION.—

“(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

“(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

“(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001.

“(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

“(i) clothes washers described in paragraph (1)(A)(i),

“(ii) clothes washers described in paragraph (1)(B)(i),

“(iii) refrigerators described in paragraph (1)(A)(ii), and

“(iv) refrigerators described in paragraph (1)(B)(ii).

“(c) LIMITATION ON MAXIMUM CREDIT.—

“(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

“(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

“(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

“(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

“(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

“(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

“(2) CLOTHES WASHER.—The term ‘clothes washer’ means a residential clothes washer, including a residential style coin operated washer.

“(3) REFRIGERATOR.—The term ‘refrigerator’ means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

“(4) MEF.—The term ‘MEF’ means Modified Energy Factor (as determined by the Secretary of Energy).

“(e) SPECIAL RULES.—

“(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

“(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

“(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

“(g) TERMINATION.—This section shall not apply—

“(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

“(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.”.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending before January 1, 2003.”.

.(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting “, plus”, and by adding at the end the following new paragraph:

“(19) the energy efficient appliance credit determined under section 45H(a).”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45H. Energy efficient appliance credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2002, in taxable years ending after such date.

SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

“(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

“(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

“(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

“(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

“(A) $2,000 for property described in subsection (d)(1),

“(B) $2,000 for property described in subsection (d)(2),

“(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

“(D) $2,000 for property described in subsection (d)(5), and

“(E) for property described in subsection (d)(6)—

“(i) $75 for each electric heat pump water heater,

“(ii) $250 for each electric heat pump,

“(iii) $250 for each advanced natural gas furnace,

“(iv) $250 for each central air conditioner,

“(v) $75 for each natural gas water heater, and

“(vi) $250 for each geothermal heat pump.

“(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

“(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

“(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

“(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

“(ii) in the case of the energy efficiency ratio (EER)—

“(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

“(iii) are in effect at the time of the acquisition of the property.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

“(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

"(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

"(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25Cs," after "sections 23".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 30 percent of the basis of such property, or

"(II) $500 for each 0.5 kilowatt of capacity of such property.

"(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term "qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

"(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(I) 10 percent of the basis of such property, or

"(II) $200 for each kilowatt of capacity of such property.

"(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

"(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

"(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

"(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.".

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2105. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

"(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

"(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

"(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

"(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

"(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

"(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

"(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

"(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

"(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

"(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

"(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

"(I) Natural ventilation.

"(II) Evaporative cooling.

"(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

"(IV) Daylighting.

"(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

"(VI) Improved fan system efficiency, including reductions in static pressure.

"(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

"(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

"(C) COMPUTER SOFTWARE.—

"(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

"(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

"(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) CERTIFICATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage

Industry National Accreditation Procedures for Home Energy Rating Systems.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

"(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

"(2) the construction of which is not completed on or before December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179B(e).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2002.

SEC. 2106. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

"(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

"(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

"(2) which permits reading of energy price and usage signals on at least a daily basis.

"(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(e) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting ", 179B, or 179C".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 179C(e)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for qualified new or retrofitted energy management devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy, and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

"(v) which is placed in service after December 31, 2002, and before January 1, 2007.

"(B) SPECIAL RULES.—

"(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the primary fuel source for the system.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

"(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power

system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(iv) PUBLIC UTILITY PROPERTY.—

"(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

"(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

"(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.".

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2003.".

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking "section 48(a)(5)(C)" and inserting "section 48(a)(6)(C)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002, in taxable years ending after such date.

SEC. 2109. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

"(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling—

"(A) located in the United States, and

"(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) CERTIFICATION.—

"(1) METHODS OF CERTIFICATION.—

"(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ", 25D," after "sections 25C".

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting "25D," after "25C,".

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting "; and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 2110. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

"SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

"(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

"(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

"(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

"(2) which permits reading of water price and usage signals on at least a daily basis.

"(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

"(f) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by inserting after subparagraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.".

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179D" each place it appears in the heading and text and inserting ", 179D, or 179E".

(3) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179E(f)(1).".

(4) Section 1245(a), as amended by this Act, is amended by inserting "179E," after "179D," both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

"Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2111. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXII—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 2201. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) INFLATION ADJUSTMENT.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

"(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

"(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

"(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

"(B) uses coal to produce 75 percent or more of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) POLLUTION CONTROL REQUIREMENTS.—

"(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate X [1-{((12,000-design coal heat content, Btu per pound)/1,000) X 0.013}], and

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63° F,

"(iv) temperature, wet bulb of 54° F, and

"(v) relative humidity of 55 percent.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(7) INFLATION ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

"(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

"(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible,

"(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the qualifying clean coal technology production credit determined under section 45I(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45I. Credit for production from a qualifying clean coal technology unit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

"(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(ii) which is acquired through purchase (as defined by section 179(d)(2)),

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

"(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

"(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45I(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation.

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) Qualified Investment.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) Qualified Progress Expenditures.—

"(1) Increase in qualified investment.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) Progress expenditure property defined.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) Qualified progress expenditures defined.—For purposes of this subsection—

"(A) Self-constructed property.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) Nonself-constructed property.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) Other definitions.—For purposes of this subsection—

"(A) Self-constructed property.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) Nonself-constructed property.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) Construction, etc.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) Only construction of qualifying advanced clean coal technology unit to be taken into account.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) Election.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) Coordination With Other Credits.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) Recapture.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) Special rules relating to qualifying advanced clean coal technology unit.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

"(A) General rule.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) Property ceases to qualify for progress expenditures.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) Application of paragraph.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) Transitional Rule.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) No carryback of section 48A credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of section 48A.".

(e) Technical Amendments.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting "(2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) Nonapplication.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(f) Effective Date.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2212. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) General Rule.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) Applicable Amount.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

"(A) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400.	$.0060	$.0038
More than 8,400 but not more than 8,550.	$.0025	$.0010
More than 8,550 but less than 8,750.	$.0010	$.0010.

"(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770.	$.0105	$.0090
More than 7,770 but not more than 8,125.	$.0085	$.0068
More than 8,125 but less than 8,350.	$.0075	$.0055.

"(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380.	$.0140	$.0115
More than 7,380 but not more than 7,720.	$.0120	$.0090.

"(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(A) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent.	$.0060	$.0038
Less than 40.6 but not less than 40 percent.	$.0025	$.0010
Less than 40 but not less than 39 percent.	$.0010	$.0010.

"(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent.	$.0105	$.0090
Less than 43.6 but not less than 42 percent.	$.0085	$.0068
Less than 42 but not less than 40.9 percent.	$.0075	$.0055.

"(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent.	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent.	$.0120	$.0090.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ". plus", and by adding at the end the following new paragraph:

"(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of section 45J.".

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection. and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) USE BY TVA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIII—OIL AND GAS PROVISIONS

SEC. 2301. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

"(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2001' for '1990').

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

"(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

"(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) PROPORTIONATE REDUCTIONS.—

"(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

"(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the marginal oil and gas well production credit determined under section 45K(a).".

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of section 45K.".

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. Credit for producing oil and gas from marginal wells.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 2302. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

"(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .... 10".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2303. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) TREATMENT AS EXPENSE.—

"(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) LIMITATION.—

"(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

"(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

"(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end

of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179C" each place it appears in the heading and text and inserting ", 179C, or 179D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 179D(d).".

(5) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

"Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2304. ENVIRONMENTAL TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENVIRONMENTAL TAX CREDIT.

"(a) In General.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

"(b) Maximum Credit.—

"(1) In general.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

"(2) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) Reduced percentage.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

"(c) Definitions.—For purposes of this section—

"(1) In general.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

"(2) Applicable period.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(3) Applicable EPA regulations.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(d) Certification.—

"(1) Required.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) Contents of application.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) Review period.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) Statute of limitations.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(e) Controlled Groups.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(f) Cooperative Organizations.—

"(1) Apportionment of credit.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

"(2) Treatment of organizations and patrons.—

"(A) Organizations.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) Patrons.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.".

(b) Credit Made Part of General Business Credit.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

"(e) Environmental Tax Credit.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Environmental tax credit.".

(e) Effective Date.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2306. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by section 607(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2007".

SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

"A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.".

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2002.

SEC. 2308. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

"(a) In General.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.".

"(b) Delay Rental Payments.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 2309. STUDY OF COAL BED METHANE.

(a) In General.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane. Such study shall be made in conjunction with the study to be undertaken by the Secretary of the Interior on the effects of coal bed methane production on surface and water resources, as provided in section 607 of the Energy Policy Act of 2003.

(b) Contents of Study.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 2310. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Section 29 is amended by adding at the end the following new subsection:

"(h) Extension for Other Facilities.—

"(1) Oil and Gas.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) Facilities Producing Refined Coal.—

"(A) In general.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

"(B) Refined coal.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) Covered facilities.—

"(i) In general.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) Qualified emission reduction.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2002.

"(iii) Qualified enhanced value.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) Qualifying advanced clean coal technology facilities excluded.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

"(3) Wells producing viscous oil.—

"(A) In general.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

"(B) Viscous oil.—The term "viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) Waiver of unrelated person requirement.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) Coalmine methane gas.—

"(A) In general.—This section shall apply to coalmine methane gas—

"(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

"(B) Coalmine methane gas.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

"(i) liberated during qualified coal mining operations, or

"(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

"(C) Special rule for advanced extraction.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

"(D) Noncompliance with pollution laws.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

"(5) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

"(6) Credit amount.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).".

(b) Extension for certain fuel produced at existing facilities.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(c) Effective Date.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.

SEC. 2311. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) Alternative System.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .... 20".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) Ongoing Study.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from nontax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) Regulatory Relief.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) Reports.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2002, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.".

(c) Deduction for Nuclear Decommissioning Costs When Paid.—Paragraph (2) of section 468A(c) is amended to read as follows:

"(2) Deduction of nuclear decommissioning costs.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2403. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.'

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) Exception From Unrelated Business Taxable Income.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) Treatment of mutual or cooperative electric companies.—In the case of a mutual *or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".*

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(c) CROSS REFERENCE.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

"(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

SEC. 2406. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking "or" at the end of clause (iv), by striking the period at the end of clause (v) and insert ", or", and by adding at the end the following new clause:

"(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE XXV—ADDITIONAL PROVISIONS

SEC. 2501. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking "2004" and inserting "2005".

SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2002, and annually thereafter.

SEC. 2503. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

"(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(l)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(l)).

"(d) RECAPTURE.—

"(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) The Alaska natural gas credit determined under section 45M(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

SEC. 2504. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.".

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 2505. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

"(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

"(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

"(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

"(D) WAIVER OF UNRELATED PERSON-REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

"(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

"(2) QUALIFIED DISPOSITION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

"(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

"(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

"(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

"(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

"(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

"(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

"(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

"(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

"(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

"(b) QUALIFIED RECLAMATION EXPENDITURE.—

"(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

"(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

"(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

"(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.".

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199B. Expensing of dairy property reclamation costs.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

SEC. 2506. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption From Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SEC. 2507. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting ", or" and by adding at the end the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2002.

SEC. 2508. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2002.

DIVISION I—IRAQ OIL IMPORT RESTRICTION

TITLE XXVI—IRAQ OIL IMPORT RESTRICTION

SEC. 2601. SHORT TITLE AND FINDINGS.

(a) Short Title.—This title can be cited as the "Iraq Petroleum Import Restriction Act of 2003".

(b) Findings.—Congress finds that—

(1) the Government of the Republic of Iraq—

(A) has failed to comply with the terms of United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction;

(B) routinely contravenes the terms and. conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions;

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people;

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States- and United Kingdom-enforced "No-Fly Zones" in effect in the Republic of Iraq;

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States;

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians;

(2) further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. 2602. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 2603. TERMINATION/PRESIDENTIAL CERTIFICATION.

This title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that—

(1) Iraq is in substantial compliance with the terms of—

(A) UNSC Resolution 687; and

(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the "Oil-for-Food" program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that

(3) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. 2604. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate nongovernmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

SEC. 2605. DEFINITIONS.

(a) 661 Committee.—The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the United Nations Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) UNSC Resolution 661.—The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) UNSC Resolution 687.—The term UNSC Resolution 687 means United Nations Security Council Resolution 687, adopted April 3, 1991.

(d) UNSC Resolution 986.—The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.

SEC. 2606. EFFECTIVE DATE.

The prohibition on importation of Iraqi-origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

DIVISION J—MISCELLANEOUS

TITLE XXVII—MISCELLANEOUS PROVISION

SEC. 2701. FAIR TREATMENT OF PRESIDENTIAL JUDICIAL NOMINEES.

It is the sense of the Senate that, in the interests of the administration of justice, the Senate Judiciary Committee should along with its other legislative and oversight responsibilities, continue to hold regular hearings on judicial nominees and should, in accordance with the precedents and practices of the Committee, schedule hearings on the nominees submitted by the President on May 9, 2001, and resubmitted on September 5, 2001, expeditiously.

Attest:

Secretary.

SA 1538. Mr. SUNUNU (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes; as follows:

On page 14, strike line 4 and all that follows through page 15, line 23.

On page 16, line 6, insert ", in coordination with the Secretary of Defense," after "shall".

On page 18, line 17, strike "and the Secretary of Defense shall jointly submit" and insert "shall, in coordination with the Secretary of Defense, submit".

On page 22, between lines 8 and 9, insert the following:

SEC. 317. BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the

costs of acquisition of major systems by the intelligence community.

(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.

(b) BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506 the following new section:

"BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY

"SEC. 506A. (a) INDEPENDENT COST ESTIMATES.—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

"(2) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

"(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

"(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

"(4) The independent cost estimate for a major system shall be updated upon—

"(A) the completion of any preliminary design review associated with the major system;

"(B) any significant modification to the anticipated design of the major system; or

"(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

"(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

"(b) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the Office of the Deputy Director of Central Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is made under paragraph (2).

"(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10, United States Code.

"(c) UTILIZATION IN BUDGETS OF PRESIDENT.—If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

"(d) INCLUSION OF ESTIMATES IN BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'budget of the President' means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

"(2) The term 'independent cost estimate' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of a major system, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

"(3) The term 'major system' means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (in current fiscal year dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.".

(c) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 506A. Budget treatment of costs of acquisition of major systems by the intelligence community.".

On page 27, beginning on line 23, strike "The heads of the elements of the intelligence community shall jointly submit" and insert "The Director of Central Intelligence shall, in consultation with the heads of the elements of the intelligence community, submit".

On page 31, strike lines 15 through 20 and insert the following:

(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on Armed Services and the Judiciary of the House of Representatives.

On page 35, line 21, insert after "shall" the following: ", after such consultation with the Secretary of State and the Attorney General as the Director considers appropriate,".

On page 36, strike line 23 and all that follows through page 37, line 3, and insert the following:

(1) the Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.

On page 37, strike line 24 and all that follows through page 38, line 5.

On page 38, strike lines 9 and 10 and insert the following:

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

On page 39, strike lines 7 through 12.

On page 40, strike lines 14 through 16 and insert the following:

(iii) in subparagraph (G), as so redesignated, by striking "section 114(c)" and inserting "section 114(b)".

On page 40, strike lines 18 through 25 and insert the following:

(i) in subparagraph (A), by striking "section 114(b)" and inserting "section 114(a)";

(ii) in subparagraph (B), by striking "section 114(d)" and inserting "section 114(c)";

(iii) by striking subparagraphs (C), (E), and (F); and

(iv) by redesignating subparagraphs (D) and (G) as subparagraphs (C) and (D), respectively; and

On page 41, strike lines 2 through 5 and insert the following:

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

On page 41, between lines 16 and 17, insert the following:

SEC. 340. REPORT ON OPERATIONS OF DIRECTORATE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION AND TERRORIST THREAT INTEGRATION CENTER.

(a) Report Required.—The Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the operations of the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security and the Terrorist Threat Integration Center. The report shall include the following:

(1) An assessment of the operations of the Directorate, including the capability of the Directorate—

(A) to meet personnel requirements, including requirements to employ qualified analysts, and the status of efforts to employ qualified analysts;

(B) to share intelligence information with the other elements of the intelligence community, including the sharing of intelligence information through secure information technology connections between the Directorate and the other elements of the intelligence community;

(C) to disseminate intelligence information, or analyses of intelligence information, to other departments and agencies of the Federal Government and, as appropriate, to State and local governments;

(D) to coordinate with State and local counterterrorism and law enforcement officials;

(E) to access information, including intelligence and law enforcement information, from the departments and agencies of the Federal Government, including the ability to access, in a timely and efficient manner, all information authorized by section 202 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 122); and

(F) to fulfill, given the current assets and capabilities of the Directorate, the responsibilities set forth in section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121);

(2) A delineation of the responsibilities and duties of the Directorate and of the responsibilities and duties of the Center.

(3) A delineation and summary of the areas in which the responsibilities and duties of the Directorate and the Center overlap.

(4) An assessment of whether the areas of overlap, if any, delineated under paragraph (3) represent an inefficient utilization of the limited resources of the Directorate and the intelligence community.

(5) Such information as the Secretary, in coordination with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, considers appropriate to explain the basis for the establishment and operation of the Center as a "joint venture" of participating agencies rather than as an element of the Directorate reporting directly to the Secretary through the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(b) Submittal Date.—The report required by this section shall be submitted not later than May 1, 2004.

(c) Form.—The report required by this section shall be submitted in unclassified form, but may include a classified annex.

(d) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Governmental Affairs, the Judiciary, and Appropriations of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on the Judiciary and Appropriations of the House of Representatives.

On page 49, strike line 25 and all that follows through page 50, line 1, and insert the following:

1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking "(c)(6)" each place it appears and inserting "(c)(7)".

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking

On page 52, between lines 12 and 13, insert the following:

SEC. 357. TREATMENT OF CLASSIFIED INFORMATION IN MONEY LAUNDERING CASES.

Section 5318A of title 31, United States Code, is amended by adding at the end the following:

"(f) Classified Information.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a primary money laundering concern, made under this section, if the designation or imposition, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or required under this section.".

On page 55, between lines 2 and 3, insert the following:

SEC. 405. CONTRIBUTION BY CENTRAL INTELLIGENCE AGENCY EMPLOYEES OF CERTAIN BONUS PAY TO THRIFT SAVINGS PLAN ACCOUNTS.

(a) CSRS Participants.—Section 8351(d) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

"(B) Contributions under this paragraph are subject to section 8432(d) of this title.".

(b) FERS Participants.—Section 8432 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(k)(1) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

"(2) Contributions under this subsection are subject to subsection (d).

"(3) For purposes of subsection (c), basic pay of an employee of the Central Intelligence Agency shall include bonus pay received by the employee as part of the pilot project referred to in paragraph (1).".

On page 74, after line 5, add the following:

SEC. 503. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) Authority.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004 or 2005, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) Termination of Authority.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) Application of Certain Provisions of Law.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) Limitation on Participation of United States Personnel.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 504. SCENE VISUALIZATION TECHNOLOGIES.

Of the amount authorized to be appropriated by this Act, $2,500,000 shall be available for the National Imagery and Mapping Agency (NIMA) for scene visualization technologies.

SA 1539. Mr. SUNUNU (for Mr. Hatch) proposed an amendment to the concurrent resolution S. Con. Res. 25, recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month," and for other purposes; as follows:

Strike all after the resolving clause and insert the following:

That Congress—

(1) recognizes the 350th anniversary of the American Jewish community;

(2) supports the designation of an "American Jewish History Month"; and

(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, September 4, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on the Department of Energy polygraph program.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 9, at 10 a.m., in 366 Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Suedeen G. Kelly to be a Member of the Federal of Energy Regulatory Commission and Rick A. Dearborn to be Assistant Secretary of Energy, Congressional and Intergovernmental Affairs.

For further information, please contact Judy Pensabene of Committee staff at (202) 224–1327.

COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 31, 2003, at 9:30 a.m., in closed session, to receive a briefing on the work of the Iraq survey group.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 31, 2003, at 9:30 a.m. to conduct a markup of S. 627, the Internet Gambling Prohibition Bill, and H.R. 659, The Hospital Mortgage Insurance Act of 2003.

After the markup, the Committee will meet in open session to conduct a hearing on "Addressing Measures To Enhance the Operation of the Fair Credit Reporting Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 31, 2003, at 9:30 a.m., on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 31, 2003, at 3 p.m., to hold a subcommittee hearing on corruption in North Korea's economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, July 31, 2003, at 10 a.m., for a hearing titled "Terrorism Financing: Origination, Organization, and Prevention."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on solutions to the problem of health care transmission of HIV/AIDS in Africa during the session of the Senate on Thursday, July 31, 2003, at 10 a.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 31, 2003, at 10:30 a.m. in Dirksen Room 226.

Agenda

I. Nominations

Steven M. Colloton to be United States Circuit Judge for the Eighth Circuit; P. Kevin Castel to be United States District Judge for the Southern District of New York; Sandra J. Feuerstein to be United States District Judge for the Eastern District of New York; Richard J. Holwell to be United States District Judge for the Southern District of New York; R. David Proctor to be United States District Judge for the Northern District of Alabama; Stephen C. Robinson to be United States District Judge for the Southern District of New York; Rene Alexander Acosta to be Assistant Attorney General, Civil Rights Division, United States Department of Justice; Daniel J. Bryant to be Assistant Attorney General, Office of Legal Policy, United States Department of Justice; and Paul Michael Warner to be United States Attorney for the District of Utah.

II. Bills

S.J. Res. 1, A joint resolution proposing an amendment to the constitution of the United States to protect the rights of crime victims [Kyl, Chambliss, Cornyn, Craig, DeWine, Feinstein, Graham, Grassley].

S. 1177, Prevent All Cigarette Trafficking Act [Hatch, Grassley, Kohl].

S. 1451, Runaway, Homeless, and Missing Children Protection Act [Hatch, Leahy].

S. Res. 30, A resolution expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week" [Graham].

S. Con. Res. 25, A concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month," and for other purposes [Voinovich, Chambliss, DeWine, Feingold, Schumer, Sessions, Specter].

S. 204, National Veterans Awareness Week [Biden, Chambliss, Hatch, DeWine, Durbin, Feingold, Grassley, Kennedy, Kohl, Leahy, Sessions.].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 31, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, July 31, 2003, at 2 p.m., in the Dirksen Senate Office building Room 226 on "Department of Justice Oversight: Funding Forensics Sciences—DNA and Beyond."

Witness List

Panel I: Sarah Hart, Director, National Institute of Justice, U.S. Department of Justice, Washington, DC.

Panel II: Ms. Susan Hart Johns, President, American Society of Crime Lab Directors, Springfield, IL; Dr. Michael Baden, Co-Director, Medicolegal Investigative Unit, New York State Police, New York, NY; Randy Hillman, Esq., Executive Director, Alabama District Attorneys Association, Montgomery, AL; Frank Clark, Esq., District Attorney, Erie County, Buffalo, NY; Peter Neufeld, Esq., Co-Director, Innocence Project, Benjamin N. Cardozo School of Law, New York, NY; and Ms. Rosemary Serra, Victim, New Haven, CT.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on Thursday, July 31, 2003, at 2:30 p.m. on the Internet Corporation of Assigned Names and Numbers (ICANN).

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that Ken Ende, a fellow with Senator MURKOWSKI's office, be granted the privilege of the floor for the duration of the consideration of the Energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland.

SUPPLEMENTAL APPROPRIATIONS

Ms. MIKULSKI. Mr. President, in a few minutes the Senate will consider the supplemental. I wish to say a few words about the issue around AmeriCorps and other issues within the supplemental. The hour is late, so I will be brief.

The outcome is preordained, but I wish to say the fight will go on. This urgent supplemental does not meet the compelling human needs of the United States of America. The supplemental the Senate is about to pass will replenish the urgent need that FEMA has at only 50 percent of what the Federal Emergency Management Agency needs to be ready for the hurricane season. They need about $1.6 billion, and there is about $900 million included.

The supplemental also will not include money for wildfires ravaging the West. It will not include the funds to complete the NASA investigation of what went wrong on Columbia, so NASA will have to forage for funds within their agency. It will not include additional money for AmeriCorps.

I have been waiting and willing to compromise to get the emergency funding for AmeriCorps. I was willing to compromise to save the school-based programs that start in September. I knew I could not save the AmeriCorps ship because of the penny-pinching attitude of the House towards AmeriCorps.

I want to be clear that although the House left town with a take-it-or-leave-it attitude and we had to swallow it, the needs of our community will not go away. The fight will not go away, and I will continue in September to fight for the full funding for AmeriCorps, both in an emergency supplemental and even in the way of the Budget Act, if I have to, in order to get the help for AmeriCorps.

AmeriCorps, because of the clumsy and inept headquarters, overenrolled 20,000 volunteers, but we should not punish those volunteers because of the people at headquarters.

In my home State, Maryland will lose 400 volunteers. Let me tell you what they are: In rural western Maryland, an AmeriCorps program called Star, in which 34 volunteers participate. They serve 6,000 people, meeting the needs of the mountain counties of: Allegany, Garrett, and Washington.

Do you know what they do? They tutor children, they help children to read, and they help them get ready for school. Without these 34 volunteers, over 6,500 people will lose the help they need.

In Baltimore City there are 50 Jump Start volunteers. These are AmeriCorps volunteers who work in Head Start to make sure the kids get a head start. And they also recruit other volunteers. That means, again, there will be over 400 preschoolers who will not get the help they need.

I could go on in these school-based programs. Nationally, 2,700 volunteers, ready to go to work for Teach America, will not be able to go and start in September because we are leaving town without AmeriCorps funding.

I thank Senator STEVENS for trying to help on this program. He understood the needs we had. He worked very hard with me. I regret we had a take-it-or-leave-it with the House.

Also in Baltimore, we have 40 Notre Dame volunteers.

These 40 Notre Dame volunteers help 1,842 elementary school children. They work in Baltimore schools tutoring children and providing after-school activities to help kids learn and keep them out of trouble.

Notre Dame is a success story of a faith-based organization making a difference for our communities. But without additional AmeriCorps funding, Baltimore will lose 40 Notre Dame volunteers. And 1,842 children in Baltimore will not be tutored or mentored. These are some examples in Maryland. But communities all around the country will be hurt because the House leadership would not approve emergency funding for AmeriCorps.

How did we get here? The leadership of the House of Representatives has blocked adequate emergency funding for FEMA disaster relief, fighting wildfires, the NASA *Columbia* investigation, and AmeriCorps.

The Senate acted quickly on the President's supplemental request.

The Senate approved $1.55 billion for FEMA, $253 million to fight wildfires, $50 million for the NASA *Columbia* investigation, and $100 million for AmeriCorps. But the House sent us a supplemental that is totally inadequate. There is only $984 million for FEMA.

At the last minute before recess the House supplemental did not include funding for fighting wildfires, the NASA *Columbia* investigation, or AmeriCorps. Then, the House left town for the month of August.

In April this year, the Chairman and Ranking Member of the Homeland Security Subcommittee became very concerned about a shortfall of FEMA disaster relief funding. Senators COCHRAN and BYRD asked President Bush to request emergency funding for FEMA disaster relief. But the President didn't request funding until July 7. When he did, the Senate acted quickly.

We passed it within 4 days. The President asked for $1.55 billion and we approved it. But the House only wants to give FEMA $984 million, only 60 percent of what the President says is needed.

We have never let FEMA's Disaster Relief account fall to such a low level. Right now, FEMA only has $89 million to respond to disasters. It is irresponsible to shortchange FEMA when we are at the height of hurricane season.

The House bill also eliminates funding to help Western states fight wildfires. The President requested $253 million and the Senate approved it.

But the House provided nothing. Right now, there are 42 major fires burning in 12 Western states consuming over 400,000 acres. The Forest Service is $420 million short of what they need to fight these fires, but the House didn't provide any funding.

The House also eliminates funds to complete the investigation into the loss of the Space Shuttle *Columbia*. The President requested $50 million. The Senate approved it. This funding is to keep our promises to the families of the 7 astronauts killed that we will find out what went wrong and we will fly again. Without the $50 million NASA will have to borrow from other programs in order to finish the investigation.

The House supplemental does not include funding to save 20,000 AmeriCorps volunteers. I offered the amendment to add $100 million for AmeriCorps to this urgent supplemental. With bipartisan support of Senators BOND, STEVENS, BYRD and many others, the AmeriCorps funding was voted on by the full Senate and was sustained by an overwhelming 71 to 21 votes. But the House refused to follow the usual and customary process to resolve differences. The House didn't want to face the Senate in conference.

Because a small minority of House members want to scuttle the $100 million for AmeriCorps even though an overwhelming majority of the Senate supports it, a majority of the House supports it, and 43 Governors support it.

I want to give my sincerest thanks to my colleagues in the Senate who supported emergency funding for AmeriCorps. I appreciate it and so do our volunteers and the communities they serve.

How did the AmeriCorps shortfall happen? There was a bureaucratic boondoggle. AmeriCorps overenrolled 20,000 volunteers.

Every year, the VA–HUD subcommittee funds 50,000 AmeriCorps volunteers but AmeriCorps enrolled 70,000.

How did we know about it? Senator BOND chaired the subcommittee leading the fight for reform in fiscal responsibility and uncovered the mismanagement at our April 10 hearing.

We started GAO and IG investigations. Senator BOND called for a new Chief Financial Officer. I called for new leadership. And we wrote a bipartisan bill to fix the accounting and mismanagement problems.

Our bill passed the Congress in 2 days and was signed into law.

So while the House puts out press releases about how they want to punish volunteers and communities they serve, the Senate puts out performance.

This is an emergency today. The law says funding for volunteers and the awards that help pay off their student debt must be in the Federal checkbook when the volunteers begin their service. Without emergency funding AmeriCorps can't sign up volunteers now to start in school-based programs in September.

Teach America, for example, will lose education awards for 2,700 volunteers who are going to start teaching in September.

We cannot wait until October for fiscal year 2004 and I won't wait until October.

I will continue to fight in September for AmeriCorps.

The President has called for a new spirit of voluntarism.

Young people have responded, but the House leadership wants to squander volunteer opportunities to punish volunteers and communities because of a bureaucratic boondoggle.

Mr. President, it is regrettable that the House leadership won't resolve differences in the usual and customary way. But I will continue to fight for our communities that need disaster assistance and depend on help from volunteers.

The needs won't go away and I will continue the fight in September.

I want to reiterate that the need continues. Because the need continues, the fight will go on. I promise every AmeriCorps volunteer, every community that is dependent on those volunteers, and every member of the American family looking to those volunteers, I am going to fight for them and I will stand up for them. I am going to turn to the Senate and say let's not take what the House says when they give it a take-it-or-leave-it stamp.

I yield the floor.

AMERICORPS

Mr. HARKIN. Mr. President, I am appalled at the House's refusal to provide needed emergency supplemental funding to AmeriCorps.

There was an editorial in the Wall Street Journal yesterday describing their rationale for the House position. The WSJ says, "the concept of federally subsidized volunteerism strikes us as something the country can't afford " and "if Congress lacks the nerve to kill AmeriCorps, then we're glad it at least won't throw good money after bad."

The Wall Street Journal can say that this is something the country can't afford. But I know differently. AmeriCorps is something the country can't afford to do without.

I will be the first to say that the administration's mismanagement of funds is disappointing to say the least. It is further upsetting that they are unwilling to put up the money it takes to keep those mistakes from hurting the volunteers.

I am also disappointed that the President promised to promote and grow the program, but is unwilling to put up the money to do so. It is really unfair for the President and the House to talk out of both sides of their mouths, supporting volunteerism, but then refusing to pay the comparatively small cost involved in keeping volunteerism afloat.

But this is not a problem with AmeriCorps volunteers, or with the communities they serve. Senators MIKULSKI and BOND in the "Strengthen AmeriCorps Act" are doing the things that need to be done to prevent future financial discrepancies.

These funding cuts don't punish those who are guilty for the problems. These cuts punish volunteers, and communities, and the beneficiaries of the volunteers' work.

In Iowa, AmeriCorps volunteers have improved 30,000 acres of wildlife habitat. They work to improve water quality, they restore prairie land, they prevent soil erosion, they fix trails, they provide interpretive centers, and they work with communities to teach people to do these things year-round on their own.

AmeriCorps volunteers give presentations on disaster preparedness. In Dubuque, Iowa, 13 year old Korey Monahan took one of those classes. She went home, and helped her family develop a plan in case of a fire. Around midnight on April 1, their house did catch fire. But Korey, her mother Kristy, and her four brothers and sisters survived that fire because they had a solid plan. Korey won a national award from the American Red Cross for her outstanding preparedness.

In Davenport, IA, vandalism and crime in city parks have been reduced sharply in just two months, as AmeriCorps members have begun patrols through a Park Ambassador program. AmeriCorps members provide a welcoming presence and act as "eyes and ears" for local law enforcement. They walk through parks, and provide a welcoming presence. They connect with nearby neighborhood watch groups to recruit volunteers to join them in helping keep the parks safe and clean.

The REACH, Rural Education and Community Help, AmeriCorps program provides assistance to battered women and children in rural Iowa and minority communities where services for victims of domestic violence are minimal or non-existent. REACH members also provide programs in schools, including conflict resolution, sexual harassment, diversity and dating violence.

During the 2001–2002 program year, members made 5.994 victim contacts. Members also provided court accompaniment to battered women as they navigate the legal system. In both 2001 and 2002, members provided legal advocacy at over 600 court hearings.

The original goal was to ensure that no battered women would need to drive more than thirty miles to receive services. They are well on their way to making that dream a reality. Four stand-alone offices are now open. They have secured other sources of funding and have hired full-time staff. In addition, members have opened offices in sixteen counties and provide additional coverage to surrounding communities. Before AmeriCorps, roughly a third of Iowa's 99 counties had services, now only four in Iowa are without a victim outreach program.

Apparently, helping people like Korey Monahan to save her family from fire, repairing our environment, reducing crime, and assisting battered women is "throwing good money after bad." that's not what I call "bad money," and I am glad that Congress saw fit to appropriate it. I will do all I can to see that we continue to spend "good money" for great purposes.

THE AMTRAK BOARD OF DIRECTORS

Mr. HOLLINGS. The Amtrak board of directors is a seven-member body charged with making important corporate decisions for the National Passenger Rail Corporation. The board members are appointed by the President, and they each bring with them a certain background or expertise that benefits the National Passenger Rail Corporation and its executives.

Mrs. HUTCHISON. The most recent Amtrak board was comprised of governors, mayors and corporate executives, each of whom brought a unique perspective. A geographically diverse board is crucial to establishing a national rail system. I was very pleased when President Bush appointed David Laney of Texas to the board last year. Earlier this month, Mr. Laney was selected by his fellow board members to serve as chairman.

Mr. CARPER. As a former member of the Amtrak board and Governor of Delaware, I personally understand the important role that board members play in leading the corporation and I want to thank my colleague for recognizing the special skills that governors bring to such a position. The board's strong leadership establishes a clear direction for the corporation and provides proper oversight and accountability. Without this clear direction, investors and customers can quickly lose confidence in the company and its ability to preform and grow. The current board of management has done an excellent job of maintaining a solid and predictable course through particularly uneasy times.

Mr. HOLLINGS. The board members have a formidable responsibility to make sound decisions and investments that will successfully serve both the corporation and the Nation's rail passengers. At this critical juncture, when Amtrak is poised for either salvation or bankruptcy, the work of the board must be allowed to continue uninterrupted.

Mr. LAUTENBERG. I fully agree with your concern that the Amtrak board of directors must continue to function even while the board is in the process of being restaffed. Terms of two of the board members, specifically Governor Dukakis and Mayor Smith, expired on June 25. I understand that the terms of two other board members, Ms. Rosen and Governor Holton, will expire on September 24. If no new board members are appointed before September 24, the board will be reduced from seven members to only three members.

Mr. HOLLINGS. Yes, by September 24, the Amtrak board will lose its quorum and its ability to function unless it uses other avenues available under the law to continue its important role. That is why I am pleased to learn that the board is already exploring measures that can be taken under the corporate laws of the District of Columbia to continue to operate as a board even while it cannot achieve a quorum of members.

Mr. LOTT. It is good to know that there are other legal avenues that can be followed so that the duties of the Amtrak board are not suspended indefinitely while candidates are nominated, vetted, and confirmed by Congress. As we all know, Presidential appointments can often be a long and arduous process. However, its my hope that the Commerce Committee and the Senate will consider the confirmation of Amtrak board members as promptly as possible once we have received candidates from the President. Of course, I would like to acknowledge the work of Mayor Smith of Meridian, MS. He agreed to offer his knowledge and experience to the board, and has served for years as chairman of Amtrak's board of directors. I am grateful for his dedication to Amtrak and the excellent work he did for the railroad during his term. It is most important that the White House provide names of candidates for the board as quickly as possible so that we can begin moving through the confirmation process and return the Amtrak board to its full composition.

Mr. LAUTENBERG. I am concerned that after September 24, there will be no one on the board from the Northeast corridor, which represents over half of Amtrak's ridership as well as the primary infrastructure owned by the corporation. The board needs to have qualified people who are knowledgeable about the complex operations of the Northeast corridor and its critical importance to the entire region.

Mr. CARPER. The Senator from Mississippi's comments about the importance of receiving candidates soon is very true and I hope that the Bush administration will promptly follow the normal procedures of appointments, with the advice and consent of the Senate. The members of the Amtrak board are tasked with leading our national passenger railroad, with stewardship over substantial Federal resources and the responsibility of ensuring that the needs of the corporation and the traveling public are met. A stable and competent board is critical for so many reasons. Now is not the time for the kind of uncertainty that would clearly come from an partially staffed or incapacitated board as my colleagues have mentioned. As vacancies occur on the Amtrak board, the Bush administration has two critically important obligations that they must meet to ensure that Amtrak has a chance to survive and prosper. First, they must allow the Senate to fulfill its constitutional role of reviewing nominees so that we have the most qualified and capable people for this important job. Second, while that process is underway, they must ensure that a strong, fully functional board remains in place to provide the direction and stability Amtrak needs.

Mr. STEVENS. Mr. President, this emergency supplemental would provide an additional $983.6 million for disaster relief and emergency assistance. It is estimated that the disaster relief fund will exhaust its current funding by the end of July 2003 in part due to higher-than-expected costs for disaster relief, including funding for tornadoes and winter storms. These additional resources are needed to continue to provide necessary emergency assistance.

With respect to the firefighting funds requested by the President, I am pleased to announce that we have an agreement with the administration on funds to continue our battle against fires, particularly in the West and Alaska. The administration has informed me it remains committed to the President's request for emergency supplemental appropriations for disaster relief and recovery efforts. Their commitment to continue to pursue enactment of the full request when we return in September is paramount to the challenges we face.

I ask unanimous consent that the Transfer Strategy statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSFER STRATEGY

As of July 28, the Forest Service has obligated $304 million for fire suppression, leaving $48 million in remaining balances in the suppression account. Based on this information, the Forest Service will need to transfer between $147 million and $235 million of unobligated available funds from other accounts to pay for fire suppression.

The Administration remains committed to the President's July 7, 2003, request for emergency supplemental appropriations for disaster relief and recovery efforts and will continue to pursue enactment of the full request when Congress returns in September.

The following table illustrates how the Forest Service would likely transfer funds from other accounts to cover the anticipated cost.

Account	Transfers to reach $195 M	Transfers to reach $283 M
Preparedness	30	30
Fuels Reduction	10	10
Land Acquisition	38	65
Capital Improvement and Maintenance	11	21
Working Capital Fund		20
National Forest System	40	40
State and Private Forestry*	10	34
Research and Development	8	15
Total	$147	$235

*Includes Forest Legacy Program.

Mr. BYRD. Mr. President, the Senate now takes up a fiscal year 2003 supplemental appropriations bill in the amount of $983.6 million to replenish the Federal emergency disaster relief fund in the Department of Homeland Security.

These funds are urgently needed. In April of this year, Senator COCHRAN, chairman of the Homeland Security Appropriations Subcommittee, and I, as the ranking member, urged the administration to release funds that the President was holding up and also urged the administration to request necessary funds to shore up a looming shortfall. Now we are told that the disaster relief fund has a balance of $89 million and is expected to be completely exhausted by August 8.

The President finally sent up an emergency supplemental request on July 7 for $1.55 billion to assist recovery efforts in West Virginia and over 300 other areas in every State of the Nation that had been hard hit by severe rains, floods, and tornadoes. It took the Senate Appropriations Committee, under the leadership of Senator TED STEVENS, only 2 days to report out the necessary $1.55 billion in supplemental funds for disaster relief. That legislation also included $253 million for fighting 42 major wildfires which have consumed over 400,000 acres in 12 Western States, as well as $50 million for unanticipated costs associated with the recovery and investigation of the Space Shuttle *Columbia* accident—all requested by the President.

That legislation also included $100 million for the AmeriCorps program in order to avoid deep cuts in the number of volunteers at a time when the President has proposed to increase the number of volunteers by 50 percent.

Only 2 days later, on July 11, this legislation cleared the Senate floor by a vote of 85 to 7, and conferees on behalf of the Senate were appointed. During Senate debate, the $100 million for AmeriCorps was voted on separately and was sustained by an overwhelming 71-to-21 vote.

Now here we are almost 3 weeks later. The House Members have gone home for an August recess. Just before they left, they sent over to the Senate a $983.6 million stand-alone supplemental for disaster relief only without the necessary funds for fighting the wildfires in 12 Western States, nor the funds for the Columbia Shuttle investigation, nor the necessary funds for AmeriCorps. According to the latest Department estimates, this funding level for disaster relief isn't even enough to make it to September 30. The House sent to the Senate this stripped-down, stand-alone supplemental for disaster relief on a take-it-or-leave-it basis.

This is no way to legislate. The chairman of the Appropriations Committee knows that I am not blaming him. He has been trying energetically to engage the House to accept the necessary funds for fighting wildfires, for the NASA shuttle investigation, and for the AmeriCorps shortfall. However, the House leadership and its allies in the White House have turned a deaf ear to needs of the firefighters in the Western States, the requirements of the NASA investigation, and the 20,000 AmeriCorps volunteers who are expecting to embark on a program of working in schools teaching our children reading and math, providing care to our senior citizens, cleaning up our parks, and other valuable volunteer services to our communities.

All of these funds are urgently needed, and none are more urgently needed than the funding for disaster relief.

I am advised that, because of the lateness of the administration's request, FEMA has already stopped making payments to States for $400 million of infrastructure repairs in the 300 communities with outstanding natural disasters. Communities have already been forced to put projects for repairing damage from past disasters on hold.

In my State of West Virginia, for example, I am told that payments for projects have not been made since February of this year almost 6 months ago. West Virginia is owed over $10 million in disaster relief fund payments. Of this amount, $7 million is owed for payments for repairs to dams, sewers, and public buildings, and $3 million is owed to reimburse the State of West Virginia for hazard mitigation, including acquisition and demolition of properties in floodplains and for relocating structures.

In McDowell County, WV, for example, FEMA owes $1.1 million to help McDowell County to acquire 64 structures that were substantially damaged or demolished in the June 2002 flood.

In the town of Welch, WV, FEMA owes $250,000 for a sewer project already completed by the contractor. The town is unable to pay the contractor for the work, which could result in a lawsuit.

A similar situation obtains in the city of Bradshaw, where the work has been completed to prevent raw sewage from being dumped into a river. In this case, an amount of $50,000 is owed to the contractor.

The West Virginia Conservation Agency, a State agency responsible for cleaning blockages forming in streams, dams, and reservoirs to avoid further flooding and damage, is owed $200,000 by FEMA. The State agency has an annual budget of $500,000 and FEMA's delay has caused the agency's balances to drop to near zero. As a consequence, should there be another flood in West Virginia, the State conservation agency would not be able to perform its work.

These problems exist all across the country. We cannot wait any longer. We must approve this urgent legislation. However, because of the intransigence of the other body, we will be acting, regrettably, without providing the necessary funds for fighting wildfires, for investigating the Space Shuttle *Columbia* accident, or for the shortfall in the AmeriCorps program.

Once again, the President has failed to follow through on his promises. This legislation is $566 million below the administration's budget request for disaster relief. It is $50 million less than the administration budget request for NASA. It is $289 million less than the administration's budget request for fighting wildfires. It includes no funds for the shortfall in AmeriCorps—a program the administration claims it supports.

By its failure to engage the House leadership in support of these funds, the President's silence speaks volumes. It is the same old administration theme of rhetoric without resources.

Mr. COCHRAN. Mr. President, it is imperative that the Senate act on this measure now. The Department of Homeland Security's Emergency Preparedness and Response disaster relief fund has been depleted to a dangerously low level. This is due to nearly $300 million in unexpected expenses related to the Shuttle *Columbia* disaster recovery effort, and another $200 million because of the tornadoes and floods that have affected many States this year.

On July 7, 2003, the President submitted an emergency supplemental request to Congress totaling $1.9 billion.

Emergency supplemental appropriations fully funding the President's request are included in the Senate-passed fiscal year 2004 Legislative Branch Appropriations Act. However, the House approved for the Department of Homeland Security's Emergency Preparedness and Response disaster relief fund only $983.6 million. Not only does this bill not meet the needs of wildland fire management and NASA, but it does not include all that is needed in the Emergency Preparedness and Response disaster relief fund. The House bill is not sufficient to meet the needs for disaster relief outlined by the President in his request.

I received from my state's Emergency Management Agency a specific request that illustrates why this supplemental is needed now. I ask unanimous consent that a copy of the letter from Robert Latham, Jr. be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MISSISSIPPI EMERGENCY
MANAGEMENT AGENCY,
Jackson, MS, July 30, 2003.

Senator THAD COCHRAN,
Chairman, U.S. Senate Appropriations Subcommittee, Dirkson Senate Office Building, Washington, DC.

DEAR SENATOR COCHRAN: The shortage of funds in the federal disaster relief account is placing serious financial hardships on the communities in our state. The State of Mississippi has experienced 8 presidential disasters in 2½ years. As a result 79 of our 82 counties have been declared disaster areas by the President during this short period of time. Because of 2 previous open disasters, Mississippi now has 10 open disasters.

Currently the federal obligation for Public Assistance under these open disasters is over $31.5 million. These funds are critical to the rebuilding of critical infrastructure such as public buildings, roads, bridges, and schools in our cities and counties. In addition to this, we currently have in excess of $5 million in submitted projects designed to mitigate the effects of future disasters on our communities. We also have over $7 million in mitigation projects awaiting submission pending the availability of funds in the federal disaster relief account.

The State of Mississippi and its communities continue to incur a tremendous amount of disaster related costs that must be reimbursed in accordance with the FEMA-State Agreement. Adequate funding of the federal disaster relief account is critical to rebuilding our communities and providing the services that our citizens expect and deserve. The federal government has a professional and moral responsibility to fulfill its financial obligation to assist the state and its communities in this recovery process.

I appreciate your assistance in this matter and urge you to encourage Congress to move quickly on this issue. As always, please do not hesitate to contact me if I can be of any assistance to you or your staff.

Sincerely,

ROBERT R. LATHAM, Jr.,
Executive Director.

Mrs. CLINTON. Mr. President, last Friday, on July 25, just as it was preparing to leave town and recess, the House of Representatives sent to the Senate an emergency supplemental appropriations bill that fails to meet the needs that have been outlined by the President and by the majority of Members of the House and the Senate. I rise to express my profound disappointment with the House leadership for their action. It put the Senate in the objectionable position of having to adopt or reject the House version because any effort to amend that bill would delay urgently needed disaster aid.

The House-passed bill includes only $984 million for disaster emergency spending, even though the President requested $1.55 billion for disaster relief and emergency assistance. These funds are needed to cover the unexpected costs of the winter storms, as well as tornadoes and hurricanes which are affecting Texas and other southern States. Just last week we saw the streets of Denver flooded so high, cars were floating in the streets.

The House bill also leaves out $289 million to fight fires in the West even though this is proving to be one of the driest seasons on record. At this time there are 45 large fires burning in the West, a total of almost 400,000 acres of active wildfires. If they continue to rage, these fires will take more lives—five were lost in the last week alone—and ruin homes and even communities. How are these communities, which are experiencing the worst fiscal crisis in a generation, to cover these costs without any Federal assistance?

The House bill also neglects to provide $50 million for the National Aeronautics and Space Administration to cover unanticipated costs associated with the Shuttle *Columbia* accident and to allow NASA to begin to implement measures recommended by the Columbia Accident Investigation Board. The President requested these funds and I agree that we should provide them. When the *Columbia* space shuttle accident occurred, it devastated our Nation, reminding us that we cannot become complacent about space travel. Let us at least learn from this accident and ensure that it never happens again by implementing the recommendations of the accident board.

Of most concern to me and to the New Yorkers I represent, the House bill fails to include $100 million for AmeriCorps—emergency spending that the Senate passed overwhelmingly by a vote of 71 to 21 July 11. This funding is not only supported by the vast majority of Senators, it is also strongly supported by the majority of House Members. Two hundred and thirty four Representatives from both sides of the aisle signed letters to the President requesting additional funds for AmeriCorps.

In addition to Members of Congress, the Governors have weighed in to support AmeriCorps. Forty-four Governors including Governor Bush from Florida, Governor Taft from Ohio, and Governor Pataki from my home State of New York sent a letter to the President and Congress asking us to provide additional funding for AmeriCorps.

Over 145 U.S. mayors, including the mayors of Los Angeles, Chicago, Boston, San Diego, and New York, have sent letters in support of additional funding for AmeriCorps. One hundred and ninety college and university presidents have signed a letter in support of additional funding for AmeriCorps.

.Two hundred and fifty business and philanthropic leaders took out full-page ads in the New York Times and the Financial Times asking the President to request $200 million in additional AmeriCorps funding.

One thousand eleven hundred and eight community-based programs that relay on AmeriCorps to meet their community's vital needs have also sent a letter to Congress about their support for this funding and I ask unanimous consent to print that letter into the Record now as well.

Seventy-one editorials have appeared in newspapers from coast to coast endorsing the additional funds for AmeriCorps and calling on Congress to act to prevent programs from being forced to close and prevent thousands of young people from being denied the opportunity to serve.

So how do we account for this outpouring of support?

Mr. President, I submit that it is for the simple reason that AmeriCorps works. For the price of a small grant towards higher education and a small living stipend, AmeriCorps volunteers transform communities. They fill vital gaps that otherwise would go unfilled and in the process, they make the future brighter for themselves and so many others in our society.

Sister Mary Johnice, who runs a shelter in Buffalo, described the impact AmeriCorps has had on her organization at a recent event, "AmeriCorps forms a team of workers, hard workers, who make a difference in other people's lives. They are selfless, outstanding and sacrificial, never counting the cost of what they do and whom they serve." She went on to describe how Buffalo has come to count on AmeriCorps members during difficult times. "Everyone knows when snow hits the City of Buffalo, although it's a beautiful sight, the city can be paralyzed," said Sister Johnice. "I worked with AmeriCorps to pack thousands of food bags, and deliver heavy packages of food to the homebound. I saw AmeriCorps workers walk miles for a prescription a new mother needed after having a baby. I looked at workers shoveling snow for hours so emergency vehicles could move. And I witnessed faith and love in action . . . lives touching lives! Isn't that what life is all about?" she asked.

Quincy Calimese, a young man from the Bronx said that AmeriCorps has changed his life. "I was waking up at two o'clock every day," he said. "I had nothing to do but run the streets and be the baddest person on the block, meanwhile getting others to do the same. Now I'm asleep by ten o'clock and up every morning at seven o'clock. I'm not running the streets and I try to motivate others to do the right thing, especially the younger kids. Mostly now I'm focused on my future as an architect and staying out of trouble. I spend a lot of time in the house, and now I'm reading, something I used to think was boring. I like how simple my life has become. No more worries, no more watching my back everywhere I go."

If the $100 million are not approved, programs like the ones Sister Johnice runs and the one Quincy Calimese participates in will be devastated.

National programs with proven records of success like CityYear, Teach for America, and Jumpstart will lose more than half of their sites. Jumpstart, which today serves 3,500 children, including 900 in New York, will probably have to close every one of its New York sites. This poster shows the progress of a shy little boy who, through the help of Jumpstart members, is now about to write his name. He is on the path to a successful future thanks to AmeriCorps.

President Bush himself said of this program, "I want you to know, America can be saved one person at a time. You see, this great society of ours can be changed one heart, one soul, one conscience at a time. And these six heroic students, people who have said, listen, serving something greater than myself in life is an important part of being a citizen, have been a part of what's called Jumpstart." I believe that he meant those words when he spoke them. And I agree with him. So, how can we stand by and watch as Jumpstart loses 60 percent of its Corps members?

AmeriCorps is also integral to reducing the achievement gap between students living in high-poverty communities and their better off peers. Teach for America is an AmeriCorps program that recruits extremely talented and bright college graduates to teach in

America's neediest schools. Last year 16,000 college seniors with average GPAs of 3.5 and average SATs of 1,300 applied to teach. Only 1,700 of them were selected. The majority of these students stay in education, devoting their careers to improving educational outcomes for low-income students. I am proud that the largest Teach for America corps in the country is in New York City. But I am deeply concerned about the number who will choose not to join the program after they learn that their education awards will not be forthcoming.

Mr. President, this is not a partisan issue. When I organized a letter in support of providing $3 million for Teach for America in April, 9 Republicans and 10 Democrats signed on. This program has strong bipartisan support. So, why will only 16 percent of Teach for America members receive education awards this year?

How did all of these programs, which have such overwhelming support, get to the point where they need an additional $100 million or they will go out of business?

Well, we have to look at the history. Yes, there was mismanagement by Corporation officials. The inspector general's report revealed that for a long time the Corporation was enrolling more volunteers than it had the resources in the trust to support.

But Congress has not helped the situation. In 2000 and 2001, believing that the Corporation was being overly prudent in the way it was managing the trust, Congress rescinded a total of $111.2 million. And in 2002, Congress appropriated nothing for the trust, leaving it to rely on the interest it was accruing from previously appropriated funds. At the time, it seemed like the right thing to do. And an independent analysis from KPMG LLP confirmed that the National Service Trust was solvent. How could Congress have foreseen the tragic events of September 11 and the President's Call to Service for every American?

Nevertheless, they occurred. And the response to the President's call was overwhelming. Twenty-five percent more volunteers enrolled in AmeriCorps in the year after he made his announcement.

Should we not have rescinded the funds from the trust? Probably. Should we have appropriated more for the trust in 2002? Yes. Should the President have acted sooner to ensure that the Corporation was allocating the correct number of volunteers, based on the resources it had at its disposal? Yes, I believe so. Should Corporation officials have been less accommodating to Americans who rose to meet the President's call to service? I suppose so.

But here we are today. And we have to act in the best interest of our Nation.

I believe we should reward the thousands of young people who signed up to serve their communities. They are not at fault for the misjudgment of the Corporation officials. Yet they are the ones who will be punished if we take the House's lead here today.

President Bush proposed to increase AmeriCorps by 50 percent. Instead it is about to be cut by 60 percent. This is not what the President claims to want. It is not what the majority of the Senate wants. It is not what the majority of the House wants. It is not what most Governors want. It is not what most mayors want. It is not what most community leaders want. And it is not what most business leaders want.

I know we can do better for AmeriCorps, which has been such a lifesaver for so many communities across New York and America.

Today is a tragic day for AmeriCorps. It is a day when we are giving pink slips to 20,000 dedicated Americans who want to serve their communities. We are telling them that their service is no longer needed. I hope that we can find a way to do better by AmeriCorps when we return in September.

Mr. NELSON of Florida. Mr. President, I am proud to live in a country where so many citizens volunteer their time to serve their Nation. The United States has always had a strong tradition of volunteerism.

And my pride is bolstered by a surge in participation at volunteer organizations—including AmeriCorps—since the September 11 terrorist attacks.

Our Nation depends on such volunteer organizations to provide crucial community services. For example, AmeriCorps enlists the help of our Nation's youth to tutor and mentor children, build affordable housing, teach computer skills, clean parks and streams, run afterschool programs and help respond to disasters in communities that wouldn't otherwise have such services.

At a time when our Nation's youth are turning out in record numbers to volunteer and our communities are facing budget crises, you would think that Congress would make funding for our national service programs a high priority. But it has done the opposite.

Before they left town last week, the Republican-controlled House rebuffed attempts to provide $10 million for the program. As a result, AmeriCorps will drop 20,000 of its 50,000 volunteer slots this year.

This dramatic downsizing during these tough economic times will deprive communities of needed help, and young volunteers of a small stipend they need to pay for college or student loans.

We know the program has a history of mismanagement—and those problems are being fixed. In fact, the President this month announced an overhaul of the agency's management.

But the mistakes of a few at the top shouldn't jeopardize the opportunities for young volunteers or the communities that rely on the services they provide.

There is no questioning the essential role AmeriCorps plays in helping communities and promoting volunteerism in America. In order for volunteers to make the greatest possible impact on society, we must continue our support for this and other national service programs.

I hope when we return in September, we can provide AmeriCorps the support it needs to put our Nation's eager recruits to work in communities that depend on their help.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2000

Mr. SUNUNU. Mr. President, I ask unanimous consent the Senate immediately proceed to H.R. 2859, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I ask unanimous consent that the acting majority leader modify his request to include an amendment which provides $20 million for air marshal training, $289 million for the emergency firefighting and wildfire suppression, $100 million for AmeriCorps, $50 million for the Space Shuttle Columbia accident, the remaining $567 million for FEMA, which is not part of the House-passed bill.

This is the supplemental which passed in the Senate, except for the $20 million for air marshal training which has now been recognized as a need of great import, especially within the last few weeks.

I ask unanimous consent that the request made by the distinguished Senator from New Hampshire be modified.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, while I very much appreciate what the minority leader is attempting to do in his concern for funding in these areas, I object to his request at this time.

The PRESIDING OFFICER. Agreement is not reached. Objection is heard.

Mr. SUNUNU. Mr. President, I have a pending unanimous consent request that the Senate proceed to H.R. 2859, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (H.R. 2859) was read the third time and passed.

NOMINATIONS IN STATUS QUO

Mr. SUNUNU. As in executive session I ask, notwithstanding paragraph 6 of rule 3, all nominations stand in status quo during the upcoming adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR AND NOMINATIONS DISCHARGED

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider en bloc the following nominations on today's Executive Calendar: Calendar Nos. 17, 18, 175, 242, 250, 297, 311, 317, 318, 319, 320, 322 through 340, 341, and 342, and all nominations on the Secretary's desk.

Further, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: PN 789, Donald Steinberg; PN 805, Constance Morella; and PN 820, George Walker.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be 'laid upon the table, that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Stanley C. Suboleski, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2006.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

W. Scott Railton, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2007.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008. (Reappointment)

DEPARTMENT OF TRANSPORTATION

Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration, resigned.

DEPARTMENT OF JUSTICE

Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice. (New Position)

Karen P. Tandy, of Virginia, to be Administrator of Drug Enforcement.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Eric S. Dreiband, of Virginia, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2009. (Reappointment)

DEPARTMENT OF DEFENSE

Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009.

AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Kenneth M. DeCuir, 9876
Brigadier General Bob D. Dulaney, 3361
Brigadier General Robert J. Elder, Jr., 7484
Brigadier General Paul J. Fletcher, 5438
Brigadier General Douglas M. Fraser, 7505
Brigadier General William M. Fraser, III, 9314
Brigadier General Stanley Gorenc, 8279
Brigadier General Elizabeth A. Harrell, 1522
Brigadier General William F. Hodgkins, 0138
Brigadier General Raymond E. Johns, Jr., 3483
Brigadier General Timothy C. Jones, 7733
Brigadier General Frank G. Klotz, 6089
Brigadier General Robert H. Latiff, 2190
Brigadier General Richard B.H. Lewis, 1265
Brigadier General Henry A. Obering, III, 3819
Brigadier General Michael W. Peterson, 5177
Brigadier General Teresa M. Peterson, 1094
Brigadier General Gregory H. Power, 4129
Brigadier General Robert L. Smolen, 7953
Brigadier General Mark A. Volcheff, 3790

The following named officer for appointment as the Vice Chief of Staff, United States Air Force, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C. sections 8034 and 601:

To be general

Lt. Gen. Teed M. Moseley, 1516

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Gregory S. Martin, 6337

The following named United States Air Force officer for reappointment as the Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., sections 601 and 152:

To be general

Gen. Richard B. Myers, 7092

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Maj. Gen. Roger A. Brady, 6581

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Richard E. Brown, III, 8999

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Steven R. Polk, 6022

ARMY

The following named officer for appointment as the Chief of Staff, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 688, 601 and 3033:

To be general

Gen. Peter J. Schoomaker (Retired), 3788

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Bryan D. Brown, 2565

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Charles S. Rodeheaver, 9932

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. David T. Zabecki, 9488

MARINE CORPS

The following named Marine Corps officer for reappointment as the Vice Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and 154:

To be general

Gen. Peter Pace, 7426

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert M. Shea, 3652

NAVY

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Robert T. Nolan, 6456
Read Adm. (lh) Robert O. Passmore, 0129

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Kirland H. Donald, 3953

The following named officer for appointment as Chief of Chaplains, United States Navy, and appointment to the grade indicated under title 10, U.S.C., section 5142:

To be rear admiral

Rear Adm. (lh) Louis V. Iasiello, 7632

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. (Select) Eric T. Olson, 6412

The following named officer for appointment in the United States Navy to grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Gary Roughead, 6126

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. James C. Dawson, Jr., 7743

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Rodney P. Rempt, 5464

EXECUTIVE OFFICE OF THE PRESIDENT

Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget, vice Nancy Dorn.

DEPARTMENT OF HOMELAND SECURITY

Joe D. Whitley, of Georgia, to be General Counsel, Department of Homeland Security. (New Position)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN803 Air Force nomination of Patrice L. Pye, which was received by the Senate and appeared in the Congressional Record of July 8, 2003

PN804 Air Force nomination of * Rebekah F. Friday, which was received by the Senate and appeared in the Congressional Record of July 8, 2003

PN829 Air Force nomination of Dennis Hutson, which was received by the Senate and appeared in the Congressional Record of July 22, 2003

ARMY

PN761 Army nominations (2) beginning WILLIAM R. GLADBACH, and ending MALCOLM K. WALLACE, JR., which nominations were received by the Senate and appeared in the Congressional Record of June 19, 2003

PN783 Army nomination of Regina M. Curtis, which was received by the Senate and appeared in the Congressional Record of June 26, 2003

PN784 nomination of Nancy M. Prickett, which was received by the Senate and appeared in the Congressional Record of June 26, 2003

PN785 Army nominations (2) beginning STEPHEN J. DEMSKI, and ending JOSEPH F. MARANTO, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 2003

PN786 Army nominations (2) beginning ANDREW S. KANTNER, and ending DANIEL A. TANABE, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 2003

PN794 Army nominations (7) beginning DAVID A. ARCHER, and ending DEBRA A. SPEAR, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN795 Army nominations (32) beginning NATHAN E. BAKER, and ending FREDERICK V. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN796 Army nominations (22) beginning LISA M. * ANDERSON, and ending JAMES W. * TURONIS, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN797 Army nominations (135) beginning BRETT T. ACKERMAN, and ending MICHAEL J. * ZAPOR, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN798 Army nominations (283) beginning ADIO ABDU, and ending RICARDO M. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN799 Army nominations (39) beginning DAVID A. BARR, and ending SAMUEL R. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of July 7, 2003

PN830 Army nominations (3) beginning WILFREDO A. COLONMARTINES, and ending JEFFERY L. LEWiS, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2003

PN831 Army nominations (2) beginning THOMAS B. HOWE, and ending MICHAEL J. VEASEY, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2003.

PN832 Army nominations (4) beginning JAMES G. LYNCH, and ending RAFAEL A. ROLDAN, which nominations were received by the Senate and appeared in the Congressional Record of July 22, 2003

PN833 Army nomination of Evan L. Williams II, which was received by the Senate and appeared in the Congressional Record of July 22, 2003

MARINE CORPS

PN834 Marine Corps nomination of Thomas D. Gore, which was received by the Senate and appeared in the Congressional Record of July 22, 2003

PN835 Marine Corps nomination of Adam L. Musoff, which was received by the Senate and appeared in the Congressional Record of July 22: 2003

PN836 Marine Corps nomination of Jason K. Fettig, which was received by the Senate and appeared in the Congressional Record of July 22, 2003

PN768 Navy nominations (18) beginning CHAD F ACEY, and ending FRANK A SHAUL, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN769 Navy nominations (48) beginning CONRADO K ALEJO, and ending CARL B. WEICKSEL, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN770 Navy nominations (19) beginning BARBARA M. BURGETT, and ending ROBERT C WEITZMAN, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN771 Navy nominations (23) beginning ROBERT J ALLEN, and ending HAROLD E. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN772 Navy nominations (15) beginning ERIC J BUCH, and ending ROBIN D TYNER, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN773 Navy nominations (21) beginning LEE K ALLRED, and ending DONALD L ZWICK, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN774 Navy nominations (41) beginning ALLAN D ANDREW, and ending JOHNNY R WOLFE, JR, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN775 Navy nominations (17) beginning ANGELA D ALBERGOTTIE, and ending JOSEPH B SPEGELE, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN776 Navy nominations (13) beginning CHARLES J CHAN, and ending MATTHEW A WEBBER, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN777 Navy nominations (492) beginning CHRISTOPHER A ADAMS, and ending RICHARD J ZINS, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN837 Navy nominations (2) beginning STEVEN S. HARTZELL, and ending STANLEY D. RHOADES, which nominations were received by the Senate and appeared in the Congressional Record of June 25, 2003

PN838 Navy nomination of James P. Driscoll, which were received by the Senate and appeared in the Congressional Record of June 25, 2003

DEPARTMENT OF STATE

Constance Albanese Morella, of Maryland, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with rank of Ambassador.

Donald K. Steinberg, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador to the Federal Republic of Nigeria.

George H. Walker, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

NOMINATION OF KAREN TANDY

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Karen Tandy to be Administrator of the Drug Enforcement Administration.

According to the DEA website, the top two DEA responsibilities are the following:

> Investigation and preparation for the prosecution of major violators of controlled substance laws operating at interstate and international levels; and investigation and preparation for prosecution of criminals and drug gangs who perpetrate violence in our communities and terrorize citizens through fear and intimidation.

Why, then, does the DEA continue to focus its limited resources on the question of medical marijuana?

Over the past seven years, ten States have passed referendums or enacted laws authorizing medical marijuana in those States. The ten States are Alaska, Arizona, California, Colorado, Hawaii, Maine, Maryland, Nevada, Oregon, and Washington.

The first of these states was California. In 1996, voters in California passed the California Compassionate Use Act, also known as Proposition 215, to allow seriously ill people who have a doctor's recommendation to cultivate and use marijuana as a form of treatment.

However, in 2001, the Drug Enforcement Administration began aggressively targeting medical marijuana providers in California—regardless of the fact that these individuals were complying with state law.

I understand that the Supreme Court has ruled that federal law does not provide for a "medical necessity" exception to the prohibition on the distribution of marijuana, and that the DEA therefore has the right to enforce federal laws regarding marijuana.

However, especially given the DEA's own stated priorities and limited resources, is it appropriate for the DEA to focus on medical marijuana?

This is the question I asked Ms. Tandy, and she did not back off an inch. She simply did not give us any room to work in terms of this issue.

For example, I asked if she would be willing to support a moratorium on the raids of medical marijuana providers until Congress could hold hearings on this matter.

She replied, "If I am confirmed as Administrator of the DEA, it will be my duty to see to the uniform enforcement of federal law. I do not believe it would be consistent with that duty for me to support a moratorium on enforcement of this law, or any law, in selected areas of the country."

Let me be clear. I was not asking for a moratorium on the enforcement of all marijuana laws—only on the raids of these medical marijuana providers who are complying with State law.

I also was not asking for an endless moratorium—just the opportunity for Congress to exercise its oversight role of the Drug Enforcement Administration.

Yet she was unwilling to budge.

Who are these so-called criminals that the DEA is targeting and arresting?

Suzanne Pfeil is 42 years old and suffers from post-polio syndrome. She experiences extreme pain and muscle spasticity. She is allergic to opiates and does not tolerate many pharmaceutical drugs, so her physician recommended medical marijuana, in accordance with California state law. Here, in her own words, is what happened to her last September:

> At dawn on September 5, 2002, I awoke to five federal agents pointing assault rifles at my head. I did not hear them come in because my respirator is rather loud.
>
> They yelled at me to put my hands in the air and to stand up "NOW." I tried to explain to them that I needed to put my hands down on the bed in order to sit up because I am paralyzed. They again shouted at me to stand up. I pointed to my crutches and braces beside the bed and said, "I'm sorry, I can't stand up without my crutches and braces and I normally use a wheelchair."
>
> At that point they ripped the covers off the bed and finally realized what I was trying to explain amid their shouts and guns. They handcuffed me behind my back and left me on the bed.
>
> The DEA then proceeded to confiscate medication recommended to me by my physician under California State Law Proposition 215. My crime? I am a member of WAMM, The Women's Alliance for Medical Marijuana, a nonprofit collective of patients and their caregivers working together to provide free medication and hospice services to approximately 250 seriously ill and dying members.
>
> The DEA then destroyed our collective garden and arrested our Director Valerie Corral, who is an epileptic, and her caregiver and husband Michael Corral."

Eighty-five percent of the patients in this organization are terminally ill with cancer or AIDS. Is this how the DEA should spend its precious resources?

In another case, the City of Oakland enacted a medicinal marijuana ordinance, as permitted by California law. Under the auspices of this ordinance, Ed Rosenthal grew marijuana to be sold for medicinal uses.

Even though Mr. Rosenthal was acting as an officer of the city, in February 2002, DEA agents raided his facility and arrested him for marijuana cultivation and conspiracy.

Since the federal law does not recognize "medical necessity" as a defense, Mr. Rosenthal was not allowed to tell the jury that he was growing the marijuana for medicinal purposes.

The prosecutors took this opportunity to present Mr. Rosenthal as a big-time drug dealer, and the jury had no choice but to convict Mr. Rosenthal.

After the trial, the jurors learned that Mr. Rosenthal was growing medical marijuana and complained that they had been misled by the court. Five jurors immediately issued a public apology to him and demanded a new trial.

Their statement said, "In this trial, the prosecution was allowed to put all of the evidence and testimony on one of the scales, while the defense was not allowed to put its evidence and testimony on the other side. Therefore we were not allowed as a jury to properly weigh the case."

During the sentencing phase of the trial, nine of the twelve jurors asked that Mr. Rosenthal not be imprisoned because they had convicted him "without having all the evidence."

Due to these unique circumstances, the judge sentenced Mr. Rosenthal to one day in prison and a $1,000 fine, the most lenient sentence allowed under law.

Yet, the prosecutor, who had asked for a six-and-a-half-year sentence, has appealed this sentence.

The San Francisco Examiner has called this a "mean-spirited attempt to revive a losing case [and] is only throwing good money after bad."

I think that accurately describes not only the prosecution's latest appeal, but the DEA's campaign against medical marijuana as a whole.

These raids of medical marijuana facilities also are creating tension between the DEA and local law enforcement agencies.

In California, several cities are pushing their local police to stop cooperating with the DEA.

Most notably, in October 2002, San Jose Police Chief William Lansdowne pulled his five officers from a DEA High Intensity Drug Trafficking Area task force.

In doing so, Chief Lansdowne said, "I think the priorities are out of sync at the federal level . . . . The problem in California right now is methamphetamines, not medical marijuana."

In order for the DEA to be successful in its efforts to target major drug traffickers and drug gangs, it must have the cooperation of local law enforcement.

This is yet another reason why the raids of medical marijuana providers must end.

Finally, I would like to address the debate regarding the potential medicinal benefit of marijuana.

I am not a doctor or a medical professional. However, the following organizations have endorsed supervised access to medical marijuana: The AIDS Action Council, the American Academy of Family Physicians, the American Nurses Association, the American Preventative Medical Association, the American Public Health Association, Kaiser Permanente, and the New England Journal of Medicine.

In 1999, the Institute of Medicine issued a report entitled "Marijuana and Medicine: Assessing the Science Base." This report, authorized by the White House Office of National Drug Control Policy, stated, "Nausea, appetite loss, pain, and anxiety are all afflictions of wasting, and all can be mitigated by marijuana."

Furthermore, the following international agencies have recommended the use of medical marijuana: the Canadian government, the British Medical Association, the French Ministry of Health, the Israel Health Ministry, and the Australian National Task Force on Cannabis.

Even the DEA has registered eight researchers to further examine the possible medicinal benefits of smoking marijuana.

This obviously is an ongoing debate. The citizens and legislatures of ten states have spoken. I believe the DEA should suspend its raids of medical marijuana providers in these states and place such efforts at the bottom of its list of priorities.

Since Ms. Tandy is unwilling to yield at all on this point, I respectfully oppose her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2854.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2854) to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2854) was read the third time and passed.

SOCIAL SECURITY ACT AMENDMENT

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1547 introduced earlier today by Senators BINGAMAN and DOMENICI.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1547) to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1547) was read the third time and passed as follows:

S. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION RELATING TO THE DEFINITION OF QUALIFYING STATE UNDER TITLE XXI OF THE SOCIAL SECURITY ACT.

Effective as if included in the enactment of H.R. 2854, 108th Congress, section 2105(g)(2) of the Social Security Act, as added by section 1(b) of H.R. 2854, 108th Congress, as passed by the House of Representatives on July 25, 2003, is amended by striking "185" the first place it appears and inserting "184".

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 2465.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2465) to extend for six months the period for which chapter 12 of title 11 the United States Code is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2465) was read the third time and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, S. 1025.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1025) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence, with amendments, as follows:

[Strike the parts shown in black brackets and insert the part shown in italic.]

S. 1025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Incorporation of reporting requirements.
Sec. 106. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.

Subtitle B—Intelligence

Sec. 311. Modification of authority to obligate and expend certain funds for intelligence activities.
Sec. 312. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.
Sec. 313. Use of funds for counterdrug and counterterrorism activities for Colombia.
Sec. 314. Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community.
Sec. 315. Pilot program on training for intelligence analysts.
Sec. 316. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.

Subtitle C—Surveillance

Sec. 321. Clarification and modification of sunset of surveillance-related amendments made by USA PATRIOT ACT of 2001.

Subtitle D—Reports

Sec. 331. Report on cleared insider threat to classified computer networks.
Sec. 332. Report on security background investigations and security clearance procedures of the Federal Government.
Sec. 333. Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.
Sec. 334. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.
Sec. 335. Report of Secretary of Defense and Director of Central Intelligence on strategic planning.
Sec. 336. Report on United States dependence on computer hardware and software manufactured overseas.
Sec. 337. Report on lessons learned from military operations in Iraq.
Sec. 338. Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions.
Sec. 339. Repeal of certain report requirements relating to intelligence activities.

Subtitle E—Other Matters

Sec. 351. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.
Sec. 352. Modifications of authorities on explosive materials.
Sec. 353. Modification of prohibition on the naturalization of certain persons.
Sec. 354. Modification to definition of financial institution in the Right to Financial Privacy Act.
Sec. 355. Coordination of Federal Government research on security evaluations.
Sec. 356. Technical amendments.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Amendment to certain Central Intelligence Agency Act of 1949 notification requirements.
Sec. 402. Protection of certain Central Intelligence Agency personnel from tort liability.
Sec. 403. Repeal of obsolete limitation on use of funds in Central Services Working Capital Fund.
Sec. 404. Technical amendment to Federal Information Security Management Act of 2002.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

[Sec. 501. Protection of operational files of the National Security Agency.]
Sec. 501. Protection of operational files of the National Security Agency.
[Sec. 502. Provision of affordable living quarters for certain students working at National Security Agency laboratory.]
Sec. [503] *502.* Protection of certain National Security Agency personnel from tort liability.
[Sec. 504. Authority for intelligence community elements of Department of Defense to award personal service contracts.]

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

(13) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill   of the One Hundred Eighth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2004 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 the sum of $198,390,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2005.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 310 full-time personnel as of September 30, 2004. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2005.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2004, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2004 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $37,090,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2005, and funds provided for procurement purposes shall remain available until September 30, 2006.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill   of the One Hundred Eighth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 106. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.

(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2004 the sum of $226,400,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

Subtitle B—Intelligence

SEC. 311. MODIFICATION OF AUTHORITY TO OBLIGATE AND EXPEND CERTAIN FUNDS FOR INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) by inserting “and” at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 312. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT OR IMPROVE INTELLIGENCE COMMUNITY FACILITIES.

(a) Increase of Thresholds for Notice.—Subsection (a) of section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat. 3432; 50 U.S.C. 403–2b(a)) is amended—

(1) by striking “$750,000” each place it appears and inserting “$5,000,000”; and

(2) by striking “$500,000” each place it appears and inserting “$1,000,000”.

(b) Notice and Wait Requirements for Emergency Projects.—Subsection (b)(2) of that section is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting “(A)” after “(2) Report.—”;

(3) by striking “21-day period” and inserting “7-day period”; and

(4) by adding at the end the following new subparagraph:

“(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the date the notification is received by the appropriate committees of Congress under that paragraph if the Director of Central Intelligence and the Secretary of Defense jointly determine that—

“(i) an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and

“(ii) any delay in the commencement of the project would harm any or all of those interests.”.

SEC. 313. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) Authority.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) Termination of Authority.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) Application of Certain Provisions of Law.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) Limitation on Participation of United States Personnel.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 314. PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) In General.—The Director of Central Intelligence shall carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

(b) Covered Intelligence.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

(1) Signals intelligence of the National Security Agency.

(2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.

(c) Objectives.—The objectives set forth in this subsection are as follows:

(1) To enhance the capacity of the intelligence community to undertake so-called “all source fusion” analysis in support of the intelligence and intelligence-related missions of the intelligence community.

(2) To reduce, to the extent practicable, the amount of intelligence collected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.

(3) To reduce the burdens imposed on analytical personnel of the elements of the intelligence community by current practices regarding the sharing of intelligence among elements of the intelligence community.

(d) Commencement.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.

(e) Various Mechanisms Required.—In carrying out the pilot program under subsection (a), the Director shall develop and utilize various mechanisms to facilitate the access to, and the analysis of, intelligence in the databases of the intelligence community by intelligence analysts of other elements of the intelligence community, including the use of so-called “detailees in place”.

(f) Security.—(1) In carrying out the pilot program under subsection (a), the Director shall take appropriate actions to protect against the disclosure and unauthorized use of intelligence in the databases of the elements of the intelligence community which may endanger sources and methods which (as determined by the Director) warrant protection.

(2) The actions taken under paragraph (1) shall include the provision of training on the accessing and handling of information in the databases of various elements of the intelligence community and the establishment of limitations on access to information in such databases to United States persons.

(g) Assessment.—Not later than February 1, 2004, after the commencement under subsection (d) of the pilot program under subsection (a), the Under Secretary of Defense for Intelligence and the Assistant Director of Central Intelligence for Analysis and Production shall jointly carry out an assessment of the progress of the pilot program in meeting the objectives set forth in subsection (c).

(h) Report.—(1) The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the assessment carried out under subsection (g).

(2) The report shall include—

(A) a description of the pilot program under subsection (a);

(B) the findings of the Under Secretary and Assistant Director as a result of the assessment;

(C) any recommendations regarding the pilot program that the Under Secretary and the Assistant Director jointly consider appropriate in light of the assessment; and

(D) any recommendations that the Director and Secretary consider appropriate for purposes of the report.

(i) Appropriate Committees of Congress Defined.—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

SEC. 315. PILOT PROGRAM ON TRAINING FOR INTELLIGENCE ANALYSTS.

(a) Pilot Program Required.—(1) The Director of Central Intelligence shall carry out a pilot program to assess the feasibility and advisability of providing for the preparation of selected students for availability for employment as intelligence analysts for the intelligence and intelligence-related activities of the United States through a training program similar to the Reserve Officers' Training Corps programs of the Department of Defense.

(2) The pilot program shall be known as the Intelligence Community Analyst Training Program.

(b) Elements.—In carrying out the pilot program under subsection (a), the Director shall establish and maintain one or more cadres of students who—

(1) participate in such training as intelligence analysts as the Director considers appropriate; and

(2) upon completion of such training, are available for employment as intelligence analysts under such terms and conditions as the Director considers appropriate.

(c) DURATION.—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

(d) LIMITATION ON NUMBER OF MEMBERS DURING FISCAL YEAR 2004.—The total number of individuals participating in the pilot program under subsection (a) during fiscal year 2004 may not exceed 150 students.

(e) RESPONSIBILITY.—The Director shall carry out the pilot program under subsection (a) through the Assistant Director of Central Intelligence for Analysis and Production.

(f) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Director shall submit to Congress a preliminary report on the pilot program under subsection (a), including a description of the pilot program and the authorities to be utilized in carrying out the pilot program.

(2) Not later than one year after the commencement of the pilot program, the Director shall submit to Congress a report on the pilot program. The report shall include—

(A) a description of the activities under the pilot program, including the number of individuals who participated in the pilot program and the training provided such individuals under the pilot program;

(B) an assessment of the effectiveness of the pilot program in meeting the purpose of the pilot program; and

(C) any recommendations for additional legislative or administrative action that the Director considers appropriate in light of the pilot program.

(g) FUNDING.—Of the amounts authorized to be appropriated by this Act, $8,000,000 shall be available in fiscal year 2004 to carry out this section.

SEC. 316. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2442; 50 U.S.C. 401 note) is amended by striking "September 1, 2003," and inserting "September 1, 2004,".

Subtitle C—Surveillance

SEC. 321. CLARIFICATION AND MODIFICATION OF SUNSET OF SURVEILLANCE-RELATED AMENDMENTS MADE BY USA PATRIOT ACT OF 2001.

(a) CLARIFICATION.—Section 224 of the USA PATRIOT ACT of 2001 (Public Law 107–56; 115 Stat. 295) is amended by adding at the end the following new subsection:

"(c) EFFECT OF SUNSET.—Effective on December 31, 2005, each provision of law the amendment of which is sunset by subsection (a) shall be revived so as to be in effect as such provision of law was in effect on October 25, 2001.".

(b) MODIFICATION.—Subsection (a) of that section is amended by inserting "204," after "203(c),".

Subtitle D—Reports

SEC. 331. REPORT ON CLEARED INSIDER THREAT TO CLASSIFIED COMPUTER NETWORKS.

(a) REPORT REQUIRED.—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the risks to the national security of the United States of the current computer security practices of the elements of the intelligence community and of the Department of Defense.

(b) ASSESSMENTS.—The report under subsection (a) shall include an assessment of the following:

(1) The vulnerability of the computers and computer systems of the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying comprehensive computer firewalls, accountability procedures, or other appropriate security controls.

(3) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(c) INFORMATION ON ACCESS TO NETWORKS.—The report under subsection (a) shall also include information as follows:

(1) An estimate of the number of access points on each classified computer or computer system of an element of the intelligence community or the Department of Defense that permit unsupervised uploading or downloading of classified information, set forth by level of classification.

(2) An estimate of the number of individuals utilizing such computers or computer systems who have access to input-output devices on such computers or computer systems.

(3) A description of the policies and procedures governing the security of the access points referred to in paragraph (1), and an assessment of the adequacy of such policies and procedures.

(4) An assessment of viability of utilizing other technologies (including so-called "thin client servers") to achieve enhanced security of such computers and computer systems through more rigorous control of access to such computers and computer systems.

(d) RECOMMENDATIONS.—The report under subsection (a) shall also include such recommendations for modifications or improvements of the current computer security practices of the elements of the intelligence community, and of the Department of Defense, as the Director and the Secretary jointly consider appropriate as a result of the assessments under subsection (b) and the information under subsection (c).

(e) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(f) FORM.—The report under subsection (a) may be submitted in classified or unclassified form, at the election of the Director.

(g) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

(2) The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 332. REPORT ON SECURITY BACKGROUND INVESTIGATIONS AND SECURITY CLEARANCE PROCEDURES OF THE FEDERAL GOVERNMENT.

(a) REPORT REQUIRED.—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the utility and effectiveness of the current security background investigations and security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(b) PARTICULAR REPORT MATTERS.—In preparing the report, the Director and the Secretary shall address in particular the following:

(1) A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting full field background investigations.

(2) The standards governing the revocation of security clearances.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government as the Director and the Secretary jointly consider appropriate as a result of the preparation of the report under that subsection.

(d) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

SEC. 333. REPORT ON DETAIL OF CIVILIAN INTELLIGENCE PERSONNEL AMONG ELEMENTS OF THE INTELLIGENCE COMMUNITY AND THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—The heads of the elements of the intelligence community shall jointly submit to the appropriate committees of Congress a report on means of improving the detail or transfer of civilian intelligence personnel between and among the various elements of the intelligence community for the purpose of enhancing the flexibility and effectiveness of the intelligence community in responding to changes in requirements for the collection, analysis, and dissemination of intelligence.

(b) REPORT ELEMENTS.—The report under subsection (a) shall—

(1) set forth a variety of proposals on means of improving the detail or transfer of civilian intelligence personnel as described in that subsection;

(2) identify the proposal or proposals determined by the heads of the elements of the intelligence community to be most likely to meet the purpose described in that subsection; and

(3) include such recommendations for such legislative or administrative action as the heads of the elements of the intelligence community consider appropriate to implement the proposal or proposals identified under paragraph (2).

(c) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(d) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

(2) The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "heads of the elements of the intelligence community" includes the Secretary of Defense with respect to each element of the intelligence community within the Department of Defense or the military departments.

SEC. 334. REPORT ON MODIFICATIONS OF POLICY AND LAW ON CLASSIFIED INFORMATION TO FACILITATE SHARING OF INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) Report.—Not later than four months after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report that—

(1) identifies impediments in current policy and regulations to the sharing of classified information horizontally across and among Federal departments and agencies, and between Federal departments and agencies and vertically to and from agencies of State and local governments and the private sector, for national security purposes, including homeland security;

(2) proposes appropriate modifications of policy, law, and regulations to eliminate such impediments in order to facilitate such sharing of classified information for homeland security purposes, including homeland security; and

(3) outlines a plan of action (including appropriate milestones and funding) to establish the Terrorist Threat Integration Center as called for in the Information on the State of the Union given by the President to Congress under section 3 of Article II of the Constitution of the United States in 2003.

(b) Considerations.—In preparing the report under subsection (a), the President shall—

(1) consider the extent to which the reliance on a document-based approach to the protection of classified information impedes the sharing of classified information; and

(2) consider the extent to which the utilization of a database-based approach, or other electronic approach, to the protection of classified information might facilitate the sharing of classified information.

(c) Coordination With Other Information Sharing Activities.—In preparing the report under subsection (a), the President shall, to the maximum extent practicable, take into account actions being undertaken under the Homeland Security Information Sharing Act (subtitle I of title VIII of Public Law 107-296; 116 Stat. 2252; 6 U.S.C. 481 et seq.).

(d) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committee on Armed Services of the House of Representatives.

SEC. 335. REPORT OF SECRETARY OF DEFENSE AND DIRECTOR OF CENTRAL INTELLIGENCE ON STRATEGIC PLANNING.

(a) Report.—Not later than February 15, 2004, the Secretary of Defense and the Director of Central Intelligence shall jointly submit to the appropriate committees of Congress a report that assesses progress in the following:

(1) The development by the Department of Defense and the intelligence community of a comprehensive and uniform analytical capability to assess the utility and advisability of various sensor and platform architectures and capabilities for the collection of intelligence.

(2) The improvement of coordination between the Department and the intelligence community on strategic and budgetary planning.

(b) Form.—The report under subsection (a) may be submitted in classified form.

(c) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 336. REPORT ON UNITED STATES DEPENDENCE ON COMPUTER HARDWARE AND SOFTWARE MANUFACTURED OVERSEAS.

(a) Report.—Not later than February 15, 2004, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the extent of United States dependence on computer hardware or software that is manufactured overseas.

(b) Elements.—The report under subsection (a) shall address the following:

(1) The extent to which the United States currently depends on computer hardware or software that is manufactured overseas.

(2) The extent to which United States dependence on such computer hardware or software is increasing.

(3) The vulnerabilities of the national security and economy of the United States as a result of United States dependence on such computer hardware or software.

(4) Any other matters relating to United States dependence on such computer hardware or software that the Director considers appropriate.

(c) Consultation With Private Sector.—In preparing the report under subsection (a), the Director may consult, and is encouraged to consult, with appropriate persons and entities in the computer hardware or software industry and with other appropriate persons and entities in the private sector.

(d) Form.—(1) The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(2) The report may be in the form of a National Intelligence Estimate.

(e) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 337. REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ.

(a) Report.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom.

(b) Recommendations.—The report under subsection (a) shall include such recommendations on means of improving training, equipment, operations, coordination, and collection of or for intelligence as the Director considers appropriate.

(c) Form.—The report under subsection (a) shall be submitted in classified form.

(d) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 338. REPORTS ON CONVENTIONAL WEAPONS AND AMMUNITION OBTAINED BY IRAQ IN VIOLATION OF CERTAIN UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.

(a) Preliminary Report.—Not later than 120 days after the date of the cessation of hostilities in Iraq (as determined by the President), the Director of the Defense Intelligence Agency shall submit to the appropriate committees of Congress a preliminary report on all information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in August 1990.

(b) Final Report.—(1) Not later than 270 days after the date of the cessation of hostilities in Iraq (as so determined), the Director shall submit to the appropriate committees of Congress a final report on the information described in subsection (a).

(2) The final report under paragraph (1) shall include such updates of the preliminary report under subsection (a) as the Director considers appropriate.

(c) Elements.—Each report under this section shall set forth, to the extent practicable, with respect to each shipment of weapons or ammunition addressed in such report the following:

(1) The country of origin.

(2) Any country of transshipment.

(d) Form.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

(e) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 339. REPEAL OF CERTAIN REPORT REQUIREMENTS RELATING TO INTELLIGENCE ACTIVITIES.

(a) Annual Evaluation of Performance and Responsiveness of Intelligence Community.—Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended by striking subsection (d).

(b) Periodic and Special Reports on Disclosure of Intelligence Information to United Nations.—Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) Annual Report on Intelligence Community Cooperation With Counterdrug Activities.—Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(d) Annual Report on Russian Nuclear Facilities and Forces.—Section 114 of the National Security Act of 1947, as amended by subsection (c) of this section, is further amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

(e) Annual Report on Covert Leases.—Section 114 of the National Security Act of 1947, as amended by this section, is further amended—

(1) by striking subsection (c); and

(2) by striking subsection (d).

(f) Annual Report on Protection of Covert Agents.—Section 603 of the National Security Act of 1947 (50 U.S.C. 423) is repealed.

(g) Annual Report on Certain Foreign Companies Involved in Proliferation of Weapons of Mass Destruction.—Section 827 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2430; 50 U.S.C. 404n–3) is repealed.

(h) Annual Report on Intelligence Activities of People's Republic of China.—Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note) is repealed.

(i) Annual Report on Coordination of Counterintelligence Matters With FBI.—Section 811(c) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. 402a(c)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(j) Reports on Decisions Not To Prosecute Violations of Classified Information Procedures Act.—Section 13 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by striking subsections (a) and (b); and

(2) by striking "(c)".

(k) Report on Postemployment Assistance for Terminated Intelligence Employees.—Section 1611 of title 10, United States Code, is amended by striking subsection (e).

(l) Annual Report on Activities of FBI Personnel Outside the United States.—Section 540C of title 18, United States Code, is repealed.

(m) Annual Report on Exceptions to Consumer Disclosure Requirements for National Security Investigations.—Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(1) by striking subparagraphs (D) and (E); and

(2) by redesignating subparagraph (F) as subparagraph (D).

(n) Conforming Amendments.—Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A), (C), (D), (G), (I), (J), and (L); and

(ii) by redesignating subparagraphs (B), (E), (F), (H), (K), (M), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

(iii) in subparagraph (E), as so redesignated, by striking "section 114(c)" and inserting "section 114(a)"; and

(B) in paragraph (2)—

(i) by striking subparagraphs (A), (E), and (F);

(ii) by redesignating subparagraphs (B), (D), and (G) as subparagraphs (A), (B), and (C), respectively; and

(iii) in subparagraph (A), as so redesignated, by striking "section 114(d)" and inserting "section 114(b)"; and

(2) in subsection (b)—

(A) by striking paragraph (1) and (3); and

(B) by redesignating paragraphs (2), (4), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6), respectively.

(o) Clerical Amendments.—

(1) National security act of 1947.—The table of contents for the National Security Act of 1947 is amended by striking the item relating to section 603.

(2) Title 18, united states code.—The table of sections at the beginning of chapter 33 of title 18, United States Code, is amended by striking the item relating to section 540C.

(p) Effective Date.—The amendments made by this section shall take effect on December 31, 2003.

Subtitle E—Other Matters

SEC. 351. EXTENSION OF SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note) is amended—

(1) in the heading, by striking "**TWO-YEAR**" before "**SUSPENSION OF REORGANIZATION**"; and

(2) in the text, by striking "ending on October 1, 2003" and inserting "ending on the date that is 60 days after the appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary's designee) and the Director of the Office of Management and Budget (or the Director's designee) that the operational framework for the office has been terminated".

SEC. 352. MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE MATERIALS.

(a) Clarification of Aliens Authorized To Distribute Explosive Materials.—Section 842(d)(7) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B)—

(A) by inserting "or" at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;".

(b) Clarification of Aliens Authorized To Possess or Receive Explosive Materials.—Section 842(i)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B)—

(A) by inserting "or" at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;".

SEC. 353. MODIFICATION OF PROHIBITION ON THE NATURALIZATION OF CERTAIN PERSONS.

Section 313(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1424(e)(4)) is amended—

(1) by inserting "when Department of Defense activities are relevant to the determination" after "Secretary of Defense"; and

(2) by inserting "and the Secretary of Homeland Security" after "Attorney General".

SEC. 354. MODIFICATION TO DEFINITION OF FINANCIAL INSTITUTION IN THE RIGHT TO FINANCIAL PRIVACY ACT.

The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(1) (12 U.S.C. 3401(1)), by inserting ", except as provided in section 1114," before "means any office"; and

(2) in section 1114 (12 U.S.C. 3414), by adding at the end the following:

"(c) For purposes of this section, the term 'financial institution' has the same meaning as in section 5312(a)(2) of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the United States Virgin Islands.".

SEC. 355. COORDINATION OF FEDERAL GOVERNMENT RESEARCH ON SECURITY EVALUATIONS.

(a) Workshops for Coordination of Research.—The National Science Foundation and the Office of Science and Technology Policy shall jointly sponsor not less than two workshops on the coordination of Federal Government research on the use of behavioral, psychological, and physiological assessments of individuals in the conduct of security evaluations.

(b) Deadline for Completion of Activities.—The activities of the workshops sponsored under subsection (a) shall be completed not later than March 1, 2004.

(c) Purposes.—The purposes of the workshops sponsored under subsection (a) are as follows:

(1) To provide a forum for cataloging and coordinating Federally-funded research activities relating to the development of new techniques in the behavioral, psychological, or physiological assessment of individuals to be used in security evaluations.

(2) To develop a research agenda for the Federal Government on behavioral, psychological, and physiological assessments of individuals, including an identification of the research most likely to advance the understanding of the use of such assessments of individuals in security evaluations.

(3) To distinguish between short-term and long-term areas of research on behavioral, psychological, and physiological assessments of individuals in order maximize the utility of short-term and long-term research on such assessments.

(4) To identify the Federal agencies best suited to support research on behavioral, psychological, and physiological assessments of individuals.

(5) To develop recommendations for coordinating future Federally-funded research for the development, improvement, or enhancement of security evaluations.

(d) Advisory Group.—(1) In order to assist the National Science Foundation and the Office of Science and Technology Policy in carrying out the activities of the workshops sponsored under subsection (a), there is hereby established an interagency advisory group with respect to such workshops.

(2) The advisory group shall be composed of the following:

(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation.

(B) A representative of the Office of Science, and Technology Policy.

(C) The Secretary of Defense, or a designee of the Secretary.

(D) The Secretary of State, or a designee of the Secretary.

(E) The Attorney General, or a designee of the Attorney General.

(F) The Secretary of Energy, or a designee of the Secretary.

(G) The Secretary of Homeland Security, or a designee of the Secretary.

(H) The Director of Central Intelligence, or a designee of the Director.

(I) The Director of the Federal Bureau of Investigation, or a designee of the Director.

(J) The National Counterintelligence Executive, or a designee of the National Counterintelligence Executive.

(K) Any other official assigned to the advisory group by the President for purposes of this section.

(3) The members of the advisory group under subparagraphs (A) and (B) of paragraph (2) shall jointly head the advisory group.

(4) The advisory group shall provide the Foundation and the Office such information, advice, and assistance with respect to the workshops sponsored under subsection (a) as the advisory group considers appropriate.

(5) The advisory group shall not be treated as an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Report.—Not later than March 1, 2004, the National Science Foundation and the Office of Science and Technology Policy shall jointly submit Congress a report on the results of activities of the workshops sponsored under subsection (a), including the findings and recommendations of the Foundation and the Office as a result of such activities.

(f) Funding.—(1) Of the amount authorized to be appropriated for the Intelligence Community Management Account by section 104(a), $500,000 shall be available to the National Science Foundation and the Office of Science and Technology Policy to carry out this section.

(2) The amount authorized to be appropriated by paragraph (1) shall remain available until expended.

SEC. 356. TECHNICAL AMENDMENTS.

(a) National Security Act of 1947.—Subsection (c)(1) of section 112 of the National Security Act of 1947, as redesignated by section 339(b) of this Act, is further amended by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

(b) Central Intelligence Agency Act of 1949.—(1) Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))”.

(2) Section 15 of that Act (50 U.S.C. 403o) is amended—

(A) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318),” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

(B) in subsection (b), by striking “the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c)” and inserting “section 1315(c)(2) of title 40, United States Code”.

(c) National Security Agency Act of 1959.—Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318)” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

(2) in subsection (b), by striking “the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c)” and inserting “section 1315(c)(2) of title 40, United States Code”.

(d) Intelligence Authorization Act for Fiscal Year 2003.—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2399; 50 U.S.C. 404n–2) is amended—

(1) in subsection (c), by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))”; and

(2) in subsection (e)(2), by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

(e) Public Law 107–173.—Section 201(c)(3)(F) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 116 Stat. 548; 8 U.S.C. 1721(c)(3)(F)) is amended by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))”.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. AMENDMENT TO CERTAIN CENTRAL INTELLIGENCE AGENCY ACT OF 1949 NOTIFICATION REQUIREMENTS.

Section 4(b)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e(b)(5)) is amended inserting “, other than regulations under paragraph (1),” after “Regulations”.

SEC. 402. PROTECTION OF CERTAIN CENTRAL INTELLIGENCE AGENCY PERSONNEL FROM TORT LIABILITY.

Section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o) is amended by adding at the end the following new subsection:

“(d)(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a), or designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

“(A) protect an individual in the presence of such Agency personnel from a crime of violence;

“(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

“(C) prevent the escape of any individual whom such Agency personnel reasonably believe to have committed a crime of violence in the presence of such Agency personnel.

“(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

“(3) In this subsection, the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code.”.

SEC. 403. REPEAL OF OBSOLETE LIMITATION ON USE OF FUNDS IN CENTRAL SERVICES WORKING CAPITAL FUND.

Section 21(f)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u(f)(2)) is amended—

(1) in subparagraph (A), by striking “(A) Subject to subparagraph (B), the Director” and inserting “The Director”; and

(2) by striking subparagraph (B).

SEC. 404. TECHNICAL AMENDMENT TO FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.

Section 3535(b)(1) of title 44, United States Code, as added by section 1001(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296), and section 3545(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E-Government Act of 2002 (Public Law 107–347), are each amended by inserting “or any other law” after “1978”.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

[SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

[(a) Consolidation of Current Provisions on Protection of Operational Files.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

[(b) Protection of Operational Files of NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

[“OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

[“Sec. 705. (a) Exemption of Certain Operational Files From Search, Review, Publication, or Disclosure.—(1) The Director of the National Security Agency, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

[“(2)(A) Subject to subparagraph (B), in this section, the term ‘operational files’ means files of the National Security Agency (hereafter in this section referred to as ‘NSA’) which document the means by which foreign intelligence or counterintelligence is collected through technical systems.

["(B) Files which are the sole repository of disseminated intelligence are not operational files.

["(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

["(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

["(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

["(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

["(i) The Permanent Select Committee on Intelligence of the House of Representatives.

["(ii) The Select Committee on Intelligence of the Senate.

["(iii) The Intelligence Oversight Board.

["(iv) The Department of Justice.

["(v) The Office of General Counsel of NSA.

["(vi) The Office of the Director of NSA.

["(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

["(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

["(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

["(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

["(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

["(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

["(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

["(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

["(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

["(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

["(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

["(II) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

["(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

["(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

["(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

["(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

["(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

["(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

["(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

["(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

["(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

[(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking "For purposes of this title" and inserting "In this section and section 702,".

[(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking "enactment of this title" and inserting "October 15, 1984,".

[(3)(A) The title heading for title VII of such Act is amended to read as follows:

["TITLE VII—PROTECTION OF OPERATIONAL FILES".

[(B) The section heading for section 701 of such Act is amended to read as follows:

["PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY".

[(C) The section heading for section 702 of such Act is amended to read as follows:

["DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES.".

[(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

[(1) by striking the items relating to sections 105C and 105D; and

[(2) by striking the items relating to title VII and inserting the following new items:

["TITLE VII—PROTECTION OF OPERATIONAL FILES

["Sec. 701. Protection of operational files of the Central Intelligence Agency.
["Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.
["Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.
["Sec. 704. Protection of operational files of the National Reconnaissance Office.
["Sec. 705. Protection of operational files of the National Security Agency.".]

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

"SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(2)(A) In this section, the term 'operational files' means—

"(i) files of the Signals Intelligence Directorate, and its successor organizations, which

document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

"(ii) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

"(B) Files which are the sole repository of disseminated intelligence, and files that have been accessioned into NSA Archives, or its successor organizations, are not operational files.

"(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

"(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

"(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

"(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

"(i) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(ii) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(iii) The Intelligence Oversight Board.

"(iv) The Department of Justice.

"(v) The Office of General Counsel of NSA.

"(vi) The Office of the Inspector General of the Department of Defense.

"(vii) The Office of the Director of NSA.

"(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

"(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

"(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

"(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

"(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

"(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

"(II) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

"(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

"(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

"(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking "For purposes of this title" and inserting "In this section and section 702,".

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking "enactment of this title" and inserting "October 15, 1984,".

(3)(A) The title heading for title VII of such Act is amended to read as follows:

"TITLE VII—PROTECTION OF OPERATIONAL FILES".

(B) The section heading for section 701 of such Act is amended to read as follows:

"PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY".

(C) The section heading for section 702 of such Act is amended to read as follows:

"DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES".

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

"TITLE VII—PROTECTION OF OPERATIONAL FILES

"Sec. 701. Protection of operational files of the Central Intelligence Agency.
"Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.
"Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.
"Sec. 704. Protection of operational files of the National Reconnaissance Office.
"Sec. 705. Protection of operational files of the National Security Agency.".

[SEC. 502. PROVISION OF AFFORDABLE LIVING QUARTERS FOR CERTAIN STUDENTS WORKING AT NATIONAL SECURITY AGENCY LABORATORY.

[Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

["(d)(1) The Director of the National Security Agency may provide affordable living quarters to a student in the Student Educational Employment Program or similar program (as prescribed by the Office of Personnel Management) while the student is employed at the laboratory of the Agency.

["(2) Notwithstanding section 5911(c) of title 5, living quarters may be provided under paragraph (1) without charge, or at rates or charges specified in regulations prescribed by the Director.".]

SEC. [503] *502*. PROTECTION OF CERTAIN NATIONAL SECURITY AGENCY PERSONNEL FROM TORT LIABILITY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

"(A) protect an individual in the presence of such agency personnel from a crime of violence;

"(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

"(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence in the presence of such agency personnel.

"(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

"(3) In this subsection, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code.".

[SEC. 504. AUTHORITY FOR INTELLIGENCE COMMUNITY ELEMENTS OF DEPARTMENT OF DEFENSE TO AWARD PERSONAL SERVICE CONTRACTS.

[(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated or otherwise made available to a covered component of the Department of Defense may be expended for personal service contracts necessary to carry out the mission of the covered component, including personal services without regard to limitations on types of persons to be employed.

[(b) COVERED COMPONENT OF THE DEPARTMENT OF DEFENSE DEFINED.—In this section, the term "covered component of the Department of Defense" means any element of the Department of Defense that is a component of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1934 (50 U.S.C. 401a(4)).]

Mr. ROBERTS. Mr. President, I am pleased to appear before my colleagues to support early Senate passage of the fiscal year 2004 intelligence authorization bill. This is a good bill, crafted within the unique bipartisan process used for over a quarter century by the Senate Intelligence Committee.

No bipartisan effort can be effective without good personal cooperation. I have received such cooperation from my friend and colleague, the distinguished Vice Chairman, Senator ROCKEFELLER. It is a privilege to be working with him on these important national security issues.

This bill will serve our Nation's security interests during a time of troubling international conflict. I would like to review a few of the bill's significant provisions and some of the difficult budget choices which the Intelligence Committee made.

The version of our bill which Senators are considering reflects changes which the Armed Services Committee made to the bill on sequential referral. The Intelligence Committee and Armed Services Committee reconciled differences in the bills amicably and professionally, with the equities of both committees in mind.

The unclassified fiscal year 2004 intelligence bill contains reasonable new management and national security authorities for the intelligence community.

For example, section 311 will give the intelligence community additional flexibility to act quickly to meet higher priority needs by eliminating the "unforeseen requirements" criterion for reprogrammings.

Section 312 of the bill accounts for increased construction costs by raising (but not eliminating) the thresholds for notification to Congress on certain intelligence community construction and renovation projects and by shortening or removing the waiting period for beginning urgent or emergency projects.

Section 315 would set up a program to cultivate and encourage college students to become intelligence analysts. Good analysts do not grow on trees. As the intelligence community fights the war on terrorism, good language and area specialists are more important than ever.

The bill also creates a series of "one-time" reporting requirements in critical areas. Many of these reports will form the basis for committee efforts to address the concerns outlined in the report of the joint inquiry into the attacks of September 11. For example, we require reports on the following topics: The threat that "cleared insiders" like Robert Hanssen pose to classified computer networks; the adequacy and future direction of U.S. Government security investigations and clearance procedures; the creation of a "community of intelligence experts" by transferring civilian intelligence personnel among all elements of the intelligence community; the modifications to law and policy necessary to facilitate intelligence sharing; the strategic planning by the Director of Central Intelligence and Secretary of Defense with respect to the intelligence community; and the growing dependence by the United States on computer hardware and software manufactured overseas.

Two of the reporting requirements deal with Iraq.

Section 337 requires a report to the Congress on Intelligence lessons learned in Iraq—similar to a provision in the current House intelligence bill. Section 338 of the bill requires a report on the conventional arms and ammunition acquired by Saddam Hussein in violation of U.N. sanctions. Given the subject matter, these reports will also be made available to the Senate Foreign Relations and House International Relations Committees.

Section 339 reduces burdens on the intelligence community and reconciles oversight priorities by repealing a number of recurring reporting requirements relating to intelligence activities. Reviewing reporting requirements and clearing out the cobwebs is a healty exercise for any committee.

In title IV of the bill, there are notable "CIA-specific" provisions.

Section 401 removes the "prior notification" requirement for a limited category of CIA "quality of life" benefits that have already been authorized by law for members of the Foreign Service. It does not disturb advance notification requirements for agency-unique benefits adopted under the CIA Act.

Section 402 affords tort immunity benefits to CIA security protective officers (SPOs) and protective detail personnel designated by the DCI to protect certain agency employees, defectors, their immediate families, and other persons in the U.S. under CIA auspices. The provision would afford to SPOs and protective details the same protection against liability for assault, battery, false arrest, negligence, and other common law torts that certain law enforcement and Diplomatic Security Service officers enjoy already.

Section 404 of our bill is a technical amendment to the recently passed Federal Information Security Management Act (FISMA) of 2002. The FISMA amendment permits inspector generals authorized by laws other than the Inspector General Act, such as the CIA inspector general, to perform security evaluations on information systems at their respective agencies.

Title V of the bill contains provisions related to intelligence community elements residing in DOD.

Section 501 of the bill would exempt certain National Security Agency operational files from disclosure under the Freedom of Information Act and is identical to the provision recently approved by the Senate in the Defense Authorization bill.

Section 503 allows designated NSA security officers to carry firearms while on official duty to protect NSA employees and property in the U.S. This provision would provide virtually identical protections to those in Section 402 for CIA security protective officers.

Turning to the budget, when we began to review the President's fiscal year 2004 request, I became very concerned at the recent growth in intelligence funding.

There is clearly not enough money in future years to fully fund the intelligence programs in this year's budget request. That is the sad reality of this budget. The intelligence community is stretched thin, with far more requirements than available funds. Too many projects and activities have been started that cannot be accommodated in the top line. It does not matter what caused this problem. The problem exists.

A significant issue that must be addressed by the executive branch is the manner in which cost estimates for the procurement of major intelligence community systems are conducted. The magnitude and consistency in the cost growth on recent acquisitions indicates a systemic intelligence community bias to underestimate the cost of major systems.

This "perceived affordability" creates difficulties in the out hears as the National Foreign Intelligence Program becomes burdened with content that is more costly than the budgeted funding. This underestimation of future costs has resulted in significant reshuffling of the NFIP to meet emerging shortfalls.

Unless there is a dramatic and sustained increase in the intelligence budget, we face some hard choices. My colleagues and I decided that there is no time like the present to make them. In the reported bill, we have made an effort to address some of the shortfalls that came to light as a result of the joint inquiry into the September 11 attacks. In this bill, the committee tries to emphasize programs which begin to correct those deficiencies.

We also sought to support the war on terrorism by supporting related intelligence community programs. We try, in this measure, to accelerate advanced technology programs to provide better intelligence in the future. In the managers' amendment, we would statutorily mandate a fundamentally more sound approach to cost estimates for major systems.

In short, the committee made some tough choices. It is our hope that some of the additional programs we were forced to cut can be funded through alternative means.

In closing, we have vetted and prepared a managers' amendment that reflects a number of additional items which Senator ROCKEFELLER and I recommend for Senate passage in this bill. we have included some highly technical corrections to the bill and have worked to address concerns expressed by some Members regarding the committee's attempt to relieve the intelligence community from burdensome and dated reporting requirements.

We have also added several substantive provisions, based on supporting materials supplied by the administration and further investigation by the committee staff. Our amendments would: create a one-time report to examine the analytic arm of the Department of Homeland Security and the interaction between the Department and the Terrorist Threat Integration Center (TTIC); require the preparation and submission of independent cost estimates to accompany budget requests for major systems acquisitions over $500,000,000, and require the preparation of budgets consistent with these estimates; help prevent money laundering by ensuring ex parte and in camera review by the presiding judge of classified information used to identify jurisdictions, institutions, transactions, and accounts that are of primary money laundering concern; and permit Central Intelligence Agency employees in the compensation reform pilot program to contribute bonus pay to their Thrift Savings Plan—an added incentive for exceptional performers.

The committee staff and I will provide any member additional information concerning any of the provisions or programs in the intelligence bill. Again, I urge my colleagues to support the bill.

Mr. ROCKEFELLER. Mr. President, I am pleased to join the distinguished chairman of the Select Committee on Intelligence in presenting S. 1025, the proposed Intelligence Authorization Act for fiscal year 2004, which will begin on October 1, 2003. I would like to join the chairman in noting the bipartisan manner in which the committee approaches its legislative work, and congratulate him for his leadership in maintaining that tradition.

The bill has two main functions.

First, the bill authorizes the appropriation of funds for the intelligence and intelligence-related activities of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the FBI, and other intelligence elements of the U.S. Government. For the first time, the intelligence component of the Department of Homeland Security is included in the annual intelligence authorization. The actual appropriation of funds, of course, must be made in separate appropriation legislation that will follow, within the parameters set by this authorization legislation.

Second, the bill establishes or amends legal authority for the intelligence community or directs the preparation of reports by the Director of Central Intelligence or heads of components of the intelligence community.

The classified nature of United States intelligence activities prevents us from disclosing publicly the details of our budgetary recommendations. Accordingly, nearly all our budgetary recommendations are in a classified annex. The annex is available to all Members of the Senate, either at the Intelligence Committee or S–407 in the Capitol.

Ten years ago this November, I joined a majority of Senate colleagues in voting to express the sense of Congress that the aggregate amount requested, authorized, and spent for intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner. The House opposed the provision.

I continue to believe we should find a means, consistent with national security, of sharing with the American taxpayer information about the total amount, although not the details, of our intelligence spending. One reason is illustrated by this year's intelligence authorization report in the House. The House committee found that the U.S. intelligence community has been recovering from cutbacks in budgets, personnel, and capabilities that followed the cold war. But how can the American people know, in a timely way, not years later, when there are cutbacks? How can they make their opinions known unless the President and Congress give them basic information on the overall size of the intelligence budget? Further, in holding the intelligence community accountable for performance, citizens should know the Nation's overall investment in intelligence.

We are on the threshold of important decisions about the future of the U.S. intelligence community. Last week's 911 report of the congressional intelligence committees has shed additional light on major problems of U.S. intelligence before the terrorist attacks of September 11. As it works toward its final report next year, the independent National Commission on Terrorist Attacks Upon the United States, building on the foundation laid by the joint inquiry, will be adding information and insights. And the Senate and House Intelligence Committees each are in the midst of extensive examinations of U.S. intelligence on Iraq.

It is fair to say, I believe, that rarely before have we had as much information about the performance of U.S. intelligence. With that knowledge comes a responsibility, for the intelligence committees, Congress as a whole, the intelligence community, and the President, to complete the improvements that the facts show are required. But we do not have the luxury to wait for further reports to begin reforms. Al-Qaida and other terrorist organizations cannot be expected to take a holiday while additional studies are done, and so we must take critical initial steps now.

The need for improving information sharing and the need for enhancing intelligence community analyses were high among the recommendations of the joint 911 inquiry.

Last November, the Congress took a key step in improving information sharing in establishing, in the Department of Homeland Security, a Directorate for Information Analysis and Infrastructure Protection. Last month, on the favorable recommendation of our committee, the Senate confirmed retired Marine Corps General Frank Libutti to be Under Secretary in charge of that Directorate. As set forth in the Homeland Security Act, he is to have access to law enforcement, intelligence information, and other information from Federal, State, and local agencies, and is to integrate that information to identify terrorist threats to the U.S. homeland. The President took a further and somewhat different step in integrating threat information, in ordering this past January the establishment of a Terrorist Threat Integration Center under the Director of Central Intelligence.

The successful integration of terrorism threat information—including ensuring that terrorism threat matters do not fall between a crack between the Homeland Security Directorate established by Congress and the Center established by the President, is a great organizational challenge facing the intelligence community this year. Our managers' amendment calls for a comprehensive report on the operations of the Homeland Security Directorate and the Terrorist Threat Integration Center. The Congress should use that information as a basis for vigorous oversight and further legislation if needed.

Our need to integrate information is not limited to terrorism threats. It extends across the spectrum of U.S. intelligence. To that end, section 314 directs the Director of Central Intelligence to carry out a pilot program on the advisability of permitting intelligence analysis of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community. Our bill requires that the program include National Security Agency signals intelligence, but also authorizes the Director of Central Intelligence to extend it to other intelligence units. The program is to enhance the intelligence community's capacity for "all source fusion" analysis in support of its functions. The Director of Central Intelligence and the Secretary of Defense are to assess the pilot program and report to Congress.

Another provision, section 334, will start a process for Presidential review, and then congressional consideration, of policies and regulations that may impede sharing, for national and homeland security purposes, of classified information among Federal agencies, and between them and State and local governments or the private sector.

To increase the number of trained intelligence analysis, section 315 directs the Director of Central Intelligence to carry out and report to Congress on a pilot program on the feasibility and advisability of preparing selected students, through a program similar to the Department of Defense's Reserve Officers' Training Corps, for employment as intelligence analysts.

Greater integration in the intelligence community is an imperative that goes beyond information sharing and analysis. Another long-term objective of the bill, set forth in section 335, is to improve coordination between the Department of Defense and the intelligence community concerning strategic and budgetary planning. With the growing importance of intelligence to military operations, the Department of Defense should recognize the contribution the Director of Central Intelligence can make in the development of national military strategy.

Three sections of our bill address important information security and counterintelligence issues.

Section 331 addresses the danger posed by disloyal cleared insiders who have access to vulnerable computers and computer systems, as exemplified in the Brian Regan and Robert Hanssen espionage cases. The bill directs the submission of a report by the Director of Central Intelligence and the Secretary of Defense which describes in detail what steps are being taken to eliminate these threats, including any budget requirements to address shortfalls.

Section 332 calls for a report on security clearance procedures in the Federal Government. Our report notes that most publicly known instances of foreign espionage in the United States have involved persons who legitimately obtained clearances before deciding to betray our country. The committee has identified as a subject for assessment, the relative risks of disloyalty before clearance and after clearance. We need to learn from the experience of past betrayals. Accordingly, the committee is asking that a joint report of the Director of Central Intelligence and Secretary of Defense recommend how background investigations might in the future be better targeted to historically verifiable counterintelligence vulnerabilities.

Section 336 addressed a further security vulnerability, namely, the extent of the dependence of the United States on computer hardware or software manufactured overseas. Our report notes that most leading suppliers of hardware and software to the United States are countries that the FBI indicates are engaged in economic espionage against us. Section 336 would direct the Director of Central Intelligence to submit a report to assist Congress in developing policies that address this new vulnerability.

Finally, I would like to make an observation about our committee's future work on intelligence legislation. There are important issues identified by the joint 9/11 inquiry, including fundamental ones about the leadership of the intelligence community, that must be on our agenda for future action.

The joint inquiry recommended that Congress establish a Director of National Intelligence who, in addition to being the President's principal adviser on intelligence, shall have the management, budgetary, and personnel powers needed to make the entire U.S. intelligence community operate as a coherent whole. The joint inquiry recommended that in order to ensure this leadership, Congress should require that no person may simultaneously serve as both the Director of National Intelligence and as CIA Director or as the director of any other specific intelligence agency. Earlier this year, a member of our committee, Senator FEINSTEIN, introduced legislation on that subject. And Senator GRAHAM has now introduced legislation, which I am privileged to cosponsor, that includes Senator FEINSTEIN's bill as part of a comprehensive measure to implement the recommendations of the joint inquiry.

Our Committee's present bill is a good downpayment on the reforms that we should be considering in the time ahead. I urge both the passage of the intelligence authorization bill as well as renewal of our commitment to work together on the continuing task of improving our intelligence community.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Armed Services Committee amendments be agreed to and considered as original text for the purpose of further amendment; that the managers' amendment be agreed to; that the bill, as amended, be read a third time; that the Senate then proceed to Calendar No. 184, H.R. 2417, the House companion, that all after the enacting clause be stricken and the text of S. 1025, as amended, be inserted; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

In addition, I ask unanimous consent that the Senate insist upon its amendments and request a conference with the House.

I ask unanimous consent that the Chair be authorized to appoint conferees from the Intelligence Committee; further, that the Chair appoint conferees from the Armed Services Committee in the ratio of 1 to 1 for matters that fall within their jurisdiction.

Further, I ask consent that S. 1025 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendment (No. 1538) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 1025), as amended, was read the third time.

The bill (H.R. 2417), as amended, was read the third time and passed, as follows:

H.R. 2417

Resolved, That the bill from the House of Representatives (H.R. 2417) entitled "An Act to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.
Sec. 105. Incorporation of reporting requirements.
Sec. 106. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.

Subtitle B—Intelligence

Sec. 311. Modification of authority to obligate and expend certain funds for intelligence activities.
Sec. 312. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.
Sec. 313. Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community.
Sec. 314. Pilot program on training for intelligence analysts.
Sec. 315. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
Sec. 316. Budget treatment of costs of acquisition of major systems by the intelligence community.

Subtitle C—Surveillance

Sec. 321. Clarification and modification of sunset of surveillance-related amendments made by USA PATRIOT ACT of 2001.

Subtitle D—Reports

Sec. 331. Report on cleared insider threat to classified computer networks.
Sec. 332. Report on security background investigations and security clearance procedures of the Federal Government.
Sec. 333. Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.
Sec. 334. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.
Sec. 335. Report of Secretary of Defense and Director of Central Intelligence on strategic planning.
Sec. 336. Report on United States dependence on computer hardware and software manufactured overseas.
Sec. 337. Report on lessons learned from military operations in Iraq.
Sec. 338. Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions.
Sec. 339. Repeal of certain report requirements relating to intelligence activities.
Sec. 340 Report on operations of Directorate of Information Analysis and Infrastructure Protection and Terrorist Threat Integration Center.

Subtitle E—Other Matters

Sec. 351. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.
Sec. 352. Modifications of authorities on explosive materials.
Sec. 353. Modification of prohibition on the naturalization of certain persons.
Sec. 354. Modification to definition of financial institution in the Right to Financial Privacy Act.
Sec. 355. Coordination of Federal Government research on security evaluations.
Sec. 356. Technical amendments.
Sec. 357. Treatment of classified information in money laundering cases.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Amendment to certain Central Intelligence Agency Act of 1949 notification requirements.
Sec. 402. Protection of certain Central Intelligence Agency personnel from tort liability.
Sec. 403. Repeal of obsolete limitation on use of funds in Central Services Working Capital Fund.
Sec. 404. Technical amendment to Federal Information Security Management Act of 2002.
Sec. 405. Contribution by Central Intelligence Agency employees of certain bonus pay to Thrift Savings Plan accounts.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

Sec. 501. Protection of operational files of the National Security Agency.
Sec. 502. Protection of certain National Security Agency personnel from tort liability.
Sec. 503. Use of funds for counterdrug and counterterrorism activities for Colombia.
Sec. 504. Scene visualization technologies.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

(13) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) Specifications of Amounts and Personnel Ceilings.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill of the One Hundred Eighth Congress.

(b) Availability of Classified Schedule of Authorizations.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) Authority for Adjustments.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2004 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) Notice to Intelligence Committees.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) Authorization of Appropriations.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 the sum of $198,390,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2005.

(b) Authorized Personnel Levels.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 310 full-time personnel as of September 30, 2004. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) Classified Authorizations.—

(1) Authorization of Appropriations.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2005.

(2) Authorization of Personnel.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2004, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) Reimbursement.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2004 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) National Drug Intelligence Center.—

(1) In General.—Of the amount authorized to be appropriated in subsection (a), $37,090,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2005, and funds provided for procurement purposes shall remain available until September 30, 2006.

(2) Transfer of Funds.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) Limitation.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) Authority.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.

(a) In General.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill of the One Hundred Eighth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) Congressional Intelligence Committees Defined.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 106. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.

(a) Consultation in Preparation.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) Submittal.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2004 the sum of $226,400,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

Subtitle B—Intelligence

SEC. 311. MODIFICATION OF AUTHORITY TO OBLIGATE AND EXPEND CERTAIN FUNDS FOR INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 312. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT OR IMPROVE INTELLIGENCE COMMUNITY FACILITIES.

(a) Increase of Thresholds for Notice.—Subsection (a) of section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat. 3432; 50 U.S.C. 403–2b(a)) is amended—

(1) by striking "$750,000" each place it appears and inserting "$5,000,000"; and

(2) by striking "$500,000" each place it appears and inserting "$1,000,000".

(b) Notice and Wait Requirements for Emergency Projects.—Subsection (b)(2) of that section is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting "(A)" after "(2) Report.—";

(3) by striking "21-day period" and inserting "7-day period"; and

(4) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the date the notification is received by the appropriate committees of Congress under that paragraph if the Director of Central Intelligence and the Secretary of Defense jointly determine that—

"(i) an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and

"(ii) any delay in the commencement of the project would harm any or all of those interests.".

SEC. 313. PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) In General.—The Director of Central Intelligence shall, in coordination with the Secretary of Defense, carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

(b) Covered Intelligence.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

(1) Signals intelligence of the National Security Agency.

(2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.

(c) Objectives.—The objectives set forth in this subsection are as follows:

(1) To enhance the capacity of the intelligence community to undertake so-called "all source fusion" analysis in support of the intelligence and intelligence-related missions of the intelligence community.

(2) To reduce, to the extent practicable, the amount of intelligence collected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.

(3) To reduce the burdens imposed on analytical personnel of the elements of the intelligence community by current practices regarding the sharing of intelligence among elements of the intelligence community.

(d) Commencement.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.

(e) Various Mechanisms Required.—In carrying out the pilot program under subsection (a), the Director shall develop and utilize various mechanisms to facilitate the access to, and the analysis of, intelligence in the databases of the intelligence community by intelligence analysts of other elements of the intelligence community, including the use of so-called "detailees in place".

(f) Security.—(1) In carrying out the pilot program under subsection (a), the Director shall take appropriate actions to protect against the disclosure and unauthorized use of intelligence in the databases of the elements of the intelligence community which may endanger sources and methods which (as determined by the Director) warrant protection.

(2) The actions taken under paragraph (1) shall include the provision of training on the accessing and handling of information in the databases of various elements of the intelligence community and the establishment of limitations on access to information in such databases to United States persons.

(g) Assessment.—Not later than February 1, 2004, after the commencement under subsection (d) of the pilot program under subsection (a), the Under Secretary of Defense for Intelligence and the Assistant Director of Central Intelligence for Analysis and Production shall jointly carry out an assessment of the progress of the pilot program in meeting the objectives set forth in subsection (c).

(h) Report.—(1) The Director of Central Intelligence shall, in coordination with the Secretary of Defense, submit to the appropriate committees of Congress a report on the assessment carried out under subsection (g).

(2) The report shall include—

(A) a description of the pilot program under subsection (a);

(B) the findings of the Under Secretary and Assistant Director as a result of the assessment;

(C) any recommendations regarding the pilot program that the Under Secretary and the Assistant Director jointly consider appropriate in light of the assessment; and

(D) any recommendations that the Director and Secretary consider appropriate for purposes of the report.

(i) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

SEC. 314. PILOT PROGRAM ON TRAINING FOR INTELLIGENCE ANALYSTS.

(a) PILOT PROGRAM REQUIRED.—(1) The Director of Central Intelligence shall carry out a pilot program to assess the feasibility and advisability of providing for the preparation of selected students for availability for employment as intelligence analysts for the intelligence and intelligence-related activities of the United States through a training program similar to the Reserve Officers' Training Corps programs of the Department of Defense.

(2) The pilot program shall be known as the Intelligence Community Analyst Training Program.

(b) ELEMENTS.—In carrying out the pilot program under subsection (a), the Director shall establish and maintain one or more cadres of students who—

(1) participate in such training as intelligence analysts as the Director considers appropriate; and

(2) upon completion of such training, are available for employment as intelligence analysts under such terms and conditions as the Director considers appropriate.

(c) DURATION.—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

(d) LIMITATION ON NUMBER OF MEMBERS DURING FISCAL YEAR 2004.—The total number of individuals participating in the pilot program under subsection (a) during fiscal year 2004 may not exceed 150 students.

(e) RESPONSIBILITY.—The Director shall carry out the pilot program under subsection (a) through the Assistant Director of Central Intelligence for Analysis and Production.

(f) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Director shall submit to Congress a preliminary report on the pilot program under subsection (a), including a description of the pilot program and the authorities to be utilized in carrying out the pilot program.

(2) Not later than one year after the commencement of the pilot program, the Director shall submit to Congress a report on the pilot program. The report shall include—

(A) a description of the activities under the pilot program, including the number of individuals who participated in the pilot program and the training provided such individuals under the pilot program;

(B) an assessment of the effectiveness of the pilot program in meeting the purpose of the pilot program; and

(C) any recommendations for additional legislative or administrative action that the Director considers appropriate in light of the pilot program.

(g) FUNDING.—Of the amounts authorized to be appropriated by this Act, $8,000,000 shall be available in fiscal year 2004 to carry out this section.

SEC. 315. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2442; 50 U.S.C. 401 note) is amended by striking "September 1, 2003," and inserting "September 1, 2004,".

SEC. 316. BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.

(b) BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506 the following new section:

"BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY

"SEC. 506A. (a) INDEPENDENT COST ESTIMATES.—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

"(2) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

"(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

"(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

"(4) The independent cost estimate for a major system shall be updated upon—

"(A) the completion of any preliminary design review associated with the major system;

"(B) any significant modification to the anticipated design of the major system; or

"(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

"(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

"(b) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the Office of the Deputy Director of Central Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is made under paragraph (2).

"(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10, United States Code.

"(c) UTILIZATION IN BUDGETS OF PRESIDENT.—If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

"(d) INCLUSION OF ESTIMATES IN BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'budget of the President' means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

"(2) The term 'independent cost estimate' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of a major system, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

"(3) The term 'major system' means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (in current fiscal year dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.".

(c) Clerical Amendment.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 506A. Budget treatment of costs of acquisition of major systems by the intelligence community.".

Subtitle C—Surveillance

SEC. 321. CLARIFICATION AND MODIFICATION OF SUNSET OF SURVEILLANCE-RELATED AMENDMENTS MADE BY USA PATRIOT ACT OF 2001.

(a) Clarification.—Section 224 of the USA PATRIOT ACT of 2001 (Public Law 107–56; 115 Stat. 295) is amended by adding at the end the following new subsection:

"(c) Effect of Sunset.—Effective on December 31, 2005, each provision of law the amendment of which is sunset by subsection (a) shall be revived so as to be in effect as such provision of law was in effect on October 25, 2001.".

(b) Modification.—Subsection (a) of that section is amended by inserting "204," after "203(c),".

Subtitle D—Reports

SEC. 331. REPORT ON CLEARED INSIDER THREAT TO CLASSIFIED COMPUTER NETWORKS.

(a) Report Required.—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the risks to the national security of the United States of the current computer security practices of the elements of the intelligence community and of the Department of Defense.

(b) Assessments.—The report under subsection (a) shall include an assessment of the following:

(1) The vulnerability of the computers and computer systems of the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying comprehensive computer firewalls, accountability procedures, or other appropriate security controls.

(3) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(c) Information on Access to Networks.—The report under subsection (a) shall also include information as follows:

(1) An estimate of the number of access points on each classified computer or computer system of an element of the intelligence community or the Department of Defense that permit unsupervised uploading or downloading of classified information, set forth by level of classification.

(2) An estimate of the number of individuals utilizing such computers or computer systems who have access to input-output devices on such computers or computer systems.

(3) A description of the policies and procedures governing the security of the access points referred to in paragraph (1), and an assessment of the adequacy of such policies and procedures.

(4) An assessment of viability of utilizing other technologies (including so-called "thin client servers") to achieve enhanced security of such computers and computer systems through more rigorous control of access to such computers and computer systems.

(d) Recommendations.—The report under subsection (a) shall also include such recommendations for modifications or improvements of the current computer security practices of the elements of the intelligence community, and of the Department of Defense, as the Director and the Secretary jointly consider appropriate as a result of the assessments under subsection (b) and the information under subsection (c).

(e) Submittal Date.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(f) Form.—The report under subsection (a) may be submitted in classified or unclassified form, at the election of the Director.

(g) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

(2) The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 332. REPORT ON SECURITY BACKGROUND INVESTIGATIONS AND SECURITY CLEARANCE PROCEDURES OF THE FEDERAL GOVERNMENT.

(a) Report Required.—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the utility and effectiveness of the current security background investigations and security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(b) Particular Report Matters.—In preparing the report, the Director and the Secretary shall address in particular the following:

(1) A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting full field background investigations.

(2) The standards governing the revocation of security clearances.

(c) Recommendations.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government as the Director and the Secretary jointly consider appropriate as a result of the preparation of the report under that subsection.

(d) Submittal Date.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(e) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

SEC. 333. REPORT ON DETAIL OF CIVILIAN INTELLIGENCE PERSONNEL AMONG ELEMENTS OF THE INTELLIGENCE COMMUNITY AND THE DEPARTMENT OF DEFENSE.

(a) Report Required.—The Director of Central Intelligence shall, in consultation with the heads of the elements of the intelligence community, submit to the appropriate committees of Congress a report on means of improving the detail or transfer of civilian intelligence personnel between and among the various elements of the intelligence community for the purpose of enhancing the flexibility and effectiveness of the intelligence community in responding to changes in requirements for the collection, analysis, and dissemination of intelligence.

(b) Report Elements.—The report under subsection (a) shall—

(1) set forth a variety of proposals on means of improving the detail or transfer of civilian intelligence personnel as described in that subsection;

(2) identify the proposal or proposals determined by the heads of the elements of the intelligence community to be most likely to meet the purpose described in that subsection; and

(3) include such recommendations for such legislative or administrative action as the heads of the elements of the intelligence community consider appropriate to implement the proposal or proposals identified under paragraph (2).

(c) Submittal Date.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(d) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

(2) The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "heads of the elements of the intelligence community" includes the Secretary of Defense with respect to each element of the intelligence community within the Department of Defense or the military departments.

SEC. 334. REPORT ON MODIFICATIONS OF POLICY AND LAW ON CLASSIFIED INFORMATION TO FACILITATE SHARING OF INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) Report.—Not later than four months after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report that—

(1) identifies impediments in current policy and regulations to the sharing of classified information horizontally across and among Federal departments and agencies, and between Federal departments and agencies and vertically to and from agencies of State and local governments and the private sector, for national security purposes, including homeland security;

(2) proposes appropriate modifications of policy, law, and regulations to eliminate such impediments in order to facilitate such sharing of classified information for homeland security purposes, including homeland security; and

(3) outlines a plan of action (including appropriate milestones and funding) to establish the Terrorist Threat Integration Center as called for in the Information on the State of the Union given by the President to Congress under section 3 of Article II of the Constitution of the United States in 2003.

(b) Considerations.—In preparing the report under subsection (a), the President shall—

(1) consider the extent to which the reliance on a document-based approach to the protection of classified information impedes the sharing of classified information; and

(2) consider the extent to which the utilization of a database-based approach, or other electronic approach, to the protection of classified information might facilitate the sharing of classified information.

(c) Coordination With Other Information Sharing Activities.—In preparing the report under subsection (a), the President shall, to the maximum extent practicable, take into account actions being undertaken under the Homeland

Security Information Sharing Act (subtitle I of title VIII of Public Law 107–296; 116 Stat. 2252; 6 U.S.C. 481 et seq.).

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on Armed Services and the Judiciary of the House of Representatives.

SEC. 335. REPORT OF SECRETARY OF DEFENSE AND DIRECTOR OF CENTRAL INTELLIGENCE ON STRATEGIC PLANNING.

(a) REPORT.—Not later than February 15, 2004, the Secretary of Defense and the Director of Central Intelligence shall jointly submit to the appropriate committees of Congress a report that assesses progress in the following:

(1) The development by the Department of Defense and the intelligence community of a comprehensive and uniform analytical capability to assess the utility and advisability of various sensor and platform architectures and capabilities for the collection of intelligence.

(2) The improvement of coordination between the Department and the intelligence community on strategic and budgetary planning.

(b) FORM.—The report under subsection (a) may be submitted in classified form.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 336. REPORT ON UNITED STATES DEPENDENCE ON COMPUTER HARDWARE AND SOFTWARE MANUFACTURED OVERSEAS.

(a) REPORT.—Not later than February 15, 2004, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the extent of United States dependence on computer hardware or software that is manufactured overseas.

(b) ELEMENTS.—The report under subsection (a) shall address the following:

(1) The extent to which the United States currently depends on computer hardware or software that is manufactured overseas.

(2) The extent to which United States dependence on such computer hardware or software is increasing.

(3) The vulnerabilities of the national security and economy of the United States as a result of United States dependence on such computer hardware or software.

(4) Any other matters relating to United States dependence on such computer hardware or software that the Director considers appropriate.

(c) CONSULTATION WITH PRIVATE SECTOR.—In preparing the report under subsection (a), the Director may consult, and is encouraged to consult, with appropriate persons and entities in the computer hardware or software industry and with other appropriate persons and entities in the private sector.

(d) FORM.—(1) The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(2) The report may be in the form of a National Intelligence Estimate.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 337. REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom.

(b) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations on means of improving training, equipment, operations, coordination, and collection of or for intelligence as the Director considers appropriate.

(c) FORM.—The report under subsection (a) shall be submitted in classified form.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 338. REPORTS ON CONVENTIONAL WEAPONS AND AMMUNITION OBTAINED BY IRAQ IN VIOLATION OF CERTAIN UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.

(a) PRELIMINARY REPORT.—Not later than 120 days after the date of the cessation of hostilities in Iraq (as determined by the President), the Director of the Defense Intelligence Agency shall, after such consultation with the Secretary of State and the Attorney General as the Director considers appropriate, submit to the appropriate committees of Congress a preliminary report on all information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in August 1990.

(b) FINAL REPORT.—(1) Not later than 270 days after the date of the cessation of hostilities in Iraq (as so determined), the Director shall submit to the appropriate committees of Congress a final report on the information described in subsection (a).

(2) The final report under paragraph (1) shall include such updates of the preliminary report under subsection (a) as the Director considers appropriate.

(c) ELEMENTS.—Each report under this section shall set forth, to the extent practicable, with respect to each shipment of weapons or ammunition addressed in such report the following:

(1) The country of origin.

(2) Any country of transshipment.

(d) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.

SEC. 339. REPEAL OF CERTAIN REPORT REQUIREMENTS RELATING TO INTELLIGENCE ACTIVITIES.

(a) ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF INTELLIGENCE COMMUNITY.—Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended by striking subsection (d).

(b) PERIODIC AND SPECIAL REPORTS ON DISCLOSURE OF INTELLIGENCE INFORMATION TO UNITED NATIONS.—Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH COUNTERDRUG ACTIVITIES.—Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(d) ANNUAL REPORT ON COVERT LEASES.—Section 114 of the National Security Act of 1947, as amended by this section, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(e) ANNUAL REPORT ON PROTECTION OF COVERT AGENTS.—Section 603 of the National Security Act of 1947 (50 U.S.C. 423) is repealed.

(f) ANNUAL REPORT ON CERTAIN FOREIGN COMPANIES INVOLVED IN PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.—Section 827 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2430; 50 U.S.C. 404n–3) is repealed.

(g) ANNUAL REPORT ON INTELLIGENCE ACTIVITIES OF PEOPLE'S REPUBLIC OF CHINA.—Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note) is repealed.

(h) ANNUAL REPORT ON COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH FBI.—Section 811(c) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. 402a(c)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(i) REPORT ON POSTEMPLOYMENT ASSISTANCE FOR TERMINATED INTELLIGENCE EMPLOYEES.—Section 1611 of title 10, United States Code, is amended by striking subsection (e).

(j) ANNUAL REPORT ON ACTIVITIES OF FBI PERSONNEL OUTSIDE THE UNITED STATES.—Section 540C of title 18, United States Code, is repealed.

(k) ANNUAL REPORT ON EXCEPTIONS TO CONSUMER DISCLOSURE REQUIREMENTS FOR NATIONAL SECURITY INVESTIGATIONS.—Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(1) by striking subparagraphs (D) and (E); and

(2) by redesignating subparagraph (F) as subparagraph (D).

(l) CONFORMING AMENDMENTS.—Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A), (C), (D), (G), (I), (J), and (L); and

(ii) by redesignating subparagraphs (B), (E), (F), (H), (K), (M), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

(iii) in subparagraph (G), as so redesignated, by striking "section 114(c)" and inserting "section 114(b)".

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "section 114(b)" and inserting "section 114(a)";

(ii) in subparagraph (B), by striking "section 114(d)" and inserting "section 114(c)";

(iii) by striking subparagraphs (C), (E), and (F); and

(iv) by redesignating subparagraphs (D) and (G) as subparagraphs (C) and (D), respectively; and

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

(m) CLERICAL AMENDMENTS.—

(1) NATIONAL SECURITY ACT OF 1947.—The table of contents for the National Security Act of 1947 is amended by striking the item relating to section 603.

(2) TITLE 18, UNITED STATES CODE.—The table of sections at the beginning of chapter 33 of title 18, United States Code, is amended by striking the item relating to section 540C.

(n) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2003.

SEC. 340. REPORT ON OPERATIONS OF DIRECTORATE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION AND TERRORIST THREAT INTEGRATION CENTER.

(a) REPORT REQUIRED.—The Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the operations of the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security and the Terrorist Threat Integration Center. The report shall include the following:

(1) An assessment of the operations of the Directorate, including the capability of the Directorate—

(A) to meet personnel requirements, including requirements to employ qualified analysts, and the status of efforts to employ qualified analysts;

(B) to share intelligence information with the other elements of the intelligence community, including the sharing of intelligence information through secure information technology connections between the Directorate and the other elements of the intelligence community;

(C) to disseminate intelligence information, or analyses of intelligence information, to other departments and agencies of the Federal Government and, as appropriate, to State and local governments;

(D) to coordinate with State and local counterterrorism and law enforcement officials;

(E) to access information, including intelligence and law enforcement information, from the departments and agencies of the Federal Government, including the ability to access, in a timely and efficient manner, all information authorized by section 202 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 122); and

(F) to fulfill, given the current assets and capabilities of the Directorate, the responsibilities set forth in section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121);

(2) A delineation of the responsibilities and duties of the Directorate and of the responsibilities and duties of the Center.

(3) A delineation and summary of the areas in which the responsibilities and duties of the Directorate and the Center overlap.

(4) An assessment of whether the areas of overlap, if any, delineated under paragraph (3) represent an inefficient utilization of the limited resources of the Directorate and the intelligence community.

(5) Such information as the Secretary, in coordination with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, considers appropriate to explain the basis for the establishment and operation of the Center as a "joint venture" of participating agencies rather than as an element of the Directorate reporting directly to the Secretary through the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(b) SUBMITTAL DATE.—The report required by this section shall be submitted not later than May 1, 2004.

(c) FORM.—The report required by this section shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Governmental Affairs, the Judiciary, and Appropriations of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on the Judiciary and Appropriations of the House of Representatives.

Subtitle E—Other Matters

SEC. 351. EXTENSION OF SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note) is amended—

(1) in the heading, by striking "**TWO-YEAR**" before "**SUSPENSION OF REORGANIZATION**"; and

(2) in the text, by striking "ending on October 1, 2003" and inserting "ending on the date that is 60 days after the appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary's designee) and the Director of the Office of Management and Budget (or the Director's designee) that the operational framework for the office has been terminated".

SEC. 352. MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE MATERIALS.

(a) CLARIFICATION OF ALIENS AUTHORIZED TO DISTRIBUTE EXPLOSIVE MATERIALS.—Section 842(d)(7) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B)—

(A) by inserting "or" at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;".

(b) CLARIFICATION OF ALIENS AUTHORIZED TO POSSESS OR RECEIVE EXPLOSIVE MATERIALS.—Section 842(i)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B)—

(A) by inserting "or" at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;".

SEC. 353. MODIFICATION OF PROHIBITION ON THE NATURALIZATION OF CERTAIN PERSONS.

Section 313(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1424(e)(4)) is amended—

(1) by inserting "when Department of Defense activities are relevant to the determination" after "Secretary of Defense"; and

(2) by inserting "and the Secretary of Homeland Security" after "Attorney General".

SEC. 354. MODIFICATION TO DEFINITION OF FINANCIAL INSTITUTION IN THE RIGHT TO FINANCIAL PRIVACY ACT.

The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(1) (12 U.S.C. 3401(1)), by inserting ", except as provided in section 1114," before "means any office"; and

(2) in section 1114 (12 U.S.C. 3414), by adding at the end the following:

"(c) For purposes of this section, the term 'financial institution' has the same meaning as in section 5312(a)(2) of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the United States Virgin Islands.".

SEC. 355. COORDINATION OF FEDERAL GOVERNMENT RESEARCH ON SECURITY EVALUATIONS.

(a) WORKSHOPS FOR COORDINATION OF RESEARCH.—The National Science Foundation and the Office of Science and Technology Policy shall jointly sponsor not less than two workshops on the coordination of Federal Government research on the use of behavioral, psychological, and physiological assessments of individuals in the conduct of security evaluations.

(b) DEADLINE FOR COMPLETION OF ACTIVITIES.—The activities of the workshops sponsored under subsection (a) shall be completed not later than March 1, 2004.

(c) PURPOSES.—The purposes of the workshops sponsored under subsection (a) are as follows:

(1) To provide a forum for cataloging and coordinating federally-funded research activities relating to the development of new techniques in the behavioral, psychological, or physiological assessment of individuals to be used in security evaluations.

(2) To develop a research agenda for the Federal Government on behavioral, psychological, and physiological assessments of individuals, including an identification of the research most likely to advance the understanding of the use of such assessments of individuals in security evaluations.

(3) To distinguish between short-term and long-term areas of research on behavioral, psychological, and physiological assessments of individuals in order maximize the utility of short-term and long-term research on such assessments.

(4) To identify the Federal agencies best suited to support research on behavioral, psychological, and physiological assessments of individuals.

(5) To develop recommendations for coordinating future federally-funded research for the development, improvement, or enhancement of security evaluations.

(d) ADVISORY GROUP.—(1) In order to assist the National Science Foundation and the Office of Science and Technology Policy in carrying *out the activities of the workshops sponsored under subsection (a), there is hereby established an interagency advisory group with respect to such workshops.*

(2) The advisory group shall be composed of the following:

(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation.

(B) A representative of the Office of Science, and Technology Policy.

(C) The Secretary of Defense, or a designee of the Secretary.

(D) The Secretary of State, or a designee of the Secretary.

(E) The Attorney General, or a designee of the Attorney General.

(F) The Secretary of Energy, or a designee of the Secretary.

(G) The Secretary of Homeland Security, or a designee of the Secretary.

(H) The Director of Central Intelligence, or a designee of the Director.

(I) The Director of the Federal Bureau of Investigation, or a designee of the Director.

(J) The National Counterintelligence Executive, or a designee of the National Counterintelligence Executive.

(K) Any other official assigned to the advisory group by the President for purposes of this section.

(3) The members of the advisory group under subparagraphs (A) and (B) of paragraph (2) shall jointly head the advisory group.

(4) The advisory group shall provide the Foundation and the Office such information, advice, and assistance with respect to the workshops sponsored under subsection (a) as the advisory group considers appropriate.

(5) The advisory group shall not be treated as an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Report.—Not later than March 1, 2004, the National Science Foundation and the Office of Science and Technology Policy shall jointly submit Congress a report on the results of activities of the workshops sponsored under subsection (a), including the findings and recommendations of the Foundation and the Office as a result of such activities.

(f) Funding.—(1) Of the amount authorized to be appropriated for the Intelligence Community Management Account by section 104(a), $500,000 shall be available to the National Science Foundation and the Office of Science and Technology Policy to carry out this section.

(2) The amount authorized to be appropriated by paragraph (1) shall remain available until expended.

SEC. 356. TECHNICAL AMENDMENTS.

(a) National Security Act of 1947.—Subsection (c)(1) of section 112 of the National Security Act of 1947, as redesignated by section 339(b) of this Act, is further amended by striking "section 103(c)(6)" and inserting "section 103(c)(7)".

(b) Central Intelligence Agency Act of 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking "(c)(6)" each place it appears and inserting "(c)(7)".

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))" and inserting "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))".

(2) Section 15 of that Act (50 U.S.C. 403o) is amended—

(A) in subsection (a)(1), by striking "special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes'(40 U.S.C. 318)," and inserting "officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,"; and

(B) in subsection (b), by striking "the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c)" and inserting "section 1315(c)(2) of title 40, United States Code".

(c) National Security Agency Act of 1959.—Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)(1), by striking "special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes'(40 U.S.C. 318)" and inserting "officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,"; and

(2) in subsection (b), by striking "the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c)" and inserting "section 1315(c)(2) of title 40, United States Code".

(d) Intelligence Authorization Act for Fiscal Year 2003.—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2399; 50 U.S.C. 404n–2) is amended—

(1) in subsection (c), by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))" and inserting "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))"; and

(2) in subsection (e)(2), by striking "section 103(c)(6)" and inserting "section 103(c)(7)".

(e) Public Law 107–173.—Section 201(c)(3)(F) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 116 Stat. 548; 8 U.S.C. 1721(c)(3)(F)) is amended by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))" and inserting "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))".

SEC. 357. TREATMENT OF CLASSIFIED INFORMATION IN MONEY LAUNDERING CASES.

Section 5318A of title 31, United States Code, is amended by adding at the end the following:

"(f) Classified Information.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a primary money laundering concern, made under this section, if the designation or imposition, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or required under this section.".

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. AMENDMENT TO CERTAIN CENTRAL INTELLIGENCE AGENCY ACT OF 1949 NOTIFICATION REQUIREMENTS.

Section 4(b)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e(b)(5)) is amended inserting ", other than regulations under paragraph (1)," after "Regulations".

SEC. 402. PROTECTION OF CERTAIN CENTRAL INTELLIGENCE AGENCY PERSONNEL FROM TORT LIABILITY.

Section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a), or designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

"(A) protect an individual in the presence of such Agency personnel from a crime of violence;

"(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

"(C) prevent the escape of any individual whom such Agency personnel reasonably believe to have committed a crime of violence in the presence of such Agency personnel.

"(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

"(3) In this subsection, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code.".

SEC. 403. REPEAL OF OBSOLETE LIMITATION ON USE OF FUNDS IN CENTRAL SERVICES WORKING CAPITAL FUND.

Section 21(f)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u(f)(2)) is amended—

(1) in subparagraph (A), by striking "(A) Subject to subparagraph (B), the Director" and inserting "The Director"; and

(2) by striking subparagraph (B).

SEC. 404. TECHNICAL AMENDMENT TO FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.

Section 3535(b)(1) of title 44, United States Code, as added by section 1001(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296), and section 3545(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E–Government Act of 2002 (Public Law 107–347), are each amended by inserting "or any other law" after "1978".

SEC. 405. CONTRIBUTION BY CENTRAL INTELLIGENCE AGENCY EMPLOYEES OF CERTAIN BONUS PAY TO THRIFT SAVINGS PLAN ACCOUNTS.

(a) CSRS Participants.—Section 8351(d) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

"(B) Contributions under this paragraph are subject to section 8432(d) of this title.".

(b) FERS Participants.—Section 8432 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(k)(1) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

"(2) Contributions under this subsection are subject to subsection (d).

"(3) For purposes of subsection (c), basic pay of an employee of the Central Intelligence Agency shall include bonus pay received by the employee as part of the pilot project referred to in paragraph (1).".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

"SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(2)(A) In this section, the term 'operational files' means—

"(i) files of the Signals Intelligence Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

"(ii) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

"(B) Files which are the sole repository of disseminated intelligence, and files that have been accessioned into NSA Archives, or its successor organizations, are not operational files.

"(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

"(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

"(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

"(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

"(i) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(ii) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(iii) The Intelligence Oversight Board.

"(iv) The Department of Justice.

"(v) The Office of General Counsel of NSA.

"(vi) The Office of the Inspector General of the Department of Defense.

"(vii) The Office of the Director of NSA.

"(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

"(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

"(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

"(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

"(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

"(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

"(II) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

"(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

"(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

"(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking "For purposes of this title" and inserting "In this section and section 702,".

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking "enactment of this title" and inserting "October 15, 1984,".

(3)(A) The title heading for title VII of such Act is amended to read as follows:

"TITLE VII—PROTECTION OF OPERATIONAL FILES".

(B) The section heading for section 701 of such Act is amended to read as follows:

"PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY".

(C) The section heading for section 702 of such Act is amended to read as follows:

"DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES".

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

"TITLE VII—PROTECTION OF OPERATIONAL FILES

"Sec. 701. Protection of operational files of the Central Intelligence Agency.
"Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.
"Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.
"Sec. 704. Protection of operational files of the National Reconnaissance Office.

"Sec. 705. Protection of operational files of the National Security Agency.".

SEC. 502. PROTECTION OF CERTAIN NATIONAL SECURITY AGENCY PERSONNEL FROM TORT LIABILITY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

"(A) protect an individual in the presence of such agency personnel from a crime of violence;

"(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

"(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence in the presence of such agency personnel.

"(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

"(3) In this subsection, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code.".

SEC. 503. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004 or 2005, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 504. SCENE VISUALIZATION TECHNOLOGIES.

Of the amount authorized to be appropriated by this Act, $2,500,000 shall be available for the National Imagery and Mapping Agency (NIMA) for scene visualization technologies.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 1412, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1412) to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1412) was read the third time and passed.

JAMES L. WATSON UNITED STATES COURT OF INTERNATIONAL TRADE BUILDING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 1018, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1018) to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1018) was read the third time and passed.

PROVIDING FOR ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2195) to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, Larry Small, Secretary of the Smithsonian, has provided a letter to the majority and minority leaders that clarifies the intentions of the Smithsonian with regard to Section 5 of H.R. 2195.

I ask unanimous consent that the letter from Secretary Small concerning this clarification of how the Smithsonian will proceed with voluntary separation incentive payments be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMITHSONIAN INSTITUTION,
Washington, DC, July 31, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR LEADER FRIST AND LEADER DASCHLE: In discussions to facilitate the Senate's consideration of H.R. 2195, the "Smithsonian Facilities Authorization Act," the Smithsonian Institution would like to clarify its intentions with regard to Section 5, providing authority for voluntary separation incentive payments, or buyouts. This letter gives a detailed explanation of how we will proceed with the buyout.

If this legislation is enacted, the Secretary of the Smithsonian Institution will have the authority to offer separation incentives to employees who voluntarily retire or resign. Incentives will be offered on the basis of organizational unit, occupational series or level, geographic location, specific window periods, skills, knowledge, other job related factors, or a combination of such factors. An incentive payment will be the lesser of the amount of severance pay the employee would be entitled to if the employee were entitled to a severance payment, or an amount determined by the Secretary not to exceed $25,000. We will offer buyouts for no more than three years from the date of enactment of H.R. 2195.

Any employee is eligible for the buyout if he or she is serving under an appointment without time limitation and has been employed for at lest three years continuously in the civil service at the Smithsonian. Employees not eligible for the buyout are reemployed annuitants, employees eligible for disability retirement, employees about to be separated for misconduct or unacceptable performance, employees who have previously received a voluntary separation incentive payment, employees who are on transfer from an agency of the Executive Branch, and employees who had received a recruitment or relocation bonus, a retention allowance, or a student loan repayment.

The Secretary will devise a plan outlining the intended use of voluntary separation incentive payments. The plan will include the specific positions and functions to be reallocated, a description of the categories of employees to be offered incentives, the time period during which incentives may be paid, the number and amounts of the incentive payments, and a description of how the Smithsonian will operate after positions and functions are reallocated. The Secretary will consult with the Office of Management and Budget regarding the Institution's plan prior to implementation and will provide an organization chart for the Smithsonian Institution reflecting its operations after incentive payments have been completed.

In addition, buyouts will only be made in the case of an employee who voluntarily separates and will be paid in a lump sum after the employee's separation. Buyouts will not be the basis for payments or included in the computation on any other type of governments benefit, will not be taken into account in determining the amount of severance pay, and will be taken from appropriations or funds available for the basic pay of the employee.

We will amend our administrative procedures and make clear the buyout offer that any employee who accepts the voluntary separation incentive payment and then accepts employment for compensation with the Federal Government within five years will be required to repay to the Smithsonian Institution, prior to the individual's first day of employment, the entire amount of the voluntary separation incentive payment. This repayment requirement may be waived in certain circumstances, as detailed in the Homeland Security Act (Public Law 107-296).

The purpose of the buyout is not to reduce employment at the Smithsonian but to reconfigure the workforce to meet current and future needs.

I hope this information is useful. Please do not hesitate to contact me if you have any further questions. The passage of the "Smithsonian Facilities Authorization Act" prior to the August recess is extremely important to the Institution.

All the best,

LAWRENCE M. SMALL,
Secretary.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2195) was read the third time and passed.

GARNER E. SHRIVER POST OFFICE BUILDING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of H.R. 1761 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1761) to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the "Garner E. Shriver Post Office Building".

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1761) was read the third time and passed.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

NATIONAL VETERANS AWARENESS WEEK

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 242, S. Res. 30, and Calendar No. 243, S. Res. 204, en bloc.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 30) expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

A resolution (S. Res. 204) designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolutions be agreed to en bloc, the preambles be agreed to en bloc; further, that the motions to reconsider be laid upon the table en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 30) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 30

Whereas there are 105 historically black colleges and universities in the United States;

Whereas historically black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas historically black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas historically black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 14, 2003, as "National Historically Black Colleges and Universities Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

The resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 204

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by Americans;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in the Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas the system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas, on November 6, 2002, President George W. Bush issued a proclamation urging all Americans to observe November 10 through November 16, 2002, as National Veterans Awareness Week: Now, therefore, be it

Resolved,

SECTION 1. NATIONAL VETERANS AWARENESS WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week of November 9 through November 15, 2003, as "National Veterans Awareness Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

AMERICAN JEWISH HISTORY MONTH

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 25.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 25) recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month," and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the amendment to the resolution be agreed to, the concurrent resolution, as amended, be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1539) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That Congress—

(1) recognizes the 350th anniversary of the American Jewish community;

(2) supports the designation of an "American Jewish History Month"; and

(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

The concurrent resolution (S. Con. Res. 25), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, with its preamble, reads as follows:

S. CON. RES. 25

Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America's first Jewish community in New Amsterdam, now New York City;

Whereas America welcomed Jews among the millions of immigrants that streamed through our Nation's history;

Whereas the waves of Jewish immigrants arriving in America helped shape our Nation;

Whereas the American Jewish community has been intimately involved in our Nation's civic, social, economic, and cultural life;

Whereas the American Jewish community has sought to actualize the broad principles of liberty and justice that are enshrined in the Constitution of the United States;

Whereas the American Jewish community is an equal participant in the religious life of our Nation;

Whereas American Jews have fought valiantly for the United States in every one of our Nation's military struggles, from the American Revolution to Operation Enduring Freedom;

Whereas not less than 16 American Jews have received the Medal of Honor;

Whereas 2004 marks the 350th anniversary of the American Jewish community;

Whereas the Library of Congress, the National Archives and Records Administration, the American Jewish Historical Society, and the Jacob Rader Marcus Center of the American Jewish Archives have formed "The Commission for Commemorating 350 Years of American Jewish History" (referred to in this resolution as the "Commission") to mark this historic milestone;

Whereas the Commission will use the combined resources of its participants to promote the celebration of the Jewish experience in the United States throughout 2004; and

Whereas the Commission is designating September 2004 as "American Jewish History Month": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

[(1) recognizes—

[(A) the 350th anniversary of the American Jewish community; and

[(B) "The Commission for Commemorating 350 Years of American Jewish History" and its efforts to plan, coordinate, and execute commemorative events celebrating 350 years of American Jewish history;

[(2) supports the designation of an "American Jewish History Month"; and

[(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.]

NATIONAL MISSING ADULT AWARENESS MONTH

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 213, introduced earlier today by Senator LINCOLN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 213) designating August 2003, as National Missing Adult Awareness Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 213) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 213

Whereas our Nation must acknowledge that missing adults are a growing group of victims, who range in age from young adults to senior citizens and reach across all lifestyles;

Whereas every missing adult has the right to be searched for and to be remembered, regardless of the adult's age;

Whereas our world does not suddenly become a safe haven when an individual becomes an adult;

Whereas there are tens of thousands of endangered or involuntarily missing adults over the age of 17 in our Nation, and daily, more victims are reported missing;

Whereas the majority of missing adults are unrecognized and unrepresented;

Whereas our Nation must become aware that there are endangered and involuntarily missing adults, and each one of these individuals is worthy of recognition and deserving of a diligent search and thorough investigation;

Whereas every missing adult is someone's beloved grandparent, parent, child, sibling, or dearest friend;

Whereas families, law enforcement agencies, communities, and States should unite to offer much needed support and to provide a strong voice for the endangered and involuntarily missing adults of our Nation;

Whereas we must support and encourage the citizens of our Nation to continue with efforts to awaken our Nation's awareness to the plight of our missing adults;

Whereas we must improve and promote reporting procedures involving missing adults and unidentified deceased persons; and

Whereas our Nation's awareness, acknowledgment, and support of missing adults, and encouragement of efforts to continue our search for these adults, must continue from this day forward: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 2003, as "National Missing Adult Awareness Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

CONGRATULATING LANCE ARMSTRONG FOR WINNING THE 2003 TOUR DE FRANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 214, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 214) congratulating Lance Armstrong for winning the 2003 Tour de France.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 214) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 214

Whereas Lance Armstrong won the 2003 Tour de France, the 100th anniversary of the race, by completing the 2,125-mile, 23-day course in 83 hours, 41 minutes, and 12 seconds, finishing 1 minute and 1 second ahead of his nearest competitor;

Whereas Lance Armstrong's win on July 27, 2003, marks his fifth Tour de France victory;

Whereas, with this victory, Lance Armstrong joined Miguel Indurain as the only riders in history to win cycling's most prestigious race in 5 consecutive years;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership in prevailing over the mountainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to winning the premier cycling event in the world;

Whereas, in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 6 years;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas Lance Armstrong's courage and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong continues to be the face of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, cancer survivor, and advocate have made him an inspiration to millions of people around the world: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Lance Armstrong and the United States Postal Service team on their historic victory in the 2003 Tour de France; and

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to Lance Armstrong.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL IN THE CASE OF WAGNER V. UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 215, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 215) to authorize representation by the Senate Legal Counsel in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 215) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 215

Whereas, the United States Senate Committee on the Judiciary and Senator Orrin G. Hatch have been named as defendants in the case of Wagner v. United States Senate Committee on the Judiciary, et al., No. 1:03CV01225 (RMU), pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend in civil actions Committees of the Senate, and Members of the Senate relating to the Members' official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate Committee on the Judiciary and Senator Orrin G. Hatch in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

EXECUTIVE SESSION

TREATIES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following treaties on today's Executive Calendar: Nos. 7, 8, 9, 10, 11.

I further ask consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee conditions, declaration, or reservations be agreed to as applicable; that any statements in regard to these treaties be printed in the RECORD as if read; and that the Senate take one vote on the resolution of ratifications to be considered as separate votes; further, that when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaties, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

The resolutions of ratification are as follows:

Resolutions of Ratification as approved by the Senate:

Agreement with Russian Federation concerning Polar Bear Population (Treaty Doc. 107-10)

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a condition.

The Senate advises and consents to the ratification of the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, done at Washington October 16, 2000 (T. Doc. 107–10, in this resolution referred to as the "Agreement"), subject to the condition in section 2.

Sec. 2. Condition.

The advice and consent of the Senate to the ratification of the Agreement is subject to the condition that the Secretary of State shall promptly notify the Committee on Environment and Public Works and the Committee on Foreign Relations of the Senate in any instance that, pursuant to Article 3 of the Agreement, the Contracting Parties modify the area to which the Agreement applies. Any such notice shall include the text of the modification and information regarding the reasons for the modification.

Agreement Amending Treaty with Canada Concerning Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty Doc. 108–1)

Resolved, (two-thirds of the Senators present concurring therein),

That the Senate advises and consents to the ratification of the Agreement Amending the Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, done at Washington May 26, 1981, and effected by an exchange of diplomatic notes at Washington July 17, 2002, and August 13, 2002 (T. Doc. 108–1).

Amendments to the 1987 Treaty on Fisheries with Pacific Island States (Treaty Doc. 108–2)

Section 1. Senate Advice and Consent subject to a Declaration.

The Senate advises and consents to the ratification of the Amendments to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, with Annexes and Agreed Statements, done at Port Moresby, April 2, 1987, done at Koror, Palau, March 30, 1999, and at Kiritimati, Kiribati March 24, 2002 (T. Doc. 108–2, in this resolution referred to as the "Amendments"), subject to the declaration in section 2.

Sec 2. Declaration.

The advice and consent of the Senate to the ratification of the Amendments is subject to the following declaration:

The advice and consent provided under section 1 is without prejudice to any position the Senate may take with respect to providing advice and consent to ratification of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, signed by the United States on September 9, 2000.

Convention for International Carriage by Air (Treaty Doc. 106–45)

Section 1. Senate Advice and Consent subject to reservation.

The Senate advises and consents to the ratification of the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999 (T. Doc. 106–45, in this resolution referred to as the "Convention"), subject to the reservation in section 2.

Sec. 2. Reservation.

The advice and consent of the Senate to the ratification of the Convention is subject to the following reservation, which shall be included in the instrument of ratification:

Pursuant to Article 57 of the Convention, the United States of America declares that the Convention shall not apply to international carriage by air performed and operated directly by the United States of America for non-commercial purposes in respect to the functions and duties of the United States of America as a sovereign State.

Protocol to Amend the Convention for Unification of Certain Rules Relating to International Carriage by Air (Treaty Doc. 107–14)

That the Senate advise and consent to the ratification of the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, done at The Hague on September 28, 1955 (T. Doc. 107–14).

Mr. SUNUNU. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolutions of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

MONTREAL CONVENTION AND HAGUE PROTOCOL

Mr. BIDEN. Mr. President, I am pleased to support the Convention for the Unification of Certain Rules for International Carriage by Air, known as the Montreal Convention, which was signed by the United States at a negotiating conference in that city in 1999. The convention provides the basic liability framework for international aviation and the air carriage of cargo and baggage. When it enters into force, the convention, for those nations party to it, will replace the current liability system, known as the Warsaw system, which had its origins in a 1929 treaty known as the Warsaw Convention. Since 1929, the Warsaw Convention has been amended numerous times by various protocols. But membership in the convention and the various protocols has not been universal, creating a patchwork quilt of treaty relations between and among nations. The Montreal Convention is designed to provide a clear and uniform system, and it is hoped that there will be widespread adherence to it.

The Warsaw Convention system is antiquated in several respects, particularly with regard to the absurdly low limitations it contains on liability in cases of passenger injury or death. These limits may have made sense in 1929, when the airline industry was in its infancy. But those limits are anachronistic and indefensible. The airline industry matured long ago, and has long been capable of purchasing adequate liability insurance.

To their credit, the major airline carriers agreed, by contract, to waive the limitations for liability for passenger injury or death in 1996 in the "IATA Inter-Carrier Agreement on Passenger Liability." Most of the airlines flying to and from the United States have taken this action, although several smaller airlines have not. The Montreal Convention will codify this inter-carrier agreement. Article 21 provides for payment, in cases of personal injury or death, of up to 100,000 Special Drawing Rights, currently about $140,000, for proven damages. Above that amount, there will be no limit on the amount an injured person or his or her heirs may obtain; the burden, under Article 21(2), will be on the air carrier to prove that it was not negligent or that the damage was solely due to the negligence or other wrongful act or omission of a third party.

The Montreal Convention also creates a "fifth jurisdiction" in addition to the four jurisdictions provided under the Warsaw system. This additional jurisdiction, set forth in article 33(2), will ensure that, in nearly every case, Americans will be able to bring an action in a U.S. court.

The Montreal Convention contains several other provisions that modernize the liability regime for cargo. These provisions were drawn from those in Montreal Protocol No. 4 (to the Warsaw Convention), which the Senate approved in 1998.

The Montreal Convention is self-executing. No implementing legislation is required to fulfill U.S. obligations under it, and, like the Warsaw Convention, will provide the basis for a private right of action in U.S. courts for cases arising under it. Since the United States joined the Warsaw Convention in 1934, that convention has been the basis for hundreds of lawsuits in U.S. courts. Accordingly, a large body of judicial precedents has developed during these seven decades. The negotiators intended that, to the extent applicable, to preserve these precedents.

A question arises whether the judicial doctrine of forum non conveniens applies to cases under the Montreal Convention. The circuit courts of appeals in the United States are divided on this question with regard to the Warsaw Convention. Compare *Hosaka* v. *United Airlines, Inc.*, 305 F.3d 989 (9th Cir. 2020), *cert. denied*, 123 S. Ct. 1284 (2003) with *In re Air Crash Disaster Near New Orleans, Louisiana on July 9, 1982*, 821 F.2d 1147 (5th Cir. 1987) (en banc), vacated and remanded on other grounds sub nom. *Pan American World Airways, Inc.* v. *Lopez*, 490 U.S. 1032 (1989). At the diplomatic conference, the United States delegation offered an amendment to the draft text during a meeting of the "Friends of the Chairman's Group" to make clear that the doctrine may be applied if consistent with the country's procedural laws. See 1 International Civil Aviation Organization, International Conference on Air Law, Montreal 10–28 May 1999, at 159 (2001) (Advance Copy of Minutes). This provision was not incorporated in the final text of the Montreal Convention. The Committee on Foreign Relations did not address this issue in its deliberations.

The Senate is also considering the Hague Protocol of 1955, a protocol to the Warsaw Convention. It was first submitted to the Senate in 1959, but then returned to the President in 1967. The circumstances that led to the return of the Protocol related to the unreasonably low liability limits that I described earlier. The Protocol was resubmitted by President Bush in 2002.

The Protocol is still relevant for this reason: even with entry into force of the Montreal Convention, the Warsaw system will remain in force among many nations, probably for several years. The Hague Protocol contains many provisions modernizing the Warsaw's systems rules on cargo shipment, and therefore remains important for shippers and consumers.

In 1998, the Senate approved Montreal Protocol No. 4, a protocol to the Warsaw Convention; the United States became a party to the Protocol in March 1999. At the time, it was presumed that, in doing so, the United States also became bound by the provisions of the Hague Protocol. Article XVII of Montreal Protocol No. 4 states that "[r]atification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the Warsaw Convention as amended at the Hague, 1955, and by Protocol No. 4 of Montreal, 1975." Several courts in the United States appear to have assumed as much. *E.g.*, *Cortes* v. *American Airlines, Inc.*, 177 F.3d 1272 (11th Cir. 1999), *cert. denied*, 528 U.S. 1136 (2000; *Motorola, Inc.* v. *Federal Express Corp.*, 308 F.3d 995 (9th Cir. 2002), *cert. denied sub nom.*, *Kuehne & Nagel, Inc.* v. *Motorola, Inc.*, 123 S. Ct. 2213 (2003). In submitting the Montreal Convention to the Senate, the Executive Branch stated that "[i]n accordance with the provisions of Montreal Protocol No. 4, the United States also became bound by the provisions of The Hague Protocol when it ratified Montreal Protocol No. 4." *See* S. Treaty Doc. 106–45, at ix (2000).

A decision in 2000 by the United States Court of Appeals for the Second Circuit has raised a question about whether the United States has treaty relations under the Hague Protocol with certain states. *See Chubb & Son, Inc.* v. *Asiana Airlines*, 214 F.2d 301 (2d Cir. 2000), *cert. denied*, 533 U.S. 928 (2001). The executive branch elaborated on this issue in its submission of the Hague Protocol in 2002. S. Treaty Doc. 107–14, at viii–ix (2002). Approval of the Hague Protocol at this time will end any uncertainty that may exist about the question of the status of the United States as a party to the Hague Protocol

Mr. President, the Montreal Convention is an important achievement, the culmination of many decades of effort by the United States and many U.S. citizens to remove the unreasonably low liability limits of the Warsaw Convention. I commend the Clinton Administration negotiators for their fine work in 1999, as well as the many officials of the State and Transportation Departments, before and after 1999, who have worked to develop this treaty and present it to the Senate. The Montreal Convention is supported by all the main interests in the private sector—the airlines, passenger groups, cargo firms, and attorneys representing passengers. It deserves the support of the Senate.

I want to thank Chairman LUGAR and his staff for bringing this treaty forward at this time, and for ensuring Senate action prior to the August recess. I urge all my colleagues to support the Montreal Convention and the Hague Protocol.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR FRIDAY, AUGUST 1, 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, August 1. I further ask unanimous consent that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SUNUNU. Mr. President, for the information of all Senators, tomorrow the Senate will be in a period for morning business. There will be no rollcall votes tomorrow but Senators who wish to make statements are encouraged to come to the floor during tomorrow's session.

Tomorrow the Senate will recess for the August district work period. The majority leader will make further announcements on the schedule tomorrow, but I inform my colleagues that the next vote will occur on Wednesday, September 3, and all Members will be notified when that vote is scheduled.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SUNUNU. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 11:08 p.m., recessed until Friday, August 1, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 31, 2003:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

STANLEY C. SUBOLESKI, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2006.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

W. SCOTT RAILTON, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2007.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008.

DEPARTMENT OF TRANSPORTATION

ANNETTE SANDBERG, OF WASHINGTON, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ERIC S. DREIBAND, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS.

THE JUDICIARY

H. BRENT MCKNIGHT, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MICHAEL YOUNG, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2008.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA V. ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2009.

DEPARTMENT OF DEFENSE

LAWRENCE MOHR, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009.

EXECUTIVE OFFICE OF THE PRESIDENT

JOEL DAVID KAPLAN, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF HOMELAND SECURITY

JOE D. WHITLEY, OF GEORGIA, TO BE GENERAL COUNSEL, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

DONALD K. STEINBERG, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

CONSTANCE ALBANESE MORELLA, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR.

GEORGE H. WALKER, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

DEPARTMENT OF JUSTICE

DIANE M. STUART, OF UTAH, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE.

KAREN P. TANDY, OF VIRGINIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT.

THE JUDICIARY

JAMES I. COHN, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

FRANK MONTALVO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

XAVIER RODRIGUEZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

JAMES O. BROWNING, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL KENNETH M. DECUIR
BRIGADIER GENERAL BOB D. DULANEY
BRIGADIER GENERAL ROBERT J. ELDER, JR.
BRIGADIER GENERAL PAUL J. FLETCHER
BRIGADIER GENERAL DOUGLAS M. FRASER
BRIGADIER GENERAL WILLIAM M. FRASER III
BRIGADIER GENERAL STANLEY GORENC
BRIGADIER GENERAL ELIZABETH A. HARRELL
BRIGADIER GENERAL WILLIAM F. HODGKINS
BRIGADIER GENERAL RAYMOND E. JOHNS, JR.
BRIGADIER GENERAL TIMOTHY C. JONES
BRIGADIER GENERAL FRANK G. KLOTZ
BRIGADIER GENERAL ROBERT H. LATIFF
BRIGADIER GENERAL RICHARD B.H. LEWIS
BRIGADIER GENERAL HENRY A. OBERING III
BRIGADIER GENERAL MICHAEL W. PETERSON
BRIGADIER GENERAL TERESA M. PETERSON
BRIGADIER GENERAL GREGORY H. POWER
BRIGADIER GENERAL ROBERT L. SMOLEN
BRIGADIER GENERAL MARK A. VOLCHEFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

To be general

LT. GEN. TEED M. MOSELEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. GREGORY S. MARTIN

THE FOLLOWING NAMED UNITED STATES AIR FORCE OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTIONS 601 AND 152:

To be general

GEN. RICHARD B. MYERS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

MAJ. GEN. ROGER A. BRADY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

LT. GEN. RICHARD E. BROWN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

To be lieutenant general

LT. GEN. STEVEN R. POLK

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 688, 601 AND 3033:

To be general

GEN. PETER J. SCHOOLMAKER (RETIRED)

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BYRAN D. BROWN

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10. U.S.C.. SECTION 12203:

To be brigadier general

COL. CHARLES S. RODEHEAVER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10. U.S.C.. SECTION 12203:

To be major general

BRIG. GEN. DAVID T. ZABECKI

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS OFFICER FOR REAPPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTIONS 601 AND 154:

To be general

GEN. PETER PACE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT M. SHEA

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C.. SECTION 12203:

To be rear admiral

REAR ADM. (LH) ROGER T. NOLAN
REAR ADM. (LH) ROBERT O. PASSMORE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be vice admiral

REAR ADM. KIRKLAND H. DONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS. UNITED STATES NAVY. AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10. U.S.C.. SECTION 5142:

To be rear admiral

REAR ADM. (LH) LOUIS V. IASIELLO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be vice admiral

REAR ADM. (SELECT) ERIC T. OLSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be vice admiral

REAR ADM. GARYI ROUGHEAD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be vice admiral

VICE ADM. JAMES C. DAWSON. JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10. U.S.C.. SECTION 601:

To be vice admiral

REAR ADM. RODNEY P. REMPT

AIR FORCE NOMINATION OF PATRICE L. PYE.

AIR FORCE NOMINATION OF *REBEKAH F. FRIDAY

AIR FORCE NOMINATION OF DENNIS HUSTON.

ARMY NOMINATIONS BEGINNING WILLIAM R. GLADBACH AND ENDING MALCOLM K. WALLACE. JR.. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 19. 2003.

ARMY NOMINATION OF REGINA M. CURTIS.

ARMY NOMINATION OF NANCY M. PRICKETT.

ARMY NOMINATIONS BEGINNING STEPHEN J. DEMSKI AND ENDING JOSEPH F. MARANTO. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26. 2003.

ARMY NOMINATIONS BEGINNING ANDREW S. KANTNER AND ENDING DANIEL A. TANABE. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26. 2003.

ARMY NOMINATIONS BEGINNING DAVID A. ARCHER AND ENDING DEBRA A. SPEAR. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING NATHAN E. BAKER AND ENDING FREDERICK V. WRIGHT. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING LISA M. *ANDERSON AND ENDING JAMES W. *TURONIS. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING BRETT T. *ACKERMANN AND ENDING MICHAEL J. *ZAPOR. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING ADIO ABDU AND ENDING RICARDO M YOUNG. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING DAVID A BARR AND ENDING SAMUEL R YOUNG. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

ARMY NOMINATIONS BEGINNING WILFREDO A. COLONMARTINES AND ENDING JEFFERY L. LEWIS. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22. 2003.

ARMY NOMINATIONS BEGINNING THOMAS B. HOWE AND ENDING MICHAEL J. VEASEY. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22. 2003.

ARMY NOMINATIONS BEGINNING JAMES G. LYNCH. AND ENDING RAFAEL A. ROLDAN. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22. 2003.

ARMY NOMINATION OF EVAN L. WILLIAMS II.

MARINE CORPS NOMINATION OF THOMAS D. GORE.

MARINE CORPS NOMINATION OF ADAM L. MUSOFF.

MARINE CORPS NOMINATION OF JASON K. FETTIG.

NAVY NOMINATIONS BEGINNING CHAD F ACEY AND ENDING FRANK A SHAUL. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25. 2003.

NAVY NOMINATIONS BEGINNING CONRADO K ALEJO AND ENDING CARL B WEICKSEL. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25. 2003.

NAVY NOMINATIONS BEGINNING BARBARA M BURGETT AND ENDING ROBERT C WEITZMAN. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25. 2003.

NAVY NOMINATIONS BEGINNING ROBERT J ALLEN AND ENDING HAROLD E WILLIAMS. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25. 2003.

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NAVY NOMINATIONS BEGINNING CHRISTOPHER A ADAMS AND ENDING RICHARD J ZINS. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 25. 2003.

NAVY NOMINATIONS BEGINNING STEVEN S HARTZELL AND ENDING STANLEY D. RHOADES. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 22. 2003.

NAVY NOMINATION OF JAMES P. DRISSCOLL.

ARMY NOMINATIONS BEGINNING DAVID A BARR AND ENDING SAMUEL R YOUNG. WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 7. 2003.

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ARMY NOMINATION OF EVAN L. WILLIAMS II.

MARINE CORPS NOMINATION OF THOMAS D. GORE.

MARINE CORPS NOMINATION OF ADAM L. MUSOFF.

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NAVY NOMINATION OF JAMES P. DRISCOLL.

SENATE—*Friday, August 1, 2003*

(Legislative day of Monday, July 21, 2003)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, who is the "Rock of Ages," You are our shield, and we find refuge in You. Listen to the music of our hearts and hear our praise to You. Today we thank You for help and healing. We refuse to take our borrowed heartbeats for granted. Thank You for giving us a lifetime of favor, for inspiring us during nights of uncertainty. Sustain our national leaders as they face critical challenges. May they find satisfaction and peace only by doing Your will. Now, Lord, during the recess, go before us, with us, around us, and within us, for we pray in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period for morning business in order that Senators may speak and have an opportunity to introduce legislation. There will be no rollcall votes during today's session. When the Senate completes its business today, we will adjourn for the August break.

Today, in addition to Member statements, it would be my hope that we can continue to clear other legislative and executive items for Senate consideration. We were here late last night and had a full week, and indeed have had a very productive 4 weeks since the July 4 recess.

I thank all of our Members for their cooperation in addressing what was a healthy agenda set out by me after the last recess. I obviously am very pleased in that we accomplished every one of the goals we set out at the beginning 4 weeks ago. In particular, I commend Chairman DOMENICI for his really remarkable efforts over the course of the last several weeks and ultimate success in passing the Energy bill through the Senate. That will be conferenced with the already-passed bill in the House. I am confident we will see a comprehensive national energy policy for the first time in a long period of time because of the hard work of this body over the last several weeks, in particular over the last week.

We had a lot of obstacles put before us in many different shapes and forms on this particular legislation, and indeed as recently as yesterday morning, at about this time—in fact, exactly this time—the odds of completing this bill, in most people's minds, was very narrow. Yet both sides of the aisle working together developed an approach with which I think everybody is pleased. It is the important next step in developing a bill that I am confident the President will be able to sign shortly after we deliver it to him as a final package.

Today, in terms of the schedule for September, I will come back to make some comments about the schedule. For the next 4 weeks, people will have the opportunity to go back and be with constituents and families and hopefully take some period as a true vacation. We are going to have a very challenging and again very productive September when we come back.

As a reminder, the next rollcall vote will occur Wednesday, September 3, and in all likelihood, although I will have more to say about that later today, that vote will occur on Wednesday morning. I am hopeful people will be coming back, if they are not in Washington, on that Tuesday and be ready to go. We will be in session that Tuesday. We will introduce a bill that I will talk about later today and then be voting on Wednesday.

Again, I will come back later with regard to some comments about the past 4 weeks.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 259, that the amendment to the resolution be agreed to, that the resolution, as amended, be agreed to, and that a motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 1540) was agreed to, as follows:

> Strike "when the House adjourns on the legislative day of Friday, July 25, 2003, or Saturday, July 26, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee," and insert: "when the House adjourns on the legislative day of Tuesday, July 29, 2003,".

The concurrent resolution (H. Con. Res. 259), as amended, was agreed to, as follows:

H. CON. RES. 259

> *Resolved by the House of Representatives (the Senate concurring),* That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the House adjourns on the legislative day of Tuesday, July 29, 2003, it stand adjourned until 2 p.m. on Wednesday, September 3, 2003, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, July 25, 2003, through Monday, August 4, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 2, 2003, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.
>
> SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

TRIBUTE TO BOB HOPE

Mr. FRIST. Mr. President, I take this opportunity to pay tribute to one of America's greatest performers, Mr. Bob Hope, somebody who has changed all of our lives in very special and individual ways. As we all know, he died last Sunday night of pneumonia, with his family at his bedside.

The family plans an August 27 mass in Los Angeles, and a public memorial later that afternoon at the Academy of Television Arts and Sciences. Today, I wish to remember, in this humble body, Mr. Hope's profound contributions to American life.

Bob Hope was born one of six boys in a London suburb on May 29, 1903. His family made their way to America when he was three, and they settled in Cleveland, OH. What a blessing for America that the Hope family made that journey.

Growing up, Bob Hope was a shoe shine boy, a butcher's mate, stockboy, newspaper boy, golf caddy, shoe salesman, and even a prize fighter. All of these things, before he became what we remember him as, one of America's most beloved and successful entertainers.

As a performer, Bob Hope had the rare and miraculous gift of being able to touch our common humanity.

His famous road pictures with Bing Crosby and Dorothy Lamour were the quintessential expressions of the adventure of being an American.

But he is most loved, of course, for the thousands of hours and millions of miles he spent on selfless devotion to our troops. He traversed 9 million miles, despite a fear of flying, to comfort and entertain our fighting men and women.

World War II, South Korea, Vietnam, from the Far East to Northern Africa, the Indonesian Peninsula to the heart of Europe, in jungles and refugee camps, Air Force bases, Navy ships, forward bases, and demilitarized zones, Bob Hope went wherever we needed him, and he conveyed to our troops the commitment and love of the American people.

The front rows would be filled with soldiers injured in battle, limbs blown off, bodies wrapped in bandages and he would manage to make them laugh.

He was able—for those moments while he was onstage giving his best to our best—to lift those young men and women out of their war torn bodies and help them forget the fatigue, fear and loneliness of battle.

Time magazine wrote in 1943 that "Hope was funny, treating hoards of soldiers to roars of laughter. He was friendly—ate with servicemen, drank with them, read their doggerel, listened to their songs. He was indefatigable, running himself ragged with five, six, seven shows a day. . . . Hence boys whom Hope might entertain for an hour awaited him for weeks. And when he came, anonymous guys who had no other recognition felt personally remembered."

Hope narrowly escaped an attempt on his life when his hotel in Vietnam was bombed by enemy forces. He was waiting at the airport for his cue cards to be unloaded from the plane, and the delay literally saved him. You could say it was the only occasion he didn't have perfect timing, and thank goodness.

Bob Hope's dear friend, legendary golfer and Hall of Famer, Arnold Palmer, said today that he believes the reason why Bob Hope lived so long was because he was fundamentally happy and doing what he loved. May we all be so blessed.

Albert Einstein said, "Try not to become a man of success, but, rather, to become a man of value." Bob Hope managed to become both.

Four stars on the Walk of Fame—one for each child, a legendarily happy marriage of 69 years to his beloved Dolores.

I wanna tell ya': Bob Hope is a giant and a national treasure. We will never forget his service to our country.

Thank you for the memories, Mr. Hope. Godspeed.

Mr. McCONNELL. Mr. President, I listened with great interest to the majority leader's comments about Bob Hope. I remember the morning after he died his daughter was interviewed. She said as the children were coming in and saying goodbye to him, one of them asked, Dad, where do you want to be buried? He said, "Surprise me."

He had a one-liner right to the end.

ACCOMPLISHMENTS IN THE FIRST SESSION OF THE 108TH CONGRESS

Mr. McCONNELL. Mr. President, on another subject, I commend the majority leader, before he leaves the floor, for his extraordinary leadership this year. We have truly had an outstanding 6 months. I am totally confident it would not have happened but for his nurturing of all Members and moving us in the right direction, dealing with the myriad complaints and concerns that arise from Members on both sides of the aisle during the course of trying to move legislation forward.

As he goes into the August recess, he should feel very good about accomplishments so far this year.

The accomplishments of this Senate in the first session of this 108th Congress would be considered remarkable in any historical comparison. But given that our President is in the second half of his term and the slender majority that his party holds in the Senate, the record of accomplishments is nothing short of extraordinary.

These actions have substantially improved our homeland security, our national security, our economic security, and the health and retirement security of our seniors. We have compensated for the budgetary and appropriations shortfalls of last year and are on path to complete our appropriations for the coming year in good order.

In the last 2 months alone, this Senate has taken the historic step of passing legislation to add a prescription drug benefit for our seniors in the Medicare program while imposing much needed market-based reforms. Almost 40 years after the programs creation, and after years of unfulfilled promises, the Senate is poised to complete final action when it returns in September.

In the last 2 months, this Senate has passed both the defense authorization and defense appropriations bills to keep our military strong and ready.

In the last 2 months, the Senate has passed the Federal Aviation Administration reauthorization to revitalize an air transport industry suffering from the effects of the terrorist attack of 9/11.

The Senate has passed appropriation bills for the legislative branch, military construction, and homeland security, with 8 others ready for floor action upon our return in September.

After 42 days of consideration during the past 2 years, the Senate has passed an energy bill.

After more than a decade of repression, the Senate has passed the Burmese Freedom and Democracy Act.

And to ensure funding of any disasters that may arise prior to the Congress' return in September, the Senate has enacted an emergency supplemental for FEMA funding.

Looking to the earlier part of the year, the Senate, extended unemployment benefits to those who need it—twice; passed the 11 unfinished spending bills from the last Congress; funded Operation Iraqi Freedom; initiated the protection of Homeland by confirming the nomination of the first Secretary of the Department of Homeland Security; maintained fiscal discipline by passing the Federal budget which the Senate failed to do last year; enacted the President's plans to create jobs and stimulate the economy; banned the horrific practice of partial birth abortion; passed the President's faith-based initiative: funded the effort to eradicate the scourge of global AIDs; acted to guard our children against abduction and exploitation by passing the PROTECT Act; improved safeguards from foreign terrorists by enacting the FISA bill; expanded of NATO to include most of the former Warsaw Pact countries; passed a significant arms reduction treaty with enemy turned ally, Russia; taken steps to bridge the digital divided by providing needed funds to historically black colleges; affirmed the constitutionality of using the term "under God" in the Pledge of Allegiance; awarded a Congressional Gold Medal to Prime Minister Tony Blair; and provided tax equity to men and women in our Nation's Armed Forces.

This is a record all Senators can be particularly proud of. There is much yet to be done, but we have had an extraordinary first half of the year. Members of the Senate can go back to their States with a good feeling they have made great progress for our people.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will begin a period of morning business with Senators permitted to speak therein for up to 10 minutes.

The Senator from New Mexico.

ENERGY POLICY

Mr. BINGAMAN. Mr. President, let me speak very briefly in regard to the Energy bill that we passed here last night. As I just did personally, let me congratulate the majority leader on the decision he and the minority leader, Senator DASCHLE, made to move ahead and take the bill that was developed and had strong bipartisan support in the previous Congress and send that to the conference with the House as the democratically passed bill.

I think that was the right decision. That bill, as many have said, had a strong majority in the previous Congress. I think there were 88 Senators voting for it. There were nearly that many voting for it last night when it, once again, passed the Senate. I think that does allow us to move to the next stage of the process of actually writing a comprehensive Energy bill.

I, like many of my colleagues on the Democratic side, strongly support enacting a comprehensive bill. We have worked very hard to do that in the previous Congress. We worked hard to do that in this Congress, and to assist the majority in the development of the bill.

I believe strongly that the amendments that were offered to the bill that my colleague, Senator DOMENICI, brought to the floor were constructive amendments, were intended to improve the bill, were intended to get us in a better position to serve the needs of the country as far as energy is concerned over the next years and decades.

I think this result is a good one. Like all successful results in Congress, nobody won everything; nobody lost everything. There were wins and losses on both sides. I think that is the nature of compromise. But the end result is the American people will win. We will be able to go to conference now and hopefully develop an Energy bill that will continue to enjoy strong bipartisan support.

That is a challenge, as I see it. We have come a long way in a bipartisan way. We have had disagreements about particular provisions of the bill, but by and large we have been willing to resolve those differences and come up with something that makes good sense for the country. That same process needs to continue in the conference. I am confident it will.

Again, my colleague Senator DOMENICI will chair that conference. We had some disagreement in the previous Congress as to whether the Senate or House chairman should be the chair of the conference. We concluded that, based on precedent and all, in the 107th Congress the House was entitled to that position. But it is obvious now that in this Congress the Senate is entitled to that position. Senator DOMENICI will chair the conference. I hope to be on the conference once the conferees are named, and I look forward to working with him and with all the other members on the conference to try to ensure that we come up with a good bill that meets our long-term energy needs.

Let me, before I yield the floor, just take a moment to thank the staff, the Energy Committee staff, the cloakroom staff, and Senator DASCHLE's staff, for the hard work they put in getting us to this point on the energy legislation: On the Democratic committee staff of the Energy Committee: Bob Simon, Sam Fowler, Vicki Thorne, Patty Beneke, Mike Connor, Leon Lowery, Deborah Estes, Jennifer Michael, Bill Wicker, Jonathan Black, Jonathan Epstein, Malini Sekhar, Poonum Agrawal, Amanda Goldman, Shelley Brown, and Rosemarie Calabro.

The Democratic cloakroom staff, of course, is essential to all the progress we make here in the Senate. I want to acknowledge them: Marty Paone, Lula Davis, Nancy Iacomini, Tim Mitchell, Tricia Engle, Bret Wincup, Eric Pederson, Joe Lapia, Ben Vaughan.

I thank all of them and also Senator DASCHLE's excellent staff that is essential to all progress, as well, here in the Senate: Mark Childress, Jonathan Lehman, Peter Umhofer, Mark Patterson, and Michele Ballentine.

I think the result we achieved regarding energy was a good one. We now have a lot of work to do this fall when we return on the conference. I look forward to that. I am confident we can succeed in passing a good, bipartisan bill. I hope that will be the result.

I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS

Mr. NELSON of Florida. Mr. President, we have passed the supplemental appropriations bill. Because of the lateness of the hour last evening, and the fact that the House had already adjourned, having sent an emergency spending bill to us that basically included disaster relief money to FEMA, almost $1 billion, we were left with a choice of having to take it or leave it. It certainly was necessary for funding for FEMA for all kinds of emergencies. But, unfortunately, we did not have the opportunity to amend the bill to add additional items of very necessary funding.

One of those is the ongoing investigation into what happened to the Space Shuttle *Columbia*. This commission was established by NASA and headed by retired Navy Admiral Gayman. I have personally visited with them several times, and I am quite impressed with the professionalism of the individual members of the *Columbia* commission.

Certainly I am impressed with the professionalism and the dedication of Admiral Gayman as we anticipate the forthcoming report about what happened to the space shuttle. What was the cause? What is the fix? I think we can anticipate we are going to see them go much deeper into the organization of NASA itself as to what can be improved. I want to talk about that for a minute.

Let me get to the point about my coming to the floor so I can address this issue. They did not get the money appropriated which they need to continue the investigation. The only place conceivably they could get it is to take it right out of the hide of NASA. Of course, NASA has been starved over the last 10 years, which is part of the reason we got to this point in the first place. Safety was not given the priority it should have been given. Often safety is a reflection of where the resources—the money—is going. Thus, over that decade, right up until recently, NASA was starved of funds and, therefore, they were taking money out of space shuttle safety upgrades and putting it into other areas. That is one of the problems I think the Gayman commission will identify as their report comes forward.

But the supplemental appropriations bill that we passed last night did not provide the appropriation of $50 million for the Gayman commission when, in fact, it is ongoing and it will be reporting.

The long and short of it is that when we come back in session in September, that is one of the items we will have to address immediately. I think the will is clearly here in the Senate. From talking to the leadership on both sides of the aisle, I think the will is clearly here, and that is an item that we will have to attend to.

Let me say a couple of words about the investigation and what I think they might find. Clearly, the dramatic evidence they have is that this piece of foam that covered one of the support structures for the strut that attaches to the orbiter came off after launch during the ascent. It came off at such a rate and velocity, hitting the leading edge of the wing—that reinforced carbon—that it just blew a hole in it. Yet when the space shuttle got into orbit many engineers in the space agency were saying we ought to take photographs of it. That was denied. The capability of those high resolution photographs is well known, well established, and well reported in the press. That would have shown the breach. The breach was estimated to be probably a half foot. With that kind of photography available, NASA managers would have been able to clearly see it.

Then the question is, What would you do about it? They had the capability because we had another space shuttle already stacked. It was back in the vehicle assembly building. It could have been processed; it could have been done double time. They could have rolled it out to the pad. Unless there was a major hitch, they could have launched it. They could have gotten this launched as a rescue shuttle in time. Another option was they could have done an EVA—that is an acronym for space walk—from *Columbia* in orbit.

The ingenuity of NASA in a time of peril is just incredible. What that space team, that space family can do to figure out how to take care of problems and how to meet emergencies is incredible.

Let us not forget *Apollo 13*. On the way to the Moon, the major engines exploded. They were losing oxygen. They were losing air pressure. That team went into emergency mode and they figured out how to get those three Apollo astronauts back into the lunar lander. Then they figured out how to use the motor of the lunar lander. As the gravity of the Moon caught them and pulled them behind the Moon, they used that motor to kick them out of lunar orbit onto a trajectory back to Earth. All reasonable people thought we were going to have three dead astronauts. Yet the NASA team, the NASA family, even the astronaut who had been bumped from the flight because he had been exposed to the measles—he was on the ground—could go into the simulator and work it real time—figured out how to bring them back. That team, headed by astronaut Jim Lovell, who was in the spacecraft, came back home. They came back home safely. It was an incredible time. It is just another example of the ingenuity and the high-pressure decisionmaking that NASA's family and its team is capable of doing.

Had they known that a hole was blown into the leading edge of the left wing of the Space Shuttle *Columbia* this past February, they, too, would have been able to figure out something that they could do in a space walk to stuff it in. That may not have saved them but we could have tried.

I think the Gayman report will discuss these issues. But I think the Gayman report is also going to discuss some additional points.

It has been well reported in the press that you can expect they are going to talk about the lack of communication and the culture of NASA that discourages communication from the bottom up. That is a culture that leads to intimidation of people coming forth into the open—a culture in which the managers are not encouraging that information. It is kind of like water. It is very easy for water to flow from the top down, but it is very difficult for water to flow from the bottom up. You have to encourage that communication for it to occur.

Interestingly, this same kind of problem occurred 17 years ago in the destruction of the Space Shuttle *Challenger*. There were engineers in Provo, UT, at Morton Thiokol begging their management the night before to stop the countdown on the Space Shuttle *Challenger* because they feared the cold weather was going to stiffen those rubberized gaskets called O-rings which would on launch allow the hot gases to come through the joints of the solid rocket boosters, which is exactly what happened, and it caused the destruction of the Space Shuttle *Challenger*.

There is a logical reason why it was destroyed, but there is also a culture reason why it was destroyed. That culture was a lack of communication. It was a culture in NASA that did not encourage communication, that was almost intimidation if you dared challenge the authority.

When you are dealing in a research and development agency that is as good as NASA is, you can only expect the very best flow of information in all directions.

So I am looking forward to Admiral Gayman's commission report, which I think will be very helpful as we try to get this problem fixed and get flying again so we can get on with America's space program. Once we address all these culture issues, it is going to be the responsibility of this Congress to help NASA develop a new goal, a new vision, a new mission, that will ignite again the imagination of the American people.

I think in large part that is going to be either us going back to the moon with a lunar colony and/or the next major bold step of sending an international team from planet Earth to planet Mars. That will be an exciting day.

In the meantime, however, we have to do what we did not do last night. We have to fund the investigation as to the destruction of *Columbia*. We have to fund that commission, and not out of the hide of NASA, so that those NASA moneys are not taken away from upgrades in safety. Instead, we have to fund that as we had promised we would fund it.

Mr. President, there was another program we did not fund last night. It is clearly the majority opinion in this Senate that we want to fund AmeriCorps, that we want to continue to have young people have a financial incentive to help out their country, just like we do in the Peace Corps.

We have been down to only 7,500 people in the Peace Corps. We need to at least get that up to 25,000. I have had foreign leaders over the course of the last two and a half decades tell me the Peace Corps is one of the best things America has going for it in our foreign relations.

Also, young people who want to help their country, but not necessarily to do so abroad, ought to be able to do so at home. But, instead, what do we see? The House of Representatives cutting AmeriCorps.

So one of the things we wanted to do last night was to add to the emergency supplemental appropriations bill an additional amount of money so AmeriCorps could stay at least at its present level so it was not cut. That was not done. I am sad it was not done. In the judgment of this Senator, that clearly was not in the best interests of the country.

Indeed, I would like to see a day in which every young person in America would have an obligation to their country for 1 or 2 years. And that obligation could be their choice of national service. They could go into the military. They could go into the Peace Corps. They could go into AmeriCorps; part of that, the Job Corps. They could go in as teachers' aides. They could do innumerable tasks and, in return, have some financial incentives for their own education, something akin to what we did after the Great War, the GI Bill, where soldiers could come back and go to school.

The politics is not right for that. It would be costly. But that is a goal I think we ought to work toward. Instead, what we are doing is exactly the opposite by cutting AmeriCorps.

LIBERIA

Mr. NELSON of Florida. Mr. President, I was looking forward to going right now to a classified briefing on Liberia as part of our Senate Armed Services Committee. It is my understanding that briefing has been canceled because they feel too many of the Senators have already gone back to their States. I am going to still see if we can get that information for those of us on the Armed Services Committee who are still here.

But as we look at Liberia, we cannot keep delaying decisionmaking. I think putting the marines on the boats offshore is clearly a step in the right direction, but this should have been done a couple of weeks ago. Although it wasn't, the marines are in transit, and that is a step in the right direction.

What do we need to do? I think it is clearly in the interest of the United States that we diplomatically—in addition to the military action—make sure the cease-fire we are trying to get in place stays, and to reach out to all sides, including the rebel side. I think they have an interest in having the cease-fire. We need to make sure that cease-fire sticks. Then we need to work out an arrangement whereby the African troops come into place. At that point, once there is a military presence stabilizing the country, I think we should have a simultaneous evacuation of Taylor with our U.S. Marines coming in with a presence for a short period of time, with mainly the peacekeeping burden being put on the ECOWAS or African troops. Clearly, we, the United States, need to be directly involved in order to stabilize that region, with a minimum of involvement of U.S. troops.

It is clearly in our interest that part of Africa be stabilized. We are going to have to help with it. I think the movement of the marines into that region, albeit on the ships offshore, is a step in the right direction. I hope something akin to what I have laid out here will, in fact, be put into place.

So thank you, Mr. President, for the opportunity to share these thoughts. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

ASSOCIATION HEALTH PLANS

Mr. TALENT. Mr. President, it is my pleasure to speak to the Senate today about a subject on which I have risen to speak before, a very important piece of legislation that I think has the potential to solve what is probably the No. 1 problem that small businesspeople and their employees confront today. I am talking about the bill which I have cosponsored along with Senator SNOWE, who is the chairman of the Small Business Committee, and others. It is a bill to allow small businesspeople to create association health plans.

This bill is not a Government program. In a time of great deficits, it does not require us to spend any money. It is going to take a long step toward solving the problems of the uninsured, reducing the number of the uninsured, and getting working people better health insurance at less cost. It does not cost the taxpayers anything because all it does is allow people to work together and do for themselves, as small businesspeople and employees of small businesses, what big companies and employees of big companies can already do.

Most people in the United States who have health insurance are a part of a big national pool—almost everybody is. You are either in Medicaid or Medicare or the Federal Employees Health Benefits Plan or covered by a labor union plan or a multi-employer plan with a labor union or you work for a big company. If you are in any of those situations, you are covered by health insurance, and it is health insurance where you are a part of a big national pool.

The only people who are not in that situation are people who work for small businesses. I define that very broadly. That includes farmers. It includes people who are self-employed consultants operating out of their own home. They are in the small group market. They have to buy insurance. If they own or run a small business or a farm, they are buying insurance for small groups of people, 5 people or 10 people or 20 people or 25 people.

Insurance works better when you spread the risk across as large a pool as possible. It doesn't take an advanced degree to understand that. All association health plans do—and it is very important what they do—is simply allow the employees of small businesses to get the same efficiencies and economies of scale that employees of big business already enjoy. All I would do is allow trade associations—the Farm Bureau, the NFIB, the Chamber of Commerce, the National Restaurant Association—to sponsor health insurance coverage nationally the same way the human resources side of a big company would do.

Let's take a big company such as Emerson Electric, a great company in Missouri, or Sprint, or Anheuser Busch, all headquartered there. They have a human resources side, an employee benefits side. They contract with insurance companies nationally; they may have a self-insured side. Then their employees all over the country can enjoy an option in different plans as part of pools of 5 or 10 or 20 or 30,000 people. The administrative costs of such plans are much lower because they are spread across a much wider base of employees. They have much greater purchasing power and negotiating power when dealing with the big insurance companies. They have the competitive possibilities of self-insurance. So insurance is better in that situation and it costs less.

It doesn't mean they don't have problems, but you are a lot better off there than you would be and are right now if you are struggling as a small business owner or the employee of a small business.

Of the 44 million people uninsured in the country, about two-thirds either own a small business or work for a small business or are dependents of somebody who owns or works for a small business. I am including farmers. Then there are tens of millions of other people who may have health insurance through a small business, but it is bare-bones health insurance. It is not what it should be because the costs are so high, and they are going up every year.

There is a human side to this. Senators who have not done this—I imagine most Senators have—go out and talk to people who work in small businesses or run small businesses. I guarantee you, they will tell you the No. 1 problem they are confronting, short and long term, is the rising cost of health insurance and increasing unavailability. This hits people where they live.

We have had too many layoffs in Missouri. We have lost more jobs in Missouri in a 1-year period than any other State. There are a lot of bad results connected with the layoff, obviously. But I think maybe the first that hits a family when they lose a job or are concerned about losing a job, particularly if it is a family with kids, is: What about my health insurance? What do I do for that? It is as important as people's wages.

Folks in the small business sector, employees of people in the small business sector have labored too long in a market that does not work. It is dominated by a few companies, and they are acting more and more like monopolists, raising prices higher and higher, providing fewer and fewer services, less and less quality insurance. We need to do something about it. We can do it, if this Senate will pass association health plans. It passed in the House by 100 votes last month—strong bipartisan support. It has passed several years in a row in the House. The President supports it. We in the Senate ought to pass it.

I fought on the floor of the Senate for it. I will continue to do so. It is a great bill. We have great sponsors. We will take up the debate again in the fall. I am very hopeful we can pass it.

It is no secret—and Senators know this because I have been talking to them and I know how strongly they are being lobbied on both sides, lobbied in opposition to association health plans—who is at the core of the lobbying effort against association health plans. It is the Blue Cross Insurance Company. It is no secret why. Blue Cross is dominant in many States. It is one of the few big insurance companies in almost every State that currently provide health insurance to small businesses. They have a big stake in not having association health plans enter the market to compete. It would be a huge competitive force. It would take business away from them or cause them to lower their prices in order to keep the business.

I don't begrudge them or anybody else their opportunities or rights to lobby on legislation that comes before this Senate. They have lobbied. They spent $4.3 million last year on lobbyists. I don't know how much of that was spent on association health plans. We do know this is the No. 1 priority for that company—to stop this bill. We can all infer why. I don't begrudge them that. But the debate ought to be done honestly, and it ought to be done within the limits of fair play. That is not happening. I want the Senate to know about it.

First, I said it is not being done within the limits of honesty. The No. 1 charge being brought against association health plans is not only not true, it is exactly the inversion of the truth. It is exactly the opposite of the truth. If you want to fool somebody, tell them something that not only isn't true but is the opposite of the truth. Try and sell them on that.

The No. 1 charge against association health plans is that they would result in cherry picking; that is, that small businesses that are healthy would want to go into the association health plans; small businesses with employees who are sick would not want to go into association health plans. That is the exact opposite of the truth. I think everybody who currently is trapped in the small group market is going to want to be a part of an association health plan. Who would not want to get insurance through a big national pool as opposed to a small group of 5 or 10 people, if you could do it? It is simply economics. It operates more efficiently. It operates better. It is going to lower costs for everybody. By our estimates, it will lower costs for small business, on average, 10 to 20 percent and reduce the number of uninsured by millions. It will provide good quality health insurance to others who right now are laboring with bare-bones insurance because the market is so difficult. Everybody is going to benefit. The people who will benefit especially are people who are trapped in small groups where somebody has become sick.

I have talked about this subject and toured scores and scores of small businesses. I have brought up this charge of cherry picking. I say to people: If you had a history of medical problems and you had a choice of working for a big company which provides health insurance the way an association health plan would or, on the other hand, working for a small company which is trapped in this small group market and that was all you knew about the two opportunities—big company, national pool; small company, small group market—and you were sick, for which one would you want to work? I have never had a single person say: I want to work for the small business; I think I am going to get better health insurance there.

One of the big competitive advantages big businesses have over small businesses is that generally they offer better health insurance. Everybody in the job market knows it. I have had a lot of small business people tell me: We have lost employees to big companies on the health insurance issue. We have not been able to hire people we want to because they went to work for a big company because they thought they would get better health insurance.

I don't begrudge the larger companies. But why should small businesses and their employees not have the same opportunities? This will benefit everybody in the small business market, but it is going to benefit most the people who are ill, or employers who are struggling along with people who are ill and are doing the best they can to provide good health insurance.

Here is another reason it is not association health plans that will cherry-pick. The legislation requires that they take everybody, all comers. Must offer/must carry. Join the association and you get the health insurance. They cannot screen you out because you have somebody who has cancer or heart disease or something like that.

Mr. President, it is the big interest companies now who are cherry-picking. Just talk to people who run small businesses. When somebody in their business gets sick and files a claim, their rates get jacked up or they get canceled. Everybody knows it. I could give a lot of examples. One example is Janet Poppen, a small business owner from St. Louis. Like many small business owners, she wants to do right by her five employees, so she tries to provide them health insurance. How many hours and hours does Janet and people like her spend just on the administrative details? It is hours they need to spend running their small business.

If we had an association health plan, they would join the trade association, and the trade association has done all that work. It just sends them the papers and they sign up their employees. She had health insurance through Blue Cross/Blue Shield, and one of her employees had the temerity to get sick with non-Hodgkins lymphoma. As soon as she started getting treatment for the cancer, Janet's premiums increased by 16 percent. That is on top of the substantial premium increases that had occurred the year before. Her premiums had gone up 35 percent over 2 years.

This is not an uncommon story. Everywhere I go, small businesses say that premiums are going up 15, 20, 25 percent a year, doubling over 3 years, going up by a third over 2 years. That happened to Janet Poppen, and she is insured by Blue Cross. They are the ones cherry-picking. Association health plans are the remedy, and to say otherwise is the exact opposite of the truth.

One other point, and then I will close. I have trespassed on the Senate's time enough. We ought not to turn this debate, which is one of the most important ones we are going to have in the Senate, into a sweepstakes. Blue Cross is doing that. They have sponsored a Web site. There are other problems as well, but on that Web site they have a sweepstakes. You can enter the sweepstakes to win a trip to Washington for four people, and they will give you $300 cash on top of it. Do you know what you have to do to enter the sweepstakes? You have to click on the place where you can send an e-mail to your Congressman and Senator opposing association health plans. Then you get in the sweepstakes. Then you get a chance to win a trip to Washington—if you will just click on the e-mail and send a letter to Washington opposing association health plans. You don't get anything if you send in a letter supporting association health plans. I will show the Senate where it says enter to win.

Here is a chart, and this is the Web site now. It says that you can make your voice heard by sending a free fax to Congress. That is what they tell people. They don't tell you what the fax is about, that the fax has to oppose association health plans and support their business interests. Then they have some misrepresentations about association health plans.

Go to the third chart. This is what you get if you do it. At least you have a chance at this. It is a drawing. The grand prize is a trip for four to Washington, DC, including round-trip coach class air transportation at the U.S. airport nearest the winner's home, double occupancy, standard hotel accommodations, two rooms, a 4-hour Washington, DC, bus tour, shuttle bus airport transfers, and a total of $300 in spending money. It has an approximate retail value of $4,000.

All you have to do is join Blue Cross, sending in an e-mail opposing the association health plans. You don't get to join if you decide you want to support them. You don't get a chance at the sweepstakes then.

I always encourage people to contact their Congressmen and Senators. I like it when people contact me, even if they disagree with me on something. That gives me a chance to write back and explain my position. I have had great exchanges with constituents that way. But we ought not to give people a monetary incentive one way or another because that means the opinions we are getting are not unnecessarily unbiased, are they?

I don't blame anybody who wants a shot at a $4,000 trip and participates in a sweepstakes in order to get it. But I sure blame the people who have sponsored that Web site and are distorting the debate on this serious issue before the Senate. And this is a serious issue.

There are millions and millions of people in this country who don't have health insurance and who need it. Most of them are stuck in a market that isn't working and is dominated by a few competitors, and we have a chance to change that. It doesn't even cost the taxpayers anything. I hope we can do it. They have done it in the House with a bipartisan vote. I hope we can do it in the Senate. At the very least, we need a debate that is conducted honestly, conducted fairly, and that doesn't turn health care into a sweepstakes. I hope after this we will have it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

TRIBUTE TO ROBERT S. WINER

Mr. LAUTENBERG. Mr. President, I rise to express a personal note of grief and fond remembrance as I pay tribute to one of my dearest friends, Bob Winer, who passed away on July 18.

Bob was born in Brooklyn, NY, moved to New Jersey, and joined the Navy when he was 17 and proudly served in the Pacific during World War II.

After the war, he joined his two brothers in a clothing manufacturing business begun by their father many years earlier. The company, Winer Industries, was located in Paterson, NJ, where I was born.

I first met Bob when I called upon him to use my company—ADP—to handle his payroll and other data processing needs. He became a client and a good friend almost immediately; our friendship grew and grew over the next 40 years.

Bob truly was larger than life. We shared common interests like skiing, boating, and feasting. Bob had a zest for living that few could match. He traveled extensively. He enjoyed spearfishing, often surrounded by sharks and barracuda, and taught his children and his friends to be comfortable in that environment. He owned airplanes and was a great pilot with thousands of hours to his credit, and I spent many hours as his co-pilot. He suggested that I take flying lessons, asking me what I might do if he suddenly "slumped over the wheel." My response was that if that were to happen, I would slump over the wheel, too! He seemed indestructible.

The best thing about Bob's zeal for living was his insistence on sharing it with lots of family and friends. He let his 8-year-old nephew land a twin-engine plane—at night. That might strike some people as foolhardy but the thing about Bob was that he had so much confidence, so much skill, and so much courage, he inspired it in others.

Bob did well in life. He lived in Morristown, NJ, and had homes in Nantucket, Vermont, and Florida, and lots of friends in many places. Yet, he was about as unassuming as someone can be.

But more important, Bob did so much good in life, too. When Bob's brother and sister-in-law were killed in a plane crash, Bob and his wonderful wife Elaine, with their three daughters—Trisha, Laurie, and Jill—helped raise his brother's children, Jeannie, Ken, and Larry, as their own.

I think we grow or shrink in direct proportion to our generosity. Bob was the most generous person I have ever met and everyone who knew him would say that it was apparent in everything he did. It was a rare privilege to know him and I was proud to call him my friend.

Bob was devoted to his family and friends, his business and community, and our country. He was a veteran, a philanthropist, and an adventurer. Above all, he was an extraordinary human being.

In 1899, Robert Ingerson, a known essayist who lost a brother, wrote these words which I think provide a fitting tribute to Bob, who was like a brother to me:

> He added to the sum of human joy; and were everyone to whom he did some loving service to bring a blossom to his grave, he would sleep tonight beneath a wilderness of flowers.

Few people on this earth have done more than Bob Winer to "add to the sum of human joy." So, while we grieve his death and hold him and his family in our prayers, it's also appropriate to celebrate his life, a life so richly lived.

He will be sorely missed by family and friends, and in my life, a tear will fall every time I think of him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak for up to 30 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPACT OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

Mr. AKAKA. Mr. President, I rise today to speak about S.J. Res. 16, the Compact of Free Association Amendments Act of 2003, which was introduced by myself, Senators BINGAMAN, DOMENICI, and CRAIG on July 14, 2003. S.J. Res. 16 is the Bush administration's legislative proposal codifying 3 years of negotiations on title II of the Compact of Free Association between the United States and the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia, FSM. I have been monitoring this process very closely since negotiations began in 1999.

When the Senate returns after Labor Day, we have a very short window to enact this legislation, which is critical to the success of the U.S. political relationship with these two Pacific Island nations. I want to take some time to share with my colleagues the amendments that I intend to offer to ensure that the negotiated provisions remain consistent with the intent of the Compact of Free Association since its enactment in 1986 and address specific issues as they relate to the costs borne by the State of Hawaii over the past 17 years.

My interest in these islands first began when I was stationed there in World War II, as a soldier in the United States Army. The first island that I landed on was Enewetak, an atoll in what is now the RMI. I ended up on Saipan and Tinian where I watched the Enola Gay take off for Hiroshima. I then returned to the islands that are now the FSM and RMI as a first mate on a missionary ship and spent six months in the islands. After being elected to Congress, I continued to closely follow events in the Pacific islands and continued my relationships with many of the families in the RMI and FSM.

As a member of the Senate, I have been privileged to serve on the Senate Energy Committee which has jurisdiction over insular areas. I have returned to the islands on trips, often with my friend and former colleague, the former Chairman of the Energy Committee, Governor Frank Murkowski, and I have continued to meet with Pacific island government leaders.

I have been very interested in the negotiations which have been ongoing since 1999, not only because of the impact of the Compact of Free Association on the State of Hawaii, but because of my interest in ensuring that the United States preserves its commitment first under the U.N. Trusteeship agreement and then under the Compact to establish sovereign governments and to promote economic development and self-sufficiency.

I commend the chairman and ranking member of the Energy Committee, Senator DOMENICI and Senator BINGAMAN, for their efforts to expedite consideration of this legislation in the Senate, and their appreciation of what needs to be done to fulfill our responsibilities to our allies in the Freely Associated States, or FAS.

The Federated States of Micronesia is a group of 607 small islands in the Western Pacific about 2,500 miles southwest of Hawaii. While it has a total land area of about 270.8 square miles, the FSM occupies more than one million square miles of the Pacific Ocean. It is composed of four island states, formerly known as the Caroline Islands—Kosrae, Pohnpei, Chuuk, and Yap. Today, the FSM Constitution provides for three branches of government—the executive, judicial and legislative branches. The President is the head of state of the national government and there are elected Governors for each of the four states. The estimated population of the FSM is 105,500.

The Republic of the Marshall Islands is located about 2,136 miles southwest of Hawaii and is made up of five islands and 29 atolls. While the RMI's total land area is only about 70 square miles, the RMI covers about 750,000 square miles of sea area. There are three branches of government in the RMI—the legislative, executive and judicial branches. The head of state is the President, who is elected by the legislature from its membership. The population of the RMI is approximately 56,000.

The Compact of Free Association may be new to some of my colleagues, particularly those who were not in Congress in 1986. The United States has a very unique relationship with the FSM, RMI, and Palau, whose Compact is not being considered for negotiation. It is unfortunate that there is some misunderstanding about the purpose and intent of the Compact of Free Association. The compact established the RMI and FSM as sovereign states that conduct their own foreign policies. Both countries were admitted to the United Nations in 1991. However, the Freely Associated States remain dependent upon the United States for military protection and economic assistance. The compact provides that the United States has the prerogative to reject the strategic use of, or military access to, the FAS by other countries, which is often referred to as the "right of strategic denial." The compact also provides that the U.S. may block FAS government policies that it deems inconsistent with its duty to defend the FAS, which is referred to as the "defense veto." Under the compact, the United States also has the exclusive military base rights in the FAS. In exchange, the U.S. is required to support the FAS economically, with the goal of producing self-sufficiency and FAS citizens are allowed entry into the United States as nonimmigrants for the purposes of education, medical treatment and employment.

As we consider S.J. Res. 16, I will be offering a number of amendments to address the sufficiency of the negotiated provisions to fulfill the U.S. commitment to assist the FSM and RMI with economic development opportunities, with the goal of self-sufficiency in 20 years. I am also working on amendments to address issues specific to the costs incurred by Hawaii during the first 17 years of the Compact of Free Association.

I have a tiered approach to meet these objectives. My long-term intent is to improve the education and medical infrastructure in the RMI and FSM. Economic development and self-sufficiency cannot occur without the proper tools of education and health care. These improvements will take substantial investment over time. My short-term goal is to reimburse the State of Hawaii for the costs incurred by the compact. I will discuss those amendments in a few minutes.

Title II of the compact, Economic Relations, expired on September 30, 2001. The compact provided, however, a two-year extension if negotiations were underway. Title II expires on September 30, 2003. Title II is critical to the success of the compact as it includes all of the Federal funding for the RMI and FSM. It is my understanding that the legislative proposal contains some unilateral changes that were made to the compact without the consent of the RMI and FSM governments—we will need to examine those provisions closely. In addition, I believe we need to examine some of the immigration provisions which are included in S.J. Res. 16 to ensure that they do not circumvent the purpose of the Compact of Free Association.

I would now like to turn to the issue of disaster assistance. Under the current compact, the Federal Emergency Management Agency, FEMA, provided disaster relief to the communities in the FSM and RMI. In addition, FEMA provides essential services after natural disasters such as typhoons or tsunamis. Disaster assistance includes both individual grants and low-interest loans. Most, but not all, Federal assistance is in the form of low-interest loans to cover expenses not covered by State or local programs, or private insurance. Individuals who do not qualify for loans may be able to apply for a cash grant. Cash grants are also available for home repair, rental, and funeral services.

The public assistance grants for community infrastructure allow territorial, local, or even village-level organizations to respond to disasters, to recover from their impact, and to mitigate impact from future disasters. While these grants are aimed at governments and organizations, their final goal is to help a community and all its citizens recover from devastating natural disasters. The grant assistance, provided on a matching basis, helps toward the repair, replacement, or restoration of disaster-damaged, publicly-owned facilities. FEMA assistance is critical. In 2002, Typhoon Cha'atan hit the FSM and caused 50 deaths, injured hundreds of people, and resulted in $6 million in property damage.

S.J. Res. 16 removes FEMA's role in providing disaster relief, and replaces it with the U.S. Agency for International Development, Office of Foreign Disaster Assistance, OFDA. This doesn't make sense. OFDA assistance is for humanitarian relief of disasters in foreign nations, with direct provision of food and shelter, and assistance in protecting health and rebuilding water supplies. FEMA's disaster assistance, through its individual and public assistance grants, provides U.S. communities with the ability to rebuild and reinvest in their infrastructure. We have invested millions in FSM and RMI to build and protect infrastructure. These investments need to be protected to ensure that these Pacific island communities will be able to recover from natural disasters.

We cannot terminate FEMA's disaster assistance. We must replace USAID's OFDA with FEMA's disaster assistance programs for the amended compact, maintaining the strong and reliable service that the islands need when peoples' lives are destroyed by natural disasters. I look forward to working with my colleagues to rectify this situation.

As we continue assisting the FAS in building up physical infrastructure and achieving long-term self-sufficiency under a new funding mechanism, I cannot emphasize enough the urgent need to continue FAS eligibility for federal programs. It is important for us to maintain the view that such programs are complementary to the economic assistance under the compact and must continue to be open to FAS citizens if we are to succeed in allowing the FSM and RMI to fully develop.

Federal programs in education have been a cornerstone for FAS communities, particularly in the later years of the original compact. This was when schooling evolved away from—as noted in 1994 by an Asian Development Bank study—its use as a tool to advance the interests and objectives of colonial powers. Rather, educational content has become more appropriate to traditional education and changed the lives of many FAS citizens for the better, strongly encouraging them to actually enroll in school.

It is remarkable, for example, that the proportion of those who completed secondary education in the FSM almost doubled from 25 to 47 percent between 1980 and 1994. Today, the FSM Government reports that the literacy rate is quite high and all children are required to attend school at least through the eighth grade. In the RMI, elementary school enrollment increased from almost 7,400 in the late, seventies to more than 11,700 in 2000, while secondary school enrollment went from 1,430 to 2,586 in the same period.

It is imperative that we help to educate young generations in the FAS because those ages 15 years or younger make up nearly half of the FSM and RIM populations and will eventually become parents, workers, and government, business, and community leaders. Education is the key to a strong future for these island communities and will ensure that the U.S. investments in these populations will reap positive returns.

However, despite the great progress that has been made, the FAS clearly have a long way to go in improving their educational systems. This is evidenced by FAS citizens' continued migration to Hawaii and other parts of the U.S. for educational opportunity. Even so, the Micronesians and Marshallese have taken education into their own hands and are striving mightily to attune it to the needs of their people. In this vein, Federal programs such as Head Start, title I for disadvantaged populations, the Individuals with Disabilites Education Act, IDEA, and Pell Grants have tremendously helped by empowering the FAS and providing vital resources to help them create sound education systems that serve the needs of their people. Indeed, I have been assured that without Pell Grant assistance, higher education institutions such as the College of Micronesia would be unable to continue operating.

Given the importance of such programs to the FAS, I am concerned about recent and ongoing efforts in the other body to limit or eliminate FAS eligibility for various education and other domestic Federal programs. I am not alone in this concern. I was pleased to join Senators DOMENICI, BINGAMAN, and CRAIG in writing on May 20 to the leaders on the HELP Committee, asking that they maintain support for the FAS through eligibility for various education programs. As we state in the letter, "the loss of such funding could very well mean the end of education services at all age levels in the FAS." When we return in September, I intend to pursue this matter with my colleagues.

I would now like to address some compact issues specific to the State of Hawaii. Section 104(e)(1) of the Compact (Public Law 99-239) states, "it is not the intent of the Congress to cause any adverse consequences for the United States territories and commonwealths or the State of Hawaii." The compact further authorizes appropriations for such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands, CNMI.

As FAS citizens are allowed free entry into the United States as part of the compact, many FAS citizens reside in the State of Hawaii. Since 1997, when Hawaii began reporting its impact costs, the State has identified over $140 million in costs associated with FAS citizens. In 2002, the State of Hawaii expended over $32 million in assistance to FAS citizens, with the highest costs reported in education. The State of Hawaii has received a total of $6 million in compact impact aid, largely due to our efforts in the Senate and the leadership of the senior Senator from Hawaii, Mr. DAN INOUYE. This modest amount of funding, however, does not adequately reimburse the State of Hawaii for its costs over the past 17 years.

S.J. Res. 16 includes $15 million in mandatory funds to be distributed annually between the State of Hawaii, Guam and the CNMI for compact impact aid. While it is an improvement to have mandatory funding earmarked for compact impact aid, the amount is not based on the actual costs to the affected areas over the past 17 years. As I have just said, for 2002 alone, the State of Hawaii spent over $32 million on services for FAS citizens. I plan on offering an amendment to increase the amount of annual compact impact aid to the State of Hawaii and other affected areas. I am also drafting an amendment which would authorize reimbursement for the funds expended by the governments of the affected areas between 1986 and 2003.

Hawaii's medical providers have also suffered because they are owed thousands of dollars in unpaid medical bills. Some of the debt has been incurred by individuals, FAS citizens lacking financial resources—who present themselves to medical providers for treatment. Other debt, however, is a result of the medical referral program, and is to be paid by the FSM and RMI governments. The medical referral program allows FAS citizens to travel to Hawaii for medical treatment to be paid by the FSM or RMI because such treatment is not available in their country.

During its consideration of the original compact, Congress recognized this problem and authorized funding for unpaid debts related to the medical referral program which were incurred prior to 1985. Unfortunately, the problem has continued. Hawaii's medical providers, who are already having difficulties meeting the health care needs of their communities, are unfairly penalized because of the inability of the island governments to pay the medical bills associated with the medical referral program. I will introduce an amendment that would extend the authorization for funding for the medical referral program debts to 2003.

I also plan to offer amendments which would alleviate the compact's cost to the State of Hawaii by restoring and establishing the eligibility of FAS citizens for programs such as Medicaid, Food Stamps, and Temporary Assistance to Needy Families, TANF.

It is imperative that we restore eligibility of FAS citizens for non-emergency Medicaid. FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity, PRWORA, Act of 1996, including Medicaid coverage. FAS citizens were previously eligible for Medicaid as aliens permanently residing under color of law in the United States.

After the enactment of welfare reform, the State of Hawaii could no longer claim Federal matching funds for services rendered to FAS citizens. Since then, the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands have continued to meet the health care needs of FAS citizens. The State of Hawaii has used state resources to provide Medicaid services to FAS citizens. In 2002 alone, the State spent approximately $6.75 million to provide Medicaid services without receiving any federal matching funds.

There has been an increasing trend in the need for health care services among FAS citizens. During the current fiscal year, the number of individuals served in the State of Hawaii's Medicaid program has grown from 3,291 to 4,818 people based on the average monthly enrollment. This is an increase of 46 percent. For only the first half of the fiscal year, the State of Hawaii has spent $4.66 million for the Medicaid costs incurred for FAS citizens. These Medicaid costs do not reflect additional State expenditures on medical care contracts to care for the uninsured, community health care services, and for the activities of the Department of Health's Communicable Disease Branch.

The Federal Government must provide appropriate resources to help states meet the healthcare needs of the FAS citizens—an obligation based on a federal commitment. It is unconscionable for a state or territory to shoulder the entire financial burden of providing necessary education, medical, and social services to individuals who are residing in that state or territory when the obligation is that of the Federal Government. For that reason, I am seeking to provide reimbursement of these costs. It is time for the Federal Government to take up some of the financial responsibility that until now has been carried by the State of Hawaii, CNMI, and Guam, by restoring public benefits to FAS citizens.

Eligibility of FAS citizens for non-emergency Medicaid must be restored. In addition, the State of Hawaii, Guam, American Samoa, and the CNMI should be reimbursed for the Medicaid expenses of FAS citizens incurred since 1996. It is the right thing to do.

Continuing along the lines of assisting FAS citizens towards long-term self-sufficiency, I would now like to turn to the issue of social services. The need for support provided by a safety net of social services becomes apparent when we take a look at the economic conditions FAS citizens face at home. In 2001, per capita income, as measured by purchasing power parity, was $1,600 in the RMI and $2,000 in the FSM. This amounts to almost $8,000 below the poverty threshold per capita in the U.S. for that same year. Furthermore, many FAS families are single-parent households and face many barriers to employment, including low or no-job skills, low levels of education, and disabilities.

This is why it is important to provide Federal support through social service programs while continuing to develop new economic opportunities for FAS citizens. Otherwise, the impact of serving FAS citizens will continue to be felt outside of the FAS. For instance, in Hawaii, according to the state's Attorney General, financial assistance in the form of the Temporary Assistance to Other Needy Families, TAONF, program, a State program, provided $4.5 million to FAS citizens in State Fiscal year 2002. This amount is secondary only to the amount spent to provide educational services to the FAS. Of this total, $390,000 went to the General Assistance program, which supports individuals and couples with little or no income and who have a temporary, incapacitating medical condition; $532,000 supported aged, blind, and disabled FAS citizens with little or no income who are not eligible for federally-funded Supplemental Security Income SSI; and $3.6 million went to the State's TAONF program that assists other needy families who are not eligible for federal-funding under the Temporary Assistance to Needy Families, TANF, program.

The number of FAS citizens served by the Hawaii Department of Human Services has increased by almost 20 percent in the span of one year alone. The financial assistance that the State of Hawaii provides to FAS citizens in the form of TAONF is a great support to those families attempting to achieve economic stability.

I am also planning on offering an amendment to make FAS citizens eligible for the Food Stamp Program. The Food Stamp Program serves as the first line of defense against hunger. It is the cornerstone of the federal food assistance program and provides crucial support to needy households and those making the transition from welfare to work. We have partially addressed the complicated issue of alien eligibility for public benefits such as Food Stamps, but again, I must say it is just partial. Not only should all legal immigrants receive these benefits, but so too citizens of the FAS. Exclusion of FAS citizens from federal, state, or local public benefits or programs is an unintended and misguided consequence of the welfare reform law.

We allow certain legal immigrants eligibility in the program. Yet FAS citizens, who are not considered immigrants, but who are required to sign up for the Selective Service if they are residing in the United States, are ineligible to receive food stamps. We must correct this inequity. I will work on clarifying current law regarding FAS citizens' eligibility for various federal assistance programs, including TANF and Food Stamps.

In addition, I ask my colleagues to support efforts to extend current TANF state waivers and reinstate recently expired state waivers. Hawaii has been operating under a waiver approved by the U.S. Department of Health and Human Services since 1996. To date, Hawaii has met all of its employment goals, despite experiencing difficult economic times in the 90s and into the current decade. This waiver maintains protections for disabled individuals, including FAS citizens, which were reported in the State Fiscal Year 2002 as numbering over 200. I am concerned that proposals that would limit various support services to this disabled population to three months would guarantee failure for many Hawaii families, including FAS citizens, should Hawaii's waiver be allowed to expire. I look forward to working with my colleagues on the Finance Committee on this separate TANF reauthorization issue.

I cannot stress the importance of the Compact of Free Association to the Pacific islands, the State of Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa. The United States made a commitment to help these countries attain self-sufficiency through economic development and Federal programs based on a political relationship unique to this situation. We must honor this commitment by ensuring adequate resources to meet our obligations. We cannot treat the FSM and RMI as mere allies and foreign nations—the political relationship of free association calls for more than that. We must provide Federal benefits such as Food Stamps, TANF, and Medicaid to FAS citizens residing in the U.S. We must ensure that the trust funds for each country have sufficient funding to ensure that in 20 years, the RMI and FSM will be able to function as economically independent nations. We must improve the infrastructure of the education and medical systems in the RMI and FSM to alleviate the long-term impact of the Compact on the State of Hawaii and Pacific territories. We must continue eligibility in federal education programs such as Head Start, the Individuals with Disabilities Act, Pell Grants, title I, and the No Child Left Behind Act to ensure that we equip future generations of Micronesians and Marshallese with the educational tools necessary to succeed in the 21st century. We must do all of this in a culturally sensitive manner.

We have a big challenge ahead of us, to keep the commitment we made in 1986. I look forward to working with all of my colleagues on this important endeavor.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRENGTHENING THE DEFENSE OF MARRIAGE ACT

Mr. CORNYN. Mr. President, I rise today to say a few words about the importance of the Defense of Marriage Act.

Recent and pending cases, before the Supreme Court and the state court of Massachusetts, raise serious questions regarding the future of the traditional definition of marriage throughout America as embodied in the bipartisan Defense of Marriage Act. I believe it is important that the Senate consider what steps, if any, are needed to safeguard the institution of marriage that the Defense of Marriage Act has expressly defined since 1996.

In very simple and easy to read language, the Defense of Marriage Act stated that a marriage is the legal union between one man and one woman as husband and wife, and that a spouse is a husband or wife of the opposite sex. That declaration did not break any new ground or set any new precedent. It simply reaffirmed the traditional definition of marriage.

The Defense of Marriage Act received overwhelming bipartisan support in both Houses, as you would expect. The House passed the act by a vote of 342-67, and the Senate passed it by a vote of 85-14.

President Clinton signed the measure, stating that: "I have long opposed governmental recognition of same-gender marriages, and this legislation is consistent with that position." And since that time, 37 States have passed defense of marriage acts at their own level, defining marriage for purposes of State law.

In the words of the eloquent senior Senator from West Virginia, a sponsor of the Defense of Marriage Act

> Throughout the annals of human experience, in dozens of civilizations and cultures of varying value systems, humanity has discovered that the permanent relationship between men and women is a keystone to the stability, strength, and health of human society—a relationship worthy of legal recognition and judicial protection . . .

He went on to say:

> The suggestion that relationships between members of the same gender should ever be accorded the status or the designation of marriage flies in the face of the thousands of years of experience about the societal stability that traditional marriage has afforded human civilization.

Senator BYRD was echoing an understanding of marriage shared by many, if not most, and particularly the late Dietrich Bonhoeffer, who wrote:

> Your love is your own private possession, but marriage is more than something personal it is a status, an office that joins you together.

Marriage is so fundamental to our culture and to civilization itself that it is easy to forget how much depends on it.

Marriage provides the basis for the family, which remains the strongest and most important social unit. A wealth of social science research and data attest to this commonsense fact.

And as columnist Maggie Gallagher writes:

> When men and women fail to form stable marriages, the first result is a vast expansion of government attempts to cope with the terrible social needs that result. There is scarcely a dollar that state and federal government spends on social programs that is not driven in large part by family fragmentation: crime, poverty, drug abuse, teen pregnancy, school failure, and mental and physical health problems.

Clearly the family is the fundamental institution of our civilization. It fosters successful communities, happier homes, and healthier lives. The family provides the foundation for raising each generation of Americans. And when families are weakened, it is the children who suffer most.

We recognized these facts in 1996, by passing the Defense of Marriage Act overwhelmingly, and reiterating the traditional understanding of what marriage is. Now, by decisions of our courts, concerns have been raised again, and I believe that it is the duty of the Senate to reexamine and, if necessary, reaffirm this important determination.

The great Sam Houston, whose seat I am honored to hold in this body, once said:

> The time is fast arising when facts must be submitted in their simplest dress.

I believe that time is now. The facts deserve examination and, if necessary, action.

The question before us now is whether the popular and bipartisan legislation known as the Defense of Marriage Act will remain the law of the land as the people and, most particularly, the Representatives of this body intend, or whether we will be undermined or overturned by the courts.

As many in this body have stated in the past, the Founders could not have anticipated that our Nation would ever reach the point where marriage would ever require such definition.

But neither could they have anticipated the method through which the courts would unilaterally upend our Nation's laws, reading penumbras, emanations, and "sweet mysteries of life" into the legal text as justification for overturning legislative acts.

On an issue as fundamental as marriage, I believe it is the job of the American people, through their Representatives, to decide. We should not abandon this issue to the purview of the courts alone. Some have suggested a legislative answer. Others have suggested a constitutional amendment is needed. In any case, we must consider what steps are now needed to protect and safeguard the traditional understanding of marriage as defined in the Defense of Marriage Act.

Toward that end, I will convene a hearing of the Judiciary Committee's Subcommittee on the Constitution, which I chair, in the first week after we return from the August recess to find out what steps, if any, are required to uphold the Defense of Marriage Act and the congressional intent as embodied in that measure. I hope my colleagues, including the bipartisan majority who overwhelmingly supported the Defense of Marriage Act in 1996, will join me in these efforts.

Perhaps no legislative or constitutional response is needed to reinforce the status quo. And if it is clear that no action is required, so be it. But I believe that we must take care to do whatever it takes to ensure that the principles defined in the Defense of Marriage Act remain the law of the land.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF WILLIAM R. BRIGHT

Mrs. DOLE. Mr. President, our Nation mourns the loss of Bill Bright, a visionary who founded Campus Crusade for Christ more than 50 years ago.

Bill died last week at his Orlando home from pulmonary fibrosis at the age of 81. In his lifetime, he spread the Gospel of Jesus Christ to hundreds upon hundreds of thousands of people across the world.

I met Bill Bright long before my nephew went to work for Campus Crusade more than 10 years ago. I was in awe of both Bill and his wife, Vonette, for their unwavering commitment to communicating the love of Jesus Christ.

You see, in an amazing act of faith, Bill and Vonette signed a pact with God more than five decades ago—and agreed to leave the business world and the making of money to devote their lives to spreading the Gospel.

Not long after than, in 1951, they began Campus Crusade. The goal, at the time, was to preach the Gospel to students at the University of California at Los Angeles. But God had other plans. The Campus Crusade movement soon spread to other campuses in the United States and eventually around the globe. Today, it is one of the world's major ministries and serves people in 191 countries with a staff of 26,000 full-time employees and more than 225,000 trained volunteers.

Indeed, I would dare say that Campus Crusade has touched the lives not only of students—but the poor and oppressed on every continent, and leadership on every level of society.

Bill Bright's life reflected Christ and proclaimed him boldly. He made an eternal impact on our Nation and our world.

In the 1970s, Bill came up with the popular "I Found It!" signs to signify that "it" was faith in Jesus. He later released a film, called "Jesus," which was a feature length motion picture on the life of Jesus of Nazareth. That film has been seen by millions of people and translated into many languages.

Throughout it all, Bill remained a humble man, simply doing the Lord's work. In 1996, he was awarded the prestigious Templeton Prize for Progress in Religion. That award came with a $1 million gift. Bill donated all of the money to causes promoting the spiritual benefits of fasting and prayer.

He was, indeed, a true servant of God—a man who lived a life that all of us can admire and strive to emulate.

When I heard of his passing, I recalled something Bill said two years ago when Campus Crusade marked its 50th anniversary . . . "A follower of Jesus Christ can't lose," he said. "If we live, we go on serving. That's an adventure. If we die, we're in heaven with him, and that's incredible."

I imagine somewhere high up in heaven, Bill Bright is having an incredible, miraculous adventure. God bless him!

His words made me think of the book of Revelation in the Bible, in the 7th chapter, which reads, "Therefore are they before the throne of God, and serve him day and night within his temple; and he who sits upon the throne will shelter them with his presence. They shall hunger no more, neither thirst any more; the sun shall not strike them, nor any scorching heat. For the Lamb in the midst of the throne will be their shepherd, and he will guide them to springs of living water, and God will wipe every tear from their eyes."

My thoughts and prayers are with my dear friend Vonette, their two sons, and the entire Campus Crusade family.

The PRESIDING OFFICER. The Senator from Vermont.

JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, we have had a lot of discussion about judicial nominees recently. One issue is on the DC Circuit Court of Appeals.

I mention that because at the time when President Clinton nominated highly qualified people to go there, my friends on the other side said the workload was such that the DC Circuit Court of Appeals didn't need extra judges. So they were never given a hearing, never given a vote. One of those nominees is now the dean of the Harvard Law School. In fact, the chief judge, as I recall, a Reagan appointee, said they definitely didn't need more judges; they didn't have the workload. He took that position consistently throughout President Clinton's term.

Now we have a new President. The workload has gone down in that court. But we have several people suddenly nominated for the seats that just a few months ago were unneeded, we were told, by all the Republican leadership. We were told by the Republican leadership on this very political court that we didn't need anybody. Suddenly we need somebody.

The interesting thing about that is the Washington Post, which has been very supportive—more supportive than most newspapers in the country—of President Bush's judicial nominees, no matter who they are, took a different position. Even that paper, which has basically given in many ways—and it is their right—a blank check to the administration, wrote an editorial this morning called "Fueling the Fire." They basically ask what I have: What is the sudden change?

I ask unanimous consent that editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 2003]

FUELING THE FIRE

In nominating people to fill the last two seats on the U.S. Court of Appeals for the D.C. Circuit, President Bush had a unique opportunity to begin de-escalating the war now raging over judicial nominations. The need for judges in these two slots—the 11th and 12th authorized judgeships—is far from clear, as Republicans argued in blocking the confirmation of qualified Clinton administration nominees. Since then, the court's workload has declined. Additional D.C. Circuit nominations should have awaited a more comprehensive understanding of the court's needs. If two more judges were needed, we had hoped that Mr. Bush would have been mindful of the history and nominated qualified candidates who easily could win Democratic as well as Republican support. Instead, Mr. Bush has nominated two people who will only inflame further politics of confirmation to one of this country's highest-quality courts.

Both nominees—White House counsel Brett M. Kavanaugh and California Supreme Court Justice Janice Rogers Brown—are people of substance, nominees whose records and qualifications might well under other circumstances command support. But these nominations could not be better calculated to pour salt on Democratic wounds. Mr. Kavanaugh is a fine lawyer who could be a fine judge. He also has spent the past few years as, first, a key figure in former independent counsel Kenneth W. Starr's investigation and, more recently, an official in the White House counsel's office working on such politically sensitive matters as judicial nominations and executive privilege. Whatever the merits of his work in these two roles, they are sore spots for Democrats.

Likewise, Justice Brown possesses a serious judicial mind. But she also has a long record of opinions that will provoke liberal anxiety; one, for example, declares in its opening section that "private property, already an endangered species in California, is now entirely extinct in San Francisco." It takes nerve for Mr. Bush to ask Senate Democrats to confirm such people to positions whose very necessity Republican senators were busily questioning until only two years ago.

The White House appears to believe that any accommodation of Democratic concerns would be a sign of weakness in the face of the filibusters and stalling of the president's other nominees. Mr. Bush's grievances are real; the Senate continues to filibuster the nomination of the qualified Miguel A. Estrada, for example, more than two years after his nomination. But both sides in the past several years have behaved badly in the fight over judicial nominations. Their war may help both political parties rally their bases and raise money. But it is deeply harmful, not least to the public perception of judging as an apolitical task. And it will not end until someone extends an olive branch. That someone has to be the president, the only person with the power to do it meaningfully. The D.C. Circuit would have been a great place to start. Too bad Mr. Bush is too busy playing politics to lead.

Mr. LEAHY. Because we have discussed at great length an issue involving one of the judiciary nominees, I ask unanimous consent that a letter from the National Council of Churches addressed to President Bush regarding the debate on Alabama Attorney General William H. Pryor be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF CHURCHES,
July 31, 2003.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As religious leaders from various faith traditions, we are fully committed to religious freedom and separation of church and state as basic tenets of our Constitution. We agree with you that, "we (America) must continue our efforts to uphold justice and tolerance and to oppose prejudice; and we must be resolved to countering any means that infringe on religious freedom." Today, we write to express our grave concern about the attempt to make religion an issue in the consideration of judicial nominees.

We were deeply troubled to learn that during a Senate Judiciary Committee hearing last week on the nomination of Alabama Attorney General William H. Pryor, who is being considered for a lifetime position in the U.S. Court of Appeals for the Eleventh Circuit, the Chairman of the Judiciary Committee injected religion into a debate over qualifications for this position. By questioning Mr. Pryor's religious faith, Chairman Hatch supported a scurrilous advertising campaign designed to make those opposed to the Pryor nomination seem guilty of religious bias.

Mr. President, we urge you to immediately denounce the reprehensible behavior of the Senate Judiciary Leadership. We ask that you send a clear message to oppose religious interrogation and restore order and dignity to the judicial nomination process. Judicial nominees can be reviewed on a wide range of criteria—but religion must not be one of them. To allow questioning of religious faith during consideration of nominations will set a dangerous precedent with profound implications on future nominees.

We urge you to protect the integrity of the judicial nomination process by denouncing this behavior. As religious leaders, who take seriously our charge to promote tolerance and justice, we hope you will act swiftly on our request. We have a lot to lose. Our shared values of religious freedom are at stake.

Sincerely,

Rev. BOB EDGAR,
General Secretary.

Mr. LEAHY. I see the very distinguished senior Senator from West Virginia, the most senior member of this body, on the Senate floor. I know he wishes to speak. As soon as he is prepared, I will, of course, yield the floor.

Last night we were able to move five of President Bush's judges, to get them confirmed in a matter of about 20 or 30 minutes. I thank those who worked with me to make that possible. Senator LOTT from the other side of the aisle was very helpful in moving those forward. Senator MCCONNELL was very helpful in moving those nominees forward, as well as a number of Senators on this side of the aisle. Senator HARRY REID, Senator TOM DASCHLE worked with me, along with Senator LOTT and Senator MCCONNELL, to move them. So we were able to move them, actually, in a matter of 20 or 30 minutes.

I mention that because there was a consensus on these nominees. They were not sent up here to divide us but, rather, they were the rare ones who were sent to unite us.

I mention that because we have now confirmed 145 judges for President Bush. We stopped three. This stands in tremendous contrast to the time of President Clinton, when the Republican leadership stopped 60 of President Clinton's nominees.

For very good reasons, because of their ideology, their obvious intent to politicize the courts, we have stopped three. So we have confirmed 145 and stopped three. Those who are worried that we have politicized this, I would point out, we have stopped three. When President Clinton was there, they stopped 60, usually because one Republican, one, would object. So they were not allowed to have a hearing or vote.

I see my friend from West Virginia, and I yield the floor. I thank the Senator from West Virginia for his usual courtesy.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from Vermont.

A PERFECT STORM

Mr. BYRD. Mr. President, the remarks I am about to make can very well be written under the title "Gathering Storm Clouds Over North Korea." Weather forecasters have a name for one of their worst nightmares of violent atmospheric disturbance, triggered by an unusual convergence of weather systems. They call it the "perfect storm."

As the United States continues to be preoccupied with quelling the postwar chaos in Iraq, I worry that the elements of a perfect storm, capable of wreaking devastating damage to international stability, are brewing elsewhere in the world. The forces at play are centered on the escalating nuclear threat from North Korea, but they also include the emergence of Iran as a nuclear contender, the violence and desperate humanitarian situation in Liberia, the near forgotten but continuing war in Afghanistan, and the unrelenting threat of international terrorism.

Just a few days ago, the Department of Homeland Security issued a chilling alert that al-Qaida operatives may be plotting suicide missions to hijack commercial aircraft in the coming weeks, possibly in the United States—a very sobering thought indeed.

Weather forecasters can do little more than watch a storm unfold. They cannot quiet the winds, as Jesus did on the Sea of Galilee, or calm the seas. We require more from the President of the United States when it comes to international crises. The President cannot afford merely to plot the course of the gathering storms over North Korea, Iran, Liberia, Afghanistan, and elsewhere. The President needs to turn his attention to these countries and work with the international community to defuse the emerging crises. The challenge is formidable and there are no easy answers. But the price of inaction could be ruinous.

Of all the looming international threats, North Korea is clearly the most worrisome. As recently as July 14, former Defense Secretary and Korean specialist, Willian Perry, warned that the United States and North Korea are drifting toward war, possibly as early as this year. In an interview published in the Washington Post, Dr. Perry said:

> The nuclear program now underway in North Korea poses an imminent danger of nuclear weapons being detonated in American cities.

Surely, such a stark warning from an official so deeply steeped in the political culture of North Korea should be a wake-up call to the President. Yet, to date, the administration has steadfastly refused to engage in direct talks with North Korea, or even to characterize the threat of North Korea's nuclear weapons program as a crisis. Instead, the President and his advisers have continued to hurl invectives at Kim Jong Il, while shrugging off increasingly alarming reports that North Korea is stepping up its pursuit of nuclear weapons.

Since last October, when North Korea revealed that it planned to reprocess plutonium fuel rods into fissile material that could be used in nuclear weapons, the President and his advisers have consistently downplayed the nuclear threat from North Korea, while hyping the nuclear threat from Iraq.

Yet while we have strong evidence that North Korea is working feverishly to accelerate its nuclear program, we still have not found a shread—not a shread—of evidence that Saddam Hussein's efforts to reconstitute Iraq's nuclear weapons program were anything more than bluster and hyperbole.

It is time—if it is not already too late—to drop the false bravado of indifference to the threat from North Korea and engage in face-to-face negotiations with the North Koreans. Multilateral negotiations are fine—preferable even—but they are unlikely to be productive unless the United States takes the lead. We cannot wait for the Chinese or the Japanese or the South Koreans to pave the way. We cannot brush off the nuclear threat posed by North Korea as just an annoying irritant. There is a real threat. Now there is a real threat to the United States, and the United States must act fast to naturalize it.

The news on Thursday, July 31, that North Korea has expressed a willingness to engage in six-sided talks, with the participation of Russia in addition to the other players, offers a glimmer of opportunity that the United States should seize before North Korea changes its mind. As difficult as it is to predict or understand the motivations of Kim Jong Il, one thing is certain: No progress can be made in unraveling the nuclear tangle on the Korean peninsula until the parties involved start talking to each other.

Not only must the President come to terms with the gravity of the situation in North Korea but the President must also understand that this is not a one-man show, and that this is not the type of discussion that can be sealed with a simple handshake. You don't look into the eyes here and determine what is in the depth of the soul.

Under the Constitution, the Senate has a unique and important role to play in helping to frame the contours and the content of international treaties. Any agreement negotiated between the United States and Korea will have far-reaching implications for the national security of the United States and, as such, should be subject to the treaty advice and consent provision of article II, section 2, of the Constitution.

On a collision course with the nuclear threat from North Korea is the question of how to deal with Iran's increasingly aggressive nuclear posture. A month ago the President hinted darkly that he would not tolerate the construction of a nuclear weapon in Iran; but he has been largely silent on the issue in the ensuing weeks. When asked during a rare press conference earlier this week about the potential for war with Iran, the President placed the burden for seeking a peaceful solution squarely on the shoulders of the international community, without suggesting any role for the United States beyond "convincing others" to speak to the Iranian Government. When it comes to dealing with the threat from Iran's weapons of mass destruction, it appears that the White House is deferring to some of the same countries and institutions, including the International Atomic Energy Agency, that it dismissed as inconsequential during the runup to war with Iraq.

Like North Korea, the options for dealing with Iran are limited, but dodging engagement in favor of sporadic saber rattling is scarcely the wisest course of action. Equally unhelpful are ominous hints that the United States is contemplating covert action to precipitate regime change in Iran. Unlike North Korea, Iran has not demanded direct negotiations with the United States. Before it comes to that point, and the United States is faced with the perception of being blackmailed into negotiations, the administration should seize the initiative and not abdicate its responsibility to other nations and other institutions. Here again, the administration cannot afford to ignore the storm warnings and hope the crisis will simply blow over.

The situation in Liberia raises a different, but no less volatile, set of issues. Rent by violence and reeling from the effects of a three-way conflict between an illegitimate government and the warring rebels who want to unseat it, Liberia is desperately seeking help from the United States. The President raised expectations for U.S. intervention during his highly publicized visit to Africa earlier this month, but it has been several weeks now since his return, and still no clear policy with regard to Liberia has emerged from the White House.

The question of whether the United States should intervene in the Liberian crisis is fraught with unknowns and uncertainties. The humanitarian crisis calls out for relief. And yet the solution is elusive, and the danger of ensnaring U.S. military troops in an intractable civil war is not to be underestimated. Can the Economic Community of West African States, known as ECOWAS, raise a force sufficient to stabilize the unrest in Liberia? Could the United States help without sending in ground troops? Is the United Nations prepared to take over peacekeeping operations once the situation is stabilized? Can the United States afford to assist Liberia? Can the United States afford to ignore Liberia?

The questions are tough, but procrastination is not an acceptable response. Hundreds of innocent civilians are suffering and dying as a result of the conflict in Liberia. Monrovia is in shambles. Last week, July 25, the President took the tentative step of ordering several thousand U.S. Marines to be positioned off the coast of Liberia, but how or whether any of those troops will be deployed remains unknown. Indecisive, half-hearted gestures serve no purpose. As long as there is an expectation that the United States will intervene, African states are unlikely to take independent action to deal with the situation in Liberia. The President needs to determine a course of action, he needs to consult with Congress and the United Nations on pursuing that course, and he needs to explain his reasoning and his strategy to the American people.

In testimony before the Senate Armed Services Committee last week on July 24, GEN Peter Pace, Vice Chairman of the Joint Chiefs of Staff, termed Liberia "potentially a very dangerous situation" that poses "great personal risk" to American troops. Any decision to send American troops into that war-torn country is a decision that must be carefully thought through and be made in concert with Congress and the international community, not simply presented to the American people as an after-the-fact notification.

The situation in Liberia, and the other crises brewing around the world, require more attention and more explanation from the President than the usual off-the-cuff comments tossed to reporters at the end of photo ops. This is not a summer for the President to spend riding around the ranch in his pick up truck. This is not a time to play to the television cameras with the "bring 'em on" school of rhetoric. The problems confronting the United States require the President's serious and undivided attention. The American people deserve a full accounting from the President of where he stands on critical international issues, and how he intends to deal with them.

Against the backdrop of the war in Iraq and the emerging crises in North Korea, Iran, and Liberia, the largely forgotten war in Afghanistan—the largely forgotten war in Afghanistan—continues to grind on and on and on more than a year and a half after the United States rousted the Taliban from power and obliterated al Qaeda's terrorist training camps. Nearly 10,000 American troops remain in Afghanistan, with no end—no end—to their mission in sight—and no clear mission to accomplish—hunting the remnants of the Taliban and al-Qaida organizations. In Iraq, Saddam Hussein's sons have been killed, and one can only hope that we are closing in on Saddam Hussein himself, but in the wider war on terrorism, Osama bin Laden remains at large, and his organization continues to spread its venom throughout the Middle East and perhaps the world.

The alert issued earlier this week by the Homeland Security Department is only the latest reminder that the al-Qaida terrorist network remains a potent threat to America and its allies. The warning included specific details—such as the fact that targets might include the East Coast of the United States, the United Kingdom, Italy, or Australia and it raised the possibility that at least one of the planned highjackings or bombings could be executed before the end of the summer.

In the face of such a frightening specter, it is somewhat unsettling that on the subject of terrorism, the President is talking tough to Iran and Syria, but he seldom mentions Osama bin Laden anymore.

Is this another example of the President's efforts to change his message to divert the attention of the American people, the people who are watching through those electronic eyes above the Chair's desk? The imminent and direct threat of Iraq's weapons of mass destruction was used to hoodwink the public into accepting the rush to war, but now that no weapons have been found, the President barely mentions them anymore. Instead, he is now talking about how regime change in Iraq was really the catalyst required to stabilize the Middle East. New day, new message.

At the center of America's imperiled relations with its friends and foes alike is the Bush doctrine of preemption, which was first articulated in the September 2002 National Security Strategy. This unprecedented declaration that the United States has the right to launch preemptive military attacks against hostile nations in the absence of direct provocation sent shockwaves throughout the international community.

The doctrine of preemption was the justification for attacking Iraq without provocation, but the ramifications of the policy go far beyond that nation. All so-called "rogue regimes" were put on notice that the United States was prepared to act to deter the development of weapons of mass destruction that could be used against America.

Suddenly, the elite club of nations that formed the President's "axis of evil" found itself caught in the cross hairs of the U.S. military. And just as quickly, the hollowness of the doctrine was exposed. Iraq could be attacked at will because it did not have nuclear capability. North Korea called for restraint because it plausibly did have nuclear capability. Iran was a question mark. Predictably, both North Korea and Iran, seeing the writing on the wall, began to scramble to accelerate their nuclear programs. In retrospect, the doctrine of preemption is beginning to look more and more like a doctrine of provocation.

Against this background, the storm clouds of international instability are massing. America's military forces are stretched thin in Iraq and Afghanistan. Our military leadership is absorbed with Iraq. Our military resources, both financial and personnel, are strained to the breaking point. With the exception of Britain, our allies are reluctant to commit significant resources or manpower to an operation in Iraq in which the United States has a stranglehold on authority and decision-making. The executive branch is preoccupied with the occupation of Iraq and seems paralyzed when it comes to meaningful action to deal with North Korea or Iran or Liberia. Afghanistan and the global war on terror have seemingly been relegated to the status of afterthoughts. America's foreign policy appears to be adrift in an increasingly tumultuous sea of international turmoil. Meanwhile, the national terror threat continues to hover uneasily in the "elevated range" amid new warnings of terrorist attacks being plotted against commercial aircraft.

In this moment of great potential peril, the President is preparing to retire for a month to his ranch in Texas. The question needs to be asked: Who's minding the White House?

In a short time, the Senate will recess for the month of August. I do not think we should go very far. I hope that the international situation will remain stable, and that no new crises will erupt. But I do not pretend to be sanguine. I do not pretend to assume that all will be well.

A rare combination of volatile and dangerous international events are poised to converge in the coming months. In large part, it is a storm of this administration's own making, fueled by the fear, confusion, and instability caused by the unprecedented and ill-advised doctrine of preemption. I only hope that the President and his advisers can summon the skill, the wit, and the leadership to engage and attempt to tame the elements of international turmoil before it is too late and we are swept up into the vortex of the storm.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Members, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEPTEMBER IN THE SENATE

Mr. FRIST. Mr. President, shortly I will make a statement addressing some of the accomplishments we have been able to achieve over the last several weeks—indeed, over the last 6 or 7 months—and, at the same time, a note to my colleagues about the future. Most are thinking about getting on airplanes and going home or around the world now or this afternoon. It is important over the August recess, from the Senate standpoint and staff standpoint, that people begin working in preparation for our return in early September.

I mentioned early this morning, most of September will be spent on the appropriations bills. We have been very successful in addressing four of those appropriations bills to date; we have nine to address in the next several weeks. After discussion with the Appropriations Committee and the leadership in the Senate and many colleagues, the first appropriations bill in September will be the Labor, HHS, and Education appropriations bill. We will start that right off the bat coming back from this recess. Under the leadership of Chairman SPECTER, we have made huge progress in this regard.

UNANIMOUS CONSENT AGREEMENT—H.R. 2660

Mr. FRIST. Mr. President, at this juncture, I ask unanimous consent that at 9:30 a.m. on Tuesday, September 2, the Senate proceed to the consideration of Calendar No. 197, H.R. 2660, the Labor, HHS, and Education appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I will yield to my distinguished colleague who will be managing this very important piece of legislation, someone who has worked very aggressively, very diligently in this regard and who I am confident will lead the Senate in addressing these important issues in a timely, efficient, and expeditious way upon our return.

I yield a few minutes to Chairman SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished majority leader for his generous comments. I thank him, further, for listing the appropriations bill for Labor, Health and Human Services, and Education immediately on our return on September 2.

I have conferred with the ranking member of the Democrats, Senator HARKIN, about our plan for managing the bill, and have conferred beyond that with Senator BYRD, the ranking member of the full committee, and with many of the Democrats who will be expected to offer amendments.

It is a very complex bill governing the Departments of Health and Human Services and Education and Labor, and traditionally it brings a great many amendments. That is to be expected. It is my thought that we can identify the amendments at an early stage, that we can work out time agreements, and that we can vote on the amendments.

I have already talked to some of my colleagues on the other side of the aisle about doing some of that work in August, where we will be identifying amendments. We have an excellent staff on both sides of the aisle already working. It is our expectation, beyond our hope, to have a very prompt consideration of the bill and to get it completed at an early date. I don't want to say any timeline because this body is too unpredictable, even with planning and with management, but it is our hope to get short time agreements and, with the consent of the leadership, to have the votes stacked. If there are arguments, to go over and make use of the evening time and proceed to get the bill completed.

There is one very strong incentive on all sides for completing the bill and that is that we have $3 billion more if we have a bill than if we have a continuing resolution. We do not have too much money to start with, and very important items on health, education, and worker safety, et cetera.

So we intend to proceed on that basis. I appreciate the opportunity to address my colleagues. As the majority leader has said, people are already on planes en route, some worldwide. I have my plans very well set. I am on a train in 25 minutes. August is to be spent by this Senator traveling his State.

There is rumor that I have an election coming up in 2004, both a primary and a general election. I have a lot of work to do and will be attending to it. When we return at the start of September—to the Senate business, Senator HARKIN and I hope to set the pace to try to get these appropriations bills done, to cooperate with the majority leader. If there is to be a completion by September 30, the end of the fiscal year, this is the giant, once the Department of Defense appropriations bill has been finished.

So we will be hard at work, trying to get through the bill and have the Senate work its will and get it completed in the public interest.

I, again, thank the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I thank the distinguished chairman. I have the utmost confidence we will be able to get on this bill as soon as we get back and that, under his leadership, along with that of Senator HARKIN, we will be able to very effectively and efficiently address the issues before us.

Clearly, we seek early, rather than later, completion. One of the advantages of even having this colloquy now and us having the statement together is that people know what we are coming to. They have plenty of time to look at the appropriations and develop what comments they have to make and allow time for preparation of amendments. With that, we should be able to come back and hit the ground running.

Mr. SPECTER. If I might make one addenda, Mr. President, and that is the option of third reading if people do not have amendments to offer. One of the banes of the Senate procedure is the quorum call, those two lights up there when nothing is happening on the floor.

I have long been an advocate that, if amendments are not offered, we ought to go to third reading. When people have more than a month to prepare, I think that is a fair position to take. When I last managed this bill in June of the year 2000, we finished the bill on the Senate floor on June 28, which tied a record going back to 1974.

We cannot do that; we are already past June 28. But I think we can, get this bill done. But let the record show: Let the buyers beware. Let Senators be on notice that this manager intends to push for third reading if we have quorum calls up there. People ought to bring their amendments to the floor and we will debate them and vote on them and work the will of the Senate and work through promptly.

Again, I thank the majority leader.

The PRESIDING OFFICER. The majority leader.

DOING THE NATION'S BUSINESS

Mr. FRIST. Mr. President, the past 4 weeks have been extraordinarily productive. I thank my colleagues for their participation, for their cooperation, and for their patience to make that possible. I thank them for accepting some deadlines that we put forward, accepting the overall strategy, just as we just heard, of setting a goal far in advance so people have the opportunity to prepare and to think so we can most efficiently use the time for debate and amendment on the floor of the Senate.

We have passed major legislation, of which we should all be proud. We should share that with our constituents, as we go back to our States, as we travel around the country to seek input and listen but also to say that we are doing the Nation's business.

Our leadership has developed a straightforward mission. The mission is crystal clear. It is to move America forward. We are doing so in a manner with values such as civility and trust. We do it in a way that is relationship centered, meaning that we are working together to get the very best out of our individual Members, in terms of thoughts and ideas. We do it in a manner that is solution oriented, that is solutions to the problems that we identify, not just rhetoric and not just talk about the problems.

I think we witnessed that yesterday, in a long day that began at 9 o'clock or 9:30 in the morning but continued until late at night, with the ultimate passage of an Energy bill, of which passage, early in the morning, people said: No way.

All the media questions, people coming up were saying it is going to take another week or 2 weeks or 3 weeks on this Energy bill. Are you going to stay in on Saturday? Are you going to come back and spend all of September?

Yet after initial discussion and proposals, both caucuses worked together and worked within themselves and we came together to pass an Energy bill that will, indeed, move America forward. We did it against what many people would say are the odds. We did it in a very closely divided Senate. But it shows that even in that environment, of a closely divided Senate, if we keep our eye on a specific goal, we can move America forward.

We have set specific goals. As you just heard, we laid out what we are going to be doing next far enough in advance for people to prepare.

Then we act. Each side has certain strategies, and then we reach that goal to give a solution to the American people. That is what Americans expect.

When we talk to our constituents, that is what they say they want. That is why they send us to the Senate. They want to be sure we step up to the plate on growth and jobs.

We must be a key partner with the administration in the war on terror. We must stand up and act on life and support our values here at home and, indeed, around the world. We have much to do in the realm of health. We have made progress, but we have much more to do. Our tort system is badly in need of reform.

Of course, during all of this, our utmost responsibility is to govern—to govern responsibly, in a responsive way.

Before we leave for our recess today, reflecting over the last 4 weeks we have been in session, I therefore jump back to before the Fourth of July recess. Before the Fourth of July recess, it was at that point that I informed our colleagues we would be doing the Energy bill in this final week in July, and we did. I said at that time we would do everything possible to finish the Energy bill this week, and we did. As late as yesterday morning, there was doubt. Early in the morning, people said there was no way it could be done. We got it done by cooperation—again, on both sides of the aisle—by determination, and by going back to one of those values I keep talking about which we are expressing in this Congress—civility. We were successful. We got it done. America will benefit. Americans will benefit.

We have a national comprehensive energy policy coming out of this body. Yes, it will be modified. Yes, in part, it will be rewritten over the coming weeks. But with the President laying out a plan 2 years and 3 months ago, with the House of Representatives having acted, and the Senate having acted on energy, we can develop that final product to send to the President to the benefit of all Americans. It is part of government, it is part of leadership, and we have delivered.

On the international front, last night we passed two highly significant trade agreements. One was the Singapore free-trade agreement, and the other was the Chile free-trade agreement. Those are the first free-trade agreements to move through Congress under the so-called fast-track authority since that process was restored a year ago. It is an important achievement for the body itself, but it is an even more important achievement for the world community and for our national community as we improve those trade relationships with Chile and Singapore.

As you just look at the action last night on energy, it was a tough challenge. Everybody said: No, we have to spend days and days and days more. As we look on the success with trade last night, we can say we have added another chapter to our work to grow the economy and to create jobs. It didn't exist yesterday morning, and now it exists after our action last night. As we look at this whole issue of jobs and as we travel around the country, it is the No. 1 issue you hear about because it affects people's lives so directly.

We passed the Jobs and Growth Act of 2003. Indeed, as most of us are aware, over the last week or week and a half and over the next several weeks, 25 million families will receive checks of $400 or more per child, which is in addition to the $600 they have already received this year. But that additional incremental $400 is because of action here in the Senate and passing the jobs and growth package—25 million families—indeed, over 500,000 in my home State of Tennessee. If we had not acted, they would not be getting the checks. They will be spending those checks. Most importantly, they decide how to spend that $400, or that $1,000, because of the action of this body. They are the ones who decide whether it is on clothing, whether it is on food, or whether it is on buying a computer to help their child in education. They will be deciding.

A family of four, because of that jobs and growth package, making $40,000 will see their taxes reduced. Remember, that means money in their pockets—money they can save and invest. A family of four making $40,000: $1,133 in 2003. That is how much their taxes will be reduced.

The Jobs and Growth Act is the third largest tax cut in history passed by this body. The $350 billion package will boost the economy, it will grow the number of jobs, and it will allow more Americans to control more of their own hard-earned paychecks. This is money they have earned which they paid to the Federal Government that the Federal Government has returned to them to save and to invest, to boost the economy, to make their lives more fulfilling. That is the sort of action and the sort of solution that moves America forward.

Because of our commitment to meeting our legislative goals, we are helping to put America on the road to economic security. We are committed to strengthening America's economy. We are committed to providing each American with more of that economic security. And we are committed to ensuring that the playing field is fair.

On the international front, we funded Operation Iraqi Freedom in less than 2 months. We have liberated the Iraqi people from the clutches of a vicious and brutal dictator, a mass murderer who has killed thousands of his own people, including members of his own family as well as thousands of people from lands outside of the Iraqi border.

Over the last several weeks, we have had the opportunity to be briefed by people directly in Iraq who are participating in the rebuilding of that democracy. They brought to us encouraging news that all too often we don't see on the front pages of the newspapers or in the coverage on the television. But we are hearing directly from them. We are making progress. Is it slow? Of course, it is slower than any of us would want. But it is steady, consistent progress. The Senate will continue to support this ongoing war on terror. We will continue our financial commitment. We will continue our moral commitment until America's enemies are defeated.

Internationally, we also passed the NATO Expansion Treaty bringing 700 new nations into that cornerstone organization of freedom in the Western World. We are bringing more and more countries into the orbit of democratic nations and providing more of the world's economic citizens with that sort of opportunity, and more of the world's citizens with that economic security that they, too, deserve.

The Senate is also flexing its influence to reform countries that defy their citizens their natural, God-given rights to be free. We did that recently with the assistant majority leader, Senator MCCONNELL's Burmese Freedom Act just several weeks ago. With a bit of luck, we will finish action on the authorization of our foreign aid programs so that we can further enhance our voice and our values around the world.

Again, if we jump back 5 or 6 weeks, before the last recess, I articulated my goal to pass major appropriations bills in a timely fashion. This, too, we are accomplishing in an organized, systematic way.

The colloquy that just occurred on the floor with the distinguished chairman of the Labor-HHS bill is a manifestation of planning and a systematized approach of a strategy where we can address that very important bill in a timely fashion. If we do it as he mentioned—as he will be explaining on the floor of this Senate on the Tuesday we come back—if we do it instead of delaying, there will be an additional $3 billion available. If it happens to be available the way the law is written, that committee will not have the incentive later to take the action but will address the bill right now.

This is in contrast to the last Congress. There was a logjam we had in the last Congress where the appropriations bills really got stopped. In fact, it was not until this Congress that we passed 11 of the 13 appropriations bills that were supposed to be passed in the last Congress. We did that in the first couple months of this Congress.

But we are making progress. We built on our success with the FAA authorization bill, the extension of unemployment benefits. When you look at the appropriations, in 3 short weeks we passed the legislative branch, the Department of Defense, military construction, and the Homeland Security appropriations bills. That keeps moving America forward. And we will come to Labor-HHS when we return.

I should mention that on the Homeland Security appropriations bill we had distinguished leadership. I applaud and personally thank Senator THAD COCHRAN for his tremendous work in particular because that was the first time we have had this Department of Homeland Security and, thus, it is a new appropriations bill. It was handled magnificently on the floor, and we were able to successfully complete the Homeland Security appropriations bill.

This whole process of setting goals, implementing a strategy in a civil environment, and working hard through debate and amendment is working. If you look at our commitment on health and health issues, people see the commitment there. They saw it as we set out the agenda in early January on a whole range of issues.

In January, most people, on Medicare, said: The Senate is not going to be able to do it. The House can probably do it. They have done it in the past. In fact, they do it really in every Congress. The rules are very different in the House. But most people said: In the Senate Medicare is too partisan. There is too much bickering. People use it for political purposes. It can't be done.

Yet, again, we delivered. Now the Senate has passed a bill that, for the first time in the history of this wonderful Medicare program—that simply is out-of-date, but a wonderful program that as a physician I have had direct experience with for 20 years, just about every day taking care of Medicare patients before coming to the Senate, writing thousands of prescriptions myself—for the first time those prescriptions I was writing become a part of Medicare.

Heretofore, these outpatient prescriptions have not been a part of Medicare. Yet the way health care has evolved, these medicines today are probably the most powerful component, the most powerful tool doctors and nurses and health care providers have to give seniors health care security, to give patients health care security.

In addition, seniors and individuals with disabilities will have the opportunity, for the first time in Medicare, to choose a plan or a type of health care coverage that best suits their individual needs. We passed it in the Senate. We did what a lot of people said we were just not going to be able to do. And it was bipartisan. There were over 70 votes, and it was really kind of driven to get as many votes as possible but with good policy, taking the very best of the Democratic ideas and the very best of the Republican ideas, and melding those together.

We have a challenge I am very hopeful we will meet by late September: that is, to take that House bill, to take the Senate bill—the conference is underway now—and, in conference, develop a bill that will be strong, that will guarantee seniors access to good prescription drug coverage, and give them the choice of a plan that best meets their needs.

I will say—because people don't talk about it very much on the floor; and I am speaking as an individual but also as a conferee—it is important for us to complete action in this conference by late September. The sooner we complete action on the bill, the sooner every senior—people who are listening broadly around the country or near seniors—will have a prescription drug card within months—within months—of the time the President actually signs that bill; every senior will get some help with that card in the very near future if they are buying prescription drugs.

So the sooner we complete the bill, the sooner we can get the benefit to the seniors, especially those seniors who are hurting, who are in an economic position where this burden of buying prescription drugs is great, is heavy. The sooner we pass this bill—it has to be a good bill; it has to be an appropriate bill; it has to be a balanced bill; and it has to be, most importantly, a responsible bill—the sooner seniors can benefit from the $400 billion that this body, the House, and the President of the United States have all agreed we want to get to seniors.

So it is ready in terms of the commitment that is made. The money is there. Now we need the vehicle itself. And that is what we are doing in conference. So the sooner we can get it done, the sooner seniors will be able to benefit.

On health, I will also have to mention the global HIV/AIDS bill this body passed several months ago under the distinguished leadership, great leadership, of Chairman DICK LUGAR. This global HIV/AIDS bill addresses the greatest moral, humanitarian, and public health challenge of the last 100 years. It shows we are caring. It shows we have compassion. It shows we do not just talk about it, but that we lead on it.

I commend President Bush, in his State of the Union Message, for leading on it, and this body for responding appropriately at a level—again, in a bipartisan way—that most people in this country and, indeed, the world would not have anticipated.

As a physician, I have had the opportunity over a 20-year period to take care of HIV/AIDS patients personally, both when I was at Vanderbilt University Medical Center and also as I did my medical training in Boston, MA, and out at Stanford in California. I can tell you, when you have the opportunity to look back over a 20-year period—in 1983 we did not know this virus existed. We did not know about it. The best scientists in the world did not know this virus existed. Then it killed five people in the country. Then it killed, in the world, a million people, then 5 million people, then 10 million people. And now 23 million people have died over that 20 years since 1983.

We are responding. This is the first time we have really stepped up and said: We are going to eliminate this virus. I am very proud of my colleagues and gratified that the Senate stepped up with this determination to dedicate $15 billion, which is the figure people think of, but equally important, taking a leadership role for comprehensively addressing the ravages of this virus.

By passing this legislation, we are helping to prevent 7 million new infections, we are providing antiretroviral drugs for 2 million HIV-infected people, providing care for 10 million HIV-infected individuals, and investing in research so we will find a cure.

Right now, today, there is no cure for this virus. There is no vaccine to prevent this virus. Thus we need to do everything we can to both preserve our great pharmacologic research endeavors in this country and, at the same time, invest in a responsible way so we can encourage and give incentives to encourage investment to find a cure—a cure that if you had the virus, you will be able to cure the virus, and also to prevent the virus. And you can do that with a vaccine.

In this Congress, we have seen Senator SUSAN COLLINS lead the campaign to increase public access to defibrillation of the heart. When a heart fibrillates, it becomes like a bag of worms. Instead of beating regularly, it begins to fibrillate. And that is when people die, because the heart is not pumping. But if you can get to them quickly enough, you can put those paddles on, and you can shock the heart back to that normal, constant beating.

That public access to defibrillation is important. It is something on which we are making huge progress, specifically under the leadership of Senator SUSAN COLLINS.

We passed the Trauma Care Systems Planning and Development Act. So if driving home today you were to have an accident, there will be a trauma center to respond to you immediately, especially when time and expertise become critically important.

Our values have been on display this session as well.

We have allotted significant resources to upgrade the technology at America's Historically Black Colleges and Universities. We took a historic step in bringing a National Museum of African American History and Culture to our Nation's capital by passage of that bill.

It has been 80 years of petitions that has led to an understanding of how we might respond. But in terms of developing the museum, it took passage on the floor of the Senate for it to take that next step to become a reality. I have to thank Senator SAM BROWNBACK and Congressman JOHN LEWIS from the other side of the Capitol for their tremendous leadership.

Senator LAMAR ALEXANDER has focused on the American History and Civics Education Act. Because of his leadership, America's students will have the opportunity to learn our Nation's great history and civic traditions. I thank Senator GREGG for his bill, the Keeping Children and Families Safe Act. We acted on legislation to make it easier for States to continue their efforts to enroll children in health care programs. The SCHIP legislation makes a difference in thousands and thousands of families' lives.

There were three items passed earlier this year I want to mention. In March we passed the partial-birth abortion ban. We have an agreement with the other side of the aisle to address this issue for a day sometime in September. The following month, we passed the CARE Act, the President's faith-based initiative. That same month we passed the AMBER alert. The lives of millions of Americans and future citizens will be protected by all of these efforts. Each of these items demonstrates our deep compassion for our most vulnerable citizens.

The Senate is accomplishing all of this through hard work, through cooperation among Members on both sides of the aisle. I thank my colleagues for their efforts. We are overcoming partisanship. We are stressing civility and trust. We are making the legislative process work in an orderly and systematic way.

One area, however, that is in some ways undermining progress is the obstruction we are seeing with regard to Presidential circuit court nominees. We have seen it with Miguel Estrada, Priscilla Owen, and William Pryor. Now is not the time to rehearse the history of the last 7 months, but it is enough to say that the process is broken. The process is not working. I would only hope as the fall unfolds, we will find ways for the Senate to vote up or down. That is really all this side of the aisle is asking for, to have that opportunity to vote yes or no, up or down on the President's judicial nominations.

When it comes to the fall, we will continue our work to govern responsibly and comprehensively. We will complete our efforts with regard to the emergency supplemental as well as funding the President's request submitted in early July.

In those coming weeks of the fall, we will also complete action on several remaining appropriations bills. As we outlined earlier today, we will begin with the Labor, Health and Human Services legislation. That legislation underwrites many of our Federal efforts to help where we must to make a difference in so many Americans' lives.

We will also continue to work this fall on asbestos reform legislation. It is clear that is a pressing national crisis. I am convinced that with goodwill and cooperation, we will be able to responsibly address this issue. I have talked with the Democratic leadership repeatedly, and we all agree it is an issue we can address and will address sometime in the future.

We will also take up at some juncture class action lawsuit reform. It is a fairly quiet bill in the background, but it is one that will make a huge difference in the fair and quick administration of justice nationwide. We will also be revisiting medical litigation reform sometime in the fall. There are other items we can address in terms of tort reform that we in all likelihood will be considering. We will continue to stand for issues surrounding life. We will complete action on the partial-birth abortion ban at some point in September, and then we will move ahead on legislation addressing the Unborn Victims of Violence Act.

Yesterday Senator JUDD GREGG announced hearings in September on public health issues on tobacco. I know the distinguished Senator from Kentucky, Mr. MCCONNELL, introduced legislation on Wednesday with regard to buying out quotas from tobacco farmers. We will be addressing all of those issues in the coming months. In addition, we will be looking for other opportunities.

In closing, I thank my leadership colleagues who have helped me each and every day over the last 7 months: Our distinguished President pro tempore, TED STEVENS; I talk to Chairman STEVENS daily. He is an avid user of e-mail so I get three or four every day, which I quickly answer, a canny veteran whose counsel daily has proven invaluable to me and to so many others; our assistant majority leader, MITCH MCCONNELL, whose tireless work day in and day out has kept us together as a team and a conference in these months, is really the glue to our conference; Conference Chairman RICK SANTORUM, who continues to work in overdrive, working overtime, working with passion to keep an eye on the midterm and the long-term issues that are so important to us, focusing so often on those basic values we share; JON KYL, our policy committee chairman, whose attention and focus and study, by leading the policy committee, all ensures that we legislate the very best we can, with the very best information at every opportunity; Senator KAY BAILEY HUTCHISON, our vice chairman, who stands so often as our public persona in addressing issues and explaining those issues in a way that is important for the American people to understand, addressing issues in a sophisticated, substantive way, but at the same time explaining those so Americans can indeed fully understand where this institution is moving; GEORGE ALLEN, our senatorial chairman, whose instincts are so often right and right on target; JUDD GREGG, who I rely on daily for counsel, whose word I trust and whose support so often makes a huge difference in this Chamber; Senator BOB BENNETT, our chief deputy whip, whose work with colleagues we simply could not do without; Senator ARLEN SPECTER, who was just on the floor, whose thoughts and advice inform so many of the decisions we make here.

I am grateful to all of my colleagues on both sides of the aisle who share a thought, who share with me that single word, that piece of advice out of their busy day. I am proud that together as Senators we have preserved what our predecessors have given us and are working to pass on to our successors even something a little bit better.

I thank all the Senators for their hard work, their diligence, and their cooperation. I look forward to returning in September to continue our work on the people's business.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Rhode Island.

THE ECONOMY

Mr. REED. Mr. President, I would like to take a moment to speak about the economy, an issue that is of increasing concern to so many families across the country. Measured in terms of employment alone, this has been a very difficult and demanding time for Americans across the Nation. At the President's urging, Congress has passed three major tax cuts in what is becoming an annual ritual. I call it a ritual, because it is based on an ideological belief that tax cuts are a one-size-fits-all fix to all of our Nation's economic woes.

Regardless of the specifics of our economic situation, regardless of the growing number of unemployed Americans, and regardless of our record budget deficits, the Administration has pushed on with its misguided, one-track approach.

Mr. President, I do not think anyone would invest a dollar in a project if they only expected to receive 10 cents back. But that is essentially what has happened under the trickle-down economic approach of the Administration. A March 2003 report by the Democratic staff of the Joint Economic Committee estimated that in the best case scenario, the first year return of the 2003 tax cuts would be less than 10 cents on the dollar.

What this means is the American people massively overpaid, committing ourselves to transferring hundreds of billions of dollars to the Nation's wealthiest individuals for a pittance of economic stimulus.

We have all become extremely anxious and hopeful to hear anything positive about the economy. At first blush, the recent data coming from the Department of Commerce offers a suggestion of hope. But after considering the reports at longer length, and in the context of all the participants in our economy, I am convinced the reports about our gross domestic product are something of a letdown.

As Senator CONRAD has stated, 70 percent of the growth in this quarter's GDP estimate is caused by increased defense spending, without which the economy would have grown at less than 1 percent. This 1 percent growth would be the slowest economic growth of any administration in half a century. So what we are seeing is one of those issues in which one sector, for obvious reasons—because of our buildup in Iraq and our subsequent operations there—is generating a disproportionate share. One can ask the question fairly, how long can that continue?

The National Bureau of Economic Research announced last month that the recession ended 20 months ago. But this announcement simply confirms what many have long suspected—that we are in the midst of a "jobless recovery." The economy is in as much trouble as it was in the early 1990s, if not worse. More than 3.2 million private sector jobs have been lost during this Administration, with 1.2 million jobs lost even after the so-called end of the recession 20 months ago. And 6.2 percent of the civilian labor force was unemployed, which is down slightly from the previous numbers of 6.4 percent. But the July decline is instructive because it doesn't represent a growth in jobs, it represents the fact that there is a drop in the number of people looking for jobs. The way we measure unemployment is by looking up the number of people actively pursuing employment, that is the basis of the calculation. What we are seeing is people giving up hope, becoming disheartened, understanding that it is hard to find jobs and therefore dropping out of the search for jobs.

Indeed, if you look at the ratio of employment to population, total number of people working versus the population of the U.S., we have seen that ratio decline. Nine million workers were unemployed in July across the country.

But for the current President Bush, this is not his father's jobless recovery. By this period in the 1991 economic recovery, private nonfarm payrolls were rising again. Not only are private sector jobs failing to rise again, they are continuing to fall at an even faster rate. Corporate layoffs are continuing. For Americans who have suffered the most from the recession, this is not an economic recovery because there are simply no jobs.

In my State, we received notice that a major department store is closing, a flagship store in one of our prominent malls, Lord & Taylor, which will lay off workers. We are seeing other retail operations close. For the families of Rhode Island and the Nation, the news they are getting is of more job losses.

Persistent unemployment is only one piece of evidence that passing tax cuts does not fix the Nation's economy. The next place to look is the budget.

This week, for the first time, President Bush acknowledged the role the tax cuts played in mortgaging our Nation's economic future by turning budget surpluses into record budget deficits. In the Rose Garden, the President said: "And so part of the deficit, no question, was caused by taxes; about 25 percent of the deficit." That is according to the President. But according to economists, these figures are conservative at best.

The administration's Midsession Review reveals that the budget deficit for fiscal year 2003 is expected to be an astonishing $455 billion. This is the largest budget deficit in our history. This deficit is placed into stark relief by the Bush administration's forecast upon coming into office of a $334 billion surplus for 2003. So in just 2 years, we have seen a swing of more than three-quarters of a trillion dollars and that is just for this fiscal year.

The causes of the deficit are plain to see if you look at what is happening to revenues as a share of GDP—they have gone into a freefall. According to the Midsession Review, revenues in 2003 will equal 16.3 percent of gross domestic product, the lowest level relative to the size of the economy since 1959. The administration would like the public to believe this is some sort of natural decline due to recession and war. But we have been in recession before and we have seen war before, without getting into such a low level of revenue.

In fact, we can look at where revenues relative to GDP were in 1990 and 1991 and see that for President Bush, this is not his father's tax policy either. The truth is the administration's tax cuts actually account for 36 percent of the $7.6 trillion reversal in what was the 10-year budget outlook for fiscal years 2002–2011.

This is not even taking into account the administration's soaking up of Social Security surpluses, thereby reneging on a campaign promise not to raid Social Security. Moreover, the tax cuts take away resources necessary to ensure both Social Security and Medicare long-term solvency.

We need to save for the retirement of the baby boomers, and we are now less than a decade away from that wave of retirement. We don't have time to "grow out" of the deficits as we might once have back in the 1980s. That makes these efforts even more pernicious to the economy.

The administration has leveled the claim that the deficits would only be temporary. The first chart appearing in the Administration's Midsession Review shows that deficits as a share of GDP will be cut by more than half by 2006. As Senator CONRAD has pointed out, cutting a deficit in half after you have quadrupled or tripled it isn't exactly impressive management. Yet, I don't believe this Administration will even accomplish that reduction of the deficit. The deficits in the latter half of their 6-year window are not going to be as small as they claim they will be.

There are many reasons why we should be skeptical of the administration's predictions of much smaller deficits in the future years. First, the budget projections don't include lots of things that will surely increase the deficit; for example, the continuing costs of the Iraqi occupation—estimated today at $4 billion a month—and the continuing cost of military operations in Afghanistan, estimated today at $1 billion a month.

Secondly, the administration's tax cuts are unlikely to boost GDP—and tax revenue relative to GDP—as much as the administration thinks. Their forecast for the years 2005 through 2008 is simply too optimistic. The Midsession Review shows an increase in revenue relative to GDP of more than 2 percentage points in just 3 years, 2004 through 2007. But this sharp increase is unprecedented. It didn't even happen during the "revenue surprises" of the 1990s when revenues seemed to explode.

Such dramatic growth in revenues is much less likely now, because the administration's tax cuts have reduced the mechanisms that were the main drivers of the 1990s revenue surprises—capital gains taxes and the progressivity of the individual income tax system.

Then there is the other administration response to the deficit issue—that it simply doesn't matter.

Federal Chairman Allan Greenspan repeatedly has emphasized that higher deficits do, in fact, lead to higher interest rates. As the Fed's monetary report to Congress stated, deficits have already led to a downswing in national saving, and "if not reversed over the longer haul, such low levels of national saving could eventually impinge on the formation of private capital that contributed to the improved productivity performance of the past half-decade." At last month's Banking Committee hearing, Chairman Greenspan clearly stated that he would oppose the continuation of large deficits in the face of full employment. Yet the administration's own overly-optimistic forecast shows deficits persisting after the economy is back to full employment and robust economic growth.

By choosing tax cuts over less costly and more immediate stimulus for the past several years, the President has allowed the manufacturing sector, a hallmark of our country's economy, to fall into a spiraling decline. This neglect for a vital sector of the economy has especially hurt the Northeast and the Midwest.

Just this week, the Wall Street Journal stated:

> While hundreds of factories close in any given year, something historic and fundamentally different is occurring now . . . Most of these basic and low skilled factory jobs aren't liable to come back when the economy recovers or when excess capacity around the world dissolves.

The manufacturing industry cut 56,000 more jobs in June alone, the 35th consecutive monthly decline. From manufacturing to information technology, midcareer workers have been especially hard hit, and with many of these jobs lost forever to other countries, there is even more reason to act fairly and pass additional assistance for the long-term unemployed and to provide them with new skills through job retraining programs when you consider the record of job loss.

We should not limit unemployment and job retraining assistance to those laid off from manufacturing jobs, however. With so many Americans out of work for far too long and the persistence of job losses, there is an incredibly pressing need to extend benefits to those workers who have exhausted all of their unemployment benefits and yet still found no work. It is not their fault that jobs are not being created for them to fill.

Finally, there is no question that state fiscal crises are also restraining the economic recovery. These crises are predicated in no small part on insufficient Federal grant-in-aid to the States, along with decreased state tax revenues that are tied to reduced Federal tax rates.

Indeed, what we have here is a push-and-pull phenomenon. As the administration claims they are cutting taxes to stimulate the economy, State and localities are forced to raise taxes and cut expenses under their rules and their budgets, thus creating a situation in which our effect is counteracted by their necessary actions.

The official labeling of an "economic recovery" by the National Bureau of Economic Research sadly does not mean an end to the economic suffering that too many Americans feel. I think we should all be deeply concerned about the state of our economy—the persistent unemployment, and the huge budget deficits that are only likely to grow worse as the administration continues to push its tax-cutting agenda. Contrary to the administration's claims that its tax-cutting agenda is necessary to get the economic growth to bring surpluses back, those tax cuts will reduce our economic capacity for many, many years to come. We have already seen clear evidence of that, even in the administration's own estimates.

Just this week, a trio of Cabinet Secretaries has been traveling across the country on a so-called Jobs and Growth Tour Bus. But there have been no jobs, very limited growth.

And this tour is less of a victory lap than a further underscoring of the serious economic issues that face American families.

It appears that for some, the problem of working families struggling to get by merely serves as an excuse to pass massive, ineffective, irresponsible, and untargeted tax cuts. We must stay focused and pass measures that make sense and will put our economy on the right course both now and into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

LIBERIA

Mr. WARNER. Mr. President, I rise to address the Senate concerning my concern—I think there are others who feel similarly—about the crisis situation that is rapidly developing in Liberia and the decision framework that has confronted, is confronting, and will confront our Government.

I carefully use the word "Government" because when men and women in the Armed Forces are sent into harm's way, there is a constitutional responsibility on the President as Commander in Chief and the principal architect of our foreign policy to make the decision to send them into harm's way. In no way in my 25 years in the Senate have I ever once questioned that constitutional authority. In fact, I will match my record—humble as it is—against any Member of this body with regard to participation in the war power debates, participation in the resolutions regarding the use of force, when we, as a body, are addressing our responsibilities with regard to the men and women of the Armed Forces.

The President has a constitutional right. There is always debate, as reflected in the history of the War Powers Act, to what extent should he consult and, indeed, to what extent should he receive the specific concurrence of the Congress before exercising that very heavy responsibility.

There are volumes written on this subject. But for simplicity, clarity, and brevity today, I simply say the Constitution gives that right to the President and should not be ever in question. To the extent that Congress has the opportunity, through consultation and through other actions working with the administration, I believe it is wise that Congress speak to this issue.

About 4 weeks ago, I appeared on "Meet the Press" and somewhat indirectly referenced my concern about Liberia at that time. I expressed that the need to make a decision was coming down upon this Government, as indeed it has, and that it would be wise for the Congress to take a role. I cannot predict how this body would vote on it if it got to a vote. But I think the involvement of Congress when men and women go in harm's way is a very important responsibility as coequal branches of the Government, the executive and the legislative, and, indeed, an obligation.

I have tried each day to spend some time on these issues. I read what I can from the press, which has been rather interesting and good coverage so far, and from other documents, official and otherwise.

The complexity of this situation is really considerable. We do have these historical ties dating to the 1840s to this small country. At times, we have taken actions there. At times through the history of this country, we have sort of looked the other way. We have gone in before to try to quell disruption and violence, but I do not find a long history of strong involvement. We now have a despot who has been elected to the highest official post in that country, who has made representation that he will leave subject to certain contingencies. The President of the United States has indicated he wants to try and help the people subject, again, to the Liberian leader taking certain actions. This whole framework is quite unclear.

The Secretary General of the United Nations visited here 2 weeks ago. I was privileged to sit in a small meeting hosted by the distinguished majority leader, at which time we expressed our views. He was quite concerned, as I am quite concerned—I think everybody is quite concerned who has followed this—about the extraordinary dimensions of human suffering, there is no dispute about that, human suffering as a consequence of the frightful public record of the current leader in Liberia, that leader who has indicated he is willing to leave.

As I stand here addressing the Senate, on orders from the President, a very significant force, largely of marines, has progressed from the Horn of Africa around to the Mediterranean and is approaching, probably in the next 72 hours, a location somewhere off the coast of Liberia, where the ships will be positioned to await such further orders as the President may direct.

Now, what of the role of the Congress? As chairman of the Senate Armed Services Committee, I had hearings—at least a briefing—at my request on July 8. The chairman of the Joint Chiefs provided a very fine team of briefers where my committee, in S–407, heard their reports. A day or so ago, recognizing the Congress would soon be leaving for its August recess, I felt it wise to set a second briefing of the Armed Services Committee to which I invited really anyone in the Senate who wished to join, and also specifically a group of Senators, of which I am one, who soon will be embarking on a trip to the African continent. I was privileged to be included in that trip and expressed an interest to go primarily because of my concerns of national security in that region and the impending Liberian conflict. It had been my expectation that several of those Senators would have joined today had that briefing gone ahead.

Yesterday afternoon, the Department of Defense, following the regular procedures we always follow, sent up the names of three briefers—2 from the Joint Staff and one from OSD policy—and it all seemed to be ready to go this morning when quite unexpectedly we received word from the Department of Defense that the briefers would not come.

I will not dwell further on that procedure. I will say in my 25 years in the Senate, it is most unusual to conduct our affairs in that way between the Senate and the Department of Defense. Indeed, I am not sure I know of a precedent of that type of abrupt cancellation, but I will put that to one side and press on. I did feel it would have been helpful, certainly, to this Senator and several others—I know one or two on the Foreign Relations Committee yesterday expressed to me their concerns of where could they get information. Both of those Senators were invited to attend this morning. One of them is on the Subcommittee on African Affairs and he expressed to me his concern and asked how best he could get involved in learning more.

I will move on now to this question about the seriousness of this problem. This type of civil war, regrettably, has persisted in Liberia for many years. There are essentially three factions now. There is one faction to the sort of fragile, if almost inconsequential, government that is in place today with this despotic leader. Then there is a group to the south that refers to themselves as the Model, M-O-D-E-L. There is a group in the north that refers to themselves as the Lurd, L U-R-D. Both of them are a mixture of groups of Liberians and others from other areas. Both groups are now converging on the central part of the country, Monrovia, and we have witnessed this outbreak once again of civil war and the devastation being wrought on innocent civilians.

So what to do about it? Again, I am not prepared to give a clear answer. I would presume the administration is proceeding and in due course will share this information, but it is likely one or more decisions will be made in the absence of the Congress in formal session, so that concerns me because I feel strongly that congressional involvement in this situation is very important. I go back to our obligation to the men and women in the Armed Forces.

Once this military force—that is the force at sea—is on station, I anticipate that will increase the international pressure on our Government—and I continue to use the phrase "government"—to become more actively involved and send these forces in. Again, under the Constitution, the President has every right to make that decision on his own initiative, with or without consultation with the Congress, and to proceed.

In doing that, I call the attention of the Senate to the military doctrine that has evolved since Vietnam. It was my privilege to serve in the Department of Defense for over 5 years during the Vietnam conflict as Navy Secretary. That period of history is indelibly etched in my memory, a period of history which reflected the Congress breaking away from successive administrations that were involved in that conflict, and the animosity in the Congress against the Department of Defense. I shared my burden of that animosity, along with three Secretaries of Defense whom I served with in that period. Two remain very dear friends and valued advisers to me to this day. The third has passed on.

Out of that conflict, America began to examine the criteria by which this Nation should send men and women in uniform into harm's way—a very introspective, deep reflection on the tragic losses. My recollection is close to 50,000 men and women gave their lives in that conflict in Vietnam, and many more were wounded.

So often in the evening hours of our duties in the Pentagon in those days, I would, as did the other service Secretaries, call families and attend funerals. I frequently met with groups regarding their deep concern about that conflict and their losses. I remember meeting with the wives of the prisoners of war on regular occasions. Then this country unfortunately, in many respects, turned its discontent on the men and women of the Armed Forces themselves. When they would return home from their tours of duty in Vietnam, indeed there were instances in commands in the European theater of breakdown in discipline and morale, because of the uncertainty surrounding that conflict, the enormity of the casualities that we would take.

I mentioned the background because it was important America sit down and reflect on those criteria that Presidents—and indeed to the extent the Congress renders its approval—that Presidents and the Congress should follow.

A brief summary of that doctrine would be that military action should be used only as a last resort and only if there is a clear risk to national security interests of the United States of America; and at times we take into consideration the security interests of our valued allies.

So, is there a clear risk to national security by the intended target of our military action? What measure is the risk to the uniformed American? What measure is the risk to his or her life and limb?

The force when used should be overwhelming and disproportionate to the force used by the enemy. There must be strong support for the campaign by the general American public and there must be a clear exit strategy from the conflict in which the military is engaged.

I have generalized this but I ask unanimous consent to have printed in the RECORD following my statement a very important set of guidelines for the use of force that have been articulated through the years by our distinguished Secretary of State, Colin Powell—the so-called "Powell Doctrine."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. I have fairly stated the basic precedents that I embrace wholeheartedly. The Members of the Senate, in general, embrace these precedents.

Therefore, I pose rhetorically the question: As the decision process is made at this time, given the Congress will be out of town, that process will be made by the executive branch, the President of the United States, assuming, as he does, full accountability, will those criteria for the use of force be the guideline or are we somehow going to make a departure, and if so, what is that departure?

I fully recognize the dimension of human suffering today and the potential for even greater human suffering tomorrow, perhaps the next day. But at the same time, I fully recognize to the best I have been able to assertain, and I have not been able to assertain it to my complete satisfaction, but there will be an element of risk. I have asked not one, not two, but half a dozen distinguished military officers—some active duty, some not—whether they share my concern that there will be a measure of risk should we send troops into Liberia.

I made reference to this in hearings we have had in the Armed Services Committee in connection with the reappointment of the Chairman of the Joint Chiefs of Staff, General Myers and of the Vice Chairman, General Pace.

I ask unanimous consent to have printed in the RECORD an excerpt from renomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WARNER. My concern is not just of today; it has been there for some significant period of time. This Senator has pressed the questions on that situation at every opportunity I have had to date.

I will also reflect on the personal involvement I have had in addition to the period in Vietnam. When I first came to the Armed Services Committee, I worked under some of the greatest men I have ever known in the Senate: Scoop Jackson, John Stennis, Barry Goldwater, John Tower. I try, as best I can, in my duties as Senator today to draw on the wisdom they imparted to me in their teachings. Those men were historic in proportion to the Senate. I shall never achieve but a small fraction of their stature but, nevertheless, having the responsibility, I do my very best.

I remember John Stennis asked me to work on a report for him of the effort we made to rescue the hostages illegally taken by the Government of Iran at the embassy. We all remember that challenge. The Pentagon prepared what I thought was a well thought through plan to rescue those hostages. It was the right thing to do. We put our military at great risk. It was a plan to use covert action and helicopters. I will not dwell on it because I did write that report for Senator Stennis. It is somewhere in the archives.

The bottom line, a series of primarily mechanical failures, due to dust being taken into the intake systems, prevented the consummation of what I still to this day say could have been a successful operation. Certainly the heroics of the men involved who volunteered for that action were extraordinary.

John Tower, when he was chairman, we went together, just the two of us, to Beirut shortly after the bombing of the marine barracks in Beirut, marines who were sent there for the best of purposes to try to alleviate the suffering. The tragic loss.

Later, I was entrusted to work on the report for Somalia. My distinguished colleague, good friend, CARL LEVIN, and I went to Somalia. We worked on that report. It took us months to interview many individuals. How could we have experienced that tragic loss of men and women in our Armed Forces at the hands of savage attacks? That is a matter of record, the observations and conclusions Senator LEVIN and I put in that report.

I don't want to take any more time of the Senate on what I personally have done. Many have done as much, if not more, in respective responsibilities, but I do draw on some experience.

I am not hesitant to express my own concerns about some situations. If I were asked today, What should be done with respect to Liberia, I would simply say, I do not have the facts to make an informed decision. I hope in the executive branch there are those who do have sufficient facts to make an informed decision. Is this situation following the doctrine in our national security interests? I have even seen the word "vital" national security interests used. It has not been answered to my satisfaction.

If we are going to make a departure from the doctrine, is that predicated on sound principles that equate, somehow, to violation of security interests? If so, should we state them? If so, should we explain to the people?

I strongly believe, as I pointed out, that as we ask our men and women to take risks, we should, as an executive branch, as a legislative branch, have informed the American people, prepared the American—prepared them in a way to accept such losses as might occur. Has that been done? I fear, in my judgment, it has not been done.

I have tried my best to respond to my constituents. I have been questioned about it a number of times. I do not have the facts to my satisfaction. But it is very clear throughout the history of that Vietnam experience, we should have, as I stated, gained the support of the general public, the support of the families of the men and women in the Armed Forces who must go in harm's way. That has not, to my satisfaction, been done.

It is my hope that whatever decision process has to be made in the absence of the Congress will be made and carefully thought through. If we are going to depart from this doctrine on the use of force, if there are geopolitical pressures, if there are domestic political pressures—whatever it is, spell it out: What were the factors taken into consideration to make such decisions as may—and I underline may—be made by the executive branch when the Congress is gone, assuming that some decisions will be made—I don't predict in any way what they may be, but assuming some decisions are made. Maybe the decision is not to be involved.

I do fervently hope the Congress becomes engaged when we return, that we consider whether we have a resolution—first at the request of the administration, with the concurrence of the Senate leadership, and perhaps maybe some consultation with the committee chairmen and ranking members who are involved in the oversight committees—mine, Foreign Relations, certainly the Subcommittee on Appropriations, and others. So we go through a process.

I was privileged—I remember it so well—in 1991 to be asked by then the distinguished leader, Robert Dole, to prepare a resolution for the utilization by the President of force in the Persian Gulf in the 1991 conflict. How well I remember that debate—3 days, 3 nights on this floor of the Senate and then the vote. And only by a margin of 5 votes did the Senate adopt a resolution in support of then the first President Bush to utilize force in that conflict.

We had a larger vote with regard to the operations in Afghanistan and Iraq. We had some closer votes. I worked on these resolutions and so forth and decisionmaking by the Congress in the Balkan situation. I watched, carefully, all of those matters as they were addressed by this body.

Now, as we look at this situation in Liberia, we have a background of an ongoing conflict in Afghanistan and an ongoing conflict in Iraq. This mighty Nation is mourning the losses of uniformed members of the Armed Forces every week for some weeks now, doing the best we can individually to comfort and share the grief of the families.

Just this week, one Senator approached me: His State suffered a loss, and how could we facilitate the interment that this brave soldier deserved in Arlington in a timely way? Those steps are being taken. But a number of Senators have approached me, and I am glad to help as best I can with this situation back home in the context of the loss of the brave men and women of the Armed Forces.

This decision regarding Liberia could superimpose on those losses another level. It could. The risk, it seems to us, to be there—some of us who looked at this issue. Are we prepared as a nation to accept another circumstance in another theater that poses the threat of more casualties? I come back, is the United States of America—its citizens—prepared?

Our Armed Forces today, in my humble judgment, are stretched. We have seen some questioning the morale. I happen to think the morale is quite high. The recruiting, to the everlasting credit of the American spirit, is still strong; the retention is still strong. The All-Volunteer Force has exceeded every expectation we had.

I was privileged to be part of the framework in the Pentagon, under the leadership of a distinguished Secretary of Defense by the name of Melvin Laird, and a successor Secretary by the name of Jim Schlesinger, to envision and create and establish the All-Volunteer Force. It worked, and worked well. But that has its breaking points. Like everything else in life, it has its breaking points. I am not suggesting we have reached that limit, but we should never take our eye off the fact of that framework, that concept that everyone in uniform today is there because he or she has raised their arm and pledged allegiance to the Constitution of the United States and obligated themselves to accept the risks of military service. They do so thinking that the President, whoever that President may be, and the Congress, whatever the composition may be, are standing guard, protecting them and their families, protecting them and following the doctrine on the use of force, which presumably they have some knowledge of before accepting these obligations, that doctrine that I have enunciated and others have enunciated.

That is a heavy obligation upon us. We have to make certain that, as these conflicts in Afghanistan and Iraq are concluded and the goals that we stated are reached—goals which enable both of those nations to achieve a measure of democracy and freedom that they never have had, certainly not in the last 30 years—after that, those successive goals—and there is no doubt that we must be steadfast in our resolve to achieve them—we have to make certain our Armed Forces remain strong to meet the unexpected contingencies that arise around the world. Those contingencies that could challenge the vital security interests of this Nation. That means a strong, active, All-Volunteer Force, a strong Guard and Reserve.

We have to take those steps now to ensure that they are in place as we complete our mission in Afghanistan and Iraq, and indeed in many ways where our troops are throughout the world. I think they are on the border of being overdeployed and overextended, and we have to keep a very watchful eye.

Early this week, the Secretary of Defense came up to the Hill along with General Keane and went over a rotation policy which is going to correct—and I repeat in their words—that "some mistakes were made" of late with regard to our troops currently engaged in the Iraqi conflict. I commend the general. He recognized that some mistakes have been made. They are going to correct them.

I think now our forces will have a much clearer understanding, and their families—and I repeat—and their families will have a clear understanding as to their obligation. But always keep in mind that there is a tomorrow and a tomorrow, and what we do today in many ways establishes the foundation of what we can and cannot do on a tomorrow.

I wish our President Godspeed to make his decision. And I am hopeful that this body will engage itself when it returns from this recess.

EXHIBIT 2

U.S. SENATE COMMITTEE ON ARMED SERVICES

Sir/Madam: There will be a meeting of the Committee on Armed Services, Room SR–325, the Caucus Room, Russell Senate Office Building, Thursday, July 24, 2003–9:30 a.m.

To consider the following nominations: General Richard B. Myers, USAF, for reappointment as Chairman of the Joint Chiefs of Staff and reappointment to the grade of general; and General Peter Pace, USMC, for reappointment as Vice Chairman of the Joint Chiefs of Staff and reappointment to the grade of general.

The nominees will be present.

Chairman WARNER. My last question would relate to Liberia and the decision process now underway by which the President is trying to make an assessment as to the force level and composition that could be put in by the United States to stabilize a very tragic situation in terms of human suffering.

But, on the other hand, in my judgment it is a situation that poses great personal risk to forces such as our forces that could be injected into that very fast-moving and volatile situation there in Monrovia and the greater Liberia.

General MYERS. If you will permit me, Mr. Chairman, let me just describe the situation that we currently have in Liberia. It hasn't changed dramatically in the last 24 hours.

But we have a situation where you have a leader who has got to go who, as we know, is not a good leader, has not done good things for Liberia or, for that matter, has not been—been a lot less than helpful to the countries in the region, and so President Taylor must leave, and that part is being worked.

The other thing is that the two rebel groups, the two major rebel groups, the LURD and the MODEL, it is unclear—in fact, it's. I think the intelligence community would tell us that it is probably not going to happen that you are going to get political leadership out of these rebel groups, that they are not a replacement for Taylor. So it is not clear who is going to step forward in a political sense when the situation settles down in Liberia, to take over the political leadership.

In the meantime, you have a humanitarian situation where food, clean water, medical care is a problem. All the nongovernmental organizations that were in there providing those kinds of capabilities have left because of the security situation. So it is a situation that is, as you have described it, is not a pretty situation. It is not going to give way to any instant fix. Whatever the fix is going to be is going to have to be a long-term fix.

Currently, we have the West African nations surrounding that area, to include Nigeria, Ghana, Senegal, others, are looking to put a force in there to help stabilize the situation in Liberia. They, of course, have asked for U.S. support and what the administration is doing right now is trying to determine what is going to be the character of that support.

As a military person, I am concerned, like you, that whatever we do, that we have a very clear mission, we understand the mission we are asked to do, that we have an idea of when the mission is going to be over, in other words, when can we come out of the mission, and that we have sufficient force to deal with the security situation, that we do not go in on a shoestring when we need adequate force.

There are other things we can consider, but those are probably the three main things.

We have looked at options, all sorts of options. There has been no decision made—taken on this. I think I will just leave it there, I think. I think in the next few days we will—

Chairman WARNER. I would also add, for myself, and I draw that from statements made by our President in earlier days, that there be a clear and identifiable strategic interest, security interest, of this country. That to me remains somewhat to be defined in this situation, should the decision be made to go forward.

Can I just draw by way of conclusion your remarks that you concur, that in my judgment, this is not a risk-free operation, if we were to undertake it?

General MYERS. Mr. Chairman, I don't think any operation like this is risk-free. We have three, at least three warring factions, the LURD, the MODEL, the two rebel groups, and the government forces themselves. They are all armed. They are not disciplined troops as we know them. There are a lot of young people fighting in these groups. It is potentially a dangerous situation.

So when you go into it, you need to go into it knowing that. It may be that we can go in terms of support for these ECOWAS forces. And ECOWAS countries have come forward and volunteered forces. They will need some equipping and some training, some of the forces will, before they go in. So it is a little longer-term issue and it is a matter of months, probably not weeks, for some of those forces. Some of them probably can get in there fairly quickly, but small numbers.

And then eventually I believe Kofi Annan up at the U.N. said this will become a U.N. mission at some point. And that all has to be blended into this.

But I will go back to the larger issue. There is a political situation there with the president of a country, a "democracy," and how they deal with President Taylor, where he goes, what this interim government is also important to our security situation. And that is a somewhat cloudy picture today.

Chairman WARNER. General Pace, you had experience in your previous command before becoming Vice Chairman, in terms of Central and South America, do you have any views to add to those of the Chairman, General Pace?

General PACE. Sir, my experience in Somalia is a little more akin to the potential experience in Liberia. And I would echo what General Myers just said, that it is potentially a very dangerous situation. And when we—if we are asked to do something militarily, we need to make sure we do it with the proper numbers of troops and that we be prepared for the eventualities of having to take a military action.

Chairman WARNER. Thank you, Senator Levin.

Senator LEVIN. Just on that Liberian issue, would you recommend going in unless Taylor is either gone or on his way out as we arrive?

General MYERS: So far, that has been one of the planning assumptions that we made, that otherwise, you get into a situation that General Pace knows only too well, and it would define your mission, and the mission would be quite different if Taylor were to remain there than if he were gone. And so one of our planning assumptions is that he will leave, either before or simultaneously with the troops entering, whether they are ECOWAS troops or U.S., or U.S.-supported ECOWAS troops.

EXHIBIT 1

[The first public articulation of the "Powell Doctrine," a most influential mindset throughout the 1990s—and through the current administration, as well]

EXCERPTS FROM COLIN POWELL, "U.S. FORCES: THE CHALLENGES AHEAD," FOREIGN AFFAIRS, WINTER 1992

To help with the complex issue of the use of "violent" force, some have turned to a set of principles or a when-to-go-to-war doctrine. "Follow these directions and you can't go wrong." There is, however, no fixed set of rules for the use of military force. To set one up is dangerous. First, it destroys the ambiguity we might want to exist in our enemy's mind regarding our intentions. Unless part of our strategy is to destroy that ambiguity, it is usually helpful to keep it intact. Second, having a fixed set of rules for how you will go to war is like saying you are always going to use the elevator in the event of fire in your apartment building. Surely enough, when the fire comes the elevator will be engulfed in flames or, worse, it will look good when you get in it only to fill with smoke and flames and crash a few minutes later. But do you stay in your apartment and burn to death because your plans call for using the elevator to escape and the elevator is untenable? No, you run to the stairs, an outside fire escape or a window. In short, your plans to escape should be governed by the circumstances of the fire when it starts.

When a "fire" starts that might require committing armed forces, we need to evaluate the circumstances. Relevant questions include: Is the political objective we seek to achieve important, clearly defined and understood? Have all other nonviolent policy means failed? Will military force achieve the objective? At what cost? Have the gains and risks been analyzed? How might the situation that we seek to alter, once it is altered by force, develop further and what might be the consequences?

As an example of this logical process, we can examine the assertions of those who have asked why President Bush did not order our forces on to Baghdad after we had driven the Iraqi army out of Kuwait. We must assume that the political objective of such an order would have been capturing Saddam Hussein. Even if Hussein had waited for us to enter Baghdad, and even if we had been able to capture him, what purpose would it have served? And would serving that purpose have been worth the many more casualties that would have occurred? Would it have been worth the inevitable follow-up: major occupation forces in Iraq for years to come and a very expensive and complex American proconsulship in Baghdad? Fortunately for America, reasonable people at the time thought not. They still do.

When the political objective is important, clearly defined and understood, when the risks are acceptable, and when the use of force can be effectively combined with diplomatic and economic policies, then clear and unambiguous objectives must be given to the armed forces. These objectives must be firmly linked with the political objectives. We must not, for example, send military forces into a crisis with an unclear mission they cannot accomplish—such as we did when we sent the U.S. Marines into Lebanon in 1983. We inserted those proud warriors into the middle of a five-faction civil war complete with terrorists, hostage-takers, and a dozen spies in every camp, and said, "Gentlemen, be a buffer." The results were 241 Marines and Navy personnel and a U.S. withdrawal from the troubled area.

When force is used deftly—in smooth coordination with diplomatic and economic policy—bullets may never have to fly. Pulling triggers should always be toward the end of the plan, and when those triggers are pulled all of the sound analysis I have just described should back them up.

Over the past three years the U.S. armed forces have been used repeatedly to defend our interests and to achieve our political objectives. In Panama a dictator was removed from power. In the Philippines the use of limited force helped save a democracy. In Somalia a daring night raid rescued our embassy. In Liberia we rescues stranded international citizens and protected our embassy. In the Persian Gulf a nation was liberated. Moreover we have used our forces for humanitarian relief operations in Iraq, Somalia, Bangladesh, Russia and Bosnia.

All of these operations had one thing in common: they were successful. There have been no Bay of Pigs, failed desert raids, Beirut bombings or Vietnams. Today American troops around the world are protecting the peace in Europe, the Persian Gulf, Korea, Cambodia, the Sinai and western Sahara. They have brought relief to Americans at home here in Florida, Hawaii and Guam. Ironically enough, the American people are getting a solid return on their defense investment even as from all corners of the nation come shouts for imprudent reductions that would gut their armed forces.

The reason for our success is that in every instance we have carefully matched the use of military force to our political objectives. We owe it to the men and women who go in harm's way to make sure that this is always the case and that their lives are not squandered for unclear purposes.

Military men and women recognize more than most people that not every situation will be crystal clear. We can and do operate in murky, unpredictable circumstances. But we also recognize that military force is not always the right answer. If force is used imprecisely or out of frustration rather than clear analysis, the situation can be made worse.

Decisive means and results are always to be preferred, even if they are not always possible. We should always be skeptical when so-called experts suggest that all a particular crisis calls for is a little surgical bombing or a limited attack. When the "surgery" is over and the desired results is not obtained, a new set of experts then comes forward with talk of just a little escalation—more bombs, more men and women, more force. History has not been kind to this approach to war-making. In fact this approach has been tragic—both for the men and women who are called upon to implement it and for the nation. This is not the argue that the use of force is restricted to only those occasions where the victory of American arms will be resounding, swift and overwhelming. It is simply to argue that the use of force should be restricted to occasions where it can do some good and where the good will outweigh the loss of lives and other costs that will surely ensue. Wars kill people. That is what makes them different from all other forms of human enterprise.

When President Lincoln gave his second inaugural address he compared the Civil War to the scourge of God, visited upon the nation to compensate for what the nation had visited upon its slaves. Lincoln perceived war correctly. It is the scourge of God. We should be very careful how we use it. When we do use it, we should not be equivocal: we should win and win decisively. If our objective is something short of winning—as in our air strikes into Libya in 1986—we should see our objective clearly, then achieve it swiftly and efficiently.

I am preaching to the choir. Every reasonable American deplores the resort to war. We wish it would never come again. If we felt differently, we could lay no claim whatsoever to being the last, best hope of earth. At the same time I believe every American realizes that in the challenging days ahead, our wishes are not likely to be fulfilled. In those circumstances where we must use military force, we have to be ready, willing and able. Where we should not use force we have to be wise enough to exercise restraint. I have finite faith in the American people's ability to sense when and where we should draw the line.

Mr. STEVENS. Mr. President, I rise today to salute a very special person, Joseph C. Chase, of the Senate Appropriations Staff who retired yesterday after 31 days of service in the Senate.

When asked for his wisdom and advice after such a long period of distinguished service, Joseph smiled and easily responded by saying "deal with people as they are and always in a positive way."

Joseph C. Chase was born on March 18, 1948. He was raised in Brandywine in Prince Georges County. He is a graduate of Gwynn Park Senior High School in 1967 and attended Bowie State University from 1968 to 1970 where he majored in physical education and studied to be a teacher.

Joseph comes from a large family. He is the tenth child in a family of 11, nine boys and two girls. In 1988, he donated a kidney to his brother Andrew Chase who worked for the Sergeant at Arms.

He has been married to his lovely wife Peggy Elsey Chase for 29 years. The Chases met in 1969, and were married on July 27, 1974. Peggy has been a teacher for over 30 years. The Chases have two children, a daughter JoVonna, born August 1, 1977, and a son Joseph Jr., born August 21, 1983. The have one granddaughter, Kylah who is 3½.

Joseph's family legacy on Capitol Hill started over 60 years ago with his uncle Lewis Brooks, age 89, who worked on the House side as a doorkeeper. Over the years, more than 20 members of Joseph's family have worked on Capitol Hill. After working as a driver for Master Distributors and Brody Brothers Trucking, Joseph started working for the Senate Sergeant at Arms in July of 1972. He then came to the Senate Appropriations Committee in March of 1973 under the chairmanship of Senator John McClellan. In total, Joseph has worked for the Senate for over 31 years.

Since that time, Joseph has witnessed the growth in size and power as well as a host of other changes on the Senate Appropriations Committee. When Joseph started it consisted of only 30 people—today we have 95. Full committee meetings and conferences were held in the Old Supreme Court Chamber, would last for days and days, and were usually closed to only members and very few staff.

Joseph is actively involved in his church and community. He is a senior member of Asbury U.M. Church in Brandywine which is pastored by W. Otto Kent. In addition to being a member of the Prince Hall Masons, he is a vice president of the Danville Floral Park Citizens Association.

In closing, I just want to offer a special thank you to Joseph for all his outstanding contributions to the Senate Appropriations Committee over the past 31 years and wish him the best of luck in all his future endeavors.

HONORING DR. BILL MADIA

Mr. FRIST. Mr. President, I rise today to recognize a true leader in the science community and to thank him for his hard work on behalf of Tennessee and the Nation. After 3 years as Director of the Oak Ridge National

Laboratory, Dr. Bill Madia will be stepping down to return to Battelle headquarters in Columbus, OH as the Executive Vice President for Laboratory Operations. During his tenure in Oak Ridge, Bill has had a tremendous impact not only on the laboratory, but on the Oak Ridge community as well.

Bill Madia came to ORNL to continue the lab's tradition of world-class scientific research dating back to the Manhattan Project, and to advance its work on critical Department of Energy missions. His presence was felt immediately, as he took on an ambitious laboratory revitalization effort which included building new facilities to expand research capabilities, upgrading existing facilities to enhance ongoing research, and tearing down outdated facilities to relieve the lab from unnecessary overhead costs.

The cornerstone of this revitalization effort is the Spallation Neutron Source, a $1.4 billion dollar user facility that will be the most powerful machine of its kind in the world. Under Bill's watchful eye, the SNS has remained on schedule and on-budget. Alongside the SNS is the site for the new Center for Nanophase Materials Sciences, the first of DOE's cutting-edge nanoscience centers. Down the hill is the upgraded High Flux Isotope Reactor; the combination of these three facilities has ORNL poised to become a premier neutron science laboratory.

Bill's vision for ORNL also includes scientific computing, and with the recent completion of the Center for Computational Sciences, one of the most modern computer laboratories in the world, ORNL is ready to be a major participant in the Department of Energy's high-end supercomputing programs.

On the biological sciences front, the old "Mouse House" is being replaced with a new facility, the Laboratory for Comparative and Functional Genomics. This updated lab will keep ORNL on the cutting edge of genetic research utilizing the mouse colony to address the need to study gene function and apply that knowledge to curing human diseases. For this research ORNL is participating in a statewide effort known as the Tennessee Mouse Genome Consortium, a group that includes the University of Tennessee/Knoxville, the University of Tennessee/Memphis, Vanderbilt University, the University of Memphis, St. Jude Children's Hospital, Meharry Medical College and East Tennessee State University.

Bill's leadership and commitment have truly made a difference at ORNL and throughout Tennessee, and I thank him for his service. I wish him all the best in his future endeavors.

SENATE ENERGY AND WATER APPROPRIATIONS BILL SECTION 205

Mr. BINGAMAN. Mr. President, before we adjourn for the August recess, I'd like to make a brief statement related to Section 205 of the Senate Energy and Water appropriation bill. While we have not yet taken up this bill on the Senate floor, I expect that we will do so very quickly once we return from the August recess. I would therefore like to provide my views on a provision that has received significant attention in New Mexico.

Section 205 is a provision that addresses endangered species issues in the Middle Rio Grande in New Mexico. As a threshold matter, let met state that I support the approach taken in Section 205 to address the ongoing conflict between water use and the ESA in the Middle Rio Grande basin. While there is a remaining issue about the interpretation of one aspect of the language in that section, I have worked with Senator DOMENICI to address that issue and we will follow-up on that matter when the bill comes to the floor.

The conflict in the Middle Rio Grande was exacerbated by a recent decision by the Tenth Circuit Court of Appeals. Section 205 responds to that decision. I think it is an appropriate response because it provides a level of certainty for water users in the basin but leaves intact the requirements and goals of the Endangered Species Act. Let met explain that in more detail.

As many of my colleagues have already heard, the decision by the Tenth Circuit Court of Appeals in the case of Rio Grande Silvery Minnow v. Keys requires the Bureau of Reclamation to reallocate water from the San Juan-Chama project if necessary to meet the requirements of the Endangered Species Act. What is remarkable about this decision—which needs to be redressed in my view—is that the San Juan-Chama project water is not native to the Rio Grande basin. It is water that originates in the San Juan River basin, and is brought over as a supplemental water supply for use in the Rio Grande basin. Use of this water—quite simply—has not caused the decline of the Rio Grande silvery minnow, nor does it further jeopardize the existence of that species. The Court's decision, however, disregards these facts and erroneously directs the Bureau of Reclamation to reduce water deliveries to project contractors such as the cities of Albuquerque and Santa Fe, if necessary to meet the needs of endangered species. This result is not consistent with the intent of section 7(a)(2) of the ESA, and therefore unreasonably creates an uncertain water supply situation for a number of communities in New Mexico.

This situation needs correction and the intent of section 204 is to do just that. It eliminates reclamation's discretion to unilaterally take water from San Juan-Chama contractors and reallocate it for ESA purposes. Section 205, however, preserves voluntary transactions by which Reclamation can meet the needs of the endangered fish. This is how business has been done since 1996, and that process is allowed to continue.

Section 205 also includes a subsection that legislates the sufficiency of the ten-year biological opinion addressing water operations in the Middle Rio Grande. I understand that protecting a biological opinion through Federal legislation is not insignificant. Nonetheless, there are several reasons why I believe this approach is appropriate in this content. First, there has been an endless cycle of litigation over water operations in the Middle Rio Grande. We simply need some level of certainty for water users if we are to proceed to address the long-term requirements of the ESA. Second, it is important to keep in mind that compliance with the biological opinion not only ensures compliance with the ESA, but should serve to improve water-supply and habitat conditions in the Middle Rio Grande. The Biological Opinion contains a reasonable and prudent alternative, or "RPA", that emphasizes a broad approach to conserving endangered species in the Middle Rio Grande. It requires minimum river flows based on the annual available water supply, and includes spring releases to trigger silvery minnow spawning activity. The RPA also contains No. 1, requirements for significant habitat improvements, including fish passage at the San Acacia diversion dam; No. 2, population enhancement activity; and No. 3, water quality improvements in the basin.

As a fall-back, to ensure continued survival of the silvery minnow if the RPA does not significantly improve its status, the legal coverage provided by the biological opinion lapses if minnow mortality exceeds the limits defined in the opinion's incidental take statement. In that event, the Federal agencies will need to re-consult with the U.S. Fish & Wildlife Service to ensure that the survival of endangered species is not jeopardized.

As a final matter, although I believe that the approach in Section 205 will maintain progress in recovering the minnow, mere compliance with the biological opinion is not the end of the story. I also expect that the Secretary of the Interior will aggressively pursue other actions to promote the recovery of endangered species in the Middle Rio Grande, including support for the efforts of the Middle Rio Grande ESA Collaborative Program. The Collaborative Program has been very successful in bringing together a diverse group of parties to work towards common restoration goals in the Middle Rio Grande. It will continue to be key to the recovery effort and I will continue to support funding its work.

Before yielding the floor, I want to specifically address some ongoing concerns with Section 205. First, Governor Richardson in New Mexico has been working with all the parties to the ongoing litigation to try and develop a comprehensive settlement to the difficult issues in the Middle Rio Grande. That settlement, while not yet secured, is within reach. If finalized, it will likely address a broader range of issues than the approach in Section 205. The concern being expressed is whether the Section 205 could be modified to accommodate legislation associated with any potential settlement. I want to ensure Governor Richardson and the parties at the table that I will remain open to consider any settlement proposal that may be developed as part of that process. A more comprehensive solution, particularly one developed by all the parties together, is a preferred approach that deserves substantial attention and consideration.

The Middle Rio Grande Pueblos have also expressed concern that their water supplies are not protected in Section 205. On this point, I think it is clear that the Tenth Circuit's decision does not provide any basis for the Secretary of the Interior to assert discretion over the Pueblos' available water supply and unilaterally reallocate such water for endangered species purposes. The Pueblos' legal status is different from the project contractors covered by the Tenth Circuit's decision. In fact, it is highly questionable whether any provision of law gives the Secretary discretion over the Pueblos water similar to that determined by the Tenth Circuit. Nonetheless, it is premature to conclusively address that issue at this time. I will, however, continue to work with the Pueblos, as well as Senator DOMENICI on this issue, to determine if a modification to this legislation should be considered.

I hope this statement provides a clear explanation on why I am supporting the legislative approach set forth in Section 205. I believe that it is a reasonable response to the issues confronting my state—and one that should avoid being the basis for an Endangered Species Act fight. I thank Senator DOMENICI for working with me on this provision and I urge my colleagues to support this language.

I yield the floor.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

EXTENSION OF CHAPTER 12 OF THE BANKRUPTCY CODE

• Mr. FEINGOLD. Mr. President, I am pleased that the majority has finally cleared H.R. 2465, to extend Chapter 12 of the Bankruptcy Code for another six months. As a consponsor of companion legislation, S. 1323, I have been working to get this done ever since the House passed its bill on June 23 by a vote 379–3. Chapter 12 expired at the end of June. It is unfortunate that it took an entire month for the Senate to take up this simple bill that keeps in place special simplified bankruptcy provisions for family matters. But with the harvest season just around the corner in many of our States. I am pleased that the Senate has taken this action. We have helped many farmers who are in difficult financial straits. That is a good thing.

It is high time that the Congress made chapter 12 permanent. It has been in place since the mid-1980s and has worked well. Along with the Senator from Iowa, Mr. GRASSLEY, I have championed taking this step along with the number of important improvements to chapter 12, including adjusting the income limitations for inflation, which has never been done. The major bankruptcy bill that has been before the Congress for a number of years includes those improvements. I oppose the overall bankruptcy bill, but I believe that the provisions dealing with chapter 12 can and should be passed independently. Family farmers in difficult financial situations deserve our support. I applaud the Senate for finally passing this short extension, and I hope we will make chapter 12 permanent before the end of the year, when another extension will be necessary.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

PASSAGE OF THE ENERGY BILL

• Mr. KERRY. Although I was not present to vote on the Energy bill passed last night, I would like the Record to reflect my opposition to the bill and the process by which it was passed.

I voted for the Democratic Energy bill, H.R. 4, last Congress. When the same bill came up for a vote last night as S. 14, I was announced against it. The reason is that debate on the Energy bill was closed down prematurely before consideration of important provisions such as renewable portfolio standards, clean air standards, and climate change could even take place.

Furthermore, there is no indication that the Senate and House conference committee is going to lead to any type of meaningful bipartisan negotiations. In fact, the Republican leadership has already boasted they will do little if anything to defend the Senate position. Instead, they have announced that intention to rewrite the bill in conference. Apparently the Senate process has little meaning in this regard. It was just a ticket to a conference committee and a free hand in drafting a partisan bill.

The Nation needs a progressive, forward-looking energy policy that strengthens our national energy security, safeguards consumers and taxpayers, and protects the environment. Unfortunately, I believe passage of this legislation has put us on a fast track towards creation of an extreme Energy bill in conference that abandons each and every one of those core principles.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

OUR DEMOCRACY, OUR AIRWAVES ACT

• Mr. DURBIN. Mr. President, I am pleased to join my colleagues, Senators JOHN MCCAIN and RUSS FEINGOLD, in introducing S. 1497, the Our Democracy, Our Airwaves Act of 2003. This legislation complements the reforms accomplished through the Bipartisan Campaign Reform Act of 2002 by addressing an essential element omitted from the law: the demand side of fundraising.

As I emphasized during the Senate debate two years ago, simply dealing with the supply side of political campaigns—the sources of campaign contributions—misses the point. If we truly want to reform political campaigns in America, we must address the role of television. Television was once a tiny part of political campaigns, but it has grown exponentially.

Spending on television in political campaigns has skyrocketed. The $1 billion spent in 2002 by candidates, parties, and issue groups for political spots set a record for any campaign year and doubled the amount spent in the 1998 midterm election. It represented a four-fold increase in what was spent in 1982, even adjusting for inflation. What we are witnessing is ever more intensive efforts by candidates of both political parties to raise money for television and radio stations to deliver their messages to the American people.

What is often overlooked in this discussion is that the airwaves belong to the American people. Broadcasting stations are trustees of the lucrative electromagnetic spectrum. Broadcasters pay nothing for their exclusive licenses and are allowed to use the publicly-owned airwaves on one condition: that they serve the public interest.

Since 1971, Federal law has required that in the 45 days preceding a primary election and the 60 days prior to a general election, candidates are entitled to the lowest unit charge for broadcast media rates for the same class and amount of time for the same period. But for all practical purposes, this mandate has been meaningless. In order to secure their preferred time slots and guarantee that their ads are not bumped to a less desirable time, many candidates in competitive races end up paying premium prices instead of the lowest unit charge.

Television stations have taken this law, intended to benefit public discourse and to ensure that candidates are not penalized prior to an election, and have turned it upside down. Candidates end up paying dramatically more than the lowest unit rate. And as the costs to campaigns balloon, candidates, incumbents and challengers alike, must scramble for funds so they can give them right back to the television stations.

A $200,000 media program buys a few 30-second slivers of time to deliver ideas and views on the public airwaves. It takes just a moment to broadcast it, and if a viewer-voter gets up to get a sandwich in the kitchen when it airs, they miss it. But raising the funds to pay for the ill-fated spot still requires asking 4,000 people to make a $50 campaign contribution. As former Senator Bill Bradley observed several years ago: Today's political campaigns are collection agencies for broadcasters. You simply transfer money from contributors to television stations.

And as time ticks down to election day and the demand for television ads goes up, the stations raise their rates dramatically. Not only are rate costs for political ads inflated, stations are not covering the campaigns in their news segments in any significant way. Last week, findings from two instructive studies were published, which amplify these problems and underscore why enacting the Our Democracy, Our Airwaves Act is so important.

A study published by the Alliance for Better Campaigns based on a survey of more than 37,000 political ads on 39 local television stations in 19 states found that the average price of a candidate ad rose by 53 percent from the end of August through the end of October of last year. According to findings in another nationwide survey released last week by the Lear Center Local News Archive, a collaboration between the University of Southern California Annenberg School's Norman Lear Center and the Wisconsin NewsLab at the University of Wisconsin-Madison, viewers looking for campaign news during the height of the election season last year were four times more likely, while watching their top rated local newscast, to see a political ad rather than a political story. At the same time, those stations took in record-breaking amounts of political advertising revenue.

The Our Democracy, Our Airwaves Act addresses these concerns in three ways. First, it requires that television and radio stations, as part of the public interest obligation they incur when they receive a free broadcast license, air at least two hours a week of candidate-centered or issue-centered programming during the period before elections. Second, it enables qualifying federal candidates and national parties to earn limited ad time by raising funds in small donations. Up to $750 million worth of broadcast vouchers would be made available to be used to place political advertisements on television and radio stations in each two-year election cycle. As conceived in our bill, this system will be financed by a spectrum use fee of not more than one percent of the gross annual revenues of broadcast license holders. And third, it closes loopholes in the "lowest unit rate" statute in order to ensure that candidates receive non-preemptible time at the same advertising rates that stations give to their high-volume, year-round advertisers.

Until we get to the heart of what is driving up the cost of political campaigns, we cannot achieve real campaign finance reform. And at the heart of skyrocketing campaign costs is the cost of television. Our legislation will help reduce the amount of money in politics by making the public airwaves more accessible for political speech. The airwaves belong to America and to the taxpayers, and the network stations simply must give time back to challengers and incumbents across the United States if we're going to succeed in putting a stop to the money chase and the millions of dollars being spent on campaigns.

Only by providing candidates an opportunity to purchase time at affordable rates and imposing a modest and reasonable obligation on broadcasters to air at least two hours per week of candidate or issue-centered programming in the weeks before election day can we hope to return Our Democracy, Our Airwaves to the American people.•

NOMINATION OF DANIEL BRYANT

Mr. GRASSLEY. Mr. President, I rise today to state before this body that I object to proceeding to the consideration of Daniel Bryant, executive nominee to the Department of Justice. Mr. Bryant is nominated to be Assistant Attorney General, Office of Legal Policy at DOJ. I have placed a hold on this individual because I have numerous outstanding issues that have yet to be resolved by the Department of Justice. More specifically, I have several outstanding written requests before the Department of Justice. Some of these requests are more that 6 months overdue. In addition, I am presently working with the Department of Justice to overcome a number of procedural issues directly affecting my ability, as a member of the Judiciary Committee to, among other things, conduct oversight of the Department of Justice, and the Federal Bureau of Investigations.

ADDITIONAL STATEMENTS

J. MARC WHEAT

• Mr. LEAHY. Mr. President, I rise today to pay tribute to Marc Wheat, who is leaving the State Department's Bureau of Legislative Affairs after 2 years of outstanding service. As a Senior Advisor for Senate Affairs, Marc Wheat worked closely with my staff on the Foreign Operation Subcommittee on a range of important and controversial issues—from Plan Colombia to reconstruction in Afghanistan to Iraq.

To be sure, my staff tells me that Marc was a tireless and forceful advocate for the State Department's position on these, as well as other issues. But, they also emphasize that he was always honest and forthright, responding promptly and fully to the committee's requests for information. Perhaps what comes through the most is what a decent and genuine person Marc is. That was obvious to me when I met him after a committee hearing with Secretary Powell.

The State Department's loss is a gain for the House of Representatives. Marc is leaving his job at the State Department to be the Staff Director of the Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources. I know Marc will be a great asset to Chairman SOUDER in his new position. This is the latest move in a distinguished career for Marc, which includes service as a Counsel on the House Commerce Committee and Legislative Assistant to Congressman HASTERT.

I know my staff will miss working with Marc, and I wish him the best of luck in his new job.•

CENTENNIAL ANNIVERSARY OF PITTSBURG STATE UNIVERSITY

• Mr. BROWNBACK. Mr. President, today I recognize the centennial of Pittsburg State University in Pittsburg, KS. The institution that is today Pittsburg State University opened its doors on September 8, 1903, in a borrowed building in downtown Pittsburg with 54 students and five faculty. From these humble beginnings, Pittsburg State University has grown into a comprehensive state university of regional, national and international stature.

In 1903, the fledgling school offered only elementary courses in manual training, domestic science, domestic art, and a few basic academic subjects. Yet by 1912 the school's enrollment had increased to 1,183 students and it was described as a "College for Teachers." In the coming years, dedicated administrators and faculty worked to raise the standards of the institution to the point that it merited and received recognition as a liberal arts college.

Following World War II, the campus grew rapidly. Soldiers returning from the war came in droves, thanks to the G.I. Bill, and new buildings emerged all over campus. The college's mission and enrollment continued to expand as well. In 1977, the college achieved university status and assumed its current name, Pittsburg State University.

The decade of the 1990s was a time of unprecedented growth of PSU. Enrollment passed the 6,000 mark for the first time in 1991. Major additions ranged from a renovation and expansion of the football stadium to the addition of a 100,000-watt public radio station and the installation of a world-class mechanical organ in McCray Hall. In 1997, the university completed its largest single capital project with the construction of the Kansas Technology Center, a $28-million facility to house the university's nationally recognized technology programs. The Kansas Technology Center continues to play a vita role in the university's growth and development and is a significant economic development tool for the four-state region.

As it celebrates its centennial, Pittsburg State University now has an enrollment of more than 6,700 students. The university offers a wide variety of highly regarded programs in its Colleges of Business, Arts and Sciences, Education and Technology. Known as a comprehensive regional university serving Kansas and the four-state region that includes Oklahoma, Missouri and Arkansas, Pittsburg State attracts students from more than 25 states and 40 countries. Among its 55,000 alumni, PSU counts Pulitzer Prize winners, scientists, CEOs of some of the world's largest corporations, and even a former Miss America. Moreover, PSU is also to be admired for the model relationship of kindness and mutual assistance it has maintained with the Kansans in its local community.

I welcome this opportunity to commemorate all that Pittsburg State University has done to enrich the lives of its students and its surrounding community. I sincerely commend and thank PSU for its 100 years of faithful service.•

CONFIRMATION OF H. BRENT McKNIGHT TO THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA

• Mr. EDWARDS. Mr. President, I am very pleased that last night the Senate voted to confirm Brent McKnight, an outstanding North Carolina lawyer and jurist, to the U.S. District Court for the Western District of North Carolina.

Judge McKnight, currently serving as U.S. Magistrate, has a stellar record of achievement and excellence. A native of Mooresville, North Carolina, he received his BA from the University of North Carolina Chapel Hill and his law degree at the University of North Carolina School of Law. He was a Rhodes Scholar, earning an MA and Diploma in Theology at Oxford University.

Judge McKnight served as Assistant District Attorney for the State of North Carolina from 1982 through 1988, when he was elected District Court Judge for the 26th North Carolina Judicial District. During this time, we in North Carolina first saw the superior qualities that Judge McKnight brought to the bench—temperance, fairness, attention to detail and an abiding commitment to and concern for equal justice under the law. In fact, after just four years on the bench, Judge McKnight received a 97% approval rating from attorneys polled by Court Watch of North Carolina.

After four years of exemplary service on the North Carolina state court, Judge McKnight was appointed a United States Magistrate in May 1993. Judge McKnight has continued to build his reputation as an outstanding judge, earning the respect of lawyers and litigants throughout the state.

I can't tell you how many calls and letters I have received from people from across North Carolina telling me what an exceptional jurist and person Brent McKnight is. These folks attest to Judge McKnight's impeccable legal professionalism, both as a prosecutor and a Judge. I have no doubt that Judge McKnight will continue this record of excellence as a United States District Judge.

I was delighted to wholeheartedly support the nomination of Brent McKnight and am pleased that the full Senate has confirmed him to the United States District Court for the Western District of North Carolina. I wish him and his family—his wife Beth and their three boys, Brent, Matthew and Steven—well as he embarks on this next phase of his admirable career. I am confident that Judge McKnight, a consensus nominee who represents the mainstream of our state, will continue to serve the people of North Carolina and the United States with distinction.•

MYRA HYDE

• Mr. BOND. Mr. President, as Co-Chairman of the Senate Beef Caucus, I recognize and commend Ms. Myra Hyde for a decade of service on behalf of America's cattlemen. Mr. President, for 10 years, Ms. Myra Hyde has served as the National Cattlemen's Beef Association's director of environmental issues where she diligently worked on land use, conservation policy, and property rights issues. This month, she leaves the cowboys for the administrative pastures at the Department of Interior's Fish and Wildlife Service.

Ms. Hyde's contribution to progressive and responsible conservation policies and practices are known by those who work with her as well as those who have had the unenviable task of locking horns against her in the notoriously rough and tumble debate on resource management. She is a proud Texan, which is a compliment even outside of Texas.

Let me conclude by saying that those she leaves behind will sorely miss her expertise, honesty and sense of humor. Ms. Hyde has been a true friend of America's cattlemen as well as many of us serving here in Congress. She will be of great value as a servant of the public at Interior. On behalf of the caucus, we wish Myra good luck and ask her keep in mind the challenges faced by the hard working people who endeavor to feed the people of our nation and much of the world.•

RECOGNIZING DR. JAY GOGUE

• Mr. BINGAMAN. Mr. President, I rise to honor Dr. Jay Gogue, who has served as president of New Mexico State University since July 2000 and who will depart this August. A native Georgian, President Gogue received his doctorate in horticulture from Michigan State University. He then held many significant positions including: chief scientist for the National Park Service, vice president for research at Clemson University and provost at Utah State University.

From the outset, President Gogue's highest priority has been increasing academic opportunities for New Mexico State University students and faculty. Under his outstanding leadership, the university expanded distance education programs, increasing enrollment by about 70 percent last year. Additionally, President Gogue encouraged private donations, considerably increasing funds for the university. Recognizing the long-term benefits of solid relationships within the local and state arenas, he built strong associations between the university, alumni and the New Mexico legislature.

Throughout his tenure at New Mexico State University, President Gogue has continually been an exceptional, consummate leader and tireless advocate for New Mexico State University; his accomplishments will be long remembered. I wholeheartedly thank him for his dedication and wish him well in all his future endeavors.•

BIRTHDAY GREETINGS TO LINDA MAXWELL ROBERTSON

• Mrs. FEINSTEIN. Mr. President, I take this opportunity to extend warm birthday greetings to a constituent of mine, Linda Maxwell Robertson. Linda will be turning 50 on September 1st.

Linda is an unusual woman who pursued a career in commercial film production in New York City right out of high school. She started as a production assistant and rapidly rose through the ranks so that, at the "ripe old age" of 26, she co-founded her own production company with a partner, Mark Ross. Within a few years, her company had annual billings in excess of $8 million. Later, Linda established a commercial production company in New York for noted Hollywood directors Ridley and Tony Scott and Patrick

Morgan. Linda is a Past President of the East Coast Chapter of the Association of Independent Commercial Producers, AICP, and a current member of the Directors Guild of America.

In addition to her work-related responsibilities, Linda served as a media consultant to the Partnership for a Drug-Free America and was the Executive in Charge of Production for the United Nations' worldwide campaign to celebrate its 50th anniversary. In that capacity, she produced commercials in North America, South America, England, Thailand, South Africa, Mozambique, Australia, and the Czech Republic.

These accomplishments would be enough to satisfy most people, but not Linda! In her mid-40s, she went to college to New School University, where our friend and former colleague, Bob Kerrey, now serves as President. Linda earned her Bachelor's degree in Psychology in 2000, graduating with a 3.9 grade point average, GPA. While she was earning her BA, Linda started Black/Max Productions with her friend, Ann Black. The two of them are busy developing innovative and educational children's programming.

In July 2000, Linda and her husband Mike, daughter Charlotte, and dog Sally moved to Newport Beach and now live in Laguna Beach. At present, Linda is a few semesters shy of earning a Master's degree in clinical psychology from Pepperdine University's Graduate School of Education and Psychology. This September, she'll begin work as a trainee in marriage and family therapy at Pepperdine's Community Counseling Center. She is currently working as head of marketing and special events coordinator at the Cannery Restaurant in Newport Beach.

Linda finds the time, somehow, to get her poetry published and to be active in charitable affairs in her community and at St. Margaret's Episcopal School in San Juan Capistrano, where her daughter Charlotte will be entering the 10th Grade this fall. Meanwhile, her husband Mike is Creative Director at Heil-Brice Retail Advertising, HBRA, in Newport Beach and the two of them are on the brink of opening one or more "It's a Grind" coffee shops in Orange County.

I know that Linda is an inspiration to all who know her, especially her family—her younger brother, Gray, served as my legislative director for two years. It's a pleasure to send her birthday greetings. I could tell her to keep up the great work, but I don't think it's necessary!•

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Manchester, NH. On October 15 and 16, 2001, a 43-year-old woman bumped and elbowed her Muslim neighbor while the two women passed in the stairwell of their apartment building. The victim fell, bruising her elbow and hip. On the previous day, the woman approached her Muslim neighbor, pushed and harassed her with insults and epithets, calling her "Middle East Trash" and "terrorist."

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

IN RECOGNITION OF RACHEL M. CLEMENTS AND LEAH M. CROWDER

• Mr. DOMENICI. Mr. President, today I recognize the hard work and inquisitive spirit of two young New Mexicans: Rachel Clements and Leah Crowder. These two home-schooled eighth graders from Albuquerque, NM, captured top honors at the Northwestern New Mexico Regional Science Fair for their project: "The Effect of Bosque Fires on Saltcedar Growth."

As we all know, science fairs are held every year, in nearly every part of the Nation. Likewise, there are many remarkable projects exhibited at these events. The Clements-Crowder project focused on a scientific issue that is of great concern to New Mexico: the tamarisk plant, also known as saltcedar. They conducted their study over the span of 2 years, and their results are noteworthy.

On the west side of the Rio Grande, Rachel and Leah enthusiastically sought to understand how cottonwood canopies affect saltcedar growth and explore the usefulness of prescribed burning as a means of eradication. Their findings showed that more saltcedars grew in burned than in unburned areas. The results of their project reinforce the necessity of moving quickly to restore the hundreds of acres of the Bosque that were recently burned.

While visiting our Nation's Capital this past month, they were kind enough to share their findings with me. While further study is necessary to verify them, their conclusions add to the knowledge necessary to deal with this threat to our water. This is the sort of information that I hope my bill, the Saltcedar Control Demonstration Act, will uncover and put to use. We must discover the best ways to eradicate this invasive species, as it will help New Mexico to conserve its most precious resource, water.

As those of us who reside in the Southwest are well aware, water is scarce. On the other hand, saltcedar is an exotic, invading water thief. The majority of the large rivers and tributaries within the State have become overrun with saltcedar which drives out desirable vegetation and reduces the ability of riparian areas and waterways to provide habitat diversity for wildlife. These invaders must be dealt with decisively and quickly.

Through their curiosity and keen sense of purpose, Rachel and Leah have provided insight into a devastating problem for New Mexico. In a sense, they have issued an even bigger challenge to address the saltcedar problem. I am proud of these two young people, and I salute their pursuit of knowledge.•

OXFORD UNIVERSITY AWARDS JOHN BRADEMAS HONORARY DEGREE

• Mr. SARBANES. Mr. President, I was among a number of former Rhodes Scholars present on July 3, 2003 at the Sheldonian Theatre in Oxford, England, when our distinguished former colleague in the House of Representatives, John Brademas, was awarded the honorary degree of Doctor of Civil Law by Oxford University. Dr. Brademas, who served in the House of Representatives from 1959 to 1981, 22 years, the last 4 as majority whip, represented the then Third District of Indiana.

Described in the degree citation as "a man of varied talents and extraordinary energy, the most practical of academics, the most scholarly of men of action," Dr. Brademas was praised for sponsoring laws in Congress "which gave important support to colleges, libraries and cultural activities" and for promoting "legislation to help the weak by Federal subventions for those in need."

The citation, presented by Oxford University's new Chancellor, Chris Patten, also hailed Dr. Brademas, who served as President of New York University from 1981 until 1992, on having become "president of one of the greatest universities" and for "collecting enormous sums of money" for NYU.

Read in Latin by Oxford's Public Orator, the citation noted that Dr. Brademas had studied at Harvard, earned a Ph.D. at Oxford with a study of Spain and, "mindful of his Greek ancestry, is a founder of the Center for Democracy and Reconciliation in Southeast Europe." Said Chancellor Patten, in presenting the degree to Dr. Brademas:

> You have had an outstanding career; you have played a distinguished role in political

> life, while for the academy you have caused a golden stream of benefaction to gush forth.

In commenting on the award, John Sexton, current President of New York University, said:

> John Brademas shaped the transformation of NYU into the great university it is today. He came to us already a world citizen and he made us a world university. And today, as our President Emeritus, he continues to play a major role through his counsel and his enormous efforts on our behalf.

Dr. Brademas was the only American so honored by Oxford during ceremonies marking the Centenary of The Rhodes Trust, which administers the Rhodes Scholarships. The other former Rhodes Scholars awarded degrees were Robert J. L. Hawke, former Prime Minister of Australia; Rex Nettleford, former Vice-Chancellor of the University of the West Indies; and David R. Woods, Vice-Chancellor of Rhodes University, South Africa.

A graduate, B.A., magna cum laude, of Harvard University, Dr. Brademas studied at Brasenose College, Oxford, from 1950 to 1953.

Having myself enjoyed the great experience of studying at Oxford University on a Rhodes Scholarship, I naturally take pride in the achievements of John Brademas. I am sure that members of both the Senate and House of Representatives, on both sides of the aisle, join me in congratulating our former colleague on this high honor.•

THE 50TH ANNIVERSARY OF THE PINEWOOD DERBY

• Mrs. BOXER. Mr. President, it is my privilege today to recognize the 50th Anniversary of the Pinewood Derby. In 1953, Donald Murphy of Torrance, CA, initiated the first Pinewood Derby, an activity that has been enjoyed by millions of Cub Scouts and their families to date.

Mr. Murphy devised a miniature race car from a block of pinewood and asked his employer, the North American Aviation, to sponsor a race of the miniature cars for his son's Cub Scout troop. He hoped the event "would foster a closer father-son relationship and promote craftsmanship and good sportsmanship through competition." The Pinewood Derby quickly became a staple event for Cub Scout Packs.

Today, Pinewood Derbies are fun family endeavors that encourage creativity, develop skills, and promote teamwork. At each race, cars with unique paint jobs and designs demonstrate the pride and sense of accomplishment that participants have in their Derby entries.

As the "father" of the Pinewood Derby, Mr. Murphy can be proud that the Derby has enriched the lives of children and families across the country for half a century. Please join me in recognizing the Pinewood Derby and Mr. Murphy's role in its success.•

THE 100TH ANNIVERSARY OF ORANGE HIGH SCHOOL AND 50TH ANNIVERSARY OF THE ORANGE UNIFIED SCHOOL DISTRICT

• Mrs. BOXER. Mr. President, I wish to reflect on the proud history of Orange High School, which is celebrating its centennial this year. This is a particularly special moment because the Orange Unified School District is also celebrating its 50th anniversary this year.

Earlier this summer, more than 220 friends and alumni gathered at an event called "From Kibby to French" in honor of the district's first superintendent, Harold Kibby, and current superintendent, Bob French. The high school and district have come a long way since its humble beginnings many years ago.

Orange High School opened in the "Dobner Building" on September 21, 1903 as Orange County's fourth high school. In its first year, it had an enrollment of 81 students. A few years later, it moved from the "Dobner Building" to a building at Palm Avenue and Glassell Street, which is now Chapman University's Wilkinson Hall. It was not until 1953 that it moved to its current site on Shaffer Street.

As those close to Orange High School celebrate this special occasion, they can reflect on the school's progress and historical milestones. The school newspaper, "The Reflector," celebrated its first issue in 1916. The following year, the Class of 1917 painted a large "O" on a local hillside, which started a well-known tradition lasting through the 1960s. 1928 marked the beginning of another famous school practice, the "Dutch/Irish Days," with a basketball game played between graduates of St. John's Lutheran School, the "Dutch," and Orange Intermediate School, the "Irish." The game was last played in 1965. In 1970, Orange High opened a stadium in honor of 1912 Olympic champion and class of 1911 alumnus, Fred Kelly. On the school's 75th anniversary in 1978, a museum opened in the Townsend Room.

I would like to conclude my remarks by describing a tradition some alumni from the Class of 1943 started about 15 years ago. They started to meet for breakfast once a month at Watson's Drug and Soda Fountain, a place near the "Dobner Building." David Hart, an Orange High alumnus, was quoted in the Orange County Register on the centennial as saying, simply, "We like each other . . . I have breakfast with kids I went to kindergarten with . . . Other schools don't have that." This unique feeling of closeness and friendship clearly shows the meaning of Orange High School its alumni.

I congratulate both Orange High School and Orange High School District on this important milestone, and wish them many more years of success.•

THE 100TH ANNIVERSARY OF HOLLYWOOD HIGH SCHOOL

• Mrs. BOXER. Mr. President, I wish to reflect on the proud history of Hollywood High School, which is celebrating its centennial on September 13. In some ways, Hollywood High School lives up to its name. Judy Garland, Mickey Rooney, and Lana Turner were on the school's roster. Carol Burnett was the editor of the school paper. And scores of other celebrities received their education at Hollywood High. Hollywood High has certainly grown significantly from its humble beginnings.

It opened in 1903 on the second floor of a former bakery located on Highland Avenue. It had an enrollment of 56 students, and only three teachers were on the payroll. Two years later, construction on a Roman-temple style building was underway at the intersection of Sunset Boulevard and Highland Avenue, and this is where the school still stands today.

Over the years, Hollywood High's student population grew to include not only Hollywood celebrities, but also leaders in American government, and in many other fields. Former Secretary of State Warren Christopher graduated from Hollywood High, as did Judge John Aiso, the first Nisei appointed to the federal bench.

Hollywood High School provides a myriad of services to students interested in the performing arts. In partnership with Paramount Studios, it administers the New Media Academy. Hollywood High also has a winning debate team, award-winning dance and drill teams, and a Performing Arts Magnet Center.

Mr. President, it is clear that Hollywood High has enjoyed a colorful and successful history, and I congratulate the school, staff and students on this special occasion.•

THE 75TH ANNIVERSARY OF CAMP SAN LUIS OBISPO

• Mrs. BOXER. Mr. President, I wish to reflect on the 75-year history of Camp San Luis Obispo in my home State of California. A celebration of this special anniversary will be held on August 22, 2003. Established in 1928, Camp San Luis Obispo then Camp Merriam has served our state and nation well: as a training site for the California National Guard, as a training and staging base for the U.S. Army during World War II and the Korean War, and now as the home of the Guard's California Military Academy.

Camp San Luis Obispo was established in the years following World War I, when it was recognized that a training site for the Guard was needed. The federal government began using the camp just before World War II. The camp was active throughout the war, and by the end of the war in 1944, it had expanded to 15,433 acres and had the ability to serve more than 20,000 troops. During the Korean War, the Army trained soldiers at the Southwest Signal School that opened in 1951.

In July 1965, the State of California regained control of the camp. With the closure of California military installations during the past ten years, the centrally-located Camp San Luis Obispo has served as a resource for Guard and Reserve units.

During the past 75 years, Camp San Luis Obispo has provided an important service to the California National Guard and to our nation. This historic camp has served as a training site during some of our nation's most difficult national security challenges.

I congratulate Camp San Luis Obispo on this milestone, and commend the California National Guard for their noble service over the years.•

MAJOR ANTHONY W. HAMEL

• Mr. REED. Mr. President, I rise today to recognize the accomplishment of Major Anthony W. Hamel of the Rhode Island Air National Guard. MAJ Hamel was awarded the Bronze Star Medal for meritorious achievement while serving as Executive Officer and Director of Staff of the 376th Expeditionary Wing at Manas Air Base in Kyrgyzstan from 6 November 2002 to 6 May 2003 in support of Operation Enduring Freedom.

Major Hamel was recognized by the United States Air Force for "outstanding leadership . . . essential to the effective prosecution of operation Enduring Freedom and the fight against global terrorism." As Director of Staff, he "acted as a catalyst in virtually every aspect of the wing's day-to-day operations resulting in efficient and seamless coordination among the eight-nation coalition." His leadership as Wing Executive Officer enabled the Wing Commander to focus his time on combat sorties and the successful delivery of weapons on target in Afghanistan. He is cited for "exemplary leadership, personal endeavor, and devotion to duty" which reflects "great credit upon himself and the United States Air Force."

Major Hamel's accomplishments also show great credit to the Rhode Island Air National Guard and the state of Rhode Island. His selfless service to Rhode Island and the nation is an example of all the men and women from my state who volunteer to help keep our nation safe from threats around the world.

I echo the praise of the United States Air Force in recognizing Major Hamel with the award of the Bronze Star Medal. I ask my colleagues to join with me today in thanking Major Hamel on behalf of a grateful nation for his unselfish service to our country.•

IN MEMORY OF RICHARD "DIXIE" WALKER

• Mr. HOLLINGS. Mr. President, late last month South Carolina lost one of our most distinguished citizens, and I rise today to salute Richard "Dixie" Walker.

Dixie was a scholar in East Asian studies. He brought an international studies institute to the University of South Carolina in the 1960s, when such programs were not being offered anywhere in the South. In the 1980s President Reagan asked him to be the Ambassador to South Korea, and he was one of the most successful ever.

To share with my colleagues just how much Dixie meant to all of us back home, I ask that this very eloquent homage to him be printed in the RECORD. It was written by John McAlister, who studied under Dixie at Yale University in the 1950s.

The homage follows:

Ambassador Richard L. Walker has brought inspiration and irony to all who have had the privilege to be his friend, student, or compatriot in the cause of freedom. He inspired us by his eloquent testimony to the universal values of freedom, by his articulation of the human anguish at freedom's lack, by his insistence on the cultural foundation of freedom, and by his emphasis that freedom depends on our respecting the diversity and dignity of the cultures of humanity. He evoked irony to signal the paradox of life, the necessity for good humor in all things, and the need to see things as they really are rather than how they may appear.

His nickname artfully combined both inspiration and irony. The original "Dixie Walker" was, as those of us old enough to remember that irreverent baseball player, the antithesis of our elegant friend and mentor "Dixie." Perhaps that is why our "Dixie's" nickname seemed so comfortable. It calls attention to the ever present ironies and tragedies of life and how they can be surmounted with humor and humility as well as with virtue, excellence, and compassion. He left us an enduring legacy of good jokes, profound cultural insights, and admonitions to check our self-assuredness by deeper reflection. The nickname "Dixie" made the point without heavy handed fanfare.

Time has happily eroded the identity of the original profane "Dixie Walker" and our "Dixie" has given a distinguished luster of scholarly and ambassadorial dignity to the nickname. Transforming seemingly valueless and unfamiliar things into new and greater worth is his legacy that goes far beyond the burnishing of an old nickname into a mark of honor. The name "Dixie Walker" will forever be inseparable from the dramatic defense and then flourishing of freedom in East Asia over the past six decades. Many brave Americans and courageous Asians of all cultures and social conditions deserve our reverence for their sacrifice and dedication to this still incomplete and perilous cause that at this very hour is threatened by potential nuclear conflict. "Dixie's" legacy in the cause demands to be honored for reasons that may still not be widely understood yet are fundamental to an appreciation of his enduring endowment to freedom, not alone in Asia.

Conspicuous in our memory is "Dixie's" historic ambassadorship to the Republic of Korea, the longest serving in our history, punctuated with tension-filled drama in the aftermath of assassinations, the bloody military suppression of a popular uprising, the Soviet destruction of a Korean commercial airliner with total and tragic loss of life, and student protests advocating democratic reforms to mention only a few. Navigating the treacherous shoals of the Korean spirit was never expected to be the ideal of a morning calm. In the storms, "Dixie" was a firm unflustered pilot whose navigational recommendations helped steersmen set the course to a safer harbor of Korean democracy, to winning the Olympic Games for Seoul, to campuses now filled with free debate, and to a prosperity of today unimagined at the beginning of his ambassadorship.

Conspicuous also to us is "Dixie's" historic leadership in bringing new vigor and distinction to one of America's oldest universities. Carolina now has global reach thanks in part to graduates of the Institute of International Studies that now bears "Dixie's" name. These graduates now are leaders in their own right in positions of great responsibility in the cause of freedom, endowing their own colleagues, students and friends with the inspiration given to them by "Dixie Walker." Their names may sometimes be awkward for the native Carolina tongue to pronounce or for the Carolina ear to comprehend. But these distinguished foreign leaders will forever be linked in their hearts and spirit to Carolina and to the undying example of their mentor.

Less widely known than his history-making ambassadorship and Carolina leadership is his landmark scholarship on communism in China, the controversy it sparked a half century ago when it first appeared, the fierce criticism he endured, and the rightful vindication he never sought and not even grudgingly received. In the winter of 1956–57, the Yale University Press published "China Under Communism: The First Five Years" one of the first scholarly analyses of China under Chairman Mao. The book was the focus of a front page review in the Sunday New York Times Book Review. Praise came from the informed public and was widespread.

But there were academic critics who lamented the book as an "anti-communist tract." At the heart of the controversy was the assertion in certain scholarly quarters that communism in China was legitimate because it was founded on timeless Chinese cultural traditions. "Dixie's" view was the reverse. He asserted that Maoist authoritarianism would not last precisely because of its attempted destruction of Chinese culture. Twenty years and millions of lives later, "Dixie's" view prevailed because Maoism was what he said it to be. Maoism did not outlive Mao. Chinese culture suffered deterioration from which full recovery will not be quick. Many past and current leaders and their families were jailed, some killed. The pain for China lingers on but cultural renewal is accelerating. A kind of "Dixie Walker" focus on underlying fundamentals of culture is steadily gaining momentum in music, dance, visual arts, motion pictures, science, religion, and in public debate. China is on its way to new levels of cultural achievement as he said it would when freedom began to take hold.

Why should the controversy and unpleasantness of China a half century ago be retold at a time of homage and remembrance? Why not let the past remain in the past? After all, a vaunted tradition among Carolina natives is the warning not to look too deeply into the past lest unwanted things be found. What is to be gained? An understanding of the essence of "Dixie's" life and his insights into the character of freedom is what awaits our reflection. What has been true for China is true elsewhere. Tyrants don't endure. Freedom prevails when peoples unite in their common humanity while giving respect and dignity to those things that make them different from one another. Power by the few yields to the freedom of the many when unity is based on cultural diversity and dignity.

Brave Americans are once again risking their lives for freedom, our own and that of subject peoples, fighting in far off lands whose cultures defy our popular comprehension and confound our leader's predictions. Our military strength is absolutely indispensable for this fight. Alone, it is insufficient. Once again as so frequently over the past half century, we find how closely our own freedom is linked to languages, cultures, religions, family patterns, and traditions that we do not know and for which there has been limited study. What to do? "Dixie Walker's" living legacy will always be there to remind us that freedom is never to be taken for granted and cannot be assured without our learning about, understanding, respect, and nourishing of the cultures of the human family on which it is founded.

Farewell beloved friend! You will live forever in our hearts and everywhere that freedom is cherished.●

IN MEMORY OF KEMAPHOOM CHANAWONGSE

● Mr. DODD. Mr. President, I honor the memory of Marine CPL Kemaphoom Chanawongse, of Waterford, CT, who was killed in action earlier this year in Iraq.

Mr. President, those of us who are privileged to live in this great Nation of ours know that its greatness is rooted in its people—people who have come to this country over the years from lands near and far, and have succeeded in making extraordinary contributions to their new home. And there is no greater contribution, no greater sacrifice, than the one made by Kemaphoom Chanawongse.

CPL Chanawongse, who was known as "Ahn," came to this country from Thailand with his mother and stepfather when he was just a young boy. He soon learned to speak English, but also retained his native Thai. He enjoyed architecture and engineering, and was a budding artist.

From the very beginning, Ahn seemed destined to serve his country. His family had a proud tradition of military service—his grandfather and his uncle were both veterans of the Thai Air Force, and his stepfather served in the United States Navy. Even at an early age, Ahn would dress up in his stepfather's uniform, perhaps knowing that someday, he would proudly wear one of his own.

Ahn graduated from Waterford High School in 1999, and joined the Marines shortly afterwards. He served with the 1st Battalion, 2nd Marine Regiment, 2nd Marine Expeditionary Brigade. His fellow soldiers called him "Chuckles" for his outgoing personality and sense of humor.

When it came to serving his country, though, Ahn was all business. He knew that the path he had chosen was a dangerous one, but he also knew that the causes he represented—freedom, democracy, and opportunity—were worth fighting for.

Ahn Chanawongse's American dream was a dream cut short—but his story is an inspiration to us all. And his bravery, heroism, and valor will not be forgotten.

On behalf of the United States Senate, the State of Connecticut, and all of America, I offer my deepest gratitude to Corporal Kemaphoon Chanawongse for his service to the United States of America. My utmost sympathies go out to Ahn's mother, Tan Patchem, his stepfather Paul, his brother Kemapawse, and to all of his friends and family.●

TRIBUTE TO HALINA GRABOWSKI

● Mr. DEWINE. Mr. President, I rise today to honor and remember the life of an extraordinary woman—a woman who experienced events that exist to most of us merely as stories in our history textbooks. I am proud to call this woman a fellow Ohioan—one who, as a teenager, fought in the Warsaw Uprising against the invading Germans.

This woman, Halina Grabowski, lived her life with a rare courage and loyalty, and her level of service to humanity is something to which we all should aspire. Halina recently passed away in Cleveland at the age of 75. I would like to share her amazing story with my colleagues in the Senate.

Halina was born in 1928 to a homebuilder and his wife in Warsaw, Poland. She grew up as one of 12 children living comfortably in the city. However, the outbreak of World War II changed forever the kind of life she and her family knew.

The German army swept through Poland in September 1939. As we know all too well, the atrocities the Nazis inflicted on the Polish people were truly horrific. Halina and her family were unable to escape the occupiers. Her house was burned to the ground and her brother died in her arms following a brutal beating by German soldiers. Halina's mother was killed when German planes bombed the church in which she was seeking refuge. At this point, most of us would give up—but not Halina. In the midst of this devastation, she decided to join the resistance movement in Warsaw.

The Warsaw Uprising erupted out of the city's ghettoes on August 1, 1944. After the Jews resisted early efforts to quell the rebellion, masses of German reinforcements entered the city with an order to kill all of its inhabitants. Despite the threat, Halina joined the Armia Krajowa, or Home Army.

Even though the Home Army was greatly disadvantaged, they fought fiercely and bravely. Halina was assigned to duties as a messenger, nurse, and guard. During the resistance, her foot and arm were severely injured by German shells. However, rather than succumbing to her injuries, Halina bandaged herself and returned to her unit. Several times, she and her comrades escaped enemy troops by crawling through sewers and fighting off rats.

Despite their courageous efforts, the Home Army eventually ran out of food, medicine, and ammunition. The Germans captured Halina and her unit and sent them to concentration camps in Germany.

The resistance engaged the German occupiers for 63 days of intense fighting—the longest Polish resistance battle fought during World War II. In addition to its length, the Warsaw Uprising was the greatest military operation undertaken by any resistance movement in Europe at the time. It was an amazing act of courage and overwhelming valor. When it was over, more than 200,000 Polish people had lost their lives fighting for their freedom.

Halina survived the War. She survived the ghetto, the resistance, and a

German concentration camp. Throughout this, she also managed to find the love of her life—George Grabowski. They married in England in 1948 after they left Germany. In 1952, Halina and George moved to Cleveland, and although she lived as an American for the next 50 years, her ties to her home country were never severed.

Halina served as an officer in the Polish American Congress, PAC, an umbrella organization of 3,000 Polish-American organizations and clubs. The PAC promotes civic, educational, and cultural programs designed to further not only the knowledge of Polish history, language, and culture, but also to stimulate Polish-American involvement in the United States. Additionally, Halina served as a member of the organization of Polish Veterans Combatants and the SPK Polish service organization.

While much of her new American life was dedicated to Polish causes, Halina was also a devoted mother and wife. She had a daughter and a son, who she raised while working for twenty years in the payroll department of Society National Bank.

Halina lived through one of the most harrowing events the world has ever seen. However, she did not let it overwhelm her. Rather, she courageously fought for her freedom and never gave up. Halina was awarded Poland's A.K. Cross and four other medals for her service in the Home Army. I offer my condolences to her entire family—especially to her husband George; their two children, Theresa and John; and their seven grandchildren.

Halina Grabowski was an amazing woman—we will never forget her.•

TRIBUTE TO BIRUTE SMETONA

• Mr. DEWINE. Mr. President, I rise today to honor and pay tribute to Birute Smetona—an exceptional woman and an exceptional Ohioan who passed away recently at the age of 91. Birute was a gifted musician, who lived a life of great courage and perseverance. She was a beloved figure and an inspiration to all who knew her in her Cleveland-area community.

Birute, born in Subacius, Lithuania, began her distinguished career as a concert pianist by soloing with the symphony orchestra in Kaunas—then the capital of Lithuania. She went on to graduate from the Lithuanian National Conservatory in 1935, where she met her future husband Julius, an athlete and an assistant law professor who was also the son of Lithuania's President Antanas Smetona. After the start of World War II, she had to leave a respected music conservatory in Paris to return to Lithuania with her husband and infant son, Anthony. During the trip, they sometimes had to get off their train and walk alongside because sections of track had been destroyed as a result of the War.

When they arrived in Lithuania, the Smetona family found their native land changed. Birute's life, which up until that point may have seemed like a modern-day fairy tale to some, was about to be thrown into a state of upheaval. Amidst the ever-present dangers of a war creeping closer and closer to home, Birute and her family made the difficult decision to leave Lithuania—the home they loved so dearly—in search of a better life.

Birute and her family left Lithuania in June 1940, just as the Soviet army was entering the country. While Russian troops initially stopped them at the border, they ultimately allowed them to pass into Germany. From there, the family was constantly on the move, living in Switzerland, France, Spain, and Brazil all in the space of a little over a year.

Eventually, Birute and her family arrived in Chicago in 1941, before finally settling in Cleveland, where Birute's husband found work as a factory laborer for just 65 cents an hour. The Smetona family was living on the second floor of a house on Ablewhite Avenue when a sudden fire consumed it. Tragically, Birute's father-in-law, the former President Smetona, lost his life in the blaze, unable to escape from where he lived in a converted attic on the floor above them.

These were difficult times for Birute and her family. After all that Birute and her family had been through—from having to leave their homeland of Lithuania to losing Julius's beloved father and having their home destroyed—Birute and her family started over yet again. As a testament to her strength of character, Birute endured at a point in her life when many others less determined and courageous than she would have crumbled under the sheer pressure of all the adversity her young family suddenly faced.

Birute held steadfast, however, and truly flourished in Euclid, Ohio. To help support her family, Birute took buses for a time from her family's public housing in Euclid to homes in Shaker Heights to give piano lessons. But eventually, she was able to build a full schedule at her own home. She soon returned to the concert stage and went on to perform in major cities, including New York, Chicago, and Washington.

In Cleveland, she belonged to and performed for the Fortnightly, Cecilian, and Music and Drama clubs of Cleveland. While living in Cleveland Heights, Birute shared her gift with the community and taught for years at the Cleveland Music School Settlement and Ursuline College. Birute was also a visiting instructor at Youngstown State University, Appalachian State University, and the School of Fine Arts in Willoughby.

While known as a gifted performer, Birute Smetona was also a devoted mother and exceptional teacher. Her two surviving sons, Anthony of Cleveland Heights and V. Julius of Medina, both followed in their mother's footsteps to become concert pianists and teachers. Birute was dedicated to her students. She taught them to avoid a stiff appearance when playing by using a supple, flowing motion of hand, wrist, and forearm. Most of all, Birute was well known for her unique ability to clearly explain difficult musical concepts in a way that even children could understand.

Birute was a strong, courageous, and exceptionally talented mother, instructor, and pianist. She was a vibrant member of the Cleveland community, and I am proud to honor her life—a 91-year journey and adventure. I extend my condolences to her entire family—to her two sons, her nine grandchildren, and to all who knew and loved her. She will be truly missed, but will remain forever a testament to the character and depth of courage of the Lithuanian community in Ohio.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2799. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 2861. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3599. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Extensions of Principal and Interest" (RIN0572-AB79) received on July 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3600. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Panama; to the Committee on Banking, Housing, and Urban Affairs.

EC–3601. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rough Diamonds (Liberia) Sanctions Regulations, Rough Diamonds Control Sanctions" received on July 31, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–3602. A communication from the Assistant Secretary, Land and Minerals Management, Minerals Management Service, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf" (RIN1010–AC89) received on July 31, 2003; to the Committee on Energy and Natural Resources.

EC–3603. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Montana Regulatory Program" (MT–023–FOR) received on July 31, 2003; to the Committee on Energy and Natural Resources.

EC–3604. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "List of Obsolete Rulings" (Rev. Rul. 2003–99) received on July 29, 2003; to the Committee on Finance.

EC–3605. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "RIC Refunded Bonds" (Rev. Rul. 2003–84) received on July 29, 2003; to the Committee on Finance.

EC–3606. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2003–69" received on July 29, 2003; to the Committee on Finance.

EC–3607. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling: Deductions Related to Compensatory Stock Options" (Rev. Rul. 2003–98) received on July 29, 2003; to the Committee on Finance.

EC–3608. A communication from the Regulations Coordinator, Center for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities" (RIN0938–AL20) received on July 29, 2003; to the Committee on Finance.

EC–3609. A communication from the Regulations Coordinator, Center for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program, Inpatient Rehabilitation Facility Prospective Payment System for FY 2004 Rates" (RIN0938–AL95) received on July 29, 2003; to the Committee on Finance.

EC–3610. A communication from the Regulations Coordinator, Center for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program: Changes to the Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates" (RIN0938–AL89) received on July 29, 2003; to the Committee on Finance.

EC–3611. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "12 C.F.R. Part 740, Accuracy of Advertising and Notice of Insured Status" (7535–01–U) received on July 29, 2003; to the Committee on Governmental Affairs.

EC–3612. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on Competitive Sourcing dated July 2003; to the Committee on Governmental Affairs.

EC–3613. A communication from the Chair, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Public Financing of Presidential Candidates and Nominating Conventions" received on July 31, 2003; to the Committee on Rules and Administration.

EC–3614. A communication from the Chair, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Public Financing of Presidential Candidates and Nominating Conventions" received on July 31, 2003; to the Committee on Rules and Administration.

NOMINATIONS DISCHARGED

On request by Mr. WARNER and by unanimous consent, it was

Ordered, That the following nominations be discharged from further consideration by the Committee on Finance and the Committee on Foreign Relations:

DEPARTMENT OF THE TREASURY

Teresa M. Ressel, of Virginia, to be an Assistant Secretary of the Treasury, vice Edward Kingman, Jr.

DEPARTMENT OF STATE

Jeffrey A. Marcus, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

On further request by Mr. WARNER and by unanimous consent, it was

Ordered, That the nominations be confirmed en bloc; that the motions to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of these nominations; and that the Senate return to legislative session.

Nominee: Jeffrey Alan Marcus.

Post: United States Ambassador to Belgium.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

1. Self—amount, date, donee: $1,000, 2/21/03, Senator Judd Gregg Committee; $1,000, 11/14/02, Terrell for Senate; $1,000, 9/23/02, Forrester 2002; $1,000, 9/17/02, Friends of Sessions Senate Committee; $210,000, 7/08/02, Republican National State Elections Committee; $1,083.68, 6/27/02, John Cornyn for Senate, Inc., In-kind contribution for expenses for in-home fund-raiser in excess of exempt amounts; ($1,083.68), John Cornyn for Senate, Inc., Reimbursement received on 7/31/02 from John Cornyn for Senate, Inc., for 6/27/02 in-home fund-raiser; $5,000, 5/01/02, NRCC Trust; $1,000, 4/30/02, Friends of Jeb Hensarling (General election); $1,000, 4/30/02, Cantor for Congress; $2,000, 4/24/02, Thune for South Dakota (Primary and general elections); $2,000, 2/06/02, John Cornyn for Senate, Inc.; $1,000, 1/16/02, Friends of Jeb Hensarling (Primary election); $1,000, 1/11/02, Friends of Katherine Harris; $1,000, 1/11/02, Tim Hutchinson Senate Committee; $5,000, 12/27/01, Republican Jewish Coalition PAC; $5,000, (this contribution was inadvertently attributed to me when it should have been attributed to my wife Nancy C. Marcus. We have contacted KPAC to ask that they correct the error), 8/27/01, KPAC; $20,000, 5/08/01, Republican National Committee; $6,468.67, 4/05/01, Republican National Committee, Hosted fund-raiser luncheon, The Crescent Court Hotel, Garden Room, Dallas, TX 75201; ($6,468.70), Reimbursement received on 4/01/03 from Republican National Committee for fund-raiser on 4/05/01; $600.00, (the Republican National Committee (RNC) inadvertently reported these sums as contributions to the Republican Party when they were simply payments for hotel accommodations and parade tickets associated with the 2001 Presidential Inauguration. I have requested that the RNC correct their filing), 1/24/01, Republican National Committee State Elections Committee; $10,879, the Republican National Committee (RNC) inadvertently reported these sums as contributions to the Republican Party when they were simply payments for hotel accommodations and parade tickets associated with the 2001 Presidential Inauguration. I have requested that the RNC correct this filing, 1/19/01, Republican National Committee, State Elections Committee; $1,000, 9/06/00, Lazio 2000, Inc.; $12,500, 6/19/00, Republican National Committee Presidential Trust; $217,500, 6/19/00, Republican National State Elections Committee—Victory 2000; $1,000, 2/10/00, Martin Frost Campaign Committee (General election); $500, 2/07/00, Jon Newton for Congress; $5,000, 1/25/00, DASHPAC; $10,000, (the ultimate recipients of this contribution were: Arizona Republican Party, $250; California Republican Party/Team California, $1690; Illinois Republican Party, $690; Massachusetts Republican State Congressional Committee, $380; Michigan Republican State Committee, $570; New Jersey Republican State Committee, $470; New York Republican Federal Campaign Committee, $1030; Ohio State Republican Party, $660; Republican Federal Committee of Pennsylvania, $730; Republican Party of Florida Federal Campaign Account, $790; Republican Party of Iowa, $220; Republican Party of Virginia, $410; Washington State Republican party, $350), 12/20/99, 1999 State Victory Fund Committee; $1,000, 10/20/99, Friends of Sam Johnson; $1,000, 10/20/99, Pete Sessions for Congress; $1,000, 9/02/99, Martin Frost Campaign Committee (Primary election); $1,000, 7/28/99, Regina Montoya Coggins for Congress; $1,000, 3/29/99, Governor George W. Bush Presidential Exploratory Committee, Inc.; $5,000, 1/22/99, Chancellor Media PAC; $1,000, 1/04/99, Friends of Giuliani Exploratory Committee.

2. Spouse, Nancy C. Marcus: $2,000, 2/06/02, John Cornyn for Senate (Primary and general elections); $5,000, (corrected attribution from Jeffrey A. Marcus), 8/27/01, KPAC; $20,000, 5/08/01, Republican National Committee; $20,000, 6/19/00, Republican National Committee Presidential Trust; $1,000, 3/29/99, Governor George W. Bush Presidential Exploratory Committee, Inc.

3. Children and Spouses, Daughter: Rebecca Paige Marcus Beshara, ($1,000.00), 9/26/02, Coleman for U.S. Senate Reattribution to Adam Beshara; $2,000, 9/10/02, Coleman for

U.S. Senate: $1,000, 9/30/99, Governor George W. Bush Presidential Exploratory Committee, Inc.

Son-in-Law: Adam Christopher Beshara, $1,000, 9/26/02. Coleman for U.S. Senate. Son, David Mitchell Marcus, $1,000, 9/30/99, Governor George W. Bush Presidential Exploratory Committee, Inc.

4. Parents: Father, Bert Marcus, $1,000, 3/31/99, Governor George W. Bush Presidential Exploratory Committee, Inc.; Father's Wife, Jean Marcus, $1,000, 3/31/99, Governor George W. Bush Presidential Exploratory Committee, Inc.; Mother, Helene Fendler Marcus, Deceased.

5. Grandparents: Samuel Marcus, Deceased. Rachel Marcus, Deceased. Harry Fendler, Deceased. Bessie Fendler, Deceased.

7. Sisters and Spouses, Deborah and Marcus Noxon, none. Brother-in-Law, John Noxon, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY:

S. 1554. A bill to provide for secondary school reform, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 1555. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH (for himself, Mr. BREAUX, Mr. KERRY, Mrs. LINCOLN, Mr. ROCKEFELLER, and Ms. SNOWE):

S. 1556. A bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Finance.

By Mr. McCONNELL (for himself, Mr. SARBANES, and Mrs. BOXER):

S. 1557. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia; to the Committee on Finance.

By Mr. ALLARD:

S. 1558. A bill to restore religious freedoms; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mrs. HUTCHISON, Mr. INOUYE, Ms. LANDRIEU, Mr. BINGAMAN, and Mrs. MURRAY):

S. 1559. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:

S. 1560. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the work-related expenses of handicapped individuals; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. DURBIN):

S. 1561. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself and Mr. ALLEN):

S. 1562. A bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under state law; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. CLINTON, and Mr. PRYOR):

S. 1563. A bill to require the Federal communications Commission to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself, Mr. KERRY, Mrs. MURRAY, Mr. DURBIN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 1564. A bill to provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 1565. A bill to reauthorize the Native American Programs Act of 1974; to the Committee on Indian Affairs.

By Mr. CORZINE:

S. 1566. A bill to improve fire safety by creating incentives for the installation of automatic fire sprinkler systems; to the Committee on Finance.

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 1567. A bill to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. SMITH, Mr. LOTT, and Ms. SNOWE):

S. 1568. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

By Mr. AKAKA:

S. 1569. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mr. GRAHAM of South Carolina):

S. 1570. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. BYRD, Mr. GRASSLEY, and Mr. WYDEN):

S. Res. 216. A resolution establishing as a standing order of the Senate a requirement that a Senator publicly discloses a notice of intent to object to proceeding to any measure or matter; to the Committee on Rules and Administration.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BAUCUS, and Mr. HARKIN):

S. Res. 217. A resolution expressing the sense of the Senate regarding the goals of the United States in the Doha Round of the World Trade Organization agriculture negotiations; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 300

At the request of Mr. KERRY, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 491

At the request of Mr. REID, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 853

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 853, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program.

S. 950

At the request of Mr. ENZI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S.

950, a bill to allow travel between the United States and Cuba.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1019

At the request of Mr. DEWINE, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1032

At the request of Mr. SARBANES, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1032, a bill to provide for alternative transportation in certain federally owned or managed areas that are open to the general public.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1194

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1194, a bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

S. 1194

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1194, supra.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1329

At the request of Mr. LOTT, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1329, a bill to amend title 49, United States Code, to require the Secretary of Transportation to carry out a grant program to provide financial assistance for local rail line relocations projects.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1366

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1366, a bill to authorize the Secretary of the Interior to make grants to State and tribal governments to assist State and tribal efforts to manage and control the spread of chronic wasting disease in deer and elk herds, and for other purposes.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1398

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1398, a bill to provide for the environmental restoration of the Great Lakes.

S. 1434

At the request of Mrs. LINCOLN, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Delaware (Mr. CARPER) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1434, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1524

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1545

At the request of Mr. HATCH, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. DEWINE) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1545

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 1545, supra.

S. 1545

At the request of Mr. DURBIN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1545, supra.

S. CON. RES. 21

At the request of Mr. BUNNING, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. CON. RES. 61

At the request of Mr. LOTT, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mrs. FEINSTEIN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Con. Res. 61, a concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

S. RES. 209

At the request of Mr. JEFFORDS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 209, a resolution recognizing and honoring Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture.

S. RES. 214

At the request of Mr. THOMAS, his name was added as a cosponsor of S.

Res. 214, a resolution congratulating Lance Armstrong for winning the 2003 Tour de France.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY:

S. 1554. A bill to provide for secondary school reform, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I'm pleased to introduce a bill that will help America's teenagers graduate from high school, go on to college, and enter the working world with the skills they need to succeed. I'm proud to introduce the PASS Act—which stands for the Pathways for All Students to Succeed Act. Today, far too many students drop-out of school and never have a chance for college and a better life. My bill will reach out to vulnerable students during high school by providing the training, guidance and resources they need to stay in school and go on to college.

Specifically, the PASS Act will: help schools hire literacy coaches to strengthen essential reading and writing skills. It will provide grants for high-quality Academic Counselors to ensure each student has an individualized plan and access to services to prepare for college and a good job. And finally, the PASS Act targets resources to those high schools that need the most help, so they can implement research-based strategies for success.

Many of America's high schools and high school students are in serious trouble, and it's only getting worse.

With each new school day, 3,000 secondary students drop out of school. This year alone, nearly 540,000 young people will leave school without attaining a high school diploma. Our Nation's high school graduation rate is 69 percent. And in urban areas, that figure is even worse. Many urban school districts graduate fewer than half of their students. Dropping out has an enormous cost to these students, their families and our communities. Sadly, even those students who do receive a high school diploma are not guaranteed success in college or in life.

Many graduate from high school unprepared for the academic rigor of post-secondary study. About 40 percent of four-year college students and 63 percent of community college students are enrolling in remedial courses in reading, writing, or math when they enter college.

And although approximately 70 percent of high school graduates enroll in college, only 7 percent from low-income families will have earned a bachelor's degree by age 24—in part because they have not been properly prepared for college academics.

That's why today I'm introducing a bill to improve our Nation's secondary schools, especially those serving high-need students. First, the PASS Act would ensure that middle or high school students who are still struggling to master literacy will get additional help. About 60 percent of students in the poorest communities fail to graduate from secondary school on time, in large part because they don't have the reading or writing skills they need. We took a good step in creating the Reading First program to strengthen students' reading skills in the elementary grades. These skills are the foundation of their success throughout their academic careers. However, many middle and high school students struggle with serious reading deficits and substandard literacy skills that have gone unattended for years.

The 2002 National Assessment of Educational Progress shows that the reading achievement of 12th grade students has declined at all performance levels since 1998. Thirty-three percent of 12th grade boys, and 20 percent of 12th grade girls read below the "basic level."

While the percentage of 4th and 8th graders writing at or above a basic level has increased between 1998 and 2002; the percentage of 12th graders writing at or above basic has gone down.

These numbers show that our concentrated efforts for elementary and middle school students have improved their writing skills, but by neglecting the needs of secondary school students. We are squandering these gains.

In response, Title I of my bill creates a $1 billion "Reading to succeed" grant program.

Building on the strong foundation of the Reading First program, this grant program will establish effective, research-based reading and writing programs for students in our middle and high schools, including children with limited English proficiency and children with disabilities.

These grants will provide resources for schools to hire literary coaches at a ratio of at least one for every 20 teachers. The coaches will help teachers incorporate research-based literary instruction into their core subject teaching. This will strengthen the reading and writing skills of all students, while identifying and helping those students whose skills are especially poor. These coaches will assess students and coordinate services to address significant reading and writing deficits.

In addition to hiring literacy coaches, funds can be used to provide relevant professional development, strengthen curricula in secondary schools, and implement diagnostic assessments, research-based curricula, instructional materials, and interventions in middle and high schools.

These literacy coaches can help us make sure that no more students slip through the cracks because they never learned to read.

In addition to strong literacy skills, careful planning, sound advice and strong academic support are critical to guiding students to success. Too many high school students make it to graduation, only to find that they cannot attend the school of their choice or enter a chosen career because they are not prepared. Many high school students are floundering—unable to find out what courses they need to take or how they can get past academic or other barriers.

Unfortunately, most of our school counselors serve too many students with too few resources. High school counselors work with an average of 450 students each, making it impossible to guide each individual student along the pathway to high school graduation and work or college. Title II of my bill seeks to address this problem by creating grants for thorough, high-quality academic and career counseling for our high school students.

These grants will cultivate and promote parent involvement in their child's education, and will coordinate support services for at-risk high school students across the country.

This "Creating Pathways to Success Program" would complement other existing successful high school programs by providing $2 billion to support systemic change in the way we guide our high school students to success.

The funds could be used to hire and train Academic Counselors to work with no more than 150 students each, and to equip these counselors with the time, skills, and resources to work directly with students, parents, and teachers to give each student the individualized attention and service they need.

Academic Counselors will work with students and parents to develop 6-year plans outlining the path each student will take to reach his or her goals.

They will coordinate new resources with existing ones such as GEAR UP, TRIO, Title I, IDEA and Perkins Vocational and Technical Education programs to ensure students receive the services identified in their plans and to facilitate a smooth transition to post-secondary education or a career.

Schools that get these new funds must offer a rigorous college preparatory curriculum to all students, including access to Advanced Placement or International Baccalaureate courses.

Working together we can make sure that our adolescents graduate prepared for any dream they may choose to pursue.

Finally, my bill includes a third title called "Supporting Successful High Schools" to ensure that we take action to help turn around our low-performing high schools.

Approximately 10 percent of the schools which have been identified so far as "in need of improvement" according to the requirements of No Child Left Behind are high schools.

In about 1100 high schools, 75 percent or more of the students enrolled are living in poverty.

Despite these numbers, most reform efforts are focused on elementary schools. We've overlooked struggling middle and high schools.

Under the No Child Left Behind Act, Title I funding should be used to help all schools that need improvement, but high schools receive only 15 percent of Title I funds, even though they enroll 33 percent of low-income students.

Until Title I is fully-funded, it is unlikely that high schools will receive a significant amount of these funds to address the problems they have identified.

Meanwhile, high schools are being held to the requirements of No Child Left Behind without a targeted source of funding to turn around schools in need of improvement.

Our states and districts have worked hard to figure out which high schools need improvement the most, and now it's time we improve them.

That's why my bill would create a $500 million grant program that allows districts to identify, develop, and implement reforms that will turn around these low-performing schools.

School districts can use funds for research-based strategies and best practices that will improve student achievement and bring success.

Districts would work with parents, teachers, students and communities to choose any effective reform such as small schools, block scheduling, whole school reforms or individualized learning plans.

For example, since research shows that small schools enhance student outcomes by allowing teachers to offer personalized assistance and connect with students, some districts may reduce the size of low-performing high schools by creating smaller schools or academies within larger schools.

Working together, we can do more than identify our schools in need of improvement—we can improve them.

In conclusion, the Pathways for All Students to Succeed Act provides the grants America's students need to promote adolescent literacy, support college and career pathways for all our students, and to improve struggling high schools nationwide.

I hope my colleagues will join me in supporting this bill and addressing the needs of our high school students.

By Mrs. BOXER:

S. 1555. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, history books written about California always comment on the natural beauty of the State because our natural treasures have always been one of the things that makes California unique. But that beauty must not be taken for granted. That is why I am introducing the California Wild Heritage Act of 2003 in an effort to pass the first statewide wilderness bill for California since 1984.

I introduced a similar bill last year and was thrilled that the 107th Congress passed legislation to designate 56,000 acres of my bill as wilderness within the Los Padres National Forest. It was a wonderful first step. The California Wild Heritage Act of 2003 represents the next step.

This legislation will protect more than 2.5 million acres of public lands in 81 different areas, as well as the free-flowing portions of 22 rivers. Every acre of wild land is a treasure. But the areas protected in this bill are some of California's most precious, including: the old growth redwood forests near the Trinity Alps in Trinity and Humboldt Counties; the pristine coastline in the King Range in Humboldt and Mendocino Counties; the Nation's sixth highest waterfall, Feather Falls, in Butte County; the ancient Bristlecone Pines in the White Mountains in Inyo and Mono Counties; and the oak woodlands in the San Diego River area.

The bill protects these treasures by designating these public lands as "wilderness" and by naming 22 rivers—including the Clavey in Tuolumne County and the Owens in Mono County—as "wild and scenic" rivers. These designations mean no new logging, no new dams, no new construction, no new mining, no new drilling, and no motorized vehicles. Mining, logging and grazing activities that are currently permitted would be allowed to continue.

Protection of the areas in this bill is necessary to ensure that these precious places will be there for future generations. Because much of our state's drinking water supply is made up of watersheds in our national forests, this bill also helps ensure California has a safe, reliable supply of clean drinking water.

This bill would also mean that the hundreds of plant and animal species that make their homes in these areas will continue to have a safe haven. Endangered and threatened species whose habitats will be protected by this bill include the bald eagle, Sierra Nevada Red Fox, and spring run chinook salmon, among others.

In short, this bill preserves, prevents, and protects. It preserves our most important lands, it prevents pollution, and it protects our most endangered wildlife.

That is why this bill is so widely supported. Thousands of diverse organizations, businesses, and others see the importance of this legislation and have given it their support. Additionally, over 400 local elected officials have voiced support for the protection of their local areas.

Despite the tremendous support for this bill, it is not without opponents. They will say this bill is too large and goes too far. Yet this bill is similar in size to other statewide wilderness bills that have already passed Congress. The 1984 California Wilderness Act protected approximately 2 million acres and 83 miles of the Tuolumne River. A more recent wilderness bill, the California Desert Protection Act, protected approximately 6 million acres of desert areas.

It is important to note that only 13 percent of California is currently protected as wilderness. This bill would raise that amount to 15 percent. During the last 20 years, 675,000 acres of unprotected wilderness—approximately the size of Yosemite National Park—lost their wilderness character due to activities such as logging and mining. As our population increases, and California becomes home to almost 50 million people, these development pressures are only getting worse. If we fail to act now, there simply will not be any wild lands or wild rivers left to protect.

The other big question that has been raised is whether this bill will limit public access to these areas. I do not believe this will be the case. While wilderness designation means the wilderness areas are closed to mountain bikers, they remain open to a myriad of recreational activities, including horseback riding, fishing, hiking, backpacking, rock climbing, cross country skiing, and canoeing. Mountain bikers and motorized vehicles have 100,000 miles of roads and trails in California that are not touched in my bill. Furthermore, numerous economic studies suggest wilderness areas are a big draw that attract outdoor recreation visitors, and tourism dollars, to areas that have received this special designation.

One important change has been made to the legislation after concerns were raised about wildfire prevention and control near at-risk communities. The bill I am introducing today protects communities by allowing Federal, local and State agencies to perform fire and emergency response activities in wilderness areas. I worked extensively with the California Department of Forestry on this legislation, and they have expressed their support for the language in the bill.

Those of us who live in California have a very special responsibility to protect our natural heritage. Past generations have done it. They have left us with the wonderful and amazing gifts of Yosemite, Big Sur and Joshua Tree. These are places that Californians cannot imagine living without. Now it is our turn to protect this legacy for future generations—for our children's children, and their children. This bill is the place to start and the time to start is now.

By Mr. SMITH (for himself, Mr. BREAUX, Mr. KERRY, Mrs. LINCOLN, Mr. ROCKEFELLER, and Ms. SNOWE):

S. 1556. A bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans; to the Committee on Finance.

Mr. SMITH. Mr. President, I am pleased today to introduce the Legal Services Benefit Act of 2003. My friends and colleagues from the Senate Finance Committee, Senators BREAUX, KERRY, LINCOLN, ROCKEFELLER, and SNOWE, join me in introducing this important bill. This bill will amend the Internal Revenue Code to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

When Congress first enacted Internal Revenue Code Section 120 in 1976, employers were provided with an incentive to provide their workforce with group legal services benefits at modest cost. These benefit programs enabled employees to contact an attorney and get advice and, if necessary, representation. Most plans covered the everyday legal events that we all expect to encounter in life, from house closings and adoptions to traffic tickets and drafting wills. The provision sunsetted in 1992, however, eliminating this valuable benefits' favorable tax status.

Qualified employer-paid plans have proven to be highly efficient. These arrangements make substantial legal service benefits available to participants at a fraction of what medical and other benefit plans cost. For an average employer contribution of less than $150 annually, employees are eligible to utilize a wide range of legal services often worth hundreds and even thousands of dollars, which otherwise would be well beyond their means.

In addition to the efficiency with which these plans can deliver services, their ability to make preventive legal services available results in additional savings in our economy. Group legal plans give investors access to legal services before they are induced to make unwise investments. Having a lawyer available to review the investment documents could mean the difference between a comfortable retirement and lost life savings. Group legal plan attorneys add a layer of security to the system.

I strongly encourage my colleagues to join me in supporting this important proposal to provide efficient access to our legal system for working Americans. I look forward to working with Chairman GRASSLEY to move this matter successfully through the Finance Committee.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legal Services Benefit Act of 2003".

SEC. 2. EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS RESTORED, INCREASED, AND MADE PERMANENT.

(a) INCREASE OF EXCLUSION.—Subsection (a) of section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking the last sentence.

(b) RESTORATION AND PERMANENCE OF EXCLUSION.—Section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Mr. McCONNELL (for himself, Mr. SARBANES, and Mrs. BOXER):

S. 1557. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia; to the Committee on Finance.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Armenia has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974.

(2) Armenia acceded to the World Trade Organization on February 5, 2003.

(3) Since declaring its independence from the Soviet Union in 1991, Armenia has made considerable progress in enacting free-market reforms within a stable democratic framework.

(4) Armenia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States and has concluded many bilateral treaties and agreements with the United States.

(5) United States-Armenia bilateral trade for 2002 totaled more than $134,200,000.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO ARMENIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Armenia; and

(2) after making a determination under paragraph (1) with respect to Armenia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of Armenia, title IV of the Trade Act of 1974 shall cease to apply to that country.

Mr. SARBANES. Mr. President, I rise to join my colleague from Kentucky, Senator McCONNELL, in introducing legislation to grant PNTR to Armenia.

Since becoming an independent sovereign state in 1991, with the collapse of the Soviet Union, Armenia has pursued comprehensive economic reforms within a democratic framework. Armenia's accession to the World Trade Organization this year reflects its continuing progress in adopting and implementing economic and trade reforms, and it now ranks 44th among the 161 nations surveyed in the "2003 Index of Economic Freedom" that the Wall Street Journal and the Heritage Foundation have jointly published.

As a one-time Soviet republic, Armenia continues to be subject to the freedom-of-emigration requirements set out in Title IV of the Trade Act of 1974, the Jackson-Vanik amendment, and therefore its trade status is subject to annual review by the President. Since becoming independent Armenia has annually received the waiver provided under Jackson-Vanik, and indeed for the past 6 years Armenia has been found to be fully in compliance with the amendment.

So long as Armenia remains subject to the Jackson-Vanik provision, the United States is precluded from extending PNTR status and normalizing U.S.-Armenian trade relations. At the same time, however, WTO rules require the United States to grant PNTR to all other WTO members without condition. Our legislation would resolve this contradiction by authorizing the President to terminate the Jackson-Vanik provision with respect to Armenia and extend PNTR. Without PNTR, neither Armenia nor the United States will be able to realize the full benefits of Armenia's accession to the WTO.

PNTR will bring the United States into compliance with WTO rules. And it will significantly expand opportunities for bilateral trade between the United States and Armenia.

In addition, it will enable Armenia to deal more effectively with the challenges of building a vigorous and prosperous economy, at a time when 50 percent of the population lives in poverty and the poverty rate has dropped from 55 percent only in the last 2 years. These challenges are made all the more daunting by the blockades that Azerbaijan and Turkey continue to impose; according to the World Bank, these blockades raise the cost of doing business in Armenia by 30 percent. Expanded U.S.-Armenian trade will act as a spur to greater economic activity in Armenia, which in turn will lead to more and better-paying jobs and ease the hardships that Armenians confront in their daily lives.

The ties between our country and Armenia are strong, and normalization of trade relations will make them stronger still. I urge my colleagues to join me in supporting this legislation.

By Mr. ALLARD:

S. 1558. A bill to restore religious freedoms; to the Committee on the Judiciary.

Mr. ALLARD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberties Restoration Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Declaration of Independence declares that governments are instituted to secure certain unalienable rights, including life, liberty, and the pursuit of happiness, with which all human beings are endowed by their Creator and to which they are entitled by the laws of nature and of nature's God.

(2) The organic laws of the United States Code and the constitutions of every State, using various expressions, recognize God as the source of the blessings of liberty.

(3) The first amendment to the Constitution secures rights against laws respecting an establishment of religion or prohibiting the free exercise thereof made by the Federal Government.

(4) The rights secured under the first amendment have been interpreted by the Federal courts to be included among the provisions of the 14th amendment.

(5) The 10th amendment reserves to the States, respectively, the powers not delegated to the Federal Government nor prohibited to the States.

(6) Disputes and doubts have arisen with respect to public displays of the Ten Commandments and to other public expression of religious faith.

(7) Section 5 of the 14th amendment grants Congress the power to enforce the provisions of the 14th amendment.

(8) Article III, section 2 of the Constitution grants Congress the authority to except certain matters from the jurisdiction of the Federal courts inferior to the Supreme Court.

SEC. 3. RELIGIOUS LIBERTY RIGHTS DECLARED.

(a) DISPLAY OF TEN COMMANDMENTS.—The power to display the Ten Commandments on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively.

(b) WORD "GOD" IN PLEDGE OF ALLEGIANCE.—The power to recite the Pledge of Allegiance on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively. The Pledge of Allegiance shall be, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with Liberty and justice for all.".

(c) MOTTO "IN GOD WE TRUST".—The power to recite the national motto on or within property owned or administered by the several States or political subdivisions of such States is among the powers reserved to the States, respectively. The national motto shall be, "In God we trust".

(d) EXERCISE OF CONGRESSIONAL POWER TO EXCEPT.—The subject matter of subsections (a), (b), and (c) are excepted from the jurisdiction of Federal courts inferior to the Supreme Court.

By Mr. KENNEDY (for himself, Mrs. HUTCHISON, Mr. INOUYE, Ms. LANDRIEU, Mr. BINGAMAN, and Mrs. MURRAY):

S. 1559. A bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator HUTCHISON, Senator INOUYE, Senator LANDRIEU, Senator BINGAMAN, and Senator MURRAY in introducing the "Comprehensive Tuberculosis Elimination Act". With the evolution of modern medicine, especially in recent years, we have the actual opportunity to do that now—eliminate this century-old public health threat in the United States. Tuberculosis was once the leading cause of death in America. In recent decades, developments in science and public health have transformed tuberculosis into a preventable and treatable disease. Yet, every year, thousands of Americans still become infected and die from tuberculosis.

Experts agree that we have the ability to eliminate it. What's lacking is a strong national commitment to do it. More than 50 years ago, when the first effective drugs to treat TB were introduced and case rates began to decline, we began making slow but steady progress, and we might have eliminated it. But instead, the declining number of cases led to complacency and neglect. In fact, Federal categorical funding for TB control and prevention was discontinued in 1972, and wasn't restored until 1981. Efforts to control the disease broke down in many parts of the country.

In the late 1980s, cases rose by 20 percent increase in TB and drug-resistant strains began nationwide systems for dealing with the infection had been allowed to deteriorate. In New York City alone, more than $1 billion was needed to regain control of TB.

After considerable effort, TB control was re-established and rates again began declining. Today, with the low number of infections and the expertise of public health officials, we have the opportunity to eradicate TB from the Nation once and for all.

The Institute of Medicine has developed guidelines to do so, and in this bipartisan legislation, my colleagues and I proposed to implement the guidelines by authorizing $235 million for the Centers for Disease Control and Prevention to expand and intensify our prevention, control, and elimination efforts.

Our bill also expands support for vaccine development at the National Institute of Allergy and Infectious Diseases. Experts estimate that $240 million will be needed to develop a safe and effective vaccine. Our legislation authorizes $136 million in 2004 and $162 million in 2005, with the goal of committing the necessary resources to make the vaccine available by 2008 at the latest.

We cannot allow tuberculosis to take more American lives when we have the ability to prevent it. It's time for a new and sustained commitment to the fight against tuberculosis. I urge my colleagues to support this legislation, and I look forward to its enactment.

By Mr. KOHL:

S. 1560. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the work-related expenses of handicapped individuals; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Disable Workers Empowerment. Under current law, millions of disabled Americans are unable to claim a tax deduction for many of the expenses they incur as a result of their disabilities. This creates a significant barrier to their leading productive and rewarding lives through employment. For example, in order to work, an individual who uses a wheelchair might need to hire a personal attendant to provide transportation to and from the job site.

At a time when we are doing everything in our power to assist individuals looking for employment, it is counterintuitive to retain legislation that prevents some from seeking employment. While current law allows a limited deduction for disabled workers' expenses, this deduction is limited to expenses that are necessary for the individual to perform work satisfactorily. This means, for example, that a blind individual could only claim a deduction for the cost of using a reading service at the workplace and during normal work hours. In addition, if this individual does not itemize his or her tax returns, the individual would receive no deduction.

This legislation would correct this inequity. Under this bill, whether or not the individual itemizes, he or she would be able to claim a deduction for the overtime services that they require, regardless of itemizing his or her return. This is just one example of the dozens of, often expensive, services that better enable people with disabilities to do their jobs.

I believe we need to do more to encourage individuals with disabilities and the desire to seek out employment. Current law perpetuates an iniquity that discourages people from living the fullest possible life. I believe this legislation goes a long way in correcting a shortcoming in current law, and will remove a barrier for millions of disabled workers. I urge my colleagues to join me in supporting this legislation, and hope to see its passage this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disabled Workers Empowerment Act of 2003".

SEC. 2. DEDUCTION FOR WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.

"(a) IN GENERAL.—In the case of a handicapped individual, there shall be allowed as a deduction for the taxable year an amount equal to the amount of qualified work-related expenses paid or incurred by the taxpayer during the taxable year.

"(b) LIMITATION BASED ON EARNED INCOME.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed the handicapped individual's earned income (within the meaning of section 32) reduced by the employment-related expenses taken into account under section 21 with respect to such individual.

"(c) QUALIFIED WORK-RELATED EXPENSES.—For purposes of this section, the term 'qualified work-related expenses' means any of the following expenses incurred by reason of the individual being a handicapped individual:

"(1) Expenses for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work.

"(2) Expenses to provide transportation and necessary personal services for the individual which are necessary for such individual to be able to work (including commuting between the individual's residence and place of employment).

"(3) Expenses to maintain the household of the individual and to provide other domestic or personal services for the individual which are necessary for such individual to be able to work.

"(d) HANDICAPPED INDIVIDUAL.—For purposes of this section, the term 'handicapped individual' has the meaning given to such term by section 190(b)(3).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under section 162 for any expense to the extent that a deduction for such expense is allowed under this section.

"(2) JOINT RETURNS.—In the case of a joint return, this section shall be applied separately to each spouse.".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new paragraph:

"(19) WORK-RELATED EXPENSES OF HANDICAPPED INDIVIDUALS.—The deduction allowed by section 223.".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 223 and inserting the following new items:

"Sec. 223. Work-related expenses of handicapped individuals.

"Sec. 224. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. DURBIN):

S. 1561. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing a bill that would preserve existing seats on the District of Columbia Superior Court. I am pleased to be joined in this effort by Senators VOINOVICH and DURBIN.

The Superior Court is the local court of general jurisdiction in the District of Columbia. The Associate Judges on the Court are selected through a two-step review process. When a vacancy on the Court occurs, usually because of a retiring judge, the District of Columbia Judicial Nominations Commission, solicits applicants to fill the vacancy. They narrow the possible number of candidates to three and send those three names to the President. The President then selects one of those three candidates to nominate and sends the nominee to the Senate for confirmation. Existing law caps the total number of judges on the Superior Court at 59.

Recently, I was informed that nominations, currently pending in the Committee on Governmental Affairs, and an additional candidate expected to be nominated in the coming months, may not be able to be seated on the Court, even if they are confirmed by the Senate. The three seats that these candidates are intended to fill were left open by retiring judges, so they are not new seats on the Court. The cause of this unusual problem is the District of Columbia Family Court Act, enacted last Congress. That Act created three new seats for the Family Court, which is a division of the Superior Court, but failed to increase the overall cap on the number of judges seated on the Court. As a result, the Family Court Act effectively eliminated three existing seats in the other divisions of the Court, including the criminal and civil divisions.

Because of this, the Governmental Affairs Committee currently has four nominations pending for the Superior Court, but only two seats left to fill. I also understand that there is yet another nomination expected in the coming months. Because existing law sets strict requirements on both the D.C. Judicial Nominations Commission as well as the White House on how quickly they must process potential candidates and make a nomination, it is unclear whether they have legal grounds to halt their processes. Nor is it clear as to whether, had they known of this problem, they would have had the power to not make the nominations they have already made.

This is a highly unusual situation, Mr. President, for this body to have nominations pending before it for which there are no open positions. The bill I introduce today would rectify this problem by amending the District of Columbia Code to increase the cap on the number of Associate Judges on the Superior Court. This is not intended to create new seats on the Court; that was already done when the D.C. Family Court Act was enacted. Instead, this would preserve existing seats on the Court and remedy a problem that is effecting not only the Court, but the Senate as well. I believe that it is also important to not only remedy the immediate problem before the Senate, but also to ensure that all of the divisions of the Superior Court are fully staffed. This is more than just a procedural issue. It is also important for the citizens of the District of Columbia to know that all of the divisions, including criminal and civil, are operating at full capacity. Eliminating existing seats in the criminal and civil divisions will not improve the administration of justice in the District, but can only result in increased judicial case-load and delays at the Courthouse.

By Mr. CRAIG (for himself and Mr. ALLEN):

S. 1562. A bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under state law; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing "The Home School Non-discrimination Act" (HONDA). This bill would clarify several existing Federal statutes which inadvertently exclude home schoolers. I am pleased the Senator ALLEN is joining me in sponsoring this measure.

All to often, Federal laws relating to education have left out the millions of children across the Nation who are benefitting from home schooling. For example, home schoolers generally cannot qualify for the education savings accounts, unless they live in one of 13 states where a home school is treated as a private school. Also, home schooled students have found themselves to be ineligible for student aid in some circumstances.

Nearly 2 million American children were home schooled during the 2000–2001 school year. These are good students who frequently outperform their public school peers. For example, in 2002 home schoolers as a whole averaged over 70 points higher on the Scholastic Aptitude Test (SAT). Also, although home schoolers only make up about 2 percent of the U.S. school-age population, in 2003 they made up 12 percent of the 251 spelling finalists and 5 percent of 55 geography bee finalists.

These students consistently score at the highest levels of achievement tests and get into some of the best colleges and universities in our Nation. They are hard working, intelligent, and active in their communities. However, these students may be denied services available to other students because of an oversight in Federal law. That is not right, and HONDA will rectify the situation. I hope my colleagues will join me and Senator ALLEN in this effort.

I ask unanimous consent to print a section-by-section analysis of HONDA as well as the text of the bill in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Sec. 1—Title.

Sec. 2—Findings. This section merely states the findings of Congress that parents have the right to home school their children, home schooling is effective, and the Congress and the Courts recognize the right of parents to home school their children. It also states that certain federal laws inadvertently exclude home schoolers, and that these laws are in need of clarification.

Sec. 3—Sense of Congress. This section states that it is the sense of Congress that home schooling has made a positive contribution to our nation and that parents who choose to homeschool should be encouraged in their efforts.

Sec. 4—Clarification of Provisions on Institutional and Student Eligibility Under the Higher Education Act of 1965. To receive federal student aid, both a student and the institution accepting that student must be "eligible" under the Higher Education Act. It's been clear since 1998 that home schoolers are eligible, but regulations promulgated in the late 1990's called that eligibility into question. This section would merely clarify that institutions which accepted home schoolers would remain eligible for federal aid.

Sec. 5—Clarification of the Child Find Process Under the Individuals with Disabilities Education Act. Under IDEA, local school officials must seek out students who may qualify for special education services. There is no requirement under current law that forces school personnel to ignore the wishes of the parent and evaluate that parent's child under the child find process when they are found, though. Some schools, however, continue to force parents to submit their children for evaluation, even when those parents intend to home school their children. This section clarifies that if a parent does not give his or her consent, then officials are not required to evaluate their child.

Sec. 6—Clarification of the Coverdell Education Savings Account as to its Applicability for Expenses Associated with Students Privately Educated at Home under State Law. This section states that parents would be eligible to use money saved in Coverdell Savings Accounts for qualified home education expenses, just as parents of private and public schooled students can now use that money for qualified education expenses.

Sec. 7—Clarification of Section 444 of General Education Provisions Act as to Publicly Held Records of Students Privately Educated at Home Under State Law. The Family Educational Records and Privacy Act makes the records of public school students unavailable to the general public. In many states, though, home schooled students must file information with public education officials. This information is not protected by the Family Educational Records and Privacy Act, even though similar records of public school students are. This section would rectify this situation.

Sec. 8—Clarification of Eligibility for Students Privately Educated at Home Under State Law for the Robert C. Byrd Honors Scholarship Program. This section would allow home schooled students to apply for the federally funded Robert C. Byrd Honors Scholarship Program.

Sec. 9—Clarification of the Fair Labor Standards Act as Applied to Students Privately Educated at Home Under State Law. This section would allow students who are home schooled to work during traditional school hours. Since home schooled students are not bound by the traditional school day and since many families choose home schooling for its flexibility, it makes sense for the law to accommodate this flexibility. This would not affect any other child labor laws.

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home School Non-Discrimination Act of 2003".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The right of parents to direct the education of their children is an established principle and precedent under the United States Constitution.

(2) The Congress, the President, and the Supreme Court, in exercising their legislative, executive, and judicial functions, respectively, have repeatedly affirmed the rights of parents.

(3) Education by parents at home has proven to be an effective means for young people to achieve success on standardized tests and to learn valuable socialization skills.

(4) Young people who have been educated at home are proving themselves to be competent citizens in post-secondary education and the workplace.

(5) The rise of private home education has contributed positively to the education of young people in the United States.

(6) Several laws, written before and during the rise of private home education, are in need of clarification as to their treatment of students who are privately educated at home pursuant to State law.

(7) The United States Constitution does not allow Federal control of homeschooling.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) private home education, pursuant to State law, is a positive contribution to the United States; and

(2) parents who choose this alternative education should be encouraged within the framework provided by the Constitution.

SEC. 4. CLARIFICATION OF PROVISIONS ON INSTITUTIONAL AND STUDENT ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965.

(a) CLARIFICATION OF INSTITUTIONAL ELIGIBILITY.—Section 101(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)(1)) is amended by inserting "meeting the requirements of section 484(d)(3) or" after "only persons" .

(b) CLARIFICATION OF STUDENT ELIGIBILITY.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended by striking the heading "STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES" and inserting "SATISFACTION OF SECONDARY EDUCATION STANDARDS".

SEC. 5. CLARIFICATION OF THE CHILD FIND PROCESS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 614(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(1)) is amended by adding at the end the following:

"(D) EFFECT OF ABSENCE OF CONSENT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under this paragraph or for special education or related services to a child with a disability under this part—

"(i) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

"(ii) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.".

SEC. 6. CLARIFICATION OF THE COVERDELL EDUCATION SAVINGS ACCOUNT AS TO ITS APPLICABILITY FOR EXPENSES ASSOCIATED WITH STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

(a) IN GENERAL.—Paragraph (4) of section 530(b) of the Internal Revenue Code of 1986 (relating to qualified elementary and secondary education expenses) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR HOME SCHOOLS.—For purposes of clauses (i) and (iii) of subparagraph (A), the terms 'public, private, or religious school' and 'school' shall include any home school which provides elementary or secondary education if such school is treated as a home school or private school under State law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF SECTION 444 OF THE GENERAL EDUCATION PROVISIONS ACT AS TO PUBLICLY HELD RECORDS OF STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g; also referred to as the Family Educational Rights and Privacy Act of 1974) is amended—

(1) in subsection (a)(5), by adding at the end the following:

"(C) For students in non-public education (including any student educated at home or in a private school in accordance with State law), directory information may not be released without the written consent of the parents of such student.";

(2) in subsection (a)(6), by striking ", but does not include a person who has not been in attendance at such agency or institution." and inserting ", including any non-public school student (including any student educated at home or in a private school as provided under State law). This paragraph shall not be construed as requiring an educational agency or institution to maintain education records or personally identifiable information for any non-public school student."; and

(3) in subsection (b)(1), by striking subparagraph (F) and inserting the following:

"(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, provided—

"(i) such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted; and

"(ii) for students in non-public education, education records or personally identifiable information may not be released without the written consent of the parents of such student.".

SEC. 8. CLARIFICATION OF ELIGIBILITY FOR STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW FOR THE ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419F(a) of the Higher Education Act of 1965 (20 U.S.C. §1070d–36(a)) is amended by inserting "(or a home school, whether treated as a home school or a private school under State law)" after "public or private secondary school".

SEC. 9. CLARIFICATION OF THE FAIR LABOR STANDARDS ACT AS APPLIED TO STUDENTS PRIVATELY EDUCATED AT HOME UNDER STATE LAW.

Subsection (l) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203) is amended by adding at the end the following: "The Secretary shall extend the hours and periods of permissible employment applicable to employees between the ages of fourteen and sixteen years who are privately educated at a home school (whether the home school is treated as a home school or a private school under State Law) beyond such hours and periods applicable to employees between the ages of fourteen and sixteen years who are educated in traditional public schools.".

By Mr. KENNEDY (for himself, Mrs. CLINTON, and Mr. PRYOR):

S. 1563. A bill to require the Federal Communications Commission to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KENNEDY. Mr. President, Senator CLINTON and I are proposing legislation to protect the voices of language minorities in our country. Representative ROBERT MENENDEZ will be introducing a companion bill in the House after the August recess. Our bill is called the National Minority Media Opportunities Act. Its goal is to see that Americans who are members of any "language minority" groups under the Voting Rights Act—defined as American Indian, Asian Americans, Alaskan Natives, and Hispanic Americans—are not injured by excessive media concentration of companies that broadcast primarily in their native languages.

Neither the Federal Communications Commission's new broadcast ownership regulations adopted on June 2 nor the previous regulations deal with the effects of growing media concentration on citizens relying on minority-language broadcasts for their news and information.

The FCC's new rules are already controversial because they allow excessive concentration, in spite of its effect on competition, the diversity of views, and other major national, State, and local priorities. Unfortunately, the specific and often more harmful effects of such concentration on minority populations have gone largely unnoticed.

For instance, surveys show that the majority of the nearly 40 million Hispanic Americans rely significantly on Spanish-language broadcast media for their news and information. Forty percent—nearly 16 million—of them rely predominantly on Spanish-language broadcast media, and 25 percent—nearly 10 million—rely exclusively on it.

Additional measures are clearly needed to guarantee that Americans who are members of minority language groups will continue to have access to diverse sources of news, information and cultural programming, and to opportunities for ownership of their media.

Our bill addresses these concerns by requiring the FCC to hold public hearings, with notice and opportunity to comment, before approving the transfer of a license for a station serving a minority-language audience. It also requires the FCC to report to Congress on issues involving the concentration of ownership and control of minority-language broadcast media and the effects of excessive concentration on competition and diversity in these minority-language markets.

The bill will continue the Nation's strong commitment to competition in broadcast media and the fullest possible participation in the political process for all our citizens, including the growing number of those whose first language is English. We look forward to working with our colleagues in Congress to enact this needed legislation.

By Mr. CORZINE (for himself, Mr. KERRY, Mrs. MURRAY, Mr. DURBIN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 1564. A bill to provide for the provision by hospitals of emergency contraceptives to women who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, every two minutes a woman is sexually assaulted in the United States, and an estimated 25,000 annually will become pregnant as a result of rape. Though there is widespread consensus in the medical community that emergency contraception is a safe and effective means of preventing pregnancy after unprotected intercourse, studies indicate that many hospitals still do not provide emergency contraception to rape survivors. That is why today, along with my colleagues Senators KERRY, MURRAY, DURBIN, LAUTENBERG, and CANTWELL, I am introducing the Compassionate Assistance in Rape Emergencies Act, or CARE Act, which will ensure that women who are survivors of sexual assault have access to and information about emergency contraception regardless of where they receive medical care.

Emergency Contraceptive Pills (ECPs) are the most commonly used method of emergency contraception. ECPs are birth control pills taken in larger doses that can reduce a woman's risk of becoming pregnant by up to 95 percent when taken within 72 hours of unprotected intercourse. I want to be clear that emergency contraception does not cause abortion. Instead, emergency contraception works by inhibiting ovulation or fertilization, or by preventing the implantation of a fertilized egg before a pregnancy can occur.

Despite the documented benefits of emergency contraception, many hospitals neglect their responsibility to offer emergency contraception to sexual assault survivors. For example, a survey of emergency rooms in New York State found that 54 percent did not consistently provide emergency contraception to women who had been raped. In Pennsylvania, only 28 percent of hospitals routinely offer and provide emergency contraception to sexual assault survivors.

In short, survivors of sexual assault are not consistently getting access to all the treatment options available to them to prevent an unwanted pregnancy. I believe it is unacceptable that a rape victim's access to standard care depends on the hospital to which she is taken. All healthcare institutions that counsel or treat women who have been raped should consistently inform, provide or meaningfully refer women for emergency contraception. Indeed, the emergency care standards of the American Medical Association recommend that rape survivors seeking medical care be counseled about their risk of pregnancy and offered emergency contraception.

The legislation, which is identical to legislation recently introduced in the

House of Representatives by Representatives JAMES GREENWOOD and STEVEN ROTHMAN, would require hospitals that receive federal funds to offer information about and access to emergency contraception for victims of rape. This commonsense legislation will help ensure that women who have survived a heinous sexual attack will have access to comprehensive and compassionate emergency medical care.

We must not sit idly by while so many sexual assault victims are not given the opportunity to safely and effectively prevent a pregnancy caused by their assault. I ask my colleagues to join me in support of this effort to help sexual assault victims across the country receive the medical care they need and deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compassionate Assistance for Rape Emergencies Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It is estimated that 25,000 to 32,000 women become pregnant each year as a result of rape or incest. An estimated 22,000 of these pregnancies could be prevented if rape survivors had timely access to emergency contraception.

(2) A 1996 study of rape-related pregnancies (published in the American Journal of Obstetrics and Gynecology) found that 50 percent of the pregnancies described in paragraph (1) ended in abortion.

(3) Surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted.

(4) The risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack.

(5) The Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent.

(6) Medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy.

(7) In light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills.

(8) The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that offering emergency contraception to female patients after a sexual assault should be considered the standard of care.

(9) Nine out of ten women of reproductive age remain unaware of emergency contraception. Therefore, women who have been sexually assaulted are unlikely to ask for emergency contraception.

(10) New data from a survey of women having abortions estimates that 51,000 abortions were prevented by use of emergency contraception in 2000 and that increased use of emergency contraception accounted for 43 percent of the decrease in total abortions between 1994 and 2000.

(11) It is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so that she may prevent an unintended pregnancy.

SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "emergency contraception" means a drug, drug regimen, or device that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term "hospital" has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term "Secretary" means the Secretary of Health and Human Services.

(4) The term "sexual assault" means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

By Mr. INOUYE:

S. 1565. A bill to reauthorize the Native American Programs Act of 1974; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, August 11, 2003, will mark the 25th Anniversary of the American Indian Religious Freedom Act of 1978.

I am proud to have served as one of nine original co-sponsors of this Act, joining Senators Abourezk, Goldwater, Gravel, Hatfield, Humphrey, Kennedy, Matsunaga and Stevens to introduce the Joint Resolution on December 15, 1977.

The American Indian Religious Freedom Act states that it is the policy of the United States to preserve and protect the traditional religions of the American Indians, Aleuts, Eskimos and Native Hawaiians. It was necessary to declare this policy to begin to counter the ill effects that stemmed from the policy of the 1880s to the 1930s that sought to ban the exercise of Native American traditional religions.

With the American Indian Religious Freedom Act policy in place, Congress built on this foundation to develop more specific legislation in 1989 and 1990 to provide for the repatriation of Native American human remains, sacred objects and items of cultural patrimony that were taken from Native Americans during the time of that Federal policy attempted to eliminate the practice of their religions.

From time to time, the Congress has also returned certain sacred lands to Native Americans for their traditional religious use.

The Committee on Indian Affairs has been conducting a series of oversight hearings on Native American sacred places and has found that many of these areas are being systematically damaged and destroyed, and Native Americans have no specific statutory authority that would enable them to defend their traditional religious areas in court.

I believe that this twenty-fifth anniversary year of the American Indian Religious Freedom Act is a fitting time for Congress to amend the Act, to assure that Native Americans have the legal means to protect their places of worship.

I believe it is time that we join together in enacting legislation that will fulfill the policy promise of the American Indian Religious Freedom Act.

By Mr. CORZINE:

S. 1566. A bill to improve fire safety by creating incentives for the installation of automatic fire sprinkler systems; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the Fire Safety Incentive Act of 2003, legislation to improve fire safety and save lives by creating incentives for business owners to install automatic fire sprinkler systems. This bill would classify automatic fire sprinkler systems as five-year property for purposes of depreciation under the Tax Code.

In 2001, fire departments across the United States responded to 1.7 million fires. Not including victims from the September 11 terrorist attacks, 3,745 people died in fires, 99 of whom were firefighters. Fires also caused almost 21,000 civilian injuries and $8.9 billion in direct property damage.

On average, fire departments respond to a fire every eighteen seconds, with fires breaking out in a structure every sixty seconds and in a residential structure every eighty seconds.

Recent tragedies have demonstrated how the lack of effective fire safety precautions can have disastrous consequences. In February, 99 concertgoers were killed when a pyrotechnic display erupted into a fire that devastated the concert venue in the deadliest fire in Rhode Island history. Unfortunately, the building was not equipped with fire sprinklers to respond to the fire. In my home state of New Jersey, a fire on the campus of Seton Hall killed three college students and injured 58 more people. In response to that tragedy, I introduced the Campus Fire Safety Right to Know Act of 2003, S. 1385, which calls for disclosure of fire safety standards and measures with respect to campus buildings.

The Fire Safety Incentive Act would go further by providing economic incentives to business owners to install automatic fire sprinkler systems.

It is difficult to dispute the effectiveness of sprinklers in controlling fire and saving lives and property. According to the National Fire Prevention Association, over a 10-year period ending in 1998, buildings with fire sprinkler systems were proven safer. There were 60 percent fewer deaths in manufacturing buildings equipped with fire sprinkler systems than in those without. Similarly, in hotels, there were 91 percent fewer deaths in buildings with fire sprinkler systems. In fact, the NPFA has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building in which a fire sprinkler system was installed and operating properly. The same study showed that property loss from fires was significantly reduced by the presence of fire sprinklers, from a low range of 42 percent in industrial buildings to an impressive high of 70 percent in public assembly occupancies.

While the effectiveness of fire sprinkler systems is well established, the major impediment to their widespread use has simply been their cost. Moreover, many State and local governments lack any requirements for structures to contain automatic fire sprinkler systems.

This bill would encourage businesses to install fire sprinkler systems by creating tax incentives to do so. Under the current Tax Code, assets are classified under different schedules of depreciation. The often-employed "straight-line" depreciation method uses an average deduction from year-to-year for 39 years. This legislation allows businesses to classify sprinklers under a 5-year schedule, creating a meaningful tax incentive to install automated sprinkler systems.

This legislation would save lives and prevent many tragedies. I hope my colleagues will support it, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

By Mr. FITZGERALD (for himself and Mr. AKAKA):

S. 1567. A bill to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Department of Homeland Security Financial Accountability Act. I am joined in introducing this legislation by the distinguished Senator from Hawaii, Senator AKAKA, who serves as the ranking member of the Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, which I chair.

This bill is a companion bill to H.R. 2886 that Congressman TODD PLATTS, chairman of the Subcommittee on Government Efficiency and Financial Management, introduced in the House of Representatives on July 24, 2003. The House bill has bipartisan support from the leadership of the House Government Reform Committee, including Chairman TOM DAVIS, Ranking Minority Member HENRY WAXMAN, and the vice chairman and ranking minority member of the Subcommittee on Government Efficiency and Financial Management, MARSHA BLACKBURN and EDOLPHUS TOWNS.

The purpose of this bill is to ensure that the Department of Homeland Security is included in the Chief Financial Officers Act of 1990, as amended, and is subject to the same audit requirements that currently apply to over 100 Federal agencies.

Improving financial management in the Federal Government to eliminate waste, fraud, and abuse, has long been a priority for me. The Chief Financial Officers Act (CFO Act) is regarded as one of the most important statutes that contributes significantly towards accomplishing this objective. The original CFO Act required 24 Federal agencies to submit audited financial statements to the Office of Management and Budget (OMB) and the Congress, thereby improving the accountability of Federal agencies to the taxpayer. In the 107th Congress I sponsored the Accountability of Tax Dollars Act that extended this audit requirement to all Federal agencies with budgets over $25 million, unless the Office of Management and Budget provided a waiver from the requirement. President Bush signed the Accountability of Tax Dollars Act into law on November 7, 2002, as Public Law 107-289.

As my colleagues may know, an auditor may certify a financial statement as unqualified, also known as a clean audit, or as unqualified. An unqualified opinion means that an agency's financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the agency. A qualified opinion contains an exception to the standard opinion, but the exception is not of sufficient magnitude to invalidate the statement as a whole. Finally, an agency may also receive a disclaimer of opinion. A disclaimer is the worst case because it indicates that the agency's accounts are in such disorder that the auditor is not in a position to make any certification.

This past year we have seen dramatic improvement by Federal agencies regarding their financial reporting and audit compliance. In February 2003, the Office of Management and Budget announced that a record 21 of the 24 CFO Act agencies submitted unqualified financial audits, including for the first time the Agriculture Department. As a member of the Senate Committee on Agriculture, Nutrition, and Forestry, I raised the issue of financial management with Secretary Ann Veneman at her nomination hearing on January 18, 2001, and stressed the importance of unqualified opinions. I was, therefore, pleased to see that the USDA received its first unqualified opinion this year, demonstrating remarkable improvement in the department's financial management.

I also discussed financial management recently with the Department of Homeland Security, Secretary Tom Ridge, when he testified before the Government Affairs Committee on May 1, 2003. At that time, Secretary Ridge assured me that financial management is a top priority for the Department, and every effort will be made to comply with the provisions of the CFO Act. While Secretary Ridge and the Office of Management and Budget have demonstrated their commitment to financial accountability, the bill I am introducing today will ensure that future secretaries and future administrations also will comply with the CFO Act.

The legislation I propose will ensure that the Department of Homeland Security is subject to the same financial management requirements as all other cabinet departments by accomplishing the following: It will include the Department in the list of agencies covered by the CFO Act, and make necessary adjustments to the Homeland Security Act of 2002 so that it is consistent with the provisions of the CFO Act; it will ensure that the Chief Financial Officer at the Department of Homeland Security is subject to the same requirements as all other similarly situated CFOs in cabinet-level departments by providing that the CFO is nominated by the President and confirmed by the Senate; it will require the CFO at the Department of Homeland Security to report directly to the Secretary and be a part of the statutorily created CFO Council; and it will require the Department of Homeland Security to include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting.

Application of the Chief Financial Officers Act to the Department of Homeland Security is essential to ensure that effective financial management and reporting requirements are adhered to by the newest, and one of the largest, cabinet-level departments in the Federal Government. The Department of Homeland Security is in the process of integrating 22 agencies, many with disparate financial systems and a number with their own CFOs. Inclusion of the Department within the management requirements of the CFO Act will help ensure that the financial process is properly managed by requiring full financial disclosure of the Department's financial activities. Therefore, I urge my colleagues to support passage of this bill to protect against financial waste, fraud, and abuse within the Department of Homeland Security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

S. 1567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Homeland Security Financial Accountability Act".

SEC. 2. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security.".

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

"(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code."; and

(B) in section 702 (6 U.S.C. 342) by striking "shall report" and all that follows through the period and inserting "shall perform functions as specified in chapter 9 of title 31, United States Code.".

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

SEC. 3. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 3516 of title 31, United States Code, is amended by adding at the end the following:

"(f) The Secretary of Homeland Security—

"(1) shall submit for fiscal year 2004, and for each subsequent fiscal year, a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

"(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting.".

Mr. AKAKA. Mr. President. As the ranking member of the Subcommittee on Financial Management, the Budget, and International Security, I am honored to work with my colleague Senator FITZGERALD, Chairman of the Subcommittee, to introduce the "Department of Homeland Security Financial Accountability Act."

Our bill would add the Department of Homeland Security (DHS) to the Chief Financial Officers Act of 1990 (CFO Act), P.L. 101–576. It is a companion measure to bipartisan legislation, H.R. 2886, introduced in the House on July 24, 2003. Adding DHS would ensure that Congress will have timely and accurate financial information imperative for good governance of the resources of the Department entrusted to making our homeland safe.

The CFO Act recognizes the responsibility of governmental agencies to be accountable to taxpayers. This bill would require the President to appoint, subject to Senate confirmation, a Chief Financial Officer for DHS, who would report directly to the Director of the Department regarding financial management matters. It also requires the DHS CFO to be a member of the CFO Council. This Council is charged with advising and coordinating the activities of its members' agencies on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matters. In addition, the bill would require the DHS CFO to prepare and provide for audit, annual financial statements that are submitted to Congress, which will aid in congressional oversight of the Department.

Although the DHS bill adopted by the Govermental Affairs Committee last year, S. 2452, would have put the new Department under the CFO Act, the enacted version of the bill, P.L. 107–296, did not. All other Federal departments and major agencies are under the requirements of the Act. Since the passage of the CFO Act in 1990, tremendous improvements have been made in agency financial management. For example, all CFO Act agencies, except for the Department of Defense and the Agency for International Development, achieved clean opinions from their auditors on their financial statements in fiscal year 2003. Initially, none of the agencies were able to do so. Also, the General Accounting Office has reported that the number and severity of internal control problems reported for CFO Act agencies have been significantly reduced. We expect good corporate governance from the private sector; we should also expect good governance from federal agencies.

Adding DHS to the CFO Act would also require that it meet the requirements of the Federal Financial Management Improvement Act of 1996 (FFMIA), P.L. 104–208, which mandates that all agencies subject to the CFO Act meet certain financial system conditions. The goal of FFMIA is for agencies to have systems that provide reliable financial information available for day-to-day management.

It is our responsibility to ensure the Federal Government is accountable to the American taxpayers. I am pleased to join with the Chairman of our Subcommittee to ensure that DHS has the financial management systems and practices in place to provide meaningful and timely information needed for effective and efficient management decision-making.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. SMITH, Mr. LOTT, and Ms. SNOWE):

S. 1568. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

Mr. HATCH. Mr. President, along with my good friends and colleagues, Senators BREAUX, SMITH, LOTT, and SNOWE, I rise today to introduce the Real Estate Investment Trust Improvement Act of 2003. This legislation would update the tax rules governing real estate investment trusts, commonly referred to as REITs, by making a number of minor but important changes to remove uncertainties in the law and improve their investment climate. Identical legislation has been introduced in the House of Representatives.

REITs are publicly traded real estate companies that pass through their earnings to individual shareholders. Congress originally created REITs in 1960 to enable small investors to make investments in large-scale, income producing real estate. By doing so, Congress made commercial real estate more accessible, more liquid, more transparent, and more attuned to investor interests. REITs have evolved to own properties across the country, including office buildings, apartments, shopping centers, and warehouses. As a result, these entities play a key role in helping our economy move forward by promoting investment and creating jobs.

The Internal Revenue Code includes detailed rules governing the operations of REITs, the types of income they can earn, and the assets they hold. Congress last amended these provisions in 1999. The REIT Improvement Act is the product of almost two years of discussions with the staffs of the Treasury Department and the Joint Committee on Taxation on how to find solutions to several thorny problem areas where the rules are in need of clarification or modification.

The REIT Improvement Act includes three titles: Title I—REIT Corrections; Title II—FIRPTA Corrections; and Title III—REIT Savings.

Title I includes several corrections to the REIT tax rules to remove some uncertainties and provide corrections largely arising from enactment of the REIT Modernization Act in 1999. Although these provisions have very little effect on revenue to the Treasury, they are of considerable importance to REITs because they remove uncertainties that interfere with the efficient operation of their businesses.

Because publicly-held REITs have to report quarterly to the Securities and Exchange Commission that they are in compliance with the specialized income and asset tests applicable to REITs, the uncertain application of these tax rules creates greater difficulties in REIT business operators than unclear tax rules generally do for other corporations.

The most important, time-sensitive provision in this title deals with what is called the "straight debt" rule. This rule, which was adopted in the REIT Modernization Act of 1999, prohibits REITs from owning more than 10 percent of the value of any other entity's securities. Although this rule was intended to prevent REITs from owning more than 10 percent of the equity of another corporation, as drafted the rules potentially apply to many situations when individuals and businesses owe some sort of debt, "security" defined broadly, to a REIT.

There are many situations in which REITs make non-abusive, ordinary loans in the course of business for which they could face loss of REIT status because the loans do not qualify as "straight debt." The most common context for this situation is in the REIT's relationship with its tenants. For example, the REIT might lend the tenant money for leasehold improvements. In some circumstances such a loan could represent more than 10 percent of the tenant's total debt obligations. In such a case, although the amount owed could be small, it could lead to REIT disqualification. The bill we are introducing today would exempt from the 10 percent rule certain categories of loans that are non-abusive and present little or no opportunity for the REIT to participate in the profits of the issuer's business. This includes any loan from a REIT to an individual or to a government, and any debt arising from a real property rent arrangement.

Other provisions in this title clarify the related party rent rules that limit the amount of space a taxable subsidiary may lease from its parent REIT, update the hedging definitions in the REIT rules, remove a safe harbor protection for a taxable subsidiary providing customary services to a REIT's tenants, and restore a formula for imposing a tax on REITs that fail to meet the 95 percent gross income test.

Finally, the bill would modify a safe harbor to the prohibited transaction rule that imposes a 100 percent tax on the income REITs earn from sales of "dealer property." Currently, the safe harbor is limited to sales of property held for the production of rental income that meet a series of tests. The change proposed in this title would extend the safe harbor to other REIT property, not just that held for the production of rental income.

Title II of the bill would modify the Foreign Investment in Real Property Tax Act ("FIRPTA") to remove barriers to foreign investment in REITs. Today, there is very little foreign investment in REITs. We understand that U.S. money managers routinely receive assignments to place foreign investment capital in the United States under which they have complete discretion to invest in any U.S. stocks except REITs. The reason they are expressly told to avoid REITs is that under FIRPTA, foreign investors that receive REIT capital gains distributions are treated as doing business in the United States.

Title II would modify the FIRPTA rules so that a publicly traded REIT's payment of capital gains dividends to a foreign portfolio investor would no longer cause the REIT investor to be considered doing business in the United States. The effect of this would be to treat investments in REITs like investment in other corporations, and the provision would parallel current law governing a portfolio investor's sale of REIT stock.

Title III of our bill, REIT Savings, would modify a number so-called "death trap" provisions in the REIT tax rules that result in the disqualification of the REIT if various rules are not met. The loss of REIT status would be a catastrophic occurrence that the management of a REIT tries to avoid at all costs, so much so that they expend significant resources to put in place compliance measures to avoid such a result. A better, simpler alternative would be to build in some flexibility to the REIT tax rules and impose monetary penalties, in lieu of REIT disqualification, for the failure to meet these strict rules that lead to REIT disqualification.

For example, under current law, a REIT is disqualified if more than 5 percent of its assets are comprised of the securities of any entity, or if it owns more than 10 percent of the voting power or value of any entity. In lieu of disqualification of the REIT status for violations of these rules, our bill would first give REITs an opportunity to comply with the asset tests with respect to any violation that does not exceed 1 percent of their total assets. Assets in excess of the 1 percent de minimis amount would be subject to a tax of the greater of $50,000 or the highest corporate tax rate multiplied by the net income from the assets if the violation was justified by reasonable cause.

Under current law, a REIT is disqualified if it does not meet certain other tests relating to its organizational structure, the distribution of its income, its annual elections to the IRS, the transferability of its shares, and other requirements. In lieu of this disqualification, Title III would change the law, assess a monetary penalty of $50,000 for each reasonable cause failure to satisfy these rules. This is a much more reasonable solution.

These changes are similar to "intermediate sanctions" legislation that Congress approved a few years ago dealing with nonprofit organizations. That legislation imposed monetary penalties on nonprofit organizations for violation of certain tax rules in lieu of a devastating loss of the organizations' tax-exempt status. Those changes, like the ones we are proposing today, recognize that it is far more likely that an entity will be sanctioned under a penalty regime than under draconian rules that entirely disqualify the organization.

The REIT Improvement Act would provide reasonable and much needed reforms to the rules governing a key component of our economy. We urge our colleagues to join with us in sponsoring this legislation and supporting its inclusion in tax legislation heading for passage this year.

Mr. BREAUX. Mr. President, I am pleased to join my colleague, Senator HATCH in the introduction of the REIT Improvement Act of 2003. Through this legislation we hope to remove a number of uncertainties in the tax laws that hinder the management of REITs, and to improve the investment climate for REITs, particularly with respect to their ability to attract foreign capital.

Real estate investment trusts ("REITs") were created by Congress in 1960 as a means of enabling small investors to invest in real estate through professionally managed companies. While REITs remained a very small sector of the real estate industry for many years—primarily as mortgage owning companies—with the enactment of tax reform in 1986, and the collapse of the real estate markets in the late 1980s—the REIT structure rapidly grew in the 1990s as an attractive means of owning real estate. Unlike the traditional form of real estate ownership, REITs are publicly traded corporations that go to the public capital markets to raise capital for their operations. Today, REITs are corporations or business trusts that combine the capital of many investors to own, operate or finance income-producing real estate, such as apartments, storage facilities, hotels, shopping centers, offices, and warehouses.

Because REITs are publicly traded corporations that must show results to the financial markets, the REIT structure injects better market discipline into the real estate sector. This minimizes the wild valuation swings that have characterized the real estate sector in the past. It also limits the exposure of federally insured depository institutions that have been traditional lenders to private real estate companies.

The legislation that we are introducing today, the REIT Improvement Act of 2003 (RIA), has three objectives. Number one, to make a number of minor corrections in the REIT tax rules, including most importantly fixing an unintended problem arising from the REIT Modernization Act of 1999 that now causes a company to lose its REIT status by holding ordinary debt, e.g., a loan to a small tenant to finance tenant improvements.

Number two, to eliminate a major barrier to foreign investment in publicly traded REITs that now treats portfolio investors as doing business in the U.S. merely because they receive REIT capital gains distributions. The change would parallel the existing Tax Code rule for a foreigner's sale of a publicly traded REIT's stock.

Number three, to replace the penalty for reasonable cause violations of REIT tests from a loss of REIT status to a monetary penalty. This is similar to a test that was enacted as part of the REIT Simplification Act of 1977, as well as "intermediate sanction" legislation Congress passed a few years ago for tax-exempt organizations.

Twenty-nine members of the Ways and Means Committee are cosponsoring identical legislation in the House of Representatives, H.R. 1890. I expect we will eventually have similar support for this legislation in the Senate Finance Committee. I invite my colleagues to join us as cosponsors of this legislation in the weeks ahead.

By Mr. AKAKA:

S. 1569. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise today to introduce the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act to ensure fair treatment of commerical airline pilot retirees. This bill will lower the age requirement to receive the maximum pension benefits allowed by Pension Benefit Guaranty Corporation (PBGC) to age 60 for pilots, who are mandated by the Federal Aviation Administration (FAA) to retire before age 65. With the airline industry experiencing severe financial distress, we need to enact this legislation to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. This bill will slightly alter Title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to take into account the fact that the pilots are required to retire at the age of 60 when calculating their benefits.

The Pension Benefit Guaranty Corporation was established to ensure that workers with defined benefit pension plans are able to receive some portion of their retirement income in cases where the employer does not have enough money to pay for all of the benefits owed. After the employer proves to the PBGC that the business is financially unable to support the plan, the PBGC takes over the plan as a trustee and ensures that the current and future retirees receive their pension benefits within the legal limits. Four of the ten largest claims in PBGC's history have been for airline pension plans. Although airline employees account for only two percent of participants historically covered by PBGC, they have constituted approximately 17 percent of claims. For example, Eastern Airlines, Pan American, Trans World Airlines, and US Airways have terminated their pension plans and their retirees rely on the PBGC for their basic pension benefits.

The FAA requires commercial aviation pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the PBGC because they are required to retire before the age of 65. Herein lies the problem. Mr. President, if pilots want to work beyond the age 60, they have to request a waiver from the FAA. It is my understanding that the FAA does not grant many of these waivers. Therefore, most of the pilots, if not all, do not receive the maximum pension guarantee because they are forced to retire at age 60.

The maximum guaranteed pension at the age of 65 for plans that terminate in 2003 is $43,977.24. However, the maximum pension guarantee for a retiree is decreased if a participant retires at the age of 60 to $28,585.20. This significant reduction in benefits puts pilots in a difficult position. Their pensions have been reduced significantly and they are prohibited from reentering their profession due to the mandatory retirement age. They are unable to go back to their former jobs.

It is my sincere hope that existing airlines are able to maintain their pension programs and that the change this bill makes will not be needed for any additional airline pension programs. However, due to the difficult financial conditions of many or the airlines, I feel that we must enact this protective measure. My legislation ensures that pilots are able to obtain the maximum PBGC benefit without being unfairly penalized for having to retire at 60, if their pension plan is terminated.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act".

SEC. 2. AGE REQUIREMENT FOR EMPLOYEES.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to benefits payable on or after the date of enactment of this Act.

By Mr. SANTORUM (for himself and Mr. GRAHAM of South Carolina):

S. 1570. A bill to amend the Internal Revenue Code, of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs; to the Committee on Finance.

Mr. SANTORUM. Mr. President I rise to join my colleague Senator LINDSEY GRAHAM in reintroducing the Fair Care for the Uninsured Act, legislation aimed at ensuring that all Americans, regardless of income, have a basic level of resources to purchase health insurance. I am pleased that Congressman MARK KENNEDY of Minnesota has joined in introducing companion legislation in the House of Representatives that now has 120 bipartisan cosponsors.

As we all know, the growing ranks of uninsured Americans—currently more than 40 million—remains a major national problem that must be addressed as Congress considers improvements to our healthcare delivery system.

An Urban Institute study released earlier this year estimated that the nation annually spends about $35 billion on uncompensated care received by the uninsured, both those who are uninsured for a full year and those who lack coverage for part of a year. About two-thirds of uncompensated care, almost $24 billion, is provided by hospitals caring for uninsured people in emergency rooms, outpatient departments, and as inpatients. This study also estimated that a substantial portion of uncompensated care, perhaps as much as $30 billion, is already being financed by taxpayers through programs such as: Medicare and Medicaid Disproportionate Share Payments; Medicaid Upper Payment Limit payments; state and local tax appropriations, primarily to public hospitals and clinics; federal grants to community health centers, and federal direct care provided by the Department of Veterans Affairs and the Indian Health Service.

These sobering statistics reveal that the price of being uninsured is very high, and they ought to serve as a catalyst for us to address the problem of uninsured Americans in a deliberate yet responsible fashion.

The Fair Care for the Uninsured Act represents a major step toward helping the uninsured obtain health insurance coverage through the creation of a new refundable tax credit for the purchase of private health insurance, a concept which again, enjoys bipartisan support.

This legislation directly addresses one of the main barriers now inhibiting access to health insurance for millions of Americans: discrimination in the tax code. Most Americans obtain health insurance through their place of work, and for good reason: workers receive their employer's contribution toward health insurance completely free from federal taxation, including payroll taxes. The Federal Government effectively subsidizes employer-provided health insurance to the tune of more than $80 billion per year. By contrast, individuals who purchase their own health insurance get virtually no tax relief. They must buy insurance with after-tax dollars, forcing many to earn twice as much income before taxes in order to purchase the same insurance. This hidden health tax penalty effectively punishes people who try to buy their insurance outside the workplace.

The Fair Care for the Uninsured Act would remedy his situation by creating a parallel system for working families who do not have access to health insurance through the workplace. Specifically, this legislation creates a refundable tax credit of $1,000 per adult and up to $3,000 per family, indexed for inflation, for the purchase of private health insurance; would be available to individuals and families who don't have access to coverage through the workplace or a federal government program; enables individuals to use their credit to shop for a basic plan that best suits their needs and which would be portable from job to job; and allows individuals to buy more generous coverage with after-tax dollars. And of course the States could supplement the credit.

I would like to apprise our colleagues of one improvement in particular which we have added to last session's bill that we believe will help bring about an even more positive impact on America's uninsured population. In an effort to keep premiums affordable for older, sicker Americans, our Fair Care legislation augments funding provided in the Trade Act of 2002, P.L. 107-210, to State-run safety net insurance programs, currently operating in 30 States, and encourages more States to establish these important programs. And, as in our legislation last session of Congress, we seek to help further reduce premiums by permitting the creation of Individual Membership Associations, through which individuals can obtain basic coverage free of costly state benefit mandates.

This legislation complements a bipartisan consensus which is emerging around this means for addressing the serious problem of uninsured Americans: Instead of creating new government entitlements to medical services, tax credits provide public financing to help uninsured Americans buy private health insurance. President Bush has proposed a similar tax credit for health insurance coverage, and Congress has already acknowledged the promise of this idea in passing into law the new Health Coverage Tax Credit, which helps folks who are eligible to receive Trade Adjustment Assistance or pension benefit payments from the Pension Benefit Guaranty Corporation. Some 200,000 people across the country who meet eligibility requirements—nearly 200,000 of whom reside in the Commonwealth of Pennsylvania—now can obtain a tax credit covering 65 percent of qualified health insurance premiums. They can get this assistance in two ways. First, they can claim it on their tax forms in a lump sum next year on April 15th. Or, beginning in August, the Health Coverage Tax Credit program will allow eligible individuals and their families to directly apply the credit to their health insurance premiums every month. This advance payment option could make a big difference for families that are just getting by month-to-month or week-to-week.

In reducing the amount of uncompensated care that is offset through cost shifting to private insurance plans, and in substantially increasing the insurance base, a health insurance tax credit will help relieve some of the spiraling costs of our health care delivery system. It would also encourage insurance companies to write policies geared to the size of the credit, thus offering more options and making it possible for low-income families to obtain coverage without paying much more than the available credits.

It is time that we reduced the tax bias against families who do not have access to coverage through their place of work or existing government programs, and to encourage the creation of an effective market for family-selected and family-owned plans, where Americans have more choice and control over their health care dollars. The Fair Care for the Uninsured Act would create tax fairness where currently none exists by requiring that all Americans receive the same tax encouragement to purchase health insurance, regardless of employment.

It is my hope that our colleagues will join Senator GRAHAM and me in endorsing this legislation to provide people who purchase health insurance on their own similar tax treatment as those who have access to insurance through their employer.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Care for the Uninsured Act of 2003".

TITLE I—REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE

SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COSTS.

"(a) In General.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the amount paid during the taxable year for qualified health insurance for the taxpayer, his spouse, and dependents.

"(b) Limitations.—

"(1) In general.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year for each individual referred to in subsection (a) for whom the taxpayer paid during the taxable year any amount for coverage under qualified health insurance.

"(2) Monthly limitations.—

"(A) In general.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to 1⁄12 of—

"(i) $1,000 if such individual is the taxpayer,

"(ii) $1,000 if—

"(I) such individual is the spouse of the taxpayer,

"(II) the taxpayer and such spouse are married as of the first day of such month, and

"(III) the taxpayer files a joint return for the taxable year, and

"(iii) $500 if such individual is an individual for whom a deduction under section 151(c) is allowable to the taxpayer for such taxable year.

"(B) Limitation to 2 dependents.—Not more than 2 individuals may be taken into account by the taxpayer under subparagraph (A)(iii).

"(C) Special rule for married individuals.—In the case of an individual—

"(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

"(ii) who does not live apart from such individual's spouse at all times during the taxable year,

the limitation imposed by subparagraph (B) shall be divided equally between the individual and the individual's spouse unless they agree on a different division.

"(3) Coverage month.—For purposes of this subsection—

"(A) In general.—The term 'coverage month' means, with respect to an individual, any month if—

"(i) as of the first day of such month such individual is covered by qualified health insurance, and

"(ii) the premium for coverage under such insurance for such month is paid by the taxpayer.

"(B) Employer-subsidized coverage.—

"(i) In general.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(l)(2)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(ii) Premiums to nonsubsidized plans.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

"(C) Cafeteria plan and flexible spending account beneficiaries.—Such term shall not include any month during a taxable year if any amount is not includable in the gross income of the taxpayer for such year under section 106 with respect to—

"(i) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

"(ii) a benefit provided under a flexible spending or similar arrangement.

"(D) Medicare and medicaid.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

"(i) is entitled to any benefits under title XVIII of the Social Security Act, or

"(ii) is a participant in the program under title XIX or XXI of such Act.

"(E) Certain other coverage.—Such term shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

"(i) chapter 89 of title 5, United States Code,

"(ii) chapter 55 of title 10, United States Code,

"(iii) chapter 17 of title 38, United States Code, or

"(iv) any medical care program under the Indian Health Care Improvement Act.

"(F) Prisoners.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

"(G) Insufficient presence in United States.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

"(4) Coordination with deduction for health insurance costs of self-employed individuals.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

"(c) Qualified Health Insurance.—For purposes of this section—

"(1) In general.—The term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) without regard to—

"(A) paragraph (1)(C) thereof, and

"(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

"(2) Exclusion of certain other contacts.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

"(d) Medical Savings Account Contributions.—

"(1) In general.—If a deduction would (but for paragraph (2)) be allowed under section 220 to the taxpayer for a payment for the taxable year to the medical savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

"(2) Denial of double benefit.—No deduction shall be allowed under section 220 for that portion of the payments otherwise allowable as a deduction under section 220 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

"(e) Special Rules.—

"(1) Coordination with medical expense deduction.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

"(2) Denial of credit to dependents.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(3) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2004, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $50 ($25 in the case of the dollar amount in subsection (b)(2)(A)(iii)).".

(b) Information Reporting.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

"(a) In General.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

"(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

"(C) such other information as the Secretary may reasonably prescribe.

"(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(c)) other than—

"(1) insurance under a subsidized group health plan maintained by an employer, or

"(2) to the extent provided in regulations prescribed by the Secretary, any other insurance covering an individual if no credit is allowable under section 36 with respect to such coverage.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

"(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

"(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xviii) as clauses (xii) through (xix), respectively, and by inserting after clause (x) the following new clause:

"(xi) section 6050U (relating to returns relating to payments for qualified health insurance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB) and inserting ", or", and by adding at the end the following new subparagraph:

"(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050U. Returns relating to payments for qualified health insurance.".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 36. Health insurance costs.

"Sec. 37. Overpayments of tax.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC 7528. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the provider of such individual's qualified health insurance equal to such individual's qualified health insurance credit advance amount with respect to such provider.

"(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual—

"(1) who purchases qualified health insurance (as defined in section 36(c)), and

"(2) for whom a qualified health insurance credit eligibility certificate is in effect.

"(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to the Secretary which—

"(1) certifies that the individual will be eligible to receive the credit provided by section 36 for the taxable year,

"(2) estimates the amount of such credit for such taxable year, and

"(3) provides such other information as the Secretary may require for purposes of this section.

"(d) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any provider of qualified health insurance, the Secretary's estimate of the amount of credit allowable under section 36 to the individual for the taxable year which is attributable to the insurance provided to the individual by such provider.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7528. Advance payment of health insurance credit for purchasers of qualified health insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

TITLE II—STATE HIGH RISK HEALTH INSURANCE POOLS

SEC. 201. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745(c)(2) of the Public Health Service Act, as inserted by section 201 of the Trade Act of 2002 (Public Law 107–210), is amended—

(1) in subsection (b)(1), by striking "established a qualified health risk pool that" and all that follows through the end of subparagraph (C) and inserting "established a qualified health risk pool that provides for premium rates and covered benefits for such coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals";

(2) in subsection (b)(2), by striking "number of uninsured individuals" and inserting "enrollees in qualified high risk pools"; and

(3) in subsection (c)(2), by striking "$40,000,000 for each of fiscal years 2003 and 2004" and inserting "$40,000,000 for fiscal year 2003 and $75,000,000 for each of fiscal years 2004 through 2009".

TITLE III—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

SEC. 301. EXPANSION OF ACCESS AND CHOICE THROUGH INDIVIDUAL MEMBERSHIP ASSOCIATIONS (IMAs).

The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXIX—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

"SEC. 2901. DEFINITION OF INDIVIDUAL MEMBERSHIP ASSOCIATION (IMA).

"(a) IN GENERAL.—For purposes of this title, the terms 'individual membership association' and 'IMA' mean a legal entity that meets the following requirements:

"(1) ORGANIZATION.—The IMA is an organization operated under the direction of an association (as defined in section 2904(1)).

"(2) OFFERING HEALTH BENEFITS COVERAGE.—

"(A) DIFFERENT GROUPS.—The IMA, in conjunction with those health insurance issuers that offer health benefits coverage through the IMA, makes available health benefits coverage in the manner described in subsection (b) to all members of the IMA and the dependents of such members in the manner described in subsection (c)(2) at rates that are established by the health insurance issuer or a policy or product specific basis and that may vary only as permissible under State law.

"(B) NONDISCRIMINATION IN COVERAGE OFFERED.—

"(i) IN GENERAL.—Subject to clause (ii), the IMA may not offer health benefits coverage to a member of an IMA unless the same coverage is offered to all such members of the IMA.

"(ii) CONSTRUCTION.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law, or preventing a health insurance issuer from excluding or limiting the coverage on any individual, subject to the requirement of section 2741.

"(C) NO FINANCIAL UNDERWRITING.—The IMA provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

"(3) GEOGRAPHIC AREAS.—Nothing in this title shall be construed as preventing the establishment and operation of more than one IMA in a geographic area or as limiting the number of IMAs that may operate in any area.

"(4) PROVISION OF ADMINISTRATIVE SERVICES TO PURCHASERS.—

"(A) IN GENERAL.—The IMA may provide administrative services for members. Such services may include accounting, billing, and enrollment information.

"(B) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing an IMA from serving as an administrative service organization to any entity

"(5) FILING INFORMATION.—The IMA files with the Secretary information that demonstrates the IMA's compliance with the applicable requirements of this title.

"(b) Health Benefits Coverage Requirements.—

"(1) Compliance with consumer protection requirements.—Any health benefits coverage offered through an IMA shall—

"(A) be underwritten by a health insurance issuer that—

"(i) is licensed (or otherwise regulated) under State law,

"(ii) meets all applicable State standards relating to consumer protection, subject to section 2902(2), and

"(iii) offers the coverage under a contract with the IMA; and

"(B) subject to paragraph (2) and section 2902(2), be approved or otherwise permitted to be offered under State law.

"(2) Examples of types of coverage.—The benefits coverage made available through an IMA may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

"(A) Coverage through a health maintenance organization.

"(B) Coverage in connection with a preferred provider organization.

"(C) Coverage in connection with a licensed provider-sponsored organization.

"(D) Indemnity coverage through an insurance company.

"(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

"(F) Coverage that includes a point-of-service option.

"(G) Any combination of such types of coverage.

"(3) Health insurance coverage options.—An IMA shall include a minimum of 2 health insurance coverage options. At least 1 option shall meet all applicable State benefit mandates.

"(4) Wellness bonuses for health promotion.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through an IMA from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the IMA and comply with all other provisions of this title and do not discriminate among similarly situated members.

"(c) Members; Health Insurance Issuers.—

"(1) Members.—

"(A) In general.—Under rules established to carry out this title, with respect to an individual who is a member of an IMA, the individual may apply for health benefits coverage (including coverage for dependents of such individual) offered by a health insurance issuer through the IMA.

"(B) Rules for enrollment.—Nothing in this paragraph shall preclude an IMA from establishing rules of enrollment and reenrollment of members. Such rules shall be applied consistently to all members within the IMA and shall not be based in any manner on health status-related factors.

"(2) Health insurance issuers.—The contract between an IMA and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the IMA, for the payment of the premiums collected by the issuer.

"SEC. 2902. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

"State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through an IMA:

"(1) Benefit requirements for health benefits coverage offered through an IMA, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

"(2) Any other requirement (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through an IMA, if the IMA meets the requirements of this title.

Any State law or regulation relating to the composition or organization of an IMA is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

"SEC. 2903. ADMINISTRATION.

"(a) In General.—The Secretary shall administer this title and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The Secretary shall incorporate the process of 'deemed file and use' with respect to the information filed under section 2901(a)(5)(A) and shall determine whether information filed by an IMA demonstrates compliance with the applicable requirements of this title. The Secretary shall exercise authority under this title in a manner that fosters and promotes the development of IMAs in order to improve access to health care coverage and services.

"(b) Periodic Reports.—The Secretary shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the Secretary to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. The Secretary may provide for the production of such reports through one or more contracts with appropriate private entities.

"SEC. 2904. DEFINITIONS.

"For purposes of this title:

"(1) Association.—The term 'association' means, with respect to health insurance coverage offered in a State, an association which—

"(A) has been actively in existence for at least 5 years;

"(B) has been formed and maintained in good faith for purposes other than obtaining insurance;

"(C) does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee); and

"(D) does not make health insurance coverage offered through the association available other than in connection with a member of the association.

"(2) Dependent.—The term 'dependent', as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meaning applied to such term with respect to such coverage under the laws of the State relating to such coverage and such an issuer. Such term may include the spouse and children of the individual involved.

"(3) Health benefits coverage.—The term 'health benefits coverage' has the meaning given the term health insurance coverage in section 2791(b)(1).

"(4) Health insurance issuer.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2).

"(5) Health status-related factor.—The term 'health status-related factor' has the meaning given such term in section 2791(d)(9).

"(6) IMA; individual membership association.—The terms 'IMA' and 'individual membership association' are defined in section 2901(a).

"(7) Member.—The term 'member' means, with respect to the IMA, an individual who is a member of the association to which the IMA is offering coverage.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 216—ESTABLISHING AS A STANDING ORDER OF THE SENATE A REQUIREMENT THAT A SENATOR PUBLICLY DISCLOSES A NOTICE OF INTENT TO OBJECT TO PROCEEDING TO ANY MEASURE OR MATTER

Mr. LOTT (for himself, Mr. Byrd, Mr. Grassley, and Mr. Wyden) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 216

Resolved, That (a) the majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

(1) submits the notice of intent in writing to the appropriate leader or their designee, and

(2) submits, within 3 session days after the submission under paragraph (1), the following notice for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b):

"I, Senator , intend to object to proceeding to , dated ."

(b) The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled "Notices of Intent to Object to Proceeding". Each such section shall include the name of each Senator filing a notice under subsection (a)(2), the measure or matter covered by the calendar which the Senator objects to, and the date the objection was filed.

(c) A Senator may have an item with respect to the Senator removed from a calendar to which it was added under subsection (b) by submitting the following notice for inclusion in the Congressional Record:

"I, Senator , do not object to proceeding to , dated ."

(d) This resolution shall apply during the portion of the 108th Congress after the date of the adoption of this resolution.

Mr. LOTT. Mr. President, today I am submitting a resolution that addresses the issue of anonymous "holds" that Senators use to prevent consideration of legislation and nominations. I am pleased to be joined in this effort by the distinguished former Majority Leader, Senator Byrd, along with the Chairman of the Finance Committee, Senator Grassley, and the distinguished Senator from Oregon, Senator Wyden.

The resolution we are submitting today builds on the work of Senators GRASSLEY and WYDEN who have pursued this issue for years. On June 17, I chaired a hearing at the Rules Committee to consider a resolution, S. Res. 151, that Senators GRASSLEY and WYDEN introduced that would have amended the Senate's Rules to require the publication of the names of Senators who have placed holds on legislation or nominations.

Many Senators and witnesses who testified before the Committee expressed concern about the propriety of incorporating an informal custom designed to obstruct—the hold—in the Senate's rules. Others were concerned that there could be unintended consequences to making this permanent change in the rules of the Senate.

As a result of that hearing, I worked with the sponsors of the resolution and with Senator BYRD to develop what we believe is an appropriate way to resolve the problem of anonymous holds. The resolution we are introducing today reflects that work.

During my tenure as Majority Leader, I, along with Senator DASCHLE attempted to address the issue of secret holds. We sent a letter to all Senators and indicated that members placing holds on legislation or nominations would have to notify the sponsor of the legislation, the committee of jurisdiction, and the leaders. Unfortunately, we had no mechanism to enforce those requirements and secret holds continue to plague the Senate.

The resolution we are submitting today would place a greater responsibility on Senators to make their holds public. Our resolution creates a Standing Order that would stay in effect until the end of the 108th Congress. The Order requires that the majority and minority leaders can only recognize a hold that is provided in writing. Moreover for the hold to be honored, the Senator objecting would have to publish his objection in the CONGRESSIONAL RECORD, three days after the notice is provided to a leader.

New sections would be created in the Legislative and Executive Calendars that would identify the names of Senators with holds on particular measures and nominations. The order also provides a brief written format that a Senator must use to indicate his opposition to proceeding. In addition, a format is provided to remove a hold.

I believe that holds, whether anonymous, or publicly announced, are an affront to the Senate, the leadership, the Committees and to the individual members of this institution. As leader, I could not establish a rational and timely agenda for the institution to perform its business without having to first consult with, effectively, every other member of the Senate.

One day, a Senator would have a hold on a bill and after I convinced him to lift the hold, the next day I was told another Senator had placed a hold on the same bill. And don't get me wrong, these weren't just holds from Democrats, they were holds from some of my best friends on this side of the aisle.

This Order does not eliminate the right of a Senator to place a hold. Some day, the Senate may decide that holds, in and of themselves, are an undemocratic practice that should no longer be recognized. I, for one, would consider eliminating the hold, by for example, limiting debate on the motion to proceed. However, I believe before we consider such a drastic step, we should, at the very least, eliminate the secret hold and I believe this Order will achieve that goal.

Secret holds have no place in a publicly accountable institution. A measure that is important to a majority of the American public and a majority of Senators can be stopped dead in it's tracks by a single Senator. And when that Senator can hide behind the anonymous hold, democracy itself is damaged.

How do you tell your constituents that legislation they have an interest in, legislation that has been approved by the majority of a committee, is stalled and you don't know who is holding it up? What does that say about this institution? I think the secret hold has no place in this revered institution.

I believe that if we adopt this Resolution, the public will have greater trust in the Senate. Secrecy and anonymity in an institution of the people does not engender trust among our constituents. Holds belong in the wrestling ring, not in this hallowed chamber.

This resolution is an experiment in making the Senate and Senators more accountable. At the end of the 108th Congress, the Senate will be able to determine whether it wants to make this a permanent Standing Order or whether it wants to modify the Order. I hope my colleagues will give the Senate the opportunity to see if this approach will eliminate the secrecy surrounding holds and facilitate dialogue that breaks the logjam on legislating in this body.

I ask unanimous consent that the text a copy of the February, 1999, letter I sent with Senator DASCHLE be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 25, 1999.

DEAR COLLEAGUE: As the 106th Congress begins, we wish to clarify to all colleagues, procedures governing the use of holds during the new legislative session. All Senators should remember the Grassley and Wyden initiative, calling for a Senator to "provide notice to leadership of his or her intention to object to proceeding to a motion or matter [and] disclose the hold in the *Congressional Record.*"

While we believe that all members will agree this practice of "secret holds" has been a Senatorial courtesy extended by party Leaders for many Congresses, it is our intention to address some concerns raised regarding this practice.

Therefore, at the beginning of the first session of the 106th Congress, all members wishing to place a hold on any legislation or executive calendar business shall notify the sponsor of the legislation and the committee of jurisdiction of their concerns. Further, written notification should be provided to the respective Leader stating their intentions regarding the bill or nomination. Holds placed on items by a member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day.

We look forward to working with you to produce a successful new Congress.

Best regards,

TRENT LOTT
Majority Leader, U.S. Senate.
TOM DASCHLE
Democratic Leader, U.S. Senate.

Mr. GRASSLEY. Mr. President, I rise to say just a few words about the Senate Resolution being submitted today by Senator LOTT along with the distinguished Senator from West Virginia, Senator BYRD, myself and Senator WYDEN. This resolution aims to end the practice of secret holds in the Senate; an issue on which Senator WYDEN and I have worked long and hard.

On May 21 of this year, I resubmitted with Senator WYDEN our simple resolution to amend the Senate Rules to require Senators placing a hold to make that hold public in the CONGRESSIONAL RECORD. I was very pleased by the support and encouragement we received from Chairman LOTT, who subsequently held a hearing on our resolution in the Senate Rules Committee. This was a very positive step in bringing this issue to the forefront. In fact, I was gratified by the many positive comments and expressions of interest from members of the Rules Committee in response to the testimony from myself and Senator WYDEN.

Following the hearing, my staff and Senator WYDEN's staff were able to engage in very productive discussions with Chairman LOTT's staff and staff for Ranking Member DODD and Senator BYRD. The product of those discussions is this resolution and I'm very pleased with the result. This resolution is a little longer and not as simple as our original resolution, but it does precisely what Senator WYDEN and I have been seeking. In some ways it is even better than what we started with.

Unlike our previous resolution, this measure establishes a standing order instead of amending the Senate Rules. Some Senators are understandably nervous about making a permanent change to the Senate Rules. In fact, this order is only written for the remainder of the 108th Congress to allow Senators to see what effect this change has in practice before deciding whether to renew to requirement or make changes. Nevertheless, it's important to point out that a standing order has essentially the same force and effort in practice as a Senate Rule. Also, I'm confident based on my own experience in practicing public disclosure of holds in the CONGRESSIONAL RECORD, that Senators will find public holds don't hurt a bit. Therefore, it's my expectation that this standing order will be renewed in future congresses.

This new standing order would also spell out the exact format and content required when Senators publish notices of holds so there is no ambiguity or room for misunderstanding. Having a standard format will also make it easier in practice for Senators to submit notices of holds for the RECORD. It will be as simple as adding a cosponsor to a bill. Our resolution would also provide for publication in the Senate Calendars of notices of holds on legislation or nominees as well as a standard procedure for removing a Senator's name from the calendar when a hold is released.

One other change we made from our previous resolution was to allow for three session days instead of two after a hold has been placed for the public notice to be included in the RECORD. I want to be clear that I support immediate public disclosure of holds because I believe in the principle of open government and I can find no legitimate reason why a Senator placing a hold should remain anonymous. However, it's necessary to allow for a short window of time to permit Senators and their staff to prepare a notice and submit it for the RECORD. I've found that two session days has been more than adequate for myself and my staff, but not all Senators' offices are the same. Senator BYRD suggested that three session days might be more appropriate and since the practice of disclosing holds will be uncharted territory at first for most Senators, a deadline of three session days to publish holds seems reasonable.

I should add at this time that I'm very honored to have the support of Senator BYRD on this initiative. No one knows Senate procedure better or has more institutional knowledge of the Senate than Senator BYRD. Both he and Senator LOTT have a unique understanding of the problem of secret holds, having both served as Senate Majority Leader. Having Senator BYRD's name on this resolution should send a strong message to the Senate that secret holds are a serious problem that should be dealt with for the good of the Senate as an institution.

I believe that this change will lead to more open dialogue and more constructive debate in the Senate. Moreover, it will make the Senate process more transparent and reduce public cynicism. I look forward to continuing to work with Senator LOTT, Senator BYRD, and the rest of the Rules Committee to move this needed reform through the legislative process.

Mr. WYDEN. Mr. President, the submission of this resolution marks a very important milestone in the seven-year effort I have pursued with Senator GRASSLEY to bring the Senate practice of holds out of the shadows and into the sunshine. Throughout this time we have labored as a bipartisan team to champion the cause of the "sunshine" hold. I especially want to thank Rules Chairman LOTT and the Senate's foremost authority on the Rules, Senator BYRD, for their commitment to working with us on this resolution. They know all too well the havoc "secret" holds can wreak on the Senate agenda.

Whether public or secret, the hold in the Senate is a lot like the seventh inning stretch in baseball: there is no official rule or regulation that talks about it, but it has been observed for so long that it has become a tradition. Its capacity to tie the Senate and Senators in knots is notorious, and it has even given birth to several intriguing offspring: the hostage hold, the rolling hold and the Mae West hold.

The secret hold is a practice of Senatorial courtesy extended by the respective Leaders. Even though it is one of the Senate's most popular procedures, it cannot be found anywhere in the United States Constitution or in the Senate Rules. It is one of the most powerful weapons any Senator can wield in this body, and in its stealth version, known as the secret hold, it is even more potent.

The target of this resolution is specifically "holds," which we define as a Senator's intent to object to proceeding to a motion or matter. The resolution does not deal with so-called "consults," which are confidential communications between a Senator and the respective Leader informing the Leader of a Senator's interest in a bill or nomination. This resolution would say to those who want to kill or stop a bill or nomination that they must come forward and notify their respective party leaders. It would not affect the process known as the "consult" insofar as it is used to alert a Senator when a bill or nomination is moving toward the floor so that the Senator may prepare for floor consideration.

The resolution would establish a Senate Temporary Standing Order for the duration of the 108th Congress allowing "sunshine" holds. The resolution would require a Senator who wishes to object to a motion or matter to publish notice of the intent in the CONGRESSIONAL RECORD within 3 session days of notifying the respective Leader. The resolution would in no way limit the privilege of any Senator to place a "hold" on a measure or matter, it would simply say that the notice of intent to object to a measure or matter be published.

Throughout the Senate's history some of the most potent weapons—procedural and otherwise—often have not been rules but rather the absence of them.

Beginning in 1997 and again in 1998, the United States Senate voted unanimously in favor of amendments Senator GRASSLEY and I sponsored to require that a notice of intent to object be published in the CONGRESSIONAL RECORD within 48 hours. The amendments, however, never survived conference.

So, Senator GRASSLEY and I took our case to the leadership, and to their credit, TOM DASCHLE and TRENT LOTT agreed it was time to make a change. They recognized the need for more openness in the way the Senate conducts its business. The leaders sent a joint letter in February 1999, to all Senators setting forth a policy requiring "all Senators wishing to place a hold on any legislation or executive calendar business [to] notify the sponsor or the legislation and the committee of jurisdiction of their concerns." Their letter said: "written notification should be provided to the respective Leader stating their intentions regarding the bill or nomination," and that "holds placed on items by a member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day."

At first, this action seemed to make a real difference: many Senators were more open about their holds, and staff could no longer slap a hold on a bill with a quick phone call. But after some time, the clouds moved in on the sunshine hold, obscuring the progress that had been achieved. Legislative gridlock resumed, and the Senate seemed to have forgotten the Lott/Daschle letter.

The problem the Senate faces today is not that a significant number of our colleagues make their holds public, but that a small number of Senators do not. It is their abuse of secret holds that contributes to legislative gridlock. By calling for publication of the intent to object in the CONGRESSIONAL RECORD, I believe the resolution puts the burden where it ought to be: not on the leadership, where it is today, but squarely on the shoulders of the objector. An objector who seeks to kill a bill by hiding behind a curtain of secrecy is hurting the leaders' ability to run the body and is obstructing rather than facilitating the Senate's business.

Public notice of holds may be an inconvenience for a few, but not a hardship. In any given week, Senators insert more than two dozen statements in the RECORD on subjects such as sports teams winning championships and charitable fundraisers. These important events should be recognized, and I would hope that the intent of a Senator to block action on a bill or nomination would be considered of equal importance.

The sponsors of the resolution have discussed at great length, most recently at the Rules Committee hearing on the subject, the matter of enforcement. My sense is that no Senator will ever go to jail for failing to give public notice of a hold, just as no Senator has gone to jail for violating the Standing Order adopted in the 98th Congress requiring Senators to vote from their assigned desks during the "yeas" and "nays." There are any number of provisions even in the Senate.

Rules that are not enforced at all or rarely today. Senate Rule XXVI requires the inclusion of various items of information in written committee reports, but Senate Rules do not require committees to file written reports on bills. Senate Rule VII, para. 5, provides committees shall make every reasonable effort to have printed hearings available for Senators before a measure comes to the floor for debate, although the Senate has debated any number of measures without the benefit of a printed report.

This resolution signals to all members the Senate's preferred manner of doing business. I think most Senators believe the Senate's business should be conducted in public, and I think the American people would agree.

Sunshine holds would strengthen the Leaders' hands as well as their options. A Leader may opt to continue to honor a secret hold, but a Leader wishing to move a measure or matter would be under no obligation to honor a hold unless the objecting Senator had complied with the Rule and published notice in the RECORD.

The resolution is constructed so as to become a part of the Temporary Standing Orders, or the series of unanimous consent agreements that are renewed at the outset of each new Congress. Because there may be unintended consequences and because I have no desire to inflict irreparable harm on the Senate Rules, I deferred to the experience and wisdom of Senator BYRD whose wise counsel urged that the terms of the resolution be limited to the 108th Congress. My intent is to revisit the matter with Senators GRASSLEY, LOTT, and BYRD at the end of the 108th Congress to determine the benefits of making the resolution part of the Senate Rules at that time.

As United States Senators we occupy a position of public trust, and I believe the exercise of the power that has been vested in us should always be accompanied by public accountability. I would argue that it is not the hold, but the anonymity of the hold that is so odious to the basic premise of our democratic system. The Lott-Byrd-Grassley-Wyden resolution would bring the anonymous hold out of the shadows of the Senate. It would assure that the awesome power possessed by an individual Senator to stop legislation or a nomination would be accompanied by the sunshine of public accountability.

At its hearing in June, the Rules Committee weighed the merits of the Grassley-Wyden Resolution, and considered several fundamental questions: Whether the practice of secret holds is consistent with a democratic system; whether the elimination of the secrecy would disrupt the Constitutional balance of power between the various branches of government; and whether the removal of the secrecy would tip the balance between the rights of the majority and the minority in the Senate.

My response is that removing secrecy from the hold will not alter the practice, merely its form. Removing secrecy from the hold will not tip the balance in Senate Rules and procedures between majority and minority rights. And removing the secrecy will not alter the balance of powers created under the Constitution. On the contrary, surrendering secrecy will strengthen public accountability and lessen the gridlock that has increasingly come to plague the world's greatest deliberative body.

I would like to close by quoting the foremost authority on Senate Rules, who served as Majority Leader in the 95th, 96th and 100th Congresses. In Chapter 28, "Reflections of a Party Leader," of Volume II of The Senate, the Honorable ROBERT C. BYRD wrote: "To me, the Senate rules were to be used, when necessary, to advance and expedite the Senate's business." Giving the sunshine hold a place in the Senate's Rules would surely serve this worthy goal.

SENATE RESOLUTION 217—EXPRESSING THE SENSE OF THE SENATE REGARDING THE GOALS OF THE UNITED STATES IN THE DOHA ROUND OF THE WORLD TRADE ORGANIZATION AGRICULTURE NEGOTIATIONS

Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BAUCUS, and Mr. HARKIN) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 217

Whereas the cap on trade-distorting domestic support available to producers in the European Union under the Agreement on Agriculture of the World Trade Organization is 3 times higher than the cap on domestic support available to producers in the United States;

Whereas according to the Organization for Economic Cooperation and Development (OECD), in 2002 government support provided to agricultural producers in the European Union was twice the level provided to producers in the United States, and United States agricultural support was just 58 percent of the average level provided in all 30 OECD-member countries;

Whereas in 2000 the European Union accounted for more than 87 percent of the world's agricultural export subsidies, and the United States represented just 1 percent;

Whereas according to the Congressional Budget Office, expenditures under United States farm and conservation programs are expected to remain at least 20 percent below the average of such expenditures during the years 2000 and 2001;

Whereas the results of the Doha Development Agenda of the World Trade Organization negotiations on agriculture are critically important to the future of farming and ranching in the United States;

Whereas the World Trade Organization will hold a Ministerial Meeting in Cancun, Mexico, in September 2003, at which members of the World Trade Organization are expected to make decisions that will determine the broad outlines of any agreement on agriculture reached in the Doha Development Agenda; and

Whereas the Chairman of the World Trade Organization Agriculture Negotiations Committee has proposed a modalities framework to serve as the basis for discussion and decisions at the Ministerial Meeting in Cancun: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the goals of the United States in the Doha Round of the World Trade Organization agriculture negotiations are to achieve significantly increased market access, to harmonize allowed levels of trade-distorting domestic support for all countries, to immediately eliminate export subsidies, and to achieve a more level playing field in the world market for United States farmers, ranchers, and agricultural producers;

(2) the Chairman of the World Trade Organization Agriculture Negotiations Committee has properly sought to move the negotiations forward, but the proposed modalities framework he has released fails to meet the goals described in paragraph (1) because—

(A) the framework accepts the European formulation of equal percentage reductions from unequal levels of support that locks in place the European Union's current advantage on trade-distorting domestic support levels;

(B) while the framework recognizes that high tariff levels should be reduced more quickly, it nevertheless fails to sufficiently open export markets for United States products by allowing countries to maintain prohibitively high tariffs;

(C) while the framework eliminates trade-disrupting export subsidies, it phases out the elimination of export subsidies over too long a period of time;

(D) the framework contains a potentially unlimited tariff reduction loophole that would disadvantage United States agricultural products exported to developing countries, and would also limit trade between developing countries; and

(E) the framework preserves trade-distorting direct payments under production-limiting programs that are not subject to commitments to reduce domestic support under the Agreement on Agriculture of the World Trade Organization; and

(3) the United States should not agree to the proposed framework unless and until it is substantially improved in order to result in significantly increased market access, the harmonization of allowed levels of trade-distorting domestic support, and a more level playing field for United States farmers, ranchers, and agricultural producers.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1540. Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 259, providing for an adjournment or recess of the two Houses.

SA 1541. Mr. WARNER (for Mr. GREGG (for himself, Mr. REED, Mr. FRIST, Mr. KENNEDY, and Mr. ENZI)) proposed an amendment to the bill S. 888, to reauthorize the Museum and Library Services Act, and for other purposes.

TEXT OF AMENDMENTS

SA 1540. Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 259, providing for an adjournment or recess of the two Houses; as follows:

Strike "when the House adjourns on the legislative day of Friday, July 25, 2003, or Saturday, July 26, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee," and insert: "when the House adjourns on the legislative day of Tuesday, July 29, 2003,".

SA 1541. Mr. WARNER (for Mr. GREGG (for himself, Mr. REED, Mr. FRIST, Mr. KENNEDY, and Mr. ENZI)) proposed an amendment to the bill S. 888, to reauthorize the Museum and Library Services Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Museum and Library Services Act of 2003".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. General definitions.
Sec. 102. Institute of Museum and Library Services.
Sec. 103. Director of the Institute.
Sec. 104. National Museum and Library Services Board.
Sec. 105. Awards; analysis of impact of services.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

Sec. 201. Purpose.
Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Reservations and allotments.
Sec. 205. State plans.
Sec. 206. Grants to States.
Sec. 207. National leadership grants, contracts, or cooperative agreements.

TITLE III—MUSEUM SERVICES

Sec. 301. Purpose.
Sec. 302. Definitions.
Sec. 303. Museum services activities.
Sec. 304. Repeals.
Sec. 305. Authorization of appropriations.
Sec. 306. Short title.

TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

Sec. 401. Amendment to contributions.
Sec. 402. Amendment to membership.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Amendments to Arts and Artifacts Indemnity Act.
Sec. 502. National children's museum.
Sec. 503. Conforming amendment.
Sec. 504. Technical corrections.
Sec. 505. Repeals.
Sec. 506. Effective date.

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) DETERMINED TO BE OBSCENE.—The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.";

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (5);

(4) by inserting after paragraph (2) the following:

"(3) FINAL JUDGMENT.—The term 'final judgment' means a judgment that is—

"(A) not reviewed by any other court that has authority to review such judgment; or

"(B) not reviewable by any other court.

"(4) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."; and

(5) by adding at the end the following:

"(6) MUSEUM AND LIBRARY SERVICES BOARD.—The term 'Museum and Library Services Board' means the National Museum and Library Services Board established under section 207.

"(7) OBSCENE.—The term 'obscene' means, with respect to a project, that—

"(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

"(B) such project depicts or describes sexual conduct in a patently offensive way; and

"(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.".

SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

"(c) MUSEUM AND LIBRARY SERVICES BOARD.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.".

SEC. 103. DIRECTOR OF THE INSTITUTE.

Section 204 of the Museum and Library Services Act (20 U.S.C. 9103) is amended—

(1) in subsection (e), by adding at the end the following: "Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383)."; and

(2) by adding at the end the following:

"(f) REGULATORY AUTHORITY.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.

"(g) APPLICATION PROCEDURES.—

"(1) IN GENERAL.—In order to be eligible to receive financial assistance under this title, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

"(2) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating applications submitted under this title. Actions of the Institute and the Director in the establishment, modification, and revocation of such procedures under this Act are vested in the discretion of the Institute and the Director. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this title, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

"(3) TREATMENT OF PROJECTS DETERMINED TO BE OBSCENE.—

"(A) IN GENERAL.—The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without serious literary, artistic, political, or scientific merit, and is not protected speech.

"(B) PROHIBITION.—No financial assistance may be provided under this title with respect to any project that is determined to be obscene.

"(C) TREATMENT OF APPLICATION DISAPPROVAL.—The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.".

SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

"SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

"(a) ESTABLISHMENT.—There is established within the Institute a board to be known as the 'National Museum and Library Services Board'.

"(b) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Museum and Library Services Board shall be composed of the following:

"(A) The Director.

"(B) The Deputy Director for the Office of Library Services.

"(C) The Deputy Director for the Office of Museum Services.

"(D) The Chairman of the National Commission on Libraries and Information Science.

"(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to libraries.

"(F) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums.

"(2) SPECIAL QUALIFICATIONS.—

"(A) LIBRARY MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

"(i) 5 shall be professional librarians or information specialists, of whom—

“(I) not less than 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

“(II) not less than 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

“(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

“(B) MUSEUM MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(F)—

“(i) 5 shall be museum professionals who are or have been affiliated with—

“(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

“(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

“(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

“(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

“(4) VOTING.—The Director, the Deputy Director of the Office of Library Services, the Deputy Director of the Office of Museum Services, and the Chairman of the National Commission on Library and Information Science shall be nonvoting members of the Museum and Library Services Board.

“(c) TERMS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (E) or (F) of subsection (b)(1) shall serve for a term of 5 years.

“(2) INITIAL BOARD APPOINTMENTS.—

“(A) TREATMENT OF MEMBERS SERVING ON EFFECTIVE DATE.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on the date of enactment of the Museum and Library Services Act of 2003, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

“(B) FIRST APPOINTMENTS.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(E). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the board shall be appointed in accordance with subsection (b).

“(C) AUTHORITY TO ADJUST TERMS.—The terms of the first members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

“(3) VACANCIES.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

“(4) REAPPOINTMENT.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

“(5) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

“(d) DUTIES AND POWERS.—

“(1) IN GENERAL.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

“(2) NATIONAL AWARDS.—The Museum and Library Services Board shall advise the Director in making awards under section 209.

“(e) CHAIRPERSON.—The Director shall serve as Chairperson of the Museum and Library Services Board.

“(f) MEETINGS.—

“(1) IN GENERAL.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

“(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

“(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

“(h) COMPENSATION AND TRAVEL EXPENSES.—

“(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Museum and Library Services Board.

“(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

“(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.”.

SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

“SEC. 209. AWARDS.

“The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

“SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.

“From amounts described in sections 214(c) and 275(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

“(1) shall be conducted in ongoing consultation with—

“(A) State library administrative agencies;

“(B) State, regional, and national library and museum organizations; and

“(C) other relevant agencies and organizations;

“(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

“(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

“(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).

“SEC. 210A. PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION.

“No funds appropriated to carry out the Museum and Library Services Act, the Library Services and Technology Act, or the Museum Services Act may be used for construction expenses.”.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

“(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

“(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

“(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.”.

SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle

$232,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.”; and

(2) in subsection (c), by striking “3 percent” and inserting “3.5 percent”.

SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

“(3) MINIMUM ALLOTMENTS.—

“(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

“(C) EXCEPTION.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003—

“(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

“(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

“(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

“(D) SPECIAL RULE.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

“(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and after taking into consideration available recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

“(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.”.

SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking “not later than April 1, 1997.” and inserting “once every 5 years, as determined by the Director.”; and

(2) in subsection (f)—

(A) by striking “this Act” each place such term appears and inserting “this subtitle”;

(B) in paragraph (1)—

(i) by striking “section 213(2)(A) or (B)” and inserting “section 213(1)(A) or (B)”; and

(ii) by striking “1934,” and all that follows through “Act, may” and inserting “1934 (47 U.S.C. 254(h)(6)) may”; and

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking “section:” and inserting “subsection:”; and

(ii) in subparagraph (D), by striking “given” and inserting “applicable to”.

SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

“(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

“(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

“(3) providing electronic and other linkages among and between all types of libraries;

“(4) developing public and private partnerships with other agencies and community-based organizations;

“(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

“(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.”; and

(2) in subsection (b), by striking “between the two purposes described in paragraphs (1) and (2) of such subsection,” and inserting “among such purposes,”.

SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking “education and training” and inserting “education, recruitment, and training”.

TITLE III—MUSEUM SERVICES

SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

“SEC. 271. PURPOSE.

“It is the purpose of this subtitle—

“(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

“(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

“(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

“(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

“(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

“(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.”.

SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: “Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.”.

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

“SEC. 273. MUSEUM SERVICES ACTIVITIES.

“(a) IN GENERAL.—The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with museums and other entities as the Director considers appropriate, to pay the Federal share of the cost of—

“(1) supporting museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

“(2) supporting museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

“(3) supporting museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

“(4) stimulating greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

“(5) encouraging the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

“(6) supporting museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

“(7) supporting museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

"(8) supporting professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

"(9) supporting museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

"(10) encouraging, supporting, and disseminating model programs of museum and library collaboration.

"(b) Federal Share.—

"(1) 50 percent.—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

"(2) Greater than 50 percent.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

"(3) Operational expenses.—No funds for operational expenses may be provided under this section to any entity that is not a museum.

"(c) Review and Evaluation.—

"(1) In general.—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle.

"(2) Applications for technical assistance.—

"(A) In general.—The Director may use not more than 10 percent of the funds appropriated to carry out this subtitle for technical assistance awards.

"(B) Individual museums.—Individual museums may receive not more than 3 technical assistance awards under subparagraph (A), but subsequent awards for technical assistance shall be subject to review outside the Institute.

"(d) Services for Native Americans.—From amounts appropriated under section 275, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and organizations that primarily serve and represent Native Hawaiians (as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)), to enable such tribes and organizations to carry out the activities described in subsection (a).".

SEC. 304. REPEALS.

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176) is amended—

(1) in subsection (a), by striking "$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002." and inserting "$38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009."; and

(2) by redesignating such section as section 275 of such Act.

SEC. 306. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended—

(1) by redesignating sections 271, 272, and 273 as sections 272, 273, and 274, respectively; and

(2) by inserting after the subtitle heading the following:

"SEC. 271. SHORT TITLE.

"This subtitle may be cited as the 'Museum Services Act'.".

TITLE IV—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 401. AMENDMENT TO CONTRIBUTIONS.

Section 4 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1503) is amended by striking "accept, hold, administer, and utilize gifts, bequests, and devises of property," and inserting "solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property,".

SEC. 402. AMENDMENT TO MEMBERSHIP.

Section 6(a) of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505(a)) is amended—

(1) in the second sentence, by striking "and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly";

(2) by striking the fourth sentence and inserting the following: "A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission"; and

(3) in the fifth sentence, by striking "five years, except that" and all that follows through the period and inserting "five years, except that—

"(1) a member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed only for the remainder of such term; and

"(2) any member of the Commission may continue to serve after an expiration of the member's term of office until such member's successor is appointed, has taken office, and is serving on the Commission.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AMENDMENTS TO ARTS AND ARTIFACTS INDEMNITY ACT.

Section 5 of the Arts and Artifacts Indemnity Act (20 U.S.C. 974) is amended—

(1) in subsection (b), by striking "$5,000,000,000" and inserting "$8,000,000,000";

(2) in subsection (c), by striking "$500,000,000" and inserting "$600,000,000"; and

(3) in subsection (d)—

(A) in paragraph (6), by striking "or" after the semicolon;

(B) by striking paragraph (7) and inserting the following:

"(7) not less than $400,000,000 but less than $500,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered; or

"(8) $500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $500,000 of loss or damage to items covered.".

SEC. 502. NATIONAL CHILDREN'S MUSEUM.

(a) Designation.—The Capital Children's Museum located at 800 Third Street, NE, Washington, D.C. (or any successor location), organized under the laws of the District of Columbia, is designated as the "National Children's Museum".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Capital Children's Museum referred to in subsection (a) shall be deemed to be a reference to the National Children's Museum.

SEC. 503. CONFORMING AMENDMENT.

Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code of 1986 (relating to the special rule for contributions of computer technology and equipment for educational purposes) is amended by striking "section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)" and inserting "section 213(1)(A) of the Library Services and Technology Act (20 U.S.C. 9122(1)(A))".

SEC. 504. TECHNICAL CORRECTIONS.

(a) Title Heading.—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

"TITLE II—MUSEUM AND LIBRARY SERVICES".

(b) Subtitle A Heading.—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

"Subtitle A—General Provisions".

(c) Subtitle B Heading.—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

"Subtitle B—Library Services and Technology".

(d) Subtitle C Heading.—The subtitle heading for subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

"Subtitle C—Museum Services".

(e) Contributions.—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this Act) is amended by striking "property of services" and inserting "property or services".

(f) State Plan Contents.—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking "and" at the end.

(g) National Leadership Grants, Contracts, or Cooperative Agreements.—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking "cooperative agreements, with," and inserting "cooperative agreements with,".

SEC. 505. REPEALS.

(a) National Commission on Libraries and Information Science Act.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) Museum and Library Services Act of 1996.—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

SEC. 506. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act, except that the amendments made by sections 203, 204, and 305 of this Act shall take effect on October 1, 2003.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold a hearing on September 11, 2003 at 2:30 p.m.

The Committee will consider S. 432, a bill to authorize the Secretary of the

Interior and the Secretary of Agriculture to conduct and support research into alternative treatments for timber produced from public lands and lands withdrawn from the public domain for the National Forest System and for other purposes; S. 849, which would provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited partnership; and S. 511, which would provide permanent funding for the Payment in Lieu of Taxes program, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, D.C. 20510–6150 prior to the hearing date.

For further information, please contact Frank Gladics (202–224–2878) or Meghan Beal (202–224–7556).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. TALENT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Friday, August 1, 2003, at 9:30 a.m., in the Dirksen Senate Office Building Room 226 on "Examining the Senate and House Versions of the 'Greater Access to Pharmaceuticals Act'."

Witness List

Panel I: The Honorable Timothy J. Muris, Esq., Chairman, Federal Trade Commission, Washington, DC; Mr. Jon W. Dudas, Deputy Under Secretary for Intellectual Property, Deputy Director of the United States Patent and Trademark Office, Department of Commerce, Arlington, Virginia; Mr. Dan Troy, Esq., Chief Counsel for Food and Drugs, Food and Drug Administration, Rockville, MD; and Mr. Sheldon T. Bradshaw, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, DC.

Panel II: Mr. Robert Armitage, Vice President and General Counsel, Eli Lilly and Company, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

MUSEUM AND LIBRARY SERVICES ACT OF 2003

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 178, S. 888.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 888) to reauthorize The Museum and Library Services Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GREGG. Mr. President, I am pleased that the Senate will consider and pass today a Substitute Amendment to H.R. 13, the Museum and Library Services Act of 2003. This substitute mirrors my bill, S. 888. Since I first introduced this legislation in April with several of my colleagues, it has been a bipartisan process. Over the past several months we have worked to build support for this language, so that today S. 888 has over 50 Senators as cosponsors. I thank my colleagues for their support. I particularly want to thank Senator REED, Senator FRIST, Senator KENNEDY, and Senator ENZI for their efforts.

This bill recognizes the importance of libraries and museums and provides them with continued federal support through the Institute of Museum and Library Services. In addition, it authorizes a doubling of the minimum state allotment under the Grants to State Library Agencies Program, up to $680,000. That provision allows for an increase, if appropriated, of 50% for New Hampshire's Federal library allotment under the law.

Recognizing the key role that libraries play in fostering the academic achievement of our nation's schoolchildren, the Museum and Library Services Act of 2003 also requires that the director, where appropriate, ensure that the library activities of the IMLS are coordinated with the school library provisions of the No Child Left Behind Act.

Furthermore, this bill increases the indemnity limits in the Arts and Artifacts Indemnity Act, thereby facilitating the international exchange and display of works of art, books, rare documents and other published materials, artifacts, and films and other audiovisual media. This will ensure that people throughout the world are exposed to American culture and that our own citizens will have richer educational opportunities available as well.

In addition, S. 888 supports the efforts of President Bush and Mrs. Bush to recruit more librarians by allowing funds to be used for the recruitment of persons in library and information science. Over the next 16 years, America's libraries are projected to lose 58 percent of their professional librarians, and more than one-quarter of all librarians with master's degrees will reach the age of 65 before 2009. This bill will help to alleviate this shortage.

The legislation contains a number of other important provisions. It prohibits projects determined to be obscene from receiving Federal funds, requires the Institute to conduct analyses of the need for museum and library services and the effectiveness of funded projects in meeting those needs, consolidates the library and museum advisory boards into one entity, and prohibits funds appropriated under the Act's authority from being used for library or museum construction.

We have worked hard to reach an agreement on this language with our colleagues in the House, and expect that when the House returns from the August recess, they will pass this bill as well and send it on to the President for his signature. Again, I thank my colleagues for their support of this important legislation.

Mr. KENNEDY. Mr. President, I strongly support the Museum and Library Services Act. Federal support of museums and libraries is appropriate and often essential to maintain the cultural and educational centers that provide valued resources for communities across the country. These institutions encourage learning, understanding, and respect for others in our diverse society, and their benefits are found in every neighborhood in America.

As technology's role in our society becomes more significant than ever, wider access to the internet and other resources is increasingly important. Greater Federal funding for libraries and museums is especially important when local budgets are so hard-pressed.

This bill supports the use of a wide range of media in both museums and libraries, enhancing access to exhibits and programs, and improving learning in a variety of formats. Library and museum advisory boards are consolidated into one body under this bill as a way to improve networks among museums, schools, and other community organizations.

This bill is intended to increase the efficiency of library services and provide much-needed financial assistance. It encourages library services for peoples of all backgrounds, especially in under-served urban and rural communities, so that access to technology will be much more widely available to all.

Support for museums is equally important. They help to preserve and maintain and explain the nation's history and heritage. They impart knowledge of other cultures as well. They inspire citizens of all ages to learn more about history, art, and science. Few experiences can more vividly excite the imagination of a child about our Nation's history than seeing an actual relic of an event they've read about or been told about. With this legislation, we can do more to enable museums to increase their services, bring more exhibits into more communities, and encourage the use of new technology and variety of media.

Also, to ease the burden of insurance, our bill authorizes increased indemnity for art exhibits that might not otherwise take place because of rising costs.

The House has passed a similar version of the bill by an overwhelming majority, and I hope the Senate will do the same. I particularly commend the leadership Senator GREGG, the Chairman of our HELP Committee, and the principal sponsor of this bipartisan legislation. I also commend Senator REED, the principal cosponsor of the bill, who has so effectively carried on the commitment on this issue by his predecessor from Rhode Island, Senator Claiborne Pell. Our committee unanimously approved this bill, and I urge my colleagues in the Senate to approve it now.

Mr. REED. Mr. President, I rise today to strongly support passage of the Museum and Library Services Act of 2003.

I thank the Chairman of the Health, Education, Labor, and Pensions Committee, Senator GREGG, and the Ranking Member, Senator KENNEDY, for working closely with me on this bill and for getting us to this point. This has been a long time in coming, and I am glad that we have worked out a bill with the other body that we can be proud to support. Indeed, the bill before us today is essentially the bill we approved in Committee on June 26th.

Last year, during the hearing I chaired on the Museum and Library Services Act, we heard directly from the museum and library communities about the recommendations for updating this law so its meets the future needs of museum and library users. I also extend my thanks to the museum and library communities for their efforts in this process.

Like S. 238, the legislation I introduced earlier this year, and S. 888, which I joined Senator GREGG in introducing, this bill doubles the minimum state allotment under the Library Services and Technology Act, which will enable smaller States like Rhode to benefit and implement the valuable services and programs that larger States have been able to put in place.

It also ensures that library activities are coordinated with the school library program I authored, which is now part of the No Child Left Behind Act of 2001.

The bill includes an increase in the indemnity limits under the Arts and Artifacts Indemnity Act to ensure continued support for American museums as they facilitate international cultural exchanges through touring exhibitions here in the U.S. and loans of American art around the world.

The bill also establishes a reservation of 1.75 percent of funds for museum services for Native Americans, to match the reservation currently provided for library services under the Library Services and Technology subtitle.

The bill updates the uses of funds for library and museum programs and increases the authorization levels for the Library Services and Technology Act and the Museum Services Act.

We should meet these funding levels in the appropriations process due to this bill's strong bipartisan support. I personally believe that our libraries and museums should be more robustly funded, particularly as these institutions play increasingly important roles in our lives.

Again, I congratulate and thank my colleagues, in particular, Senators GREGG, KENNEDY, FRIST, and ENZI, on passage of this important legislation. I look forward to working with them to get this bill to the President's desk in September so that the bill's increase in the minimum state allotment will take effect in Fiscal Year 2004, as well as on ensuring increased funding for our Nation's libraries and museums.

Mr. WARNER. Mr. President, I ask unanimous consent that a Gregg substitute amendment at the desk be agreed to, the bill be read a third time; that the HELP Committee be discharged from further consideration of H.R. 13, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 888, as amended, be inserted in lieu thereof; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that S. 888 be returned to the calendar, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1541) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 13), as amended, was read the third time and passed.

MEASURES READ THE FIRST TIME—H.R. 2799 AND H.R. 2861

Mr. WARNER. Mr. President, I understand that the following appropriations bills are at the desk: H.R. 2799 and H.R. 2861. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by their titles.

The legislative clerk read as follows:

A bill (H.R. 2799) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

A bill (H.R. 2861) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

Mr. WARNER. Mr. President, I now ask for their second reading and object to further proceedings on these matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills will receive their second reading on the next legislative day.

Mr. WARNER. The bills will be read for the second time on the next legislative day; is that my understanding from the Chair?

The PRESIDING OFFICER. The Senator is correct.

APPOINTMENT AUTHORITY

Mr. WARNER. Now, in the category of appointment authority, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the Senate's President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR AND NOMINATIONS DISCHARGED

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider en bloc the following nominations on today's Executive Calendar: Calendar Nos. 344, 345, 346, 353, and 355.

Further, I ask unanimous consent that the Foreign Relations Committee and the Finance Committee be discharged from further consideration of the following nominations from their respective committees: from the Foreign Relations Committee, PN764, Jeffrey Marcus; from the Finance Committee, PN477, Teresa Ressel.

I further ask unanimous consent that the nominations be considered and confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. DAYTON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, on behalf of the Democratic leader, we are also clear on Calendar No. 308, Jack Goldsmith III, to be an Assistant Attorney General; and Calendar No. 354, Daniel Bryant, to be an Assistant Attorney General.

So I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Josette Sheeran Shiner, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

DEPARTMENT OF COMMERCE

James J. Jochum, of Virginia, to be an Assistant Secretary of Commerce.

DEPARTMENT OF THE TREASURY

Robert Stanley Nichols, of Washington, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF JUSTICE

Rene Acosta, of Virginia, to be an Assistant Attorney General.

Paul Michael Warner, of Utah, to be United States Attorney for the District of Utah for the term of four years.

DEPARTMENT OF STATE

Jeffrey A. Marcus, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

DEPARTMENT OF TREASURY

Teresa M. Ressel, of Virginia, to be Assistant Secretary of the Treasury.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORIZATION TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. WARNER. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader or the assistant majority leader or Senator SANTORUM be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, SEPTEMBER 2, 2003

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, September 2. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of Calendar No. 197, H.R. 2660, the Labor, HHS, and Education appropriations bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. For the information of all Senators, when the Senate reconvenes on Tuesday, September 2, the Senate will begin consideration of H.R. 2660, the Labor, HHS, and Education appropriations bill. There will be no rollcall votes on Tuesday, but Members are encouraged to come to the floor to offer and debate amendments to the bill. Senators who wish to offer an amendment should contact the bill managers so they can schedule an orderly process for debate. Any votes ordered with respect to amendments to the appropriations bill would occur on Wednesday, September 3.

On behalf of the leader, I wish all of my colleagues a safe and restful period and, hopefully, one in which they can have an opportunity to be with their families. Yet, as always, we enjoy the engagement with our constituents and visits to places in our State. So this is a well-earned recess for the Senate. We have had a very active session. I commend our joint leadership for their leadership. We made some history here in the last 48 hours on certain bills passed and nominations accepted.

I see a Senator desiring recognition, but I wonder if I might make the following request, with the understanding that the Chair will recognize our colleague who has been patiently waiting.

ORDER FOR ADJOURNMENT

Mr. WARNER. So I say, if there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the provisions of H. Con. Res. 259, following the statement of our colleague, Senator DAYTON, to speak for no longer than 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 2417

The PRESIDING OFFICER. Under the previous order, the Chair will appoint conferees to H.R. 2417.

The Presiding Officer appointed Mr. ROBERTS, Mr. HATCH, Mr. DEWINE, Mr. BOND, Mr. LOTT, Ms. SNOWE, Mr. HAGEL, Mr. CHAMBLISS, Mr. WARNER, Mr. ROCKEFELLER, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, and Ms. MIKULSKI from the Select Committee on Intelligence; Mr. ALLARD and Mr. NELSON of Florida from the Committee on Armed Services conferees on the part of the Senate.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota.

SENATOR WARNER

Mr. DAYTON. Mr. President, let me preface my intended remarks. I seldom have occasion to take exception to the remarks made by the very distinguished chairman of the Senate Armed Services Committee on which I am honored to serve, but I must say that I respectfully disagree with the modesty by which he characterized himself as anything less than one of the real greats in the Senate. In my estimation, the Senator from Virginia ranks up among the greats of the Senate from the beginning of our Nation's proud heritage and through the years.

I believe the Senator has now completed 25 years of extraordinary service on behalf of not only the citizens of Virginia but also the citizens of Minnesota and the citizens of this country. When I was one-hundredth in Senate seniority for my first 2 years, I had some doubts about the worth of the seniority system. I was dissuaded whenever I would see the Senator from Virginia, Mr. WARNER, act as chairman of the Senate Armed Services Committee, then as its ranking member, and now as chairman again, of that most important committee.

When I recently had a chance to travel with him to Iraq and saw his fortitude and his determination to serve the best interests of our country, or when matters of great importance to the future of this country and this world came before the Senate Armed Services Committee, I was always reassured by the knowledge that the Senator from Virginia, Mr. WARNER, was chairman of that committee, and acting with the very distinguished ranking member, Senator LEVIN from Michigan. I believed that our democracy was in the best possible hands. The wisdom of the seniority system with a man of that stature serving in that role was certainly upheld. I would just like to acknowledge that his own modesty prevented him from saying what I know that my colleagues join with me on both sides of the aisle in saying, that this man is one of the true greats of the Senate on this day or any day.

Mr. WARNER. Mr. President, I thank our distinguished colleague. He is a very active member of the Armed Services Committee. Indeed, he did make reference to our excellent trip of nine Senators into Iraq, 3 days in country. It was a very important mission, defining exactly what I tried to enumerate in my remarks earlier, our responsibility to the men and women of the Armed Forces and their families. I thank the Senator.

Mr. DAYTON. I thank also the Presiding Officer for his forbearance in permitting my remarks this afternoon. I had the opportunity to serve on many of these occasions in the previous 2 years as Presiding Officer. I know how my heart sank when yet another Senator would arrive on the floor to make his or her remarks. I thank the Presiding Officer for this opportunity and his forbearance as well.

AVIATION ADMINISTRATION CONFERENCE REPORT

Mr. DAYTON. Mr. President, yesterday and this morning I placed holds on the nominations of 15 men and women for appointments in the executive branch. They have one characteristic in common. They all come from States of Senators or Members of the House of Representatives who have signed the Federal Aviation Administration conference report. This report, which will come before the Senate and the House after the August recess, steals the rightful authority of the Minnesota Metropolitan Airports Commission, which is a public body, its members appointed by the Governor, to make decisions about the lives of Minnesotans who live near our major international airport. The Report would prohibit Federal funds from being used for noise insulation of homes or apartment buildings where the airplane noise ranges from 60 to 64 decibels.

This clause was not in the Senate bill and it was not in the House bill. It was neither considered nor acted upon by either body, nor by any of the committees of jurisdiction in the Senate or the House. There was no public notification about this intent. There were no hearings, no testimony, nothing about this particular clause.

It appears in the conference report reportedly because a lobbyist representing a client found a Senator from another State far removed from my State, where citizens will bear the burdens and the consequences of this action. To slip this contemptible language into the final conference report, which will become, if it is acted favorably upon by the Senate and House, the final bill, the law of the land if the President signs it, this action reminds me of the old contest called limbo, where the object was to "see how low you could go." This action is very low. It is low because it is a perversion of our public process for making laws which govern the lives of the citizens of this country; in this case, the lives of people who live in over 8,000 homes and over 3,200 apartments which surround the Minneapolis-St. Paul Metropolitan Airport.

Some 300 years ago, even before the formation of this democracy, one of the first leaders of English settlers arriving here was William Penn. He wrote that people are free under a government where the laws rule and the people are a party to those laws. Those are the two conditions under which the people are free.

The several thousand people who would be affected by this clause if it were to become law—and it will not become law—were not a party to that decision because the people they elected to represent them in Congress, their two Senators and their Congressman, were not a party to this clause. I am not myself a supporter of the idea of a unicameral legislative body, but if there were ever consideration given, this would be exhibit number 1 in support of one, because a unicameral legislative body would eliminate these conference committees, where a few Members of the House and Senate go into some back room or private office and write one final bill out of the two versions passed by the Senate and the House, and then the rest of us—all of the elected Senators and Representatives—have to vote that final report up or down, with no changes, no additions, no subtractions.

Conference committees recently have taken a very dangerous turn. The Democratic conferees are being excluded from their deliberations and decisions. Republicans make up the majority of the conferees from both the House and Senate, as they should because they hold the majority in both bodies. So if those Republican conferees concur among themselves, they will prevail on every vote, and they will get the final bill they want to create. They have that right based on the rules of the Senate and the House.

For some reason, however, that is not enough these days because, increasingly, the Democratic conferees are not allowed in meetings where those deliberations and decisions are being made. They are not even allowed to object or agree, or to try to persuade otherwise. I have to ask myself, as someone who has been here only 2½ years, why is it they are not even allowed to participate? Is it to make it easier to sneak in these kinds of terrible additions to bills that will become law and hope they won't be noticed by the rest of us before the final bill is acted upon?

This exclusion from the process and the inclusion of another provision that was not previously passed by the Senate or the House, to privatize this Nation's air traffic control system, which ranks as one of the most unwarranted, unjustified, destructive, and dangerous ideas of this new century, were the major reasons that not a single Democratic conferee from either the Senate or the House signed the FAA conference report. There were 38 conferees—24 Republicans and 14 Democrats. All 24 Republicans signed the conference report. None of the Democrats, out of 14 Democratic conferees, signed that conference report.

So much for "changing the tone" in Washington. So much for "bipartisanship." So much for honest Government reflecting the will of the people, who elected all of us to represent them in the Senate and in the House. The majority caucus of the Senate is comprised of 51 Members, and the minority caucus has 49 members. If the then-incumbent senior Senator from Minnesota had not been killed in a plane crash last October, the Senate would be 50/50 evenly divided, as it was when I arrived here 2½ years ago. The people of America have recently voted for a closely divided Government, to which the 2000 Presidential election also bears witness to.

It is fundamentally wrong for the barely majority party to usurp the responsibility for good government, and in conformance to the expressed political will of the American people. It is terribly wrong to do so for the purpose of writing bills behind closed doors and putting in garbage like this airport noise clause, which affects the people of Minnesota. They ought to be ashamed, they should be better than that, and they ought to stop doing it.

Where does this legislative dropping come from? Reportedly, I have heard from several sources, it was added by a Senate conferee. Neither my Minnesota colleague nor I were aware of it, which obviously was the intent of both its author and originator. I am deeply offended that one of my colleagues would behave in such an underhanded fashion and harm the people in my State for no apparent reason.

What would induce another Member of the Senate to do something like that? Now, he didn't make up the idea by himself. We have enough to do in these jobs that we don't have to hunt for issues affecting airports in other States to make our sneak attacks upon—at least I hope not. We have our disagreements here, as we should. We have our political arguments, as we must. But I certainly hope we are not here to do damage to people in other Members' States.

If we are going to engage in such a practice, I certainly expect that we will all have the integrity to do so in the proper and public lawmaking processes of this Senate and this Congress. I certainly expect the decency to be informed by my colleague that he intends to do so. If that integrity and that decency do not prevail here, then the former Chaplain of the Senate, Dr. Edward Everett Hale, was right when asked if he prayed for the Senators. "No," the Senate Chaplain replied, "I look at the Senators and pray for the country."

The Senate Chaplain spoke those words 100 years ago. I believe, and for the sake of our country I pray, that the Senate of 2003 is far better than the Senate of 1903, if that is what caused the Chaplain then to make such a remark. Let all of us be sure to make it better today by our own conduct here.

There is someone else who is also responsible for this sneaky, slimy, and sordid shenanigan, and that, I regret to say, is Northwest Airlines, a major Minnesota company, founded in Minnesota, headquartered in Minnesota, employing over 18,000 people in Minnesota. It is one of Minnesota's most important companies. It is our link to the world.

Northwest Airlines controls 85 percent of the gates at the Minneapolis-St. Paul Airport. It is comprised of 18,000 tremendous people in Minnesota—executives, pilots, flight attendants, mechanics, baggage handlers, reservation agents, skycaps. One by one they are great people: hard working, dedicated, loyal, courteous, and skilled in what they do.

As a corporate entity, however, Northwest Airlines more often acts like Darth Vader than the Caped Crusader. The company is capable of wonderful acts of charity. Last year it helped to transport 10,000 boxes of Girl Scout cookies to soldiers stationed abroad. Every quarter it partners with a worthwhile charity, and on every flight it asks passengers to donate either their money or accumulated frequent flier miles, equivalent to money, to that worthwhile cause.

However, during my entire public career, going back 25 years as Minnesota's commissioner of economic development to being a Senator today, no other Minnesota company has ever asked for as much from the public, received as much from the public, asked as much again and again from the public, received as much again and again from the public, and showed as little gratitude, graciousness, or respect for the public as Northwest Airlines.

In 1989, Northwest Airlines was subject to a hostile takeover. A company that at the time had a cash balance of over $700 million became one saddled with over $2 billion in corporate debt. With the economic downturn that began in 1990 and went into 1991, Northwest fell into serious financial difficulty and was near bankruptcy, we were informed. That condition was caused by loss of revenues compounded by the debt load of their takeover. So Northwest Airlines came to the people of Minnesota for help, and the people of Minnesota responded.

The Minnesota Legislature authorized $710 million in grants and in low-interest secured loans. The Metropolitan Airports Commission essentially remortgaged the airport to provide a loan of $350 million. That is the same Metropolitan Airports Commission which Northwest Airlines now criticizes for every spending decision, for its supposed lack of frugality, forgetting it would be even more frugal if it had saved the cost of carrying that loan for the last 12 years.

At the same time as that corporate bailout by the people of Minnesota, our State also began a 7-year agreed-upon timetable, a dual-track process to decide where to locate the new airport for our State and for the entire region: whether it should be the expansion of the existing airport or building a new one at a more remote site.

By the mid-1990s, in the middle of that timetable, based on the seeming experience of the costly new airport in Denver and its effects financially on the airline industry, particularly those who had their hubs there, Northwest Airlines took a legitimate position in its own corporate interest to oppose building a new airport elsewhere. But they were so insistent on getting their own way that they convinced the Governor and the Minnesota Legislature to abrogate after 6 years the final year of that intended 7-year process, cutting off the last year of public debate, cutting off the opportunity by those who are opposed to that decision, those who lived in the surrounding areas who were plagued by airport noise. They were denied their opportunities to make their last cases to the public decision makers.

Their lives were being made worse also, I note, by the noise of Northwest Airlines' aging fleet of airplanes, the oldest of any of the major carriers at the time, which were not being replaced by the newer planes originally on order because of the financial difficulties that the corporate takeover put on the company. But at least in this instance, Northwest went through the public process, and they prevailed.

As part of that agreement, they reportedly agreed to contribute $70 million to this next phase of noise insulation of homes and apartments in the surrounding areas. Northwest was hard hit on September 11, 2001, and its aftermath, as were other air carriers in this country, as were many other businesses throughout this country, many of which went out of business as a result of the disruption to our economy caused by those dastardly events.

They sought financial assistance from this body and from the institution of Congress. On September 22, Congress provided $5 billion of grants to the airline carriers, of which Northwest Airlines received $428 million in public funds, grant money, not to be repaid.

On April 3 of this year, as part of the supplemental appropriation, this body, and its counterpart, authorized another $2.3 billion in grant money of which Northwest Airlines will receive $205 million. In addition, we granted a 4-month ticket tax holiday. I supported every single one of those measures, and if Northwest Airlines' survival were at stake, I would support it again because it would be in the interests of both the company and the people of Minnesota.

For a company to be the recipient of all of that public support, to receive all of that support from this institution of Congress, and then show so little respect for the public and so little regard for the Congress or for the integrity of our public process, I find to be deplorable, detestable, and deranged.

The money this airline company seeks to prohibit being expended to improve the lives of their neighbors in Minnesota is not their money. It is the public's money. It is Federal money that comes from general funds, from ticket taxes or from passenger taxes. It is beyond irresponsible for any one person or any one corporation to try to destroy the public will expressed through the legitimate public process by this kind of back-door maneuver. No one has that right. No one deserves to have that right. And no one who shows such disrespect and disregard for our Democratic process, which exists to represent the interests of all of the people of this country, to protect the best interests of all the people of this country, no one who tries to abrogate that democratic authority should get away with it. They must not get away with it. It is too destructive to our democracy if they do. It is too damaging to our citizens' faith in their Government and to their trust in their Government, which is their Government.

Northwest Airlines will not get away with this deviant, dastardly, and undemocratic action. Northwest Airlines will not get its way this way. This deed will not stand. It will not become law. The people of Minnesota have my word, it will not become law.

Before I began these remarks, I withdrew my 15 holds on those executive branch nominations at the specific request of the White House, out of my respect. I am mindful that a year ago, when I put 60 holds on nominations for various executive positions, the White House staff responded in a most impressive way.

They worked with my office and other Senators' offices to rescue over 200 Cambodian orphans from orphanages in Cambodia who were being prevented by the INS to be brought to this country by their adoptive parents.

To the great credit of the President of the United States, the White House used his ultimate authority to override that decision by INS and to make it possible for those children to come to loving homes in Minnesota and other States; and for that reason, and for my respect generally, I yielded to that specific request by the White House and withdrew those 15 holds.

I have equally the greatest regard for this institution of the Senate, for all of its procedures, its protocols, and its proud traditions.

I listened earlier today to the words of the majority leader, a man whom I greatly respect. By his invitation, I was privileged to accompany him to China, Taiwan, Japan, and the Republic of Korea 2 months ago. I watched with the greatest of admiration how he led our delegation and sat down face to face with some of the most important leaders of other nations in this world. He brought nothing but great credit to this Senate. He and his predecessor in that position, now the Democratic leader, Senator DASCHLE are two men with dignity and with honor. I am in awe of their continual patience. When they have disagreements about policy or legislation, they are honest and they are honorable. We have debates. We have votes and the majority prevails.

I also respect the desire of the majority leader to proceed with an orderly schedule which he outlined when we return in September. In fact, I share that desire. But I must give fair warning and advance notice that I will not permit the Senate to proceed with business as usual when we return on September 2, while this FAA conference report, with this poisonous paragraph a part of it, is before the Senate. I will put a hold on every nomination that comes before the Senate. I will object to every motion to proceed after the prayer and the Pledge of Allegiance, and I will not yield on those matters until this language is removed from that conference report. You have my word.

We have over a month until we return. That is plenty of time for those who are party to this detestable act, to work it out and to get it out of that conference report.

Do not doubt my resolve. That language must be removed or I will not allow the business of the Senate to proceed. You have my word. You have my word.

I yield the floor.

ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 2, 2003 AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. on Tuesday, September 2, 2003.

Thereupon, the Senate, at 2:37 p.m., adjourned until Tuesday, September 2, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 2003:

DEPARTMENT OF STATE

RICHARD EUGENE HOAGLAND, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

THE JUDICIARY

SANDRA L. TOWNES, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE STERLING JOHNSON, JR., RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES R. SHOLAR, 6553

To be brigadier general

COL. HENRY J. OSTERMANN, 9215

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

MADELFIA A. ABB, 6830
WILLIAM R. ABB, 4887
TIMOTHY W. ABEL, 8539
ANTONIO A. AGUTO JR., 6533
LARRY P. AIKMAN JR., 9647
CARL A. ALEX, 6876
THOMAS A. ALLAIRE, 2396
SHAWN D. ALLEN, 4982
ANTONIO J. AMOS, 1236
DEBORAH K. ANDERSON, 8372
DUANE T. *ANDERSON, 9998
JAMES E. ANDERSON, 6911
MICHAEL R. ANDERSON, 9275
JOSEPH W. ANGYAL, 2479
BRUCE P. ANTONIA, 5849
CARMINE C. APICELLA, 1444
JAN F. APO, 9722
MICHAEL APODACA, 6610
EDWINA D. ARNOLD, 3810
THOMAS S. ARRINGTON, 4421
SAMUEL L. ASHLEY, 1751
SAMUEL L. ASKEW III, 1164
FERNANDO AVALOS, 3065
MARC D. AXELBERG, 9236
ANDREW W. BACKUS, 1189
CLARK R. BACKUS, 2173
DENNIS L. BACON, 8678
JACQUELINE BAGBY, 1626
GREGORY C. BAINE, 2761
JAMES E. BAKER JR., 4195
TRACY P. BANISTER, 1933
TRESE A. BANNISTER, 2417
MARK A. BARBOZA, 6749
JAMES T. BARKER, 6000
BRIAN T. BARRETT, 5729
BENJAMIN J. BARRIS, 1718
HILLARY R. BAXTER, 5408
MARK D. BAXTER, 6975
ALFRED J. BAZZINOTTI, 3646
KEITH A. BEAN, 7358
PATRICK C. BEATTY, 8232
WENDY M. BECHTEL, 4578
JOHN G. BECHTOL, 4769
ANTHONY F. BECK, 5015
DAVID A. BEECH, 2537
TED J. BEHNCKE, 0677
RONNIE L. BELL JR., 8557
THOMAS G. BELL, 7753
STEVEN D. BELTSON, 8519
MICHAEL A. BENDER, 8668
ROBERT W. BENNETT JR., 4098
CHRISTOPHER L. BENSON, 1669
PHARISSE BERRY, 9396
ROBERT D. BIALEK, 4412
GARY M. BIDELMAN, 6355
ALLAN L. BILYEU, 6548
STEPHEN M. BIRCH, 6716
JOSEPH F. BIRCHMEIER, 5214
JAMES E. BIRD III, 0739
JOHN H. BIRDSONG III, 5074
MARTIN O. BIXBY, 4873
MARCUS C. *BLACK JR., 1034
OLIVER A. BLACK, 4144
CRYSTAL S. BLACKDEER, 8429
MICHAEL D. BLACKWELL, 9710
OBEDIAH T. BLAIR, 3992
THOMAS S. BLAIR, 7408
GUSTAVO E. BLUM, 8613
ROGER M. BOBER, 8810
WILLIAM L. BOLDEN JR., 4394
DONALD C. BOLDUC, 0267
BOB G. BOND, 4399
MADELINE T. BONDY, 2997
MICHAEL D. BORG, 0699
SHERRIE L. BOSLEY, 4886
MARK C. BOUSSY, 6848
CHRISTOPHER E. BRADBERRY, 9905
JEFFREY A. BRADFORD, 7432
IVAN D. BRADLEY, 6724
HAROLD T. BRANDENBURG JR., 9309
MARY E. BRANSFORD, 3894
GARY M. BRENNIS, 5905
HOWARD K. BREWINGTON, 3267
VON M. BRICKHOUSE, 4106
ERIC W. BRIGHAM, 1442
JEFFREY W. BRLECIC, 0610
JAMES L. BROGAN, 3303
BOBBY J. BROWN, 8841
BRIAN D. BROWN, 9581
JOHN O. BROWN, 4698
THERREL L. BROWN JR., 2382
TIMOTHY D. BROWN, 9236
DAVID W. BUCKINGHAM, 8771
GREGG E. BUEHLER, 3146
DANNIE L. BULLOCK JR., 7905
JOHN C. BURDETT JR., 8658
DEBRA L. BURGER, 6755
ROBERT K. BURK, 3845
CHARLES F. BURKE, 6243
WILLARD M. BURLESON II, 8352
JAMES S. BURNSIDE, 1318
AL T. BURRS JR., 1229
ROBERT C. BUSCHER JR., 3155
HOLLIS L. BUSH JR., 7171
BRIAN D. BUTLER, 0329
ROLAND S. BUTLER, 9014
LYNN K. BYERS, 5761
ROBERT K. BYRD, 7878
PAMELA M. BYRNE, 3836
RONALD D. CAFFEE, 8500
STEPHEN R. CAIN, 4573
ROBERT W. CAIRNS, 7315
MARION K. CALLAHAN, 1375
JOHN T. CALLERY, 1036
JOSEPH R. CALLOWAY, 7077
JENNIFER K. CAMPBELL, 1272
JOSE A. CARBONE, 2835
CHRISTOPHER B. CARLILE, 3914
MARK J. CARLSON, 6939
DANIEL W. CARPENTER, 9967
MAXEY B. CARPENTER III, 5194
LISA B. CARR, 6048
CHARLES L. *CARRICK III, 1422
JONATHAN L. CARROLL, 4404
CURTIS J. CARSON, 1953
DAVID H. CARSTENS, 1277
DENNIS A. CASH, 4308
ROBERT J. CASPER, 6705
ROBERT M. CASSIDY, 9074
JOHN CATINO JR., 7379
DONALD R. *CECCONI, 6130
MACIE M. CHAMBERS, 4628
SHARON Y. *CHARLES, 2811
JOHN T. *CHERNEY, 0072
TIMOTHY J. CHMURA, 1477
HERBERT M. CHONG, 1538
THOMAS V. CHRISTENSEN, 6866
CHRISTOPHER J. CHURCHBORNE, 1931
EDDIE W. CLARK, 8941
JOEL J. CLARK, 5643
PATRICK A. CLARK, 6359
RONALD P. CLARK, 0437
SANDRA R. CLARK, 9592
WILLIAM R. CLARK, 3900
KEVIN R. CLARKE JR., 9171
MARTIN C. CLAUSEN, 4855
JEANIE S. CLAXTON, 0016
DAVID C. COCHRAN, 9125
CARL R. COFFMAN JR., 9214
JONATHAN M. COHEN, 9645
ERNEST C. COLEMAN, 7134
JAMES J. CONNELLY, 1790
SCOTT P. CONNORS, 9832
BESHARA J. CONSTANTINE JR., 4909
PETER D. COOK, 8259
JOHN D. COOKSEY, 0878
KEVIN D. COONEY, 6228
CURT S. COOPER, 1010
PAUL COPELAND, 7735
DAMON J. CORBETT, 9763
SHARI L. CORBETT, 6589
THOMAS L. CORE, 5327
DENISE H. CORLEY, 8772
ROOSEVELT H. CORPENING, 8783
CONSTANTINE H. COSTAS, 7062
ANDRE M. COTAROBLES, 1715
SCOTT R. COULTER, 2229
ALEX G. COVERT, 0792
ALLAN L. COVILLE, 8271
CONSTANCE M. COVINGTON, 6623
BRUCE E. COX, 3747
DOUGLAS A. COX, 9738
JOSEPH M. COX, 8889
REGINALD T. COX, 4878
SCOTT A. COY, 0327
JAMES E. CRAIG, 5411
ROBERT S. CRAIG, 0690
MARK A. CRAVENS, 3685
NEIL P. CRIBB, 3524
DOUGLAS C. CRISSMAN, 4708
RICHARD E. CROGAN II, 8008
IVETTE R. CROSBY, 3544
JOHN W. CROSS, 1901
CLIFFORD P. CROW, 5623
EDWARD J. DAES JR., 0404
PAUL R. DANIELS, 5724
DAVID A. DANIKOWSKI, 5054
DUANE A. DANNEWITZ, 5475
ROGER R. DANSEREAU, 6120
JOHN C. DAVIDSON, 8833
ARCHIE P. DAVIS III, 8652
CHARLES M. DAVIS, 4221
LEONEAL. DAVIS JR., 5263
SAMUEL J. DAVIS, 7702
WILLIE L. DAVIS, 6669
DENNIS D. DAWSON, 5589
ROGER A. DEAN, 2176
BRYAN D. DECOSTER, 8100
DONALD E. DEGIDIO JR., 1807
CHRISTOPHER DELAROSA, 0748
TIMOTHY R. DELASS, 3490
FREDERICK R. DENNISON, 7972
GREGORY P. DEWITT, 9890
SONIA R. *DEYAMPERT, 8382
ROBERT P. DICKERSON, 1340
DAVID A. DIEHL, 0743
MICHAEL A. DILLARD, 6280
JOSEPH P. DIMINICK, 8520
RICHARD B. DIX, 4786
PATRICK K. DIXON, 5858
DAVID H. DODSON, 8723
PATRICK J. DONAHOE, 7119
STEVEN L. DONALDSON, 9861
THOMAS T. DORAME, 7329
MARSHALL K. DOUGHERTY JR., 8161
JOHN P. DRAGO, 5367
REGINA K. DRAPER, 8890
MARIA R. DREW, 6364
JON R. DRUSHAL, 5291
CHRIS A. DUDLEY, 1533
DAVID A. DUFFY, 5615
JAMES C. DUGAN, 8917
WILLIAM P. DUGGAN, 1642
MICHAEL R. DULANEY, 7599
PAUL C. DULCHINOS, 6166
STEPHEN F. DUNHAM, 6142
KEVIN R. DUNLOP, 8020
BRIAN P. DUNN, 3044
DWIGHT L. DUQUESNAY, 5690
RANDY D. DURIAN, 3052
LEVERN EADY, 5338
TYRON W. EASON, 6560
BRIAN W. EBERT, 7817
TIMOTHY S. ECOFF, 6275
JOHN O. EDBORG, 8657
CHARLES E. EDGE, 3721
JIMMY D. EDINGER, 1008
SCOTT L. EFFLANDT, 9480
SHANNON L. EGGER, 3530
CHARLES J. EKVALL JR., 6570
JOSHUA M. ELLIOTT II, 3545
MARK A. ELLIOTT, 0113
RICKY L. ELLISON, 8329
HARRIS EMMONS III, 3056
ROBERT D. ERVIN, 6466
ROBERT G. ESTEY, 7190
DALLAS L. EUBANKS, 3415
BEATRICE M. EVANS, 9120
CHARLES M. EVANS, 9719
LUIS A. FAJARDO, 9256
LISA J. FANELLI 1601

ANGELIA D. FARNELL. 8811
MARK F. FASSL. 8101
TIMOTHY L. FAULKNER. 8291
DAVID M. FEE. 4111
SEAN P. FEELEY. 7660
JOSEPH R. FELICIANO. 9953
BENJAMIN R. FELTS JR.. 7729
RICHARD M. FENOLI. 8073
BRYAN P. FENTON. 6373
CHARLES P. FERRY. 4209
DOUGLAS M. FIELDS. 7370
DANIEL A. FINLEY. 8066
JAMES M. FISCUS. 4585
CHARLES A. FISH. 7684
RUSSELL E. FISHER. 1623
THOMAS S. FISHER. 5291
TIMOTHY W. FISHER. 7451
TIMOTHY E. FITZGERALD. 5416
RONALD F. FIZER. 1371
MICHAEL A. FLEETWOOD. 6006
EDWARD R. FLEMING. 5786
MARC A. FLICKER. 4427
ALBERT L. FLOOD III. 5906
JAMES O. FLY JR.. 0062
MATTHEW C. FLY. 5714
FRANCIS D. FLYNN. 4507
SCOTT A. FORSYTHE. 4566
ROGER A. FORTIER JR.. 4383
MICHAEL S. FOSTER. 6933
WILLIAM I. FOX III. 4042
GARY W. FRANKLIN. 3922
GEORGE M. FRASER. 4315
GEORGE L. FREDRICK. 6836
MARK A. FREITAG. 4843
LEE A. FRETWELL. 9682
STANLEY P. FUGATE. 6898
BARRY A. GAERTNER. 4353
CARLOS J. GAINER. 0696
JOSEPH N. GAINES. 9156
WILLIAM J. GALBRAITH III. 3175
EDWARD R. GALLOWITZ. 5230
JOSEPH J. GANDARA. 1108
DANIEL R. GARCIA. 5120
VICTORIANO GARCIA JR.. 6149
ROBERT L. GARDNER. 0921
TODD GARLICK. 8946
KENNETH C. GARRETT. 5355
MARK GATTO. 1983
AARON L. GEDULDIG. 8200
SCOTT M. GEIGER SR.. 7698
EARL F. GENTILE. 8919
CHARLES C. GIBSON. 9041
KAREN H. GIBSON. 6065
PETER A. GIBSON. 5297
JOHN L. GIFFORD. 9278
WILLIAM T. GILLESPIE JR.. 6542
CARL L. GITCHELL. 4828
GEORGE A. GLAZE. 9952
NATHANIEL R. GLOVER. 1141
KEITH M. GOGAS. 2859
MORRIS T. GOINS. 9295
GREGORY M. GOODE. 1718
HERMAN GOODEN JR.. 8697
MICHAEL J. GOULD. 5673
MICHAEL S. GRAESE. 7049
TIMOTHEUS A. GRAHAM. 5498
WILLIAM H. GRAHAM JR.. 4070
DEWEY A. GRANGER. 5656
EARL GRAVETTE. 9771
HOWARD L. GRAY. 7919
JOHN A. GRAY. 2622
ROBERT W. GRAY. 4885
HARDEE GREEN. 0173
RONALD L. GREEN. 2864
WILLIAM J. GREGG JR.. 9851
WAYNE C. GRIEME JR.. 5947
MICHAEL W. GRIFFITH. 1170
JONNY G. GRIGORIAN. 3100
BRUCE H. GUGGENBERGER. 7028
TODD H. GUGGISBERG. 8911
DIXON M. GUNTHER. 7676
CHRISTOPHER S. HAIGH. 8116
JOHN D. HALL. 9125
RUSSELL J. HAMPSEY. 2046
RONALD K. HANN JR.. 5433
JOHN N. HANSEN. 2416
SHANE M. HANSEN. 2250
JOHN A. HANSON. 1300
SAMMIE L. HARGROVE. 1133
VICTOR M. HARMON. 6308
ROBERT A. HARNEY JR.. 0132
BERNARD F. HARRIS JR.. 0625
CHARLES P. HARRIS. 5198
DARRELL E. HARRIS. 0907
PATRICK O. HARRIS. 8592
SCOTT A. HARRIS. 0437
JEFFREY S. HARRISON. 0548
MICHAEL J. HARTIG. 1901
HERMAN G. HASKEN III. 2386
ADRIAN H. HAYNES JR.. 5370
ANGELA D. HAYNES. 8348
ANGELA N. HAYNES. 3712
WILLIE V. HEARNE. 3133
CHARLES C. HEATHERLY. 0453
DOLORES M. HEIB. 5738
DEAN D. HEITKAMP. 8083
JOSEPH P. HENDERSON. 5863
STEPHEN E. HERRING JR.. 7609
JAMES D. HESS. 8426
SEAN W. HIGGINS. 9385
CHRISTOPHER P. HIMSL. 9097
JON M. HINCHCLIFFE. 3203
MARK R. *HIRSCHINGER. 4588
ROBERT T. HIXON. 5221
RICHARD G. HOBSON. 4240
BARRY W. HOFFMAN. 7176
SCOTT J. HOFFMANN. 3562
CHRISTOPHER J. *HOGUET. 8240
MARTIN J. HOLLAND. 3584
CHRISTOPHER S. HOLLY. 5385
RALPH A. HOLSTEIN. 3332
CHARLIE P. HOLT JR.. 4811
PAUL S. HOSSENLOPP. 6709
SEAN HOTALING. 7685
SAMUEL C. HOUSTON JR.. 5481
WILLIAM L. HOWARD JR.. 3394
JENNIFER M. HOYLE. 9344
BARRY F. HUGGINS. 0579
GEORGE D. HUGGINS. 5616
SCOTT F. HUME. 2945
CHARLES F. HYDE. 6952
MICHAEL P. HYNES. 7252
MICHAEL A. IACOBUCCI. 8170
ROBERT D. IBARRA. 0083
DAVID S. IMHOF. 1887
LEO M. IMPAVIDO JR.. 0059
SEBASTIAN O. INGRAM. 2148
DOUGLAS L. INGROS. 5709
MICHAEL E. IRATCABAL. 7172
JOSEPH M. *IRBY. 1576
DAVID T. ISAACSON. 3532
SCOTT D. JACKSON. 3534
THOMAS P. JAMESON. 9695
TERRY J. JAMISON JR.. 4434
JAMES B. JARRARD. 1148
BRUCE D. JENKINS. 5750
STEPHEN E. JESELINK. 1057
FREDERICK H. JESSEN. 0310
ANGELO W. JOHNSON. 0458
DARRYL H. JOHNSON. 5587
DARYL S. JOHNSON. 2526
GREGORY A. JOHNSON. 6553
MICHAEL J. JOHNSON. 4573
PHILLIP M. JOHNSON JR.. 3887
RONALD M. JOHNSON. 0809
ROSSIE D. JOHNSON. 4680
JOHNNY J. JOHNSTON. 2062
CRAIG W. JONES. 4387
DAVID S. JONES. 6385
JERRY C. JONES. 1687
PATRICIA A. JONES. 1309
RONALD D. JONES. 9885
ALGIE M. JORDAN III. 8200
KAREN Z. JORDAN. 6334
CHRISTOPHER A. JOSLIN. 0658
KEITH L. JUNE. 4263
FREDRIC E. KAEHLER. 9745
ROBERT E. KAISER. 9213
ARTHUR A. KANDARIAN. 0031
GREGORY P. KANDT. 0299
RICHARD M. KANNEY. 3943
THOMAS J. KARDOS. 5816
MATTHEW C. KAUFMAN. 4334
PHILLIP G. KAUFMANN. 4332
MICHAEL H. KAUTZ. 4473
RALPH L. KAUZLARICH. 6682
JAMES A. KEARSE. 3138
JOHN D. KEITH. 9047
MATTHEW S. KELLEY. 9953
DAVID M. KELLY. 7965
STEVEN W. KELLY II. 4688
RICHARD B. KEMPF. 4103
CHRISTOPHER KENDZIERA. 5165
STEPHEN J. KEPPLER. 7916
ROGER D. KERN. 9248
JOHN W. KING II. 0084
RONALD KIRKLIN. 9266
ROBERT R. KISER. 5075
RICHARD P. KLEIN. 1313
SHAWN M. KLIEGL. 3946
LENNY J. KNESS. 5601
LANCE R. KOENIG. 6597
JOHN M. KOLESSAR. 0367
AIMEE L. KOMINIAK. 0314
STEVEN R. KRAMER. 8384
SCOTT P. KUBICA. 0249
DALE C. KUEHL. 5273
THOMAS G. KUNK. 3991
JOHN G. KUNKLE. 3561
KEITH D. LADD. 4894
JAMES A. LAFFEY. 2810
SAMUEL E. LAMB. 1726
SHIRLEY J. LANCASTER. 9542
KEVIN A. LANDY. 7985
DONALD A. LANNOM. 2432
ROBERT S. LARSEN. 3019
GREGORY P. LARSON. 6343
LOUIS J. LARTIGUE JR.. 5738
GREGORY D. LAUTNER. 3987
JOHN P. LAWSON. 4965
MICHAEL L. LAYRISSON. 8634
ROBERT E. LAZZELL II. 1880
WILLIAM J. LEADY JR.. 4045
JAMES P. LEARY. 8267
EDWARD C. LEDFORD. 6764
PETER J. LEE. 6482
ADAM J. LEGG. 2586
ROBERT J. LEHMAN. 5335
CHAD G. LEMAY. 1610
BOHDAN W. LETNAUNCHYN. 6155
JACQUELINE B. LETT. 8474
MICHAEL S. LEWIS. 6002
SAMUEL M. LIGO. 0813
ROBERT C. LING. 5587
DENISE A. LITTLE. 3573
MANFRED L. LITTLE II. 1227
RUSSELL M. LIVINGSTON. 1868
SCOTT J. LOFREDDO. 7632
CHRISTOPHER D. LONG. 9219
JAMES J. LOVE. 4838
RICARDO M. LOVE. 2890
JAMES B. LOWERY III. 4967
JAMES E. LUCAS. 1250
DAVID J. LUDERS. 4387
MICHEL J. LUGO. 8828
GEORGE A. *LUMPKINS. 5165
ANNIESTINE D. LUNDY. 6326
ANGELA M. LUNGU. 4044
VIET X. LUONG. 0232
BRIAN M. LYNCH. 9523
DAVID L. LYNCH. 8127
JOHN M. LYNCH JR.. 4523
JOHN M. MACHESNEY. 5919
KERRY J. MACINTYRE. 6842
KEVIN S. MACWATTERS. 9250
LAWRENCE H. MADKINS III. 4106
JIMMIE C. MAHANA. 7164
PATRICK J. MAHANEY JR.. 6210
DAVID W. MAJOR. 3022
DOUGLAS J. MALAN. 3296
STEPHEN G. MANDES. 5777
JOHNATHAN E. MANKEL. 5375
JOEL B. MANNING. 5674
MARK L. MARCHANT. 4634
GWEN C. MARSHALL. 0388
THOMAS R. MARSHALL. 9061
TIMOTHY J. MARSHALL. 3860
JEFFREY R. MARTINDALE. 1972
SCOTT W. MARYOTT. 6979
CLAUDIA L. MASON. 7628
GLEN A. MASSET. 1811
DAVID A. MASTERSON. 4045
SHELLY R. MATAUTIA. 1669
MICHAEL E. MATHES. 8197
PATRICK E. MATLOCK. 0903
DOUGLAS C. MCALLISTER. 9205
GAYLON L. MCALPINE. 6632
DAVID J. MCCARTHY. 2590
FRANK MCCLARY. 4841
GARRY W. MCCLENDON. 5744
GREGORY R. MCCLINTON. 6508
JAMES N. MCCLOSKEY. 7758
CALVIN R. MCCOMMONS. 2054
JIMMY L. MCCONICO. 7608
OAKLAND MCCULLOCH. 8545
JARVIS B. MCCURDY. 1943
CHRISTOPHER T. MCCURRY. 6552
RICHARD F. MCCUSKER. 9889
RONNIE K. MCDANIEL. 9282
ROBERT C. MCDOWELL. 7108
EDWARD G. *MCGINLEY. 0869
MICHAEL L. MCGINN. 9765
MICHAEL J. MCGUIRE. 6048
PAUL A. MCINNIS. 1609
KIRK E. MCINTOSH. 3900
TIMOTHY A. MCKERNAN. 9517
JOHN E. MCLAUGHLIN. 7343
STEPHEN T. MCMILLAN. 7881
CHARLES L. MCMURTREY. 7131
JAMES T. MCNAIR. 1578
CORNELL MCNEAL. 3652
CHAD B. MCREE. 0618
PHILLIP A. MEAD. 0135
JOSHUA MELENDEZ. 1250
BRIAN J. MENNES. 4313
TODD A. MESSITT. 4183
WILLIAM P. METHENY III. 1471
RONALD J. METTERNICH. 1613
GREG E. METZGAR. 1613
TOM J. MEYER. 1266
DREW R. MEYEROWICH. 0432
TERRY P. MICHAELS. 8550
LYMUS MIDDLETON JR.. 9640
STEPHEN A. MIDDLETON. 8549
MARK F. MIGALEDDI. 3887
JOHN S. MIKOS. 3947
BLAINE I. MILLER. 5686
MICHAEL D. MILLER. 9129
RONNIE M. MILLER. 0808
TODD D. MILLER. 6134
STEVEN F. MILLNER. 5526
SCOTT S. MILLS. 2868
PATRICK D. MINER. 0912
MICHAEL W. MINOR. 5421
JAMES J. MINGUS. 2565
MARK D. MIRAGE. 5587
DANIEL S. MISHKET. 4667
MARK E. MITCHELL. 5329
MICHAEL D. MITCHELL. 9792
RICARDO J. MITCHELL. 7099
DONNA E. MOHNEY. 6212
PETER C. MOLIN. 2449
WILLIAM H. MOLLER. 1668
KIMBERLEY J. MONDONEDO. 5862
EDWARD M. MONK. 7196
BRUCE J. MONTGOMERY. 1780
DORIS P. MONTGOMERY. 0111
MICHAEL C. MOORE. 9136
PETER J. MORET. 7100
MICHAEL J. MORONEY. 9304
RODNEY S. MORRIS. 2477
TODD B. MORRIS. 8052
DAVID W. MORRISON. 8022
ROBERT D. *MORSCHAUSER. 6003
NANCY L. *MORSE. 7491
WILLIAM L. MOSELEY. 9839

MARK A. MOSER, 4071
TIMOTHY E. MOUL, 6883
WILLIAM B. MOWERY, 9402
FRANK MUGGEO, 1517
MICHAEL T. MURPHY, 6220
KEITH E. MUSCHALEK, 2173
ALFREDO J. MYCUE, 3276
STEPHEN C. MYERS, 9080
PETER F. NAJERA, 9523
BOBBIE K. NAPIER, 6404
DAVID W. NAPIER, 7628
JOHN J. NELSON, 0624
JOSEPH A. NELSON, 6036
JOHN C. NEWSOME, 3855
TIMOTHY E. NEWSOME, 0500
KEITH R. NICOLETTI, 5644
CHRISTOPHER M. NOLTA, 2092
ERIK A. NORDBERG, 7757
JOHN E. NOVALIS II, 7953
RICKY J. NUSSIO, 6881
JAMES M. OBRIEN, 3735
LAUREL D. OCONNOR, 4935
MARK W. ODOM, 7741
JOHN E. OMALLEY, 9651
JEFFREY K. OPPERMAN, 9910
KEITH R. ORAGE, 9053
JERRY R. ORBAN, 7867
TIMOTHY W. ORNER, 6827
FELIX *ORTIZ, 6766
ORLANDO W. ORTIZ, 4990
CRAIG A. OSBORNE, 0020
TYLER C. OSENBAUGH, 5076
MARK E. OVERBERG, 3345
DARRYL A. OWENS, 4489
WADE A. OWENS, 4066
JOSEPH H. PACE, 6968
GREGORY W. PACKER SR., 3573
BRIAN R. PAGE, 0092
DANIEL D. PAGE, 3749
EMILY S. PALMER, 7106
STEVEN R. PALMER, 8088
PAUL M. PAOLOZZI, 1044
CHRIS P. PAPAIOANNOU, 0244
MICHAEL A. PARK, 8505
DENNIS M. PARKER, 6412
ERIK N. PARKER, 0484
GREGORY M. PARRISH, 9086
CHRISTOPHER R. PARSONS, 1345
EDWIN E. PASCUA, 3174
MICHAEL S. PATTEN, 7375
MARK C. PATTERSON, 7325
COURTNEY W. PAUL, 3646
WILLIAM R. PEACOCK, 5292
BARRETT K. PEAVIE, 0489
MICHAEL D. PEMRICK, 9822
CLINTON R. PENDERGAST, 0062
JOHN W. PERFETTI, 7867
AXA S. PERWICH, 4249
MICHAEL P. PETERMAN, 9999
COBY M. PETERSEN, 7975
JAY L. PETERSON, 3650
KENNETH M. PETERSON, 3898
DONALD V. PHILLIPS, 1153
JAMES W. PHILLIPS, 1089
STEPHEN J. PINETTE, 1182
JOHN R. PLATT, 3407
MICHAEL J. PLUMMER, 7730
JOHN L. POLLOCK, 2853
ROBERT L. POPOWSKI, 8928
ANDREW P. POPPAS, 9179
MARK E. POWELL, 2526
SCOTT W. *POWER, 9179
LISA K. PRICE, 8494
BRIAN L. PRINCE, 5896
MARK T. PUHALLA, 5468
MICHAEL D. PYOTT, 5838
DAVID E. QUICHOCHO, 9899
MARUE R. QUICK, 6348
TIMOTHY W. QUILLIN, 4056
MATTHEW S. QUINN, 5564
ROBERT E. QUINN, 6115
MARIA L. QUINTANILLA, 7342
WENDEL N. QUON, 5290
TODD R. RATLIFF, 4561
RANDY W. READSHAW, 2735
PERRY D. REARICK, 2819
BRANSON P. RECTOR, 3925
MICHAEL T. RECTOR, 2226
KIETH W. REED, 4539
LYDIA V. REEVES, 4970
DAVID M. REGAN, 4648
VERNIE L. REICHLING JR., 2497
ALFRED E. RENZI JR., 3457
ERNEST J. RESCHKE, 9280
MARTIN B. REUTEBUCH, 6970
JOHN C. REYNOLDS, 4290
SCOTT T. RHODA, 5697
KENNETH E. RICE, 5989
MARK A. RICE, 0905
KENT R. RIDEOUT, 3220
EDWARD F. RIEHLE, 2750
ALFONSO RIERA, 2129
WILLIAM S. RIGGS, 2811
FREDERICK A. RIKER, 0578
JOHN M. RILEY, 9894
ANTHONY P. RISI, 3975
RONALD J. RISPOLI JR., 0474
NATHANIEL RIVERS, 4399
WILLIAM J. RIVETT, 7654
DOUGLAS C. ROBBINS, 0634
TODD C. ROBBINS, 9308
DIANNA ROBERSON, 5417
ALICE R. ROBERTS, 5708
MECCA M. ROBINSON, 1791
MONTROSE L. ROBINSON, 3267
JONATHAN D. RODDEN, 2415
MARK L. RODWELL, 9819
STEVEN J. ROEMHILDT, 5212
BRIAN L. ROGERS, 3491
EMMITT W. ROGERS, 6639
GWENDOLYN S. ROLAND, 0338
CHRISTOPHER J. ROLLINS, 3255
KENNETH A. ROMAINE JR., 9551
STEVEN M. ROSCOE, 4885
MICHAEL W. ROSE, 6834
DAWN M. ROSS, 0782
STONEY L. ROSS, 4189
THOMAS J. ROTH, 6812
MICHAEL J. ROUNDS, 9639
PAUL D. ROUNSAVILLE, 7470
REBECCA A. ROUSE, 8809
KENNETH M. ROYALTY, 1780
KENNETH T. ROYAR, 6091
SCOTT E. RUBITSKY, 0616
JAY N. RUDD JR., 9712
DONNA E. RUTTEN, 9830
JAMES E. SAENZ, 9758
RICKEY L. SALLEE, 5640
CHRISTOPHER W. SALLESE, 9557
GREGORY J. SALOMON, 4586
JOSEPH V. SAMEK, 9772
SCOTT E. SANBORN, 5987
MICHAEL A. SANCHEZ, 5966
MICHAEL C. SANTOS, 8200
DINO J. *SARRACINO, 6134
TONY J. SARVER, 8293
JOSE F. SAUCEDO, 5855
JEFFREY T. SAUER, 6221
JOHN C. SAUER, 6548
MICHAEL R. SAYERS, 3277
KATHERINE A. SCANLON, 1130
ROBERT L. SCHAEFER, 7510
RONALD A. SCHIER, 8782
JEFFERY R. SCHILLING, 4390
GERHARD P. SCHROTER, 5955
RICHARD H. SCHULZ, 9047
MARK C. SCHWARTZ, 9935
STEVEN A. SCIONEAUX, 0031
BRADLEY B. SCOFIELD, 6715
CASEY P. SCOTT, 8568
KELVIN K. SCOTT, 4152
SEAN M. SCOTT, 9378
LOWELL A. SEAL, 7573
DAVID M. SEARS, 8520
KIRK E. SESSIN, 3294
JOSEPH C. SHANNON, 7733
DARRYL S. SHAW, 6220
SIMUEL SHAW III, 5830
DANIEL R. SHEA, 8811
MICHAEL L. SHENK, 0186
IVAN B. SHIDLOVSKY, 6988
DARRYL L. SHIRLEY, 9951
WILSON A. SHOFFNER JR., 8488
CHRISTOPHER R. SHOTTS, 4354
THOMAS L. SHREVE, 2934
ROGER L. SHUCK, 5472
DEAN P. SHULTIS, 5530
RONALD L. SHULTIS JR., 1390
VAL A. SIEGFRIED, 7290
REGINALD L. SIKES JR., 7246
JANET A. SIMMONS, 7365
JOHN F. SINGLETON, 0029
GREGG A. SKIBICKI, 9207
KARL E. SLAUGHENHAUPT, 9418
ANNETTE M. SMALLS, 9447
JEFFREY S. SMIDT, 2027
AVANULAS R. SMILEY, 6331
IRVING SMITH III, 2810
JOSEPH K. SMITH, 9921
RANDY L. SMITH, 3191
TROY A. SMITH, 8888
ROSS W. SNARE III, 2390
BRUCE K. SNEED, 2273
DAVID B. SNODGRASS, 3090
MICHAEL W. SNOW, 3345
DAVID A. SNYDER, 7749
KELLY J. SNYDER, 4048
ROBERT A. SNYDER JR., 7691
DONALD G. SOHN, 9508
CHERYL Y. SOLOMON, 9712
BRUCE V. SONES, 9968
PATRICK A. SOOS, 3141
ELMER R. SOYK, 5065
WILLIAM M. STACEY, 7780
RONALD R. STALLINGS, 0012
DAVID W. *STANDRIDGE, 5483
MARK E. STANLEY, 3435
TYRON D. STANLEY, 5295
ALBERT J. STAROSTANKO, 8672
ANNELIESE M. STEELE, 7793
TROY A. STEPHENSON, 9117
DALE B. STEWART, 4345
TOD A. STIMPSON, 9908
DANIEL E. STOLTZ, 6756
ANGELA K. STOWMAN, 3525
MARK A. STRONG, 8718
DAVID M. STROUD, 5360
FRANK D. STUREK, 2932
SHERAL D. STYLES, 2795
GREGORY O. SUDMAN, 8244
EUGENE R. SULLIVAN, 5111
JOHN P. SULLIVAN, 4464
KENNETH M. SULLIVAN, 4348
LESLIE J. SULLIVAN, 8341
MARK S. *SULLIVAN, 2424
ROBERT V. SUSKIE JR., 9753
JAYME M. SUTTON, 8421
KENNETH D. SWANSON, 9269
JOHN M. SWARTZ, 9275
KINA B. SWAYNEY, 8613
ERIC D. SWEENEY, 1433
SEAN P. SWINDELL, 2429
JASON T. TANAKA, 3856
DANA S. *TANKINS, 4422
PATRICK J. TAPEN, 4752
RICK A. TARASIEWICZ, 8778
MICHAEL J. TARSA, 1597
FRANK W. TATE, 5374
KEVIN W. TATE, 1261
BRADLEY S. TAYLOR, 7737
IVERY J. TAYLOR, 2613
JOEL C. TAYLOR, 6198
MARK C. TAYLOR, 6729
TROY E. TECHAU, 6768
ROY D. TEMPLIN, 1548
JAMES M. TENNANT, 3641
WILLIAM O. THEWES, 4854
GREGORY M. THOMAS, 9134
SIDNEY R. THOMAS, 8890
WAYNE L. THOMAS, 8945
DWAYNE D. THOMPSON, 8789
BERNADINE I. THOMSON, 2053
RICKY L. TILLOTSON, 4925
PATRICK E. TILQUE, 6786
DANNY F. TILZEY, 3571
EVELYN TIRADO, 1384
TIMOTHY J. TODARO, 2227
JOHN A. TOKAR, 9048
DANIEL N. TORRES, 8364
RAFAEL TORRES JR., 4079
PAUL D. TOUCHETTE, 9404
STEPHEN A. TOUMAJAN, 0649
ROBERT N. *TOWNSEND, 1874
RICHARD M. TOY, 0001
PETER T. TREBOTTE JR., 9382
MANUEL C. TREVINO, 5417
THOMAS J. TROSSEN, 7435
CARL R. TROUT, 1535
SCOTT M. TROUTMAN, 7775
PHILLIP M. TRUED JR., 8100
BRYAN P. TRUESDELL, 9358
HOWARD L. TRUJILLO, 6648
CARL L. TUCKER, 2495
STEVEN L. TUCKER, 7321
DARRYL J. TUMBLESON, 1709
LEROY L. TUNNAGE, 6319
ERIC C. TURNER, 7721
ROSENDO VALENTIN, 4434
MATTHEW J. VANDERFELTZ, 0099
KURT P. VANDERSTEEN, 7506
CHARLES H. VANHEUSEN, 8396
DANIEL L. VANNUCCI, 3637
BRIAN F. VAUGHN, 2233
JOHN M. VENHAUS, 0206
ARLESTER VERNON JR., 9743
RICHARD S. VICK JR., 4911
JEFFREY J. VIEIRA, 4064
PHILLIP D. VONHOLTZ, 1647
DAVID G. WADE, 9995
ROBERT P. WADE, 7617
MARTIN S. WAGNER, 7618
CHRISTOPHER E. WALACH, 6437
DAVID L. *WALDEN, 2734
CARLOS L. WALKER JR., 1399
MICHAEL R. WALKER, 2599
CHERIE S. WALLACE, 6070
KENZIE WALLACE, 7920
JOHN C. WALLER, 0078
DANIEL R. WALRATH, 6671
TIMOTHY W. WALROD, 6332
MICHAEL T. WALSH, 3449
FREDERICK K. WALTER, 4775
ROBERT B. WALTER, 0805
TIMOTHY C. WALTER, 1078
MARK L. WALTERS, 7181
WAYNE M. WALTERS, 2844
KELLY J. WARD, 2788
LLOYD R. WASHINGTON, 8746
TIMOTHY B. WASHINGTON, 5865
JOHN C. WATERS, 8271
JOSEPH D. WAWRO, 6762
JERRY J. WAYNICK, 1987
BRENT N. WEAVER, 3811
JOHN M. WEBB, 1436
MICHAEL J. WEBB, 0820
AARON A. *WEBSTER, 4466
ALLAN L. WEBSTER, 0204
RUSSELL A. WEIR, 0113
THOMAS M. WEISZ, 4909
LEONARD E. WELLS, 3646
ERIC M. WELSH, 3348
LESLEY W. WELSH, 2769
JAMES P. WETZEL, 4890
TIMOTHY J. WHALEN, 9389
RICHARD S. WHEELER, 8988
DAVID O. WHITAKER, 6228
BENJAMIN M. WHITE, 2765
HERBERT B. WHITE JR., 0312
RICHARD E. WHITE, 4988
BARRY K. WILLIAMS, 2010
BOBBIE L. WILLIAMS SR., 6091
EDWARD A. WILLIAMS, 1754
PATRICK W. WILLIAMS, 5808
RONALD J. WILLIAMS, 8002
LAUREN B. WILSON, 3945
BRIAN E. WINSKI, 0229

JEFFREY J. WINTERS, 3969
MARK E. WISECARVER, 4647
DONALD M. *WIX JR., 4091
TODD R. WOLF, 6563
ROGER M. WOOD, 3811
JOEL A. WOODWARD, 2450
DAVID J. WRAY, 5589
STEPHEN C. WREN, 0991
TIMOTHY R. WULFF, 0493
SHAUN T. WURZBACH, 7309
FRANCIS E. WYNNE, 7772
JOSEPH YAKAWICH, 6144
THOMAS J. YANOSCHIK, 2717
CATHERINE A. YARBERRY, 1701
BETTY J. YARBROUGH, 1766
GARETH S. YOUNG, 6030
GEORGE R. YOUNG II, 3392
LAWRENCE T. ZABEN JR., 1130
FRANK ZACHAR, 1675
STEPHEN M. ZACHAR, 7846
JAMES G. *ZELLMER, 8668
GUY M. ZERO, 7293
JOHN R. ZSIDO, 8479
MARIA T. ZUMWALT, 2091
X0005
X0006
X0007

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

RICHARD K. ADDO, 4379
JEFFREY P. ANGERS, 2372
FRANCISCO ARCE, 7831
RICHARD A. AST, 2567
BRYAN F. AVERILL, 8361
CHRISTOPHER M. BADO, 1681
PETER J. BADOIAN, 5462
ARTHUR H. BAIR III, 6587
STEVEN D. BEHEL, 8299
TIMOTHY E. BIRKENBUEL, 6263
KURT A. BODIFORD, 4589
ROBERT W. BORDERS, 6198
ALLEN T. BOYD, 8295
MICHAEL R. BRIDGES, 7226
DARRELL L. BRIMBERRY, 1392
SAN L. BROWN, 8388
SHAWN P. BUCK, 9398
GREGORY J. BURKE, 9147
ROBERT E. BURKS JR., 9656
LESTER J. CAMPBELL, 2260
DOUGLAS A. CARR, 3869
SHANNON S. CLABURN, 3136
JOHN R. CRINO, 7841
ALVIN F. CROWDER III, 9196
DAVID M. CROY, 3917
CLAYTON M. DAUGHTRY, 9030
KENT D. DAVIS, 0285
KENNETH L. DEAL JR., 1864
MARK D. DRABECKI, 5610
DANIEL E. EVANS, 8588
BARRY C. EZELL, 4060
KIMBERLY FIELD, 9104
NEIL E. FITZPATRICK, 8002
KEITH E. FLOWERS, 0688
ROBERT B. FOUTZ, 9513
DAVID N. FRALEN, 2966
JOHN A. GEORGE, 8173
TODD M. GESLING, 2557
JAMES A. GLACKIN, 2487
BRUCE J. GORSKI, 7087
THOMAS J. GOSS, 0540
STACY A. GRAMS, 1391
SONIA I. GRIFFIN, 9548
DAVID K. GRIMM, 9039
JOHNNY HALL JR., 8930
ERIC P. HARRIS, 0092
TIM C. HARRIS, 9818
BENJAMIN E. HENDERSON, 1851
WILLIAM R. HENSLEY JR., 0397
ROBERT E. HENSTRAND, 3311
BRENDA L. HICKEY, 8103
MARK H. HLADKY, 7413
RICHARD J. HOLDREN, 4435
FRANCIS L. HOLINATY, 5046
RICHARD D. HORSLEY, 5761
EVAN A. HUELFER, 1869
FERNANDO M. HUERTA, 0001
ROBERT S. HUGHES, 1163
GILBERT G. HURON, 5778
EDMOND L. *IRIZARRY, 9109
CURTIS D. JACKSON, 8712
KORYA J. JAMES, 5625
KARL A. JEHLE, 4515
JOHN H. JESSUP, 2035
MICHAEL R. JOHNS, 0335
MICHAEL W. JOHNSON, 8241
DARVIN H. JONES, 3119
JOHN K. JONES, 6212
ROBERT S. JONES, 6610
JOHN M. KEETER, 4362
THOMAS A. KELLEY, 1097
ILEAN K. KELTZ, 2314
PATRICK J. KIRK, 3474
STEVEN D. KNIGHT, 4954
HAROLD M. KNUDSEN, 8211
DAVID P. KOMAR, 6055
JOHN F. KOPE, 8772
DEAN A. KRATZENBERG, 7680
CLEMENT J. LANIEWSKI, 9659
BOBBI J. LEYES, 6281
MARK W. LUKENS, 2919
CHARLES H. LUNATI, 2646
THEODORE L. MAGUDER III, 2664
KEVIN B. MARCUS, 3303
MATTHEW W. MARKEL, 0171
EDWARD J. MARTIN, 1788
JOHN A. MAUK, 5819
DOUGLAS F. MCCOLLUM, 8423
ANDREW J. MCCONACHIE, 0913
QUINTON W. MCCORVEY, 6478
MICHAEL V. MCCREA, 5436
THOMAS B. MCGEACHY, 4056
MARK A. MCNAIR, 5606
ARIE J. MCSHERRY, 8336
TIMOTHY D. MEREDITH, 8258
THOMAS F. MOORE, 2044
RICHARD J. NIEBERDING JR., 2379
CHAD W. OCHS, 6585
CARL J. OHLSON, 5228
STANLEY J. OLENGINSKI, 0357
GREGORY A. OLSON, 8233
CATHERINE E. PACE, 1001
RUSSEL A. PATISHNOCK, 5395
GREGORY S. PERROTTA, 4055
JOAN M. PERRY, 0463
JAMES C. PHELPS III, 2660
JAMES C. PIETSCH, 4745
BRADLEY W. PIPPIN, 6620
THOMAS P. POPLAWSKI, 0543
JOHN A. POTTS, 2822
GARY D. QUINTERO, 3710
SCOTT A. RAINEY, 9196
RODNEY L. ROEDERER, 8266
KARL O. SCHWARTZ, 0045
ALAN SEISE, 1182
ROBERT G. SHIRLEY, 1820
VAN R. SIKORSKY, 3888
EUGENE SIMON, 9908
MICHAEL E. SIMONELLI, 4654
ERIC L. SINGER, 2521
DAVID R. SMITH, 7625
BRYNDOL A. SONES, 3551
WILLIAM T. SORRELLS, 8168
JEFFREY L. SPONSLER, 1369
HEYWARD STACKHOUSE, 3061
JEFFREY J. STORCH, 9861
JAMES A. SWORDS, 1436
BRANDON T. THOMAS, 6861
STEVEN G. THOMAS, 5647
TIMOTHY R. THOMAS, 2933
MICHAEL E. TURNER, 8872
JOHN T. VOGEL, 6028
CHRISTINE J. VOISINETBENDER, 5884
WILLIAM J. WANOVICH, 3535
LAWRENCE J. WARK, 3414
JACQUELINE K. WESTOVER, 0032
JAMES P. WHITE, 5865
WESLEY B. WHITE, 6646
JOEL C. WILLIAMS, 8423
CHRISTOPHER S. WILSON, 5553
ROBERT K. WINEINGER, 0437
VERONICA S. ZSIDO, 4782

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

BRYAN K. ADAMS, 7356
GEORGE A. ANDARY, 7980
WILLIAM G. APIGIAN, 4628
KEVIN V. ARATA, 3178
GARY R. ARNOLD, 5452
MARK BAKUM, 6097
MARK J. BALLESTEROS, 5211
WAYNE S. BAREFOOT JR., 3530
ROBERT G. BARTHOLET, 8778
WILLIAM R. BECKMAN, 8951
BRIAN P. BEDELL, 8050
MICHAEL J. BESSASPARIS, 8476
WILLIAM F. BIGELOW, 8759
VINCENT C. BONS, 0874
CALVERT L. BOWEN III, 5449
BARTON B. BROWN, 0606
JOHN R. BRUDER, 6786
SHAWN A. BUDKE, 4020
JOHN R. BURGER, 0960
DUANE T. CARNEY, 2601
HUGH C. CATE III, 8141
BRUCE D. CAULKINS, 7047
ALGIS J. CESONIS, 5254
CARMINE CICALESE, 6749
PATRICK E. CONNORS II, 6970
CHRISTOPHER D. CONWAY, 4922
JAMES D. COOK, 4553
PAUL J. COOPER, 6244
JOHN R. CORNELIO, 7516
BENTON A. DANNER, 3418
RICHARD J. DOW, 3815
JOSEPH P. DRAGO, 4758
JAMES A. EGAN, 0894
DAWN M. EISERT, 1550
MICHAEL S. EIXENBERGER, 1561
MANUEL V. ESPINOSA, 1281
DAVID C. FARLOW, 9775
MICHAEL J. FERRONE, 7277
PAUL M. FITZPATRICK, 9400
ROBERT F. FOLEY, 3778
CARL E. FOSSA JR., 9310
CURTIS R. FOX, 3456
JOHN A. FURLOW, 9340
HOLVIN GALINDO, 5101
MICHAEL GERICKE, 9429
ROBERT B. GILPIN, 1552
LEE P. GIZZI, 7455
SIMON R. GOERGER, 5758
JOHN M. GRAHAM JR., 8736
DAVID W. GROB, 8869
ERIK O. GUNHUS, 2928
LAWRENCE T. HALL JR., 0528
CARY C. HARBAUGH, 7535
VICTOR A. HARRIS, 2314
FREDRICK D. HOSKINS, 5183
JOSEPH F. HUIBSCH, 7555
ROBERT L. HULSLANDER, 0125
JAMES E. HUTTON, 6588
BOBBY F. JARVIS JR., 3601
DAVID G. JOHNSON, 9432
JEFFREY W. KILGO, 0666
TAMMY L. KNOTT, 4438
GARY M. KOLB, 9582
KENNETH M. KRUMM, 7397
EDWARD C. LARSEN, 6348
LARRY R. LENKEIT, 5869
THOMAS A. LETO, 5804
ROBERT C. LOGSDON, 0615
ANDRES A. LOPEZ, 6065
LOIS J. LOVE, 2406
MARK J. LUNDTVEDT, 9909
RAYMOND J. MAIER, 1311
STEVEN M. MARROCCO, 8622
ERASMO A. MARTINEZ, 1984
DOUGLAS V. MASTRIANO, 4673
MATTHEW D. MATTER, 8524
MCGEE A. MCCARTHY, 8380
JOHN J. MCDANIEL, 0018
MICHAEL F. MCDONOUGH, 0328
KENNETH W. MCDORMAN, 8983
MICHAEL K. MCFARLAND, 9802
MICHAEL D. MCNETT, 8035
JAMES R. MEISINGER, 6356
CHRISTOPHER W. PAYNE, 6287
KEITH M. PERKINS, 3370
JAMES D. REDWINE, 7779
SCOTT P. ROSEN, 5506
DONALD M. ROSS, 9848
ANTHONY J. SCHMITZ, 3108
TIMOTHY R. SCHMOYER, 6667
KEVIN W. SIMPSON, 6726
BRIAN S. SNEDDON, 3986
EDWARD J. SOBIESK, 4131
STEPHEN C. SOBOTTA, 2743
MATTHIAS A. SPRUILL IV, 2238
WAYMON E. STALLCUP, 1103
RICHARD G. STEELE, 8447
MATTHEW A. STERN, 1563
DONALD F. STEWART, 9710
WAYNE P. STILWELL, 5968
STEVEN W. STONE, 8516
JEROME P. TERRY, 3914
ANNETTE L. TORRISI, 0037
RANDAL R. VICKERS, 6990
WILLIAM T. WADSWORTH JR., 2795
JOHN F. WEGENHOFT IV, 1162
JOHN C. WILLIAMS, 8483
JONATHAN B. WITHINGTON, 3424
JOSEPH M. YOSWA, 3658

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

SCOTT E. ALEXANDER, 7366
MATTHEW H. AMBROSE, 9983
THOMAS J. ANDERSON, 9191
STEVEN W. AYERS, 5080
MICHAEL J. BAGLEY, 8085
RUSSELL N. BAILEY, 6701
TERRANCE J. BAKER, 6371
DOUGLAS T. BANKS III, 1107
DAVID G. BASSETT, 8360
PAUL K. BAUMANN, 0262
ANDREW M. BERRIER, 4118
JAMES A. BLANCO, 9566
JEFFREY T. BOCHONOK, 7106
RALPH BOECKMANN, 4803
WILLIAM M. BORUFF, 6656
SCOTT P. BOSSE, 1537
BRIAN E. BOSWORTH, 0817
SAUL BRACERO, 5348
DAVID M. BROCK, 4146
ANDREW I. BROWN, 9777
MICHAEL E. BROWN, 9996
STEPHEN M. BRUCE, 7617
PATRICK W. BURDEN, 9457
KATHLEEN A. CANNON, 1247
ROBERT K. CARNAHAN, 4735
JOHN A. CHICOLI, 4373
HONG K. CHUNG, 9978
TIMOTHY D. CHYMA, 8967
PHILIP B. CLEMMONS, 2323
GREGORY J. COOK, 6844
THOMAS S. COOK, 2373
KENNETH D. COPELAND, 7817
BRIAN P. CUMMINGS, 1414
CLIFF A. DAUS, 8528
CHRISTOPHER P. DAVIS, 8786
ROBERT B. DAVIS, 5370
PAUL B. DEGIRONIMO, 3838
ANDREW J. DIMARCO, 5482

JIMMY E. DOWNS, 8020
CHARLOTTE D. *DRIVER, 8961
STEVEN M. ELLIOTT, 4799
GARY D. ESPINAS, 1896
KENNETH C. EVENSEN, 0648
ROBERT J. FAGAN, 3741
WILLIAM E. FIELD, 3557
CARLOS A. FIGUEROA, 3889
MICHAEL J. FINNEGAN, 6762
THOMAS P. FLANDERS, 9273
ROBERT E. FLETCHER, 0533
STEPHANIE L. FOSTER, 5218
CHRISTINE A. FOX, 1648
ROBERT E. FRIEDENBERG, 8782
SHAWN D. FRITZ, 0891
KURT A. FRULLA, 2477
WILLIAM S. FULLER, 0263
ROBERT J. GADDIS, 2796
JOSEPH G. GARCIA, 1520
RONALD J. GARNER, 8754
ROBERT B. GEDDIS, 4244
JAMES A. GENTILE, 2416
VELMA W. GORDON, 9529
ALFRED J. GREIN, 0535
GENE E. GRIFFIN JR., 1964
ROBERT E. GRIGSBY, 2696
ALBERT L. GRUBBS, 5468
GEORGE A. GUTHRIDGE III, 5041
DONG C. HA, 7825
MARK O. HAGUE, 8616
RUTH A. HAIDER, 4132
JAMES G. HALLINAN, 3014
LINWOOD Q. HAM JR., 1495
VICTOR R. HARPER, 2379
DONALD M. HEILIG JR., 3857
JEFFREY L. HENDREN, 7360
CHRISTOPHER V. HERNDON, 4632
ALAN W. HESTER, 5013
MARK A. HICKS, 8849
PAUL M. HILL, 0168
JUSTIN A. HIRNIAK, 8602
KEITH A. HIRSCHMAN, 9594
SAMUEL C. HOMSY, 9166
THOMAS G. HOOD, 0256
MICHAEL W. HUBNER, 3510
RODERIC C. JACKSON, 8132
MICHAEL J. JANSER, 7103
ROBERT R. JARRETT II, 3252
WALTER P. JENSEN III, 6704
RAMON JIMENEZ, 1604
ROBERT J. JOHNSTON, 0875
DEISY JONES, 2879
JEANNETTE J. JONES, 1690
HARRY F. KANE, 9938
RYAN B. KIVETT, 7887
MICHAEL E. KNUTSON, 5175
JEFFREY D. KULMAYER, 9039
GARY L. LAASE, 3114
JAMES D. LAMPTON, 1501
EDWARD J. LANE, 7670
PATRICIA M. LARRABEE, 5343
JOHN LEMONDES JR., 9618
JAMES R. LOY II, 1732
ANDREW J. MACDONALD, 8379
PATRICK E. MATHES, 8096
PAUL A. MCDERMOTT, 6630
ROBERT M. MCKINLEY JR., 5338
WADE L. *MCVEY, 0493
FREDERICK L. MILLER, 1208
JAMES C. MITCHELL, 6133
PAUL MOORE JR., 7816
RICHARD C. MUSCHEK, 8238
YEWSTON N. MYERS III, 8056
MICHAEL E. NERSTHEIMER, 0628
MARKO J. NIKITUK, 5112
TODD E. OJA, 7261
MARK OLEKSIAK, 9559
KEITH R. OLSON, 2858
LOUIS ORTIZ JR., 2651
YEONGSIK PAK, 0734
DAVID R. PERSHING, 3738
CHARLES A. PFAFF, 5277
DANIAL D. PICK, 8442
MARK J. PINCOSKI, 8509
JOSEPH K. POPE, 1616
SAMUEL H. PRUGH, 3976
SCOTT A. PULFORD, 2313
FREDERICK A. PUTHOFF, 9636
BRIAN W. RAFTERY, 9736
JAMES A. RANKIN, 0799
STEPHEN S. REED, 2466
MICHAEL C. REGAN, 3562
MICHAEL J. REPETSKI, 5883
CRAIG L. RETTIE, 4871
DONALD D. RILEY, 2966
ROBERT K. RIZZO, 2014
DANIEL S. ROBERTSON, 9662
DAVID J. ROHALL, 9647
CHRISTIAN E. RUSH, 1388
JOSEPH A. SANCHEZ, 8194
JEFFREY D. SAUNDERS, 9660
CRAIG P. SCHAEFER, 7506
KLAUS D. SCHMIDT, 8939
JEFFREY D. SCHUTTER, 1448
RALPH A. SKEBA, 0767
WILLIAM C. SLADE, 7116
JOHN M. SMITH III, 1585
DANIEL R. SMYTHE, 0459
NORMAN E. SOLOMON, 8391
ARTHUR E. SPENARD, 3525
LEONARD T. STEINER JR., 2693
LEWIS E. STEWART, 0129
KEVIN P. STODDARD, 6353
KENNETH F. SWEAT, 2164
BURKE A. TARBLE, 0171
WADE S. TATE, 2288
MICHAEL D. THEODOSS, 8875
DENNIS THIES, 3048
ROBERT TIMM, 9702
VALEN S. TISDALE, 8556
JAMES P. TOOMEY, 6272
JAMES L. TURNER, 8030
MICHAEL C. VANDEVELDE, 1853
ANTONIO J. VAZQUEZ, 0070
DAVID R. VIENS, 0276
ALBERT J. VISCONTI, 0199
JEFFREY R. VOIGT, 7125
DESMOND D. WALTON, 8437
MARK V. WATKINS, 3076
ROBERT M. WELLBORN, 1464
CHARLES A. WELLS, 3264
DAVID R. WHIDDON, 3446
DANNY A. WILEY, 3114
JULIAN R. WILLIAMS, 6732
JAMES O. WINBUSH JR., 5571
JOHN S. WOMACK, 9138
WILLIAM H. WOODS, 7905

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

EMMA J. M. BROWN, 4286
JAMES S. BROWN, 0021
JODY H. GRADY, 0331
WAYNE J. KULICK, 1430
ROGER J. LUCAS, 1731
MARK A. PREISSLER, 9007
SHAWN A. ROBERTS, 3321
SHEILA A. SMITH, 4711
MARCIA L. ZIEMBA, 8711

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

BRENT T. CHANNELL, 0165
MATTHEW W. EDWARDS, 4989

CONFIRMATIONS

Executive nominations confirmed by the Senate August 1, 2003:

EXECUTIVE OFFICE OF THE PRESIDENT

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF COMMERCE

JAMES J. JOCHUM, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF THE TREASURY

ROBERT STANLEY NICHOLS, OF WASHINGTON, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

JEFFREY A. MARCUS, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

DEPARTMENT OF THE TREASURY

TERESA M. RESSEL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF JUSTICE

RENE ACOSTA, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

PAUL MICHAEL WARNER, OF UTAH, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS.

SENATE—*Tuesday, September 2, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The prayer will be offered by our Chaplain.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Almighty and everlasting God, the strength of all who trust You, as we begin, again, Freedom's business, we thank You for divine protection. Remind us daily that righteousness exalts a nation but that sin brings reproach to any people. Guide our leaders today that their words and thoughts may be acceptable in Your sight. Lord, keep our feet on the plain path of duty, and may our lives glorify Your name. May each of us remember that You are the sure rock upon which we can stand, even when the future seems uncertain. Give us the wisdom to trust You to order our steps. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of H.R. 2660, which the clerk will report.

The legislative clerk read as follows:

> A resolution (H.R. 2660) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for fiscal year ending September 30th, 2004, and for other purposes.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on behalf of the majority leader, I have been asked to make his introductory statement, and as indicated by the President pro tempore, we are taking up H.R. 2660, which is the appropriations bill for the Department of Labor, Health and Human Services, and Education.

As a procedural matter, in accordance with the custom of the Senate, I ask unanimous consent that all after the enacting clause be stricken and the text of Calendar No. 175, S. 1356, the Senate committee-reported bill, be inserted in lieu thereof, and the bill, as amended, be considered as original text for purpose of further amendment, and that no points of order be waived by reason of this agreement.

The PRESIDENT pro tempore. Is there an objection?

Mr. REID. On behalf of two Senators, I object.

The PRESIDENT pro tempore. The objection is heard.

Mr. SPECTER. Mr. President, the bill which we are considering today is the largest of all of the appropriations bills, consisting of some $472 billion, even larger than the Defense appropriations bill, although a major portion of that is on mandatory spending—Medicare, Medicaid, family assistance, and other mandatory provisions—which leaves $137.6 billion to fund the three departments: the Department of Labor, the Department of Health and Human Services, and the Department of Education.

The amount of the discretionary spending is $380 million below the President's budget request and $435 billion below the amount the House of Representatives had to spend on Labor, HHS, and Education programs.

It is important to note that the House and Senate bills also have an additional $2.2 billion in fiscal year 2004 which was achieved by pushing back advanced appropriations from fiscal year 2004 to fiscal year 2003.

On August 1, the last day of the session before the August recess, the majority leader, Senator FRIST, and I had a brief colloquy where the majority leader announced at that time for the information of all Senators and others that the first order of business of 9:30 on Tuesday, September 2nd, would be this appropriations bill. The Senate has an enormous agenda to take up during the month of September. As is well known, the fiscal year ends on September 30th and if there is to be any realistic chance of completing all 13 appropriations bills, with only two having been completed so far—the Department of Defense appropriation and the military construction bill—we are going to have to take up these bills in an orderly and expeditious way. When I say "expeditious," I do not mean in a hurried way. It is a matter of taking up the amendments so we can move through them.

In advance of the August 1st departure date, I conferred with the distinguished ranking member, Senator HARKIN, who agreed with that approach. I conferred with the ranking member of the full committee, Senator BYRD, who agreed with that approach. I conferred with the chairman of the full committee, the distinguished President pro tempore, about the processing of this bill. I talked to many of the Senators on both sides of the aisle who would be expected to offer amendments. It is my hope amendments will be offered, that we can work through time agreements. The distinguished assistant leader of the Democrats is here and has been very diligent in moving the legislative matters through. It would be my hope we would have the amendments come to the floor, offered, that we could get time agreements, and we could proceed to vote on whatever amendments may be offered.

I am advised by staff there are 45 amendments pending—amendments which we know about. That is a large number but it is well known that amendments tend to be refined as Members consider the matters.

We have a major job ahead of us. But it would not be out of reason to consider amendments today. We are advised that two Senators on the other side of the aisle have amendments which they are prepared to offer. If those come to fruition, we can move right ahead with the debate at an early point.

In the colloquy on August 1, reflected in the CONGRESSIONAL RECORD, I made a point that the grave difficulties which I have seen in my tenure in the Senate occur when the quorum calls consume a great deal of the Senate's time, when those two lights are on, signifying that there is no business pending before the Senate. I expressed the view that if Senators were not prepared to offer amendments, that the majority leader ought to consider moving to third reading, that is final passage, and try to move the bill along.

I fully understand that requires cooperation from the other side of the aisle. If the other side of the aisle decides we are not to move to third reading, there are ample procedures available to preclude the majority from moving to third reading. But, having given that notice more than a month ago that we would be taking the bill up at this time, 9:30 on September 2, and that the expectation was to move ahead, if we were to have any chance of completing the appropriations bills by September 30 that this bill would have to serve as a flagship for the month of September.

I might add that the Senate has a very crowded agenda. There is already

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

considerable speculation in the media about what will happen in the Congress, the House and the Senate, now that we are back from the August recess and we face many contentious matters.

There is no doubt that an overlay, the international issue of Iraq, is very much on all of our minds. I was very glad to see the Bush administration sent a signal 10 days ago that there would be consideration to United Nations participation in Iraq. The precise formula was not indicated. I think that can be achieved, maintaining U.S. military command.

There have been strong requests for a statement from the administration as to what Iraq is going to cost. All of us would like to know what those parameters are and what the expenses are going to be. That is a difficult matter to calculate because of the uncertainties over Iraq in so many respects.

There are efforts being made to bring other nations into the operation there, into the policing operation, and a special effort to bring in Muslim nations, Pakistan and Turkey illustratively, to give the Arab world more confidence as to what is going on. Certainly, if we are successful in bringing other nations in, that will have a material impact on what the cost will be to the United States.

Beyond the issues of Iraq and other matters for the Department of State on international expenditures, there is the issue of prescription drugs, where legislation has been passed by both the House and the Senate which will have to be submitted to conference.

The Energy bills will be a major matter with Congress really on the spot to respond to the blackouts affecting 50 million people. From the Judiciary Committee where I serve, there are a number of matters which will be coming to the floor, litigation matters, most prominent of which is the legislation pending on asbestos. A bill was reported out of committee, largely along party lines.

During the month of August, considerable work has been done by many of us, including an effort to bring in a very distinguished Federal judge, Edward R. Becker, Chief Judge Emeritus of the Third Circuit, to analyze the issues in an effort to be helpful. Obviously the matter is a congressional matter, but Chief Judge Becker has special expertise in the field by virtue of being the judge who wrote the major opinion on the issue of class certification. That is mentioned as one of the many items.

The key to the success of our Senate will turn on getting started with this bill and moving ahead. I think it is not unreasonable to think, if we have cooperation on all sides, that this is a matter which could be completed during the course of this week.

The bill which is now before the Senate contains funding for medical research in the amount of $27.9 billion for the National Institutes of Health. This is $1 billion over the fiscal year 2003 appropriation, and will continue the work of thousands of researchers across the United States.

The distinguished ranking member of this subcommittee, Senator HARKIN, and I have taken the lead in the course of the past 5 years in more than doubling the allocations on the National Institutes of Health, from $12 billion to more than $27 billion. The increase of $1 billion is a sum which I personally would like to see increased. We are considering an amendment which would have a significant increase in the National Institutes of Health funding.

When you take a look at the diseases which are affected, they touch virtually all Americans either directly or through families or close friends: autism, stroke, Alzheimer's, Parkinson's, spinal muscular atrophy, scleroderma, multiple sclerosis, muscular dystrophy, diabetes, amyotrophic lateral sclerosis, heart disease, arthritis, schizophrenia, Cooley's anemia, kidney disorders, spinal cord injury, cancers of many varieties, including but not limited to breast, cervical, lymphoma, prostate, pancreatic, brain, lung, and colon.

The increases in funding here have had a very material effect for enormous advances in research which moves toward the prevention or cure of many of these matters.

This bill includes $944 million for obesity prevention and nutrition initiatives. We see more and more that there is a need for programs designed to increase physical activity, promote healthy lifestyles and good nutritional benefits. This is an increase of some $34.2 million over funds available for fiscal year 2003.

In the course of the preparation of this budget, obviously the subcommittee and then the full committee have considered a wide range of priorities. I think it should be noted that when there is the contention raised about cuts in the funding for this subcommittee, it is not accurate. For fiscal year 2003, the total discretionary budget was $134.6 billion. The total budget for fiscal year 2004, which we are considering today, as I have said, is $137.6 billion. So that is essentially flat funding but not a decrease.

My preference would have been to have had a significant increase in the funding for this subcommittee, as I argued in the full committee, and repeat that argument here on the floor. But we live within the constraints of the budget resolution which was enacted and with the allocations which have been made pursuant to the budget resolution. So on some of these items there are increases, on some of these items there are decreases, but the overall budget does not have a cut. It is essentially flat.

The budget also contains $63 billion for the prevention and reversal of heart disease. Americans of all ages live with the effects of cardiovascular disease. Heart disease is the Nation's No. 1 killer, with over 960,000 deaths attributed to this disease each year. To address this initiative, the bill includes $5.7 billion for cardiovascular research, prevention, and education.

That is obviously an increase which we think is well warranted by the impact of heart disease on the lives of Americans.

The bill includes $4.6 billion for programs for the Centers for Disease Control and Prevention. It includes $250 million to continue planning, design, and construction of new facilities, as well as repair and renovations of the existing structures.

Several years ago I made a trip to Atlanta to the Centers for Disease Control because I had heard a great deal about the deplorable conditions there. I found that was true. Senator HARKIN made a similar visit. Upon returning, we added $170 million to the funding. In the ensuing years, we added $250 million in each of 2 years. This is the third year for this increase in funding.

The Centers for Disease Control is at the forefront of so much of what we are doing trying to combat AIDS worldwide, dealing with the SARS epidemic, and planning for potential terrorist attacks. The Centers for Disease Control is one of the areas which urgently requires adequate funding.

This bill also contains funding for infectious disease initiatives. More than 35 new emerging infectious diseases were identified between 1973 and the year 2000. Recent experiences with the West Nile virus, SARS, and monkey pox illustrate the vital need to strengthen this Nation's capacity to identify and combat emerging infectious diseases. The bill includes $2.2 billion to improve United States research capabilities and to detect and control emerging infectious disease threats in the United States and around the world.

Also included in the bill is funding for the National Cord Blood Stem Cell Bank Program—some $10 million to create a National Cord Blood Stem Cell Bank to be used for patients who need transplants but lack suitable family donors. The stem cells found in cord blood are useful in treating a variety of blood disorders.

Following a report from the Institute of Medicine, the subcommittee took the lead in appropriating funds to deal with medical errors reduction. This bill contains $84 million, an increase of $29 million over the previous year's amount, to determine ways to reduce medical errors.

I note the presence on the floor of the distinguished ranking member of the full committee. I think it might be appropriate to try to move the sequencing along, so I am going to interrupt my opening statement so I can confer with the Senator from West Virginia.

Mr. REID. Mr. President, if the Senator will allow me to say a few remarks prior to that without the RECORD appearing interrupted.

Mr. SPECTER. Mr. President, I am delighted to yield to the distinguished assistant leader of the Democrats.

Mr. REID. I thank the Senator very much.

Mr. President, let me say first of all that the Senator from Pennsylvania and the Senator from Iowa have done remarkably important work over the last many years on this most important piece of legislation which we have to move every year. They have done tremendous work for the National Institutes of Health and for the Centers for Disease Control. I think we owe them a debt of gratitude for recognizing the problems which we have and which have been addressed.

Let me say very briefly that if we maintain the schedule we have now had for this entire year where we have very few votes on Fridays—if we have votes, they are usually inconsequential—and we have no votes until late Monday, we can't do all the work that needs to be done. Everyone might as well acknowledge that. We work here on a 3-day workweek basically. That is what we have been working on. We can't do the nine appropriations bills that need to be done and the mass of other very important legislation. Once we get the bills passed, we have to do the conferences and bring those back. We have the important bills that are already in conference that are nonappropriations matters. Of course, we have the three appropriations bills in conference. But we have lots of things to do. I just alert everyone that it can't be done on a 3-day workweek.

I think it is very important to note that today there will be no votes. Yesterday was an important holiday. There were parades around the country and other festivities that Members of the Senate and House were involved in.

This bill is extremely important. It is a difficult bill. We are going to cooperate in any way we can.

We do have one procedural problem. I don't know how long it will take to work that out. We have the overtime amendment which the Senator from Pennsylvania is aware of. It will take some time.

We also have the Leave No Child Behind Program. I spoke to the State legislature in Nevada in February and said unless something happened we would be leaving lots of children behind. The State of Nevada and other States are really in deep trouble in education because the Federal Government is not doing what it needs to do.

There will be a series of amendments. They are 60-vote amendments. We have to go through those. At the present time, we have about 40 amendments, most of which are Democrat amendments. We acknowledge that. We are going to be as positive and as cooperative as we can be on this legislation, recognizing that it is a difficult bill.

I think realistically, I say to my friend from Pennsylvania, who is much more experienced than I, having been here as long as he has been, it is going to be extremely difficult to finish this bill this week. Today is Tuesday. There are no votes today. We have Wednesday and Thursday. Unless we suddenly adopt a new procedure where we work more than 3 days a week—we will not be doing anything on Friday, but we are willing to work with the Senator from Pennsylvania and the Senator from Iowa.

Senator DASCHLE indicated to me this bill is important and that we have to work in any way we can to move it along, and we will do that.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished assistant leader for the Democrats for those comments. I know from working with Senator REID for many years that he is consistently cooperative. I agree with his characterization of the importance of this bill and the complexity of the bill.

When he commented about 40 amendments mostly from that side of the aisle, that is consistent with the preliminary report which I have heard. It also accurately states that the amendments are 60-vote amendments, as required under the budget resolution.

When he comments about my greater experience, I may have been here a little longer, but I don't have any more experience than Senator REID does. Those who have been in the Senate or who have observed the Senate know we have an amazing capacity for moving promptly when we decide to do so and when we decide to make relevant comments. If we can stay on the bill, I think we ought to take whatever time we need on this bill. I don't disagree with that a bit. But it is possible to work out time agreements. I do not disagree with the statement of the Senator from Nevada that it would be difficult—perhaps even unlikely—to finish the bill this week. But it can be done. The last time I managed this bill was in June of 2000. We finished the bill on June 28 in advance of the conventions that year. When this Senate starts to move in a definitive way, this Senate has the capacity to move expeditiously.

I had been in the middle of my opening statement and had come to a number of the main categories. But I am going to abbreviate this opening statement because I have conferred with the distinguished Senator from West Virginia, the ranking member of the full committee, who has advised that he is prepared to move immediately with an amendment.

To repeat, there is nothing like using the time on the Senate floor for amendments as opposed to statements. As important as opening statements are to the bill's managers, an opening statement is a statement. And if we move to amendments, I think that would be the most effective use of the Senate's time.

We might also be establishing a new record on moving to an amendment within a half hour of the opening of the Senate, especially on a day when, as the majority leader announced, there will be no rollcall votes. But any amendments which will have votes ordered on will be taken up according to the majority leader's schedule, no earlier than tomorrow.

I yield the floor to the distinguished Senator from West Virginia.

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, I am delighted to see my friend. I have several friends in the Senate, but there is one very special friend of mine who is presently in the chair. He is the President pro tempore of the Senate and a man who is well equipped for that position. He has had a long service in the Senate and, of course, long service on the Appropriations Committee. He has been chairman. He has been ranking member. He is the chairman of the Appropriations Committee now. I speak of course of my dear friend, the distinguished senior Senator from Alaska, TED STEVENS, who is the Man of the Century for the State of Alaska, and rightly so.

I also am very proud to say I have another friend in the Chamber at the moment, among several friends in the Chamber, and this friend of whom I speak is the chairman of the appropriations subcommittee that has in its jurisdiction the bill that is before the Senate at this time, the Labor-HHS appropriations bill.

Senator SPECTER is a man—I speak of Alexander Pope, who said about another gentleman: "Thou art my guide and friend." ARLEN SPECTER is a man after my own kidney, as Shakespeare would say. And he recognizes the needs of the country, as I think I do. His heart is in the right place when it comes to the education of our young people, and I am very proud to call him my friend. I thank him for his courtesies always, which are characteristic of him. He is one of the special people who have served in this Senate with me.

AMENDMENT NO. 1543

Now to the business at hand. I have an amendment. Before I send it to the desk, let me make a brief statement.

When Congress passed the No Child Left Behind Act, we made a deal with the American people. I am speaking of a time which was nearly 2 years ago when we made this deal with the American people. We said that from now on we will hold schools more accountable—more accountable—than ever before; we will require them to make sure that all children succeed academically, not just the wealthy, not just those who live in the nicer parts of town, but all children—poor students, students from Appalachia, across the prairies, across the Great Plains, across the Rockies, to the Pacific coast—yes, all the way to Alaska—children with disabilities, and students of all races and ethnicities. Schools must leave no child behind. But, in return, we promised to give schools the resources they need to make these improvements.

This bill does not fulfill that promise, and there is no better example of that broken promise than the title I program for disadvantaged students. Title I helps the students who need help the most, the millions who are being left behind. It is also the program that, under the No Child Left Behind Act, will hold schools accountable for improving student performance. That is why, when Congress wrote the No Child Left Behind Act, it authorized specific funding levels for title I for every year through fiscal year 2012.

Now, I went to school—many years ago, of course; I started in 1924—and it was a little two-room schoolhouse in a coal camp in southern West Virginia. It was at Algonquin, WV. That is the mining camp in which I started school. That is the mining camp in which my foster father worked in the mines.

We did not have the Government support in those days that students have now. I was one of the students who today would be considered a disadvantaged child. Of course, about all the children in that coal camp were disadvantaged. But we had caring teachers. We had good teachers.

I remember being in the primer, starting out in the primer, and the leading character in the primer was Baby Rae. I studied about Baby Rae. But those were disadvantaged children. All of us were disadvantaged. We all came from poor families, but we studied hard. We had caring teachers, as I say, and they encouraged us to study. Mine were foster parents, I having lost my mother when I was 1 year old in the great influenza epidemic in 1917 and 1918. But those foster parents cared for me, and they loved me, and they encouraged me to study and to study hard.

So I am a supporter, a strong supporter, of education. I come here as one who has supported Federal funds for education practically all the years I have been in Congress. And this is the 51st year I have been in Congress. There was a great debate in the early years when I was in the House about Federal aid to education. Well, it is an accepted factor now in our thinking. So today I have come to support an amendment which I will offer shortly.

Let me say again that when Congress wrote the No Child Left Behind Act, it authorized specific funding levels for title I for every year through fiscal year 2012. The authorized amount for fiscal year 2004 is $18.5 billion. That is enough to fully serve 6.2 million needy children, according to the Congressional Research Service. This bill before the Senate today provides just $12.4 billion.

That is enough to fully serve only 4.1 million children. The amendment I am about to offer would increase title I funding by $6.1 billion for a total of $18.5 billion, the fully authorized level for fiscal year 2004, and it would extend the full educational benefits of title I to 2.1 million children who otherwise would be left behind. This would allow us to keep the promise we made in the No Child Left Behind Act.

This amendment is fully offset, may I say, for fiscal year 2004, and it achieves this by rescinding fiscal year 2004 advance appropriations in the fiscal year 2003 Labor-HHS appropriations bill and reappropriating those monies in fiscal year 2004. This is the exact same mechanism that Chairman STEVENS and Chairman SPECTER are using to add $2.2 billion to the base bill. My amendment simply builds upon this and adds $6.1 billion more for title I.

Students and teachers across the country are desperate for more funding. In West Virginia, the Department of Education announced this summer that 326 of the State's 728 schools failed to make adequate yearly progress. That is 45 percent of all the schools in the State. May I say to the distinguished Presiding Officer, Mr. SMITH, that in many other States, more than half of all the schools failed to make adequate progress. Let me repeat: In my own State, 326 of West Virginia's 728 schools failed to make adequate yearly progress. That is 45 percent of all the schools in the State, almost half. But in many other States, more than half of all the schools failed to make adequate progress.

I ask my fellow Senators: Where is the money going to come from to help these schools improve? The State governments, as we all know, are facing a fiscal crisis. Yet this appropriations bill underfunds title I by more than $6 billion. This bill, indeed, is a bit frail on the No Child Left Behind Act, and it is unfair to all the people in this country who are working so hard to implement the provisions of that act.

Parents and teachers want their schools to be held accountable. They want every child to succeed, and they are holding up their end of the bargain. Now is the time for the Federal Government to hold up its end of the bargain.

As students all over the country return to their classrooms this month, it is important to remember that this amendment is not just about dollars; it is about hiring good teachers. It is about improving the curriculum; it is about reducing class sizes; it is about buying educational materials—all the elements that are key to helping students reach their academic potential.

I voted for the No Child Left Behind Act. I support the reforms in that law. But schools need more funding if we are truly going to leave no child behind.

I urge my fellow Senators to approve this amendment. We gave our word to the people when we passed the No Child Left Behind Act. We must keep our word.

Everything I have said is certainly meant to be no criticism of the chairman of the subcommittee or the ranking member or the members of the subcommittee. They have all done the best they could do. Mr. SPECTER has done the best he could with what he had, and so has the ranking member. I offer this amendment not in criticism of them or the members of the subcommittee. They simply did the best they could with what they had. I fully support the chairman and ranking member and the subcommittee. I simply offer this amendment because I think the Nation's children deserve it. I hope Senators on both sides will support it to the fullest.

I send the amendment to the desk.

Mr. SPECTER. Mr. President, if the distinguished Senator from West Virginia will yield for a moment.

Mr. BYRD. Yes.

Mr. SPECTER. As a procedural matter, with an objection having been lodged, if I may have the attention of the Senator from West Virginia, the procedure would be appropriate if the Senator from West Virginia would allow me first to send a substitute amendment to the desk and then the amendment offered by the Senator from West Virginia would be in the nature of a second-degree amendment and would obviate the objection which was made earlier procedurally.

Mr. BYRD. Very well, yes.

Mr. SPECTER. This certainly is not clear, if anybody is watching on C-SPAN, but that would set the procedural status in the correct shape.

Mr. BYRD. Yes, it would.

AMENDMENT NO. 1542

Mr. SPECTER. Mr. President, I send a substitute amendment to the desk. For the information of all Members, this is the text of the Senate-reported bill.

The PRESIDING OFFICER (Mr. SMITH). The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1542.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SPECTER. Parliamentary inquiry. Would it be in order now for the amendment to be offered by the Senator from West Virginia?

The PRESIDING OFFICER. Amendments to the Senator's amendment are now in order.

Mr. SPECTER. I thank the Chair and my colleague from West Virginia.

AMENDMENT NO. 1543 TO AMENDMENT NO. 1542

Mr. BYRD. Mr. President, I thank the distinguished chairman of the subcommittee for his accommodations that have been extended at this point. I send the amendment to the substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1543 to amendment No. 1542.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for education for the disadvantaged)

On page 36, line 16, strike the period and insert ": *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, $1,500,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $14,103,356,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $20,253,356,000: *Provided further*, That the amount $6,582,294,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $12,732,294,000: *Provided further*, That the amount $1,670,239,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $4,745,239,000: *Provided further*, That the amount $2,207,448,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $5,282,448,000: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $13,045,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $633,301,000.".

Mr. BYRD. Mr. President, I have already spoken on behalf of the amendment. I do not ask for recognition at this point.

Mr. SPECTER. Mr. President, I note the distinguished Senator from Iowa advancing toward the podium. I yield to him.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, first, I am very pleased to join my colleague and friend, Senator SPECTER, in bringing to the Senate floor the fiscal year 2004 Labor, Health and Human Services, and related agencies appropriations bill.

Let me begin by thanking my good friend and partner in this endeavor, Senator SPECTER, and his excellent staff, for always working closely with me and my staff in putting this bill together on a bipartisan basis. It is always one of the most difficult bills to put together and it is also one of the most important. Our Nation's health and the strength of our tomorrows are shaped by the critical health, education, and labor investments made by this bill.

I will say at the outset that this bill is not perfect—at least in my estimation. I will also say that my distinguished chairman did the best he could with the bad hand he was dealt by a very shortsighted budget resolution. As we have done in our over 12-year partnership working on this subcommittee—sometimes I am chair and sometimes he is chair, and it goes back and forth. But it has been a great partnership working together on this subcommittee over all these years.

This bill is no different. It is truly the product of bipartisan work and negotiation. We have worked closely to shape it. We have done our best to accommodate the literally thousands of requests. I assume Senator SPECTER has gotten about the same number as I have—which adds up to about a thousand, I suppose—to try to accommodate those requests we have received from colleagues.

Again, at the outset, I don't think our subcommittee allocation was adequate to meet the demands we face in job training, health care, and, of course, education. I will be speaking again shortly on the pending amendment that was just offered by Senator BYRD because we are very short in the area of education.

I look forward to the Senate debate. There will be a number of amendments offered. I don't know the exact number that will be offered, but this bill always attracts a number of amendments, and rightfully so.

As I said, I think we are short in the bill in meeting the critical health, education, and labor-related issues that confront the country. For example, with this allocation, we are only able to increase education funding by 2.8 percent over fiscal year 2003. The President promised that the mandates of the No Child Left Behind Act would be accompanied by the money needed to implement those reforms. In that act, we put a lot of mandates on local school districts and authorized monies to back up those mandates. We are $8.4 million short of meeting those funding goals.

I look forward to the Senate debate as we consider this important bill and hope to work with my colleagues to increase funding for a number of important programs funded in this bill before the bill leaves the Senate floor.

AMENDMENT NO. 1543

Mr. President, I will speak for a few minutes on the amendment offered by Senator BYRD. First, I thank him for his leadership in offering this amendment on title I funding for education. This amendment, more than any other that will be offered on this bill, will show the Nation—our parents, teachers, kids, and school boards—how serious we are about leaving no child behind. Do we give schools the money they need to improve or do we give them just a bunch of mandates and leave them out to dry? That is what is at stake with Senator BYRD's amendment.

Now, to make the record clear, as most Senators, I supported and voted for the No Child Left Behind Act. Being a member of the authorizing committee under the able leadership of the Senator from New Hampshire, Mr. GREGG, and the ranking minority member, Senator KENNEDY, and also being the ranking member on the Appropriations Committee that funds these programs, I followed the development and was involved in the discussions with the White House as the bill was developed.

The No Child Left Behind Act, more than any other educational bill in our history, holds schools accountable for performance. It demands that we hold every student, including those most disadvantaged, to the same high standards. That is fine. We all agreed on that. We all want high standards. We want those standards to be met even among the most disadvantaged of our kids.

But the bill we passed also says that schools should have the money to do the job, that they should have the resources to hire the teachers, reduce class sizes, update their curricula, get the new technologies that are out there, and make all the improvements they need to leave no child behind.

Now, in particular, the No Child Left Behind Act sets specific authorization levels for title I. We did that because title I is the key to the success of the No Child Left Behind Act. This program is designed to help the children who are most at risk of falling behind. It is also the program that includes the loss accountability measures.

President Bush and Members of Congress spent a lot of time negotiating over how much money was needed for title I. This wasn't something just plucked out of the air. This was during a long period of negotiation. What did we need to put into title I so that the most disadvantaged kids could really be held to the same high standards because they would be given the resources they need to achieve those standards? Well, we settled on an authorization of $16 billion for fiscal year 2003, $18.5 billion for fiscal year 2004, and so on, for every year through fiscal year 2012.

Looking back on it now, as I voted for the bill, perhaps I was a little bit too overeager to believe that the President would, indeed, step forward and ensure that we had the resources to do the job. I believed him when he said he was serious about increasing funding for education to meet the mandates of No Child Left Behind. Well, now we have a bill before us that underfunds title I by more than $6 billion.

As I said, the authorization for fiscal year 2004 is $18.5 billion, which we negotiated and put into the law. This bill provides $12.35 billion, which is exactly the amount requested by President Bush. So, again, my question is, if the President was serious about both the mandates and the resources needed to meet those mandates—the President was very eager to sign the bill and get the mandates but when it came time to get the money out, he shortchanged it by $6 billion. That is his request.

Again, I don't blame anybody on our committee. I don't blame our chairman or anyone else. We worked together closely. I am sure a lot of us would have liked to have provided more for title I but we simply didn't have the resources. We were hemmed in by the budget agreement. So now the bill is exactly where President Bush wanted it for title I. It is nowhere close enough. It is $6 billion short. That is why we need Senator BYRD's amendment to fund title I at the level we agreed during the negotiation process. We need to fulfill the commitment we made to the students, parents, and educators of this country when we passed No Child Left Behind.

I can already tell you what some on the other side will say about this amendment. They are going to say President Bush has already done a lot to increase funding for title I. They will say title I funding has increased from $8.8 billion to $11.7 billion during his administration. I love that phrase, "during his administration." When my friends on the other side say "during his administration," they want people to think title I funding went up because of President Bush's administration. But they cannot truthfully say that, so they use the phrase "it went up during his administration."

It is like the weather: It has rained a lot during President Bush's administration. Sometimes it has been very hot during President Bush's administration. It has even snowed during his administration. But his administration did not have anything to do with any of that. It is the same with title I. President Bush deserves as much credit for recent title I increases as he does for the weather outside.

The fact is, President Bush requested only $1.3 billion of the $2.9 billion we increased during his administration. The only reason title I increased more during his administration was because we Democrats in the Congress insisted on it over the White House's strong objections. And now President Bush wants to underfund title I by more than $6 billion.

I guess what Senator BYRD is saying and what I am saying and I know a lot of others will be saying is we have to help President Bush keep the promise he made when he signed the No Child Left Behind Act, and we intend to help him keep his promise.

This is back-to-school time across the Nation. I was driving in this morning, seeing kids waiting on a corner for a school bus, remembering when I used to walk my daughters down to the same corner to catch a school bus. Parents were standing there. The kids were eager and excited, looking forward to going to school.

I met teachers in Iowa when I was there in August, excited about the new school year and the prospect of getting these kids interested in learning, expanding their horizons and their knowledge of the world around them. But mixed with that excitement was a lot of worry about this new education bill. I have not met one teacher, I have not met one principal, I have not met one school board member who is afraid of reforms, who is afraid of accountability, who is afraid of high standards. They all want those standards. What they are really afraid of is the law is going to designate their school as failing, leaving them out to dry with no additional funding.

Throughout the summer, we have gotten our first look at how big a challenge we face, as States have been reporting how many of their schools are making "adequate yearly progress"—that is the phrase, "adequate yearly progress"—under the No Child Left Behind Act. It is not a very pretty picture. In many States, more than half the schools are falling short of their goals. If they do not turn it around, they will face sanctions. They get tougher and tougher every year until ultimately the school can be taken over by the State or everyone who works in the school can be fired. It is a whirlpool effect, and once they get in the whirlpool, they cannot get out unless something reaches in to either stop that whirlpool or yank them out, and that is what title I does. But we are underfunding title I.

What is going to happen is the schools that are located in high-income areas, where they have a high property tax base—and we see them in the suburbs. Both my kids were privileged to go to Fairfax County public schools, one of the great public school systems in America. A lot of wealthy people live in Fairfax County. The county has a high tax base.

How about kids who are not so fortunate, kids just across the river, maybe in southern Prince George's County or maybe in places in Iowa, my home State. We have the same problem. In some places there are great schools located where they have a good property tax base. Others schools, where they have a low property tax base, cannot make it. That is where the kids are disadvantaged. The mandates we put on schools under No Child Left Behind do not distinguish between those schools that are located in high-income areas and those schools located in low-income areas. They all have to meet these annual yearly progress reports.

What is going to happen if we do not pass the Byrd amendment and if we do not step up and fund title I as we previously agreed we were going to with the administration? Simply, the schools that are already in trouble are going to get in worse trouble. They simply have no other recourse. The schools that are in good shape are going to be fine; they have a high property tax base. They are in affluent areas. They are going to be fine. So we are going to have a division in this country. We are going to have two educational systems: One that will be moving up, meeting the mandates of No Child Left Behind, and schools that will be going down because we are not reaching in to help fund the mandate.

Make no mistake about it, No Child Left Behind is the biggest Federal mandate on public schools ever enacted by the U.S. Congress. It is a Federal mandate. I hear all this preaching around here all the time about local control of schools and letting the States run the schools and local communities run the schools. The great genius, I think, of our education system in America is it has been widely dispersed because they have experimentation and new programs happening in different parts of the country. We do not have top-down bureaucratic control of all these schools, as they do in some countries. We have had a wide dispersal of control of education in our country, and that has been the real genius of our school system.

The failure of our education system is how we pay for it: paying for it on the basis of property taxes. I have asked many times: Would someone please show me in the Constitution of the United States where it says that public education is to be funded by property taxes? We will not find it anywhere. But that is the way the system evolved in our country. Public education is basically funded on the basis of property taxes.

Congress came along after a couple hundred years, first in the Elementary and Secondary Education Act in the 1960s, and later with the Education of All Handicapped Children Act, IDEA, and title I, and said we need to help provide additional resources, and that has been good. Then the Federal Government comes along and lays a heavy mandate on these schools to meet certain requirements and they refuse to come up with the money.

The burden lies upon President Bush, but if he will not do it, then we have to do it. We do not want these schools to be taken over. We do not want them to fail. We want them to meet these high standards.

Again, we will hear people say: Money is not just the answer. They will say: HARKIN, all you want to do is throw money at this problem.

I do not think money is the only solution for our schools, but I ask this question: If we want to hire good teachers, can we hire them on the cheap? We already know how many teachers are leaving education today, especially in the elementary schools, because today the private sector can compete for those teachers, and when those teachers find that their hands are tied, that they have all these mandates, and they do not have the resources to meet their annual yearly progress, they become frustrated. They want to teach, but, quite frankly, they can get paid more and put up with less of those frustrations on the outside. So today there is a huge exodus of teachers in elementary education in America. These mandates are one of the causes of it.

If you want to hire teachers, it takes money. If you want to reduce class sizes, with fewer kids per teacher, guess what. That costs money. If you want to replace 20-year-old textbooks and get new technologies in the classrooms, guess what. It takes money. If you want to fix up some of our crumbling schools that now have inadequate heating and ventilation systems which have mold—I visited a school in Council Bluffs, IA, a couple years ago. This is a school that was built in 1939. It is in not a very high income area of Council Bluffs. It is an elementary school. They had an old heating system in the basement, a boiler, and there was mold all over everything. Every year, kids would get sick from all of this mold.

Well, they received a grant through our committee. They replaced the heating system with a brandnew heating system. They put in new windows. They fixed up the school. In the first year, the number of kids staying home from school because of illness fell 90 percent, simply because they were not getting sick.

Now they are proud of their school. It is well lit. It is a wonderful thing to see. But that costs money. When one is in a low-income area and they do not have the property taxes to pay for it, that is when we have a responsibility to step in.

So again, Senator BYRD's amendment meets the other half of No Child Left Behind. We have already fulfilled one-half of it, and that is put in the mandates. That half has been enacted into law and it is proceeding right now. Schools have to meet those mandates. The other half, which was President Bush's assurance that we would have the money to do that, is not there. It is about $6 billion short. That is why Senator BYRD's amendment helps us help President Bush keep his promise to the teachers, the kids, and parents of our country.

I urge my colleagues to give us the 60 votes necessary to overcome the point of order. This is the education amendment. This is the amendment that will send the signal whether or not we really care about the future of our kids and care about making sure all of our schools can meet these annual progress levels, making sure our kids and our teachers have the wherewithal to meet these mandates.

This is the amendment. Make no mistake about it. I hope we get the 60-plus votes. I hope we get 70 or 80 votes to send a strong signal that we are not going to leave any kid behind, especially those who are disadvantaged.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have listened closely to the comments by the distinguished Senator from Iowa. At the outset, I will say our working relationship has been excellent. We have had what both of us describe as a seamless change of the gavel. Each of us says we liked it better when we were chairman than ranking member, but we have worked on a bipartisan basis to see to it that the public interest was taken care of when we have worked on this subcommittee.

This bill has been produced on a bipartisan basis and our staffs work very closely together. We have set an example for bipartisanship on this very important bill.

When the Senator from Iowa and the Senator from West Virginia talk about increases in funding public education, I agree with them that it would be highly desirable to appropriate more for education. There are limits, though, as to what we may do. As the manager of this bill and chairman of the appropriations subcommittee, it is my duty and responsibility to work within the allocations which have been given.

The Senate has passed a budget resolution and allocations have been given to each of the 13 subcommittees. As the manager of the bill, it is my responsibility and duty to stay within those limits.

When the argument is advanced that the appropriation is not as high as the authorization, that is correct, but I reply that that is characteristic. In the Senate, we have authorizing committees and we have the Appropriations Committee. It is the standard practice that the authorizers come in at a figure which is characteristically higher than what the appropriators will put up. That is done to give more latitude to the appropriators to see how close we can come or think we should come, as a matter of priority, to what the authorizers have said. It is the exception to the rule that the appropriators come to the authorizing level.

When we take a look at the specific figures in this bill, the bill authorizing No Child Left Behind was passed by the Senate on December 18, 2001, by a vote of 87 to 10 and signed into law on January 8, 2002. The appropriations bill was passed, the conference report, on December 20, 2001, on a vote of 90 to 7 and signed into law on January 10, 2002.

As we look at these dates of enactment, December 18 for authorization and December 20 for appropriations, we tend to forget how late we worked into December in the year 2001. I have a strong belief that if the 13 appropriations bills are not finished by September 30 of this year, we are likely to be here on the eve of Christmas in the year 2003. I think it is a fair statement that we forget how late we worked in the year 2001, how we had targeted October to finish, and then Thanksgiving to finish, and then we are back, and how impossible it is to make any plans into November, into December, when we have other commitments we would like to undertake, State travel for one thing.

I mention those dates really to focus on the authorization of title I, which was $13,500,000,000. The appropriation was $10,350,000,000. So the authorization was $2,850,000,000 over the appropriations. That was a year when Senator HARKIN was the chairman of the subcommittee, Senator BYRD was the chairman of the full committee. I think they did a great job in coming as close as they did on appropriations, but the critical factor is the appropriations were not as high as the authorization.

Then on other facets of Leave No Child Behind, improving teacher quality authorization was $3.175,000,000. The appropriation was $2,850,000,000. So the appropriation was $325,000,000 less than the authorization. Again, that was during the tenure of Senator HARKIN as chairman of the subcommittee and Senator BYRD as chairman of the full committee. I compliment them for what they did. I think they did a great job, but they did not have an appropriation quite as high as the authorization.

The other aspect of No Child Left Behind was the century community learning centers. Here, the authorization was $1,250,000,000 and the appropriation was $1 billion. So, again, it was slightly under by $250 million. But again, Senator HARKIN and Senator BYRD did a very good job in coming as close as they did.

So the point I am making is it is not unusual for the appropriation to be less than the authorization.

When Senator HARKIN very effectively makes the analogy to the snow, the rain, and the heat, I want to agree with him about that, but President Bush was not responsible for the snow, the rain, or the heat, nor was Senator HARKIN, nor ARLEN SPECTER, nor Senator BYRD. But when we take a look at what has happened during President Bush's tenure, where Senator HARKIN says President Bush was not responsible for the increase in appropriations, President Bush was responsible for his budget request.

President Bush's budget request for the year 2002, his first year, was $44.541 billion, which was $4.5 billion over the previous year. That is a very substantial increase. If you look at the increase in what President Bush has requested for 2002, 2003, and 2004, he has made a request of more than $53 billion, which is $13 billion more than President Clinton's request in the year 2001, which was an increase of $13 billion, which was roughly an increase of one-third over the $40 billion which President Clinton requested in 2001. No one would say President Clinton shortchanged education. I don't think Senator HARKIN or Senator BYRD would suggest that, and Senator SPECTER is not making that suggestion.

If you look at where President Bush was in his first 3 years, his request in the year 1996 was a little over $26 billion, and his request in 1999 was a little over $32.5 billion. That is a $6.5 billion increase by President Clinton in 3 years, an increase of about 18 to 19 percent. No one would say that President Clinton shortchanged education. But in his first 3 years in office, his increase was 18 to 19 percent compared to President Bush's increase of about 33 percent.

If you look at President Clinton's increases in other years, President Bush compares very favorably and nobody would say President Clinton underfunded education. A fair interpretation would be that President Bush has not underfunded education.

Having an increase in his request from $40 billion to more than $53 billion, a 33-percent increase, is a very substantial increase and better than what President Clinton did in the 3 years from 1996 through 1999.

I notice that the distinguished Senator from Hawaii is in the Chamber. I wonder if I might inquire, is Senator AKAKA prepared to offer an amendment?

Mr. AKAKA. I have an amendment to offer.

Mr. SPECTER. Mr. President, there is more argument to be made, more debate to be made on this amendment. But when there is another Senator ready to offer an amendment, and we have not had a quorum call at all, which is unusual when a bill starts the first day after a recess, with no votes scheduled, I will utilize our time and ask unanimous consent we temporarily set aside the amendment.

Is that satisfactory with Senator BYRD?

Mr. BYRD. Yes.

Mr. SPECTER. And Senator HARKIN is nodding in the affirmative.

I yield to Senator AKAKA for his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. AKAKA. I ask unanimous consent the Byrd amendment be set aside so I can offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1544 TO AMENDMENT NO. 1542

Mr. AKAKA. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] for himself, Mr. SARBANES, Mr. ALLEN, Mr. CORZINE, Mr. KENNEDY, Mr. DODD, and Ms. STABENOW proposes an amendment numbered 1544.

Mr. AKAKA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for the Excellence in Economic Education Act of 2001)

At the end of title III, insert the following:

SEC. 306. In addition to any amounts that may be made available under this Act to carry out the Excellence in Economic Education Act of 2001 under subpart 13 of part D of title V of the Elementary and Secondary Education Act of 1965, there are appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to carry out the Excellence in Economic Education Act of 2001.

Mr. AKAKA. Mr. President, I yield myself 30 minutes to offer an amendment to the Labor-HHS appropriations bill to add $5 million in funding to the bill before the Senate for the Excellence in Economic Education Act.

I thank amendment cosponsors Senators ALLEN, SARBANES, CORZINE, KENNEDY, STABENOW, and DODD for their support. Our leaders on the Labor-HHS Appropriations Subcommittee, Senators SPECTER and HARKIN, have been helpful in working with me on this effort. I appreciate the difficult job they have before them to remain within tight budget constraints imposed on us by necessary increases for military operations in Iraq and the newest round of tax cuts. I opposed the budget resolution and the tax bill because I knew that it could lead to this appropriations fight, spurred by unrealistic caps on important education, social welfare, and other domestic programs, pitting important priorities against each other. Despite these challenges facing the bill before us, I hope that we can work something out to have the Excellence in Economic Education Act, or Triple-E, funded.

The Triple-E provides significant resources for economics and personal finance education, which are not receiving due attention by Congress. Although the Triple-E was included in the No Child Left Behind Act, the only comprehensive economic education program being funded by this bill is one to assist the teaching of economics outside of this country. I fully support grants to improve the quality of civic and economic education through exchange programs with emerging democracies, which represent important efforts to foster democracy in former Soviet states and other areas of the world. However, the lack of support for a corresponding authorized domestic program is unconscionable. This is particularly disturbing as schools must prepare for the first National Assessment of Educational Progress, NAEP, in Economics, which according to the National Assessment Governing Board, is on track for 2006. The Triple-E can fill this gap in domestic support for economic and financial literacy, but the program must be funded.

Let me tell you what I am referring to when I mention economics and personal finance education. These are very practical subjects that everyone should know—as basic in many cases as are reading, writing, and arithmetic. Again, referring to the 2006 NAEP in Economics, the framework for the assessment states that economic literacy includes an understanding of "the fundamental constraints imposed by limited resources, the resulting choices people have to make, and the trade-offs they face; how economies and markets work and how people function within them; and the benefits and costs of economic interaction and interdependence among people and nations."

The framework continues to note that literacy in this area "also includes having the skills that allow people to function effectively in their roles as consumers, producers, savers, investors, and responsible citizens. These skills include economic reasoning, problem solving, decision making, and the ability to analyze real-life situations."

Personal finance, which is an important component of economics, speaks cogently to situations that Americans face every day. How are we making decisions when we pull out our wallets at the grocery store or in the lunch line? Are we each checking our credit reports regularly and understanding how they contribute to a bank's or credit union's decision about whether our loan applications will be approved? How are families making budgeting choices every week, and are they sticking to those choices? This is difficult to say, given that personal bankruptcy filings continue to set record levels. For the first quarter of 2003, household debt service payments were almost 14 percent of disposable personal income. During the first 3 months of 2003, the percentage of mortgages in the foreclosure process climbed to another record high. We may attribute much of this to current economic conditions. However, I daresay that some of the financial troubles faced by Americans today could have been mitigated if they received pragmatic, standards-based education from a young age, when individuals are forming the habits that they may take with them throughout their lives.

Indeed, our children are not being fully prepared by our schools to face the realities of life because they are proving to be illiterate in economics and personal finance. According to the 2002 National Jump$tart Survey, economic and financial literacy scores have declined since the Jump$tart Coalition for Personal Financial Literacy conducted its first survey of high school seniors in 1997. The significance of surveying high school students is that high school is the last formal opportunity many individuals will have to acquire a comprehensive understanding of economic and personal finance. Therefore, the results from the 2002 survey indicating failing scores from more than 68 percent of high school seniors taking the survey are troubling. They failed to demonstrate an understanding of the basic fundamentals of economics and personal financial management. For instance, the survey found that the majority of students believed that interest from a savings account may not be taxed. They also thought that an elderly retired man and his wife, who is also retired, should have the highest amount of life insurance, as opposed to a young single mother with children. While some may not think that this is important, young adults entering the workforce should understand that interest from investments, including savings accounts, is a form of income that is taxable just like one's salary. In addition, life insurance is meant to provide income for those who are significantly dependent upon the primary income earner in the family. The survey also found the greatest declines in scores on questions relating to money management and savings.

The need to provide funding for the Triple-E Act is now. We need to send a message to our schools that we will support economic and personal finance studies. While results from the Jump$tart survey are illuminating, many public high schools did not participate out of concern that poor scores would require them to focus valuable and limited resources on courses other than those such as math, English, and science. As schools hesitate to understand the real-world implications of this attitude toward personal finance and economic education, it is the students who are the real losers.

My attention was drawn to the need in this area faced by the State I represent. Over the August recess, I cosponsored with the Hawaii Council on Economic Education Hawaii's first ever Economic and Financial Literacy Conference, which drew tremendous support from many different levels and sectors of the community. I was pleased to have representatives from the Departments of Education and the Treasury, the Federal Reserve Board, Jump$tart and the National Council on Economic Education—NCEE, as well as a broad array of representatives from Hawaii's business and education sectors, State Legislature, and Governor's office. The more than 200 people at the conference heard the results of a survey of adults in Hawaii's workforce—beneficiaries of Hawaii's education system. Although those taking the survey correctly answered an average of 13 in 20 questions, many did not have a clear understanding of basic concepts such as what constitutes a budget deficit and what is the significance of the stock market. Furthermore, the University of Hawaii department of economics unveiled a paper showing a steady increase then sharp decline in economic education in Hawaii in 1999. Thus, in the State I know best, despite a clear community interest in economic and personal finance education, we have a long way to go toward serving our children in these important subjects.

Furthermore, students are not receiving this education at home, with only about 1 in 4, or 26 percent, of 13- to 21-year-olds reporting that their parents actively taught them to manage money. I am not advocating for government to be assuming this role in lieu of parents doing so. However, many Americans begin their roles as parents without having received adequate economics and personal finance education themselves, and thus lack the tools to provide their children with sound advice or the ability to steer them to useful resources.

With this point made, let us turn the spotlight on state education systems. How are they doing in this area? I am sad to say not as well as they could be doing. According to the third biennial survey of States by the NCEE, the number of States having economic standards grew dramatically. In 1998, 38 States included economics in their standards. In 2000 and 2002, ten more States adopted economic standards. However, the percentage of States with standards who required them to be implemented dropped from 75 to 71 percent from 2000 to 2002. Furthermore, only one in four States tested students' economics knowledge in 1998. The current economics testing picture is in the chart behind me, where you can see only a marginal improvement to 27 States testing students, with four others—Indiana, Nebraska, Oregon, and Utah—in development. Hawaii is included in those States not testing students. Again, with the upcoming 2006 NAEP, although we are presently unsure which students will be tested, it would behoove States to begin assessing where their students are in terms of understanding economics.

Measuring the presence of personal finance in State standards produces a picture even more bleak, with ground lost in key measures. According to NCEE, the number of States including personal finance in education standards grew from 21 to 40 from 1998 to 2000, but then fell dramatically to 31 States in 2002. The status of standards implementation is even worse, but slowly improving, from 14 States in 1998 to 17 in 2002. Regarding testing, although personal finance is often part of another subject test such as economics, only eight States conduct personal finance testing, with another two States with tests in development. As you can see in my next chart, testing is currently required in Alabama, Illinois, Kentucky, Maine, Michigan, New Mexico, North Carolina, and Rhode Island, with tests planned or in development in Oregon and Utah. The bright spot there is that this is a significant increase from 1998, when only one State tested student achievement in personal finance.

In a related testing matter, Triple-E funding would be an important help at the State and local levels as school districts are facing the challenges of meeting Annual Yearly Progress requirements under the No Child Left Behind Act. We must provide States the opportunity to explore the possibility that math and reading scores could be increased, if economics and personal finance are integrated into these other basic subjects. We all know children who may not easily be able to add apples and oranges but can instantly arrive at an answer to a calculation involving dollars and cents.

In fact, this type of integration in teaching economics and personal finance was discussed at length at a roundtable sponsored on May 16, 2002, by the U.S. Department of the Treasury, involving the U.S. Department of Education, education groups such as the Council of Chief State School Officers and National Association of Elementary School Principals, and economic and financial literacy organizations such as the National Council on Economic Education, Junior Achievement, and the Jump$tart Coalition. The roundtable resulted in a white paper which says that if we dedicate ourselves to integrating financial concepts into reading and mathematics curricula, we can teach children the basics of financial education via several access points. Modes of entry include developing standards of financial education, creating tests that correspond to the curricula taught in classrooms, cooperating with publishers of textbooks and other instructional materials to stress the incorporation of financial concepts into their products, promoting the use of "off-the-shelf financial education curricula" distributed by community groups dedicated to financial education, and training those most responsible for conveying these valuable lessons to students—our educators.

It is also noted in the white paper that States requiring students to complete financial education courses produce graduates who have higher savings rates and net worth, as a percentage of earnings, compared with those who graduate from schools in States with no such requirement. Society as a whole benefits from higher levels of savings and investment, which drive economic activity.

All of this provides the broad context of why I am offering my amendment today. The Triple-E will ensure that vital resources will go to the national, State, and local levels to provide a needed boost to economic and financial literacy. The Triple-E Act would work to do this by awarding a competitive grant to a national nonprofit educational organization that exists primarily to improve student understanding about economic and financial literacy through the classroom. The organization would distribute 75 percent of funds to State and local partnerships for teacher training, assistance to school districts desiring to incorporate economics and personal finance into curricula, evaluations of the impact of economic and financial literacy education on students, related research, and school-based student activities. The national organization would use the rest of the grant for the strengthening of relationships with State and local entities, teacher training, research on effective teaching practices, assessment development, and material development and dissemination.

Furthermore, the intent of the approach in the Triple-E, due to a federal match requirement, is to help existing and new programs to be self-supporting and involve the entities that should be on the front lines advocating financial and economic literacy; that is, banks, credit unions, businesses, and private industry. They are the very entities that benefit from a well-educated citizenry that knows how to take advantage of opportunities for savings, borrowing, and investing, and avoiding financial mistakes such as misusing credit or having to file for bankruptcy. In general, these entities want the very best education for the next generation of managers, entrepreneurs, business leaders, and consumers so that sound financial decisions can be made, economic growth can continue, and Americans can be good consumers who pay their bills on time and remain personally financially independent. As Federal Reserve Chairman Alan Greenspan noted in a recent speech to the Jump$tart Coalition, "Building bridges between community organizations, our educational institutions, and private businesses will be an essential aspect of our efforts to increase familiarity with new technological and financial tools that are fundamental to improving individual economic well-being. And the success of such efforts will bear significantly on how well prepared our society is to meet the challenges of an increasingly knowledge-based economy." A cooperative approach is necessary to help current efforts thrive, which is the type of effort supported by the Triple-E Act.

I would like to note at this time that this body already expressed support for the type of education advocated by the Triple-E Act when it passed my resolution designating April 2003 as Financial Literacy for Youth Month. I am pleased that the other body followed suit by passing a similar version of my resolution, both of which contributed to the effort to raise awareness for financial literacy. This effort is also supported by various organizations, many associated with the Jump$tart Coalition for Personal Financial Literacy. For example, America's Community Bankers stated, " . . . we are strong supporters of financial literacy initiatives because ACB believes that informed consumers—including young consumers—are better able to make wise credit and other financial decisions."

Another letter from the North American Securities Administrators Association states:

> As a majority of Americans have become investors, there is an obligation to ensure individuals have a basic understanding of the principles of savings and investing, as well as preserving their accumulated wealth. Every day, it becomes more apparent that there is a population of investors who are ill equipped to make critical financial decisions for their lives.

One could only read the names of entities and organizations that are a part of the Jump$tart Coalition to understand how broad the base of support is for financial and economic literacy.

Many States are echoing these supportive statements, including my State of Hawaii. I was delighted that the Hawaii State Legislature approved a resolution similar to my Senate resolution and Governor Linda Lingle signed a proclamation for Financial Literacy for Youth Month. Furthermore, I have been working closely with the Hawaii Council on Economic Education, which supports funding for the Triple-E. I ask unanimous consent that a support letter from the Council be printed in the RECORD following my statement.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

(See exhibit 1.)

Mr. AKAKA. Hawaii Council member John Knox in the letter relays a personal story about his son, who is now a history major at American University. When John's son was a senior in high school, his son told him that he was "angry that I wasn't offered economics till this year. I feel cheated, because most of the history courses I've taken didn't talk much about economics, and now I can tell that I just wasn't getting the full story." We must fund the Triple-E to help to expose more students to economics and personal finance education early in their school years, before they feel cheated out of the "full story."

Referring again to the Hawaii conference that I cosponsored with HCEE 2 weeks ago, the issues of integrative versus modular teaching in economic and personal finance education and challenges to fit these subjects within the demands of the No Child Left Behind Act were of tremendous interest and debate. One of the main strategies produced by the education discussion, which featured participants from the Federal and State Departments of Education and other interested parties in a separate breakout session, was to provide teachers with more support, such as meaningful professional development and related incentives, in order to provide them with the tools that they need to teach economics and personal finance. The Triple-E Act is a good starting point for teacher support, and it must be funded so that we can meet real needs that are faced by teachers and schools on the non-Federal levels.

To conclude my remarks, we all face a professional and personal calling to support economic and personal financial literacy for all Americans. Professionally, as policymakers, advocates, and educators, we want to enable individuals and families. We want to give them access to the tools and knowledge that they need to make sound financial decisions. And we want to begin that education at a young age, ideally when they are first learning the look and feel of money, or learning how to work with limited resources. Personally, each of us should be literate in this area, and try to encourage our family and friends to check their credit reports annually, understand economic trends, or increase their financial and economic literacy in other ways.

Funding the Triple-E is an important step in fulfilling our professional obligation to financial and economic literacy, so that we can help others to meet their personal obligations in this area, for themselves and their families. I hope that something can be worked out with the managers of the bill before us, but if we are unable to do so, I will ask for a recorded vote at that time. Again, I hope that we can work something out before that occurs. Otherwise, I urge my colleagues to support my amendment.

Mr. President, I yield my time.

EXHIBIT 1

HAWAII COUNCIL ON
ECONOMIC EDUCATION,
Honolulu, HI, July 14, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the students and teachers in Hawaii served by the Hawaii Council on Economic Education (the Council), I am writing to express our strong support for the Excellence in Economic Education Act (EEE Act). Congress approved the EEE Act as a part of the No Child Left Behind Act, but has not yet funded this important program. The EEE Act provides resources for teacher training, assistance to school districts looking to incorporate economics and personal finance into curricula, evaluations assessing student understanding, research, and school-based student activities.

The Hawaii Council on Economic Education was organized in 1965 to promote and improve the teaching of economics in Hawaii's public and private schools and increase the economic and financial literacy of Hawaii's students and residents. The Council is an independent, nonpartisan, nonprofit, 501(c)3 educational organization that focuses on the teacher as the key to Hawaii's economic literacy. Over the span of a teacher's career, he or she can influence over 3,000 students. This impact is truly significant.

The Council commends you on your tireless effort to educate the public and your peers on the importance of economic and financial literacy and we support your amendment to the FY 2004 Labor-HHS, and Education Appropriations bill which would fund the EEE Act, which will provide vital local, state, and national resources to boost economic and financial literacy in America.

Several Council Members have asked me to pass on their messages of support.

"This is to encourage the Senate to accept the principles—and to fund the activities—embodied in Senator Akaka's Excellence in Economic Education Act. For more than 15 years, I have been an active volunteer and donor supporting economic education, as has my company, Alexander & Baldwin, Inc. We believe that citizens in a democracy can participate more thoughtfully in its processes if they have a basic understanding of economic principles. Regretfully, tightened local school budgets are reducing, rather than expanding, the chances for youngsters to have an early exposure to economics. Among other benefits, federal recognition and support of economic education would serve to ratify and strengthen our arguments about its value on the local level. As a former educator, Senator Akaka has a special appreciation of this need, and we urge you, his respected colleagues, to acknowledge and support his sensitivity to this issue."

—John B. Kelley, Vice President, Investor Relations, Alexander & Baldwin, Inc., Board Member, Hawaii Council on Economic Education.

"I support the inclusion of funding for the Excellence in Economic Education Act in the FY 2004 Labor, Health and Human Services, and Education Appropriations bill. S. 1356.

"Economic and financial literacy are critical to the successful operation of our democracy, improving our citizens' ability to make informed choices about their own lives, as well as issues of national and international importance."

—David McClain, Vice President for Academic Affairs, University of Hawaii System, Board Member and Former Board Chair, Hawaii Council on Economic Education.

"The Money needed for economic education is critical. We have young adults graduating from high school as well as college with little, if any economic or personal finance education. They are expected to manage household budgets to include checkbook maintenance, credit management, car purchasing, house renting/buying, risk management (insurance), and much more without any formal education in these matters. The fast paced financial world facing them is daunting to say the least. Consider the credit card companies that hound us everyday to mention just one challenge. No wonder such a large percentage of our young families file for bankruptcy!

"We need economics education to be required in our high schools to ensure every student has an opportunity to succeed as a money manager in their personal lives. Further, we desperately need the resources (trained teachers) to ensure these skills are taught to our youth."

—Colonel Richard Rankin, Iolani School Teacher, Board Member, Hawaii Council on Economic Education.

"I support Senator Akaka in getting more funding to promote improving the economic/business understanding of our kids in K-12 in the state of Hawaii to prepare them to enter society with an understanding of the free enterprise system as it exists in our country.

"To this end I have been active in HCEE and Junior Achievement who work toward these goals. HCEE supports the Economic education of our teachers to enable them to better teach our kids. Junior Achievement provides curriculum materials and supplies volunteers to assist the teacher."

—Will Sanburn, Board Member, Hawaii Council on Economic Education.

"I am a member and past Chair of the Hawaii Council for Economic Education. However, this letter is actually written to forward to you the views of my son, Edward "Mickey" Knox, who is currently a history major and economics minor attending American University in Washington D.C.

"When a senior at Hawaii's well-regarded Iolani private high school, he took his first economics course from retired Colonel Dick Rankin, recently recognized by the National Council on Economic Education as one of the country's top economics teachers. Mickey told me at the time that he felt a little cheated * * * because Colonel Rankin made him realize that all his previous American history courses had not really explained how much economics drives our political system and the course of history.

"He e-mailed me to ask that this brief testimony be conveyed to the United States Congress as part of the submittal being assembled by the Hawaii Council:"

*Before the end of high school, every child is expected to learn English, to know that subjects have predicates * * * Science, to know that gravity pulls * * * Math, to know that terms equate * * * and History, to know that it repeats.*

But how can a person get a public education, graduate high school, and be a competent citizen without understanding economics? History suggests humans may even have developed math and the drive to understand other languages because market forces led them to barter with each other. Economics was the whole point!

When I was in high school, Col. Rankin's course opened my eyes to a new perspective on the way the world works. But that perspective should be a common one, not a secret. Please vote to appropriate funds that would encourage economic education. It is vitally important.—Edward "Mickey" Knox.

—John M. Knox, President, JMK Associates, Board Member, Hawaii Council on Economic Education.

As you are aware, the importance of economic and financial literacy cannot be understated. The ability to understand and make sound economic decisions is a basic survival skill that will enable students—our future employees, business people, and government leaders—to effectively cope with the economic uncertainties affecting all our lives.

Without a serious demonstration of support for economics and personal finance, State and local support for these real-world subjects could disappear in the face of budget cuts and new requirements under the No Child Left Behind Act.

Thank you for leading the charge to equip students well with the tools that they need to become heads of households, members of the workforce, entrepreneurs, business leaders, and voting citizens.

Sincerely,

KRISTINE CASTAGNARO,
Executive Director,
Hawaii Council on Economic Education.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset I thank the Senator from Hawaii for coming forward at an early time to offer an amendment. And in thanking him for offering the amendment at an early time, I urge my colleagues who have amendments which they intend to present to come to the floor and offer the amendments.

There are more than 40 amendments which have been suggested. How many of them will reach fruition to be offered we are not yet sure. But we have proceeded for almost 2 hours without having a quorum call. And if we are to proceed to complete this bill at an early date, hopefully notwithstanding the difficulty even this week, we are going to have to proceed with other amendments.

If there is staff available to inform the managers' staff as to what amendments may be in a position to be offered later this afternoon, that would be helpful. If we can get an idea as to what Senators may be arriving in town later today—we understand the absence of a vote will enable Senators to come to town without the pressure of a vote, but if staffers could tell us whether Senators will be in town for offering amendments later today, that would be very helpful so the managers can plan their activities.

With respect to the amendment offered by the Senator from Hawaii, I think there is a real merit in what has been proposed to have information to promote economic and financial literacy among all students in kindergarten through grade 12. This item, although authorized, was not subject to funding by the subcommittee. Because of limitations in overall funding, the decision was made not to fund any new programs.

I note that the U.S. Departments of Treasury and Education released a report which identified a number of options for incorporating financial education into schools, some of which would include financial concepts to material being asked on tests, urging textbook publishers to include more financial educational content, incorporating financial educational materials into classroom lessons, and training teachers on the importance of financial education.

I think it is very significant to know that there are funds available for

States, some $345 million, for innovative educational State grant programs which could accomplish precisely what the Senator from Hawaii seeks to accomplish. Those $345 million in innovative educational State grants could well incorporate the ideas for which the Senator from Hawaii asks. In addition, there is already an appropriation of $2.850 billion in teacher quality State grant programs which could be used for this purpose.

So in opposing the amendment by the Senator from Hawaii, it is not because we do not think it seeks a worthwhile objective, but there are funds available in other lines which could fund this program. So it is with reluctance that I am constrained to say that our rule not to fund new programs because of overall limitations of funding would not have an exception for this amendment. Once we start to make exceptions on new programs, we obviously cannot adhere to that exclusionary rule.

To repeat: There are funds available from other programs, funds available from other appropriations which could accommodate the ideas of the Senator from Hawaii.

I note no other Senators on the floor seeking to offer amendments. In fact, I note no Senators even on the floor not seeking to offer amendments. We have a cozy twosome, Mr. President, the Senator from Wyoming and this Senator.

Again, I urge my colleagues, among a list of some 40 prospective amendments, to come to the floor to offer amendments.

In the absence of any Senators who are coming to the floor to offer amendments, this is an appropriate time to return to the opening statement which I interrupted to yield to the Senator from West Virginia who offered an amendment.

In addition to the categories already identified, this bill provides for biodefense to continue the Nation's efforts to address bioterrorism, a very important subject, in the amount of $3.6 billion. On this subject, it is worth noting that during the August recess, I traveled to many fire departments and locations of first responders in my State of Pennsylvania to see the level of preparedness of many of the fire departments. We have allocated in Pennsylvania alone some $68 million for first responders and some $77 million in grants are available.

In visits to many communities, there was a very refreshing sign of voluntarism in the volunteer fire departments but really a need for more volunteers. In Sunbury, PA, the suggestion was made that the schools might incorporate in the curriculum a program for seniors, maybe even for juniors, which would provide high school education on being a first responder and might even inculcate a spirit among high school students of a desire and an interest in volunteering, going back to the statement widely quoted of President John F. Kennedy: Ask not what your country can do for you; ask what you can do for your country, to try to bring high school students into the first responders line. We are going to be exploring in this bill the possibility of an earmark which might be devoted to an educational program in high schools to encourage students to become volunteers in fire departments or other first responder units.

Again, I ask my colleagues to come to the floor to offer amendments. There is no Senator on the floor to offer an amendment. With some reluctance, having passed 2 hours and 5 minutes without a quorum, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is that the amendment pending is the Byrd amendment; is that correct?

The PRESIDING OFFICER. The Akaka amendment is pending.

AMENDMENT NO. 1543

Mr. DORGAN. The amendment offered this morning by Senator BYRD is an amendment dealing with the issue of funding the requirements of the No Child Left Behind Act. I will talk about the Byrd amendment which provides additional funding for the Title I program, a major part of No Child Left Behind.

The No Child Left Behind law passed the Congress with very wide support. It was proposed by the President. It was embraced by people on the left and the right in Congress. It had strong bipartisan support. But there are significant issues and problems attached to it, one of which is being addressed by this amendment offered this morning by my colleague. I come to the floor to support that amendment.

I begin by saying that I am a little weary of people trashing public schools in this country. We have a wonderful educational system. We have significant challenges. There is no question about that. But we have a great educational system.

We are one of the few countries in the world that early on started with a basic notion that every young child ought to be able to go through a classroom door and learn and become whatever their God given talents allow them to become. Through it all, we have had wonderful young men and women move from classrooms to experiments in research, to business, to academics, and to create in this country quite a remarkable record of achievement.

I recall a story I have told my colleagues many times but it is worth telling again whenever I talk about education. The oldest man in Congress when I arrived was a man named Claude Pepper, the Congressman from the State of Florida. He was then in his late eighties. When I went to see him to say hello, because I knew a lot about him, behind his chair in his office on the wall were two interesting pictures. One was of Orville and Wilbur Wright making the first airplane flight. It was autographed to Congressman Pepper, by Orville Wright before he died, a picture of his first flight: To Congressman Claude Pepper, with great admiration, Orville Wright.

Beneath it there was a picture of Neil Armstrong standing on the Moon, autographed to Claude Pepper. I thought about the distance between those two framed photographs, the first person to fly and the first person to walk on the Moon. December 17, 1903, for 59 seconds, Orville Wright left the ground and flew. And then in 1969 Neil Armstrong walked on the surface of the Moon.

What is the distance between those two photographs framed on one Congressman's office wall? The distance is education, learning, knowledge. It did not happen in a European country. It did not happen in an African or Asian country. It happened in this country.

Our system of public education gives every young child every opportunity to be whatever their God given talents allow them to be, which has spawned remarkable opportunities and challenges and remarkable achievements. Those achievements, the first person to leave the ground and fly and the first person to fly to the Moon and walk on the surface of the Moon is an achievement of technology, science, and knowledge.

There are so many others. We could talk about, for example, Dr. Jonas Salk and the development of the Salk vaccine that prevents polio. There are so many other examples that I should not even begin to list them.

The point is that all of this stems from America's public schools. Yes, we have some great private schools as well, but public education has been the way we have educated the large majority of American young people.

I come from one of those schools, a very small rural school in a very small town with a senior high school class of nine students, a high school with four grades—freshman, sophomore, junior, and senior—totaling 40 students. We didn't have foreign languages in that high school. We had a library the size of a coat closet. Disadvantaged? Probably. But did I get a great education? You bet your life I did. Because the school board members in that town cared about that school and made sure it was a good school.

Let me talk just a bit about where we are today. I talked about where I went to school. We still have a lot of rural schools. I visited many communities in August in my home State of North Dakota and talked with educators, talked with school administrators, talked with parents about the schools in their hometowns. We have many small community schools and they do a remarkable job of educating their kids.

We passed a piece of Federal legislation that the President described as No Child Left Behind. I think it makes sense. I agree with President Bush. It makes sense to have accountability in education. Accountability is important. We spend a lot of money on schools and on education. We give report cards to kids for a reason—so that child and that child's parents understand how the child is doing in school. That is the report card. There is nothing at all wrong or inappropriate with us deciding we ought to have report cards on our schools as well, because some schools do better than others.

The question is why. Why shouldn't a child walking through a classroom door in one State have the same opportunity at a quality education as a child walking through a classroom door in another State or another county or another city?

Accountability is fine. We spend a great deal of money on education in this country. Public funding for education is important. We commit a great deal to it, so let's hold schools accountable. That is the philosophy behind this law, No Child Left Behind. The title itself simply begs the question: Would you want to leave a child behind? The answer is no, of course not. Has anyone proposed legislation here in the Senate that says: Let's leave children behind? Has anybody here said: My bill says leave children behind? Of course not. No Child Left Behind is a title. We all agree with that. It is a slogan, and an important slogan, I might say: No Child Left Behind.

What is important, however, is what we do at the Federal level to create opportunities to improve our education system and, yes, to provide more accountability for how the resources are spent and how our schools are doing. It is very important for us to have passed this legislation and now to do what is necessary to make it work.

I regret to tell you that at least my observation is that in two areas we are setting this law up for failure, which then means we are setting up for failure those children and the teachers and the parents and the school administrators who are a part of this large, wonderful, important industry called public education.

The two areas are as follows. No. 1 is funding. There was an implied promise by everyone when this legislation was passed imposing mandates, certain requirements on school districts and schools in this country, that we would provide the funding for those mandates. In fact, when President Bush signed the law, he said:

> And a fourth principle is that we are going to spend more money, more resources, but they'll be directed at methods that work. We're going to spend more on our schools, and we're going to spend it more wisely.

Beyond this quote, the implied promise by the President and by Members of Congress, the bipartisan consensus, was that we will impose these mandates and we will provide funding to make them work. Regrettably, that has not happened. Providing the funding is the goal of this amendment that has been offered and it is one I support. The ink of the President's signature on this bill was hardly dry when the next Presidential budget was sent to the Congress that did not fully fund the authorized requirements in No Child Left Behind. In fact, the President's proposal cut some funding initially. The Fiscal Year 2003 Omnibus Appropriations Act fell about $7.2 billion short of the authorized level for No Child Left Behind programs.

Some will make the case that authorization bills are different from appropriations bills. It is not unusual that we authorize more than we actually appropriate, and I agree with that. That certainly is the case. But it is also the case with No Child Left Behind that we embarked on a new and aggressive education policy in this country that said we will seek accountability but we will also provide the resources to make that happen. Regrettably, the President has not requested those resources. His requests have fallen far short of that which I believe was promised. Also, the Congress has not provided the resources above the President's request. We have provided some additional resources but not sufficient resources to do what I believe we need to be doing.

The second area I think will set this up for failure unless some changes are made is the issue of flexibility. This ought not and cannot and should not be a one-size-fits-all public policy. You simply cannot put the same template over a school with nine high school senior students as you do over a school in midtown Manhattan. They are different schools with different resources, different needs, different circumstances. So you have to have some flexibility to recognize that.

If this law is administered with flexibility and with the sensitivity and understanding that you have different parts of the country with different needs, different school districts, different kinds of schools, different challenges with different kinds of students—if you understand that and are sensitive to it in the rules and regulations administered by both the Department of Education and the State education agencies, then this can work.

But if this policy says to a small school in a small town: You have a teacher and that teacher has been teaching geography in your school for 12 years, and he or she is, by all accounts, a wonderful teacher, loved by the students, teaches a wonderful course in geography, and produces from that course students who know that subject cold—by all accounts an all-star teacher, but that teacher is teaching in his or her college minor, not major if, because of this—legislation and the way it is interpreted in the rules and regulations at the Federal Department of Education and the State education authorities, you say to that teacher and that school: By the way, you are not highly qualified and therefore you are not eligible to teach that course in geography that you have taught so well and with such excellence for 12 years, then I say this legislation is destined to fail.

We must recognize, and the legislation we passed does recognize, that there are alternatives and opportunities for teachers of the type I just described. Some, however, who administer this law, at both the Federal and State levels, say what we demand, then, is that teachers teach only in their major because that is the only teacher who is highly qualified. Nonsense. Total rubbish. There are teachers who teach in their minor who do a wonderful job and have developed the experience, the skill, and the capability to be wonderful teachers.

If someone is going to say, especially to rural schools in this country: You must teach only in your major, and if you are teaching in your minor, you are not highly qualified and therefore you are not eligible to teach, then the question is, Who is going to come up with the extra money to fund all that? You are going to have teachers going through our colleges getting trained as teachers getting double majors? They have to stay in school longer. It is going to cost more money.

We have States that do not pay teachers very much money. The fact is, they spend most of their day with our kids. Yet we do not, apparently, value that profession significantly enough to pay it the kind of money that is necessary to keep teachers in the profession.

I think two things are at work here. First, if this is not funded, it is destined to fail. You cannot have an implied promise that we will impose the mandate and fund the mandate and then not fund it. And, second, if we do not have flexibility in how this is administered by both Federal and State education departments, it is destined to fail as well. I don't want it to fail. I want this law to succeed, and I want this to recognize with some significant abundance of common sense that there is a way to hold schools accountable. There is a way for us to establish national aspirations and goals, to demand accountability, without being foolish about it and without telling a fair number of teachers, wonderful teachers, the best and brightest with standards of excellence by all accounts, that, somehow, you are no longer capable of teaching. That makes no sense at all. That is absurd.

I want this to succeed, but the two areas I mentioned are two areas I think will destine this law to fail unless remedies are taken that will resolve both: No. 1, adequate funding and, No. 2, the implementation of this legislation in a way that recognizes the need for flexibility; the implementation ought to recognize that "highly qualified" is a description that ought to apply to all teachers who do an excellent job everywhere in this country. That is who highly qualified ought to apply to.

All of us come from schools that gave us opportunities. I mentioned that my high school senior class was in a really small community in southwestern North Dakota with nine students. I had a couple of teachers, one especially who I think helped me a great deal. Teachers live with you the rest of their lives. In fact, when I was elected to the U.S. House of Representatives, my English teacher from high school would still from time to time send back to me newsletters I would send out to North Dakota constituents. She would edit them for grammar and mistakes and send them back. English teachers never leave you, of course. But there are wonderful teachers. They blessed my life and blessed the lives of so many American kids who have graduated from our school system.

I come today to support the specific Byrd amendment that would provide the funding that is necessary to increase funding for title I to the $18.6 billion level that was authorized by law. Title I is the largest program funded by the No Child Left Behind Act, the major Federal aid program serving disadvantaged students—those students most in danger of falling behind. This amendment is the same amendment Senator BYRD offered during the appropriations committee markup, which was regrettably rejected on a party-line vote.

We hear these days of teachers buying their own supplies for their classrooms because the school district doesn't supply them. We hear about states on the west coast where teachers worked the last 10 days of the year for free, without salary, because the school district didn't have the money to pay them. We hear all of these stories about what is happening with respect to the financial crunch both at the State and local governments. That applies to school districts as well.

The question of whether we are going to allow this to succeed and make accountability something that really does work is I think a function of whether we are willing to put our money where our mouth is. If we are going to impose mandates, how are we going to fund those mandates? The implied promise was that we were. Regrettably, the history of this in the last couple of years is that we are not going to meet that promise. This amendment is one more opportunity to do what we said we were going to do.

Second, I simply want my comments today to send a statement to those who are engaged both at the Federal level and at the State level in developing these definitions that if these definitions and the implementation of this legislation is done without common sense, once again this is destined to fail. We must have some common sense in how this is implemented. It can work. It should work. I hope it will work. But this law called the No Child Left Behind Act simply will not work unless these two conditions are met.

I introduced a resolution a couple of months ago that would suspend the enforcement of the No Child Left Behind Act until full funding is provided and that called for flexibility in the implementation that will allow this law an opportunity to work.

I see that the Senator from Pennsylvania, the manager of the bill, is on the floor. I was intending to say just a few words on a separate subject on the issue of trade, but I don't want to interrupt the discussions with respect to education. So let me ask my colleague if he was intending to speak on the bill at this point. If that were the case, I would defer.

Mr. SPECTER. Mr. President, I appreciate the invitation of the Senator from North Dakota, and I would like an opportunity to comment upon what he has had to say about the amendment by the Senator from West Virginia and also on the flexibility issue. Then I would defer to the Senator from North Dakota to speak additionally about trade.

When the Senator from North Dakota calls for adequate funding, I would suggest to him that the determination of "adequate" doesn't necessarily turn on having an opportunity which meets the full level of authorization. Some of this I had submitted when Senator BYRD had offered the amendment, but I think it would bear just a little repetition. Perhaps the Senator from North Dakota didn't hear it, or perhaps there might be even somebody listening on C–SPAN who wasn't listening earlier, or perhaps there might be somebody on C–SPAN listening. But just because the appropriations bill figure is not up to the level of authorization does not necessarily mean it is not adequate.

My preference would have been to have had a larger allocation for this subcommittee report and have had a larger allocation for education. But as Senator BYRD said earlier, and Senator HARKIN said earlier, this appropriations bill goes about as far as you can. Senator HARKIN and I had commented earlier this is a bipartisan bill. We have worked out the appropriations process in a bipartisan way.

I became chairman in 1995, and Senator HARKIN has been chairman intermittently and I ranking, and reverse. As we have frequently said, it has been a seamless transfer of the gavel. But as Senator HARKIN noted, this appropriation bill did as well as you could, and Senator BYRD, the ranking member of the full committee, agreed with him. The question of what is adequate is a fair subject for debate. I repeat that it has always been desirable to have more funding on education. But just because the appropations is not up to the authorization level, it does not mean there has been a dereliction by the Bush administration.

I refer the Senator from North Dakota and others to the fact that when the No Child Left Behind bill was enacted in January of 2002—and the appropriation followed a few days later—the authorization for title I was $13.5 billion but the appropriation was $10.35 billion, and that was when the Senate was controlled by the Democrats. So the appropriation was $2.85 billion under the authorization.

On another aspect of the No Child Left Behind bill, improving teacher quality, the authorization was $3.175 billion, the appropriation was $2.85 billion. So the appropriation, under the Democrats' control, was $325 million under the authorization.

On another aspect of the No Child Left Behind bill, the 21st Century Community Learning Centers, the authorization was $1.25 billion and the appropriation was $1 billion. So it was $250 million under the authorization.

I commended Senator HARKIN, who was chairman of this subcommittee at that time, and Senator BYRD, who was chairman of the full committee. But the fact is the authorization was higher than the appropriation, which is customary.

As is reasonably well known, we have two committees, the authorizers and the appropriators, and the authorizers characteristically put up a higher figure than the appropriators may be able to manage.

There has also been some question as to whether President Bush has adequately funded education. As I said earlier—and again I think this is worth repeating—if you take a look at what President Bush has requested in the President's budget, which is the determination as to what the President wants on education funding, in the year 2002, the first year President Bush submitted a budget, it was for $44.54 billion, which was about a $4.5 billion increase over 2001, and if you contrast the 3 years of the request on the budget by President Bush, the figure has gone from $40 billion to $53.3 billion, which is an increase of about 33 percent.

If you take a look at the request by President Clinton from 1996 through 1999, the figure went from $26 billion to $32 billion, or an increase of about 23 percent. No one said President Clinton had shortchanged education. If you take a look at the 3 high years for President Clinton—1999, 2000, and 2001—the budget increased from $29.5 billion to a little over $40 billion. That is about a 33 percent increase, a little over $10 billion. So whereas President Bush, in the 3 years cited, had $13 billion and President Clinton, in the first of the 3 years cited, had $6 billion, and $10 billion in the second, I think President Bush's increases compare very favorably.

Again, it would be nice to have more funding, but on the question of what President Bush has done by way of his request, I think it is a very strong showing.

When the Senator from North Dakota makes reference to the issue of flexibility, I quite agree with him, there is a need for flexibility.

If I might have the Senator's attention. When he talks about a one-room schoolhouse, that resonates with this Senator. My younger sister Shirley taught in a one-room schoolhouse located about 6 miles from Russell, KS, when I was, I think, a senior in high school. And when the Senator from North Dakota talks about a rural school, where a teacher has to teach a number of grades, I recollect that very well. I would not take an oath to this, but I think she had about four different grades from first to eighth. The intervening grades, I wouldn't be too sure.

But it was tough teaching in that country day school in a couple of respects. The first thing was there was no transportation. My father, who had a junkyard in Russell, KS, had to take time off to drive her to school and to pick her up from school. But that was what fathers did in about 1946 when she had this country day school.

Also, the word problems for the eighth grade were very difficult. My older sister Hilda was living with us at the time. Her husband was fighting in World War II and was in the South Pacific. Hilda was a college graduate and I was a senior in high school, both of us substantially beyond the eighth grade, and we would sit for hours at the kitchen table working over these word problems.

So when the Senator from North Dakota talks about the need—occasionally we got the word problems, too. I don't want to leave that hanging. Occasionally we got them. We did not always get them. You know, the question: If X starts at point 1, and goes 20 miles an hour, and travels for 2 hours and 30 minutes, and B starts at point zero, and goes for 4 hours with deviation, et cetera, et cetera, who arrives at point Q first? Those are fairly tough questions.

The question I would have for the Senator from North Dakota is whether these standards, which do not have to be met for a few years yet, require modification now. Each State has to submit a plan to the Department of Education for approval. Of course, each State knows what they are dealing with. The State director of education knows how many one-room schools he has in North Dakota or how many he has in Kansas. Maybe there are some even in between in South Dakota and Nebraska.

The question I have for the Senator from North Dakota is: Has there been insufficient flexibility in the approvals given by the U.S. Department of Education on these plans submitted by the various States, if the Senator from North Dakota is familiar with that?

Mr. DORGAN. I say, Mr. President, to the Senator from Pennsylvania that I am aware that the Secretary of Education at one point talked about being very ginger with respect to waivers and the kind of flexibility I think is necessary. I do not have his quotes in front of me.

But the point I was trying to make is that as States determine what their specific needs are, of course the State education authority is going to be in touch with the Department of Education to determine how the Department of Education is going to send down the rules, how they are going to enforce this.

My understanding, at least, is that the Department of Education has indicated it is not going to be very anxious or interested in waiver policies. So the point I was trying to make—and I don't think I mentioned one-room schools. I mentioned small schools.

Mr. SPECTER. You can't get any smaller than a one-room school.

Mr. DORGAN. But the point I was trying to make is, if we do not have flexibility and therefore describe wonderful teachers as not highly qualified, and you have to hire additional teachers in small schools so they are all teaching in their major, then the question is: Who is going to come up with the money for that?

First of all, I do not think it would be smart to do that because you are telling some wonderful teachers they are not qualified. But second, if you do embark on that strategy, it is going to cost all of these school districts more money, and that becomes the mandate. And the question is: Who is going to fund the mandate?

Those are the questions I raised that are related to both funding and also flexibility. I hope an abundance of common sense might well be applied to all aspects of this legislation.

Mr. SPECTER. Mr. President, my response is that I agree with the Senator from North Dakota, there has to be flexibility. I am not conversant with what is going on in Kansas rural schools today, but I can become conversant. And perhaps the Senator from North Dakota is conversant on what is going on with rural schools in North Dakota.

But if they still have a small school, where a single teacher is all there is in a one-room school, and they have four students to teach in four different grades, I don't think it is realistic to bring four teachers in with specialties. You might have to have more than four because they teach arithmetic, geography, English, and history, and many subjects.

What I intend to do is to find out what is going on there.

Mr. DORGAN. Might I ask the Senator from Pennsylvania to yield?

Mr. SPECTER. I am glad to yield.

Mr. DORGAN. The point is not just a one-room school or one teacher teaching four kids. The point is, for example, a school of the type I described with four grades and 50 students and four teachers. Those four teachers are having to teach outside of their major. They are teaching in their minor and major, several different classes, and in many cases are wonderful teachers who produce great students. They know their subjects, and the demonstration of being good teachers is that they turn kids out of that classroom having completed their course, and these kids know the subject as well. In those circumstances, a school like that couldn't possibly hire another four teachers because they wouldn't have the money.

The question is, are you still going to continue to keep those schools open and allow those teachers to teach in their major and minor provided they are good teachers?

Unfortunately, I believe we are headed toward a time when the definition of who is highly qualified will exclude many of those great teachers.

Mr. SPECTER. Mr. President, my question to the Senator from North Dakota, precisely stated: Does he know of any situation where there is any such school, where the State head of education has submitted that issue to the U.S. Department of Education for a waiver and had it turned down?

Mr. DORGAN. Well, as the Senator from Pennsylvania notes, we are not down the road far enough at this point to understand exactly what the U.S. Department of Education is going to do in terms of allowing States to deal with their specific needs. I can tell you, having dealt with many Federal agencies for a long time—I know the Senator has as well—having watched some of these statements coming from the Department of Education, we will at some point be on the floor talking about these circumstances because we will have Federal Rules imposed by the Government in a way that simply does not match the needs or interests of the small local school districts.

I will be happy to work with the Senator as we proceed so that if he indicates—and he did earlier—he believes flexibility is the hallmark and a watchword, you have to have flexibility and common sense, then he and I need to be very vigilant in making sure that both the State plans but also especially and most importantly the Federal Rules with respect to how those plans are evaluated give us the opportunity for some common sense and flexibility.

Mr. SPECTER. Mr. President, if we are not far enough down the road to know how it is going to work out, I don't think we are far enough down the road to criticize it. I think we are far enough down the road to make inquiries. But I think it is premature to criticize this bill for lack of flexibility, premature to criticize this bill for lack of funding to accommodate more flexibility until we see that the U.S. Department of Education has denied an application by North Dakota or Kansas or some rural State, which has a good educational system and has it taken care of, that is being turned down on the flexibility request.

The issue has been raised. I think it is an important issue. As the chairman of the subcommittee, I will make inquiries to see how the flexibility rule is being carried out to date or how it is proposed to be carried out, to have hearings, if necessary, in the subcommittee. We ought to anticipate the problem, but it is too soon to criticize.

Mr. DORGAN. Mr. President, if the Senator from Pennsylvania will yield once again.

Mr. SPECTER. I do.

Mr. DORGAN. First of all, it is not so much a criticism as a determination of what is necessary to make this legislation or make this new law work. The State plans that were submitted to the Department of Education for approval deal almost exclusively with how states measure yearly progress for the school districts themselves. These plans that have been approved do not deal with the definition of "highly qualified" teachers.

If you take a look at what has been discussed and described, including the discussions around the provisions in the underlying law itself, there is enough to cause concern that ought to require us to talk about it at this point. Because if we don't do that, we will head towards 2005 and 2006, when the deadline exists with respect to the issue of highly qualified teachers, and we will find we have put in place a bureaucratic juggernaut that will cause chaos in school districts all across the country.

It is very important for us to discuss this now.

Mr. SPECTER. Mr. President, I agree it is important to discuss. The information handed to me at the staff level represents that since the act was passed in 2001, funding for high quality professional development for teachers and school administrators has been increased by 32 percent during the Clinton administration in the seven years following the Elementary and Secondary Education Act authorized in 1994, which also called for set standards to develop and implement assessments. The total increase provided for title I grants to LEAs was $2.4 billion or 38 percent. In contrast, at the level proposed in this bill, the total increase since the passage of the No Child Left Behind Program in 2001, would be $3.6 billion or 41 percent. So I think the funding in this bill is providing for improvements.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I don't disagree at all with the data. I did not talk about Clinton versus Bush and so on. I didn't make that reference. The circumstances are dramatically different than they were previously. We embarked on a new, different, aggressive education policy called No Child Left Behind in which we imposed for the first time significant enforceable standards in order to measure accountability. That was my point.

I like the work the Senator from Pennsylvania does. He and I have worked on a lot of things together. Notably, I was one who, along with the Senators from Pennsylvania and Iowa and others, worked to try to double the amount of funding in the National Institutes of Health, and the dividends that will pay for the American people in the future are significant. I like the work the leadership of this subcommittee does, the Senator from Pennsylvania and the Senator from Iowa. I appreciate working with them. He indicated this is the best we can do on funding. He would probably wish to do more. I think I heard him suggest that. I sit back and try to figure out what are our priorities as a country. What are the priorities? Then I see stories.

For example, in the middle of all of this, I was visiting schools and talking about funding that might or might not happen under these mandates. And at that time, we were simultaneously having a situation with Turkey this year. They would not let us use their bases or allow our troops to cross their borders into Iraq. So Mr. Wolfowitz was sent to Turkey and came back with a deal to provide $26 billion to Turkey. I called around to find out where that money was coming from. I found out $6 billion was to be in the form of direct grants and $20 billion in guaranteed loans. I am thinking, maybe I should change my name to Turkey. The old John Paxon song, I am changing my name to Poland.

I think the issue for all of us is what are the priorities? What represents the significant priorities including national security, national defense, homeland security? Those are significant. But when you talk about education, it is also the case that education is our future. I want this law to succeed. I want it to work. The only point I came to talk about is, I don't think it can or will work unless, A, adequate funding exists to pay for the mandates we impose on local school districts and, unless, B, there is a reservoir of common sense used on how these rules apply to schools.

Mr. REID. Mr. President, it is traditional in the State of Nevada that the congressional delegation speak to the State legislature. In Nevada, the State legislature only meets every other year. This past February, I had the honor and pleasure of speaking to our State legislature. I spoke about a number of things, but one of the things I spoke about was the Leave No Child Behind Act, where I related to the recently convened Nevada State Legislature that I was terribly concerned about what was happening from a fiscal standpoint in the State of Nevada because I believed the Leave No Child Behind Act was leaving lots of kids in Nevada behind.

When I gave that statement, there were some who said, I think the Senator from Nevada is a little bit off, that Leave No Child Behind is going to work out just fine, that it will not have any impact on the State.

The State of Nevada, as with many States in the Union, went through a terrible fiscal crisis this year. The matter in Nevada had to finally be resolved in the courts. The State legislature was at an impasse. The Governor called several special sessions. As I indicated, he finally had to sue the State legislature and go to the Nevada Supreme Court. Following that, the supreme court ruled that certain parts of the method of obtaining money were unconstitutional, but the court did rule that education came first. The No. 1 requirement in the State of Nevada for the legislature was education.

The Leave No Child Behind Act is legislation that is extremely important, and the law has all the markings of being good legislation that we initiated here if, in fact, it is funded properly. But it has not been. As a result of that, Nevada and other States are in a tremendous bind.

It was 2 years ago that this Congress and the President made a promise to the children of America. We promised that every child would have an opportunity to get a good education and realize his or her dreams. We promised that teachers and schools would be held accountable for achieving results, but we promised extra help to those children who needed it the most so they would not get left behind.

I think we all felt pretty good about that promise. There was a nice bill signing ceremony at the White House and the new law was hailed as a great bipartisan achievement. That was 2 years ago.

Today, the children of America are keeping their part of the bargain. In the State of Nevada, as well as all over the Nation, kids have returned to school this month with their backpacks full of books, their hearts full of hope, their minds full of dreams. Our children are eager to learn and their teachers are eager to teach. Teachers are doing their part. As part of our promise to America's children, our teachers are accepting a higher standard of accountability. They understand that when a promise is made to somebody, they are accountable for keeping that promise.

I believe we should hold teachers accountable for getting results, but I think the American people should hold us accountable for keeping our promise that we made 2 years ago. That is why I have difficulty imagining that anyone would not support Senator BYRD's amendment. In effect, it is a commitment to fulfill our promise, the commitment that we already made to title I, the program that helps those children who need help the most. This amendment would mean a lot to the children of Nevada. It would provide more than $31 million for hard-strapped school systems that serve our neediest students. It would mean smaller classes, more training for teachers, and more educational materials.

In April of 2002, I held a hearing of the Appropriations Subcommittee in Las Vegas to find out about the impact of title I programs on the children of Nevada. We learned a lot. One of our witnesses was a woman named Tammie Carter who had a child enrolled in the title I pre-K program at Kermit Booker Elementary School. Mrs. Carter told us how important title I programs are to her family. She told us how much our promise to all of America's children means to her own child.

We should not break our promise, even to that one child, let alone millions across America. We should live by the words we uttered 2 years ago. We must be held accountable. So I hope this amendment, which will take 60 votes—60 percent of the Senate will vote to allow this education measure offered by the senior Senator from West Virginia to go forward.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak on another subject.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, I will be very brief. I know some of my colleagues want to speak as well.

Yesterday was Labor Day. I noticed this morning that there was a speech given by the President, which I welcome, in which he talked about increased attention to international trade issues, particularly trade deficits and the jobs that are flowing overseas. The story specifically talks about the difficulties we have in the manufacturing jobs that have left. I wanted to make a couple of points about that.

I have talked before about the trade deficit. We have the largest trade deficit in human history. It is now over $470 billion. Let me just show a chart that shows this trade deficit, although the red marks on this chart really should read "jobs." When your trade deficit goes to $470 billion, that means jobs that used to exist here exist elsewhere—in China, Japan, South Korea, Europe, Mexico, Canada.

I want to make a point about this because I am heartened by the fact that the President talked about China. The Administration is talking about currency fluctuations, which is a separate issue. I have spoken about that many times. Having trade agreements with other countries and not having a shock absorber to adjust for currency fluctuations makes no sense at all. It never has. We negotiate with Mexico for a trade agreement and you ratchet down 10 and 15 percent tariffs to 5 percent and 2 percent. And then Mexico devalues its currency by 50 percent. You are 35 percent worse off.

It has never made any sense to deal with trade agreements on tariffs and not worry about currency fluctuations. That is what we are finding with China. China is manipulating its currency values in a way that continues the trade deficit with China which is now $103 billion a year. They send us all their trinkets and trousers, tennis shoes, you name it. They produce it and send it here to go on our store shelves in Laramie, WY, Fargo, ND, Denver, CO for our consumers. Guess what. Try to send the Chinese some North Dakota wheat and see what you find out. The trade isn't two way. We don't really have a two-way trade agreement with China and Japan. We don't have an adequate trade agreement with Mexico, Canada, Korea, and Europe.

The Senate will soon consider a Commerce-State-Justice bill, which funds the Department of Commerce. The Department of Commerce is a crucial agency when it comes to international trade, because it has a Market Access Compliance program responsible for knocking down foreign trade barriers.

Do you know how many people the MAC program has to deal with trade barriers in China? Just 19. And we have a $103 billion deficit with China.

Now, the Commerce Department is involved in the issue of knocking down trade barriers in other countries. We have a $70 billion trade deficit with Japan. Do you know how many people at the MAC program deal with Japan? Ten people.

We have a $13 billion deficit with Korea and we have two-and three-quarters people working on market access issues in Korea. I don't know how three-quarters of a person works on this; there must be a new, novel way to do that in Commerce.

We have an $82 billion trade deficit with Europe and just 15 people working to open up those European markets and enforce trade agreements with Europe.

This makes no sense at all because this relates to jobs. When I asked on Labor Day what happened to manufacturing jobs, I will tell you what happened. They have gone. Paul Craig Roberts, an economist in the Reagan administration, wrote an op-ed piece recently saying that this is not a jobless economic recovery. Yes, the country is beginning to show economic growth. No, we don't have additional jobs. We have lost several million jobs. Jobs are not being created in this country; they are being created elsewhere. That is the problem. Part of it, in my judgment, is simply enforcement, demanding that other countries own up to their responsibilities to us in our trade agreements.

I have used this example often—and I will again briefly—with respect to Korea because it is such an appropriate example. Do you know that last year we imported from Korea very close to 680,000 vehicles into this country; 680,000 Korean cars came into the United States. Does anyone know how many American automobiles we were able to export to Korea? Just 2,800. So it was 680,000 to 2,800. Why? Because our markets are open to their cars. Good for us. Their market is largely closed to our automobiles. We don't do much about it. We just do not do much about it. Don't we care? I don't know. Nobody cares much, it seems to me, to begin to say to the South Koreans, with respect to automobile trade: If you want to sell cars in the U.S., open your markets wide to American vehicles. If you don't, then go sell your cars in Zambia, or in Libya, but not in our marketplace, until your marketplace is open to us.

While I am on the subject of cars, in the last trade agreement we did with China—a country with a $103 billion surplus with us—our negotiators agreed, for reasons I would never understand, that with respect to future trade between the United States and China in vehicles, automobiles, we would agree, after a long phase-in, that we will have a 2.5-percent tariff on any Chinese automobiles that would eventually be sold in our country, and China would be allowed to have a 25-percent tariff on any U.S. automobile sold in China.

So our negotiators sat down with a country that has a very large trade surplus with us, and said we will agree, after a phase-in, for you to have a tariff that is 10 times higher in China on

U.S. automobiles going to China than we would have on Chinese automobiles coming into the United States. I don't understand how people think when they do that. They undercut our marketplace and throw away our jobs.

Look, I am for expanding trade. I think expanded trade is good but it must be fair trade. If it is not fair and in our mutual best interests in bilateral and multilateral trade agreements, then we need to rethink it.

We face a circumstance in this country when we talk about the need for additional jobs. What happened to the 3 million jobs that used to exist here that no longer exist here? They exist elsewhere, where they can hire children at age 12 and put them in a manufacturing plant that doesn't have to be a safe workplace because you don't have OSHA; they can dump chemicals into the air and water because that country doesn't have an EPA, and it can pay 12-year-old children 20 cents an hour and work them 14 hours a day, and it is perfectly legal—by the way, a manufacturing plant that can prevent them, because their country prevents them, from organizing as a labor force.

That is where the jobs are going. Too many are going in that direction, and too many American families who used to have decent jobs with decent pay and benefits now have to look at those jobs existing in other countries that didn't fight for the last century for the kinds of things that we did, such as safe workplaces, child labor laws, fair compensation, and a requirement that you not pollute streams and the air.

Our country is losing ground, not gaining ground. If you look at the ocean of red ink on this chart in international trade, and at the loss of jobs, and if you look at what this translates into with respect to the weakening of our basic core manufacturing in this country, you simply must be concerned.

I don't want to sound like someone who is a "classic protectionist" who doesn't believe in trade; I believe in trade. I believe in the doctrine of comparative advantage, when a country can produce something in a manner that is much more efficient than ours because of the resources they have, because of natural advantages they have, then it makes more sense for us to buy from them and sell to them that which is in our best comparative advantage. But it is not part of the doctrine of comparative advantage to have a country that says we are going to hire kids and pay them pennies and dump sewage in the streams and the air. That is not a doctrine of comparative advantage; that is a political imposition that creates circumstances by which we lose manufacturing jobs to other areas of the world and then have them produce the products and ship them back into our marketplace. We have the products, perhaps at a lower price, and what we also have is an economy that is losing jobs and steam. That is why we have to be concerned about this.

I welcome the President's statement yesterday that he is going to have someone in the Administration dealing with this issue of China and dealing with the issue of the currency fluctuations. But there are far greater problems in international trade than just currency fluctuations. That is one of them but it is by no means the most significant.

I will not spend more time going on and on about the specifics of potato flakes to Korea at a 300-percent tariff. I can spend time talking about these continuing trade barriers, such as beef to Japan, where 15 years after the beef agreement with Japan every single pound of American beef is set to have a 50-percent tariff on it. Fifteen years after our agreement with Japan—a country with a $70 billion surplus with us—for us to allow that to happen is shameful. I will not go further, except to say I will speak at greater length on trade and jobs, which are related in a significant way, because we must—Republicans, Democrats, the administration, and Congress—tackle this issue in a significant way if we are going to preserve a strong, vibrant manufacturing base in this country and begin building jobs—good jobs that pay well with decent benefits once again.

Mr. REID. Mr. President, will my friend yield?

Mr. DORGAN. I will be happy to yield.

Mr. REID. I can remember when my friend, the Senator from North Dakota, first started coming to the floor with charts indicating the trade deficits. I can remember back in 1996 and 1997 when I thought: The trade deficit is going up, but not very much; it is $170 billion. It went up $10 billion, and that sounds like a lot of money. Maybe there is something that can be done about that situation.

Now I think there is no way to rationalize what is happening. It was $170 billion in 1996, and we are over double that in just a few years. I say to my friend. I take pride, even though I have received a lot of criticism, in that I have not voted for a single trade agreement. I thought they were shortsighted and bad for our country, and I think time is proving I was right and the twisting of arms to get votes for these programs saying it would help was simply wrong.

I say to the distinguished Senator from North Dakota, these are more than just statistics on a map or a chart or a graph. I have one daughter. My oldest child is a daughter. She is married to a wonderful man who was raised in Kannapolis, NC. I never heard the word "Kannapolis" until they fell in love and were married. I now have three grandchildren as a result of that union.

I have been to Kannapolis visiting with their family. Kannapolis is the sight of Cannon Mills where they make towels, sheets—all kinds of these products. It is a famous place in American manufacturing history and a very important part of North Carolina industry. Last week, Cannon Mills announced they were closing. The Cannon Mills plant in Kannapolis will be gone.

Kannapolis used to be a factory town where everyone who worked in Kannapolis worked for Cannon Mills. Thousands of people were employed at that factory. Cannon Mills has sent notice to everyone that the approximately 5,000 people who are at the Kannapolis plant will no longer have a job.

That is what Senator DORGAN's graph represents to me: Actual people such as Melvin Berringer, my daughter's father-in-law, a wonderful man in his eighties who spent his entire life working for Cannon Mills in Kannapolis. People who followed in his footsteps no longer work in Kannapolis. They are all through as a result of the trade policy of this country.

I have heard my friend from North Dakota in the past try to describe what the trade policy is. Is it unreasonable? Yes. Is it unrealistic? Yes. Is it unfair to us? Yes. There isn't a word one can come up with that adequately describes how the world's only superpower would put itself in the position where we have a $470 billion trade deficit. And we had the President yesterday saying: I think what we are going to do to solve the problem is appoint an assistant secretary of Commerce. That should handle the problem. Instead of having 19 people working on the $100 billion trade deficit with China, we can now have somebody calling once in a while to see what they can do to help the program. We will have an assistant secretary. That should solve all the problems if we appoint an assistant secretary of Commerce to solve the $470 billion trade deficit. That should solve the problem quite well.

I acknowledge, I appreciate, I compliment the Senator from North Dakota for being one of the few who understands trade policy and frequently speaks out, bringing it to our attention. It is something about which more should be speaking.

This is a problem that is only going to get worse unless this country changes what is happening. I repeat, I do not apologize to anyone for voting against every one of those trade agreements which I think were unfair because they dealt with those countries with environmental standards much different than ours, working conditions much different than ours, and employment standards much different than ours, making it unfair to American business.

Mr. DORGAN. Mr. President, I say to the Senator from Nevada that the most recent free trade agreement we voted on in the Senate was the Singapore Free Trade Agreement. It is an example of everything that is wrong with our trade policy.

The Singapore Free Trade Agreement was negotiated in secret, as are all trade agreements, and then they are unveiled with great fanfare, and we are told: Here is the agreement. And because the Congress decided it would vote itself a set of handcuffs so that when a trade agreement comes to the floor of the Senate we cannot offer any amendments—that is called fast track—when the Singapore Free Trade Agreement came to the Senate, it had a provision in it that had nothing to do with the Singapore Free Trade Agreement—nothing at all. It had to do with immigration, and it said we will grant special visas to 5,400 people from Singapore to come into this country to take American jobs. All of the folks on the committee who deal with immigration were apoplectic. They had apoplectic seizures on the floor of the Senate. What did we do? We constructed a sense-of-the-Senate resolution that said to the Administration: Next time, you better watch it. What a wonderful piece of public policy. Why couldn't anybody offer an amendment to take out the 5,400 jobs that will be taken in this country by the special visas given in that bill? Because we cannot offer any amendments to the trade bill. And so they negotiated this Singapore Free Trade Agreement. It has other problems with it, I should say, but they negotiated it with this little provision, and we could not take it out. That is so symbolic of what is wrong with our trade policies.

The minute you speak of this, as is always the case, the Washington Post, for example, which simply will not allow an op-ed piece on my side of the issue—you almost never see an op-ed piece talking about the requirement for fair trade because the Washington Post and most of the largest newspapers have the same view and that is: Free trade, free trade. It is like a mantra. We ought to put them in robes on a street corner and let them chant for a while, to get it out of their system, "free trade, free trade." The only thing that matters, it seems to me, is whether trade is fair and whether the engagement we have with other countries is mutually beneficial.

After the Second World War, our trade policy was exclusively foreign policy for 25 years because we wanted to help other countries. So we did all kinds of concessional trade strategies with other countries that were fine. It was our foreign policy. It was a way for us to help them, and it did not matter because we could beat any country under any set of circumstances in the job market with one hand tied behind our back. We knew that. We were the biggest, the best, and the strongest. We had an economy that could compete with anybody with one hand tied behind our back. So for 25 years, our trade policy was exclusively foreign policy run out of the State Department.

Twenty-five years after the Second World War, we began to see the emergence of some pretty tough, strong international competition—Japan, Europe, others, now China. Our trade policy is still, in most cases, soft-headed foreign policy. Instead of saying, Let us make sure that as a strong economic power, the world's preeminent economic superpower, that we retain a basic core manufacturing base—because we will not long remain an economic superpower without a manufacturing base—instead of saying that, what we are saying as a country in our policies is we do not care what remains. If we have a complete decimation of the manufacturing base in this country, so be it, that is the way the world economy was intending it to be. That is so shallow and so fundamentally devoid of caring about this country's national security. Yet, I am telling you, there are people out there who believe that. They just say: Let's have whatever happens happen and no complaining.

What bothers me the most about this situation, when we talk about these jobs, is we have set up the American workers to compete in a way that is fundamentally unfair because our country will not stand with its workers. We say to our workers: If you do not want to lose your job, then you better be prepared to compete. What does that mean? If you do not want to lose your job, you better take a pay cut. If you do not want to lose your job, you better be prepared not to get any benefits in the future. If you do not want to lose your job, be prepared to compete with that 12-year-old kid making 12 cents a day working 12 hours a day in an unsafe factory.

When did that become the admission price of the American marketplace, the only marketplace of its type in the world, the most lucrative marketplace in the world? When did we decide the admission price is do anything under any circumstances and allow your goods to come onto our shelves? When did that become something we accepted as a matter of course?

What about a sense of fairness in which this country says our workers will compete? The American workers are the finest in the world. We will compete anytime anywhere with anybody under any circumstances provided we understand that which we fought for a century in this country represents a value system by which we measure jobs. One ought to be able to have the right to organize as workers. One ought to be able to have the right to work in a safe workplace. One ought not to have to compete with 8-, 10-, and 12-year-old kids because they ought to have child labor laws. One ought to have some fair compensation capability. We fought for those issues for years. In fact, there are people who died on the streets in this country fighting for the right to organize.

I thought we had gotten through all those issues and said, Here is what the American marketplace is about, but now there are executives of companies who say: Let's fly around in our jet and look at various places in the world where we might produce, where we pole vault over those questions. We do not have to answer questions about hiring kids. We do not have to answer questions about paying 12 or 20 cents an hour. We do not have to answer to an OSHA or EPA. We, in fact, are going to move our production to Bangladesh or Sri Lanka.

Here is the result: A little story I read recently about producers in a manufacturing plant far away from here, in a portion of Asia, making baseball caps. Those baseball caps have 1½-cent labor in each baseball cap, and they are sent to the bookstore of an Ivy League college to be sold for $17. One-and-a-half-cent labor by a young Asian worker in a plant far away to produce a baseball cap that is then sold for $17 in the bookstore of an Ivy League college. I suppose that used to be a job in this country, to make baseball caps. It used to be we made shoes, shirts, and trousers, too.

One day when I was speaking in the Senate Chamber, Fruit of the Loom decided it was gone. Fruit of the Loom made a big announcement that they were moving to Mexico. I said: It is one thing to lose your shirt, but I mean Fruit of the Loom, once they leave . . . Just think of the jobs that used to exist here, that supported families, are going elsewhere.

I could understand that if it represented the doctrine of comparative advantage where one country had a specific resource or some specific advantage in which they produce something in a much more attractive and a much less expensive way than we do, provided that advantage is not some politically imposed advantage by a government that says you cannot organize, you do not have to have a safe workplace, you can pay pennies, and you can hire kids.

That is not part of the comparative advantage. That is a political will and a political system that says let's take jobs from those industrialized countries that have already settled those issues.

I hope to speak on trade at greater length later this week. It was my intention to mention the effort that was discussed yesterday in the newspapers about China and specifically about trade and jobs. I think this is a critically important issue. A recovery without jobs is not the kind of recovery we need in this country. We need a recovery that produces decent jobs that pay well, that have good benefits. We specifically need to pay attention to and understand that a world economic superpower will only remain a world economic superpower if they have a strong manufacturing base. That is critical to any economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The matter before the Senate is the appropriations bill that is being managed by Senators SPECTER and HARKIN: is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to reply briefly to the comments by the Senator from Nevada. It is very important to move on education in America; the legislation on Leave No Child Behind is very critical legislation on that important subject. But as we have heard the discussion move forward, there is a lot more commentary on President Bush than on the American schoolchildren. I suppose that is to be expected in the political context with a Presidential election coming next year, but the real focus, I suggest, is on the issue of adequacy of the funding.

The program for funding the No Child Left Behind legislation has been moving on with substantial increases in funding. Earlier today, the argument was made that the funding has resulted from the action of a Congress which was under the control of the Democrats. I suggest that ignores the recommendations and the budget requests President Bush has made and the budgets which he has submitted to the Congress of the United States which have been acted upon with both Democrats and Republicans.

When we look at the requests of the President to meet the legislation on No Child Left Behind, on the three budgets which he has submitted requests for fiscal year 2002, fiscal year 2003, and fiscal year 2004, there has been an increase in what he has asked for of some $13 billion-plus, moving from $40 billion to more than $53 million. If you take the 3-year period from 1996 to 1999 with the fiscal years 1997, 1998, and 1999, the funding increased from some $26 billion to about $32.5 billion, which was an increase of 23 percent. If you take the last 3 years prior to the budget submitted by President Bush, you have the funding from $29.700 billion to $40 billion, an increase of a little over $10 billion—there again, a 33-percent increase. So even when the Democrats controlled the Congress, the appropriations made were under the authorized amount which is a commonplace occurrence.

If we focus on what has been done to increase funding for education and what has been done to move along the legislation on Leave No Child Behind, President Bush has made a showing at least comparable and superior to that which President Clinton undertook, and no one ever said that President Clinton underfunded education. Perhaps the focus ought to be on what is the adequacy of the funding as opposed to the consistent critique of President Bush for political purposes.

I yield the floor.

HEALTH CARE

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I come for a couple of minutes this afternoon to reflect on both the recent holiday yesterday as well as my experiences in South Dakota over the last 4 weeks.

We celebrated Labor Day yesterday with parades and celebrations around the country. We have been doing so now for 120 years. Peter McGuire was a carpenter and a labor organizer who brought 20,000 workers to march in New York for better working conditions some 120 years ago. Still today it is a day to honor our working people and their contribution and to recommit ourselves to advancing their rights and protections.

I spent the August recess driving through South Dakota, as I do every year, without schedule or staff, talking to South Dakotans about the concerns they have. We have 66 counties in our State. I get into all 66 every year. I went to just under 30 counties during the month of August. Driving as I did, talking to working men and women, families, business people, farmers, and ranchers, I heard a great deal about jobs, about health care, about the state of agriculture.

Joblessness in our country has now reached 9.1 million people; 3.2 million private sector jobs have been lost since January of 2001. That is a 50-percent increase. Another 5 million, we are told, are underemployed, forced to take part-time work because they cannot find good jobs.

As I traveled the State, I talked to people who are unemployed, people who had good jobs. Surprisingly, large numbers of white-collar workers, people whose incomes exceeded $20,000 or $30,000, are now out of work. They expressed to me their concern for the state of the economy and the great difficulty so many South Dakotans are facing. That is true in small towns as well as large towns.

There is more bad news for working families as they consider the implications of higher deficits on the interest rates we are now experiencing. It is harder to buy a home, to pay for college, invest in business, in part because, as we have predicted, as the budget deficit increases, so do long-term interest rates. The CBO has now projected we will see a $400 billion deficit in 2003, $450 billion if you eliminate the impact Social Security trust fund surpluses have had on the budget, and over $650 billion in fiscal year 2004. We expect to add $1.3 trillion of additional debt, not to mention the higher increases in interest rates that everyone will be forced to pay, offsetting whatever marginal value to most working families the tax cuts have had now over the course of the last 2 years.

I spent the bulk of my time talking to South Dakotans about health insurance. As I do my travels each year, normally it is to listen to others. It is my home. In so doing, I have the opportunity to listen to South Dakotans express themselves on whatever issues may be of interest and concern to them and I can come back with a better understanding as we consider the issues in the Senate.

This year I asked more questions about health care, talked a good deal about health insurance to South Dakotans. We have over 100,000 of over 700,000 South Dakotans who at some point through the year do not have health insurance.

I was at a barbecue early in August talking to a number of South Dakotans about the issues and about health care in particular. There must have been 300 or 400 people there. After I spoke, about half of them, I suppose, lined up to say hello. It took a couple of hours to say hello to those who had come. As I said my final farewell to the last person who had waited in line, I noticed over on a park bench there was an older man—older; I would say probably in his early seventies—who had waited all this time just to talk to me. He told me what had happened in his own circumstances. He said he and his wife had saved over $350,000 over their entire lives. About 6 months ago, his wife learned she had terminal cancer. She was too young for Medicare so they began spending their savings. They spent $200,000 and John's wife finally told him: "I would rather die than have you spend the final $150,000. Let me die." She did.

That was my first story that I recall, over a month of stories. I talked to Florence, who lives in Sioux Falls, SD. She drives all the way. She is 72 as well—early seventies. I can't recall now if it is 72 or 73. She just got a job about a month ago because she can't afford the $400 she pays every month for prescription drugs. Every 3 months she goes to Canada because she can't afford to buy them in the United States. She saves $300 every 3 months on that trip to Canada. She is a woman who now has been forced to go back to work at her age, just to pay for the drugs she needs.

I talked to Alicia at the Brown County Fair. Alicia has diabetes, juvenile diabetes. She was just kicked off her family's insurance rolls because she is now over 18. She doesn't have insurance and can't get it because the insurance companies won't sign her up. She asked them what to do. They said: Go look for a job where they have group health insurance. Alicia broke down when she was telling me she hasn't taken the diabetes medication as regularly as she should because she can't afford it.

I could take the rest of the afternoon talking about the stories I heard, about the crisis we face in health care today. I don't know about you, but when you are out there, outside of this town, and you are allowed to clear your mind, you wonder, with the positions we hold, how it is that year after year, session after session, these problems go by and in most cases continue to worsen. We come back and it just seems business as usual.

I don't know how we solve the health care problem. But I must say I think it is the most pressing, most serious, most vexing, most troubling problem that most South Dakota families face, at least. All I had to do was ask the first question, and one after another came forward with their own nightmare about the crisis that they or their family are facing.

So I learned a lot. I think I am far more aware today of the extraordinary problems and complications our South Dakota families are facing, but none like what they are facing with health care. We have to do something.

Our first opportunity of course is to deal with this Medicare prescription drug benefit. We are going to redouble our efforts to see if we can find some solution, but I will say I am very concerned and troubled by the lack of progress we made at the staff level in the month of August. There is a lot of work that needs to be done.

I will continue to go home of course and talk to South Dakotans. I will always remember the conversations and the willingness on the part of so many to open up, to share their private stories, to share their nightmares, to plead with me that Congress do something to address those concerns. Whether it is John, Florence or Alicia, they are watching, they are waiting, and they are hoping.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

STEEL TARIFFS

Mr. ALEXANDER. Mr. President, the distinguished majority leader has talked about jobs. Most of us in August talked to constituents who were talking about jobs. The President of the United States yesterday, in a Labor Day speech in Ohio, talked about jobs, and specifically manufacturing jobs. As he usually is, he was very straightforward about what is going on in our country. He said the economy is getting better, and I will give him some credit for that. He also said the jobs aren't coming along as fast as he would like. He pledged to work harder on that. He talked about appointing a sort of manufacturing job czar in the Commerce Department, which I would welcome.

Over the past several weeks, the administration has held 19 different round tables with manufacturers in this country to try to understand from them what Government policies could be that would make it easier for us to keep our manufacturing jobs.

I believe the President focused yesterday in his Labor Day speech on perhaps the greatest economic challenge we have before us in these very fortunate United States of America, and that is, how do we keep our manufacturing jobs from going overseas over the next 10 years as we participate in a global marketplace. We faced that before, with Japan, 20 years ago. I can still remember how everybody thought Japan was going to drown us, and they didn't. Now we are faced with China as well as others. China is bigger—not as prosperous as Japan, but bigger. We have a terrific challenge in how do we keep our manufacturing jobs from moving overseas.

On September 15, Commerce Secretary Don Evans is expected to announce more about President Bush's plan to save manufacturing jobs and to keep them from going overseas. The Secretary is scheduled to speak in Detroit on September 15. I have a respectful suggestion for what Secretary Evans might say in his speech in Detroit on September 15 about saving manufacturing jobs.

He will be there at the home of the American automobile industry, and I believe the most helpful thing he could say for the working men and women of America, especially in the automobile industry, is that we will end the steel tariffs now.

I don't want to simplify this. Ending the steel tariffs that were imposed in March of 2002 will not by itself stem the loss of manufacturing jobs in the United States of America. Manufacturing jobs have been going away from our country for a number of years. They were going away a long time before President Bush became President.

Manufacturing jobs have been leaving for a variety of reasons. The first is we have become more productive. When the Saturn and Nissan automobile plant came to Tennessee, they employed 5,000, 6,000, 7,000 people at very good paying jobs. But if those plants were being built today, instead of employing 5,000 or 6,000 or 7,000 people, they would have to employ 25,000 or 30,000 people to make the same number of cars. So we are still doing plenty of manufacturing in America as well as in Tennessee. We are just not hiring as many people to do it because we are so much more productive.

Then there are other reasons manufacturing jobs are under pressure. The Chinese currency is too low. Secretary Snow was in China today, working on that problem—we hope with some results.

Another reason we have difficulty with our manufacturing jobs is that our international intellectual rights and copyrights aren't being respected or protected.

Then the other reason, which every manufacturer in America knows, is cost. Every American manufacturer lives on the edge. It is always a battle with costs. If some unexpected cost comes along, the manufacturer cuts one or two jobs in order to stay in global competition. If too many costs come along, they go out of business or move their plants overseas.

What are those costs? The cost of labor, the cost of health care, the cost of environmental control, the costs of runaway lawsuits. All of these costs are the costs we hear about as we talk to men and women who are manufacturing in America.

But the cost I want to talk about today is a new cost that was added in March 2002 to manufacturers all across America, and that is the cost of the steel tariff. The President decided in that month, March 2002, to impose a tariff of up to 30 percent on imported steel, including hot- and cold-rolled steel, the kind used to make cars and trucks in our country. The idea was a noble one and a well-intentioned one. It is hard to argue with it. The idea was to protect steel-producing jobs, of which there are about 12,000 in Michigan where Secretary Evans will be making his address on September 15. The trouble is the steel tariff has been destroying steel-consuming jobs of which there are nearly 800,000 in Michigan, including 300,000 at auto assembly or auto supplier plants.

Let me do that math again.

In Michigan, there are about 12,000 steel-producing jobs, about 800,000 steel-consuming jobs, and 300,000 of them are in the auto industry. This is true all across America. There are nearly 13 million steel-consuming jobs, 2.1 million of which are automobile-related jobs. But the United States has only a fraction of that number in steel-producing jobs—about 230,000 steel-producing jobs. Even West Virginia and Pennsylvania combined have at least 10 times as many steel-consuming jobs as steel-producing jobs.

On top of all of this, the World Trade Organization has ruled that the steel tariffs imposed in March of 2002 are in violation of the global trade rule. As a result, the European Union has announced its intention to impose $2.2 billion in retaliatory sanctions on American imports sold in Europe, from footwear to fruits and vegetables. These sanctions will destroy yet another batch of American jobs.

Here is the sad story of the steel tariff.

In 2002, the automobile industry was purchasing only about 5 percent of its steel from overseas. But as soon as the steel tariff was placed on, it imported 5 percent, and 95 percent of steel produced in our country also raised prices. Suddenly, auto parts suppliers and other steel-consuming businesses, such as microwave oven makers, as an example, were paying up to 30 percent more for steel, which is sometimes their most important raw material.

Because auto suppliers couldn't raise prices to cover costs, they suffered losses and began to lay off employees. In a few instances, whole plants closed. Jobs began to move overseas where parts suppliers pay a global price for steel. These parts can be made in South Korea, in Germany, in Mexico, in Canada, and all around the world. They don't have to be made in Michigan and Tennessee.

Let me put this in a little more personal terms. In my first year as Governor of Tennessee—1979, nearly 25 years ago—our State was the third poorest in the country at 80 percent of national average family income. In some counties at that time, about one-third of our manufacturing jobs were in the textile mills. Tennessee at that time was making no cars and no trucks, and we had only about 2 dozen auto suppliers. Then the auto industry began to move south—not just into our State but all around us. Tennessee became the fourth largest maker of cars and trucks. Nine hundred auto parts suppliers followed with better paying auto jobs. These are jobs that are $30,000, $40,000, or $50,000 a year, replacing low-paying textile jobs. Our families' incomes grew faster than any family incomes in America. They jumped to almost 100 percent of the national average family income by 1990.

Today, one-third—or at least 100,000—of all of Tennessee's manufacturing jobs are automotive jobs. These are the good jobs that we are glad to have.

On January 21, 2003, ArvinMeritor closed its sunroof and seat plant in Gordonsville, eliminating 317 of these good-paying jobs. It reduced by 100 the jobs at its Pulaski plant. It did this because after the tariffs its steel prices rose between 13 and 40 percent.

That is not all. The Dana Corporation, which employs 3,000 Tennesseans making axles and brakes, watched its steel prices increase 20 to 50 percent since the tariff.

The Dura Corporation, which employs 176 at five facilities in my State, was purchasing all of its steel from United States producers when the tariff was imposed in March of 2002. As a result of the tariff, Dura lost money in 2002 and is considering moving to overseas production which is very bad news for 765 Tennessee families in Gordonsville, Greenbriar, Lawrenceburg, Milan, and Pikeville.

I ran for the Senate last year to support President Bush, and I have proudly done that. I think he is on the right track with our economy. I believe our economy is beginning to move after a series of blows that no other economy in the world could have withstood. I support this President. But I also said in my campaign last year that I believe the steel tariff was bad for Tennessee and bad for American working families, and I still believe that.

This fall the President will have an opportunity to review his decision to impose the steel tariffs. Shortly after Secretary Evans' speech in Detroit on September 15, the International Trade Commission will report on what the consequences of the tariffs have been. This is a welcome opportunity for the President to make a mid-course correction. I hope that he will decide he has made a good-faith effort to save steel jobs, but that the effort has lost almost as many steel-consuming jobs as exist in the steel-producing industry in the United States. That it is the wrong policy, and that the right thing to do is to end the steel tariffs. The best thing Secretary Evans could do in his September 15 Detroit speech is to announce the President has decided to save thousands of jobs for working men and women in Michigan, in Tennessee, in America, in the automobile industry and in other steel-consuming plants by ending the steel tariffs.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. REID. Mr. President, I think we need to have clear what numbers we are working with here. My friend—and I consider him a friend—the distinguished senior Senator from Pennsylvania, the comanager of this bill, has spoken about the good things that have happened by virtue of the President of the United States, George Bush, and his requests for additional moneys for education.

But very seriously, that has to be tongue in cheek because the President has requested almost nothing as it relates to education. The Presiding Officer has not only been a distinguished Governor but also the Secretary of Education. I would ask that he and others look at what we are dealing with here. For example, in fiscal year 2003, the President of the United States requested an increase of $.4 billion. In the previous year, he requested $2.3 billion.

The increases that have come that my friend from Pennsylvania has spoken about have come as a result of pressure placed on this President, this administration, this Congress, by Democrats. As a result of that, we have gotten an extra $8.2 billion. All you have to do is look at what this President has requested. This isn't some kind of mathematical genius who comes up with these numbers.

In black and white, you see what the President requested. Those requests were an increase for fiscal year 2002 of $2.3 billion; for fiscal year 2003, $400 million. Fact. But as a result of work we have done here we were able to squeeze out additional moneys, an additional $8.2 billion. In fact, even for those, we had to fight the administration.

Now, for fiscal year 2004, the President of the United States has requested $26 million for education. That is .05 percent over fiscal year 2003. And those fiscal year 2003 moneys were moneys that we forced upon the President. It is a .05-percent increase when States such as the State of Nevada are struggling for money, at a time when schools are struggling to meet the mandates of the No Child Left Behind Act. But what this President is doing is leaving lots of children behind.

So let's not talk about, on this Senate floor, the increases that President Bush has obtained on leaving no child behind. We have obtained $8.2 billion more than he has requested, and we had to struggle to do that.

I repeat, this year, the President requested $26 million, a .05-percent increase over fiscal year 2003. For fiscal year 2004, he has asked for $.4 billion. Now, we were able to do a lot more than what he requested, and the children of America should thank us every day for doing that.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. No.

Mr. THOMAS. Mr. President, I would like to comment for a few minutes on an issue that I think is part of the appropriations bill before us and certainly one of the real issues that all of us are concerned about and that is health care and how we begin to deliver health care in a way that is more workable than what we have had in the past.

The Senator from South Dakota has spoken for a moment or two about health care in his State. Of course, Wyoming and South Dakota are rural States, and there are some unique things about the delivery of rural health care. But I think more than anything, we do have a situation with health care that has to do with access. It has to do with the availability of services wherever we are in the country. And it is becoming more and more evident that access is also a function of being able to afford those services. We find generally that it is becoming more and more difficult for most Americans to afford the services that are there, and therefore they are not as accessible or available as we would like them to be.

Clearly, it is one of the most difficult issues we have before us. It is a complex issue. If you can afford a Cadillac, that is fine. I live with a Ford, and we are happy about that. But we all want "Cadillac" health service. I understand that. Most of us live, in many ways, in the market as to what we can afford, but health care has more demands because we all have problems with our health and it is very costly to deal with that.

We talk about the issue a great deal, as we should, but, frankly, I think it is time for us to talk a little more about solutions than we do about the problem. And we have tried to do that.

During the last month in Wyoming, I held a seminar on health care, particularly rural health care, because we are a rural area of the country. We asked the people on the panels, who were very good, by the way, to talk about solutions, to talk about the problem, which, of course, we have talked about a number of times.

Now, what do we do about it? That is a challenge and one with which I think all of us need to deal. Some of the areas we spoke about, that I think we need to talk about, are, first of all, the Federal programs. A good many people in this country, although fewer than you normally think—I think in Wyoming about 13, less than 14 percent of Wyoming citizens are enrolled in Medicare. Sometimes it seems as if it would be higher than that but, nevertheless, it is a sizable amount. In addition to that, of course, the Federal Government has Medicaid. We have the kids program and others.

So the Federal program is a substantial part of our health care. Some of the things we need to do there are to have programs that do pay the costs. I know we have to have some limits. I know it is easy to have things happen in the delivery of health care which we have to guard against so we do not waste money. But the point is, if procedures cost a certain amount, then the Federal Government programs need to pay substantially what that amount is. Otherwise those of us who have private insurance have to pick up the cost, or the lack of it, that is paid for by Government programs and, of course, the uninsured. So we have that problem.

We have been working on and I have enjoyed being chairman of the rural health caucus, and I have been joined by many people. It is interesting, in the West when we talk about endangered species or public lands, you have the support of about eight or nine States that are involved. When you talk about rural health care, every State has some rural areas with rural health care needs. I think New York has some of the most rural areas.

So we have made some progress. But what we have found is that basically rural hospitals, rural health care clinics, and so on, have not been paid equally with urban facilities. There is no equality there. Well, we say, my gosh, that is because the costs of living in a city are more than in a rural area. I think the fact is that to provide health care in low numbers, low volumes, perhaps is more expensive than providing it where there is high volume.

All of us want the best care so we want the expensive equipment, much of which now has become very much a part of medicine. It costs millions of dollars. But if there are not very many people using it, then the cost per user is much higher. So we have made some success in looking for some equity.

By the way, the large movement in that direction is in the Medicare bill that is now in the conference committee. We hope it will stay there and come out of there.

A very large percent, almost half, of Medicare money is spent on a very small percent of the patients. They are the ones, of course, who have chronic diseases. They are the ones seriously ill. We have not had enough emphasis on seeking to treat people before and to avoid some of the illnesses that are so expensive.

Those are some of the problems we have. We are beginning to have more and more problems with the service personnel, the number of nurses. There are shortages almost over the whole country. Part of that, I suppose, is the difficulty in training, not so much the capacity of the universities and the schools that do it but apparently a difficult time in having instructors who are available to do the costs on Medicare. If that is the case, in a market system where you have a shortage of something that is resulting in less volume, you do something about it. You change it so you can create that volume. We need to be doing that.

Another reason, one of the ladies stood up—she was chairman of the hospital board—and said, it isn't so much the training. The job is not very attractive because of the hours, because of the time that has to be spent, because of the atmosphere, and those kinds of things. Lots of nurses who are trained are not doing nursing care, partly because the wages are too low. These apparently are some of the problems that exist there.

The same is becoming more true with physicians. At least in some of our States, the cost, for instance, for health care liability insurance has gotten so expensive that we have people, OBs, who are no longer practicing in the area. Many times they were the only OB/GYN in the area. But when their costs for liability insurance get up to $55,000, $65,000, $75,000, as much as $100,000 a year, they say: I am not going to do that anymore. They either don't practice that particular procedure or they drop out entirely.

Of course, in our State the average age of physicians is fairly up there, fifties and so on. These folks are going to be retiring. So that is one of the problems we have, ways to do that.

Certainly another that is difficult is the uninsured. We have millions of people in this country who are uninsured. Well, they probably don't get as much treatment as if they were insured but they get treated. They go to emergency rooms. They go to public health facilities and they are treated. They are unable to pay the costs or are unwilling to pay the costs. So those who have insurance end up paying the cost. You also have an insufficient amount of health care for people who are uninsured. I suppose young people, all kinds of people, simply can't afford it.

We had a rancher testify that for his family it costs $12,000 a year for health insurance. That is tough. In town meetings we had some time ago, that is the issue that came up most often—the cost of health insurance.

Obviously, there is a relationship between the cost of health care and health insurance. Nevertheless, that is what people see, the health insurance costs. That is part of the problem we need to resolve.

Pharmaceuticals and drugs, of course, have become a very high percentage of the increase, and particularly if combined with the new equipment, and so on. We are dealing with that now for Medicare. I hope we will come up with something for Medicare.

We also have to deal with the costs for everyone else, whether there is overutilization, whether we ought to be using more generics, whether there is too much advertising going on, whatever. There is a problem there that we need to resolve.

These are some of the areas with which we have to deal. Certainly, again, the Senator from South Dakota saying that that is what he heard the most about, I think for most of us, when we go to town meetings, that is what we hear the most about. All we hear about are the problems. I think it is up to us to work with the professionals, to work with others. We have an opportunity to do something about the liability costs. I don't know whether we can do it. Some will say that isn't going to solve the problem. Certainly it isn't going to solve all the problems but it is an opportunity to solve a part of the problem. There is evidence that it does by those States that have done something about limiting the noneconomic damages.

There is a great challenge here and a great opportunity to do some things. Part of it will be right here with this appropriations bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

HIV/AIDS IN AFRICA

Mr. DEWINE. Mr. President, I returned this past Friday from a 10-day trip to southern Africa with Majority Leader BILL FRIST as well as Senator WARNER, Senator ENZI, Senator COLEMAN, and Senator ALEXANDER. We traveled to South Africa, Mozambique, Botswana, and Namibia. We traveled there to assess each of the HIV/AIDS crises in these countries. We wanted to see where things are now and where we need to go in the future to help them deal with the terrible crisis they face.

The fact is we are in a critical stage in this attempt to help them and other countries fight this global AIDS battle. We passed the global AIDS authorizing legislation a few months ago and shortly we will pass the appropriations bill to fund these programs. As we start to plan how to spend this significant amount of money, we are now at a critical stage. We are at a critical stage because it is so very important that this be done right, that it be done correctly, and that it be done quickly, because millions of lives are at stake.

All four countries we visited have, of course, been designated by the President and now by Congress to be recipients of our global AIDS assistance. So these Members of the Senate wanted to find out how we could most effectively and efficiently give this assistance to these nations, how we could make sure our money would be well spent. In doing so, we wanted to know specifically what these countries' respective governments were doing. We wanted to know what the nongovernment organizations, the NGOs as they are referred to, are currently doing; what the church groups—we refer to them as faith-based groups—are doing; and what the businesses, the private sector groups, are doing as well.

We wanted to know what was the state of the health infrastructure, the public health sector in each of these countries. We also wanted to assess where our own Government was. We wanted to talk to our embassy officials and see how their planning was coming along.

Finally, and certainly most important, we wanted to ask the leaders of these countries—we wanted to talk to their health professionals and social workers, actually the people out in the field in these nations—what their needs were, what they thought they needed. We asked them: What do you need from us? What can we do to help you do your job to help save lives? We went to the very people who every single day watch the AIDS victims die—the people who try desperately to treat, to help, and to save them, and the people who try to prevent people from coming down with AIDS.

We have some answers.

The spread of HIV/AIDS in poor countries is, as we know, rampant. It is a grave human tragedy. When it comes to the HIV/AIDS crisis, the sheer numbers are staggering. We can't let these numbers numb us. We have to keep reminding ourselves that these are statistics; that behind each one of these statistics are human beings; and that these statistics represent real people, real mothers, real fathers, children and babies. These are real people and real lives.

The statistics are unbelievable. In South Africa, 5 million people are HIV positive. In Mozambique, 13 percent of the people have HIV or AIDS. The disease has created by some estimates 370,000 to 425,000 orphans, and by the year 2010, it is estimated that in Mozambique the life expectancy is estimated to plummet to only 39 years. There are only 524 doctors in the whole country, a country of 18.6 million people.

In Botswana, a nation of 1.7 million people, there is a 38.8-percent HIV rate among those between the ages of 15 and 49. It is a staggering figure. There are 330,000 people, it is estimated, HIV positive, and 18 percent of the deaths in that country are the result of AIDS. Thirty-five percent of pregnant women are HIV positive. By the year 2010, it is projected that the life expectancy rate will be 31.6 years, if nothing is changed, if the situation is not changed, and if there is no intervention.

The next country we visited was Namibia, a nation of 1.8 million people. Twenty-two percent of the adult population has AIDS or are HIV positive. Twenty-three percent of pregnant mothers are HIV positive. By the year 2010, the life expectancy rate is expected to be 39.6 years of age.

We know the statistics. We certainly can learn from them. We can see the victims and we can talk to them and talk to those who care for them. We can do all of these things and still not comprehend the gravity of this human tragedy.

One of Africa's great leaders is Graca Machel, a woman we met within Mozambique. We had a delightful meeting with her for over an hour. She is one of the most articulate persons I have ever met with in my life. When we met with her in Mozambique, she was talking about a country that she loves so well. This is what she said:

> I can know the statistics, but I don't really understand what it means to have 13 percent of my people HIV positive * * *. [Our countries] are facing extinction * * * and we still face the worst.

The mind cannot comprehend the gravity of this tragedy. This certainly was for me, and I am sure for all of my colleagues, a deeply troubling, gut-wrenching trip. But it was a very productive trip.

We were accompanied on the trip by President Bush's AIDS adviser, Dr. Joseph O'Neal. His experience and his expertise proved invaluable to us on our trip. Our ability to talk with him, share ideas, go back and forth and compare notes of what we had seen was very valuable.

Each one of us on the trip, I am sure, has come back with different impressions but with a lot of the same impressions. This afternoon I would like to take a few minutes to share with my colleagues some of my thoughts. They are, of course, my thoughts and my thoughts alone. I would guess that there will be a lot of similarities between my thoughts and other colleagues'. But these are mine. These are my impressions and my thoughts from this trip to Africa.

First, time is clearly not on our side. It is not on the side of victims in Africa nor on the side of victims of these four countries. We don't have time. We don't have much time. We don't have time to wait. Facing this global AIDS crisis cannot be business as usual. It cannot be bureaucracy as usual. We cannot treat this crisis the same way we have done with others. We don't have the luxury of time. For each moment that we delay, obviously people die. People are dying as we speak today. They die every moment.

We saw groups in each country, and organizations and individuals, that are ready now to receive our money and our assistance and our help and who are ready to go into action to deal with the problem. We need to get them the money and allow them to get about the business of saving lives. That is good news. And it was heartwarming to talk to them, to see them.

These are groups that have a proven track record. These are groups that are already doing good work. We just need to give them more resources so they can expand what they are already doing.

Mr. President, Members of the Senate, as we do this, we cannot be timid. Quite frankly, we need to take chances. We need to be willing to say that once in a while we will fail with some of these groups, so we need to say to our own bureaucracy: Do not be afraid of failure. There will be some failures. There will be some foul-ups. But we need to move forward. Lives are at stake. And we will hold you—those of us in the Congress—accountable for being timid. Do not be timid. Move forward.

We need to find these groups that can move forward. We saw many of them on our trip. We need to find these groups, these individuals. We need to fund them, and we need to move on.

For example, Dr. Donny McGrath, who is with the Africa Centre, is ready to go. He has a plan for a 5-year program to establish a model HIV/AIDS treatment prevention program in a rural part of South Africa. He has the structural support necessary to pull off this program that could deliver and will deliver care and treatment to this remote area. We met with him. I think everyone was impressed. And he has the structure of the Africa Centre behind him.

Dr. Tammy Meyers, we met with her. She would like to begin providing treatment for children with AIDS out of South Africa's biggest hospital in Johannesburg. We were told actually it is the biggest hospital in the world. The tragedy is, today they are not—with the exception of a handful of kids—giving kids treatment because they do not have the resources to do it. We are told that in the area of Johannesburg, South Africa, there are 6,000 or 7,000 children who right today are dying, children who should be on treatment for HIV, children who have AIDS, who could be receiving treatment but yet cannot get these drugs. Dr. Tammy Meyers would like to move forward. We need to get her that help. We need to give that hospital that help.

The Salvation Army is also doing great work in many of these countries. We were so impressed when we went into a Salvation Army orphanage that was providing drug treatment for children they had under their charge in that orphanage. As an organization, the Salvation Army has a proven track record. As I said, they are involved in many of the countries in the world where HIV is a problem, where AIDS is running rampant. We need to say to groups such as the Salvation Army, who have a proven track record: Tell us what you need. What are the resources you need? Tell us what you can do. Let's work together. Let's save lives.

So there are many things we can do, and we can do quickly, and we need to do it. We need to save lives.

Second, in all four nations we visited, when we asked what the No. 1 need was, almost invariably, no matter who we asked, the answer we got back was: We need training. From the doctors to the nurses, when we talked to people who were delivering services right down at the grassroots level, people pled with us: Give us more training. Train our doctors. Train our nurses. Help us.

The fact is, AIDS treatment and prevention is a specialized field of medical care. We need to put more and more specialists in place, doctors who can train other doctors to fight this disease and provide treatment.

Now, I do not have all the answers as to how to do this, but we need to think about it. And as we do the things we can do quickly and relatively easy—as I said before, plug into the existing groups, the existing organizations that are ready to go right now—at the same time, we have to look at what we do in the long run over the next year, 2 years, 3 years, 4 years to deal with this crisis, to answer the call of these countries when people say: We need doctors, specialists. We need the training.

So we need to develop a cadre of doctors. Do we use our Peace Corps? Maybe we use our Peace Corps to do this. Maybe we use the U.S. Public Health Service Corps, revamp it in some way to do this. Maybe what we do is take residents, when they finish their residency in this country, and work out some way so that it is advantageous to them to interrupt their career, in a sense—or really maybe a better way of looking at it is enhancing their career—and give them the opportunity to go and spend a few years working in these African countries, specializing in this area, taking that specialization then and training doctors in these countries—the multiplier effect—so that these countries will then have trained specialists of their own who will stay in their countries and we will help save lives.

That is the type of multiplication and training of doctors we are going to have to think through and figure out over the long run as to how we are going to help them answer that call that we heard time and time again: How are we going to get the training? That is the long run.

No. 3, clean water. On our trip it became very clear just how essential clean water is to fighting AIDS, and also it is essential just to save lives. It is essential to keeping young children alive worldwide. Some 60 percent of all infant mortality worldwide is linked to infectious and parasitic diseases, most of them water related. Furthermore, diseases from dirty water are killing more than 5 million people each year—that is one figure, and I think other estimates, frankly, are much higher than that—while an additional several billion people get sick from unclean water each year.

In just one country, Mozambique, for example, diarrheal diseases are the third largest cause of death in children under 5 years of age. That is the equivalent of 55 deaths per day. Potable water is accessible to only 26 percent of the rural population in Mozambique. Imagine that. Get outside the city, and only one in four of the population has good water, and only 40 percent of the urban population in Mozambique.

The reality is that we cannot effectively treat and fight AIDS without clean water supplies. In impoverished nations, up to 90 percent of AIDS patients suffer from chronic diarrheal diseases, which contribute to an increase in these deaths. One of the complications of AIDS is the development of thrush, which can be alleviated by drinking sufficient quantities of water. Caregivers need to be able to wash their hands before and after caring for an infected person. Mothers infected with HIV/AIDS may choose to use formula to feed their infant children and would need clean water to mix formula.

Providing access to clean water is about the most cost-effective use of our AIDS money because it would provide a double benefit. Digging wells in a village provides the whole village with clean water, not just those stricken with HIV or AIDS.

Providing clean water is a cheap thing to do, and good groups are already doing it. We saw some of those groups during our trip. For example, Lifewater International, a group that we saw, is a partnership of U.S.-based organizations working globally to improve drinking water supplies, hygiene, and sanitation in Third World nations. They are making a difference, and they can do more if we just give them the resources they need. This is a simple and cost-effective strategy, and it is the right thing to do. There are groups such as this all over the world. All we need to do is to take some of these resources, plug into these groups, let them multiply already what they are doing, and we will save hundreds of thousands of lives.

No. 4 of the thoughts I have: Care for the dying. As we focus on saving and prolonging lives, we must not forget the millions who, despite our best efforts, will surely die. Precious little is being done to help them die with dignity. We talked with people who deal with these individuals. We talked with people who see them die. We talked with people who watch them die every day. Those people whose job it is to deal with the dying looked us in the eye and pled with us; they said: Give us the tools, the drugs to allow these people who are dying not to suffer so much and to die with dignity.

The global AIDS bill we passed this May allows us to do this. There are groups out there ready to help, groups capable of helping. We should give them the ability to help the suffering and to help the dying.

No. 5, let me just talk for a moment about government attitude and political leadership in regard to the issue of AIDS. We visited four countries. The governments of Namibia, Mozambique, and Botswana are all fully engaged in this struggle against AIDS. That political leadership is essential in the battle against AIDS. We can only hope the recent public statement by the fourth country, South Africa, in favor of the use of antiretroviral drugs will be followed by an aggressive government attack on the problem.

For those who have not followed this, this is a change in policy. The government in the past had not embraced the use of antiretroviral drugs to treat the AIDS problem. So this has been a change. We can only hope this is a profound change. We can only hope the Government of South Africa will now become much more aggressive in this endeavor.

Some local units of government from South Africa have been aggressive, but unfortunately the tragedy is the central government has not been as aggressive. And while we talked to many people in South Africa who are doing wonderful things, unfortunately there are some people in the South African Government who still would appear to be in a form of denial about this problem. It would appear that progress is being made. We would hope progress will continue to be made.

The sixth point I would like to make is the killing power of stigma. We cannot underestimate the killing power of stigma, people's feelings of shame and disgrace with this disease. Stigma kills. Stigma prevents pregnant women from getting tested for HIV/AIDS. Stigma prevents people from getting treatment. Stigma prevents us from dealing with this crisis head on. There is tremendous denial. People hide the fact they are sick, even if that means risking their lives or even if it means risking the lives of their unborn children.

On our trip we heard doctors speak of women with AIDS who were told they could take drugs that might prevent their child who was about to be born from testing HIV-positive, drugs that could reduce the odds of the children being born with AIDS by 50 percent. Yet despite hearing this news, we heard about some women who left the clinic never to return because of the stigma attached to having AIDS, never to return because of the ridicule their husbands, their family might inflict upon them. That is a horrible tragedy—a stigma so powerful, so powerful these women would risk the lives of their unborn children, something it is hard for us to understand.

I heard a story that was also hard to understand. I talked to a doctor in South Africa who was intimately involved in drug treatment, who had set up a program of drug treatment. He told me a story about a woman who worked in his house. She had worked there for some time. One day she left, disappeared. He couldn't figure out where she had gone. The days went on. Then the weeks went on. After about 7 weeks, he decided he was going to go look for her. So he got in his car and drove to her village. It turned out it was a drive of 7 hours. He drove and drove and got to her village. When he got there and started asking about her, he found that she had died the day before. This is a woman who died from AIDS, a woman who died rather than acknowledge she had AIDS, who worked for a doctor who was treating people with AIDS. As the doctor said to me: I would have paid for her drugs. I would have taken care of her. I would have done anything. But she wouldn't tell him.

That is the power of the stigma that is attached to this. It kills people. She preferred to die alone, hiding her disease.

What is the solution? I don't know that we have a solution, but there are some things we know. First, in these nations, wherever it occurs, we need to educate people, whether it is in this country or any other country. We need to educate people about AIDS. Second, political leaders need to talk openly about the disease. Leaders in Botswana and Namibia and Mozambique have been forthright and up front and open to public discussions about the disease.

Third, we need to have treatment available so people have hope. No one is going to get tested for HIV/AIDS if there is no treatment and you are told to just go home and die. As Graca Machel said: There is "no effective prevention without treatment."

People must be able to see that they are getting something themselves. By treating people, it offers hope, and it offers incentive for more and more people to get tested. That, by itself, will save lives. That is the reality, Mr. President.

My seventh thought has to do with children. In the four nations we visited, really we are just barely getting started in providing treatment for children who are HIV positive or who already have AIDS. There are—and it is a good news story—some mothers-to-children transmission preventive programs in the early stages. We have heard from people who are very thankful to the United States, people who are thankful to President Bush, thankful to us and our country, about these programs. Some of these programs are programs we put in place.

We heard some very good success stories about many of these programs. They show very promising results. With these programs and the drugs they provide, we are seeing HIV/AIDS transmission rates from a mother who has AIDS to a child about to be born, and then born, drop from 30 percent to 5 to 10 percent. What do we mean by that? Well, the doctors tell us that if a mother is HIV positive and she is not treated, the odds are approximately 30 percent that she is going to give birth to a child who will be HIV positive. In these developing countries, with treatment—and usually a fairly simple treatment and it costs about $3—we can reduce those numbers to about 5 to 10 percent. That is a dramatic drop in the number of children who would be born HIV positive. If given the proper medication, the odds go dramatically down.

The challenge, of course, is getting these mother-to-child transmission programs going and then getting the pregnant women into the program.

We also have to face the challenge of treating children who do develop AIDS. That is a different ball game, a different problem. Treatment for these kids is, as I said when I referenced South Africa—and it is true of all the other three countries—is virtually nonexistent, just like the treatment for adults.

In Johannesburg, to take one example—and you can replicate these numbers or use similar numbers across all of Africa, or at least all the countries where HIV is prevalent—there are 6,000 to 7,000 kids in need of antiretroviral treatment, yet fewer than 100 kids are getting any treatment at all. The good news is that there are good people in the hospitals who are ready now to treat these kids. Dr. Tammy Meyers is ready now to start a program to provide drug treatment for these children.

In conclusion, on this trip we saw the human face of Africa. We saw the human face of AIDS. I have seen this face before in Haiti and Guyana. That human face will remain with all of us who went on this trip after all the specific statistics have faded.

I will always remember Graca Machel telling us about her going out in the rural area visiting a grandfather and his two wives. He is 83 and his wives are 73 and 76. They lost their eight children. They saw them die one by one, each one claimed by AIDS. Now these elderly people are caring for their 30 grandchildren after having lost each 1 of these 8 children. I will remember that.

I will remember watching a young teenager as he described losing his parents to AIDS and then having to go from home to home to home, relative to relative, to see others of his relatives die of AIDS, being handed from one family to another.

I will remember an HIV-positive mother describe giving birth to a child who developed AIDS, a little baby, who died shortly after birth. I will remember watching her describe that child as that child died.

I will also remember an HIV-positive mother who described getting the help she needed, having someone reach out to her, getting the drug treatment she needed before giving birth to her child, and described the joy she felt to know her child was not HIV positive, that her child was a healthy child. We listened to her joyfully describe that child and the future that child now has. Her baby was born HIV free. Her story doesn't need to be the exception.

With our HIV/AIDS money, more and more babies can be born free of AIDS. We need to move quickly. Time is not on our side. We need to move now. We need to invest in the people who are ready to go and in the programs that already work. We need to do all we can to address the human tragedy of global AIDS. We have the ability to ease this suffering, and it is our moral obligation to lead this fight. We are at a critical time in world history. I believe history will judge us well by what we are doing today. It is our obligation at this critical time to make sure that we not only begin this fight—and we have—but that we carry it out, that we stay with it, that we do it effectively, that we do it correctly, and that we stay with it day after day after day.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JIMMY PITTS

Mr. REID. Mr. President, I rise today to speak of an American patriot.

Jim Pitts was my classmate during my 4 years at Basic High School in Henderson, NV. I have fond memories of Basic, and one reason is because I also have fond memories of my friend, Dr. Jim Pitts.

I remember when Jim and I were chosen to go to Reno as members of Boys State. We headquartered at UNR. For two young men from Henderson, where there is almost no greenery, it was almost unreal to see the green grass, the clear flowing water of the Truckee, and even Manzanita Lake.

Boys State is an experience I will always remember. And again, my memories of that experience will always include Jim Pitts.

I also recall our senior prom. Nancy Niece, a junior, was the prom queen . . . and Jim Pitts was president of the senior class. Jim and Mike O'Callaghan, who was one of our teachers and later served as Governor of Nevada, got the idea to bring in some flowers for the dance. It is an understatement to say we had flowers—they were literally everywhere! They were flown in from Hawaii. How they were purchased, I will never know. But what a prom Jimmy put together—memories are made of this.

In high school, Jim was one of the smart kids. He was good at math, and he even liked science. So it was only natural that the faculty recognized his potential. With the support of his teachers and his family, he enrolled at the University of Oregon in Eugene. He graduated with honors, then went on to medical school at the University of Oregon in Portland.

Jim began his residency program to become a surgeon in Fresno, CA. But after 2 years, duty called, and Dr. Pitts joined the United States Army. He volunteered to become a paramedic. In lay terms, this is a medical doctor who parachutes out of airplanes to care for those who are injured in combat.

He served with the 101st Airborne Division during the bloodiest years in Vietnam, 1967–68. In Vietnam, Jim received the Bronze Star, the Army Commendation Medal, and the Combat Medic Badge. His medical training gave him the skills needed to save lives. He was a hero.

After coming home from Vietnam, Jim returned to Fresno and completed his residency in general surgery. Dr. Pitts then moved back to Nevada, but this time he settled in the north, in Carson City. He has made his home in Carson City ever since, performing miracles and saving lives at the Carson-Tahoe Hospital.

In 1989, Dr. Pitts was honored as Distinguished Physician of the Year by the State Medical Association. He obviously passed his talents as a surgeon along to his son, Todd, who has been serving in his father's practice for the past 6 years.

But Dr. Pitts is not just a talented surgeon, he is also a great friend and a gentleman, a caring person who has made a tremendous difference in his community. And he passed these traits to his daughter Kathy, who teaches school here in Carson City. I know Jim and Carol are very proud of both of their children. And I know they, in turn, are both proud of their parents.

Since our high school days, Jim and I have rarely been able to spend much time together. He went his way, and I went mine. We have had an occasional dinner, and even went shooting together, but not often enough.

In spite of our limited contact, and the passage of 45 years, our friendship has never wavered. I am so proud of Jim and his accomplishments.

I recently wrote Jim a letter, expressing sympathy at the passing of his dear father. Little did I know when I wrote the letter that Jim was ill himself. As soon as I learned of his condition I called him, after worrying the entire weekend about my high school buddy.

When I called, I hoped I would be able to perk him up. But just the opposite occurred. Jim, always the physician, cheered me up.

He said, in effect, I am so fortunate to have the life I have, a wonderful family, and time to plan for the future.

I am sorry I can't attend the event to celebrate Jim's outstanding career, and at the same time—this sounds just like Jimmy Pitts—raise money for the Cancer Treatment Center at Carson-Tahoe Hospital.

Jimmy, may you know from your old boyhood friend of my love and affection.

Thinking of you, I am reminded of the old Jewish saying: "Who finds a faithful friend, finds a treasure."

Fifty years ago, I made a friend, and I found a treasure. Jimmy Pitts has truly been a blessing in my life.

Thank you, Jimmy.

CHANGES TO H. CON. RES. 95 PURSUANT TO SECTION 403 SCHIP RESERVE FUND ADJUSTMENT

Mr. NICKLES. Mr. President, section 403 of H. Con. Res. 95, the FY 2004 budget resolution, permits the chairman of the Senate Budget Committee to make adjustments to the allocation of budget authority and outlays to the Senate Committee on Finance, provided certain conditions are met.

Pursuant to section 403, I hereby submit the revisions to H. Con. Res. 95, and I ask unanimous consent that the revisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	($ in millions)
Current Allocation to Senate Finance Committee:	
FY 2003 Budget Authority	766,693
FY 2003 Outlays	770,464
FY 2004 Budget Authority	769,846
FY 2004 Outlays	773,735
FY 2004–2008 Budget Authority	4,617,937
FY 2004–2008 Outlays	4,627,228
FY 2004–2013 Budget Authority	10,991,162
FY 2004–2013 Outlays	11,006,226
Adjustments:	
FY 2003 Budget Authority	1,259
FY 2003 Outlays	20
FY 2004 Budget Authority	1,325
FY 2004 Outlays	85
FY 2004–2008 Budget Authority	685
FY 2004–2008 Outlays	760
FY 2004–2013 Budget Authority	560
FY 2004–2013 Outlays	890
Revised Allocation to Senate Finance Committee:	
FY 2003 Budget Authority	767,952
FY 2003 Outlays	770,484
FY 2004 Budget Authority	771,171
FY 2004 Outlays	773,820
FY 2004–2008 Budget Authority	4,618,622
FY 2004–2008 Outlays	4,627,988
FY 2004–2013 Budget Authority	10,991,722
FY 2004–2013 Outlays	11,007,116

TRIBUTE TO DAVID ACKERMAN

Mr. LUGAR. Mr. President, I wish to take this opportunity to recognize a fine public servant who just retired this past August from the Congressional Research Service. David Ackerman is a sterling example of the expertise we in the Congress can call upon to assist us in our legislative responsibilities. I know Senator BIDEN joins me recognizing Mr. Ackerman for his splendid accomplishments during his career at CRS. Mr. President, I ask unanimous consent that a summary of Mr. Ackerman's career be included in the record as part of my remarks. Mr. Ackerman devoted nearly 30 years to supporting Congress in his role as legislative attorney for the American Law Division of CRS. His areas of expertise were international law, foreign affairs and first amendment church-state issues and he applied a keen legal mind and sensitivity for balance and nonpartisanship in providing Congress with the informed and objective analysis we need. Dave Ackerman joined CRS in 1974 after graduating with distinction from Georgetown University Law School. Prior to his legal career, after graduating magna cum laude from Knox College, he worked on Capitol Hill in the Washington office of the National Council of Churches. At CRS, Dave quickly established himself as an attorney with the legal analytical skills necessary to provide Members and committees of Congress with high level support on some of the most complex questions facing them in their legislative and oversight roles. He did this with the professionalism, objectivity, and devotion to client support that we in the Congress value in CRS. Dave's career saw numerous awards and recognition for outstanding performance by CRS as well as expressions of commendation by congressional clients. His work was referred to and reprinted widely during congressional deliberations and in a variety of congressional publications. Among the most notable of the latter, are his contributions over the years to the Senate Foreign Relations Committee Print, "Treaties and Other International Agreements: The Role of the United States Senate," a seminal work and invaluable reference resource on this important topic. Mr. Ackerman's work ranged over many of the controversial issues faced by the Congress and the country over the last 30 years. In the international/foreign affairs law area, Dave wrote extensively on the respective roles of Congress and the executive in waging war and conducting foreign affairs. Both Gulf wars and the Somalia, Kosovo and Afghanistan conflicts raised their own issues of presidential power and congressional prerogatives and Dave was an invaluable source of legal analysis for the Congress, assisting it in understanding this complex interplay. Mr. Ackerman also provided Congress with sophisticated analyses of such issues as the legal implications for treaties of the break-up of the Soviet Union, the termination of the ABM treaty, NATO enlargement, the Kyoto protocol and the International Criminal Court. Recently, Mr. Ackerman has written extensively on the legally—and politically—complex issue of suits over terrorist acts in United States courts. Both the courts and Congress have struggled to develop solutions to this problem, balancing justice for victims with delicate foreign policy concerns. A remarkable aspect of Mr. Ackerman's career with CRS was his ability to range over a number of areas of law. Dave was also a recognized expert on the separation of church and state. The first amendment's commands regarding the establishment of religion and the free exercise of religion have produced some of the most heated debates in the courts and Congress, whether it be prayer or the Pledge of Allegiance in the schools or government aid to religious institutions. Dave was able to write on these issues with a clarity and acumen that enabled Congress to understand the ever-changing law of church and state in its legislative deliberations. In the finest traditions of CRS, Mr. Ackerman brought objectivity and even-handedness to an area that invariably elicited strong emotions and heated argument. Congress and CRS will miss the expertise of David Ackerman. He represented the best of what we have come to expect from CRS. Fortunately, a body of work remains that will inform the Congress for years to come. We wish Dave and his family all the best in his future endeavors.

* * *

HONORING OUR ARMED FORCES

Mr. GRASSLEY. Mr. President, I rise today to honor an Iowan who has given his life in service to his country. PFC David Kirchhoff suffered heat stroke in Iraq and was evacuated to a base in Germany where he died. His wife Brooke was with him when he passed away. Private Kirchhoff is the fifth Iowan and the first member of the Iowa Army National Guard to be killed since the start of military operations in Iraq. David Kirchhoff graduated from Metro High School in Cedar Rapids, IA and lived most recently in Anamosa. In addition to his wife Brooke, David leaves behind his parents, Larry and Nancy Kirchhoff, and two children. Nothing I can say can alleviate their sense of loss, but they remain in my thoughts and prayers. The death of a fellow Iowan brings home the incredible cost of war for me and for other Iowans. David Kirchhoff served his country honorably and was a dedicated soldier, but it is important that we remember him also as a husband, a son, a father, and a friend. Many Iowans are getting to know David Kirchhoff through news stories. We can identify with him and I know many people feel his loss whether they knew him or not. As we honor his tremendous sacrifice, we also honor his life and his memory lives on.

Mr. President, I also come before the Senate today to pay tribute to a fellow Iowan, PVT Michael J. Deutsch. On July 31, 2003, while serving our country in Operation Iraqi Freedom, Private Deutsch was killed when an explosive round hit the armored personnel vehicle in which he was riding. A 2000 graduate of Dubuque Senior High School, Michael Deutsch joined the U.S. Army in 2002. He served with the 1st Squadron, 1st Armored Cavalry Division in Budingen, Germany before being deployed to Iraq. I would like to express my deepest sympathy to his parents, Wayne and Ilene Deutsch, as well as the rest of his family, his friends, and his community during these difficult times as they cope with their loss. All of America mourns its fallen sons and daughters, yet we feel an overwhelming sense of appreciation for those who risk their lives for our sake. It's soldiers like Michael that protect our country against those who wish to steal what generations of Americans have worked so hard to maintain—our freedom.

After leaving for the Army, Michael wrote these words to his father:

> When changes come we're never ready.
> Always thinking of what we should have done.
>
> But I am strong.
> You have seen to that.
> As I move on I carry with me that which you have given to me, your love.

It is always a tragedy when a young life is ended prematurely, but Private Michael J. Deutsch's legacy of bravery and ultimate sacrifice is one for which we, as Americans, will forever be in his debt.

Mr. LIEBERMAN. Mr. President, at a time when our country's security is challenged on so many fronts, there are those among us who lament that this generation is too inward looking and too selfish to stand up to the task that has befallen them. But they are wrong.

There are Americans, who, raised in a cold conflict with a foe now long past and used to the privilege of liberty and justice, still choose to define themselves by their service to their countrymen and to men and women the world over whom they have never met but for whose freedom they would lay down their lives in sacrifice.

Army SSG Richard S. Eaton Jr. of Guilford, CT, was one such man, and it is in his honor that I rise to speak today.

Sergeant Eaton, who was assigned to the Army's 323rd Military Intelligence Battalion, Fort Meade, was a mere 37 years old when he died in Ramadi, Iraq, on August 12 of this year.

Of poor consolation to his family and friends is that Sergeant Eaton died while doing what he loved—soldiering in the service of his Nation.

Soldiering and service defined this young man's life and were in his blood; he had many relatives who had served in the U.S. military, including Civil War GEN Amos Eaton, William Eaton, who helped reinstate the deposed leader of Tripoli and rescue American captives in the early 1800s, and both of Sergeant Eaton's grandfathers, who were veterans of World War I and World War II, respectively.

Sergeant Eaton learned about a soldier's life from the stories that his grandfathers told about their own service and the service of their ancestors, and in that retelling, a young Richard Eaton Jr. found something that transfixed him, some quality of honor, of humility, of service. He decided he wanted to be a soldier.

In this goal, Sergeant Eaton succeeded like few soldiers ever do, and for his valor he will be posthumously awarded the Bronze Star for Valor. According to his friends, family, and colleagues, Sergeant Eaton served capably, honorably, and humbly. He never bragged about his numerous citations and commendations, which he only accidentally unveiled to his family when on leave from active duty in Honduras.

When his nearly decade-long tour of duty with the Army was over, Sergeant Eaton went to work at the Pentagon for a military contractor. Still a member of the Army Reserves, he was activated for service this winter and reported for duty to Iraq.

Through his service, Sergeant Eaton demonstrated the best ideals of the American people: service in the face of adversity, a striking unselflessness, and sacrifice not only for his own countrymen, but also for a people whom he had never met.

And so today, I join the senior Senator from Connecticut, Mr. DODD, Governor Rowland, and the people of a grateful State and Nation in paying my most sincere condolences to Sergeant Eaton's family, and my deepest respects to the departed sergeant himself.

Our hearts and prayers go out to his parents in their time of grief.

Know that your son's contributions and ultimate sacrifice will not soon be forgotten.

ADDITIONAL STATEMENTS

TRIBUTE TO E.W. DENNISON

• Mr. BUNNING. Mr. President, I wish to pay tribute to E.W. Dennison, the Murray State University Athletic Director. Mr. Dennison is an outstanding leader under whose guidance Murray State University has achieved an important balance between athletics and scholarship.

In the 6 years since Mr. Dennison assumed his position as athletic director, Murray State University has seen a marked improvement in its graduation rate for student athletes. According to the Chronicle of Higher Education's 2003–2004 Almanac issue, Murray State University ranks first for having the highest graduation rate among NCAA Division I institutions in Kentucky. This is the second straight year Murray State University has led Kentucky's State-funded institutions in graduation rates of athletes. Prior to Mr. Dennison's tenure as athletic director, it had been several years since Murray State University graduated a senior basketball player. This year Mr. Dennison boasts the readiness of several senior basketball players to graduate.

Additionally, Mr. Dennison has set high standards for academic achievement. The grade point average (GPA) for student athletes at Murray State University is as high as the GPA of the larger student body. Mr. Dennison stresses the importance of good study habits and higher learning and his athletes will graduate with a preparedness for more than just athletics.

Murray State University's athletics programs are poised for a record-setting year on the playing field this year. The balance of academics and athletics that Mr. Dennison has achieved has not come at the expense of either discipline. Rather, Murray State University student athletes are excelling in the classroom and on the playing fields.

Mr. Dennison is a paragon of leadership in Kentucky's institutions of higher education, and his leadership is one that should be emulated across this country. He is a tribute to Kentucky. I thank the Senate for allowing me to honor this remarkable man.•

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Washington, D.C. On August 16, 2003, Elvys Augusto Perez, 25, was shot and killed. Mr. Perez was an immigrant from Guatemala who dressed and lived as a woman. Police have classified the first-degree murder as a hate crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

Under authority of the order of the Senate of July 29, 2003, the Secretary of the Senate, on August 6, 2003, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1018. An act to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building".

H.R. 1412. An act to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency.

H.R. 1761. An act to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the "Garner E. Shriver Post Office Building".

H.R. 2195. An act to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

H.R. 2465. An act to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted.

H.R. 2738. An act to implement the United States-Chile Free Trade Agreement.

H.R. 2739. An act to implement the United States-Singapore Free Trade Agreement.

H.R. 2854. An act to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

H.R. 2859. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2003.

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1435. An act to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar.

H.R. 2799. An act making appropriations for the Departments of Commerce, Justice, and the State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 2861. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

S. 1434. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1490. A bill to eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

S. 1504. A bill to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on August 7, 2003, she has presented to the President of the United States the following enrolled bill:

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

The Secretary of the Senate also reported that on September 2, 2003, she has presented to the President of the United States the following enrolled bill:

S. 1435. An act to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–255. A resolution adopted by the Town Board of the Town of Southampton of the State of New York relative to the Nuclear Security Act of 2001; to the Committee on Environment and Public Works.

RESOLUTION 869

Whereas, the Town of Southampton is approximately 24 miles from the Millstone II nuclear power facility in Connecticut; and

Whereas, an accident or terrorist act upon the Millstone nuclear facility resulting in the release of radioactive materials into the air could have grave consequences on our Town; and

Whereas, federal legislation has been proposed in the Senate entitled the Nuclear Security Act of 2001—Federal Protection of Nuclear Reactors (S. 1746), introduced by Senator Harry Reid and co-sponsored by Senator Hillary Clinton to address situations like the one we are now facing; and

Whereas, a companion bill, H.R. 3382, has been introduced in the House of Representatives by Representative Ed Markey; and

Whereas, both these bills contain provisions that include: the federalization of nuclear power plant security forces; the revision of design criteria for nuclear reactors to include threats equivalent to the events of September 11, 2001, or the use of explosive devices or other modern weaponry; the development of a security plan to prevent disruption of operations or radioactive releases to protect spent fuel pools, to place spent fuel in dry cask storage, and to require background security checks; bi-annual force-on-force exercises to assure that the plant can protect itself from an assault or infiltration from terrorists; distribution of potassium iodide stockpiles in a 50 mile radius of a nuclear power plant with plans for distribution in the event of an accident; emergency planning exercises within a 50 mile zone around a nuclear power plant once every three years and public reporting on the results of the planning exercises; a surcharge on nuclear power generation of up to 1 mil per kilowatt hour plus federal appropriations to fund the security forces and security plans; authorization to deploy the National Guard, Coast Guard, and to restrict air space around reactors in the event of war or national emergency, to be funded through federal appropriations; and now therefore be it

Resolved, That the Town Board of the Town of Southampton supports the passage of the Nuclear Security Act of 2001 and House Bill H:R. 3382; and be it further

Resolved, That a copy of this resolution be sent to the following: Hon. Richard Cheney, Vice President, and President of the Senate, The White House, 1600 Pennsylvania Avenue, Washington D.C. 20500; and Hon. Dennis Hastert, Speaker of the House of Representatives, 2369 Rayburn HOB, Washington, D.C. 20515.

POM–256. A resolution adopted by the Assembly of the State of New York relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women Treaty; to the Committee on Foreign Relations.

LEGISLATIVE RESOLUTION

Whereas, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, and became an international treaty on September 3, 1981; and

Whereas, the Convention establishes a worldwide commitment to combat discrimination and violence against women and girls around the world; and

Whereas, as of May of 2001, 168 nations, including all members of the United Nations in the industrialized world except the United States, have ratified or acceded to the Convention provisions, leaving the United States among a small minority of countries, including Afghanistan, North Korea, Iran and Sudan, which have not; and

Whereas, the spirit of the Convention is rooted in the basic principles of the United States, to affirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women; and

Whereas, because more than ever, in recent months, the United States has taken a leading role in the promotion of democracy and freedom around the world, it is essential to set such an example here at home; and

Whereas, the Convention is critical to the restoration of human rights for women in Afghanistan, as it has been for protecting rights of women in countries as diverse as Uganda, Colombia, Brazil and South Africa, including citizenship rights for women in Botswana and Japan, inheritance rights in Tanzania, and property rights in Costa Rica; and

Whereas, the Convention provides a comprehensive framework for eliminating the various forces that have created and sustained discrimination based on sex against half the world's population; and

Whereas, although women have made major gains in the struggle for equality in social, business, political, legal, educational and other fields in this century, there is much yet to be accomplished, and through its support, leadership and prestige, the United States can help create a world where women are no longer discriminated against and may achieve one of the most fundamental human rights, equality; and

Whereas, the United States has long been a world leader in the promotion of women's rights, and its ratification of the Convention will confirm to its citizens and to citizens of the world that this country unequivocally supports the participation of women in politics, economics and society, at home and throughout the world: Now, therefore, be it

Resolved, That this Legislative Body pause in its deliberations to strongly urge President George W. Bush and Secretary of State Colin L. Powell to place this treaty, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, in the highest category of priority, in order to accelerate the treaty's passage through the United States Senate Foreign Relations Committee and the full United States Senate, with the goal of the United States Ratification; and be it further

Resolved, That this Legislative Body exhort the United States Foreign Relations Committee to pass this treaty favorably out of Committee; and be it further

Resolved, That this Legislative Body strongly urges the Senate of the United States to ratify the United Nations Convention's continuing goals; and be it further

Resolved, That copies of this Resolution, suitably engrossed, be transmitted to President George W. Bush, Secretary of State Colin L. Powell, President of the Senate Richard B. Cheney, Chairman of the Senate Foreign Relations Committee Joseph R. Biden, Jr. and all members of the New York State Congressional Delegation.

POM–257. A joint resolution adopted by the Legislature of the State of Maine relative to Homeland Security costs; to the Committee on the Judiciary.

JOINT RESOLUTION

Whereas, the tragic events that occurred on September 11, 2001 resulted in a horrific loss of thousands of lives as hijacked planes crashed into the Pentagon, into a field in the countryside of Pennsylvania and into both towers of the World Trade Center in New York City, resulting in their total collapse; and

Whereas, these planned assaults on our nation were perpetrated by terrorists who sought to harm us, our freedoms and our way of life, but ironically the events of September 11, 2001 have resulted in a national unity not seen since World War II; and

Whereas, funded by deep pockets overseas, the terrorists were able to take advantage of us by infiltrating and accessing our airports, towns and cities to plan their attacks and have shown us clearly that there are enemies of our way of life both at home and abroad; and

Whereas, to protect our citizenry, our infrastructure, our cities and our highways and to keep our free society, we need to change certain security measures in many parts of our nation on a day-to-day basis; and

Whereas, new guidelines of security all across the country are being planned, such as increased security personnel and equipment, increased public safety response, heightened surveillance and intelligence gathering, improved medical preparedness, shelter improvements and improved emergency medical staff; and

Whereas, the costs for our homeland security have already begun to take their toll on states' budgets across the nation with added marine security costs, higher expenses in human services and bureaus of health and increased transportation and public utility costs: Now, therefore, be it

Resolved, That We, your Memorialists, respectfully urge that the Federal Government be responsible for these increased costs that the states are bearing; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Speaker of the United States House of Representatives and the President of the United States Senate and to each Member of the Maine Congressional Delegation.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of July 29, 2003, the following reports of committees were submitted on August 26, 2003:

By Ms. SNOWE, from the committee on Small Business and Entrepreneurship, with amendments:

S. 1375. A bill to provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes (Rept. No. 108–124).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 247. A bill to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes (Rept. No. 108–125).

S. 1152. A bill to reauthorize the United States Fire Administration, and for other purposes (Rept. No. 108–126).

S. 1234. A bill to reauthorize the Federal Trade Commission, and for other purposes (Rept. No. 108–127).

S. 1261. A bill to reauthorize the Consumer Product Safety Commission, and for other purposes (Rept. No. 108–128).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1389. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 2004 through 2008, and for other purposes (Rept. No. 108–129).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1250. A bill to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E-911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system and other purposes (Rept. No. 108–130).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 391. A bill to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes (Rept. No. 108–131).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 434. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes (Rept. No. 108–132).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes (Rept. No. 108–133).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 452. A bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes (Rept. No. 108–134).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 714. A bill to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes (Rept. No. 108–135).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources,. with an amendment:

S. 1003. A bill to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River (Rept. No. 108–136).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

H.R. 622. A bill to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes (Rept. No. 108–137).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1012. A bill to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes (Rept. No. 108–138).

By Mr. SPECTER, from the Committee on Veterans' Affairs:

Special Report entitled "Legislative and Oversight Activities During the 107th Congress by the Senate Committee on Veterans' Affairs" (Rept. No. 108–139).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SHELBY (for himself, Mr. BOND, Mr. SARBANES, and Mr. REED):

S. 1571. A bill to increase the Federal Housing Administration mortgage commitment level to carry out the purposes of section 203(b) of the National Housing Act; considered and passed.

By Mr. REID (for Mr. GRAHAM of Florida):

S. 1572. A bill to authorize the expansion of the pilot program of the Department of Veterans Affairs on assisted living for veterans to include three additional health care regions of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BREAUX:

S. 1573. A bill to redesignate the Tensas River National Wildlife Refuge in the State of Louisiana as the "Theodore Roosevelt-Tensas River National Wildlife Refuge"; to the Committee on Environment and Public Works.

By Mr. LUGAR:

S. 1574. A bill to direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection and preservation of the Midway Atoll within 90 days after the enactment of this Act, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 218. A resolution commending Michael J. McGhee, Keeper of the Stationery, United States Senate; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 63. A concurrent resolution authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003; considered and agreed to.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. JOHNSON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 202

At the request of Mr. DEWINE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from Oklahoma

(Mr. INHOFE) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 271

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 452

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 452, a bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 588

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 588, a bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004.

S. 623

At the request of Mr. WARNER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 853

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 853, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program.

S. 874

At the request of Mr. TALENT, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 973

At the request of Mr. NICKLES, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 976

At the request of Mr. WARNER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1007

At the request of Mr. LEAHY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1007, a bill to amend the Child Nutrition Act of 1966 to promote better nutrition among school children participating in the school breakfast and lunch programs.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1089

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1089, a bill to encourage multilateral cooperation and authorize a program of assistance to facilitate a peaceful transition in Cuba, and for other purposes.

S. 1098

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1098, a bill to amend title XVIII of the Social Security Act to update the renal dialysis composite rate.

S. 1201

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1201, a bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1283

At the request of Mr. GRAHAM of Florida, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1339

At the request of Mr. BREAUX, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1339, a bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service employees who perform essential services during severe weather events.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1394

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the medicaid program to encourage the provision of community-based services to individuals with disabilities.

S. 1396

At the request of Ms. SNOWE, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1531

At the request of Mr. HATCH, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1545

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. RES. 98

At the request of Mr. CAMPBELL, the names of the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. DASCHLE), the Senator from North Dakota (Mr. DORGAN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. Res. 98, a resolution expressing the sense of the Senate that the President should designate the week of October 12, 2003, through October 18, 2003, as "National Cystic Fibrosis Awareness Week".

S. RES. 202

At the request of Mr. CAMPBELL, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. DURBIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 204

At the request of Mr. BIDEN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 204, a resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 210

At the request of Mr. HATCH, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 210, a resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for Mr. GRAHAM of Florida):

S. 1572. A bill to authorize the expansion of the pilot program of the Department of Veterans Affairs on assisted living for veterans to include three additional health care regions of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. GRAHAM of Florida. Mr. President, I rise today to urge my colleagues to support an expansion of an existing Department of Veterans Affairs assisted living pilot program.

Currently, 35 percent of veterans are 65 or older, which translates into 8.75 million people. Of that, about 640,000 are 85 and older—those most in need of long-term care. VA estimates that the numbers will more than double to about 1.3 million in 2012.

The assisted living pilot program is designed to help this massive group of men and women who either need long-term care now or potentially will need it in the future. The pilot program was first established through The Veterans Millennium Health Care and Benefits Act, which gave VA clear authority to furnish an assisted living service, including to the spouses of veterans.

For my colleagues who do not know—and I doubt there can be many—assisted living is a form of institutional care for those who need help caring for themselves but who do not need to be in a nursing home. By giving them the option of assisted living in an assistive facility, we allow our elderly veterans to retain their independence. The existing pilot has also provided VA a way to offer long-term care without having to house the program within its hospitals, reducing some of the burden to increase its number of beds.

The Veterans Millennium Health Care and Benefits Act allowed for only one pilot program. After an extensive application process, on January 9, 2001, the Northwest Veterans Integrated Service Network (VISN 20) was selected as the pilot site. Though the panel which selected the winner felt that other applicants, including the second place proposal from Florida's VISN 8, warranted funding, they were tied by the law's limit of one program.

Since its inception, the VA assisted living pilot program in VISN 20 has placed a total of 181 veterans in assisted living facilities. The average veteran selected for the pilot is a 69-year-old unmarried male who was referred from an inpatient hospital setting. The average veteran enrolled in the pilot also typically shows significant functional impairment and a wide variety of physical and mental health conditions.

Initial findings show the average cost of the program is comparable to that of private assisted living—even costing less than some offered in Boise and Portland, two cities that are hosting the program. The average contract facility used for the pilot has 25 rooms.

Another valuable facet of the program is its use of a computerized database that makes it extremely efficient for components such as recruitment, processing of payments, high quality data collection, and data analysis for ongoing management feedback and evaluation.

Clearly, VA needs to do more in the area of long-term care. On May 22 of this year, at the request of the Senate and House Committees on Veterans Affairs, the General Accounting Office (GAO) issued the report VA Long-Term Care: Service Gaps and Facility Restrictions Limit Veterans' Access to Noninstitutional Care. GAO found that "VA's lack of emphasis on increasing access to noninstitutional long-term care services has contributed to service gaps and individual facility restrictions that limit access to care." The report made several recommendations to VA, including that they "refine current performance measures to help ensure that all VA facilities provide veterans with access to required non-institutional services."

In fiscal year 2002, VA served about 36 percent of its long-term care workload in non-institutional settings, yet, that same year, non-institutional care accounted for just 9 percent of VA's long-term care expenditures. Clearly a move from traditional institutional care is wise. The assisted living pilot program goes far in helping VA address these problems and meet the goals set out for them by GAO.

While the assisted living pilot in VISN 20 does not expire until October 2004, I am convinced that veterans in that part of the country are benefitting from the approach. The legislation I introduce today would expand the pilot program to three additional networks, for three additional years. Why should the rest of the Nation be prevented from reaping the benefits of such a practical, cost-effective program?

Both veterans and VA employees affiliated with the program have praised what it has to offer. They believe that it fills an important gap for those who require care but do not need nor want to go to a nursing home. We must expand this program that provides such deserved care to our Nation's veterans, allowing them to maintain both their health and their self-respect.

I ask unanimous consent that the text of the bill be printed in the Record.●

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF PILOT PROGRAM OF DEPARTMENT OF VETERANS AFFAIRS ON ASSISTED LIVING FOR VETERANS.

Section 103(b) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1552; 38 U.S.C. 1710B note) is amended—

(1) by striking "Location of Pilot Program.—" and inserting "Locations of Pilot Program.—(1)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In the addition to the health care region of the Department selected for the pilot program under paragraph (1), the Secretary may also carry out the pilot program in not more than three additional designated health care regions of the Department selected by the Secretary for purposes of this section.

"(B) Notwithstanding subsection (f), the authority of the Secretary to provide services under the pilot program in a health care region of the Department selected under subparagraph (A) shall cease on the date that is three years after the commencement of the provision of services under the pilot program in the health care region.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION—COMMENDING MICHAEL J. McGHEE, KEEPER OF THE STATIONERY, UNITED STATES SENATE

Mr. FRIST (for himself and Mr. Daschle) submitted the following resolution; which was considered and agreed to:

S. Res. 218

Whereas the Senate recognizes that its Keeper of the Stationery, Michael J. McGhee, retired on August 29, 2003;

Whereas Michael J. McGhee became an employee of the Senate in August 1974, and since that date has ably and faithfully upheld the high standards and traditions of the Senate for a period that included 16 Congresses;

Whereas Michael J. McGhee has served with distinction as Keeper of the Stationery, and at all times has discharged the important duties and responsibilities of his office with dedication and excellence; and

Whereas Michael J. McGhee's exceptional service and his unfailing dedication have earned him the esteem and affection of the Senate: Now, therefore, be it

Resolved, That the Senate—

(1) commends Michael J. McGhee for his exemplary service to the Senate and the Nation;

(2) wishes to express its deep appreciation for his long, faithful and outstanding service; and

(3) extends its very best wishes upon his retirement.

Sec. 2. That the Secretary of the Senate shall transmit a copy of this resolution to Michael J. McGhee.

SENATE CONCURRENT RESOLUTION 63—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR THE UNVEILING OF THE PORTRAIT BUST OF VICE PRESIDENT DAN QUAYLE ON SEPTEMBER 10, 2003

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 63

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1542. Mr. SPECTER proposed an amendment to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1543. Mr. BYRD proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1544. Mr. AKAKA (for himself, Mr. Sarbanes, Mr. Allen, Mr. Corzine, Mr. Kennedy, Mr. Dodd, and Ms. Stabenow) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1545. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1546. Mr. DeWINE (for Mr. Shelby) proposed an amendment to the bill H.R. 659, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals.

TEXT OF AMENDMENTS

SA 1542. Mr. SPECTER proposed an amendment to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; $2,652,588,000 plus reimbursements, of which $1,631,407,000 is available for obligation for the period July 1, 2004 through June 30, 2005; of which $1,000,965,000 is available for obligation for the period April 1, 2004 through June 30, 2005, to carry out chapter 4 of the Workforce Investment Act of 1998; and of which $20,216,000 is available for the period July 1, 2004 through June 30, 2007 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: *Provided*, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of the Workforce Investment Act of 1998, $276,608,000 shall be for activities described in section 132(a)(2)(A) of such Act and $1,155,152,000 shall be for activities described in section 132(a)(2)(B) of such Act: *Provided further*, That $9,039,000 shall be for carrying out section 172 of the Workforce Investment Act of 1998: *Provided further*, That, notwithstanding any other provision of law or related regulation, $77,330,000 shall be for carrying out section 167 of the Workforce Investment Act of 1998, including $72,213,000 for formula grants, $4,610,000 for migrant and seasonal housing, and $507,000 for other discretionary purposes: *Provided further*, That $4,609,840 appropriated under this heading in Public Law 108–7 for migrant and seasonal housing under section 167 of the Workforce Investment Act of 1998 and available for obligation for the period July 1, 2003 through June 30, 2004 is hereby rescinded: *Provided further*, That $4,609,840 is available for obligation for the period July 1, 2003 through June 30, 2004, for farmworker housing organizations with grants expiring June 30, 2003 to carry out migrant and seasonal housing activities, including permanent housing at the option of grantees, under section 167 of the Workforce Investment Act of 1998: *Provided further*, That funds provided to carry out section 171(d) of the Workforce Investment Act of 1998 may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; $2,463,000,000 plus reimbursements, of which $2,363,000,000 is available for obligation for the period October 1, 2004 through June 30, 2005, and of which $100,000,000 is available for the period October 1, 2004 through June 30, 2007, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, $442,306,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210), $1,338,200,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $142,520,000, together with not to exceed $3,478,032,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2004, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2006; of which $142,520,000, together with not to exceed $768,257,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2004 through June 30, 2005, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2004 is projected by the Department of Labor to exceed 3,227,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2005, $467,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2004, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $115,824,000, including $2,393,000 to administer welfare-to-work grants, together with not to exceed $63,137,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $121,316,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2004 for such Corporation: *Provided*, That none of the funds available to the Corporation for fiscal year 2004 shall be available for obligations for administrative expenses in excess of $228,772,000: *Provided further*, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $390,045,000, together with $2,016,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That $2,000,000 shall be for the development of an alternative system for the electronic submission of reports required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $163,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 2003, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2004: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $39,315,000 shall be made available to the Secretary as follows: (1) for enhancement and maintenance of automated data processing systems and telecommunications systems, $11,618,000; (2) for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $14,496,000; (3) for periodic roll management and medical review, $13,201,000; and (4) the remaining funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, (the "Act"),

$300,000,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payment to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the first quarter of fiscal year 2005, $88,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, $55,074,000, to remain available until expended: *Provided*, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2004 to carry out those authorities: *Provided further*, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2004 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2004 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): $32,004,000 for transfer to the Employment Standards Administration, "Salaries and Expenses"; $23,401,000 for transfer to Departmental Management, "Salaries and Expenses"; $338,000 for transfer to Departmental Management, "Office of Inspector General"; and $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $463,324,000, including not to exceed $93,263,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the "Act"), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2004, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That not less than $3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2003 to September 30, 2004, provided that a grantee has demonstrated satisfactory performance.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $270,711,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including up to $2,000,000 for mine rescue and recovery activities; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $440,113,000, together with not to exceed $75,110,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

Office of Disability Employment Policy

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $47,333,000.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, and $48,565,000, for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; $351,295,000; together with not to exceed $314,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33

U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than 1 year shall be considered affirmed by the Benefits Review Board on the 1-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $193,443,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4012, 4211–4215, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2004, of which $2,000,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), $26,550,000, of which $7,550,000 shall be available for obligation for the period July 1, 2004 through June 30, 2005.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $59,291,000, together with not to exceed $5,561,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, $9,700,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 104. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 105. Of the funds appropriated for fiscal year 1999 under section 403(a)(5)(H)(i)(II) of the Social Security Act (42 U.S.C. 603(a)(5)(H)(i)(II)) that were allotted as welfare to work formula grants to the States under section 403(a)(5)(A) of such Act (42 U.S.C. 603(a)(5)(A)), $210,833,000 is hereby rescinded. In order to carry out this section, the Secretary of Labor shall recapture unexpended funds from the States that have received such allotments based on the relative amount of funds from such allotments that remain unexpended in each State as compared to the total amount of funds from such allotments that remain unexpended in all States as of September 30, 2003. The Secretary of Labor is authorized to establish such procedures as the Secretary determines are appropriate to carry out this section.

This title may be cited as the "Department of Labor Appropriations Act, 2004".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V (including section 510), and sections 1128E and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, and the Poison Control Center Enhancement and Awareness Act, $5,881,322,000, of which $39,740,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That of the funds made available under this heading, $250,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program", authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: *Provided further*, that no more than $10,000,000 is available for carrying out the provisions of U.S.C. Title 42 Section 233(o) including associated administrative expenses: *Provided further*, That $10,000,000 is to establish a National Cord Blood Stem Cell Bank Program: *Provided further*, That no more than $45,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further*, That of the funds made available under this heading, $283,350,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That $739,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: *Provided further*, That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $116,381,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: *Provided further*, That $73,044,000 is available for special projects of regional and national significance under section 501(a)(2) of the Social Security Act, which shall not be counted toward compliance with the allocation required in section 502(a)(1) of such Act, and which shall be used only for making competitive grants to provide abstinence education (as defined in section 510(b)(2) of such Act) to adolescents and for evaluations (including longitudinal evaluations) of activities under the grants and for Federal costs of administering the grants: *Provided further*, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided: *Provided further*, That the funds expended for such evaluations may not exceed 3.5 percent of such amount.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $3,389,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,972,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act of 1980; including purchase and insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $4,432,496,000, of which $250,000,000 shall remain available until expended for equipment, and construction and renovation of facilities, and of which $232,569,000 for international HIV/AIDS shall remain available until September 30, 2005, including up to $90,000,000, to remain available until expended for the "International Mother and Child HIV Prevention Initiative." In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, $14,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Immunization Surveys: *Provided further*, That in addition to amounts provided herein, $127,634,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: *Provided further*, That in addition to amounts provided herein, $28,600,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out information systems standards development and architecture and applications-based research used at local public health levels: *Provided further*, That in addition to amounts provided herein, $41,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Research Tools and Approaches activities within the National Occupational Research Agenda: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That not to exceed $12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States: *Provided further*, That without regard to existing statute, funds appropriated may be used to proceed, at the discretion of the Centers for Disease Control and Prevention, with property acquisition, including a long-term ground lease for construction on non-Federal land, to support the construction of a replacement laboratory in the Fort Collins, Colorado area: *Provided further*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232–18.

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,770,519,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,897,595,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $386,396,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,683,007,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,510,926,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,335,255,000: *Provided*, That $150,000,000 may be made available to International Assistance Programs, "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,917,033,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,251,185,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $657,199,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $637,074,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,031,411,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $505,000,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $384,577,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $135,579,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $431,521,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $997,614,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,391,114,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $482,372,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $289,300,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,186,483,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That $119,220,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $117,902,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $192,824,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $65,900,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $311,835,000, of which $4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2004, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: *Provided further*, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $323,483,000: *Provided*, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the National Institutes of Health Management Fund shall remain available for 1 fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to $497,000 shall be available to carry out section 499 of the Public Health Service Act.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $89,500,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, single contracts or related contracts, which collectively include the full scope of the project, may be employed for the development and construction of the first and second phases of the John Edward Porter Neuroscience Research Center: *Provided further*, That the solicitations and contracts shall contain the clause "availability of funds" found at 48 CFR 52.232–18.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $3,157,540,000: *Provided*, That in addition to amounts provided herein, $79,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out subpart II of title XIX of the Public Health Service Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of title XIX: *Provided further*, That in addition to the amounts provided herein, $21,850,000 shall be available from amounts available under Section 241 of the Public Health Service Act to carry out subpart I of Part B of title XIX of the Public Health Service Act to fund section 1920(b) technical assistance, data collection and program evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of Part B of Title XIX: *Provided further*, That in addition to amounts provided herein, $16,000,000 shall be made available from amounts available under section 241 of the Public Health Service Act to carry out national surveys on drug abuse.

Agency for Healthcare Research and Quality

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed $303,695,000.

Centers for Medicare and Medicaid Services

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $124,892,197,000, to remain available until expended.

For making, after May 31, 2004, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2004 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2005, $58,416,275,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $95,084,100,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $2,707,603,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That $30,000,000, to remain available until September 30, 2005, is for contract costs for CMS's Systems Revitalization Plan: *Provided further*, That $56,991,000, to remain available until September 30, 2005, is for contract costs for the Healthcare Integrated General Ledger Accounting System: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2004 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2004, no commitments for direct loans or loan guarantees shall be made.

Administration for Children and Families

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $3,292,270,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2005, $1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $2,000,000,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $383,894,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act for fiscal year 2004 shall be available for the costs of assistance provided and other activities through September 30, 2006: *Provided further*, That up to $9,935,000 is available to carry out the Trafficking Victims Protection Act of 2000.

For carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), $9,935,000. For carrying out section 462 of the Homeland Security Act of 2002, (Public Law 107–296), $34,227,000.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $2,099,729,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That $19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which $1,000,000 shall be for the Child Care Aware toll free hotline: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G, $272,672,000 shall be reserved by the States for activities authorized under section 658G, of which

$100,000,000 shall be for activities that improve the quality of infant and toddler care: *Provided further*, That $10,000,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, the Early Learning Opportunities Act, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103–322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105–285, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), sections 40155, 40211, and 40241 of Public Law 103–322, and section 126 and titles IV and V of Public Law 100–485, $8,780,002,000, of which $42,720,000, to remain available until September 30, 2005, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679) and may be made for adoptions completed before September 30, 2004; of which $6,815,570,000 shall be for making payments under the Head Start Act, of which $1,400,000,000 shall become available October 1, 2004 and remain available through September 30, 2005; and of which $717,620,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That not less than $7,203,000 shall be for section 680(3)(B) of the Community Services Block Grant Act, as amended: *Provided further*, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: *Provided further*, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: *Provided further*, That $89,978,000 shall be for activities authorized by the Runaway and Homeless Youth Act, notwithstanding the allocation requirements of section 388(a) of such Act, of which $40,505,000 is for the transitional living program: *Provided further*, That $34,772,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: *Provided further*, That $15,000,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $10,000,000 shall be for payments to States to promote disabled voter access, and of which $5,000,000 shall be for payments to States for disabled voters protection and advocacy systems.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $305,000,000 and for section 437, $99,350,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $5,068,300,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2005, $1,767,700,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Administration on Aging

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $1,360,193,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions; and of which $2,842,000 shall remain available until September 30, 2006, for the White House Conference on Aging.

Office of the Secretary

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, $342,808,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $11,885,000 shall be for activities specified under section 2003(b)(2), of which $10,157,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That of this amount, $50,000,000 is for minority AIDS prevention and treatment activities; and $15,000,000 shall be for an Information Technology Security and Innovation Fund for Department-wide activities involving cybersecurity, information technology security, and related innovation projects, and $5,000,000 is to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,497,000: *Provided*, That, of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $30,936,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act and title III of the Public Health Service Act, $23,499,000, which shall be available from amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: *Provided*, That the expenditure of any funds available under section 241 of the Public Health Service Act are subject to the requirements of section 205 of this Act.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55 and 56), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year. The following are definitions for the medical benefits of the Public Health Service Commissioned Officers that apply to 10 U.S.C. chapter 56, section 1116(c). The source of funds for the monthly accrual payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund shall be the Retirement Pay and Medical Benefits for Commissioned Officers account. For purposes of this Act, the term "pay of members" shall be construed to be synonymous with retirement payments to United States Public Health Service officers who are retired for age, disability, or length of service; payments to survivors of deceased officers; medical care to active duty and retired members and dependents and beneficiaries; and for payments to the Social Security Administration for military service credits; all of which payments are provided for by the Retirement Pay and Medical Benefits for Commissioned Officers account.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, $1,856,040,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, $1,116,156,000; Office of the Secretary, $61,820,000; Health Resources and Services Administration, $578,064,000; and $100,000,000 shall be available until expended for activities to ensure a year-round influenza vaccine production capacity and the development and implementation of rapidly expandable production technologies: *Provided further*, That at the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures: *Provided further*, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities or other organizations under authority of section 214 of the Public Health Service Act for purposes related to homeland security, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.2 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this or any other Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That an appropriation may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: *Provided further*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004"; and

(B) in subsection (e), by striking "October 1, 2003" each place it appears and inserting "October 1, 2004"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "September 30, 2003" and inserting "September 30, 2004".

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2004 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2004 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2003, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2003 State expenditures and all fiscal year 2004 obligations for tobacco prevention and compliance activities by program activity by July 31, 2004.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2004.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State, and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make

available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. Notwithstanding section 409B(c) of the Public Health Service Act regarding a limitation on the number of such grants, funds appropriated in this Act may be expended by the Director of the National Institutes of Health to award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's disease. Each center funded under such grants shall be designated as a Morris K. Udall Center for Research on Parkinson's Disease.

SEC. 218. None of the funds appropriated in this or any other Act may be used to carry out or administer the Department of Health and Human Services Human Resources Consolidation plan.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 2004".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 ("ESEA") and section 418A of the Higher Education Act of 1965, $14,103,356,000, of which $6,582,294,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005, and of which $7,383,301,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That $7,107,282,000 shall be available for basic grants under section 1124: *Provided further*, That up to $3,500,000 of these funds shall be available to the Secretary of Education on October 1, 2003, to obtain updated educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That $1,365,031,000 shall be available for concentration grants under section 1124A: *Provided further*, That $1,670,239,000 shall be available for targeted grants under section 1125: *Provided further*, That $2,207,448,000 shall be available for education finance incentive grants under section 1125A: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall use data described in sections 1124(a)(1)(B) and 1124(c)(1) of the ESEA that are available on July 1, 2003, to calculate grants for fiscal year 2004 under part A of title I of that Act: *Provided further*, That from the $8,842,000 available to carry out part E of title I, up to $1,000,000 shall be available to the Secretary of Education to provide technical assistance to State and local educational agencies concerning part A of title I.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,188,226,000, of which $1,025,292,000 shall be for basic support payments under section 8003(b), $50,668,000 shall be for payments for children with disabilities under section 8003(d), $44,708,000 shall be for construction under section 8007 and shall remain available through September 30, 2005, $59,610,000 shall be for Federal property payments under section 8002, and $7,948,000, to remain available until expended, shall be for facilities maintenance under section 8008.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, part B of title IV, part A and subparts 6 and 9 of part D of title V, subpart 1 of part A and part B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 ("ESEA"); the McKinney-Vento Homeless Assistance Act; and the Civil Rights Act of 1964, $5,731,453,000, of which $4,173,944,000 shall become available on July 1, 2004, and remain available through September 30, 2005, and of which $1,435,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: *Provided further*, That funds made available to carry out part C of title VII of the ESEA may be used for construction: *Provided further*, That $390,000,000 shall be for subpart 1 of part A of title VI of the ESEA: *Provided further*, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $121,573,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G of Title I, subpart 5 of part A and parts C and D of title II, and Parts B, C, and D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), $774,133,000: *Provided*, That $9,935,000 shall be provided to the National Board for Professional Teaching Standards to carry out section 2151(c) of the ESEA: *Provided further*, That $165,877,000 shall be available to carry out part D of title V of the ESEA.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out subpart 3 of part C of title II, part A of title IV, and subparts 2, 3 and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), title VIII-D of the Higher Education Act of 1965, as amended, and Public Law 102–73, $818,547,000, of which $447,017,000 shall become available on July 1, 2004 and remain available through September 30, 2005: *Provided*, That of the amount available for subpart 2 of part A of title IV of the ESEA, $850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105–244: *Provided further*, That $422,017,000 shall be available for subpart 1 of part A of title IV and $213,880,000 shall be available for subpart 2 of part A of title IV: *Provided further*, That of the funds available to carry out subpart 3 of part C of title II, up to $11,922,000 may be used to carry out section 2345 and $2,980,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the state legislatures: *Provided further*, That $25,000,000 shall be for Youth Offender Grants, of which $5,000,000 shall be used in accordance with section 601 of Public Law 102–73 as that section was in effect prior to enactment of Public Law 105–220.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, $665,000,000, of which $541,259,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005.

SPECIAL EDUCATION

For carrying out parts B, C, and D of the Individuals with Disabilities Education Act, $11,027,464,000, of which $5,337,533,000 shall become available for obligation on July 1, 2004, and shall remain available through September 30, 2005, and of which $5,402,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: *Provided*, That $11,400,000 shall be for Recording for the Blind and Dyslexic to support the development, production, and circulation of recorded educational materials: *Provided further*, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: *Provided further*, That the amount for section 611(c) of the Act shall be equal to the amount available for that section during fiscal year 2003, increased by the amount of inflation as specified in section 611(f)(1)(B)(ii) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, $3,004,360,000, of which $1,000,000 shall be used to improve the quality of applied orthotic and prosthetic research and help meet the demand for provider services: *Provided*, That the funds provided for title I of the Assistive Technology Act of 1998 ("the AT Act") shall be allocated notwithstanding section 105(b)(1) of the AT Act: *Provided further*, That section 101(f) of the AT Act shall not limit the award of an extension grant to three years: *Provided further*, That no State or outlying area awarded funds under section 101 shall receive less than the amount received in fiscal year 2003.

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.) including the acquisition of equipment, $16,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $53,800,000, of which $367,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $100,800,000: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act of 1998, subparts 4 and 11 of part D of title V of the Elementary and Secondary Education Act of 1965, and the Adult Education and Family Literacy Act, $2,093,990,000, of which $1,274,943,000 shall become available on July 1, 2004 and shall remain available through September 30, 2005 and of which $791,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005: *Provided*, That of the amount provided for Adult Education State Grants, $69,545,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: *Provided further*, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, $9,223,000 shall be for national leadership activities under section 243 and $6,732,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That $160,047,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, of which up to 5 percent shall become available October 1, 2003, for evaluation, technical assistance, school networking, peer review of applications, and program outreach activities and of which not less than 95 percent shall become available on July 1, 2004, and remain available through September 30, 2005, for grants to local educational agencies: *Provided further*, That funds made available to local education agencies under this subpart shall be used only for activities related to establishing smaller learning communities in high schools.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $14,174,115,000, which shall remain available through September 30, 2005.

The maximum Pell Grant for which a student shall be eligible during award year 2004–2005 shall be $4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under Section 458), to carry out part D of title I; subparts 1, 3, and 4 of part A; and parts B, C, D, and E of title IV of the Higher Education Act of 1965, as amended, $104,703,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 ("HEA"), as amended, section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998, and the Mutual Educational and Cultural Exchange Act of 1961, $1,974,247,000, of which $2,000,000 for interest subsidies authorized by section 121 of the HEA shall remain available until expended: *Provided*, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998: *Provided further*, That $9,935,000, to remain available through September 30, 2005, shall be available to fund fellowships for academic year 2005–2006 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That $994,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: *Provided further*, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: *Provided further*, That up to 1 percent of the funds referred to in the preceding proviso may be used for program evaluation, national outreach, and information dissemination activities.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $238,440,000, of which not less than $3,573,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act of 1965, $774,000 to carry out activities related to existing facility loans entered into under the Higher Education Act of 1965.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965 shall not exceed $355,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by Public Law 107–279, $452,956,000: *Provided*, That, of the amount appropriated, $144,090,000 shall be available for obligation through September 30, 2005: *Provided further*, That of the amount provided to carry out title I, parts B and D of Public Law 107–279, $24,362,000 shall be for the national research and development centers authorized under section 133(c): *Provided further*, That $4,968,000 shall be available to extend for one additional year the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education authorized under section 2102(a)(2) of the Elementary and Secondary Education Act of 1965, prior to its amendment by the No Child Left Behind Act of 2001, Public Law 107–110.

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $409,863,000, of which $13,644,000, to remain available until expended, shall be for building alterations and related expenses for the relocation of Department staff to Potomac Center Plaza in Washington, D.C.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $91,275,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $44,137,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. (a) The matter under the heading "Title III—Department of Education, Education for the Disadvantaged", in Public Law 108–7 (117 Stat. 326) is amended—

(1) by striking "$4,651,199,000" and inserting "$6,895,199,000"; and

(2) by striking "$9,027,301,000" and inserting "$6,783,301,000".

(b) The additional fiscal year 2003 budget authority provided under subsection (a) shall not be subject to the rescission required by Division N, section 601, of Public Law 108–7.

(c) Subsections (a) and (b) shall become effective immediately upon enactment of this Act.

This title may be cited as the "Department of Education Appropriations Act, 2004".

TITLE IV—RELATED AGENCIES

Armed Forces Retirement Home

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $65,279,000, of which $1,983,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

Corporation for National and Community Service

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $350,187,000: *Provided*, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of Part C of Title I and Part E of Title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

Corporation for Public Broadcasting

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2006, $400,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That for fiscal year 2004, in addition to the amounts provided above, $55,000,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: *Provided further*, That for fiscal year 2004, in addition to the amounts provided above, $10,000,000 shall be for the costs associated with implementing the first phase of the next generation interconnection system.

Federal Mediation and Conciliation Service

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $43,385,000, including $1,500,000, to remain available through September 30, 2005, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

Federal Mine Safety and Health Review Commission

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $7,774,000.

Institute of Museum and Library Services

For carrying out the Museum and Library Services Act of 1996, $243,889,000, to remain available until expended.

Medicare Payment Advisory Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $9,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

National Commission on Libraries and Information Science

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $1,000,000.

National Council on Disability

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $3,339,000.

National Labor Relations Board

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $246,073,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

National Mediation Board

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $11,421,000.

Occupational Safety and Health Review Commission

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $9,610,000.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $119,000,000, which shall include amounts becoming available in fiscal year 2004 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $119,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2005, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $99,350,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,322,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: *Provided further*, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $21,658,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $26,290,000,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2005, $12,590,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $20,000 for official reception and representation expenses, not more than $8,410,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than $1,800,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2004 not needed for fiscal year 2004 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made: *Provided further*, That $107,000,000 shall not be available for obligation until September 30, 2004.

In addition, $120,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2004 exceed $120,000,000, the amounts shall be available in fiscal year 2005 only to the extent provided in advance in appropriations Acts.

From funds previously appropriated for this purpose, any unobligated balances at the end of fiscal year 2003 shall be available to continue Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,863,000, together with not to exceed $61,597,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $17,200,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

Sec. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

Sec. 511. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

Sec. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

Sec. 513. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

Sec. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004".

SA 1543 Mr. BYRD proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 36, line 16, strike the period and insert ": *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, $1,500,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $14,103,356,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $20,253,356,000: *Provided further*, That the amount $6,582,294,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $12,732,294,000: *Provided further*, That the amount $1,670,239,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $4,745,239,000: *Provided further*, That the amount $2,207,448,000 under the heading 'Education for the Disadvantaged' in title III of this Act shall be deemed to be $5,282,448,000: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $13,045,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $633,301,000.".

SA 1544 Mr. AKAKA (for himself, Mr. Sarbanes, Mr. Allen, Mr. Corzine, Mr. Kennedy, Mr. Dodd, and Ms. Stabenow) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of title III, insert the following:

Sec. 306. In addition to any amounts that may be made available under this Act to carry out the Excellence in Economic Education Act of 2001 under subpart 13 of part D of title V of the Elementary and Secondary Education Act of 1965, there are appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to carry out the Excellence in Economic Education Act of 2001.

SA 1545. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. ___. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) Concierge care.—In this section, the term "concierge care" means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) Report.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SA 1546. Mr. DEWINE (for Mr. Shelby) proposed an amendment to the bill H.R. 659, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Mortgage Insurance Act of 2003".

SEC. 2. STANDARDS FOR DETERMINING NEED AND FEASIBILITY FOR HOSPITALS.

(a) In General.—Paragraph (4) of section 242(d) of the National Housing Act (12 U.S.C. 1715z–7) is amended to read as follows:

"(4)(A) The Secretary shall require satisfactory evidence that the hospital will be located in a State or political subdivision of a State with reasonable minimum standards of licensure and methods of operation for hospitals and satisfactory assurance that such standards will be applied and enforced with respect to the hospital.

"(B) The Secretary shall establish the means for determining need and feasibility for the hospital, if the State does not have an official procedure for determining need for hospitals. If the State has an official procedure for determining need for hospitals, the Secretary shall require that such procedure be followed before the application for insurance is submitted, and the application shall document that need has also been established under that procedure.".

(b) Effective Date.—

(1) In general.—The amendment made by this subsection (a) shall take effect and apply as of the date of the enactment of this Act.

(2) Effect of regulatory authority.—Any authority of the Secretary of Housing and Urban Development to issue regulations to carry out the amendment made by subsection (a) may not be construed to affect the effectiveness or applicability of such amendment under paragraph (1) of this subsection.

SEC. 3. EXEMPTION FOR CRITICAL ACCESS HOSPITALS.

(a) In General.—Section 242 of the National Housing Act (12 U.S.C. 1715z–7) is amended—

(1) in subsection (b)(1)(B), by inserting ", unless the facility is a critical access hospital (as that term is defined in section 1861(mm)(1) of the Social Security Act (42

U.S.C. 1395x(mm)(1)))" after "tuberculosis"; and

(2) by adding at the end the following:

"(i) Termination of Exemption for Critical Access Hospitals.—

"(1) In general.—The exemption for critical access hospitals under subsection (b)(1)(B) shall have no effect after July 31, 2006.

"(2) Report to congress.—Not later than 3 years after July 31, 2003, the Secretary shall submit a report to Congress detailing the effects of the exemption of critical access hospitals from the provisions of subsection (b)(1)(B) on—

"(A) the provision of mortgage insurance to hospitals under this section; and

"(B) the General Insurance Fund established under section 519.".

SEC. 4. STUDY OF BARRIERS TO RECEIPT OF INSURED MORTGAGES BY FEDERALLY QUALIFIED HEALTH CENTERS.

(a) In General.—The Secretary of Housing and Urban Development shall conduct a study on the barriers to the receipt of mortgage insurance by Federally qualified health centers (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))) under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act.

(b) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report regarding any appropriate legislative and regulatory changes needed to enable Federally qualified health centers to access mortgage insurance under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

PRIVILEGES OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that Julie Carter of my staff be accorded floor privileges during the consideration of the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that Ms. Lisa Bernhardt and Ms. Kathleen Pierce be granted privileges of the floor during the consideration of this bill and any votes thereon.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Shawn Gallagher, a fellow in my office, be granted floor privileges for the duration of Senate consideration of the Labor-HHS-Education Appropriations bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. DeWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 63.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DeWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and that the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 63) was agreed to, as follows:

S. Con. Res. 63

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

COMMENDING MICHAEL J. McGHEE, KEEPER OF THE STATIONERY

Mr. DeWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 218, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 218) commending Michael J. McGhee, Keeper of the Stationery, United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I wish to take a moment to recognize a faithful, long-serving member of our Senate family. Mike McGhee—our Keeper of the Stationery—retired this past 29th day of August, after serving the Senate for almost 30 years.

Mike began his Senate career in July 1974 as a sales clerk when the stationery room operation was located in the basement of the Russell Building. He worked his way up in the stationery room to become the 17th Keeper of the Stationery. It is interesting to note that the Senate Stationery Room has been in existence since the very first Congress assembled in Federal Hall in New York City. Since that time—a period of 230 plus years—there have only been 16 other Keepers of the Stationery, a very exclusive group of people indeed!

During Mike's almost three-decade career, he has developed life-long professional relationships with many Senate employees. Indeed, most Senate staff and members know him and know that they can count on Mike to provide the help they need.

Of special note is Mike's "beyond the call of duty" response to the anthrax attack and related closure of the Hart Building, including the Stationery Room. Under Mike's leadership, the Stationery Room continued operations throughout the response period, fulfilling the countless requests for supplies under a most challenging atmosphere. Mike and his staff helped keep the work of the Senate rolling.

Mike's family—his wife Kathleen, son Luke, and daughter Molly—are justly proud of their husband and dad, respectively, for his many tireless efforts and the significant contributions he has made to the Senate and our country.

As Mike leaves the Senate family, the Senate will miss him. On behalf of all my colleagues and our entire Senate family, I thank Mike for his dedicated service and wish him and his family God-speed in retirement.

Mr. DASCHLE. Mr. President, I wish to add my congratulations to Mike McGhee on his career here in the Senate and to wish him well on his retirement. His rise, over nearly a 30-year span, from clerk in the Stationery Room to become the 17th Keeper of the Stationery shows the dedication and hard work that everyone has come to expect from Mike. The stationery office serves the entire Senate community and involves managing over a $4 million budget. He has accomplished this task both efficiently and effectively. His commitment to public service has been exemplary. I wish him and his family all the best in the years to come, and I congratulate him on a job well done.

Mr. DeWINE. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to this resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 218) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 218

Whereas the Senate recognizes that its Keeper of the Stationery, Michael J. McGhee, retired on August 29, 2003;

Whereas Michael J. McGhee became an employee of the Senate in August 1974, and since that date has ably and faithfully upheld the high standards and traditions of the Senate for a period that included 16 Congresses;

Whereas Michael J. McGhee has served with distinction as Keeper of the Stationery, and at all times has discharged the important duties and responsibilities of his office with dedication and excellence; and

Whereas Michael J. McGhee's exceptional service and his unfailing dedication have earned him the esteem and affection of the Senate: Now, therefore, be it

Resolved, That the Senate—

(1) commends Michael J. McGhee for his exemplary service to the Senate and the Nation;

(2) wishes to express its deep appreciation for his long, faithful and outstanding service; and

(3) extends its very best wishes upon his retirement.

SEC. 2. That the Secretary of the Senate shall transmit a copy of this resolution to Michael J. McGhee.

HOSPITAL MORTGAGE INSURANCE ACT OF 2003

Mr. DEWINE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 659 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 659) to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals.

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I ask unanimous consent that the substitute that is at the desk be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1546) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Mortgage Insurance Act of 2003".

SEC. 2. STANDARDS FOR DETERMINING NEED AND FEASIBILITY FOR HOSPITALS.

(a) IN GENERAL.—Paragraph (4) of section 242(d) of the National Housing Act (12 U.S.C. 1715z–7) is amended to read as follows:

"(4)(A) The Secretary shall require satisfactory evidence that the hospital will be located in a State or political subdivision of a State with reasonable minimum standards of licensure and methods of operation for hospitals and satisfactory assurance that such standards will be applied and enforced with respect to the hospital.

"(B) The Secretary shall establish the means for determining need and feasibility for the hospital, if the State does not have an official procedure for determining need for hospitals. If the State has an official procedure for determining need for hospitals, the Secretary shall require that such procedure be followed before the application for insurance is submitted, and the application shall document that need has also been established under that procedure.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this subsection (a) shall take effect and apply as of the date of the enactment of this Act.

(2) EFFECT OF REGULATORY AUTHORITY.—Any authority of the Secretary of Housing and Urban Development to issue regulations to carry out the amendment made by subsection (a) may not be construed to affect the effectiveness or applicability of such amendment under paragraph (1) of this subsection.

SEC. 3. EXEMPTION FOR CRITICAL ACCESS HOSPITALS.

(a) IN GENERAL.—Section 242 of the National Housing Act (12 U.S.C. 1715z–7) is amended—

(1) in subsection (b)(1)(B), by inserting ", unless the facility is a critical access hospital (as that term is defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1)))" after "tuberculosis"; and

(2) by adding at the end the following:

"(i) TERMINATION OF EXEMPTION FOR CRITICAL ACCESS HOSPITALS.—

"(1) IN GENERAL.—The exemption for critical access hospitals under subsection (b)(1)(B) shall have no effect after July 31, 2006.

"(2) REPORT TO CONGRESS.—Not later than 3 years after July 31, 2003, the Secretary shall submit a report to Congress detailing the effects of the exemption of critical access hospitals from the provisions of subsection (b)(1)(B) on—

"(A) the provision of mortgage insurance to hospitals under this section; and

"(B) the General Insurance Fund established under section 519.".

SEC. 4. STUDY OF BARRIERS TO RECEIPT OF INSURED MORTGAGES BY FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study on the barriers to the receipt of mortgage insurance by Federally qualified health centers (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))) under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report regarding any appropriate legislative and regulatory changes needed to enable Federally qualified health centers to access mortgage insurance under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

The bill (H.R. 659), as amended, was read the third time and passed.

INCREASING THE FEDERAL HOUSING ADMINISTRATION MORTGAGE COMMITMENT LEVEL

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1571.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1571) to increase the Federal Housing Administration mortgage commitment level to carry out the purposes of section 203(b) of the National Housing Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. DEWINE. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1571) was read the third time and passed, as follows:

S. 1571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Notwithstanding the first paragraph of the item in title II of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) relating to "FEDERAL HOUSING ADMINISTRATION—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT", during the fiscal year 2003, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act (12 U.S.C. 1709), shall not exceed a loan principal of $185,000,000,000.

MEASURES PLACED ON THE CALENDAR—S. 1434, S. 1490, S. 1504, H.R. 2799, AND H.R. 2861

Mr. DEWINE. Mr. President, I understand there are five bills at the desk which are due for a second reading. I ask unanimous consent that the bills be given a second reading, en bloc, and I object to further proceedings on the measures at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The objection is noted. Under the rules, the bills will be placed on the calendar.

ORDER FOR PRINTING OF H.R. 6

Mr. DEWINE. Mr. President, I ask unanimous consent that H.R. 6, as passed by the Senate on July 31, 2003, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108–8

Mr. DEWINE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following protocol transmitted to the Senate on September 2, 2003, by the President of the United States: Protocol to Treaty of Friendship, Commerce, and Navigation with Denmark, treaty document 108–8.

I further ask that the protocol be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Navigation Between the United States and Denmark of October 1, 1951, signed at Copenhagen on May 2, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

The protocol will establish the legal basis by which the United States may issue treaty-investor (E–2) visas to qualified nationals of Denmark, by supplementing the U.S.-Denmark friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors, a benefit provided in the large majority of U.S. FCN treaties. United States investors are already eligible for Danish visas that offer comparable benefits to those that would be accorded nationals of Denmark under E–2 visa status.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Denmark also provides an open investment climate. Visas for investors facilitate investment activity, and thus directly support U.S. policy objectives.

I recommend that the Senate consider this protocol as soon as possible, and give its advice and consent to ratification of the protocol at an early date.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 2, 2003.*

ORDERS FOR TUESDAY, SEPTEMBER 3, 2003

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, September 3. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved, the time for the two leaders be reserved and the Senate then resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill.

I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill. There are two pending amendments that were offered and debated during today's session. It is hoped that we will be able to schedule votes in relation to these amendments as early as possible tomorrow. The leader would like to alert all Members that rollcall votes can be expected at approximately 12 noon on Wednesday. Therefore, Senators should expect the possibility of votes prior to the party lunches and Members will be notified when the first vote is scheduled.

ORDER FOR ADJOURNMENT

Mr. DEWINE. If there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the previous order after the remarks of Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF FOR AMERICAN TROOPS

Mr. BYRD. Mr. President, Senators and Representatives are now returning to Washington, D.C., from their sojourns to their home districts. With the turn of a page on a calendar, the dog days of summer draw to a close, and our Nation's Capital City returns to life from its annual slumber. The business of government is set once more to spring into high gear as the oppressive heat of August turns to the cooler days of September.

Many of those who carry out the work of the American people were fortunate to escape the worst days of the oppressive Washington summer. But as policy makers return to their hectic schedules, we must remember that there are many thousands of Americans on the other side of the globe who were not afforded any relief from sweltering temperatures or allowed any bit of relaxation from their life-threatening missions.

There was no summer vacation for the 136,000 U.S. troops in Iraq, the 34,000 soldiers in Kuwait, or the 9,600 personnel in Afghanistan. These Americans sweated through all 31 days of August under their Kevlar helmets and heavy bulletproof vests. Many had no opportunity to enjoy the luxury of air conditioning or even a simple glass of ice water, for they were kept on high alert during every waking moment watching for snipers, booby traps, and assassins.

As the cost of our occupation of Iraq continues to grow, it is increasingly apparent to the American people that the White House has gotten the United States more deeply involved in Iraq than the administration's pre-war rhetoric would ever have led us to believe.

As of Friday, August 29, we have lost 282 Americans during the invasion and occupation of Iraq, and nearly 1,400 have been wounded during that time. The news today is of two more soldiers killed in a roadside bomb attack. The number of American lives lost is quickly approaching the total number of Americans killed during 1991's Operation Desert Storm, when 292 troops lost their lives to hostile fire and accidents.

The dangers of Iraq have shown no signs of abating. The August 19 bombing of the U.N. headquarters in Baghdad claimed the lives of 23 international aid workers, and the August 29 bombing of a mosque in Najaf appears to have killed more than 80 worshipers.

Only a handful of Iraqi leaders who are pictured on the military's most-wanted deck of cards remain at large, but the perpetrators of the attacks seem to be broadening their set of targets. It appears that the violence is not just perpetrated by Iraqis, but that Iraq is becoming a new stage for terrorists to strike at the United States. The top Army officer in charge of ground troops in Iraq, General Ricardo Sanchez, spoke in July describing our occupation forces as a "terrorist magnet, where America, being present here in Iraq, creates a target of opportunity."

While the sons and daughters of America continue to patrol the shooting gallery in Iraq, progress toward bringing reinforcements from our friends and allies has proceeded at a miserable pace. For every foreign soldier in Iraq, there are nearly nine American troops. Other countries with sizable militaries, such as France, Germany, and India, have flatly refused to participate in the occupation of Iraq without a U.N.-authorized peacekeeping mission. Turkey, our staunch ally on the northern border of Iraq, has announced that it will delay a vote on sending peacekeepers until some time in October.

Does it really come as a surprise to anyone that many of our allies are reluctant to commit their own troops to the aftermath of a pre-emptive war, considering how the Administration tried to bully them during our headlong rush to war against Iraq? While the White House was furiously trying to twist arms in Berlin, Paris, Ankara, and Moscow to gain acquiescence to a war in Iraq, millions took to the streets to protest the President's policy toward Iraq.

According to polls released by the Pew Research Center on March 18, 2003, the day before the war began, opposition to a war in Iraq was at 69 percent in Germany, 75 percent in France, 86 percent in Turkey, and 87 percent in Russia. Yet the White House scoffed at this opposition and belittled the need to unify the world in confronting Saddam Hussein. Could it be that our troops are now paying the price for the Administration's bullheaded rush to war without the broad and active support of the international community?

But even if more international troops arrive under the Administration's plans, Americans should not be lulled into thinking that the threat to our troops will be over. Pentagon planners are now working to divide the occupation of Iraq among the British, an unidentified foreign force, and U.S. troops.

It appears that this plan will continue to have American troops bear the responsibility of patrolling the "Sunni triangle," where the bulk of the guerrilla attacks have been occurring. Our men and women in uniform will continue to walk through the dangerous back alleys of Baghdad, Tikrit, and Fallujah, facing daily attacks. For so long as U.S. troops continue to carry the overwhelming bulk of the occupation mission in Iraq, our troops will remain overburdened and under fire.

Let there be no doubt, our troops are stretched thin. On June 24, 2003, I requested a study by the Congressional Budget Office on how a protracted mission in Iraq could affect our military readiness. In particular, I asked how many troops our armed forces can devote to a long-term occupation of Iraq, what stresses this might place upon the National Guard and the Reserves, and what costs and risks may be associated with the strain upon our forces.

The results of the CBO study, which will be released tomorrow, is quantified evidence that the long-term occupation is straining our forces close to the breaking point.

According to the advance copy of the CBO report that was delivered to my office today, if we are to rely primarily on the active duty Army to carry out the occupation of Iraq while maintaining our presence in Korea, Afghanistan, the Balkans, and elsewhere, we can only maintain 38,000 to 64,000 soldiers in Iraq and Kuwait over the long term.

Even if the Pentagon takes extraordinary measures, such as depending on large deployments of the National Guard and the Reserves and using Marines as peacekeepers, the CBO report estimates that we could still only sustain 67,000 to 106,000 troops in Iraq for the long term. The annual incremental cost for a continuing deployment of this size, assuming that the security situation becomes stable, could be up to $19 billion per year.

Some have suggested that the strain on our soldiers in Iraq could be relieved by adding 2 new Army divisions to the existing 10. The CBO report estimates that this option would cost up to $19.4 billion in one-time costs, would add another $9.5 billion to $10.1 billion to the annual defense budget, and would take from 3 to 5 years to field those troops.

The CBO report also analyzes how a large commitment of troops to Iraq would affect the ability of our armed forces to respond to a crisis elsewhere in the world, such as a North Korean invasion of South Korea. Not surprisingly, the larger the commitment the U.S. maintains in Iraq, the fewer troops we would have ready to respond to other threats. The statistics contained in the CBO report prompts more questions about the readiness of our military during a sustained occupation of Iraq.

The CBO also reports that our troop levels in Iraq will have to start declining by March 2004 if we hope to preserve readiness in our armed forces. Indeed, the Army has already drafted a plan to start rotating units in and out of Iraq by that time. But this plan also anticipates that foreign troops will arrive to take up the slack in the occupation mission created by a declining number of U.S. troops. So far, however, administration efforts to line up countries to join in this mission have been less than impressive.

That the White House failed to prepare the American public for the demands of post-war Iraq on our troops is painfully evident.

Now there are rumblings that the administration may be ready to swallow its false pride and seek a new U.N. resolution to encourage foreign participation in the occupation of Iraq. This would be a positive development, one that the administration should have embraced a long time ago.

We have heard grandiose claims of international cooperation from this administration before. On April 8, 2003, President Bush promised a "vital role" for the U.N. in rebuilding Iraq. When pressed about what he meant, the President responded:

> When we say vital role for the United Nations, we mean vital role for the United Nations in all aspects of the issue.

Let us hope that reality begins to match rhetoric.

I sincerely hope that the talk of a rapprochement with the U.N. is not more rhetoric or posturing by the administration. Our sons and daughters cannot be asked to bear the heavy burdens in Iraq essentially alone. The report that will be issued by the Congressional Budget Office tomorrow demonstrates that even our overwhelming military technology cannot offset the toll of maintaining a huge commitment of troops in Iraq for the long haul.

We can no longer afford to deliberate on whether to put a formal request for peacekeepers before NATO and the United Nations Security Council.

Every day frittered away by the administration is another day that our troops will bear the staggering burden of the dangers of occupation virtually alone.

Every month that goes by without more help from our friends and allies means billions more taxpayer dollars spent on our occupation of Iraq, and most sadly, more grieving American families.

For the sake of the brave men and women who serve our country in uniform on the dangerous streets and in the back alleys of Iraq, the administration should do now what it failed to do before the war. The United States must ask for the support of NATO and the United Nations to share not only the burdens but also the decisions regarding post-war Iraq. That appeal must be genuine and must be made now.

I yield the floor.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 4:15 p.m., adjourned until Wednesday, September 3, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 2, 2003:

DEPARTMENT OF STATE

DAVID L. LYON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BE AMBASSADOR TO THE REPUBLIC OF KIRIBATI.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL RESERVE, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5143:

To be vice admiral

REAR ADM. JOHN G. COTTON, 6982

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

GEOFFREY H. HILLS, 0579
JOHN B. STEELE, 4426

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CRAIG H. MORRIS, 3587
SHERICE D. YOUNG, 6912

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

BRIAN P. OLSON, 3252

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

TERI L. POULTON-CONSOLDANE, 5950
SHELDON G. WHITE, 5561

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SCOTT G. BOOK, 4933
JAMES L. FOLZ, 4081
CHRISTOPHER G. HAYES, 2551
BRIAN M. LONG, 3377
SARAH K. SLAVENS, 7231

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be colonel

KEVIN J. CHAPMAN, 4155

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MARY M. MCCORD, 8282

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHARLES A. JARNOT, 2247

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOSEPH T. RAMSEY, 7458

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

BRYAN D. MCKINNEY, 4873

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624.

To be major

JON C. RHODES, 5457

SENATE—*Wednesday, September 3, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

The PRESIDENT pro tempore. We are honored today to be led in prayer by Bishop Sumoward E. Harris, Bishop of the Lutheran Church in Liberia.

PRAYER

The guest Chaplain offered the following prayer:

Lord be with us. Let us pray.

O Lord our governor, gracious Father, Your glory shines throughout the world. We give You thanks today for this Nation, which You have bountifully blessed in order to be a demonstration of freedom, opportunity, righteousness, truth, and justice for Liberia and the nations of the world.

We commend this Nation to Your merciful care, the lives of citizens and aliens, so that they may be guided by Your providence.

Give the men and women of this honorable Senate the wisdom, the courage, and strength to know Your will and to do it. Help them always to remember that they are called to serve their people through laws they make during this legislative session. Make them to be pure lovers of truth, freedom, justice, and righteousness.

Gracious God, in a time of competing global challenges when faith in You is questioned and threatened, empower the Senators as they seek Your wisdom, vision, and direction so that in all their works begun they will always know that *Righteousness exalts a Nation*.—Proverbs 29:2. Bless the Senators of this great Chamber. Grant them dynamic vision for leadership in this Nation and the world. In Your great mercy sustain them with Your grace for their daily deliberations.

O Lord, I offer this prayer on behalf of the Senators through Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the Labor, HHS, and Education appropriations bill. Yesterday, two amendments were offered and debated during the pendency of the bill. The chairman and ranking member are here this morning and are prepared to work through these amendments as well as additional amendments that will be offered.

I expect a rollcall vote to occur on at least one of those amendments prior to the policy luncheons today. Therefore, Members should anticipate a vote around noon. We will alert all Senators when that vote is scheduled.

As I mentioned, the Senate will recess from 12:30 until 2:15 for the policy luncheons. I encourage Members who have amendments to the Labor-HHS bill to contact the managers of that legislation as soon as possible. It would be very helpful to have a list of amendments so that the chairman and ranking member will be able to work through those amendments in an orderly fashion.

I thank all Members as we go forward during the appropriations process. Most Members came back yesterday. We had a very good day and a very productive day with the introduction of those amendments. We are making progress on this very important bill, and I look forward to the participation of all Members.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 2660, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Byrd amendment No. 1543 (to amendment No. 1542) to provide additional funding for education for the disadvantaged.

Akaka amendment No. 1544 (to amendment No. 1542) to provide additional funding for the Excellence in Economic Education Act of 2001.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, while the majority leader is in the Chamber, it would be appropriate to comment about the colloquy which the majority leader and I had on August 1, the last day of session before the August recess. As the majority leader stated, this bill would be the first matter taken up on September 2, which we did take up, and gave everyone notice.

I made the comment at that time about the problems I have observed with quorum calls taking up so much time, and I stated that it was my hope as manager—and which was concurred in by my distinguished ranking member, Senator HARKIN—that we would have amendments prepared to go. We got off to a start yesterday with two amendments. We were unable to find any more amendments. We have a couple lined up this morning.

It is my hope that Members will come to the floor with their amendments and be prepared to go and that we can work through orderly time agreements and proceed, with the hope of finishing up this bill—at least a major part of it—by the end of the week.

As I said on August 1, I would like to see the Senate proceed to a third reading when there are a lot of quorum calls and amendments which are not prepared to be offered, especially where there is adequate notice, as there has been for more than a month on this bill, and as matter of general Senate business of what I hope would be accomplished here.

I understand, after discussing the matter with the assistant leader for the Democrats, that there is one amendment where the Democrats may need to bring all of their people in who might otherwise be absent. That single amendment might have to go over to next week. If that is so, at least we should complete the bill with the exception of that amendment, or as much of it as we can.

Let me urge my colleagues to come to the floor with their amendments and notify the managers of the bill about amendments they have so we can proceed in an orderly way. It is my hope that we can work into the evening to debate amendments, subject to the decision of the majority leader, and stacking votes perhaps in the morning, if we are not to vote in the evening, with the same procedure available tomorrow night because there are some 40 amendments pending. It is obvious we are going to have considerable work to do and considerable debate to address these amendments.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

In advance of the August recess, I conferred with the distinguished chairman of the full committee, the President pro tempore, the ranking member of the full committee, and many of the members of the Democratic caucus who I knew would have amendments to offer so that we ought to be in a position to move forward.

Again, I urge colleagues to come to the floor with their amendments.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, while the majority leader is in the Chamber, having heard the distinguished manager of the bill on two separate occasions—yesterday and today—talking about his desire to complete the bill, all members of the Appropriations Committee want to complete this bill and I would like to finish this bill. The Democratic leader has indicated that he wants to cooperate in any way we can to move these bills along.

Having said that, we have some real problems. Today is Wednesday. Tomorrow is Thursday. That is my reason for asking the distinguished majority leader if he would respond. Does the leader have an idea about what we are going to do on Friday? One of the problems we have, of course, is even when we have votes on Friday, it is on a relatively unimportant matter most of the time. If we are going to work tomorrow, there is not a chance we can complete this bill, no matter how late we work tonight and Thursday.

We have 40 amendments we have already identified. I said to the manager of the bill, the distinguished Senator from Pennsylvania, that probably 25 percent of those the managers could agree on. That still leaves 30 amendments. There are a number of them that are quite controversial. If we are going to leave here Thursday night, I just do not think we can do it. Miracles happen.

Mr. FRIST. Mr. President, through the Chair, in response, I wish to restate what our distinguished manager just said; and that is that 5 weeks ago, at the end of our session just prior to the recess, we did have a colloquy on the floor to state the importance but also the absolute necessity of having the time managed on the floor be disciplined and orderly to get the amendments and, as my request I made just a few minutes ago, to have our colleagues come forward.

So far that is progressing well. And we are going to stay here and stay on the bill to finish it, which means—and we will have more to say on that, and I talked to the Democratic leader last night—I expect we will be voting on Mondays and Fridays.

I think the votes we have this Friday will be important votes. We have a lot of people traveling, on both sides of the aisle, maybe more on your side of the aisle than ours. But for many different reasons it is absolutely critical that we recognize, as a body, that our responsibility is to complete this important piece of legislation, which means being here, and we will be here Friday. Later, as we talk, and people are back—I don't know how late we will be here Friday, but we will be voting on substantive amendments on Friday.

It is critical we move ahead. I know the same discussion went on a little bit yesterday, and it went on for the week or 2 weeks on the Energy bill, that we have so much to do there is no way we are going to be able to finish it. So now I am getting used to it. It is true, we have to debate these amendments. Whether there are 40 or 50—and I know there are some very important ones—I want to share with my colleagues that we do need to stay here, although hopefully we will not have to vote at night too much because I know people have plans. We need to stay here, and the managers have expressed a willingness to stay here at night in order to continue that business as we go forward.

As I told the Democratic leader yesterday, we will probably be voting on Mondays and Fridays not just this week but over the next several weeks. Then if there are certain days we come to an agreement that we don't need to vote, we can continue the business. And we will share that with both sides of the aisle. Just one final matter: the energy conferees. I will hopefully have more to say about that later. But we were prepared to appoint energy conferees before we left. On the Democratic side of the aisle the request was made not to quite yet appoint those. I did mention to the Democratic leader yesterday that we are ready to go and do those appointments as soon as possible. I am very hopeful that the leadership on your side of the aisle and our side of the aisle can announce that today.

We are ready to go. We have our conferees in line, so I would like to do that. I would like to make clear that we have been ready to go for the last 5 and a half weeks with our conferees. People come forward and say this is a hugely important issue, so I hope we can address that.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, through you to the distinguished majority leader, I was in a meeting yesterday with the Democratic leader, and I think we are at a point where those conferees can be appointed. I am very confident it can be done today.

Mr. President, has the bill been reported this morning?

The PRESIDENT pro tempore. Yes, it has.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1547 TO AMENDMENT NO. 1542

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1547.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for certain education and related programs)

At the end of title III, insert the following:

SEC. 306. (a) In addition to any amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) an additional $20,000,000 to carry out part H of title I of the Elementary and Secondary Education Act of 1965 (dropout prevention);

(2) an additional $85,000,000 to carry out title III of the Elementary and Secondary Education Act of 1965 (language instruction);

(3) an additional $6,449,000 to carry out part A of title V of the Higher Education Act of 1965 (Hispanic-serving institutions);

(4) an additional $4,587,000 to carry out part C of title I of the Elementary and Secondary Education Act of 1965 (migrant education);

(5) an additional $11,000,000 to carry out high school equivalency program activities under section 418A of the Higher Education Act of 1965 (HEP);

(6) an additional $1,000,000 to carry out college assistance migrant program activities under section 418A of the Higher Education Act of 1965 (CAMP);

(7) an additional $12,776,000 to carry out subpart 16 of part D of title V of the Elementary and Secondary Education Act of 1965 (parental assistance and local family information centers); and

(8) an additional $69,000,000 to carry out migrant and seasonal Head Start programs: *Provided*, That such sum shall be in addition to funds reserved for migrant, seasonal, and other Head Start programs under section 640(a)(2) of the Head Start Act.

(b) Of the funds appropriated in this Act for the National Institutes of Health, $150,000,000 shall not be available for obligation until September 30, 2004.

(c) The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,105,011,000 and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,573,489,000.

Mr. REID. Mr. President, this amendment relates to programs that help Hispanic children. This is more than just numbers, statistics; it deals with real people, kids who can be helped by special programs.

What does this mean? Does it mean we are spending more money to be spending more money? What it means is we will be spending more money to save money. For every $1 we spend in our country for these programs, we save $10 in welfare costs, educational costs, costs to the criminal justice system. These programs deal with children, I repeat.

One of the programs is a program called the High School Equivalency Program which assists students of migrant parents who have dropped out of high school to earn their GED.

Here is what Tedrel Eubanks said:

> [The high school equivalency program] exposed me to college life. This was something beyond my wildest dreams. I had never given any real thought to finishing high school, not to mention going to college. The more I attended GED classes, the more excited I became. The more time I spent on the University campus taking part in various activities, the more determined I became about getting my GED certificate and graduating and enrolling at [Mississippi Valley State University].

And that is what he did.

Mr. President, I ask unanimous consent that the amendment I just offered be on my behalf and on behalf of the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Another program that is a tremendously important program that is greatly affected in an adverse way by this bill we have before us is a program called the College Assistance Migrant Program, referred to as CAMP, which assists migrant students in their first year of college with personal academic counseling and stipends. These programs have been enormously successful. But rather than talk about, again, statistics, let me talk about a person by the name of Maria de Lurdes Reynoso.

Maria said she went to the Boise State University CAMP. She said:

> [The] Boise State University's CAMP scholarship has been a stepping-stone in my college career. CAMP is much more than a scholarship. From academic support to career opportunities, CAMP helps its students become successful individuals. One of the most important goals of my life was to receive a college education. But more than anything, I have always wanted to travel and see new places. CAMP placed me on the right track and assisted me with a career and extracurricular opportunities. This summer I will be traveling out of the country to do an internship in Guadalajara, Mexico with the Department of Commerce and the Department of Agriculture. This Spring I will be graduating with a degree in International Business and minors in Finance and Spanish, thanks to the guidance and support of the people who make up the . . . CAMP program [at Boise State University].

Mr. President, this isn't a statistic that is a throwaway. This is a statistic that deals with a young lady who would have never, ever been able to go to college and then complete college.

We have another program called the Migrant Education Program. These funds are used to identify and recruit migrant students, to provide screening for health problems, and to provide resources to enable the children to receive appropriate medical care.

As to this program, I would like to take just one case history of a young person who said:

> At my new school, I was identified for the Migrant Education Program.

Oscar Guzman said:

> The teacher who was in charge of my class helped my mother with all of the paperwork and records transfer. He also arranged for a health check up for me, which I continued to get every year through the eighth grade. The Migrant Education Program had a special reading group for migrant students, which helped me with my English.
>
> I am the first person in my family to go to college. My parents are very proud of my decision to go to college and expect me to go far. My dad always tells me that I am going to [be able to] work in an air-conditioned office with a secretary. My aunts and uncles are also very proud of me and use me as an example for my cousins. I hope to be in a position where I can make a difference in education and agriculture in order to improve the lives of families like my own.
>
> I would not be here today if it were not for the Migrant Education Program in fifth grade that put me on a path of academic achievement and the other migrant programs that helped me succeed.

"Because of these programs," Oscar said, "my life was made easier and my parents' dream of a better life for me and my brother will come true."

That is what these amendments are about. These amendments are about improving the lives of young people. I think we all learn a culture by listening to its native language, its native tongue. Every time I hear someone speak Russian, I think of my deceased father-in-law who was born in Russia. He came as a little boy. I am confident that he didn't speak a word of Russian but I do know that his parents spoke extremely broken English. I didn't know his parents, my wife's grandparents. I think of a series in public radio recently about trying to bring back people who have written books in Yiddish. Of course, both of my in-laws used to speak Yiddish when they didn't want me to know what was going on. I think we learn a lot about a culture by listening to people's languages.

Among Latino Americans, "aspirar" has special meaning. It is similar to our verb "aspire" but it carries a greater sense of urgency. It invokes dreams of a better life, striving for a better future, among people who work hard just to make ends meet.

Children are the hope of every culture, and it is no different for Latino Americans. They are the youngest demographic group in our country and the fastest growing. More than one-third of Latino Americans are under 18 years of age.

So the great aspiration of Latino Americans, as all immigrants who have come to our country, is a good education for their children. We recognize that with this wave of immigrants, as with previous waves of immigrants, the parents are the ones who are uneducated and doing the menial work. They have aspirations, desires, wishes, and prayers for their children to be able to become educated so they don't have to do the menial work that they are doing.

We recognize that there is an unacceptable gap in academic achievement between Latino students and the overall student population. We have agreed that it should be this Nation's policy to leave no child behind. Now it is time to live up to those words.

That is why this amendment I have offered with Senator BINGAMAN—the Hispanic education opportunity amendment—to help Latino students achieve dreams is important.

This amendment would invest an additional $210 million in our Nation's future by strengthening these programs. I have talked about the programs—not all of them—such as the Hispanic-serving institutions, the high school equivalency program, the College Assistance Migrant Program, the local family information centers, dropout prevention, bilingual education, and Head Start for children of migrant workers.

These programs give Latino students a step up the ladder of education so they can realize their aspirations. The 252 Hispanic-serving institutions which have at least 25 percent Latino enrollment are the main bridge between Hispanic communities and higher education. Despite appropriations under title V, these institutions still haven't reached Federal funding parity with other degree-granting institutions. This amendment adds $6.4 million to help address this inequity.

The high school equivalency programs provide academic instruction, counseling, computer-assisted teaching, and career awareness to migrant students studying for the GED. The Senate's bill—the one before us—slashes funding for these programs by 43 percent and would eliminate 23 programs to achieve a combined GED completion rate of almost 73 percent.

The proposed budget also cuts the College Assistance Migrant Program by $400,000. As I indicated with the example I gave earlier, these recruits are important. They are talented migrant high school graduates and GED recipients, and this mentors them through their first year of college. Before CAMP was created, there was no record of a migrant child having completed college. Since its inception, almost three-quarters of all CAMP students received baccalaureate degrees.

The existing HEP and CAMP programs serve approximately 15,000 students. Of these 15,000 students, the vast majority—about 75 percent—will graduate from college. They will not be welfare dependent and will not have problems with the criminal justice system. And, of course, they won't be creating problems in the educational system. Over the next years, about 170,000 migrant children will become eligible for HEP, while 140,000 will qualify for CAMP. Funding for these programs should be increased, not cut. That is why this amendment adds $11 million for HEP programs and $1 million for CAMP.

We also need to make the Head Start Program available to more children of migrant workers so they have a fighting chance to do well in school.

In Nevada, we have probably a thousand migrant students, and they make up more than half the students in Amargossa in Nye County, where my brother lives. These children have hard lives, and if any child ever deserved a head start in school, they do. Yet we have not had a single migrant Head Start Program in all of Nevada. People think of Nevada only as a place where you have the bright lights of Las Vegas and Reno but we have farming communities.

In the Amargossa Valley, there are very large dairy farms. In Lyon County, we have the largest producer of white onions in America. Migrant farm workers come there in waves. Yet we don't have a single program in Head Start for these children. They are left behind even before they begin school. We need to offer Head Start to 10,000 new migrant children. My amendment would move us toward that goal.

We know parental involvement is a crucial factor in a child's school success. That is why the local family information centers were created by the No Child Left Behind Act. These are community-based centers that provide parents of title I students with information about their children's schools so they can get involved in their education. An additional investment will strengthen the ties between Latino families and their children's schools. This is good for the whole community.

This amendment also addresses the programs for dropout prevention and bilingual education. Senator BINGAMAN and I have worked for years together on the dropout programs. We believe there should be a dropout czar in the Department of Education that works on nothing but doing something to prevent dropouts in our country.

In Nevada, we have 50,000 students with limited proficiency in English. And Latinos have the highest dropout rate of any demographic group in our State. These programs will help Nevada, and many other States, too, with growing Hispanic populations.

In the past, we have received Federal grants for two dropout programs, at Pyramid Lake High School, a Paiute Indian school, and the Washoe County School District. But now the Senate HHS budget would eliminate all funding for these programs. The amendment I have offered would restore $20 million for dropout prevention.

None of these programs by themselves might seem that important, but taken together they give Latino Americans a better chance of realizing their hopes and dreams. Just as important, these measures will strengthen the American economy by building a more productive workforce.

Already, one-third of the new workers who join our labor force are Latino. In 20 years, it will be half. These are the workers who will pay taxes to keep our military strong, to educate our children, grandchildren and great-grandchildren, and provide our Social Security in the future. So, you see, our future depends on the hopes and dreams of our Latino neighbors.

Esperar—to hope. No matter what language we speak, we all understand what that means. We all have a stake in making it possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, after conferring with the distinguished assistant Democratic leader, we have agreed upon a time for the vote.

I ask unanimous consent that at noon today, the Senate proceed to a vote in relation to the Reid amendment No. 1547 with no amendments to the amendment in order prior to the vote.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask my friend to modify that request following the word "vote," that at 11:45 a.m., the amendment recur and that the time until 12 o'clock be equally divided and controlled between Senators REID and BINGAMAN and Senator SPECTER. In effect, we will debate the matter from 11:45 a.m. until 12 o'clock and vote at 12 o'clock.

Mr. SPECTER. Mr. President, I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, before the distinguished Senator from Nevada leaves the floor, and I know he has other commitments and will not hear my reply to his presentation, the question that I would address to the Senator from Nevada is how he picks a figure of $210 million? As I will outline in the course of my presentation, there are quite a number of programs which are directed to this issue.

The appropriations subcommittee has considered many programs. We have increased some 26 programs and decreased some 6 programs, what we consider to be a balance. I ask my colleague from Nevada how he comes to a figure of $210 million when comparing it to all the other programs in this bill which are directed to this generalized effort?

Mr. REID. Mr. President, what we have done is meet with educators, we have met with members of the Hispanic community, and we have come to the conclusion that the programs that are included in this amendment are vital and should be increased and not decreased, and that these programs are, we think, programs that, as I indicated briefly in my statement, will not cost this country money but will save the country money in the long term.

While the figure we have come up with may not be magically correct—I would like to have had more, but in working with the minority staff, we recognize there is a limit to what we can do, but we believe this is a small enough number that people should simply vote to waive the Budget Act. And I am confident there will be a budget point of order raised against this amendment on a bill such as this bill.

I say to my friend that a few months ago we were going to give Turkey $6 billion to help us in Iraq. Maybe we should say that $200 million to help people here who are going to help our country is just as important as that gift we were going to make to the people of Turkey.

I do apologize for being rude to my friend because I always appreciate his efficacy. I am sure not everyone in the Senate has read his book. I have. I know what a fine lawyer he is and the work he has done. But probably not listening to his response will make my day easier because I will then not realize all the inadequacies in my amendment and I would have to come back and respond to that argument. This way I can just speak from the high level and not have to worry about his—I will not say nitpicking but his really good debate. In this way, I will have one of my staff tell me some of the high points of his debate, and I will just hit the high points when I return.

Mr. SPECTER. Mr. President, I thank my colleague from Nevada for those charming, complimentary remarks. He exits the Chamber with grace. He has to present a judge from his State. We will miss him. I would prefer his being here so all of the contentions I will make will be presented directly to him. There are many demands on every Senator. I understand why Senator REID cannot be present.

When the Senator from Nevada advanced this amendment for $210 million additionally for education programs for Hispanic students, I asked him how they came up with this figure. I do so in the context of chairing this subcommittee which has had many hearings and has analyzed the needs of Hispanic students in the context of many other needs this subcommittee has to fund.

Without going through the entire list, I had referenced the fact that the bill contains increases for some 26 programs and decreases for some 6 programs. In making an evaluation as to what are the needs of the Hispanic community, we have taken into account that there are many other programs which have been funded which are directed to the Hispanic community or programs where the local education agency has funding which can be directed to the Hispanic community, depending upon the needs for that community in a given area. The needs for the Hispanic community may vary materially in San Antonio, TX, which is more heavily populated with Hispanics than, say, my hometown of Russell, KS, a small community on the plains of Kansas with 5,000 people where the need is different.

One of the major education allocations of this bill is $12,350,000,000 on Title I grants to local education agencies. This is directed to take care of the achievement gap between students in low- and high-poverty schools. This covers to a very material extent communities where these funds can be allocated for Hispanics.

Our bill also includes some $300 million for the Gear Up program originated by a distinguished Member of the House of Representatives from Philadelphia, Congressman Chaka Fattah, who coordinated the program with me, with the thrust coming from the House but most of the funding thrust coming from this subcommittee, where we now have some $300 million in this GEAR UP Program, and 70 percent of the 1.3 million students served by this program are minorities, including almost 30 percent who are Hispanics. I point to this GEAR UP Program as illustrative of a program which can accommodate the kinds of concerns which the Senator from Nevada is talking about.

Our bill also has some $665 million for the English Language Acquisition State Grant Program, which is designed to help students who have limited English proficiency. Here again, this funding is already available for Hispanics on the line where the Senator from Nevada seeks to add additional funding.

There are many other programs in this bill. For example, $13 million in this bill is being directed to the high school equivalency program which can be used for Hispanic students; some $15 million directed to college assistance migrant programs, which again can be used for Hispanic students.

On the English Language Acquisition Grant State, which was already identified, there is some $665 million, and with respect to Hispanic-serving institutions, more than $93 million is being directed to colleges and universities which have 25 percent or more Hispanics.

In the context of these appropriations, it was the conclusion of the subcommittee, and then the conclusion of the full committee, that the interests of Hispanic students were adequately taken care of.

When I asked the Senator from Nevada how he picked a figure of $210 million, his response was, it is not excessive but it would be helpful; that it might be good to have even more money.

That might be said about any program which is on the agenda, to add more money.

The Senator from Nevada said we were considering giving substantial money to Turkey. Well, why not give a portion of that money to Hispanic students? That is a very frequently advanced argument. If we took the cost of the B–2 bomber, how many items in some other line could that accommodate?

The reality is that the Federal budget is gigantic. It is $2.2 trillion. Does anybody know how much money that is? Not really. It is a staggering amount of money. It is said that if one took a large hall like the Senate Chamber there would be insufficient space to stuff $10,000 bills for that sum of money.

The Congress of the United States has, as a principal function, the job of appropriating, figuring out where the money goes. There may be some disagreement about how much money should have been offered to Turkey to aid in the Iraq war, and we will hear a great deal of talk in this Chamber about Iraq, not Iraq's educational program but how much money is being allocated to Iraq. I submit that the long-range interests of the United States are very well served, and when we are successful—and we will be successful—in establishing order in Iraq and establishing, I think, a democracy in Iraq. Democracies are contagious.

The only democracy in the Mideast today is Israel. The Saudis' leadership are in fear of democracies becoming popular, as are the ruling elites in all of the other Mideast countries.

I do not intend to prolong a debate about Iraq. It is my hope that the President's efforts to bring in other nations, which is the banner headline in this morning's press, will reach fruition. I hope there will be people from other countries, especially Muslim countries, Pakistan and Turkey, to share in the responsibility and to give the Arab world confidence so that the United States will not carry that burden and our own personnel will not be subjected to the casualties which are currently present.

I mention Iraq in response to what the Senator from Nevada says about the money which we have proposed to give to Turkey. So we are trying to make an allocation of a gigantic sum of money, $2.2 trillion. It comes to this subcommittee to make an allocation on discretionary funding of $137.6 billion. I think we have exercised real care and thoughtfulness in making these allocations.

I would like to see additional money for many items in the line, but there has to be an evaluation and an assessment of priorities. I am aware of the political impact on having my vote, and the votes of other individual Senators, be against expanding this Hispanic education program. It is worth a brief comment on the so-called 30-second commercial, where individual votes are picked out and are featured at election time to say to one group or another, and in this case Hispanics, why Senator X or Senator Y ought to be defeated because there was a vote against a specific matter. That does not tell even a part of the story as to how that vote is cast in the context of other programs which are devoted to this very important issue, as I think this record shows, which I have explained, and why it is with reluctance that I oppose the amendment offered by the distinguished Senator from Nevada.

Yes, it would be good to have more funds here and more funds in many other places, but it is an overall evaluation which we have to take into account. I believe a fair analysis of this program overall shows that there are adequate funds being directed for this important purpose. How you pick $210 million in this amendment as opposed to $310 million or $410 million or $10 million remains an open question, when we add up the millions of dollars which are devoted to programs and items in this appropriation bill which are directable to this important objective.

I am advised other Senators will be coming to speak on this amendment. The chairman of the Appropriations Committee has asked that all Republican members of the committee be available for a meeting at this time. So in the absence of any other Senator wishing to speak and in the instance of my own presence being required at another meeting, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we are awaiting other Senators to speak on the pending amendment of the Senator from Nevada, Mr. REID. In the interim I ask other Senators to come to the floor to offer amendments. Procedurally, as is well known, we can set aside the Reid amendment and proceed to debate other amendments.

The majority leader has already expressed his intention to vote through Friday, so the sooner we address these issues the sooner the Senate will conclude its business. I urge my colleagues to come to the Senate floor to offer amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I want to take a few minutes to speak in favor of the amendment that Senator REID of Nevada has offered relating to funding for various programs in this appropriations bill that are of particular importance to the Hispanic community. I strongly support Senator REID's amendment and believe that it would be a very important step for us to take in keeping the commitment that we have made to the people of this country when we passed the No Child Left Behind Act.

I have just completed spending 4 weeks in my State, most of the time in my State, and much of that time I was talking to people who were involved in education and were preparing for the new school year. It is clear that one message comes through in those discussions. That message is, What is the Federal Government going to do to keep its share of the bargain?

The Federal Government has imposed all sorts of new requirements on States and school districts about how they are to reform education, how they are to improve instruction in the schools, how they are to improve student performance in the schools. Unfortunately, when those educators see that the administration, first, in its request to Congress, and then the Congress itself, does not put forward the money which was committed in the No Child Left Behind Act, the cynicism on the part of many people working in education is understandable.

The amendment the Senator from Nevada has offered is an effort to correct some of that. I strongly support it. Let me talk about one particular aspect of it that I know better, perhaps, than I know some other parts. That relates to the dropout prevention program. This is a subject that has been debated and discussed and talked about in Washington and at the national level for a great many years. I remember when President Bush senior, the former President Bush—not this President Bush but this President Bush's father—convened all the Governors of the country to have a first and only, as far as I know to this day—first and only national summit on education. That was in Charlottesville, VA. It was in 1989, I believe. At that time the Governors and the President committed the country to a series of goals in education, things that we would all agree, jointly, to work on and accomplish over the coming 10 years. That was in 1989. That 10 years has come and gone. But one of those goals was that we would ensure that at least 90 percent of the students who started high school actually completed high school; that we would reduce the dropout rate very substantially in this country. That was one of the goals the President and the Governors signed onto.

I should say one of those Governors was former President Bill Clinton. Of course, there were many others who are still in key positions in our Government who were part of that group. The unfortunate reality is that after we adopted that set of goals, national education goals, there was no strategy to achieve them.

There was absolutely nothing done here in Washington and in many States, I fear, to actually get us to where we had committed to travel. Particularly in this area of dropout prevention, there was no Federal money committed. The first Federal money that was committed was a demonstration program in fiscal year 2001. I believe we committed $10 million to a demonstration program so that for the first time the Department of Education at the national level would have some funds available to help local school districts reduce the number of students who were leaving school without graduating, and to reduce the number of students who were dropping out.

This is of particular importance in my State because in my State we have a very high dropout rate. Unfortunately for everyone involved, that dropout rate is concentrated in the Hispanic community. Over 40 percent of the students in my State are of Hispanic background, and a great many of those students—particularly young Hispanic males—leave school without graduating from high school. That is not only unfortunate for them, but it substantially reduces their ability to be productive citizens, to earn a good income, to raise a family, and to do the things we all aspire to do. But it also is an unfortunate reality for our State's economy.

We do not have the ability to generate the wealth because we lack some of the skilled workforce we need, and that we could have if we keep those people in school longer.

In fiscal year 2001, the Congress stepped forward. This was before the No Child Left Behind Act was enacted. We stepped forward and said, OK, we will commit $10 million nationally to try to deal with this problem. That funding can be used to help school districts that have strategies which they want to pursue to reduce the dropout rate. That was an appropriate thing to do. When we had the debate and the hearings and the markup on the No Child Left Behind Act, we talked long and hard about this problem of the dropout rate and how to come to grips with it. In the final bill, I was very pleased to see the administration agreed with the Congress, and that we authorized $125 million a year to be spent to reduce the dropout rate. That bill was signed in January of 2001. Since then, we have had two budget requests from this President. In both of those budget requests—in 2001, and again this year—in each of the budget requests we have received, there has been zero funding proposed for dropout prevention. Absolutely nothing was requested for dropout prevention at the Federal level. The Congress stepped in last year and corrected some of that. Instead of putting in $10 million, the Congress put in $10.9 million. I appreciate that. That was a step the Congress took in spite of the fact there was zero funding requested by the administration.

This year, there are zero funds requested by the administration for dropout prevention. Unfortunately, this year, the bill we are considering on the Senate floor today follows the administration's recommendation and contains zero funds. The House bill follows the administration's recommendation and contains zero funds.

We are going from a situation where we committed $10 million to this program before we passed the No Child Left Behind Act to a situation where we are committing zero funds now that we have passed the No Child Left Behind Act. Understandably, people in the education community doubt the sincerity of those of us in Washington who keep talking about how important it is to reduce the dropout rate.

Why is this dropout rate issue relevant to a discussion, or particularly relevant to a discussion of No Child Left Behind? The main thrust of the No Child Left Behind Act was to increase accountability, raise standards, require more of teachers, and require more of students. The great concern which I heard in my State, and which I think lots of us heard, was if we are going to do that—which is a good thing because we all favor higher standards, we all favor better performance, we all favor better trained teachers and better performing students—but if we are going to do that, let us not kid ourselves and allow the students who are not keeping up to just go away and forget about it. That is the concern. That is why we also put a provision in the No Child Left Behind Act for some funding for dropout prevention. It is not a major amount. It is $125 million a year. But it was at least a commitment at the Federal level to help deal with the problem. It was a commitment that the Hispanic community—at least leaders of the Hispanic community who focus on education issues in my State, and virtually all the leaders of the Hispanic community in my State who focus on education issues because they understand the importance that education holds for their community—all of those leaders would know this was a priority and that we would be able to move ahead and begin to deal with it systematically.

I hope very much we can adopt Senator REID's amendment so we can add some funding and do something. I am not of the view that we are going to add $125 million. Senator REID's amendment proposes to add $20 million. That is inadequate, but it certainly is much better than nothing, which is what we are now proposing.

There are other provisions in Senator REID's amendment which I think are also very meritorious. He indicated in his description of the amendment funding for the Hispanic-serving institutions. That is important funding as well. Clearly, I support the effort to add some reasonable increase to that. There are 157 Hispanic-serving institutions which have received money from title V. A third of those institutions that are eligible have received no assistance. These grants are made on a competitive basis, and there are not enough funds to award grants to each of the institutions that meet the criteria.

The migrant program: Again, this is an area in which I think the Federal Government has a peculiarly important responsibility. You cannot expect each local State to have in place the kind of support system for migrant children of migrant families which is needed.

We are requiring in the No Child Left Behind Act that school districts raise the performance and the achievement level of all students. That includes those students who are students of migrant families who come into that school district for a few months, perhaps, and then leave. But the school district is held accountable for the performance of those students, as it should be held accountable for the performance of those students.

The number of those students is increasing. It has grown from 624,000 in fiscal year 1999 to over 800,000 this year. That growth, combined with the new mandates from this No Child Left Behind Act, will require that additional funding be made available. So I urge all Senators to support the amendment by my colleague from Nevada.

These are important programs. They need to be adequately funded. We have committed to fund these programs at an adequate level and, unfortunately, the bill before us does not do that. I hope very much this amendment will be adopted. It is a very modest amendment, frankly, compared to the size of the budget we are dealing with, compared to the size of the appropriations in this bill itself. So I hope this modest amendment to assist those most in need of educational services in our country can be supported.

Mr. REID. Will the Senator yield for a question?

Mr. BINGAMAN. I am very pleased to yield for a question.

Mr. REID. Mr. President, through you to the distinguished Senator from New Mexico, the Senator from New Mexico has worked on these issues for many years, and he keeps referring to this as the Reid amendment. This is the Reid-Bingaman amendment. It is offered in that way, and it was meant to be offered in that way because of the work he has done for the many years prior to this.

The question I would like to ask the Senator: One of the provisions in this amendment calls for more money for afterschool programs for Hispanic children. Does the Senator from New Mexico have the same problems in New Mexico that we have in Nevada with respect to Hispanic children dropping out in larger numbers than non-Hispanic children?

And would the Senator also agree, for every child we are able to keep in school, we save the Government—State, local, and the Federal Government—money as a result of these children being able to be educated rather than being out on the streets, so to speak?

Mr. BINGAMAN. Mr. President, in response to the question, let me say, I do very much agree we have the problem in New Mexico of way too many of our students leaving school before they graduate. Unfortunately, a disproportionately large portion of those students who leave school are Hispanic students.

Now, on the second point the Senator raised, that every time one of those students leaves school before he or she graduates, it may, in fact—and probably does—cost the Government something in various ways, the main thing that I see it does is it robs the society of the benefit of having a better educated citizen and a more productive citizen for the rest of that person's life because each of those people, if they will stay in school and complete high school, has a much greater ability to earn, a much greater ability to provide for their families. And all of that, of course, inures to the benefit of the entire society. They pay more taxes. They are able to contribute more to their community.

It is a very well-chosen investment of public funds to keep these students in school. That is all we are trying to do, to say that the Federal Government should do something to assist school districts which want to work on that problem. That is all we are saying.

The Federal Government cannot take the place of the school district, and should not be trying to, but it can, in some small way, assist local school districts which want to deal with the problem.

This last year, with the $10.9 million which was appropriated—this is in the current year, I should say—with the $10.9 million that was appropriated, my understanding is the Department of Education was able to make 24 grants to individual school districts in 19 different States to try to help them reduce the dropout rate. Two of those grants went to school districts in my home State of New Mexico. These are grants to assist those districts which have come up with a plan, a way to reduce the dropout rate, that they want to try to implement in their own district.

There are some proven strategies that have been shown to work. We need to give school districts more opportunities to implement those strategies. And that would be a major thrust of the amendment the Senator from Nevada has proposed. So I again urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I agree with the argument made by the distinguished Senator from New Mexico about the importance of school dropout and combating that problem. This is an issue which has concerned me for many years. When I was district attorney of Philadelphia, the dropout problem was a major factor and a major cause of juvenile delinquency. When a child is not in school, not only is the child not getting the education, but the child is likely to be engaged in not only no productive activity but in counterproductive activity, frequently crime.

So this is an issue that I think has to be addressed. I think the committee has addressed it through the funding which we have made available in this bill, although not on a categorical grant. The categorical grants are where the Government makes a specification as to saying a given amount of money is to be used for a specific purpose.

It is true we had a program called the Dropout Prevention Program for slightly under $11 million in the current fiscal year. But we have in Title I a requirement that 1 percent of the total funding be allocated for dropout or related activities, and that 1 percent amounts to some $80 million. So there is a very considerable sum of money which is available under Title I.

There is also a considerable sum of money which can be used for dropouts under the $345 million for innovative educational programs. What we are trying to do is put funding at the local education agency. So in Title I they have a very substantial sum of money—$12.3-plus billion—but not to tell them exactly what to use for each specific item but to leave it to the local school district.

When I addressed the amendment of Senator REID earlier today, I made a comment about the needs in San Antonio of Hispanics would be considerably different than the needs of say, Russell, KS, my hometown, a small town of 5,000 on the plains of Kansas, where it is a very different issue. And where the Senator has Albuquerque, which has a much higher Hispanic proportion of population, it would be very different.

So the thrust of what the subcommittee has done in this bill is to try to provide funding which leaves discretion in the local districts to use money for dropouts. When the Senator from New Mexico says that $20 million is a start, but inadequate—if I can get his exact language—that really is a characterization which might apply to so much of the funding anywhere in this Education bill. There is always more that can be added. It is hard to find a figure which is generally regarded as adequate, education being such a high priority.

But in structuring this bill, the Senator from Iowa and I, as managers, have tried to make the allocations within a budget and within our 302(b) allocations. I think we have made an allocation which addresses the needs which the Senator from New Mexico expresses. The Senator from New Mexico said $20 million was inadequate but better than nothing. Well, that characterization, I think, might be applied just about anywhere in this bill or in so many other bills.

When the Senator from New Mexico talks about the afterschool programs, that is an item of special concern to this Senator as well. Again, during that lull between 3 o'clock and 7 o'clock, we find so much delinquency occurring. The subcommittee increased the allocation on afterschool programs to $1 billion. The figure that had been in the President's budget was $600 million. We had extensive hearings.

It might be of some interest that Arnold Schwarzenegger had a longstanding interest in this and he made a very compelling argument. I don't want to get involved in the California primary, but there was a very protracted hearing devoted to this subject.

We took the figure of $600 million, which was in the President's budget, and I don't have to tell the Senator from New Mexico that finding $400 million over and above what the President asked for was very difficult. We recognize the things we agree on—afterschool programs and dropout. I believe we have made an appropriate allocation of funds. It is true that $210 million is modest when you are looking at a $53 billion education budget. But we have tried to make allocations on many, many lines—for student loans, Pell grants, and many other items. I think we have taken into account the concerns the Senator from New Mexico has articulated.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I thank my colleague from Pennsylvania and assure him that I appreciate his commitment to trying to do what is right in this area. I know he has been substantially supportive on a lot of these efforts over many years. I very much appreciate that.

Let me try to be clear as to my understanding, and he can correct me if I am wrong. He has indicated that, yes, there is no money for the program that we authorized for dropout prevention—the $125 million per year authorization; there are zero funds in there for that. Although there was nearly $11 million in the current year funding, there is nothing in this upcoming year.

He has indicated that there are a couple of other places where school districts can use funds for this purpose if they choose to. One is that they can spend up to 1 percent—or they are required to spend 1 percent on either failing schools or dropout prevention, as I understand it.

Mr. SPECTER. The 1 percent is for dropout, and the term used is related activities. So it is focused on dropouts. Some $80 million is available for dropouts.

Mr. BINGAMAN. Mr. President, I do not doubt that there is funding available for this if a school district can find it within its budget to use it for that purpose. The problem we have in my State—and I think all over the country—is that these school districts are under greater and greater pressure to increase their test scores, to demonstrate improved student performance. That is where the pressure is. That is where the money is going to be spent, unless we have some funds cordoned off that are available only for this kind of purpose—this dropout prevention.

Clearly, everyone is well-intentioned here. A school superintendent or a school board will decide, OK, we have a lot of needs but the pressure we are feeling is to get these test scores up; we have to concentrate on getting these test scores up. Once that is done, a few years down the road we will be able to give more attention to the kids who are dropping out.

In the No Child Left Behind Act, we tried to say, no, we are going to cordon off some portion of the Federal funding that can only be used for this purpose. That doesn't mean every school district has to take that money or even has that need. If Russell, KS, doesn't have a dropout problem, they don't need to apply for one of these grants. A lot of communities in New Mexico have that problem and would love to be able to get one of these grants so they can deal with that problem. If it is left to them to take some of the funds they get under title I, or some other basket of funding, and devote it to that purpose alone, it is much less likely to happen.

So that is why we made provisions for dropout prevention as a part of the No Child Left Behind Act. That is why this Senate and this Congress were persuaded to add nearly $11 million to that line item last year and in the current year, even though the President requested nothing. I think the least we can do is do something similar in this Congress—perhaps $20 million is the right figure—to ensure that this program at the Department of Education level, the Federal level, does not just die at the very time we are going around giving speeches about what a great thing No Child Left Behind was. That seems to me contrary to logic, and it is also contrary to what we told the American people we were about.

I see the manager wishes to speak again. I yield the floor.

Mr. SPECTER. Mr. President, as I understood the comment of the Senator from New Mexico, it was that the money would be available in title I if the local school board wanted to use it for dropout. That isn't precisely the statutory construction. The Department of Education, in delineating its 2004 budget request, specifies that States would reserve approximately $88 million from their allocations that are title I, part A, to support dropout prevention programs in local education agencies. So the figure, more precisely, according to their budget request, is $88 million. It is to be directed to the dropout program.

So that is money for this specific program. That is why the administration, in submitting the budget request, did not include the slightly under $11 million for a categorical grant because it is taken care of in other places. The Department of Education budget request also specifies the dropout funding availability innovative programs, which I mentioned earlier, of some $345 million. In the innovative programs for $345 million, there is not a direction for dropouts, as there is a direction for dropouts for $88 million under title I.

Mr. BINGAMAN. Will the Senator yield for a question?

Mr. SPECTER. I will.

Mr. BINGAMAN. My understanding is that this funding—in reference to students who have dropped out—contemplates what many States are doing, which is to use some of their title I funds for students who are in the criminal justice system. This is not dropout prevention; this is taking students who have dropped out. Maybe they have dropped out because they have been thrown in jail, but whatever the reason, they are no longer in the school system.

My understanding was that essentially the administration was saying you are required to use at least 1 percent of the title I funds that we provide to you to deal with these students who have left the system and are in the criminal justice system primarily. That is what States are doing.

What we were trying to do in the provision I am arguing for and Senator REID is arguing for here in the No Child

Left Behind Act is to get ahead of the problem and say we don't want these students leaving the school system. We want to help the school district to keep those students in school.

That is what we wanted to see funds devoted to, dropout prevention rather than assisting students who had already left the school system. Am I confused about that? Let me ask that question.

Mr. SPECTER. I will be glad to respond to the question, which was in the nature of a debate, but I understand our processes here. I say to the distinguished Senator from New Mexico, these funds are not for students who have left the education program and entered the criminal justice system. There are other funds for people who are out of the education system and in the criminal justice system.

These funds specifically are directed to dropout prevention programs. That is the language which is included in the budget request for the Department of Education which supports their request for $13 billion plus for title I and has the requirement for 1 percent, and the language prevention programs is specifically here. They are using these funds, as the Senator from New Mexico appropriately says, to get ahead of the program.

The long and short of it is that these are funds to prevent dropouts.

Mr. BINGAMAN. May I ask one additional question, Mr. President?

Mr. SPECTER. Sure.

Mr. BINGAMAN. The chairman of the subcommittee has indicated that these are funds which, in the request from the Department of Education, are to be allocated for this purpose. Is there language in the bill before us which specifies that a portion, some percent, is to be used for dropout prevention? I am just not aware of that. If there is language to that effect, I have not seen it.

Mr. SPECTER. The bill does not duplicate the requirements which have been set forward in the budget request. We could put in additional language. If the Senator would like to have that language, I would certainly consider that, but I think it would be duplicative and unnecessary. Under existing law, under title I, the 1-percent requirement is present for dropout prevention. That is the law.

Mr. BINGAMAN. Mr. President, I will review this language and then perhaps be in a position to discuss further with the chairman what the language of the bill ought to provide to ensure that funds can be made available in grants to school districts in a way that they would actually use them for this purpose.

My concern is, the way the bill now stands, I do not see the opportunity being there for school districts to pursue these strategies. For that reason, I would like to review it a little further and then get back in touch with the Senator.

Mr. SPECTER. Mr. President, I will be delighted to work with the Senator from New Mexico to provide whatever assurances he would like, additional assurances, that the $88 million will be for dropout prevention. That is the law, but, again, I will be glad to work with my distinguished colleague to satisfy the concerns he has raised.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while the two Senators have been discussing this amendment, we should not be diverted from the fact that this amendment is related to specific programs that help Hispanic children in America today. Dropout prevention, of course, is one of those programs. We cannot lose the goal we are attempting to accomplish in this amendment, and that is that we help people, and there are various programs I discussed earlier today that are set forth in detail in the amendment before the Senate. There is nothing more important than the dropout prevention program, but there are programs that are just as important to which this amendment is directed.

We are talking about, of the tens of billions of dollars in Federal programs that go to education, $200 million that will be directed to specific programs that will save our country huge amounts of money. It is estimated by some groups that for every dollar we spend in these programs which are the subject matter of this amendment, the Government will save up to $10.

I appreciate the discussion that has been held this morning between the Senator from Pennsylvania and the Senator from New Mexico dealing with dropouts, but this amendment deals with far more than just that program.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by way of brief recapitulation, the thrust of the amendment by the Senator from Nevada on Hispanics I think has been covered by the enumeration of programs I outlined earlier during the course of this debate. There are very substantial funds available in the bill, as it stands now, which can provide assistance for Hispanics.

I concur with the Senator from Nevada that this is an important item, but I do believe the Education appropriations accommodate this very key interest for the specified reasons given earlier in the course of this debate.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I come to the floor to commend the distinguished Senator from Nevada for his sponsorship of this amendment. There has been some discussion already about the importance that we as a country need to put on the extraordinary challenges we face with regard to the education of Hispanic children.

The number of school-age Hispanic children has actually grown by 61 percent in the last 2 years, a rate faster than any other American community. One out of every 6 children who attends public school today is Hispanic.

Hispanic children continue to perform below their non-Hispanic peers in reading, math, and science. By age 9, more than one-third of Latino students in high school are enrolled at below grade level today. Hispanic youths suffer from the highest dropout rate of any group. Hispanics over the age of 16 are more than twice as likely to drop out of school as African American students and four times as likely to drop out today as white students.

In the Nation's 17 largest Hispanic-serving school districts, Hispanics lag behind white students in reading achievement by an average of 30 points and in math achievement by an average of 27 points. Yet the bill before us cuts $21 million in bilingual education, $11 million in dropout prevention programs, $10 million in high school migrant education, and $15 million in college migrant education.

What Senator REID has done is simply propose to reverse these proposed cuts and enhance English instruction for non-native speakers, dropout prevention, and migrant education funding.

This really sets the tone for a series of amendments that I know my colleagues will be offering over the course of the next several days. It is important for us as a country to make the investment in education perhaps more than in any other endeavor in Government. If we empower our youth—Hispanic, African American, Asian American, Native American, in addition to European American—we give them the opportunity to be the productive, capable, and contributing citizens we know they can be.

It is so much easier to build a child than to repair an adult. We are talking about building children. The only way we are going to build those children is to give them opportunities in education by funding these programs at a level that will allow us to meet the expectations and, I would say, the obligations our country holds today.

This is a very good amendment, and I hope the Senate will support it on a bipartisan basis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with much of what the Democratic leader has said about the importance of education. In fact, I agree with all of what he has said about the importance of education. But again, for the reasons which have been advanced during the course of this debate yesterday and today and on this amendment specifically, I believe we have accommodated a good balance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am proud to be a cosponsor of the Reid-Bingaman amendment which addresses Hispanic educational opportunities. This is an extremely important measure.

Over the August recess, I had the opportunity to put together a summit of Hispanic elected officials, families, interested people, in my home State. There was an overwhelming turnout that day. We had everyone from elected officials to people who are active in the community or members of the Hispanic community who just wanted to come and find out what we were doing at the Federal level on issues that affected them. The No. 1 issue people talked about that day was education and opportunity for the young Hispanic students in our schools, in their communities, and across the country.

I was astounded to listen to leaders in the community, elected school board members, city council members, who told me that when they were growing up, very few people, if any people, looked at them and said: You can be a success. You can pass first grade—many of them had flunked first grade. You can go on to college. You can become something in this country.

I think it is so important that this amendment pass so we can put the education in place that says to these young students in our country today that we need them, we need them to be the next generation of engineers; we need them to be the next generation of teachers; we need them to be the next generation of CEOs. We are missing out on an entire young population and what they can give back to this country someday in leadership, in economics, in paying taxes, in being viable members of this community, if we do not fund opportunities for them today.

So I am very proud to be a sponsor of the Reid-Bingaman amendment and I encourage my colleagues to support it. It is really critical.

AMENDMENT NO. 1543

Mr. President, I also want to talk about the Byrd amendment that was offered yesterday. As we all know, children across the country this week are returning to school. We in the Senate now have a choice to make that will determine whether they are successful in school and, ultimately, in life. The choice is, really, will our country's most vulnerable children get the education they need? When we vote on the Byrd amendment, that is really what we are going to be voting on: Are we going to help low-income children succeed in school or are we going to leave them behind?

I thank Senator BYRD for his leadership on this amendment and on so many other important debates. This particular fight is one that will impact many children across the country. I am not talking about a few kids in a few classrooms. I am not talking about kids who are well off. I am talking about millions of children who are growing up in poverty today. These are kids who are in the most danger of falling behind right now, and they are the kids who most need our help.

Today, it is estimated that there are 9 million needy children in America. For many of them—in fact, for all of them—education is the only way out of the poverty they see before them. Often these children need extra help before and after school. They might need tutoring or mentoring or one-on-one attention from somebody who cares, from somebody who looks at them and says: You can be somebody; you can succeed in school; you can go on and be a success in this country. That kind of tutoring and mentoring and one-on-one attention needs to come from somebody they see in their everyday lives, and that is why this amendment is so important.

Fortunately, in this country today we try to provide that one-on-one help with a program called title I. That is a program that targets funding directly to disadvantaged children and to low-income schools, and it makes such a critical difference for so many of our vulnerable children today.

Unfortunately, this year, once again, the President has offered a budget that falls exceedingly short of what these kids need. The budget that has been proposed by the President and is now before the Senate would serve only 4.1 of those 9 million needy students in our country. That means we are helping fewer than half of those kids who need help in this country today. I think we can do better. I think we must do better, and the Byrd amendment provides $6.15 billion in additional funding for title I.

Let me help put that number into context for everyone. The Byrd amendment is going to help 6.2 million children. That is a huge improvement over the President's plan. If we just go with the President's budget, 2.1 million disadvantaged kids are going to be left behind. So I ask all of my colleagues, how do we leave behind 2 million children in this country? Do they not deserve a road out of poverty? Do they not deserve an education that will help them rise above tough circumstances? Of course they do. These kids will get the support they need if we pass the Byrd amendment.

The Byrd amendment is not asking us to do something new or extraordinary. It is asking us to do what Congress and this President said they would do nearly 2 years ago when we passed the No Child Left Behind Act.

That education act was passed on two related ideas, two promises: First, that we would hold schools accountable for their progress; secondly, we promised we would provide schools with the resources to meet those new requirements we were putting in place.

Both accountability and funding are needed to make progress. Since that act was passed 2 years ago, the second part of that promise has simply been abandoned.

I have been across my State, as I know all Senators have over the August recess, and I have talked with educators and visited classrooms. It is really clear that schools need help meeting these requirements. I think it is important to not forget that our States today, in this economy, are in no position to provide the extra funding that Congress promised but has not delivered. Most of our States, including mine, are facing huge deficits and are cutting back on education and other priorities. So it is clear that the Federal Government needs to step in and provide this funding for our most vulnerable kids. It is not something new. It is something we said 2 years ago we would do.

I should also point out that this debate in the Senate is taking place as many schools are now getting the results of their State tests. In Washington State, a number of schools have been labeled as failing because of these test results. These schools need the resources now to improve. They want to improve. They want to be held to high standards. They want to meet the accountability standards we have put in place, but they cannot do it with the resources that have been provided.

Before I conclude, I commend Senator BYRD for the way he has chosen to fund this amendment. The Byrd amendment uses the exact same funding method that our Republican colleagues have used to fund their priorities. So if anyone criticizes the Byrd amendment, I do not see how they could argue against the funding source because it is exactly what has been done already.

With no real challenge on the funding size, that leaves us to debate the substance of this amendment. I do not see how anyone could vote to prevent millions of low-income children from getting the help they need in school.

So let me make the choice before us as simple as possible. A vote against the Byrd amendment is a vote to leave 2 million poor kids behind. A vote for the Byrd amendment will help those 2 million poor kids get a great education and lift them out of poverty. So I urge my colleagues to hear the voices of more than 2 million children who are depending on us as their lives hang in the balance.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by way of reply, the amendment offered by the Senator from Nevada as to Hispanic students is adequately covered in other specific programs.

For the reasons which I have specified earlier in the course of this debate, and the issue raised by Senator BYRD, seeking to move the funding for title I to the fully authorized amount, is characteristically not a matter of the appropriations process to meet the full authorization.

Yesterday, in response to the Senator from West Virginia, I had referenced the appropriations bill for the year 2002 when Senator BYRD chaired the Appropriations Committee and the appropriated amounts were less than the authorized amount. In title I, the authorization was $13.5 billion. The appropriation was $10.35 billion, $2.850 billion under. Similarly, the appropriation for improving teacher quality education was $325 million under the authorized amount and the century community learning centers was $250 million under the authorized amount.

In the analysis as to the increases requested by President Bush, on the 3 years of his budget request, increases have been made from $40 billion to some $53 billion for a 33 percent increase. That contrasts very fairly with the 3 years of President Clinton's budget increases for fiscal years 1996, 1997, and 1998 which went up from $26 billion to $32.5 billion or 23 percent. Picking a higher sequence, the budget requests for 1999, 2000, and 2001 went from slightly under $30 billion to slightly over $40 billion, here 33 percent.

I believe on the record it is demonstrable that the support in the budget increases requested by President Bush has been at least as good as or better than the years of President Clinton and no one ever said that President Clinton had shortchanged the education budget. Similar credit is due to President Bush that his budget requests have not shortchanged the education budget.

To repeat what I said yesterday, my preference would have been to have had a larger allocation for this subcommittee. I would like to have had more money. I would like to have seen more funds in title I, but on the allocation which this body passed, the Congress passed on the budget resolution, the allocations which we have received on the so-called 302(b) allocations, an appropriate appropriation has been made in these accounts.

Again, I urge my colleagues to come to the floor. We will be voting on the Reid amendment at noon. The plan is to vote on the Byrd amendment shortly after we reconvene from the policy luncheons. It is our hope Senators will come to offer amendments and advise us where they stand on the amendments. More than 40 amendments have been listed for possible argument. If we are to complete this bill in a timely manner, again, it is necessary for Senators to come to the floor to offer their amendments with the intent, at least of the managers, this manager, to proceed to third reading and not to sustain long-term, long-range time-consuming unproductive quorum calls.

In the absence of any Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the amendment we will vote on at 12 noon that has been offered by the Senator from Nevada and the Senator from New Mexico has the support of many groups around America. I will mention just a few: National Hispanic Leadership Agenda, National Council of La Raza, Hispanic Association of Colleges and Universities, League of United Latin American Citizens, LULAC, Migrant Legal Action Program, National Association for Bilingual Education, National Association of Latino Elected and Appointed Officials, National Association of State Directors of Migrant Education, National Migrant and Seasonal Head Start Association, National Puerto Rican Coalition, Inc., National HEP-CAMP Association, ASPIRA Association, Inc.

These are just a few of the groups. I would say when this matter is voted on at 12 noon today, there are no excuses. In effect, what has happened is the President has recommended these programs to be eliminated in general, dropout programs specifically. This is the opportunity for the Senate to speak that this is wrong. This is the opportunity for the Senate to recognize that there are programs that are important to the safety and salvation and security of this country other than those addressing things that explode.

One of the things that is important to protect the security of this Nation is an educated population. That means educating all young people, no matter their background, their ethnicity, their religion, where they come from, because it is better for us all when that occurs.

We will shortly begin the final 15 minutes of debate on this matter, and I ask that everyone realize that there are groups who believe this amendment is important. They believe it is important because their sole function is to protect children. This amendment will help children.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding we are now in the time where there will be 15 minutes equally divided for the proponents and opponents of this amendment; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I would reserve the final 3 minutes, in that we are the movers of this amendment, for Senator BINGAMAN. That would be 3 minutes before the hour that Senator BINGAMAN have the final 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. When my time is up, which would be in 4½ minutes, would the Chair so advise me?

The PRESIDING OFFICER. Yes, I will.

Mr. REID. Mr. President, some of my distinguished colleagues have asked whether we can afford to give this helping hand to a select group of students, namely Hispanic students. I say we cannot afford to ignore them. Take, for example, Clark County, which is in Las Vegas, in Nevada. In the Clark County School District, which is the fifth or sixth largest school district in America with more than a quarter of a million students, about 30 percent of the students are Latinos. This amendment would apply to those students. We need to give a helping hand to the Clark County School District through additional moneys.

It is unfair that the President of the United States has recommended eliminating the dropout prevention program for Hispanic students—eliminated it. He has cut other programs to which this amendment applies. It is simply not right. People in Nevada will suffer as a result of that.

Latino children have the highest dropout rate of any ethnic group in America. It is nothing they are proud of; it is something they are trying to work on. Hispanic leaders talk about education. For the Latin Chamber of Commerce in Las Vegas, and it is a huge organization, that is their No. 1 priority: What are we going to do to keep our children in school? They have a scholarship program to send kids to a community college, to our colleges in Nevada. It is working well. But we need to do something to help the public school system keep these children in school.

We know for every dollar spent on preventing dropouts, we save more than $9 in the future. Today, one in every three new workers in our labor force is Hispanic. In 20 years, half of our new workers will be Hispanic. That means the money to pay for Social Security in the future, and our national security in the future, will come from Hispanic workers who are starting in school today. If we shortchange these children, we shortchange ourselves and our children in the future. But if we invest in these children, we invest in our future.

This amendment, offered by Senator BINGAMAN and this Senator, would provide a helping hand to Hispanic children by investing an additional $210 million in Head Start, dropout prevention, bilingual education, college assistance for children, and other programs. The fact is, there is an unacceptable gap in academic achievement between Latino students and the overall student population. We have made a promise to all children in America that we will leave no child behind. It is time to live up to those words.

I spoke today about this being more than statistics and numbers, more than cuts and percentages of cuts, but of programs that actually help children. I, today, spoke about Maria de Lurdes Reynoso, who is a better person today as a result of these programs. I spoke about another young person by the name of Oscar Guzman, who is now in a program so that he is going to graduate from college. That is what this is all about—helping children.

Tedrel Eubanks of Mississippi Valley State University—one of these programs allowed her to get a high school diploma and then go to college, something her family never dreamed that any one of them could do.

We have learned this morning from actual cases about one child in the family who is not only making a tremendous impression on his siblings but on all of his cousins.

For every dollar spent here, we save our country $10. We are talking about spending $200 million and saving the country $2 billion. My math may be a little bit wrong there, but you get the point.

Mrs. BOXER. Mr. President, the Reid-Bingaman amendment would provide an additional $210 million for Hispanic education. I am pleased to support it.

Since 1990, the number of school age Hispanic children has grown by 61 percent. This means that one out of every six children who attends public school is Hispanic. Yet, only about 60 percent of them graduate from high school. Hispanics over the age of 16 are more than twice as likely to drop out of school than African-American students and four times more likely to drop out of school than white students. In the Nation's 117 largest Hispanic-serving school districts, Hispanics lag behind white students in reading achievement by an average of 30 points and math achievement by an average of 27 points. And according to the 2000 census, only 8.5 percent of Hispanics between the ages of 25 and 34 had earned a bachelor's degree.

These statistics are troubling, and we need to address them. After all, education gives individuals the tools that they need to succeed. But education programs are underfunded, and the bill before us cuts $21 million from bilingual education, $11 million from dropout prevention programs, $10 million from high school migrant education, and $15 million from college migrant education.

The Reid-Bingaman amendment would reverse these proposed cuts and would increase funding for English instruction for non-native speakers, dropout prevention, and migrant education.

I urge my colleagues to vote for this very essential and worthwhile amendment.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be charged equally.

Mr. REID. Mr. President, the manager of the bill isn't here. I have asked unanimous consent that Senator BINGAMAN be recognized for the last 3 minutes. No one is here for the majority to respond, and I ask unanimous consent that the time run against the majority.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. No.

Mr. REID. Mr. President, if the distinguished manager of the bill and others need additional time, I will be happy to agree to that. I just want to make sure there is no time wasted.

I suggest the absence of a quorum under the previous condition.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, how much time is reserved for me?

The PRESIDING OFFICER. Three minutes.

Mr. BINGAMAN. Mr. President, let me use my 3 minutes to make the point that this is a very important amendment which the Senator from Nevada put forward to provide some additional funding for the programs that are most important in assisting Hispanic students and school districts that are serving Hispanic students around our country.

I believe very strongly that we need to adopt this amendment. One of the key provisions in it, which I spoke about earlier this morning, would add $20 million for dropout prevention. That is $20 million out of the $125 million that is authorized in the No Child Left Behind Act. The President asked for zero funds for that dropout prevention initiative.

I believe we in Congress should add something in the current year. We are providing nearly $11 million. I believe this amendment would allow us to provide at least $20 million, which is a start and which is a help. I hope very much it will be adopted.

In my home State, the Farmington public schools received a grant under the funding this last year for dropout prevention. It is funding they are using to assist students through individualized school reentry support activities, an alternative for remediation, transition-based life skills and career awareness, adult advisory and intensive mentoring services. They are working with these individual students who are at risk of dropping out.

My colleague from Pennsylvania, the chairman of the subcommittee, said, Well, there are already funds in the bill that can be used for these purposes. The funds he is referring to are funds which are allocated on the basis of the percentage of children and youth residing in locally operated correctional facilities. This is funding which is used by school districts to deal with this element that winds up in correctional facilities or are at risk of winding up in correctional facilities.

What I am advocating, and what I think the Senator from Nevada is advocating, is that we get out ahead of the problem and assist students who are at risk of leaving school. We try to help school districts keep those students in school and not wait until they get involved with the correctional system. We do not think it should be simply said, OK, if a kid gets thrown in jail or gets in trouble with the Department of Justice or the judicial system, then we will come to assist in some respects.

This is a very meritorious amendment. I hope my colleagues will support the Reid amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Missouri.

Mr. BOND. Madam President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits specified in this section and is not in order.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, pursuant to the Budget Act, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 48, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Corzine
Daschle
Dayton
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Stabenow
Wyden

NAYS—48

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—6

Graham (FL)
Inhofe
Kennedy
Kerry
Lieberman
Miller

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. SPECTER. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I know the hour is 12:30 and we will recess for the weekly caucuses. I ask unanimous consent that the Senator from Michigan, Mr. LEVIN, be recognized to speak for up to 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Michigan.

UNITED NATIONS SECURITY COUNCIL RESOLUTION

Mr. LEVIN. Madam President, this morning's newspapers brought the welcome news that the administration is finally waking up to the need to seek greater international support for and participation in our stabilization and reconstruction efforts in Iraq by seeking a new U.N. Security Council resolution. There has been a tragically long overdue recognition of the importance of doing so.

While this welcome news was attributed to an unnamed administration spokesman, hopefully some named spokesman will soon confirm it. The delay in arriving at this new approach, along with too much lone-ranger, bring-them-on rhetoric, will make the effort to internationalize the situation in Iraq more difficult and perhaps more costly in terms of the conditions exacted by the international community for its participation.

The word games that have been played by administration officials who have stated that they would "welcome" the participation of troops of other nations but refused to request that participation have also not been helpful.

While the need to internationalize this effort and obtain a U.N. mandate has been apparent to many of us from the beginning, the recent report of the Congressional Budget Office, requested by Senator BYRD, concerning the difficulty of sustaining a large U.S. military force in Iraq reinforces the need to reach out to the U.N. for support in this effort. There will not and should not be any need to compromise with respect to command and control of U.S. troops. There is ample precedent for the nation that provides the bulk of military forces to provide the senior military commander and for the senior military commander to exercise overall command of all the troops participating in a U.N.-mandated mission.

A recent example of that approach was the case of East Timor, where Australia led a coalition of the willing pursuant to a U.N. resolution and provided the senior military commander for the operation. Once circumstances permitted it, the Australians turned over control to a U.N. blue helmeted peacekeeping force. The first gulf war was an earlier example where one nation, the United States, led a coalition of the willing with U.N. sanction. There will, however, be a need for compromise with respect to the control of civilian reconstruction and political development of Iraq. We should be willing to agree to a reasonable sharing of decisionmaking with respect to the physical and political reconstruction of Iraq. If we are willing to do so, Germany and Russia will proudly go along and France would then have little choice, I believe, but to go along as well.

Statements by administration officials, when we went to the U.N. before the war, which denigrated the importance of U.N. support and the work of U.N. inspectors, were counterproductive to acquiring U.N. backing at that time. We must avoid a repetition of that attitude. Given the pressures that have been brought to bear that were necessary to get the administration to seek support from the international community, I am afraid it will be necessary to keep the pressure on the administration to make the appropriate compromises to work out a new U.N. resolution.

Yesterday, three more U.S. soldiers lost their lives in Iraq, two due to hostile action and one in an accident. While internationalizing the effort in Iraq will not prevent all loss of life in the future, it should help to reduce the risks and ease the burdens on U.S. forces and will help convince Iraqis of international backing and support for our military presence there, and hopefully will increase the sharing of intelligence that is so critical to stopping terrorists in other attacks.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, we just completed a very important vote prior to the break. Senator BINGAMAN and I offered an amendment to increase funding for programs relating to Hispanic children. There was a point of order raised and that amendment was defeated.

I understand that. But I have trouble understanding a communication released today from the White House. On this very day we were voting on important issues relating to Hispanic children in America, they released this communication that talks about an historic partnership to improve educational opportunity for Hispanic children. This is nothing but fluff, big piles of fluff.

When it comes to putting the programs where their mouth is, nothing ever happens. We had an opportunity this morning to vote to help Hispanic children, and what do we get from the White House? We get a press release talking about an opportunity to sit down and talk. Here is the statement: The partners will work with local communities to reinforce positive expectations.

The positive expectations were the programs that have been cut and eliminated by this White House.

I hope the American public sees what is happening. What we have from the White House is nothing but piles of paper, nothing to help the children about whom I spoke earlier today, including Ted Eubanks, Mississippi Valley State University, or Maria de Lurdes Reynoso, who talked about programs that changed her life, or Oscar Guzman, who talks about programs that have given his family dignity as the first person in his family to attend college.

I repeat for the third time in these few minutes, I am willing to understand the defeat that has just occurred where, with rare exceptions, the majority voted against the amendment offered by the Senator from New Mexico and me to help Hispanic children. I understand that. However, to have the hypocrisy, the same day, issuing this release, "Historic partnership to improve education for Hispanic Americans," is absolutely ridiculous.

AMENDMENT NO. 1552 TO AMENDMENT NO. 1542

Ms. MIKULSKI. Madam President, I rise to join with my colleague from Maine, Senator COLLINS, to introduce a bipartisan amendment to increase the funding for nursing programs. I send this amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will the report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maryland (Ms. MIKULSKI), for herself, Ms. COLLINS, Mr. KERRY, Mr. JEFFORDS, Mrs. CLINTON, Mrs. MURRAY, Mr. DASCHLE, Mr. LIEBERMAN, Mr. BIDEN, Mr. LAUTENBERG, Mr. SARBANES, Mr. KOHL, Mr. LEAHY, Mr. SCHUMER, Mr. EDWARDS, Mr. CORZINE, Ms. LANDRIEU, Mr. BAUCUS, Mr. DURBIN, and Mr. DODD, proposes an amendment numbered No. 1552 to amendment No. 1542.

Ms. MIKULSKI. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs)

On page 61, between lines 14 and 15, insert the following:

SEC.   . In addition to any amounts otherwise appropriated under this Act for programs and activities under the Nurse Reinvestment Act (Public Law 107-205) and for other nursing workforce development programs under title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.), there are appropriated an additional $63,000,000 for such programs and activities: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $80,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,958,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,720,301,000.

Ms. MIKULSKI. Madam President, I rise to offer this amendment so that we can really get behind our nurses in this country and deal with the critical nursing shortage facing acute care facilities and other important facilities that need nurses. This is a bipartisan amendment to the Specter substitute amendment. I am joining with Senator COLLINS to offer this amendment, along with the other cosponsors.

Let me tell you what this amendment would do. It would provide $63 million to fund programs that recruit and retain nurses by helping them pay for becoming nurses. This was created by last year's bipartisan effort to pass something called the Nurse Reinvestment Act and also other important programs to educate nurses. The Nurse Reinvestment Act was an important bipartisan accomplishment in which we came together across party lines to deal with the nursing shortage. This is a crisis that affects patient care across the country.

So, what did we do? We created scholarship programs and we created loan forgiveness programs to bring more nurses into the profession. But while the legislation, the Nurse Reinvestment Act, created the authorizing framework, it did not put money in the Federal checkbook. That is our job in appropriations. We salute Senator HARKIN and Senator SPECTER for trying to fund this, but they are funding it at $15 million. You cannot keep nurses, you cannot get nurses, and you cannot educate nurses to be nursing faculty on $15 million. We need more money. Where there is the wallet, there is a will on the part of many women and men who want to come into nursing.

We are in a crisis. There are 125,000 nurse vacancies in hospitals nationwide. This does not even deal with nursing homes, home health agencies, schools, and other sites.

The Senator from Maine and I have been champions of home health care. She has the rugged terrain of Maine and I have the mountain counties of Maryland, where we know our nurses get on snowmobiles to get out there to visit patients who need them. There are just not enough of them, and we need to make sure we deal with this. In my home State of Maryland, there is now a 13 percent hospital nursing shortage; 2,000 full-time nurses are desperately needed, not only in the bustling metropolitan area of the Baltimore-Washington corridor but in our rural communities. The nursing shortage will only get worse and we expect it will double by 2010, to 275,000 nurses.

While we have people who want to come into nursing, we have a nursing faculty shortage because nurses have so much student debt that they really do not have the wherewithal to go on to the master's and doctoral levels to do this.

I note the Senator acting as the Presiding Officer, Madam President, is from North Carolina. She knows we have the wonderful urban areas of Raleigh and Duke University, but I have talked to her about going out to those rural communities. They just do not have what they need in the way of nurses. Yet we teamed up to make sure they could use the community college programs to get people into nursing and to stay in those communities. What we are talking about is helping people who will come into nursing. We will provide either scholarships or loan incentives if they will come into those critical shortage areas. Isn't this terrific?

What we know is many young women and even young men are coming into nursing later in life and they have other responsibilities. This is why we need to help them by making nursing education more affordable, providing scholarships in exchange for 2 years, and also financial assistance to obtain advanced degrees in order to be able to get our people ready for nursing education. Our amendment funds other important nursing programs to educate and train advanced-education nurses, such as nurse practitioners, and also in other areas.

Our chairman and ranking member of the subcommittee faced a very tight allocation. They did a fantastic job. What we need to do, though, is get the Senate behind them and increase the funding for these nursing education programs. We have all of the nursing groups behind us. We have groups such as the Susan G. Komen Breast Cancer Foundation, the Men's Health Network, the Federation of American Hospitals, and AARP. Why? Because we know behind every great doctor there is an outstanding nurse.

We need it for patient care. Where there is a nursing shortage, there is going to be an impact on patient care. Our patients need it. The baby boomers are getting older. The need for nurses is only going to expand, and certainly by making a public investment to make nursing education more available and more affordable, we are helping not only to educate the nurse but I believe we are making an investment in saving lives, in preventive health care, and home health care.

I hope my colleagues will join in supporting this amendment and I yield the floor so others may speak about it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am very pleased to join my friend and colleague from Maryland in offering this important amendment to the appropriations bill. Senator MIKULSKI and

I have teamed up on many health care issues, ranging from home health care, ensuring adequate reimbursements to diabetes research, to helping draft the Nurse Reinvestment Act as members of the Health, Education, Labor, and Pensions Committee.

Today we team up once again to increase the funding for the Nurse Reinvestment Act and other nursing workforce development programs by $63 million. I join my colleague from Maryland in saluting the efforts of Senator SPECTER and Senator HARKIN in providing some significant funding for nursing education programs. Our amendment, however, would bring the total level of funding for these vital programs up to $175 million in fiscal year 2004. That is not up to the full authorized level, but it is an amount that we believe would allow us to make real progress in remedying the extreme nursing shortage facing our Nation.

In fact, the United States is facing a nursing shortage of critical proportions. Moreover, this shortage is only expected to worsen as the baby boom generation ages and their need—our need—for health care grows. According to the American Hospital Association, there currently are more than 126,000 nursing vacancies in hospitals alone. The Department of Health and Human Services estimates that by the year 2010, there will be a shortage of 275,000 registered nurses, more than double the current number. In Maine, almost 1 out of 10 nursing positions at hospitals across our State is vacant.

We also face persistent shortages of certified nursing assistants and other front-line health care workers in our hospitals, home health agencies, nursing homes, and other health care facilities.

The current nursing shortage poses a significant threat to the ability of our health care system to deliver quality care. The New England Journal of Medicine published a disturbing study last year which found that nursing shortages in hospitals are associated with a higher risk of complications and even death. The study reported in the New England Journal of Medicine found that patients in hospitals with fewer registered nurses were more likely to suffer from complications such as urinary infections and pneumonia; they were more likely to stay in the hospital longer; and they were more likely to die from treatable conditions such as shock and gastrointestinal bleeding.

The fact is that nurses are the eyes and ears of our hospitals. They often serve as an early warning system when complications begin to develop. But the problems cannot be detected and treated early if nurses do not have sufficient time to spend with their patients.

Another study reported in the Journal of the American Medical Association last year found that each additional patient in a nurse's workload meant an increase of about 7 percent in the likelihood that the patient would die within 30 days of admission.

This is literally a matter of life and death. If there are more nurses, if hospitals, nursing homes, and other health care facilities are adequately staffed with nurses, the quality of care provided to patients and the likelihood of a successful outcome are much higher.

While the situation is grave today, we face even greater threats and crises in the future. Our current nursing workforce is aging. In Maine, 61 percent of our registered nurses are at least 40 years old. As a consequence, many of them will be retiring just as we aging baby boomers begin to place additional demands on our health care system. The nursing shortage therefore is sure to worsen if we do not make the critical investments today—now. We need to act more to support our current nursing workforce and to encourage more young people to choose nursing as their profession.

Last year, Congress passed the Nursing Reinvestment Act to do just that. This legislation had overwhelming bipartisan support. It authorizes scholarships to nursing students who agree to provide at least 2 years of service in a health care facility with a critical nursing shortage. It creates career ladders to help nurses and other health professionals advance in their careers. It provides loan cancellation for nurses with advanced degrees in exchange for teaching at schools of nursing.

Let me expand on that point.

Last year, I had the privilege of meeting with the nursing deans of Husson, the University of Maine, and what is now Eastern Maine Community College. They told me that they are being overwhelmed with applications from students who are eager to study nursing, but they simply cannot accommodate the qualified applicants who wish to enter the nursing program. The reason: A shortage of nursing professors.

There is a very important provision in this bill that encourages nurses with advanced degrees to teach at schools of nursing to help close that gap and lessen that shortage so that we can start training more nurses. It is not only a matter of encouraging more people to go into nursing but also to make sure that we have the nursing faculties available to educate these young students.

The Nursing Reinvestment Act builds on existing title 8 nursing education programs that provide loan repayments to nurses, improves the diversity of the nursing workforce, and expands opportunities for nursing education at all levels. All of these programs play a vital role in recruiting nurses and making sure that they have the training required to effectively and compassionately care for their patients.

The promise of this new law and other nursing educational programs will not be kept without an adequate investment of funds. That is why I felt so strongly about joining with my colleague from Maryland in this amendment. Increasing the funding level for these important programs to $175 million in fiscal year 2004 will allow them to expand to address nursing shortages in communities across the country.

I urge all of our colleagues to join us in supporting this vital amendment.

Thank you, Madam President.

Mrs. CLINTON. Mr. President, I am pleased to support the amendment of Senators MIKULSKI and COLLINS that would bring the total funding in the bill for these programs to $175 million, the amount requested by over 30 bipartisan Senators and groups ranging from AARP to cancer patient groups to nursing and provider groups.

The Bureau of Labor Statistics projects that more than one million new nurses will be needed by the year 2010. Yet in my State of New York, the number of undergraduate nursing program graduates has dropped each academic year since 1996.

Even as the workforce shrinks, the patient population is projected to grow. Baby boomers across the Nation are aging, and their healthcare needs will put an extra burden on the system. In New York State, the population over 80 will double by the year 2020.

As I travel across New York State, every type of community—urban, suburban, rural—and every type of provider—hospitals, nursing homes, home health agencies, hospices is affected by this shortage. All around the State, nurses are facing an emergency of their own. That is why last Congress I worked so hard to pass the Nurse Reinvestment Act which will provide scholarships, public service announcements, and other provisions to encourage people to enter the profession. But the current nursing shortage exists not only because fewer individuals are entering the nursing profession, but also because the healthcare industry is having trouble retaining the nurses already on staff.

This amendment will help fund important nurse retention programs that we authorized last year in the Nurse Reinvestment Act, based on proven workplace principles, such as promotion of patient-centered care and nurse leadership, that are shown to improve retention. The amendment does not take any funding from other programs in the bill.

As so many studies have shown, our nursing care can often be the difference in medical outcomes. For all the new technologies, talented surgeons, and breakthrough drugs, I want people to remember that nursing care is essential in keeping our healthcare system the best in the world. Study after study has cited a direct link between the type and quality of nursing care that is delivered and patient outcomes. We trust nurses. In fact in a CNN/USA Gallop poll our Nation's nurses rank second for their honesty and integrity, with 84 percent of Americans rating them "high" or "very high." If you are interested in who was ranked first—it was firefighters, for their selfless acts of bravery after the September 11 attacks.

We too admire nurses for their self-sacrifice, as individuals who embark on a caregiving profession and found themselves on September 11 on the front lines of the battle against terrorism and bioterrorism. Nurses were on the frontlines when anthrax first appeared, when SARS hit, and nurses rose to the challenge and continue to rise to the challenge.

This is why I am so concerned about the nursing shortage. Nurses are more vital than ever, and that is why we must fund these programs and make good on the promise of the Nurse Reinvestment Act.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I rise to speak on another matter related to health care. I commend the distinguished Senators from Maryland and Maine for their legislation which I will be proud to cosponsor.

It is a matter I wish to address regarding the health and safety and well-being of thousands of people in the area of my State of Minnesota surrounding the Minneapolis-St. Paul International Airport.

The Federal Aviation Administration reauthorization conference report which was signed before the recess by 24 Republican conferees and none of the 14 Democrat conferees from either the Senate or the House contains some very significant measures that were not provided for in either the Senate or the House legislation. One of those which directly affects my State very adversely would prohibit the use of airport improvement program funds for the insulation of homes and apartments surrounding the metropolitan airport that is in a DNL decibel range of 60 to 64 DNL. That is a technical term. But it basically means that those who are most severely impacted, most of whom have received some mitigation over the last few years through a pool of funds, including airport improvement funds, passenger facility funds, as well as the Metropolitan Airport Commission's own fees and the like, achieved a certain measure of mitigation. But there are many thousands—over 8,000 homeowners and an estimated 3,200 apartment dwellers—who are in the next phase scheduled to be insulated. And since the airport's location decision was made, the Federal Aviation Administration, as a matter of its record and decision, insisted that this program continue.

At the last minute, in a measure that was not considered by or voted on by either the House or the Senate in this conference report, a Senate conferee reportedly inserted this language into the report. Now it comes back and is scheduled to come at some near date before this body to be voted up or down, which is, of course, the purpose of these circumventions of the legislative process. They do not go through committee for up-and-down votes nor a public debate back and forth. They don't go to the Senate floor for debate back and forth and a vote up or down. Instead, they are stuck in at the last minute in secret proceedings with not even all of the conferees present—certainly not all of the Senators present—and then it comes back in a matter that adversely affects thousands of people in my home State; a measure inserted without any notification to me, without any discussion by a Member of this body at the behest of a lobbyist for Northwest Airlines, which opposes this mitigation measure, and has done so and is within its rights to do so but is responsible for altering an agreement that has been reached; a record of decision made by the FAA as part of the approval of this airport expansion which, if Northwest Airlines wants to alter or eliminate, as they say they do, it is responsible for doing so in a public process before a public body, and not by sneaking in an amendment or language into a conference report that was not considered or voted on by either the Senate or the House.

I find it highly objectionable that a Senator from another State would act in such a way as to adversely affect, to cause potential harm, if this were to go through, to thousands of constituents in my State without consultation, without discussion or forewarning.

Regretfully, this is not the only instance in this legislation of matters that were added to it in conference that received no consideration in either the House of Representatives or in the Senate, language that runs directly contrary to what the Senate adopted. I speak specifically of the Senate adopting the Lautenberg amendment which prohibited privatization of our air traffic control system.

Despite that amendment being added to the Senate bill, being the official position of the Senate, despite the fact that the House did not consider the matter, as the House bill was silent on it, out of this conference committee comes a report which would immediately, upon enactment, provide for partial privatization, for the privatization, first, of smaller airports around the country.

Curiously enough, certain States, those that are proponents of this measure, were exempted from inclusion because I suspect they recognized that this is a highly speculative, highly risky, highly irresponsible action, taken with no debate or forethought but simply to fit some groups' rigid ideological biases that the private sector does everything right and the public sector does everything wrong.

The trouble is, when they get elected with that ideology, they then go about running Government so as to prove themselves right, and they systematically dismantle functions, such as air traffic control, which in this country is about as perfect as a human system can be, which has a nearly impeccable record of performance over the years, by far and away the best, most safety conscious, life-protecting, life-preserving air traffic system anywhere in the world.

Yet this administration wants to start to dismantle it for no cause whatsoever other than, as I said, to fit its own ideology. Rather than coming to this body and having that debate, rather than going to the House of Representatives and having that debate, they would rather wait and have conference committee time where they can sneak back in with 24 of their caucus Representatives and Senators and put this matter before 535 elected representatives of the people, myself being one, who don't have then any opportunity to delete it but simply to vote it up or down.

I find this to be an egregious abuse of the legislative process, one that consistently excludes Members such as myself who don't have the necessary years of seniority to be appointed to these conference committees. It is bad enough that the process is so skewed in favor of those who simply, by the basis of having been here for more years than others, get to dominate that critical phase of the process. But it is intolerable to me, to this Senator—it is intolerable—when that authority is abused and those conferees contrive to write legislation that supersedes the legitimate authority of 100 Senators to decide upon—by voting, by majority rule decisionmaking—what will and what will not become part of those reports which then, if they are passed and signed by the President, become law.

That is fundamentally a violation of the trust that the American people put equally in each 1 of the 100 Members of this body. The people of Minnesota, who sent me here, and who sent my colleague from across the aisle, have the same rights to full representation from us as do the constituents of the Senators from any other State regardless of whether they have been here a longer or lesser time than I.

For my constituents' own vital interests to be harmed by a contrivance of the process that has nothing to do with its integrity but simply is a reflection of who has the power, who has the money, who has the ability to hire full-time lobbyists to hang around these Chambers and to slip into conference committees, at the last second, where no one else is looking or can do anything about it, measures that abrogate the public process in my State—I think in any State, but certainly in my State—that is unacceptable and intolerable.

With all due respect to this institution, I cannot and will not allow that measure to proceed. As I stated just before the beginning of the August recess, I will do whatever I must do to prevent the proceedings of this body leading up to the consideration of that measure. I hope we can find 41 Members of the Senate who will oppose the conference report for the 2 reasons I have just cited here and other measures that were also added in conference that have an adverse effect, such matters as regional airline operations.

It also adversely affects one city, Thief River Falls, in my State of Minnesota. It imposes an additional $70,000-a-year funding requirement on them. Again, it is not something that this body adopted. It is not something that the House adopted. It is something that somebody else decided they wanted to add for whatever reasons.

If this bill is not sufficient reason for the Senate to stand up and put a stop to this kind of legislative freelancing through conference committees, then I think the fundamental premise of equal representation and the equal rights of each one of us as Members has been fundamentally decimated, if not nearly destroyed—in some instances is destroyed. And I, for one, am not going to be able to go back and explain to the people of Minnesota why I sat quietly by while their rights in this process were abrogated by somebody else usurping that power and abusing it.

So, Madam President, I will be heard from on this matter again. I don't know when the majority leader intends to bring this matter, the conference report, to the Senate, but prior to that time, if this matter is not satisfactorily resolved, then I am going to have to continue to assert the rights of my constituents to the process that this body established and should be following rather than some kind of legislative freelancing, at the last split second, which totally abrogates their rights and my responsibilities to protect those rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I see my colleague, Senator GREGG, in the Chamber and I yield to him.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I wish to speak to this bill, and in a moment I will have supportive charts to discuss this bill's efforts in the area of education.

Let me begin by congratulating the chairman of the committee, Senator SPECTER, for bringing to the floor a bill which has made major strides every year since President Bush has been President, but especially this year, under Chairman SPECTER's leadership, major strides on the issue of educational funding. In the context of that funding, relative to what was done when the Democratic membership controlled this Senate, or when the President was a member of the Democrat Party, the difference is startling.

President Bush and the Republican Senate have made spectacular strides in assisting and supporting education in this country while, at the same time, doing so during a very difficult period of America's history, a period when we are fighting a war, a war which has required huge resources, and a war which has required extreme attention by the administration, and at a time that we have been in a period of economic recession, in a period when the revenues to the Federal Government have been dropping precipitously because of that recession. Even in the context of those two very severe restraining events relative to domestic program activity, this President has been willing to step forward and focus on the issue of education, try to improve the education of America's children and support that effort with dollars.

I think before we get into a discussion of the dollars, because that is critical to the pending Byrd amendment, I will begin by saying this goes beyond the issue of dollars, this goes into the question of the attitude and approach to education.

What President Bush has said is we can no longer afford an educational system which, year in and year out, in generation after generation, leaves behind especially low-income children, takes those children and runs them through the educational system and, at the end of their schooling period, leaves them without the skills they need in order to compete for and participate in the American dream. President Bush has sounded a call to end that system and do something about the failures of that system.

There are a lot of good-faith people, a lot of hard-working people in the educational community in this country. A lot of teachers spend an extraordinary amount of hours, time, and extra effort to try to make sure their students succeed. Unfortunately, the fact is that, even though we have radically increased the dollars in education over the last 20 years, the performance of our children has not improved—especially the performance of low-income children.

So President Bush said let's try a different way. That is where the bill, the No Child Left Behind Act, came in. It says, rather than controlling the input of legislation, rather than telling local school districts how to run their schools, let's take a different look at this and say, what are the children learning? Let's find out what they are learning; let's shine a light on it. If they are not learning enough to be competitive with their peers, or with what they need to be successful in society, then let's put in the remedial efforts to try to correct those problems.

It is an unusual approach in our educational system because, basically, it calls on the educational community to be accountable, to actually have to look at what a child is learning and determine whether what they are learning is what the community expects them to learn. The President's program, as passed by the Congress in a bipartisan initiative, doesn't set a Federal standard for what a child in the fourth grade in Epping, NH, knows; it rather says to the people in Epping, you set the standard for what your children should know in the fourth, fifth, and sixth grades. Once you have set that standard, you are going to have to determine whether your children are learning to that standard, and especially whether your low-income children, who have historically been left behind, are learning to that standard. If they are not, you are going to have to tell the parents they are not. You will have to disclose to the community at large that a certain percentage of the children are not reaching the standards the community set for those children.

It is a radical idea for education to be held accountable, but it is an idea whose time has come. So far, the response of the educational community has been very positive. Most teachers understand this is a law directed not in a negative way toward their efforts but in a supportive way, trying to make sure school systems are more accountable—especially in those areas where you have schools that have not made the grade, where a majority of low-income kids are failing. In other words, they are not reaching the standards of ability a fifth grader should know in math or in English. In those schools, we are going to try to improve their efforts.

There is a lot of remedial activity to accomplish that. The President not only set out this new initiative in the concept and the way we approach education—when somebody comes up with a good idea for smaller classrooms, more computers, and throws out ideas without any accountability as to whether it produces results, instead of taking that input approach, but an output approach, where you actually expect kids to learn and you find out if they are learning, and if they are not, you do something about it, especially with low-income kids, not only did he initiate that approach but he was willing to put the dollars into the programs that succeed in this area.

I think it is important to understand, as we view the debate of this amendment specifically before us—the Byrd amendment—that the dollars the President has proposed, and which the Congress passed under the Republican Congress, at least, have been a radical increase in funding for education at the Federal level.

The most significant reflection is that, as a function of the Federal Government, education has received more funding in the way of increases than any other function in the Federal Government. You would not believe that if you listened to the other side of the aisle. You would think it was actually being cut or not maintained. But, in fact, what the President has proposed, and what we have passed as a Republican Congress, has been a dramatic increase in funding in education.

This chart reflects that. It shows that in 1996, when the Republicans took control of the Congress, but most of the burst occurred in the last 3 years since President Bush has come into office. The increase in education has been 145 percent, whereas the increase in health and human services is 100 percent. And in defense funding, if you ask a person on the street what part the Federal Government expanded fastest in the last 5 years, they would probably say defense because that is all you hear about—especially from the other side of the aisle. But that is not true. Defense funding increased only a third as fast as education funding.

That really tells only part of the story. The story is what has happened in the context of this President's efforts versus that of the prior administration, this Republican Congress's efforts versus the prior Democratic Congress's efforts, because we are now hearing all these amendments being thrown at us from the other side about how we are underfunding this or that and not doing enough funding here or there.

But you have to ask yourself, what did they do when they were in charge? Did they make the type of commitments they are now asking be made by the Congress or did they maybe do substantially less and come forward today because it is politically enticing to do so and claim these accounts are underfunded and, therefore, we have to add these additional moneys?

Well, I think there are a couple of facts that need to be addressed right now. The first is President Bush's funding in comparison with President Clinton's funding. In the last year of the Clinton administration, $42 billion was spent on education in this country. This year, after 3 years in office, President Bush will have increased education funding by 60 percent over the last Clinton budget, to $67 billion. That is a huge increase and a huge commitment.

It goes beyond that. If you look at it by accounts, you will see what President Bush has done is stand behind his words, especially in comparison to what the prior administration did. For example, in the entire period when the Democrats controlled the Congress and had a Democratic President, their increases in title I spending were $286 million. Since the Republicans have controlled Congress—and primarily since President Bush has come into office—it has gone to $1.2 billion. If you total these in special education and also Pell grants—and we have heard a lot of misrepresentation on the issue of Pell grants on this floor—the difference is that in the period of a Republican-controlled Congress—especially since President Bush has become President—the average annual increase has been $4 billion. That compares to about half a billion dollars during the period President Clinton was in office and when there was a Democratic Congress.

A Republican Congress and a Republican President have basically made the commitments not only in the area of policy improvement but also in the area of dollars to back up that new policy.

It is instructive, for example, to take a look at some of the percentage differences between what the Republicans have done and what our colleagues on the other side of the aisle did when they were in control.

In the area, for example, of title I, our increases are 320 percent higher than the increases of the Democratic membership. In the area of IDEA grants, our increases are 770 percent higher than the increases when the Democratic Party controlled Congress. In the area of Pell grants—actually during the Clinton administration, Pell grants were cut; they fell in funding—under this administration, the increases have been on an annual basis about 10 times higher than what the Democrats did during their period. It is dramatic.

Overall, if you were to put it into gross terms, that $4.1 billion annual increase in educational funding, which has come about as a result of the commitment of this President to improving education and backing up those improvements with dollars, represents about an 858-percent increase on an annual basis over what happened when our predecessors were controlling the Congress and we had a different administration.

The practical effect of this has been that we have created so much more money flowing into the educational accounts at the Federal level, unlike what is represented across the other side of the aisle that more money is needed. In fact, what is happening is that we have put so much money into these accounts so fast under President Bush and the Republican Senate that we now have a situation where a large percentage of the dollars which we have already appropriated cannot be spent and have not been spent. In fact, of the $31 billion which has been appropriated under title I or the No Child Left Behind Act, $9 billion remains unspent. It is sitting at the Department of Education waiting for the States to get to a position where they are able to draw down those dollars. And this is not just from last year, this is from 2 to 3 years back, the whole period of President Bush's Presidency.

It is not an issue of lack of dollars. In fact, it is just the opposite. We are putting so many dollars into the educational accounts at the Federal level so fast that, to make sure they are spent correctly, it has made it difficult for the money to actually be spent. We, obviously, do not want to throw the money out there. It has to be spent pursuant to a plan. Every State has to file a plan. But as a result of the increased spending coming through the Bush initiatives, as supported by this Congress and especially by the chairman of this committee, Chairman SPECTER, who has been funding these accounts, we now find there is approximately $9 billion of funds which has not been drawn down.

Today we have before us an amendment proposed by the ranking member of the Appropriations Committee—a man whom I greatly respect and who I think all Senators respect because of his extraordinary history in the Senate—which is proposing to add $6 billion of spending on to the educational accounts. But how is it paid for? I think we need to address that, too, because, of course, all these kids we are educating and trying to make ready to participate in the American dream are going to have to pay the bills we run up on them if we run them up as a deficit.

So we put in place this year a budget. It was an idea that has been brought back, so to say, because when the colleagues across the aisle controlled the Senate last year, they did not put in place a budget. Why? Because a budget requires fiscal discipline and there were, I suspect, some who did not want fiscal discipline, did not want rules which drive fiscal discipline to be put in place so that spending could be controlled through budget points of order.

We had no budget last year. It was sort of a shock really. Here is the Government of the United States functioning without a budget. It was chaos—in fact, such chaos that not only did we not have a budget, we did not have any appropriations passed under the leadership of the last Congress, my colleagues across the aisle.

The first order of business when we took responsibility for this Chamber, under the leadership of Senator FRIST, was to pass all the appropriations bills from the prior year—almost all of them, 11 of the 13 had to be passed in this year rather than last year when they should have been passed. At any rate, we produced a budget this year, and we passed it.

What is the purpose of the budget? The purpose of the budget is to put in place some reasonable fiscal controls so that in a time when we are obviously running very high deficits as a result of a number of factors—primarily the slow economy which has slowed revenues, the war in Iraq, and the war against terrorism—in that context where we are driving, unfortunately, large deficits, not historically extraordinary deficits but still very large deficits—we need to control the rate of growth in those deficits by having in place a budget which at least in some accounts gives fiscal discipline. So we put in place a budget.

The budget allocates to each area a certain amount of money to be spent. Even in the context of the very severe deficit which we have—and it is significant—the Budget Committee, under the leadership of Senator NICKLES, agreed to significantly increase the funding for education to try to meet the goals set out by the President.

In the area of special education, we increased funding by over $1 billion; in the area of title I, we increased funding by over $1 billion in the budget; and in the area of Pell grants, we increased funding by almost three-quarters of a billion dollars in the budget even though that meant that other accounts had to be reduced because to get the budget in place and have it be fiscally responsible, that required, if we were going to increase some accounts, we were most likely going to have to reduce others. We did a budget, and we passed it in the Senate, and it was passed by the House.

We have in place a budget for this country, finally. We renewed the concept of fiscal discipline through a budget after having abandoned it for a year under the prior leadership of the Senate.

That budget sets out these spending goals, these spending limits which are called caps, the amounts which should be spent in these accounts. The leadership of this committee, Senator SPECTER, met those caps and significantly increased by over $1 billion the spending on special education, over $1 billion the spending on title I, low-income kids, and almost $1 billion in spending on Pell grants.

Now we see these amendments coming from the other side saying: Even though we have a budget, we should ignore it and we should fund all these programs, not at the level that has been set by the budget or the level that has been set by the Appropriations Committee, but at the level set by the authorizing committee outside of the budget.

They are using a gimmick of classic proportions, advance funding, to claim that they are really doing it in a fiscally responsible way. Let me explain what advance funding is.

When a Senator offers an amendment which increases spending by $6 billion over what the budget allows, and then that person claims it is paid for because they borrow the $6 billion from next year's budget, that is not fiscal responsibility. That is a game. Anybody sees that as a gimmick. What happens next year? You are $6 billion in the hole. So next year you not only have to pay that $6 billion, you have to pay on top of that whatever you are going to pay for the increase in those accounts.

As a practical matter, it is doubling up the deficit. It would probably be better from a practical standpoint if you did not advance fund and you just said: All right, we are going to add to the deficit $6 billion outside the budget, and we are not going to advance fund.

Advance funding is the worst of both worlds because it takes money from next year, which creates havoc with next year, and at the same time it aggravates the budget deficit issue. So as a practical matter, the $6 billion that is proposed in this amendment will add $6 billion to the deficit, if not this year, next year.

Who pays for that? Who pays for going outside the budget? Well, deficits are paid for by the folks who come here to work, who are students in high school, who are pages. When they get out of college—and I presume most of them will want to go to college—they are going to get a job and that job is going to have a tax burden tied to it. That tax burden is going to be directly related by how much we increase the deficit today, because they are going to have to pay that bill down the road. It is going to come to them, not to us, not to my generation, most likely, but to my children's generation and to my children's children's generation.

So every time we break the budget, we are adding costs to our children. These are the same children we are trying to help. These are the same people we are trying to help as they move through their educational experience. How are we going to help them when we first—well, unless we follow the President's program, we will not give them a great education but, more importantly, when you pass on to them a debt that is outside the discipline which is put in place to live by.

We put this budget in place so we would have fiscal discipline, so we would not be passing on more of a deficit to our kids than is reasonable. Yet these amendments keep coming at us, one after another, saying just add to the deficit, if not this year, next year; don't worry about it; it does not matter; it is for education.

I think it is ironic because the kids who are supposedly going to benefit are the kids who are going to have to pay the costs, and as a practical matter it is not going to benefit them that much. Why is it not going to benefit them that much? Because we already have $9.3 billion of unspent money in these accounts. We have increased them so fast that they cannot be drawn down effectively.

Now let's go to another issue, this concept that the authorized level has to be funded. This is a very unusual concept for Congress, because for all intents and purposes Congress does not fund anything to authorized levels.

Authorized levels are statements of intent, purpose, goodwill. What Congress funds is a budget and appropriated levels. But now we hear, almost as a matter of sanctity, from the other side of the aisle that we have to reach the authorized level or we have abandoned the children of America.

That is a very interesting concept, but they did not subscribe to that concept when they were in control of the Senate. Last time the Democratic membership controlled this body, which happened to be a year ago, they brought forward an appropriations bill under Labor-HHS, which is the bill we are dealing with today, and they funded education. Did they fund to the authorized level? No, they did not. They did not even come close to funding to the authorized level.

This is the difference. This is the authorized level, the black line. This is what the Democratic budget proposed. It is a pretty big gap, about $4 billion. This was what was actually funded in the Democratic bill, which never passed, by the way, nor did the budget because they decided they did not want a budget and they could not pass their bill.

Suddenly there has been an epiphany on the other side of the aisle. Suddenly, the authorized levels are sacrosanct and we must fund the authorized level. Well, I suggest there is a touch of inconsistency, especially in light of the track record we confront when we look at the facts.

So we are turning to the basic underlying point, and that is this: For the first time in at least a decade, and really longer, we have a President who even in a period of extreme national difficulty—war against terrorists who are set on destroying our Nation and killing Americans, and have already done so—and a difficult economic period, although we are coming out of it, hopefully, a President who even during those hard times, where his attention has obviously been drawn off, and appropriately so, to defending America and trying to get us back to work, has continued his focus on making sure children are properly educated in this country, and he is especially focused on low-income kids. That is the uniqueness of what he has done.

Most of us understand that a child from a better-off family is probably going to be taken care of in the educational system, but the low-income child, who comes mostly from broken homes and disproportionately lives in urban areas, has been left behind for generation after generation.

Now we have a President who has said no longer and who is willing to make this his purpose, even during these very difficult times when his attention might and has been drawn off otherwise. He has supported that purpose with huge increases in funding. In fact, in the first 3 years of the Bush administration, he increased funding more for title I in 3 years than the prior administration did in 8 years by a factor of almost 70 percent. The same is true in the special education accounts, and to a lesser extent but to a significant point in the Pell accounts. This is a President who has not only put forward creative and imaginative policy to try to finally get a handle on the fact that so many kids are not learning what they need to know in order to compete for the American dream, has not only put together that policy but has backed it up with real, hard dollars. In the budget this Congress passed, we backed up the President.

Today, the issue is whether we are going to hold that budget, which has these very significant increases in education, or whether we are going to dramatically expand the deficit in what seems to me to be a bit of inconsistency in relationship to what was proposed when our colleagues across the aisle were in control.

This committee, under the leadership of Senator SPECTER, this President, has done the work that needs to be done, lifted the weights that need to be lifted in the area of funding education, and we should be supporting this committee's mark in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator from New Hampshire for those comments.

Before replying to Senator MIKULSKI and Senator COLLINS, we have another amendment which is ready to be offered. I ask unanimous consent that the pending amendment be set aside so there may be an amendment offered by Senator INHOFE and Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1553 TO AMENDMENT NO 1542

Mr. DORGAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. INHOFE, Mr. LAUTENBERG, Mr. CONRAD, Mr. KERRY, Mrs. MURRAY, Mr. DASCHLE, Mr. NELSON of Nebraska, Mr. JOHNSON, Mr. ALLEN, Mr. HAGEL, and Mr. CORZINE, proposes an amendment numbered 1553 to amendment No. 1542.

Mr. DORGAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for the Impact Aid Program)

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for Impact Aid programs, there are appropriated an additional $26,000,000 for Federal property payments under section 8002 of the Elementary and Secondary Education Act of 1965, an additional $160,000,000 for basic support payments under section 8003(b) of such Act, and an additional $1,000,000 for payments for children with disabilities under section 8003(d) of such Act: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $595,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,082,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,596,301,000.

Mr. DORGAN. Madam President, I offer this amendment, along with my colleague Senator INHOFE of Oklahoma. We do so on behalf of our other cosponsors: Senators LAUTENBERG, CONRAD, KERRY, MURRAY, DASCHLE, BEN NELSON, JOHNSON, ALLEN, HAGEL, CORZINE, AKAKA and CLINTON.

I will yield to my colleague, Senator INHOFE, to make his statement, following which I will make a statement about the amendment we just offered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, our amendment adds $187 million to the Impact Aid Program. If it is accepted, that will only put us at two-thirds funding. It is important to understand what this is because it seems as if we have come back every year since 1997 and had some success increasing the percentage of a program that was put on the books in the 1950s.

First, I agree with most everything the Senator from New Hampshire stated. When you come up with something like this, you have to look at it in the context of fairness and the overall budget. In this case, a program came along in the 1950s that replenishes money that was to go to our schools, that the Government has taken away from our schools. It is as simple as that. They federalize land—perhaps in conjunction with an Army post or Indian lands or in conjunction with a military base of some kind—and when that happens, that takes the land off of the tax base. So the money that would have gone from that tax base to the schools is no longer there. However, the kids still have to be educated.

In the wisdom of Congress in the 1950s they said: It is not fair. We will have to at least treat these kids the same as other kids have been treated.

There is an insatiable propensity for politicians to take from programs and nobody will notice. This program started in the 1950s. It was fully funded. It was fully funded up to 1969. In 1969, they started dropping down. In 1996, it was down to 50 percent. In other words, money that would have been there for the benefit of the children being educated, only 50 percent was getting to the kids.

In my State of Oklahoma, in Lawton, since 1966 the impact aid for Fort Sill, which is located adjacent to Lawton, OK, has dropped substantially, down to one-half in 1996 compared to 1969. This amendment would slowly bring this up to the point where we would be at two-thirds funding.

Let me describe what has happened since 1996. In 1996, we were at 50-percent funding. Until 1969, we were 100 percent, and people left the program alone. But in 1969 that changed and it went to 50-percent funding. We have been successful since then, and I commend my friend, the Senator from North Dakota. We do not always agree on issues. We have disagreed on national missile defense. We have disagreed on AmeriCorps and many other issues. This issue is fairness, an issue on which conservatives, liberals, Republicans, and Democrats can agree.

Due to our efforts primarily, it has gone up from 50-percent funding in 1996 to 51 percent the next year, 57 percent the next year, 58 percent 2 years later and, if adopted, it will go up to two-thirds. The kids will still not be treated fairly, nor will the school districts. They still will suffer from the fact that the land went off the tax base. However, at least we are on the right trend line, and we should, in another 3 or 4 years, get to 100-percent funding.

I will relentlessly pursue this in any way we have to in order to get to that point.

Fort Towson public schools in southeastern Oklahoma will gain $51,000 of impact aid if fully funded. This would bring it only to two-thirds funding. As a result, they are having serious problems in these school districts.

Oklahoma is not that much different from other States. In the State of North Carolina, my information is that North Carolina actually has more impacted students than the State of Oklahoma. I don't know where North Dakota stands; I am sure we will hear in a moment. However, it is a fairness issue. Oklahoma is not treated more unfairly than any other State but equally unfairly. The students are not getting the education they need because of one thing, and that is they have had the federalized land taken off their tax base.

I join my friend from North Dakota in trying to pass this amendment. In doing this, a lot of kids throughout America will be treated more fairly. Down the road, in 5, 6, or 7 years we will find this program will be 100-percent funded.

I thank the Senator from North Dakota for the time he has given me and assure him I join him fully in getting this amendment passed for the kids of Oklahoma, North Dakota, and throughout the United States.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I am pleased to work with my friend from Oklahoma, Senator INHOFE. As he indicated, this is an issue that brings support from a bipartisan group of Senators.

I ask unanimous consent to have printed in the RECORD a letter sent on April 14, 2003, to Senator SPECTER and Senator HARKIN, signed by a wide variety of Members of the Senate from virtually every political persuasion and every corner of the philosophical structure around here. It shows the widespread support for the Impact Aid Program and for the funding for this program that was originally promised.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 14, 2003.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Labor, Health and Human Services and Education, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. TOM HARKIN,
Ranking Member, Subcommittee on Labor, Health and Human Services and Education, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SPECTER AND RANKING MEMBER HARKIN: As you know, the Senate Impact Aid Coalition was formed in 1996 to promote and improve the Impact Aid Program. Our coalition has grown from just four Members of Congress in 1995, to its current membership of 45.

Our goal for Fiscal Year 2004 is to increase funding for the Impact Aid Program to $1.375.4 billion, a 15 percent increase over last year's conference report funding level. This increase will help local school districts, which have lost tax revenue as a result of the federal presence in their district, to serve their communities and provide a quality education. This increase is also an important step toward fully funding this program, which currently receives less than half of its authorized funding.

In a time of budget constraints, we understand that you have difficult decisions ahead, but it is our firm belief that as our service men and women set out to defend our country, we must not forget or ignore the children they leave behind. While the focus on national security and homeland defense is necessary to ensure that the well being of the citizens of our great country, we also believe that Congress must fulfill its federal obligation.

As you know, Impact Aid helps to ensure that military children, children residing on Indian lands and in federally-owned, low-rent housing facilities, and dependents of the federal government receive a quality education. We believe that Congress' commitment to Impact Aid is more important than ever. In addition to the funding increase of 15 percent, we ask that you maintain the eligibility of all students to the Impact Aid Program as defined in the No Child Left Behind Act.

We stand committed to the Impact Aid Program and are ready to work with you and your subcommittee on this very important issue. Thank you for your thoughtful consideration of our request.

Sincerely,

Tim Johnson, Chuck Hagel, Jack Reed, John Warner, Max Baucus, Jeff Bingaman, Byron L. Dorgan, James Inhofe, John Kerry, Daniel Akaka, Pat Roberts, Mike Crapo, Jim Bunning, Ben Nelson, Kent Conrad, Hillary Clinton, Frank Lautenberg, Tom Daschle, Charles Schumer, Barbara Boxer, Russell Feingold, Patty Murray, Jon Corzine, Barbara Mikulski, Dick Durbin, Edward Kennedy, Maria Cantwell, George Allen, Carl Levin, and Jeff Sessions.

Mr. DORGAN. Madam President, my colleague has well described this issue. This is not some extraordinary grant program, some program that will deliver something for nothing to some school district in the country. This is keeping a promise. What is the promise? The promise was made in 1950 that when the Federal Government comes in and takes land or has property that is tax exempt, the Federal Government will make a payment to local school districts in lieu of local property taxes. That is what the impact aid is about. We have other similar programs—PILT, or payments in lieu of taxes—but essentially Impact Aid is a promise to our local schools who still have to educate children despite their smaller tax base. Impact Aid says where we have property, and that property is tax-exempt because it belongs to the Federal Government—in most cases, for example, a military base—we will provide impact aid to offset those costs. That is what this is, impact aid.

In 1950, both President Truman and the Congress said let's do this. It is not fair for the Federal Government's actions to adversely impact a local school district's financial situation. So they created the Impact Aid Program to directly reimburse school districts for the loss of revenue caused by the Federal Government.

There are 1,400 school districts nationwide eligible for impact aid payments serving 15 million children. Let me describe just one of them. I toured a school one day in North Dakota some few years ago. It was a school on the edge of an Indian reservation, a public school district but a school district whose property base was largely tax exempt. So it had very little property on its tax rolls, and therefore it could not bond because it had such a small property base. It could not raise a great amount of tax revenue, as well.

This is a school district that was in great difficulty. It had roughly 150 children, two toilets, one water fountain. In the classroom you saw children sitting 30 in a classroom with desks an inch apart. Many were Native-American children. And one little girl named Rosie Two Bears looked up at me and asked: Mr. Senator, are you going to build us a new school?

Regrettably, I could not build a new school for them, but it was an impact aid school. And the question of impact aid funding bears directly on how many children are in a classroom, how many lavatories exist, what the condition of the building is in which they are going to school. In this particular building, they were holding classes in the lower level of the building, but some days they could not hold the classes because sewer gas was backing up on that level. Part of the building was already condemned.

The question for us is, When a young child walks through that classroom door, are they disadvantaged by having to go to a school that is not in good repair? Having to go to a school where classrooms are crowded? The answer is yes, of course.

I wish I could have told this little third grader, Rosie Two Bears, Yes, I am going to build you a new school, but I couldn't do that. I don't build schools. But I do come here with my colleague from Oklahoma to fight for adequate funding for the impact aid program, to say this Government has a responsibility to keep its promise—yes, to Rosie Two Bears, but to other young children across this country.

I indicated we have 15 million children in these schools that are eligible for impact aid. My colleague just told the Senate that if we pass the amendment we have offered we will still only be providing two-thirds of the money we had originally promised years ago as a Federal Government to make up for the lost revenue in these local school districts.

Some say it is a matter of choice. Yes, it is a matter of choice. There are unlimited needs and limited resources. I understand all that. We propose an amendment that adds $187 million.

Let me mention one other fact. The President proposed a cut to Impact Aid that was very significant, as all of us know. The cut was restored back to level funding by my colleagues, Senator SPECTER and Senator HARKIN. But just restoring to level funding means these schools still fall behind because more children are affected in these impact aid schools.

So what Senator INHOFE and I propose is to increase Impact Aid to at least two-thirds of the funding that was promised by adding the $187 million.

Our amendment is offset in 2004 by moving the fiscal year 2004 advance-funding back to fiscal year 2003, which is exactly the same method used by the leadership to increase funding for the underlying bill by $2.2 billion. Some say nothing really is happening out in the impact aid schools that would cause us to have to do this. Let me describe what is happening. Medical Lake

Washington State School District has scaled back its afterschool and summer programs and is not replacing the four elementary schoolteachers who retired. Why? It doesn't have the money. It is an impact aid school.

The Saint Ignatius Montana School District eliminated four teachers, resulting in larger class sizes, and was not able to give raises to its teachers.

The Suttons Bay Michigan School District has reduced the number of teaching positions and initiated a pay-to-play policy for participating in athletics and extracurricular activities, and reduced spending on textbooks.

Oceanside, CA, a big school district, has had to eliminate transportation for 5,000 students in grades 7 through 12, and 139 teachers have been let go.

Grand Forks North Dakota School District reduced staff, delayed textbook purchases, and delayed capital expenditures for technology and facility needs.

These are real examples of what is happening in real schools that has an effect on real kids entering classroom doors expecting to be able to learn. We have an obligation, it seems to me, to keep our promise.

I said this yesterday, and let me make the point again because it is not an unfair point, it seems to me. We are told that the money does not exist to do everything we want to do. I fully understand and accept that. So if the money does not exist to do everything, then the question is how do we prioritize that which we believe must be done? The question for us is where do children rank? Where do you put kids? At the top? In the middle? At the bottom? Where do our kids fall in our priorities?

I mentioned this yesterday and someone said maybe it was unfair that just a matter of months ago Mr. Wolfowitz went to Turkey and said: If you let our troops go through Turkey, we will give you $26 billion, $6 billion in grants and $20 billion in loans. I supported that. The next day I called to find out where did the $26 billion come from, $6 billion of which was direct spending. They said that will come out of our priorities.

So if we had the money for Turkey and didn't spend it, maybe we could use the money that we didn't spend on Turkey to spend on American kids going to classrooms that ought to be better classrooms, going to teachers who have to pay for their own textbooks, going to schools that are in disrepair, that need fixing, going to Rosie Two Bears' school to make that a school we are proud of instead of having it be a school where you walk through a classroom door and discover that young children do not have quite the same opportunity because they are crowded into a room and do not have the same capabilities as other children in other schools.

My point is that this is all a matter of priorities and choices. We make the choices. Not our uncles, not our kids, not our grandpas and grandmas. We make the choices.

I said when I started, and I want to say it again because my colleague from Pennsylvania is on his feet, that I think the Senators from Pennsylvania and Iowa did exactly the right thing in restoring the money that was cut in the President's budget for impact aid. It brought us back to where we should be, at level funding, if the goal is only level funding. But the Senator from Oklahoma and I said, and we believe very strongly, that getting us to just two-thirds of what we had promised we were going to offer to these school districts that are in such desperate financial trouble because they have lost their property tax base—just getting back to two-thirds is not an unreasonable goal. Doing it by adding the money we propose in this amendment is an investment in kids and an investment in this country that will be well worth it.

Again, I say as I close, if you establish priorities in this Senate, it seems to me the first priority is America's future, and America's future is its kids. It is the kids. And education is about preparing those kids for opportunity.

I hope very much my colleagues will accept this amendment. It is a modest amendment. It is bipartisan. It has broad support. My hope and expectation would be that with those who signed the letter in April to the subcommittee, with those who have cosponsored our amendment today, that we will be able to have a vote and be successful in adding this money for the impact aid districts and the impact aid schools around this country.

I know this will be a long and tortured trail on the floor of the Senate for this particular bill. This bill is a very important appropriations subcommittee bill. I serve on the Appropriations Committee and I am deeply honored to do it for a very important reason. It is one of the few committees these days in Congress that is truly, truly bipartisan. We work in a way that respects each other and work together in conferences on appropriations. These are really conferences, not conferences in name in which one side never gets invited, but real conferences. So this is a great committee.

The opportunity on the floor of the Senate to talk about priorities and adjustments in the appropriations process is an opportunity that I do not want to miss. My colleague from Oklahoma would say the same. This is one we do not want to miss.

We thank very much the Senators from Pennsylvania and Iowa for building back that funding which the President cut. We then ask for their support for the proposition that we reach at least a two-thirds funding level of that which was promise to the impact aid schools in this country. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset I say I am very sympathetic to the considerations raised by the Senator from North Dakota. But the issue is where do we find the money?

As I look over a long list of items where we could make offsets and could have cuts, there is not an item or a line that is desirable. Should we cut money from the National Institutes of Health? Or from community health centers? Or from many other lines? The judgment of the subcommittee, backed up by the full committee, is that we made the proper allocation.

I appreciate the comment made by the Senator from North Dakota that we did reinstate the funds. The administration had made a request which would have reduced the funding from last year by $187 million. The subcommittee and the full committee have put that money back. I think it is worth noting, since 1996 when the funding was $693 million, to fiscal year 2003 when the funding is $1.188 billion, that is a 71.5-percent increase. Regrettably, that is about as far as we can go.

At the appropriate time, for the information of the amendment's sponsors, I am constrained to raise a point of order. The leadership has advised the preference is not to vote until about 5:45. That does not lock in a vote but that is the leadership's position because a number of Senators are off the floor at this time.

I, again, urge my colleagues to bring amendments to the floor. We have a list of about 40 amendments. In a relatively short amount of time that quorum call sign is going to go on. As I have said on a couple of occasions, on August 1 and before the recess, the majority leader and I had a colloquy and talked about going to third reading. My experience at the Senate has been there have been long delays. Senators do have amendments but wait to bring them. I know that requires planning, but the Senate has been on notice for more than a month that this bill would be taken up on September 2. If we are to complete action on this bill, we are going to have to have the cooperation of the Senate.

If this bill is not signed by September 30, this bill will lose $3 billion. That is what it will cost if this bill is not signed by the President by September 30. If there is to be any realistic chance of having the appropriations bills finished by and large by September 30, there is going to have to be cooperation by Senators who have amendments but who haven't brought them to the floor. We were assured one Senator would be here at 4 o'clock. Now word has come that the Senator is not going to be ready. That puts the managers, who have the responsibility for moving this bill ahead, at a severe disadvantage.

Mr. DORGAN. Madam President, will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. In a minute.

I understand I don't have the unilateral authority to move to the third reading, but I am going to try to do that if we don't have amendments come to the floor and if we have to wait through quorum calls for protected other business which is not related to this bill.

I would be glad to yield for a question.

Mr. DORGAN. Madam President, I have an observation in the form of a question. Would it be a good incentive for those who take seriously and come to the floor with amendments to offer them quickly and do so in rather short order, as Senator INHOFE and I have done, especially when it is an amendment of great merit? Would it set an example for it to be accepted by the chairman of the subcommittee? That probably is a rhetorical question. Let me ask further, if I might: What point of order does the Senator intend to make against amendment?

Mr. SPECTER. The point of order would be under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds the discretionary spending limit in this section and is therefore not in order.

The Senator raises a very tempting offer. I might almost be tempted to say that any amendment that gets to the floor before 3:59 we would be willing to accept, meritorious or not. That is very much in the eye of the beholder. Of course, I can't quite do that. But I thank the Senator from North Dakota for his diligence in coming to the floor and speaking on an earlier amendment and offering this amendment.

Mr. DORGAN. Madam President, what reward does the Senator from Pennsylvania suggest for that good behavior?

Mr. SPECTER. What was that?

Mr. DORGAN. I was just asking what reward he would suggest for that good behavior. I suggest perhaps a good lesson for others might be to see this meritorious amendment accepted by the chairman. There would a rush here in droves to offer them very quickly. But the Senator could think about that for a moment.

I wish to ask this question about the point of order. The amendment Senator INHOFE and I have offered is an amendment that dutifully increases part of this bill that we think is critically important, one that still falls far short on the promise that has been made over the years in the funding mechanism we use. It is the funding mechanism, I believe, that in part is used in the underlying bill itself. I guess I am a bit confused about a point of order lying only against our amendment or against some broader construct of what is happening here in the Senate.

Mr. SPECTER. Madam President, parliamentary inquiry: What is the answer to that?

The PRESIDING OFFICER. The same defect would apply to the amendment offered by the Senator from Pennsylvania.

Mr. DORGAN. Madam President, let me make an observation. I do not criticize the defect in the underlying bill. My hope is that the Senator will not criticize the identical defect in the amendment. What I have done, along with my colleague, Senator INHOFE, is offer an amendment that embraces exactly the same approach that is used by the Senator from Pennsylvania and the Senator from Iowa in funding the underlying bill. I take no exception to that at all. I am fully in support of that. Based on that, I hope the Senator from Pennsylvania will not raise a point of order against the amendment.

Mr. SPECTER. Madam President, I do not seek to enter into a disagreement with the distinguished Senator on the point he just raised. But as manager of the bill, I feel constrained to raise the point of order at an appropriate time. I thought I would give the Senator from North Dakota notice of that.

Mr. DORGAN. Madam President, let the Senator from Pennsylvania and me and others discuss that off the floor. The only reason I raise the question is that offering an amendment which uses an identical funding source or the mechanism that is identical to the funding source offered by the subcommittee is one that I thought would not engender a point of order. At any rate, we do not intend to vote on that at this moment. My understanding from the Senator from Pennsylvania is that this will probably be dealt with later this afternoon. If that is the case, perhaps we can discuss this between now and then.

My hope is that the Senator from Pennsylvania will not raise a point of order and give us an opportunity for an up-or-down vote on the merits of the amendment inasmuch as the same funding mechanism used in the underlying bill and the same defect would occur in both.

Mr. DAYTON. Madam President, will the Senator from Pennsylvania yield for a question? If he is looking for amendments, would the Senator be willing to entertain one from this Senator when this discussion is concluded?

Mr. SPECTER. Does the Senator from Minnesota have an amendment he wishes to offer?

Mr. DAYTON. I have an amendment. Recognizing the generous offer of the chairman of the subcommittee with the 3:59 deadline racing to a conclusion, the magnitude of the offer by the Senator from North Dakota is so modest by comparison that it should enhance his chances.

Mr. SPECTER. Madam President, may I inquire of the Senator from Minnesota whether the amendment relates to this bill?

Mr. DAYTON. The Senator is correct. It relates to funding for the IDEA.

Mr. SPECTER. The amendment does relate to this bill?

Mr. DAYTON. Yes. The Senator is correct. It relates to the funding for IDEA.

Mr. SPECTER. Madam President, if the Senator has an amendment relating to this bill, it certainly will be welcomed. I ask the Senator from Minnesota if he would be willing to defer offering the amendment to give the Senator from West Virginia an opportunity to speak for 10 minutes in advance of offering that amendment.

Mr. DAYTON. I will gladly step aside for the Senator from West Virginia at any time. I hope the 3:59 offer might be extended to include 30 seconds after the Senator concludes his remarks.

Mr. SPECTER. Madam President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the Chair.

Madam President, I thank both of these illustrious Senators, the Senator from Pennsylvania who is managing the bill before the Senate, and I thank the distinguished Senator from Minnesota for his courtesy and kindness.

I will be brief. I do intend to speak out of order. I ask unanimous consent that I may speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BYRD pertaining to the introduction of S. 1576 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Minnesota.

AMENDMENT NO. 1554 TO AMENDMENT NO. 1542

Mr. DAYTON. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 1554.

Mr. DAYTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for part B of the Individuals with Disabilities Education Act)

At the end of title III, insert the following:

SEC. 306. Notwithstanding any other provision of this Act, the total amount appropriated, out of any money in the Treasury not otherwise appropriated, to carry out parts B, C, and D of the Individuals with Disabilities Education Act shall be

$22,109,931,000, of which $20,941,000,000 shall be available to carry out part B of the Individuals with Disabilities Education Act (other than section 619 of such Act).

Mr. DAYTON. Mr. President, this amendment would meet a 27-year-old promise made by the Federal Government to the States and to the school districts when IDEA was established. The promise was that the Federal Government would provide for 40 percent of the costs, the additional costs of providing special education services to every eligible schoolchild. It is one of the most important commitments the Federal Government has made for public education, especially at the elementary and secondary levels, and the money could not be better spent on behalf of leaving no child behind.

Sadly, at least in the State of Minnesota—and I know, from the observations of other Senators, in many other States—the funding presently is seriously inadequate to provide all of those services.

In Minnesota, some $250 million a year shortfall exists in funding for special education which results in education dollars having to be shifted from regular programs and services to special education to meet the statutory requirement of school districts to provide services to every qualified schoolchild. The result is that in Minnesota all the students are harmed by the underfunding of special education, those who are the recipients of those services, as well as those who see dollars shifted from other programs for their benefit.

IDEA funding for part B for States in the current legislation before us is set at $9.858 billion. To bring that funding up to the 40-percent level, according to the Congressional Budget Office, would require an additional IDEA part B funding of $11.082 billion. It is noteworthy that the increase exceeds the appropriated amount. Another way of looking at that is that the current level of appropriated dollars is less than half—less than half—of what is necessary to meet that 40-percent level that was committed to by the Congress 27 years ago.

I heard the distinguished Senator from New Hampshire earlier on the Senate floor reference the increases in funding for special education that President Bush has proposed, and I commend the President for doing so. I have not served during the period of time which the Senator from New Hampshire referenced, so I do not have the basis for comparing the period of time during the 1990s that he referenced under the former administration with the circumstances that this President is faced with, but it is enough for me that President Bush has proposed in each of his budgets an increase in funding for special education, and he should be credited for doing so.

But the fact remains that even with those increases up until this year, the Federal share of funding for special education nationwide is approximately 17 percent of those total costs. In other words, still, despite those increases over the last 3 years, it is less than half of what the Federal Government promised over a quarter century ago.

I recognize that the distinguished Senator from Pennsylvania, with his responsibilities to the budget and to an allotment for the subcommittee's appropriations, has to or is likely to object to this amendment, despite it being inserted just before the 3:59 deadline. I recognize this is an amount that goes way beyond the current mandate of the subcommittee. But as my colleague from North Dakota said so eloquently just a few minutes ago, what we are really talking about as we consider these different amendments in a broader sense is, What are our priorities as a Senate?

What are our priorities as a Nation? Do we really mean what we say, that no child shall be left behind? Are we willing to put forward the necessary resources to accomplish that? Or is that just a rhetorical statement without proper attribution from the Children's Defense Fund and, whereas that esteemed organization has championed the resources and the commitments that would be necessary to actualize that statement, we in this Congress and, with due respect, the administration have still fallen short of that responsibility.

We had, when I came into office, an incredible opportunity because we were looking at projected surpluses for the next decade of some $5.4 trillion. That is a marked difference from the circumstances which President Clinton faced throughout most of his administration when he was bringing the Nation out of the previous era of deficit spending, when he finally, through collaboration with the Congress—the Senate and the House—during the last 4 years of his administration succeeded in balancing the combined Federal budget. In fiscal year 2000, he achieved for the first time in 4 years—and probably for the last time in 40 or more years—a surplus in the non-Social Security part of the Federal budget; in other words, education, health care, and the like—everything except for Social Security, which at this point, this year, is running about a $155 billion projected surplus; the rest of the Federal budget was balanced. We had the resources projected that would have kept that operating budget in a surplus mode for each of the next 10 years, according to both the CBO and the OMB when President Bush's administration took office in January of 2001. I thought then, as I offered this amendment at that time, that we had a tremendous opportunity we should not let go by to bring this funding immediately up to the 40 percent promised level.

That year, in a bipartisan and very genuinely committed way, there was an amendment that was adopted by the Senate that would have brought full funding for special education up to the promised 40 percent level over 6 years—5 years too long in my estimation, but it passed the Senate. It went to conference with the House. It resulted in a protracted conference committee of almost 6 months.

My esteemed former colleague, the departed Senator from Minnesota, Paul Wellstone, was championing this measure, among others, in that conference committee and insisting that the Senate position of building to 40 percent funding for special education over 6 years be honored and kept in the conference report. The House resisted and was adamant, and, unfortunately, at the very end of the conference, the Senate conferees agreed to the House position, causing my colleague, Senator Wellstone, to vote against that conference report, as did I.

Since then, we have all recognized that the fiscal circumstances of the Federal Government have changed dramatically. I find it a little bit disingenuous for the distinguished Senator from New Hampshire to be taking credit for the spending increases for education, which he ascribes to this administration and this Congress; yet, every time somebody from this side of the aisle proposes also to increase spending for education, suddenly our side of the spending equation is bad spending and his side of the spending equation seems to be good spending. As far as I am concerned, it can be Republican spending, Democratic spending, or Independent spending for education, and it is good spending. I don't care which administration, which session of Congress, .or which Members of Congress can claim credit for that. I just want the credit to be there to be claimed because I know the beneficiaries are the students of Minnesota and, I suspect, all over the rest of the country.

I am also perplexed when I hear the Senator from New Hampshire, who chairs the HELP Committee of the Senate—his expertise and knowledge of these matters is widely respected by colleagues on both sides of the aisle. But when he says, in effect, as he did earlier today, we have put so much additional Federal money into public education at the K through 12 level that the school districts aren't able to spend that money fast enough—a couple of months ago, I heard the Senator state on the Senate floor there was a surplus of Head Start positions available nationwide, so there were more slots available than there were people who wanted to get their children into a Head Start program.

I truly hope if those surplus funds are available, be it from New Hampshire or any other State, they will be put into a reservoir that could be drawn from by other States. I know in the case of Minnesota—I heard the Senator from North Dakota state the same and I heard a number of other colleagues, including Senator PRYOR of Arkansas—I ask unanimous consent that he be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. He also shared the circumstances with me of the State of Arkansas. When I run by the educators in Minnesota the assertion made on the Senate floor that there is a surplus of Federal funding for these programs, I get absolutely incredulous looks. I find far more concurrence with the Senator from North Dakota, who observed teachers in his State who are reaching into their own pockets for hundreds, even thousands, of dollars, who go without expenses for basic program materials, educational materials, trips to educational enrichment opportunities, and the like that cannot be funded out of regular budgets.

In Minnesota, there is an estimated $250 million shortfall of special education money because of this underfunding of the Federal commitment, which I can assure my colleagues every one of those dollars would be spent swiftly and necessarily and would benefit students throughout my State if they were made available. So where these surplus dollars are that States and school districts elsewhere don't need, where the additional slots for programs such as Head Start are residing that are not being filled, I guess I would certainly like to see where that exists.

I urge the Secretary of Education, if it is in fact the case, that those funds and those slots be reallocated as swiftly as possible to States like Minnesota, who need them and could benefit from them.

Yes, Mr. President, my amendment exceeds the budget as it exists today. I note that when the budget for this fiscal year began, we were looking at a deficit, we were told, of about $260 billion, if memory serves me. Now we are told that we will exceed $500 billion. We are asked rhetorically where will the money come from for these expenditures. I answer rhetorically, from the same place the other $240 billion that has been added to the deficit this year will come from. And the Senator from New Hampshire is right—that will come from payments made by taxpayers in the future. But if we are going to spend $100 billion, as some experts estimate we will, over the next year in Iraq, if we are going to spend 10 percent or 15 percent of that amount in Afghanistan, if we are going to spend $15 billion to address the AIDS crisis in Africa over the next few years, as the President proposed—and those are all either necessary or very worthwhile humanitarian and strategic expenditures, but if we are talking about additional spending on the magnitude of $15 billion, $100 billion over the course of a year, how is it that we always run out of resources when it comes to children, when it comes to especially schoolchildren with special needs, when it comes to those who will be left behind in Minnesota and I suspect will be left behind in 49 other States if these additional resources are not provided?

I thank the chairman of the subcommittee for the opportunity to offer this amendment. I hope it will be considered in the broader context of the priorities of this body for the children of today and tomorrow. I respectfully suggest it is money that will be extremely well spent. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. REID. Mr. President, will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I will.

Mr. REID. Mr. President, it is my understanding that the manager of the bill is working to set up a series of votes beginning at 5:45 p.m. today; is that right?

Mr. SPECTER. Correct.

Mr. REID. Just to alert Members, we are going to have one, possibly three votes at 5:45 p.m.; is that right?

Mr. SPECTER. Correct.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had commented earlier today that there was an expectation of voting at 5:45 p.m., that there were a series of meetings at the White House and other places which would keep Senators away from the floor until that time. I just responded to the question from the Senator from Nevada that it is the likelihood, but it is not locked in, that we will vote at 5:45 p.m. How many votes we will have we are not certain at this point.

I thank the distinguished Senator from Minnesota for offering this amendment. The issue on special education is one of great importance. The Federal Government does have a responsibility to come to the 40 percent level. We have been far from it, but we have made very substantial progress. I think it is accurate to say even enormous progress.

Over the course of the past several years, we have made major increases. When I became chairman of this subcommittee in 1995, in conjunction with Senator HARKIN, we made special education a priority, and for the fiscal year 1997, we increased special education by approximately $800 million. The next year, $700 million. The following year, $500 million. The year after that, $580 million, $450 million, $1.2 billion, $1.3 billion, and this year there is a projected increase of approximately $650 million.

If you take a comparison from the year 1994, the special education appropriation was slightly over $2 billion, $2.05 billion. This year we are projecting it at $9.85 billion, which is almost four times as much, almost 400 percent, slightly less. So we have moved up very materially.

I do not have the statistics prior to the year 1996 on the Federal share per student spending, but in 1996, it was 7.3 percent. We have now advanced that to 18.7 percent. We are almost halfway to 40 percent.

If we were to fully fund IDEA, it would take another $11 billion to $12 billion on top of the amount of money which we have allocated. While I have deep respect for the amendment offered by the Senator from Minnesota, I think it might even be possible he does not have an expectation that we are going to have $11 billion or $12 billion more for this item, much as we would like to and much as the Federal commitment is there. But I think the progress has been enormous.

I make a special compliment to the senior Senator from New Hampshire, Mr. GREGG, who has been at the forefront of this item, going back to his earlier days in the House and his earlier days as Governor of New Hampshire seeing the importance of this item.

It is an item of great importance for me. We are making a lot of progress. It would be nice to do more, but I think everyone understands we are far from being able to add an additional $10 billion, $11 billion, $12 billion here.

Again, for purposes of information, I will be constrained to raise a budget point of order when we take up this matter for a vote at the appropriate time.

Mr. President, let me again issue a call for amendments. Third reading may be as remote as full funding for IDEA, but it is an idea whose time may come, if not this afternoon, perhaps this evening or perhaps tomorrow morning.

AMENDMENT NO. 1552

Mr. President, I have not made any manager's comments on the amendment offered by Senator MIKULSKI and Senator COLLINS on the nursing issue. That is an item of great concern. There is a tremendous nursing shortage in the United States. The Mikulski-Collins amendment seeks to raise the funding from $112.7 million to $175.7 million for a $63 million increase.

I note that there have been increases of a very substantial nature. In 2001, there was an increase of 23 percent. In 2002, there was an increase of 10.6 percent. In 2003, there was an increase of 21.6 percent. And the items are funded on a level this year. It is relevant to note that on the funding for the National Institute of Nursing Research that there has been an increase this year from $130.5 million, approximately, to $135.5 million, for a $5 million increase.

I think it is also appropriate to note that we assisted the nurses in their effort to have standing to anesthesiology where we finally worked out an arrangement where it would be up to the Governor of each State to authorize payments, Medicaid-Medicare, to nurses who are so certified so that they did not have to necessarily be an M.D. anesthesiologist. The nursing issue is one of tremendous concern.

As I look over the Mikulski-Collins amendment for an additional $63 million and I look over the items which we are funding in an effort to see if we couldn't make some accommodation, it is a matter of staying within our 302(b) allocation or cutting somewhere. I do not think anyone would like to cut low-income home energy assistance or community health services or Head Start or the NIH.

As we wrestle with the import of the Mikulski-Collins amendment, we are seeking a way to, if it is possible, have some offset which would enable us to find a way to increase funding for nursing. But an offset is going to require a cut somewhere, and that is the managers' responsibility to try to balance out all of the competing interests.

Mr. President, if there still is no Senator on the floor and no one has heeded my latest call to come to the floor, in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

(The remarks of Mr. DAYTON are printed in today's RECORD under "Morning Business.")

Mr. DAYTON. Also, Mr. President, I have been here this afternoon and have expressed my concern for the measures in the Federal Aviation Administration conference report.

I am not going to consume time since we are proceeding to a time of voting on some of these important education amendments, including one of my own for funding for special education. But I do want to say again that this matter, before it comes before the Senate, must be resolved, or I will have to be back here in more of an obstructionist mode than I was called upon to do today. And that would be something I would prefer to avoid and see this matter resolved in some other way. I will be working with my colleagues to see that occurs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the vote in relation to the Dorgan amendment No. 1553 occur today at 5:45; further that following that vote, the Senate vote in relation to the Dayton amendment No. 1554; provided that no amendments be in order to either amendment prior to the votes; finally, there will be 2 minutes equally divided for debate prior to the second vote.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, is the manager of the bill going to raise points of order on these two amendments?

Mr. SPECTER. Yes, I had previously stated that I would raise points of order.

Mr. REID. I am wondering if we might be able to accomplish that now to save a little time so we might not have to go through that later.

Mr. SPECTER. Mr. President, I would be agreeable to doing that. With respect to the Dorgan amendment, I raise a point of order, under section 504 of the concurrent resolution on the budget for fiscal year 2004, that the amendment exceeds discretionary spending limits specified in this section and is therefore not in order.

Mr. REID. I would move to waive that and ask unanimous consent that we be able to handle both of these points of order at the same time. I ask unanimous consent that it be in order to waive the two points of order en bloc. And then I would ask for the yeas and nays.

Mr. SPECTER. Mr. President, it is agreeable with me. I had intended to say that as to the Dayton amendment, I raise a point of order under section 302(f) of the Budget Act, as amended, that the amendment provides budget authority and outlays in excess of the subcommittee's 302(b) allocations under the fiscal year 2004 concurrent resolution on the budget and is not in order. And if the Senator from Nevada is saying he wants to raise two motions to waive en bloc, that is fine.

Mr. REID. That is the wish of the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it shall be in order to raise both points of order at this time.

Mr. SPECTER. Parliamentary inquiry: Obviously it is going to require two votes on the waiver of the points of order to the two amendments.

The PRESIDING OFFICER. That is correct. Without objection, it is so ordered.

Mr. DAYTON. May I ask the Chair, the intent is to have the vote on the Dorgan-Inhofe amendment followed by 2 minutes equally divided between myself and whoever, followed by a vote on waiving the Budget Act on my amendment.

Mr. SPECTER. The statement by the Senator from Minnesota is accurate.

The PRESIDING OFFICER. Without objection, the motion to waive is considered made on both points of order.

Mr. SPECTER. Mr. President, I don't see any other Senator on the floor to offer an amendment.

Mr. REID. Mr. President, if the Senator will allow me to, I ask unanimous consent that it be in order that the yeas and nays be allowed on both waivers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

A TRANSPORTATION BILL

Mr. REID. Mr. President, prior to September 11, I proposed legislation called the American Marshal Plan. This legislation received the support of the National Council of Mayors and other governmental entities, recognizing that it was extremely important that our country do something about the deteriorating infrastructure. Hearings were held. We had mayors from around the country testify as to the state of the infrastructure in their cities. We were moving along very well until September 11 and then we were certainly distracted from this and many other things. We have been trying now for many months.

I am ranking member of the Subcommittee on Transportation. There is no bill more important to States—I say that without any question—every 6 years than the 6-year Transportation bill. It deals with highways, but it also importantly today deals with mass transit. I think it is a blot on this Congress that we do not have a Transportation bill. We have not even had a markup in committee. I am terribly disappointed that this is the case. We will not be able to do a highway bill this year.

It only makes sense that when we haven't had a markup in committee on a bill that is going to handle the highway and transit needs of this country for 6 years, it takes a little bit of discussion in the subcommittee, in the committee, and certainly on the floor. I would hope that the Republican leadership is at least anticipating that we will do a reasonable extension so that States around the country can at least go forward. It is better than doing no bill.

The State of Nevada is a rapidly growing State. We have tremendous highways needs, and now with the tremendous growth that has taken place in the Las Vegas and Reno areas, we have mass transit needs.

We are in the process of opening a monorail system. We are anticipating a light rail system. We have needs not only for our highways but also our mass transit. This is the way it is all over the country. It is beyond my ability to comprehend how we talk about all that we are going to do but have not mentioned the highway bill.

I am reminded of your father, the chairman of the full committee, who did a highway bill. I served on that committee. I have served on that committee since I have been in the Senate. The late great John Chafee pushed a highway bill. He was a person who was able to compromise. He understood that legislation is the art of compromise. But in this forum we are now in, it is either their way or no way. We have no bill.

I worked, when I first came here, with Senator Stafford of Vermont. He is a wonderful gentleman to whom I wrote a letter recently. I can't remember, I think it was on his 90th birthday. He was old and still very healthy. We have done a highway bill with Senator Moynihan, Senator BAUCUS. It appears we will not do a highway bill now. I think that is just bad government. I don't know how anyone can take pride in not having a highway bill. We have funding problems.

Remember, these are not taxes that we are suddenly going to assess the American people to pay for highway and transit. Every time someone goes to buy a gallon of gas for their car, they pay a tax; it goes into a trust fund. We use these trust fund moneys for these bills that come up every 6 years. People ask, Who is paying for mass transit? A decision was made many years ago that because every person we put on mass transit takes pressure off the highways, we would allocate about 20 percent of our highway funds to mass transit.

It helps our highway programs generally. All we want to do is spend the trust fund money, but this administration will not let us do that. They are afraid if we spend the money in the trust fund—it should not be a slush fund; it is a trust fund—they are afraid if we spend the money collected for the purpose of building highways, we will make the deficit look bigger. I don't know how we could make it look bigger. The deficit now is about $500 billion, and if we add the Social Security surpluses, which are masking the deficit, it is near $600 billion for 1 year, the largest deficit in the history of this country by far.

Also, people are trying to rewrite the endangered species act, clean air act, and historical preservation laws in a highway bill. That is not the place to do that, Mr. President.

I hope some attention will be focused on what this Senate is not doing, not passing a highway bill. If we do not do a bill at the right time, we will have problems letting construction because some States have very cold weather and they have to plan their construction needs to meet the weather of that particular State. If we fail to pass a long-term bill, it takes away all the ability of State highway engineers, managers, and State highway directors to plan ahead. The way we are able to get the most money out of the trust fund dollars is to do a 6-year bill. Doing a bill a year at a time costs a lot more money.

There are issues that are on the must-do list. I don't know the exact number of times we have voted on whether to invoke cloture on Estrada, who wants to be a circuit court judge, but I think it is seven, eight, maybe 10 times. It is a total, absolute waste of the Senate's time. A vote has not changed from the time the first vote occurred to the last one, but yet it is time the Senate is taking. Why aren't we spending that time on the highway bill?

A lot of time is spent by the majority talking about the Senate Democrats are so hard to deal with; they are not allowing the President to have his judges. We have approved—I don't know the exact number; I think it is around 140—140, and we have not approved three. We waste so much time here on issues that do not advance the needs of this country.

The appropriations bill is an important bill. I think we have had some important discussion and debate. Tomorrow we have 11 amendments lined up to be offered on this bill. It is important we move this bill as quickly as we can. But in the process, talking about the things that we must do, I would hope people would understand the importance of a highway bill: For every billion dollars we spend on highways or infrastructure development generally, 47,000 jobs are created, high-paying jobs. That does not include the jobs that spin off from those jobs. For every one of those 47,000 people working, they are able to buy a new car, recarpet their home, buy a home, buy a TV set, and then in turn other people work.

I guess this administration is not worried about employment, which is obvious. The previous administration, the Clinton-Gore administration, created about 23,000,000 or 24,000,000 jobs. Going back to the time of Herbert Hoover, under this administration, it is the first time a President has had a net job loss, which is over 2 million jobs now. It seems to me it would be a good idea for this administration to join to do something to push a highway bill to put out billions of dollars for construction which creates hundreds of thousands of jobs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE OF S.J. RES. 17

Mr. DORGAN. Mr. President, today I have submitted the requisite number of signatures in order to discharge S.J. Res. 17 in accordance with the requirements of the Congressional Review Act.

The discharge is as follows:

> We the undersigned Senators, in accordance with chapter 8 of title 5, U.S. Code, hereby direct that the Senate Committee on Commerce, Science and Transportation be discharged of S.J. Res. 17, a resolution on providing for congressional disapproval of the rule submitted by the Federal Communications Commission relating to media ownership, and, further, that the resolution be immediately placed upon the Legislative Calendar under General Orders.
>
> Byron L. Dorgan, Ted Kennedy, Kent Conrad, Ernest F. Hollings, Mark Pryor, Jon Corzine, Frank R. Lautenberg, Russell D. Feingold, Harry Reid, Patty Murray, Barbara Boxer, Ron Wyden, Richard J. Durbin, Debbie Stabenow, Blanche L. Lincoln, Dianne Feinstein, Susan Collins, H. R. Clinton, Bill Nelson, Charles E. Schumer, Tom Carper, Olympia Snowe, Wayne Allard, Saxby Chambliss, Ben Nighthorse Campbell, Tom Daschle, Max Baucus, Paul Sarbanes, Jack Reed, Trent Lott, Joe Lieberman, Mary Landrieu, Kay Bailey Hutchison, John Kerry, and Jay Rockefeller IV.

Mr. DORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1553

The question occurs on the motion to waive. The point of order is made under section 504 of H. Con. Res. 95.

The yeas and nays have been ordered.

The Senator from North Dakota.

Mr. DORGAN. Was it in order to have 1 minute of debate prior to the rollcall vote?

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, the manager of the bill, the Senator from Pennsylvania, has made a point of order against my amendment, which I think is curious. I made the point that the same point of order, I expect, would lie against the entire bill. The Senator from Pennsylvania asked the Chair that question, and the Chair said yes, both my amendment and the underlying bill have the identical defect.

I think it is interesting that then a point of order is made against this amendment. The amendment I am offering is a bipartisan amendment with Senator INHOFE from Oklahoma. It provides $187 million in restoration of funding to the impact aid program.

This is about kids. It is about helping kids and helping schools educate kids.

This is money that is owed to these school districts. Even with this amendment, we will fund only two-thirds of what we promised we would do back in 1950.

Again, I make the curious point that a point of order has been made against this amendment, so we will have a vote on waiving the point of order. It is exactly the same point of order that I understand exists against the underlying bill, because Senator INHOFE and I used exactly the same mechanism to pay for this amendment as did the folks who constructed this subcommittee bill.

I ask that my colleagues join me in waiving the point of order.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I believe the opposition has spoken previously. I yield back all time and ask for the recorded vote to proceed.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 43, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—53

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Bunning
Byrd
Campbell
Cantwell
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dole
Dorgan
Durbin
Edwards
Feingold
Feinstein
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Warner
Wyden

NAYS—43

Alexander
Allard
Bond
Brownback
Burns
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NOT VOTING—4

Graham (FL)
Kennedy
Kerry
Lieberman

The PRESIDING OFFICER (Mr. ALEXANDER). On this vote, the yeas are 53, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. FRIST. Mr. President, for the information of our colleagues, the next vote will be the final vote tonight. I encourage Members who have amendments to offer those tonight so we can begin voting in the morning. But the next vote will be the last vote for tonight. Please talk to the managers and come forward to offer your amendments as soon as you can.

Mr. SARBANES. Mr. President, will the leader yield for a question? What time does he expect the vote in the morning?

Mr. FRIST. There has been no time set for a vote in the morning.

AMENDMENT NO. 1554

The PRESIDING OFFICER. There are now 2 minutes evenly divided prior to the vote on the Dayton amendment.

Mr. DAYTON. Mr. President, my amendment increases funding for IDEA part B by $11.8467 billion for fiscal year 2004, which is the amount the Congressional Budget Office has determined is necessary to bring Federal funding up to the 40-percent level that was promised 27 years ago. The funding being allocated for fiscal year 2004 would provide 18.8 percent, or less than half of that 40 percent promised over a quarter century ago.

President Bush deserves credit for increasing the funding for IDEA in each of his three budgets. The Senate deserves credit, along with President Bush,. for increasing that funding. But the fact remains that we are still less than half of what was promised 27 years ago. I know for my State of Minnesota that is money that is desperately needed not only for better special education but for better quality education for all schoolchildren because money has to be diverted from regular programs over to special education. This is money we can find.

I propose that the budget point of order be waived, and I thank the Chair.

Mr. SPECTER. Mr. President, I ask that the Senate be in order so that I can make an argument in opposition to this motion to waive.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, we would always like to have more money for virtually every line on this appropriations bill. There has been an enormous increase in funding for special education—last year, $1.3 trillion; the year before, $1.2 trillion; this year, an increase of $650 million. On a 10-year period, we have practically a 400-percent increase.

There has been enormous progress made from 1996 when the Federal share for students was 7.3 percent. Now we are almost at 19 percent, almost at half of the 40-percent goal. While we would like to have additional funding, it would cost about $11 billion more to adopt the amendment and waive the Budget Act.

I do so reluctantly but emphatically.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to waive the point of order made under section 302(f) of the Congressional Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 54, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—42

Akaka
Baucus
Bayh
Biden
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—4

Graham (FL)
Kennedy
Kerry
Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Illinois is recognized.

AMENDMENT NO. 1543

Mr. DURBIN. Mr. President, it is my understanding that one of the underlying amendments is the amendment offered by Senator ROBERT BYRD of West Virginia.

During the August recess, I visited many of my State's cities and home school districts, stopping in to meet with principals, teachers, parents, and students to talk about the state of education in Illinois. We have many fine schools, there is no question about it. But we are also being challenged by the fact that we face a sizable State deficit. This year our Governor, Rod Blagojevich, had to find $5 billion in savings out of our State budget, a substantial amount, making cuts in many areas. He tried his best not to cut into State funding for education. Despite his best efforts and the efforts of the general assembly, most of the school districts I visited are facing serious hardships.

Let me give one illustration. In Elgin, IL, they recently constructed four new school buildings that were to be opened this year. But because the Elgin School District has fallen so far behind in State and local assistance, they will be unable to open those buildings. So there sit four brand new schools which don't have the staffing and certainly don't offer better amenities than the older schools offered; they just cannot be opened. It is an indication of the problems faced by many school districts in my State and across the Nation.

When President Bush was elected, he came to Congress and said he wanted to be the education President. He suggested that we try a bipartisan national approach to establishing better standards of accountability for education across America. The President proposed No Child Left Behind. It was a unique concept, one which called for regular testing of students to determine whether they were making progress and, absent that progress, changes would have to take place in the school district. You would have to find better teachers or a better school environment, principals who were more efficient in delivering educational quality, and certainly demands would be made for better teachers. All of these objectives were very positive.

I sat on the Senate floor and behind me at this seat was Senator Paul Wellstone of Minnesota. Paul had a passion for education, a teacher by his own profession. He was a great critic of No Child Left Behind. Despite the fact that there was strong bipartisan support for the President's program, Paul Wellstone would stand there with his microphone day after day and speak to the Senate and the people watching across America and say: Listen, tests are important, but education is about more than just testing. He would say, incidentally, if you pass the President's bill, you are going to have to come up with the money to make certain these kids have a chance. If the scores don't meet the norms or standards you expect, what are you going to do? Are you going to help them or merely diagnose the problem and walk away from it? He was skeptical that when the time came, we in the Congress would appropriate the money to make No Child Left Behind work.

That was Paul Wellstone's speech day after day, week after week, month after month. Ultimately, he voted against the bill. I voted for it, but I remembered what he said. Then I went back to Illinois and visited school districts, large and small, rural and urban, districts in growing areas of our State and districts in economically depressed areas of our State. I found that many of them were echoing what Paul Wellstone said in opposing No Child Left Behind. They were talking about the burden on a teacher who comes to a classroom at the beginning of the school year realizing that teacher will ultimately be tested in a high-stakes test at the end of the year. What that test meant to the students, to the school, and to the teacher was that in order to get good grades on the test, teachers were kind of changing the way they taught. They were no longer teaching in a creative and innovative fashion, but they were focusing on answers to the test questions. School administrators, incidentally, said: Senator, we are a little concerned that the promises made by the Bush administration to send money to school districts to meet the mandates of No Child Left Behind are not going to be fulfilled. The promised money that was to come down to the school districts under title I, which is money to help reach the students who are not doing well on tests and help them to reach grade level and to succeed, the title I funds promised by the Bush administration under No Child Left Behind, is not going to be there. That is the money that is supposed to be there for afterschool programs, so that some of these same students running into difficulties would have a helping hand after school; and summer school programs for the same purpose are not going to be funded under the Bush budget.

The same school administrators in Illinois said, incidentally, this idea of making certain that teachers meet certain levels of qualifications and certification is a good idea, but it takes money to reach those goals, to send some of these teachers back for additional college classes in science, math, or whatever their specialty might be. There is no money for the school district to deal with that.

So I heard the story over and over. It came to my mind that Paul Wellstone was right; No Child Left Behind was a great promise, but it is an unfulfilled promise because when the budget was delivered to us, unfortunately, the money wasn't delivered with it. Title I, which would help the No Child Left Behind Program, is underfunded by more than $6 billion in the Senate bill we are considering on the floor. Six million kids across America are at risk of not meeting the standards if we don't come to the rescue with the amendment by the Senator from West Virginia, Senator BYRD. In my State, it would add $255 million in title I funding to help more than 740,000 low-income kids meet the standards we imposed—Federal standards we mandated under No Child Left Behind that were mandated, but the program was not funded.

Over the last decade, the enrollment of low-income students in Illinois public schools has increased from 32 percent to more than 37 percent.

Districts across the State are really trying to comply with No Child Left Behind standards, but they need the full amount of the funds promised to be sent to these school districts, as well as the full mandate of the Federal law.

Illinois has done a number of school funding studies, and every one of them shows definitively that it will take much more money to help kids become proficient in reading and math. It stands to reason. If you have a child struggling to learn to read, that child needs more personal attention. But if you have a large classroom with 30 kids or more, the likelihood of personal attention is diminished. So if you do not send the funds to the school district for smaller class sizes, that child who is going to face the reading test has less of a chance of succeeding.

The State superintendent in Illinois testified this winter before the Illinois House Appropriations Committee that it will take even more funding to help low-income and non-English speaking students to keep pace with their peers academically.

Our State superintendent, Dr. Robert Schiller, also stated:

> Based on current trends, Illinois will fall short of meeting the Federal goal, set forth in No Child Left Behind, of all children meeting or exceeding reading and math standards by 2014.

Thirty-seven percent of Illinois students fail to meet State reading and math standards.

As is the trend nationally, Illinois has significant gaps between white and minority student achievement and between low-income students and their more affluent peers.

Last month, the Illinois State Board of Education released its early warning list of school districts required to provide school choice, supplemental tutoring, or take corrective action this school year. More than 500 schools in my State are on the list, and the number might go up by the end of the month when the final calculations are made.

Compared to other States, Illinois has been pretty lucky as far as education funding at the State level. For this next fiscal year, which started in July, the State was able to increase per pupil and categorical funding to keep school districts on the road to improvement. But beneath the surface, the Illinois State Board of Education and our local school districts are struggling to implement the requirements of the federally mandated No Child Left Behind.

District budgets are straining under these unfunded requirements addressed by the Byrd amendment. How many Senators in this Chamber stood up with great pride and said we are voting for No Child Left Behind because we believe in accountability, education is the highest priority in our country, and we need to be there for our kids and their families? All of us who voted for the bill gave that speech.

Look what happened when the Bush budget came down. The money was not there—a $6 billion shortfall in money needed in schools across America.

We sent out all these wonderful speeches to be printed in newspapers, and we posed for pictures with students and teachers. But months later, when it comes to funding the bill we passed, the Bush administration refuses to put the money down and this Congress followed suit and put together the bill before us today which also fails to keep that promise. This title I money was supposed to be the pool of resources from which districts would implement school improvement provisions necessary to meet adequate yearly progress. Districts now have to use State and local funds to try to reach those goals.

Despite an overall increase for K–12 education, more than $30 million in cuts and reallocations were made at the State level in my State this year. This includes a significant reduction in the number of State board employees, the elimination of State gifted education programs, the elimination of the State family literacy initiative, and the statewide math education initiative.

While Illinois has been successful in keeping budget cuts out of the classroom, that may not be the case if our State remains in its current financial straits.

The impact of the Federal Government's failure to fund title I as we promised is more deeply felt at the school district level where the financial picture is bleaker.

Across Illinois, school districts are laying off teachers, cutting programs, and reducing the hours of operation. Sixty-one percent of our school districts are operating with deficits, and here we have a Federal mandate from the Bush administration under No Child Left Behind that imposes new responsibilities on these school districts operating in a deficit and fails to fund the program.

Many of these school districts have had deficits for several years in a row. This number is expected to rise about 80 percent next year. This spring, 62 percent of local bond proposals failed, and 55 percent of local tax referenda failed. Those are hard to pass in good times. In a recession, they are particularly difficult to pass. And we had a recession which began before this President came to office by a few months and which has continued unabated ever since.

Our State unemployment rate is about 6.6 percent in Illinois. We have lost 120,000 manufacturing jobs while President Bush has been in office, and those numbers are duplicated across America. There is little wonder taxpayers resist the idea of increasing their property taxes at a time when we are facing this recession.

In many areas of our State, local revenue increases have been less than 5 percent because they are limited by tax caps. When local resources cannot be increased, it makes title I money even more important to these cash-strapped school districts.

For example, in my hometown of Springfield, Public School District 186 has 36 elementary schools, middle schools, and high schools. Just over 15,000 kids attend school in that district. Springfield has had financial challenges over the last several years and has cut more than $30 million from the district budget in the wake of the failed tax referendum. This year, six Springfield elementary schools failed to make adequate yearly progress, and they must offer public school choice. Springfield needs every title I dollar the district can get to improve student achievement and get the schools moving forward making progress.

What would Springfield do with the money? I asked the superintendent, Dr. Dianne Rutledge. She said, with more Federal funding, if Washington kept its promise to send money for No Child Left Behind, this is what they would do with it. She would hire additional teachers to reduce class sizes, and that on its face is a good idea. I have yet to meet a teacher who has prayed for a larger class. They want smaller classes so they can focus more attention on students who need help and even more attention on students who are gifted who, with additional time, can do extraordinary things.

She would also operate reading recovery, and hire a school improvement coach for each school to provide intensive and personalized year-round professional development to teachers and staff.

If the Senate fails to adopt the Byrd amendment, there will be less money for Springfield. They will not be able to hire the teachers, and fewer kids will have tutors.

Let's look at a larger school district in my State, the Chicago public school system. They educate more than 438,000 kids in K–12 in 602 schools.

Eighty-five percent of the children in Chicago public schools are defined as living in poverty. Roughly 90 percent are minority.

The Chicago public school system is, in many ways, the poster district for setting high academic standards and adopting an aggressive program for school improvement. Ten years ago, 48 percent of Chicago's schoolchildren were performing in the bottom quarter of national achievement in reading and math. Today that number has been cut in half, first by Paul Vallis, who came in under the direction of Mayor Daley and brought real reform to the Chicago public school system, and then followed by Arne Duncan, our current CEO of Chicago public schools, an extraordinary educator who is doing a great job. He reported last week for the first time that number has been cut in half, and Chicago public schools are performing above the Nation as a whole. That is an amazing achievement in a district that diverse with so many challenges.

Despite the Chicago public school system's dramatic recovery over the last decade, 365 of its 602 schools have been labeled as failing to make yearly adequate progress. That is more than half.

The Chicago public schools' budget increased this year over last. The district has managed to avoid drastic cuts. Most of the increased funds are committed to certain projects, and several of the initiatives are specifically to comply with Federal requirements.

To comply with the highly qualified teachers mandate in No Child Left Behind, Chicago public schools has just completed work on a brandnew $2 million database to track the qualifications of each of their 25,000 teachers. The Chicago public school system is likely to have to create a similar system to track the qualifications of thousands of paraprofessionals.

Complying with the Federal mandates of President Bush's No Child Left Behind has led to some terrible challenges for this major city school district. The Chicago public school system wants to invest title I dollars in afterschool, summer school, and extended week programs. It is required to use a large portion of its limited Federal resources to move kids from schools that are failing to other schools.

What would the Chicago school system do with the money in the Byrd amendment? We asked the finance director, John Maiorca. He would expand afterschool and summer school opportunities for students at risk in failing the test. He would invest in supplemental education services and additional tutoring for these struggling students, and hire additional teachers to reduce class size.

Two days ago, I was at the opening of the schools in Chicago. I went to a school on the west side known as Dodge Academy. Dodge Academy closed 2 years ago because it was a failing school, but there was a promise made that it would improve and reopen. It has, and it is an exceptionally good school.

One can tell, walking in the door, that this is a school that is destined to succeed. Not only do they have a wonderful, bright, and remodeled building because of a lot of hard work by the local school district but they also have some of the brightest teachers. They are a school that is trying a new concept, under the leadership of Mike Koldyke, that is going to bring to each of these classrooms two resident teachers. So for a year they are going to have teachers in residence who are training to become teachers, working with veteran teachers, and then they will move these newly qualified teachers with experience to the failing schools in the Chicago public school systems and try to turn them around. It is a great model. It works in hospitals. It can certainly work in schools. But it costs money.

The money from title I, which would be part of No Child Left Behind had the Bush administration and this bill adequately funded it, could have been used for that purpose, but it is not there. With the Byrd amendment, it would be there, and so the Chicago public school system would have that opportunity.

So right now we are dealing with the broken promises of No Child Left Behind, unfunded mandates at a time when school districts in Illinois and across America are struggling to survive. How can we, in good conscience, impose these ideas and mandates on the school districts, as good as they may be, and then refuse to pay for them?

Senator BYRD really is calling to task all of us who voted on No Child Left Behind, those of us who stood so proudly by this bill and said this is the answer to America's education needs. The question now is: Will we produce the money it takes to make this succeed? Quite honestly, if the Byrd amendment fails, the answer is no.

Many of the same people who took great pride in saying they co-authored this program, cosponsored it, and voted for it, will turn around and vote against the funding for the mandates they are creating in school districts across America. These are unfunded mandates in the middle of a recession, at a time of State deficits, when schools are struggling to survive, unfunded mandates from the Bush administration in No Child Left Behind.

The only thing the Bush administration guarantees it will pay for is the test. So the test will be administered but any effort to improve the scores of students will be hampered, hindered with additional obstacles because of the refusal of this Congress to appropriate the adequate funds. We need to make certain that the $6 billion shortfall in title I in No Child Left Behind is a shortfall that is filled, and filled soon.

I rise in support of the Byrd amendment, commend Senator BYRD for his leadership, and urge all of my colleagues to put their money where their press release was. It is not just a matter of taking credit for a program. Stand up now and appropriate the funds to make it work in Philadelphia, in Iowa, in Chicago, all across America.

I yield the floor.

Mr. NICKLES. Mr. President, the Labor, HHS, Education appropriations bill for Fiscal Year 2004 provides $137.6 billion in discretionary budget authority and $134.9 billion in discretionary outlays for the Departments of Labor, Health and Human Services, and Education, and related agencies. These amounts are both precisely at the subcommittee's 302(b) allocation. This is an increase of 2.3 percent in discretionary budget authority and 6.8 percent in discretionary outlays above the 2003 enacted levels.

Including mandatory spending, the bill provides a total of $370.7 billion in new budget authority and $294.6 billion in new outlays in Fiscal Year 2004. With outlays from prior years and other completed actions, the Senate bill totals $456.4 billion in budget authority and $453.6 billion in outlays.

The committee-reported bill also shifts $2.2 billion in 2004 advance appropriations back to fiscal year 2003, pursuant to an agreement with the administration. These advance appropriations were originally provided in the 2003 omnibus appropriations bill to avoid circumventing the 2003 spending limits, an action which the President previously objected to when he signed that legislation.

The purpose of this shift is to allow for $2.2 billion in additional nondefense discretionary spending in 2004 without exceeding the budget resolution's discretionary spending limit. However, since the budget resolution set forth discretionary spending limits for fiscal years 2003, 2004, and 2005, this shift causes the committee-reported bill to exceed the 2003 spending cap by $2.2 billion. Thus, a point of order lies against the bill which may be waived with 60 votes.

Finally, it is also important to note that the bill which effectuates the advance appropriations shift must be signed into law before the beginning of the new fiscal year on October 1, 2003, in order for it to count for budget scoring purposes.

Mr. President I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1356, LABOR-HHS APPROPRIATIONS, 2004 SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2004, in millions of dollars]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	137,601	318,766	456,367
Outlays	134,932	318,694	453,626
Senate committee allocation:			
Budget authority	137,601	318,766	456,367
Outlays	134,932	318,694	453,626
2003 level:			
Budget authority	134,476	289,398	423,874
Outlays	126,286	289,341	415,627
President's request			
Budget authority	137,587	318,766	456,353
Outlays	133,708	318,694	452,402
House-passed bill:			
Budget authority	138,036	318,766	456,802
Outlays	134,765	318,694	453,459
SENATE-REPORTED BILL COMPARED TO			
Senate 302(b) allocation:			
Budget authority			
Outlays			
2003 level:			
Budget authority	3,125	29,368	32,493
Outlays	8,646	29,353	37,999
President's request			
Budget authority	14		14
Outlays	1,224		1,224
House-passed bill:			
Budget authority	(453)		(453)
Outlays	167		167

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

S. 1356, LABOR-HHS APPROPRIATIONS, 2004 SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2003, in millions of dollars]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	134,476	289,398	423,874
Outlays	126,286	289,341	415,627
Senate committee allocation:			
Budget authority	132,232	289,398	421,630
Outlays	126,286	289,341	415,627
SENATE-REPORTED BILL COMPARED TO			
Senate allocation:			
Budget authority	2,244		2,244
Outlays			

[1] H. Con. Res. 95, the 2004 Budget Resolution, set out budgetary aggregates not only for 2004, but for 2003 as well. As a result, the joint statement of the conference committee on H. Con. Res. 95 (page 130 of H. Rpt. 108–71) included the allocations that are required by law (section 302 of the Congressional Budget Act) for 2003 to the Committee on Appropriations.

That allocation exactly reflects CBO's latest estimate of all regular appropriations enacted for 2003, as well as the Emergency Wartime Supplemental Appropriations Act of 2003 (P.L. 108–11). The above allocation to the Labor, HHS subcommittee reflects CBO's FY 2003 current status for that subcommittee.

The Committee on Appropriations has yet to file 302(b) allocations for 2003 and, therefore, pursuant to the Congressional Budget Act, there is a 60-vote, 302(c) point of order against the bill.

In addition, pursuant to Section 504(b) of H. Con. Res. 95, a point of order lies against the bill for exceeding the 2003 discretionary spending limits in Section 504(a) of H. Con. Res. 95.

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ECONOMY IS PICKING UP

Mr. ALEXANDER. Mr. President, my purpose tonight is to say a few words about a 10-day visit to Africa that the Presiding Officer, and I, and four other Members of the Senate completed last Friday. But I listened with great interest to the distinguished Senator from

Illinois. I did not want him to leave on such a sad note about the economy, and I thought I would give him some late-breaking news.

The Wall Street Journal today has a headline: "Manufacturing Expanded In August."

> The manufacturing sector expanded for the second consecutive month in August, providing further evidence that the economy's hardest-hit sector may finally be on the rebound.

I thought it would be important that the Senator have that in mind because we are all deeply concerned about the number of Americans who are looking for jobs and do not have them.

The President talked about that on Labor Day. Every one of us, Republican and Democrat, feel that way. This is a piece of good news.

The Wall Street Journal said today:

> The Institute for Supply Management said its monthly survey of manufacturing conditions rose to 54.7 from 51.8 in July. A result above 50 generally indicates expansion. Many key segments of the report, meanwhile, showed similar strength, including components that measure new orders for manufactured goods and overall production. The results came on the heels of other positive manufacturing news in recent weeks. . . .

Now, this is the Wall Street Journal, not the White House talking, including the Federal report last week that showed new orders for durable goods or items built in the last 3 years or longer, so they rose 1 percent in July.

Now, obviously we are all concerned about manufacturing jobs disappearing. They have been disappearing for a long time. I remember when the Saturn plant moved to Tennessee in the mid-1980s. It hired 5,000 people. If it had done that 30 years ago and built the same number of cars, it would have needed to hire 30,000 people.

So while manufacturing is up, manufacturing employment is still down and is a source of great concern to all of us. I thought that piece of good news might be interesting to the Senator from Illinois and others tonight.

EDUCATION FUNDING

Mr. ALEXANDER. I wish to comment very briefly on education, which we are debating, and the Senator spoke eloquently about it. I was Governor of my State. I was U.S. Secretary of Education for awhile. The facts are basically these: Federal funding for education has been consistently up, under Democrats and under Republicans.

It must be confusing to people who hear us debate in the Senate because it sounds as though we are reading off completely different history books. The fact is, it is up, and State funding is either down or level.

It is important for teachers, principals, and others in their communities to know that the real pressure they are feeling is not from Federal dollars, which are up, but from State dollars, which are level or down. The Federal Government funds about 7 percent. Seven cents out of every dollar that goes for elementary and secondary education in America comes from the Congress. Ninety-three cents out of every dollar comes from the States or local government. So that is the real problem.

The Congress recognized that this year by appropriating a large amount of money for the States. I think it was $20 billion that we sent to the States on a one-time basis. For Tennessee, it was about $400 million. That is a lot of money for us. Our State used that, half of it in the rainy day fund and half of it in Medicaid. That took a little pressure off Medicaid. That helped education.

So it is important for people to know that in all of this debate, Federal funding is up. I, for one, want to look at Leave No Child Behind this year and next year, its first 2 years of operation. I was not here when it passed. I was not here to vote for it as the Senator from Illinois said he did. If it turns out after a year or two of operation that it is indeed a federally unfunded mandate, then I am going to be one of those Senators who wants to add money to fix that problem.

I spent a lot of time as a Governor saying do not send me a rule without money. I do not think it is good to leave the impression that somehow the Federal Government is not funding education. We only fund 7 percent of elementary and secondary education, and that funding is up. It is the States that are having problems, and States have a variety of options for dealing with that.

Many States have cut taxes over the last 10 years. That is a good policy if it can be done, but if it is done, it comes right out of education usually.

HIV/AIDS IN AFRICA

Mr. ALEXANDER. My purpose this evening is very briefly to make a few comments about the visit to four countries in Africa that six Members of this body took during the last 2 weeks of August. The delegation was led by the majority leader, Senator BILL FRIST of Tennessee. It included the distinguished Presiding Officer, the Senator from Minnesota. I was there and three others. We visited four countries: South Africa, Mozambique, Botswana, and Namibia. It was an eye-opening and, for me, an eye-popping experience in many cases.

I have the privilege of serving as the chairman of the Subcommittee on African Affairs, so I am very interested in Africa. It was my second visit there in the last 3 years. Before I make a few comments about it, I want to simply observe how much we owe Senator FRIST, our majority leader, for teaching us a great deal not just about Africa but about the HIV/AIDS problem which was the subject of our visit to Africa.

Senator FRIST has been there a long time. When nobody else much was talking about HIV/AIDS, he was. He helped change some very important minds in this body. He has been an important adviser to the President of the United States and is an inspiration to us. When we left to come home after 10 days, he stayed for 5 days, went to Kenya and Sudan, and operated on people who have very little medical care, which he has done every year. We owe him a lot for his leadership on the subject.

Within a few weeks, the Congress will be considering the nomination of Randall Tobias to be the new AIDS czar, the person in charge of what we are going to try to do. Also, Congress will almost surely fund President Bush's recommendation that we spend $15 billion in 14 African and Caribbean countries to fight the disease which we call HIV/AIDS. It will be my purpose in our subcommittee and as a member of the Foreign Relations Committee and the Health, Education, Labor, and Pensions Committee, to make sure this taxpayer money, the largest public health expenditure ever, will be spent wisely. This evening, in summary fashion, while it is still fresh in my mind, I will make a few suggestions to Mr. Tobias, who is not yet confirmed by the Senate. I hope he will be. I know in this quiet time he is not allowed to do anything or say anything out of respect for the Senate, and it is a good time for him to make a plan for a fast start. If I were to make a plan for a fast start for Mr. Tobias, President Bush's designated AIDS czar, to be considered for confirmation by this body shortly, these would be my suggestions:

No. 1, I suggest Mr. Tobias go to Africa. I don't see how it is possible to understand the enormity of the disease if you do not go to Africa. The disease has delivered a death sentence to 29 million Africans, a number so large that it is hard to imagine. Go to Africa in order to make good spending decisions. Go to Africa in order to cut red tape. A commander of a major battle should be where the action is. While there, show some respect for the African way. We are very proud of the American way; the Africans are proud of their way. It is a little different.

When in Namibia, where we were, I suggest you play the Namibian national anthem and leave it to the local mayor to say, as he said to us "God bless America."

No. 2, I suggest making needles and blood transfusions safe. It seems to me this is the surest, fastest way to save lives when dealing with HIV/AIDS. Senator JEFF SESSIONS of this body has made a project of reminding Members a number of people are infected by contaminated needles and by other unsafe health practices. The estimate would be that at least 175,000 people in sub-Saharan Africa this year will be infected with the HIV virus because of unsafe health practices. That means needles that are dirty, that have been used before, that have contaminated blood. That is just 5 percent of all of those in sub-Saharan Africa who will be infected, but it is a huge number of people, 175,000 people. By comparison, in the United States, only 40,000 people are infected with HIV/AIDS every year. In one hospital we visited in Namibia, health workers were recapping the needles they had already used and in the process risked pricking themselves with a used needle that could have infected blood on it.

A third suggestion: save the babies. This is also something that can be gotten off to a very fast start because it is already occurring. In Botswana, nearly 40 percent of pregnant women are HIV positive. One in three of the babies they bear will be HIV positive. Administering the drug nevirapine to the mother and then to the child after birth will reduce this risk to 1 in 10. Congress has already appropriated millions to start to create an AIDS-free generation. In Botswana, which only has 1.5 million residents, 100 babies are born each week infected with the HIV virus. In the United States, by comparison, less than 100 a year are born so infected.

Four, make inexpensive drugs widely available. There is no vaccine and no cure for HIV/AIDS. We sometimes talk around that. There is no vaccine and there is no cure, but there are medicines that prolong life. These antiretroviral drugs are cheaper than ever.

In Namibia last week we were told that the cost was $160 per person per year, dramatically more inexpensive than they have ever been before. In South Africa, we were told the availability of these treatments can decide whether 5 million infected South Africans will die in the next 5 years of HIV/AIDS or whether they might die in the next 20 years. That is the choice for just one country.

No. 5, encourage rapid tests and routine tests. Most Africans who are infected with HIV/AIDS do not know it. They are reluctant to find out because of the stigma attached to having it known you are HIV infected. New rapid tests report results in 20 minutes. Citizens can find out the results in a single visit. The inexpensive treatments, the $160 treatments, provide a new incentive to take the tests. Not a lot of Africans want to take a test and be told they would die of HIV/AIDS when there is no treatment. There is little incentive to get that bad news. Now there is incentive to get immediate news with the possibility of treatment.

Next, teach the ABCs—that stands for abstain, be faithful, and use condoms. Using this approach the country of Uganda in Africa has reduced its infection rate from 20 percent to 8 percent; 90 percent of AIDS is transmitted by sexual intercourse, something many Africans and many Americans do not know.

Janet Museveni is the First Lady of Uganda. She visited with many of the Senators earlier this year and talked about her ABC plan. She encourages A and B more than C. This is her quote: "I am not comfortable," says the First Lady of Uganda, "with the thought that the extinction of an entire continent could depend upon a thin piece of rubber."

No. 7, form an AIDS corps. We heard everywhere we went the greatest need is for manpower and training. Hospitals need doctors, clinics need nurses, nonprofits need counselors to recruit patients and to hold the hands of those who are dying.

Create a private sector clearinghouse for Americans to go to Africa from 3 months to 2 years. Connect the volunteers with structures in Africa. I have introduced a bill to create an AIDS corps and I worried about whether volunteers should go for 3 months or for 1 year or for 2 years. There are plenty of options. I hope Mr. Tobias, if confirmed, will take all of the efforts already under way to take volunteers who are willing to go to Africa and connect them with one of the outstanding programs we saw there. There is plenty to do and a great many Americans who want to go, and they would be welcome.

No. 8, dig some water wells. In Mozambique, 3 of 4 children's deaths under the age of 5 are caused by diseases carried by unclean water. Since AIDS destroys immune systems, victims of all ages live longer with clean water.

One nonprofit agency, Living Water International was the name, I believe, showed the visiting Senators a well that was dug in a rural area for just $2,800. We saw there two boys who were filling 10-gallon water cans, five of them, which they would carry each day in a wagon to their home which was 6 miles away. That was their job every day: 6 miles to the well, fill up the cans, 6 miles back.

Forty percent of rural Africans do not have this much access to clean water.

Here are my last two suggestions. Focus on logistics. We saw faith-based and nonprofit organizations impressively active everywhere we went: The Salvation Army in Johannesburg, the Catholic AIDS organization in Namibia, Harvard, and Baylor, and the Gates Foundation in Botswana. A surprising number of talented U.S. Government people are already on the ground. The country director in Namibia for the Centers for Disease Control is a pediatrician who has been there for 12 years in Africa. He knows a lot about what to do. So my suggestion to Mr. Tobias is, while you are making your 10-year plan in this first few months, ride the horses that are already running in Africa. Accelerate what is already happening. There is a lot going on and the challenge is not to plan, the challenge is how do you get it done.

Finally, move fast, but do not spend too fast. I imagine we are going to have a pretty good debate about that in the Senate. I have already heard some people say let's spend $2 billion and others say let's spend $2.5 and others say let's spend $3 billion. The fact is, we are going to spend $15 billion of taxpayers' money in fighting HIV/AIDS in 14 countries and the Caribbean. We are going to do it over 5 years. We need to keep in mind that the African system cannot absorb too much money too quickly. There are treatment guidelines to prepare and to teach. They are very complicated. There is a staff to recruit. There are patients to find and persuade. There are health organizations to establish.

For example, perhaps the most impressive program we saw was operated by a mining company, Anglo-Gold in South Africa. They are taking this seriously in a country where the Government is taking it less seriously. They are making an all-out effort to identify the 25,000 employees infected with HIV/AIDS that they have, one-third of their total employment, and give them a chance to have the treatment that will prolong their productive life. They set a goal of recruiting 1,000 people in the first year to do this, but try as they might they only could recruit 622. So, we need to be aware that we may have to ramp this program up as we go and we ought not to waste money in the first year that would be better spent in the third, fourth, or fifth year.

You saw it as I saw it, Mr. President. Botswana's life expectancy has dropped from 72 years of age to 34 years of age because of HIV/AIDS. In Namibia, teachers miss school to visit sick colleagues and attend their funerals. Two or three generations of South African children will grow up without parents. In Windhoek last year, a local journalist told me, "Please get it across, how much we appreciate President Bush's $15 billion grant. It puts a human face on America."

I hasten to say we in the Congress are a little jealous of our prerogative to make that grant. But the AIDS authorization bill passed unanimously. It had support of Democrats as well as Republicans as well as the President, and it is something we should be proud to work on.

If I could make these three final observations. I was thinking, flying home, that if a diabolical person, an evil person, had to think of a way to destroy a country, that this would be what he might do. No. 1, invent a new disease that had never been heard of before for which there is no vaccine and no cure, that pronounces a death sentence. No. 2, think of a way to transmit that disease that involves the most powerfully reliable human impulse, which is sexual activity. And, No. 3, introduce that disease into countries that are the poorest in the world and have almost no health structure to deal with the disease and in which the discussion of sexual activity is taboo.

That is exactly what has happened with HIV/AIDS. As I look back on those four countries we saw—South Africa, Mozambique, Botswana, and Namibia—these are four countries, with a little exception for Botswana, where 30 years ago they were under some kind of colonial rule. Then the people who are in power in the government today fought against that rule for their freedom, they were guerrillas and they were at war. Then typically there was a civil war to decide who of the winners would govern. And now they are in charge in all four of those countries. They are doing well, in terms of their governance. They are building their democracy very well. And the governance is something they can be proud of.

But all of a sudden out of left field comes this AIDS, just as they are reaching their freedom and just as they are in charge. We saw the wife of Nelson Mandela, Graca Machel, who said to us: It took us aback. We weren't prepared. We weren't ready for it.

It seems like a cruel, terrible trick to play on people who for 30 years have struggled to gain their freedom and find themselves in charge of their own destiny.

Finally, I think we saw a good deal of hope. We saw leaders who, in spite of the terrible odds they face, are committed to fighting it. We saw people from all over the world, really, who were there, volunteering their help. We saw faith-based organizations holding hands, taking care of orphans, finding patients.

My sense of Africa is that for a long time it has generally been ignored by our country. Presidents have sometimes gone but only as an afterthought. I suspect Africa presents such challenges today, not just with HIV/AIDS but in other ways, that it will begin to attract some of the brightest, most intelligent people in the world, many of them Africans who have left to go to other parts of the world, and I believe they will come home.

I saw this morning on C-SPAN the discussion about Ghana and the energy minister who was born in Ghana and was educated in Minnesota. He was the managing partner of Deloitte and Touche for all of Africa, and he decided to go back to Ghana and help build that country.

America was built that way, by people who saw great challenge here and came to help build the country. I suspect Africa may be that sort of challenge. I am glad our President has devoted himself in such a strong way to it. I hope he continues that over the next several years. I believe if he does, when he goes back to Crawford, TX at the end of 8 years, it will be one of the great accomplishments of his administration.

I hope the Senate continues to put partisanship aside and to support the $15 billion and do it in an orderly way. I commend our leader for his insistence on it. I was privileged to be a part of the delegation that went for 2 weeks and it will certainly redouble my interest and attention to our responsibilities to the people of Africa.

I thank the Senate for giving me the opportunity to present this.

PAUL WELLSTONE VETERANS HOSPITAL

Mr. DAYTON. Mr. President, I am pleased to cosponsor legislation to name the Veterans Administration hospital in Minneapolis, MN, after the late Senator Paul Wellstone. It would be a great tribute to my departed friend and colleague, who worked tirelessly to improve the lives of veterans throughout Minnesota and across our Nation.

During the August recess, I met with the leaders of major veterans' organizations in Minnesota. Several have formally expressed their support for bestowing this honor on Senator Wellstone. Others, while not taking official positions, are now aware of the legislation and our intentions to proceed with it. So, I believe that the path is clear in Minnesota for this legislation to be enacted with very broad support.

Senator Wellstone served for seven years on the Senate Veterans' Affairs Committee, where he fought tirelessly for more generous benefits and expanded services, including health care, for the men and women who served our Nation with great courage and dedication, and who now deserve far better than many are receiving or not receiving. In addition, he and his dedicated staff enabled countless veterans individually to receive benefits, medical care, and other services which were wrongly denied them. While living, and after his tragic death last year, Senator Wellstone has been a hero to many thousands of veterans throughout Minnesota and across our Nation. Many of them have provided the impetus and support for this legislation.

It is my hope that this measure might receive swift and favorable consideration by the Senate, and that it then be sent to the House for its concurrence and to the President for his signature, prior to the first anniversary of Senator Wellstone's death.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Washington, DC. On August 21, 2003, a transgendered woman was murdered. Her nude body was found about 2 a.m. in a wooded area near Malcolm X Avenue and 2nd Street, SE.

The woman, identified by friends as Emonie Kiera Spaulding, 25, was the second transgendered woman to die of gunshot wounds and the third to be shot in the District during a 5-day period. The D.C. police department have arrested a suspect.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Mitchell, IN. Army Specialist Ronald "Ronnie" Allen, Jr., 22 years old, was killed near Balad on August 25, 2003 when the Army unit he was riding in was struck by another vehicle. Ronnie joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Ronnie was the 14th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He leaves behind his mother, Jyl Harrison, and his stepfather, Derek Harrison, and their children Andrea, Nathan and Eric. Today, I join Ronnie's family, his friends, and the entire Mitchell community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Ronnie, a memory that will burn brightly during these continuing days of conflict and grief.

Ronald Allen, Jr. told his family he was proud to be serving his country in Iraq because he felt like he could make a real difference there. He told them he was proud to be a soldier and that he loved his country. Today, his family remembers him as a true American hero, and we honor the sacrifice he made while serving his country.

Ronald dreamed of joining the military as a young man and even early-enlisted in the Army during his junior year of high school. Two weeks after he graduated from Mitchell High School in 2000, Ronald left home to begin full-time duty at Fort Carson in Colorado. He was assigned to the 502d Personnel Service Battalion, 43d Area Support Group.

As I search for words to do justice in honoring Ronald Allen, Jr.'s sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Ronald's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Ronald Allen, Jr. in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Ronald's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

Mr. President, I also wish today to honor the accomplishments of the Hoosier soldiers of the 1st Battalion, 293d Infantry Regiment, and the 1st Battalion, 152d Infantry Regiment, from the Indiana National Guard, who have become the first National Guard battalions in the Nation to receive the Combat Infantry award since the Korean war.

The Combat Infantry award is a highly coveted honor given by the Department of the Army to soldiers who have satisfactorily performed infantry duties as part of a unit that participated in ground combat. The Infantry badge honors soldiers who have operated under the worst conditions, yet still successfully performed his or her mission in a combat environment. In addition, medics who supported the soldiers will receive the Combat Medical Badge. I am immensely proud that these Indiana battalions have become the first units in more than 50 years to earn this distinction.

All members of the battalions will receive the Combat Infantry award as a symbol of our Nation's gratitude for the bravery they demonstrated and the sacrifices they and their families have made during Operation Iraqi Freedom. The 1st Battalion, 293d Infantry Regiment, and the 1st Battalion, 152d Infantry Regiment, are the first Indiana National Guard units to go into combat since World War II. As this award recognizes, they have made an exemplary return to battle, honoring themselves and their home State of Indiana through their efforts.

The battalions have been stationed in Iraq for more than 5 months. During their time in Iraq, the soldiers of the 1st Battalion, 293d Infantry Regiment, have provided security for the Talil Air Force Base, a key airstrip in Southern Iraq. The unit took over responsibility for the base just days after the war's deadliest battle took place on April 1 to secure control of the airstrip. The members of the 1st Battalion, 152d Infantry Regiment, have engaged in a wide range of missions, including guarding the Baghdad Airport, one of the most strategically important sites in Iraq.

I am proud to honor the soldiers of the 1st Battalion, 293d Infantry Regiment, and the 1st Battalion, 152d Infantry Regiment. The thoughts and prayers of all Hoosiers are with them as they continue their role in rebuilding Iraq. May God watch over the soldiers as they complete their duty and may God bless the United States of America.

Mr. President, I further rise today to honor the heroic service of United States Army Cpl Damien Luten, 24, of Indianapolis, IN. Corporal Luten was a member of the U.S. Army's 507th Maintenance Company, which crossed into Iraq from Kuwait on March 21, 2003, as part of a convoy supporting a patriot missile battalion, during Operation Iraqi Freedom.

On March 23, 2003, the 507th Maintenance Company was ambushed by Iraqi military forces and irregulars in the city of An Nasiriyah. According to the U.S. Army, Corporal Luten's convoy found itself in a desperate situation due to a navigational error caused by the combined effects of the operational pace, acute fatigue, isolation and the harsh environmental conditions. The tragic results of this error placed the soldiers of the 507th Maintenance Company in a torrent of fire from Iraqi soldiers who attacked the isolated convoy.

Eleven of the company's 33 soldiers were killed in combat or later died from injuries. Seven soldiers were captured in the attack, including PFC Jessica Lynch who was later rescued by American Marines. This toll, though devastating, may have been much greater had it not been for the valorous acts of soldiers such as Corporal Luten, who sought to protect his unit by attempting to return fire with the unit's only .50-caliber machine gun. However, the machine gun failed and as Corporal Luten was reaching for his M–16, he was wounded in the right leg by enemy fire. Corporal Luten has been awarded the Purple Heart for the wound he received in combat.

As I reflect on Corporal Luten's service, I am reminded of a quote by Douglas MacArthur:

> The soldier, above all other people prays for peace, for he must suffer and bear the deepest wounds and scars of war.

The United States will be eternally grateful for the courage and bravery Corporal Luten exhibited on the field of battle.

Corporal Luten is expected to return to his base in Fort Bliss, TX, where he will have at least one more surgery on his leg. This will be the ninth surgery Corporal Luten has undergone to repair his injured leg. If Corporal Luten has his way, his injury will not mark the end of his military service. He plans to re-enlist and enter the Army's Chaplain Corps when his current tour concludes in April 2004.

I know that all Hoosiers share my deep sense of pride in Corporal Luten and all of the men and women of our Armed Forces from Indiana who safeguard our freedom. My thoughts and prayers are with him as he continues his recovery and begins his new service in the Army.

CHANGE OF VOTE

Ms. MIKULSKI. Madam President, on rollcall vote No. 319, I was recorded as voting yea. I intended to vote "no" on the passage of H.R. 2738, the Chilean Free Trade Agreement. I ask unanimous consent to change my vote. This will not change the outcome of the vote.

ADDITIONAL STATEMENTS

WOMEN'S EQUALITY DAY

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute and recognize Women's Equality Day on August 26, 2003. As well as celebrating Women's Equality Day, this day is also a celebration of the 80th anniversary of the Equal Rights Amendment Campaign.

This year's celebration being hosted by the Advisory Boards on the Status of Women of Essex, Bergen, and Union Counties in New Jersey is the 155th observance of Women's Equality Day.

One of the most important people in the fight for women's equality was Alice Paul. Alice Paul was born in Mt. Laurel, NJ, and spent her entire life fighting for women's rights. She believed that men and women should be equal partners in society. She led the final, successful campaign for a women's right to vote. She inspired thousands to join the struggle as she stood up to Congress and the President.

Understanding that securing the right to vote was only the first step, Alice Paul authored the Equal Rights Amendment and drafted and lobbied for gender equality language in the United Nations Charter and the Civil Rights Act of 1964. Alice Paul is a great example that one person can make a difference and motivate others to take up a noble cause.

Today, because of Alice Paul and numerous other women who preceded and followed her, we're getting closer to true equality for women.

It is important that we recognize Women's Equality Day. Since the days of women's suffrage, we have witnessed a wonderful growth in the influence and contributions of women to our politics, our economy, and our culture. Although women are not yet full partners in American society, we will continue the work of Alice Paul and remember her on Women's Equality Day.●

CELEBRATING THE "WOMEN OF L/A"

● Ms. COLLINS. Mr. President, I rise today to call my colleagues' attention to an awards dinner being held in the Lewiston/Auburn communities of Maine. This event, "Celebrating the Women of L/A," honors those women who have demonstrated, through their accomplishments and their caring, a significant impact on their community.

The women honored in the Twin Cities' celebration have accomplished a great deal. Women across the country have soared through space, raised children, developed life-saving medicines, cared for a loved one, established businesses, and quietly improved the lives of those in their families and their communities. This special Maine dinner not only recognizes the business or scientific accomplishments of women, but also, all that these honorees bring to their families and their communities.

Those submitting nominations were asked to describe briefly what it was about the nominee that made her such a special and important part of the community. Here are a few examples: "She has coordinated charity work of many organizations such as the collection of money, clothing, coal, wood, groceries, stoves, furniture, and toys for the Relief Society; organized the sponsorship for a maternity room and children's room at Central Maine Medical Center; and selected children to receive assistance from churches."

"Mom works hard. She helps me. She takes me swimming. She gets me toys. She takes me shopping. We have girltime. We go to the movie theater. She makes me dinner. She helps me clean. We cuddle on the couch and watch movies."

"When you need her, she's there. When you're not sure you want anyone around, she's still there for you—especially with her children. She's had to cope with the tragic death of her mother and had many set backs, and still she has maintained the strength to be there for all of us."

"She is a lifeline. She has been there for me through several tough times in my life, lending her support or sometimes just a sympathetic ear. She has never judged me, as others have, for my less than brilliant choices in life. No matter what the cost, she is always there to defend my decisions to anyone who may have something to say. Though her schedule is busy, she always makes time for me and for that I value her friendship."

"She is a professional in her field. She takes her job very seriously and always gives it her all to help people. She is a very loyal, dedicated individual who works hard for what she has."

"Mothers influence their children's lives in profound ways. My mom's influence has been no exception to that statement. She lived through the nightmare of seeing two brothers seriously injured during World War II and married a man that served during the Korean War. Yet, as far back as I can remember, my Mom was always cheerful and optimistic."

"My mother has never had time for herself, and now has her own health needs that she must attend to. Nevertheless, she still tends to the needs of others before taking care of herself. Not only has she mourned her husband, father and mother in law, but she has also had to mourn her mother and her only sibling, a brother. My mother has made the most of the sorrow and hardships and she has been an inspiration to so many people, and a wonderful role model for all of her children."

There are so many more testimonials that were received on behalf of the honorees. They speak to the importance and influence that these women have had on their families, their friends, and their communities.

I am honored to pay tribute to the following Women of L/A: Judy Merced, Crystal Brissette, Sandy Barnies, Linda Saucier, Gail L. Richard, Lorraine Yvonne Poulin Sheehy, and Etta Y. Mitchell.

They each are so deserving of this recognition, and I congratulate them as they are recognized for their efforts in the home, the workplace, and in the community. These women represent so many others for whom no public praise has been made. I offer my thanks and best wishes to all the women of L/A for making our community such a strong and vibrant place to live, work, and raise a family.●

SALUTE TO ROBERT C. WOOD

● Mr. KENNEDY. Mr. President, today I am pleased to recognize and honor Robert C. Wood, former Secretary of Housing and Urban Development and president of the University of Massachusetts, as he celebrates his 80th birthday this month.

I first met Robert Wood when he was a member of President Kennedy's Cambridge "Brain Trust" in 1960, and I have had the pleasure of consulting with him on many issues since that time.

Robert C. Wood is a remarkable man who has made even more remarkable contributions to the people of this Nation through a combination of outstanding scholarship and public service. He has worked tirelessly to improve opportunities for all, be it in obtaining a high quality education, ensuring access to housing for low-income families, or developing policies and programs that guide urban development and local governments across the country.

Professor Wood was raised in north Florida during the Great Depression and, along with his two brothers, learned the values of education and hard work from his mother, who was a school teacher, and his father, a shoe salesman. A full scholarship enabled him to attend Princeton University, but his studies were interrupted by service as an infantry sergeant in World War II where he saw action in the Battle of the Bulge. After the war, the G.I. Bill enabled him to earn a doctorate in Government and Political Economy at Harvard University, and he returned to Florida to apply his professional skills to that state's Legislative Reference Bureau.

He was soon recruited from Florida to the Federal Bureau of the Budget during the Truman Administration and, after that, took a teaching appointment at Harvard. This was a critical time in the development of new ideas about American cities, and Robert Wood was a major author of these new ideas. His first book, "Suburbia, its People and Their Politics," took the term "suburbia" and placed it firmly into the center of political thinking and analysis. His next book, "1400 Governments: The Political Economy of the New York Region" is regarded as a classic in analysis of the dynamics of local governments and the factors that inhibit their effectiveness. It was at this time that Professor Wood helped my brother John draft a speech on the American City that he used in a rally in Pittsburgh during his 1960 presidential campaign. It was the first speech on American cities ever delivered by a presidential candidate.

We in Washington took note, and Professor Wood was asked to chair the task force that recommended the establishment of a new Cabinet level Department, the Department of Housing and Urban Development. He then went on to be the first Undersecretary of the new Department, serving under the first ever African American Cabinet

Secretary, Secretary Robert C. Weaver, and succeeding him as Secretary in 1969. During these years, Robert Wood along with Secretary Weaver supported and implemented key legislative initiatives that dramatically improved and expanded federally assisted housing and urban development programs in the United States, including the Model Cities Act of 1966, the Housing Act of 1968 and the Fair Housing Act of 1968. These critical programs in urban development continued long after the Johnson administration, as well as future administrations, Democratic and Republican alike.

Professor Wood returned to Boston and continued his work with a focus on education and the expansion of opportunity to all. He became President of the University of Massachusetts where he oversaw the development of a new medical school in Worcester and a new campus in Boston. He particularly fostered a college of Public and Community Service at the Boston campus. In 1976, he stepped forward to offer a site at the Boston campus for the Kennedy Presidential Library where it stands today.

While focused on higher education, Robert Wood also became a key player in elementary and secondary education. While at the university, he chaired the Citywide Coordinating Council, which was charged with overseeing the court ordered desegregation of the Boston Public School System. Later, the School Committee chose him to be Superintendent of Schools, where he labored intensively to find long-term solutions to the dilemmas of school desegregation and school quality in a city recently torn by racial strife.

In 1983, Wesleyan University invited him to become the Henry Luce Professor of Democratic Institutions and the Social Order, and Professor Wood dedicated the next ten years to teaching and inspiring future leaders to take up the work of public service. Today, his former students can be found in town halls and statehouses across the country as well as in the halls of government in Washington, DC.

In recognition of this rare career combining groundbreaking scholarship with dedicated public service, the American Political Science Association gave Robert C. Wood its Hubert H. Humphrey Award in 1986.

In 1993, Professor Wood returned to Boston and the Boston campus of the University of Massachusetts where he continued as a teacher of students and a mentor of public officials and academic colleagues.

His contributions to individuals, institutions and to our Nation have been great, and I thank him and wish him a happy birthday.•

THE SAUGUS BOYS OF SUMMER

• Mr. KENNEDY. Mr. President, on behalf of myself and Mr. KERRY, I welcome this opportunity to congratulate the Little League baseball team of Saugus, MA for their extraordinary season and their outstanding performance in the recent Little League World Series.

Throughout those wonderful weeks in August, these 12 young players—Ryan Bateman, Tyler Calla, Craig Cole, Anthony DiSciscio, David Ferreira, Tyler Grillo, Joe Kazabuski, Matthew Muldoon, Yano Petruzzelli, Dario Pizzano, Mark Sacco, and Michael Scuzzarella—their Manager Rob Rochenski, and their coaches, Mike Ferreira and Bob Calla, showed us how thrilling the Nation's great pastime can be, and how well it can be played.

With great skill and great teamwork, they won the State Championship. They won the New England Championship. They reached the United States Championship game. And in every exciting game they played, the team was hard working and dedicated, and they consistently maintained the highest level of sportsmanship.

All of their hard work and talent took the team as far as any Massachusetts team in Little League history. In doing so, they captured the hearts of people across Massachusetts and in many parts of the Nation as well.

In the World Series, this remarkable team of young men sent our spirit soaring with four straight one-run victories. And none was more dramatic than their final victory of the tournament—a stunning, come-from-behind success. The team lost a six-run lead in the final regular inning, and then went down by three runs in extra innings. But they never gave up. They demonstrated their courage and determination and achieved an amazing comeback in their last at bat. By the score of 14–13, they prevailed in one of the greatest games in Little League World Series history.

In the end, the Saugus team was defeated in the U.S. Championship final, and finished in fourth place among the more than 7,000 Little League All Star teams that participated in the tournament worldwide—a brilliant accomplishment by any standard.

Fifty years after the original Boys of Summer rose to greatness, baseball fans throughout the Commonwealth of Massachusetts celebrated our own Boys of Summer in their spectacular success last month. With great pride, I extend my and Senator KERRY's heartfelt congratulations to our "Boys of Summer" and their parents, families and fans who gave them such strong support. I'm extremely proud of them and their accomplishments. I wish them great success in the years ahead—and I hope the Red Sox scouts were taking notice.•

TRIBUTE TO JANE STEPHENSON

• Mr. BUNNING. Mr. President, I pay tribute to Jane Stephenson, a former college administrator and founder of the New Opportunity School for Women, NOSW. Ms. Stephenson's charity and innovation has given many women in eastern Kentucky a renewed vigor for life and an improved sense of self-worth.

In 1987, Ms. Stephenson founded NOSW as an institution of free instruction for women of Appalachia. Headquartered in Berea, KY, NOSW draws women from all over the Appalachian region for 3 weeks of classes in job hunting, public speaking, literature, self-defense, and personal style. Additionally, students of NOSW are afforded opportunities to visit cultural institutions such as the Kentucky Horse Park and the Cincinnati Art Museum. Most women enrolled in NOSW are middle-aged and come from low income homes. Were it not for Ms. Stephenson's benevolent vision, these women would have little opportunity to improve their positions in society.

In addition to encouraging self-awareness and improvement, Ms. Stephenson and NOSW instill the importance of community service in students. Often, graduates from NOSW find new jobs in the social service sector as a result of their experience as care givers fostered by NOSW. Other graduates continue their education. In fact, approximately 75 percent of the 400 alumni of NOSW have either pursued GEDs and college degrees, or found new employment opportunities.

Ms. Stephenson retired as director of the school several years ago, but she still serves in the capacity of teacher and fundraiser. She is an exemplar of charity and selflessness and is one to be emulated nationwide. Ms. Stephenson's vision has reaped innumerable benefits in the lives of hundreds of women of Appalachia. I thank the Senate for allowing me to pay tribute to this remarkable woman.•

TRIBUTE TO MARJORIE BROOKS

• Mr. JEFFORDS. Mr. President, as Senators, we are accustomed to the glare of the public spotlight which sometimes gives us more credit than we deserve. There are those, however, who work tirelessly for those in their community without such recognition.

I wish to recognize one of those persons who works behind the scenes to make our country a better place to live. Marjorie Brooks, of Glover, was killed on Monday, August 25, 2003 while responding to a person in need.

Brooks was riding in an emergency vehicle that rolled over enroute to assist at the scene of a vehicle accident.

Marjorie Brooks was captain and president of the Barton Emergency Medical Services and had served on the squad for more than 25 years. She was planning to retire in September.

"Marge and her family are really a part of the history of emergency medical services in Barton, the Northeast Kingdom, and Vermont as a whole," said Dan Manz, chief of Emergency Medical Services for the State Department of Health. "Marge has embodied the best of community-based emergency medical care. She touched thousands of lives as an EMT." I couldn't have said it better myself.

The State of Vermont, including all those she served, has suffered a great loss in her death. I hope her family, including her son, Phil Brooks, who is the Secretary-Treasurer of the Barton EMS, finds the strength they need in coping with this tragic loss.

Marjorie was a true public servant, and Vermont mourns her loss.•

IN RECOGNITION OF WILLIAM E. JOHNSON

• Mr. BOND. Mr. President, today I wish to pay tribute to the outstanding achievements and public service of Mr. William E. Johnson.

I have had the honor of working with Bill over the years. This month Bill will be honored for his 40 years of dedication and service to the citizens of Audrain County and the State of Missouri.

As a pioneer for home health in Audrain County, Bill was instrumental in the Audrain City-County Health Unit establishing a home health agency in 1963 which has since expanded to include four more home health units. Bill has also taken a considerable leadership role in home health care serving as president of the Missouri Alliance for Home Care, MAHC, from 1981 to 1982 and as a member of the board of MAHC for 9 years between 1977 and 1988. There is no question that he has been an innovator in the field of home health care in Missouri.

While Bill continues to display tireless commitment to home health care, which includes serving as administrator for the Audrain City-County Health Unit for the last 35 years, his generosity and hard work for the health and well being for the citizens of Audrian County and Missouri expands well beyond that of home health care. In addition to being a leader in the inception of the Rural Health Administrators, serving on the Partnership Council of the Department of Health/Local Health Department and serving on the Partnership Council Environmental Committee he has been active in the Department of Health and Senior Services, the Meals on Wheels program and as a member of the Audrain County Human Development Corporation since 1965.

Today I ask the Senate to join me in honoring Bill's distinguished career in public health and public service.•

WALTER "SALTY" BRINE'S 85TH BIRTHDAY

• Mr. REED. Mr. President, on August 5, 2003, an icon in my home State of Rhode Island celebrated his 85th birthday. Walter "Salty" Brine was hired by WPRO-AM in 1942 and took over as morning host in 1943 where he stayed for 50 years.

Salty entertained Rhode Islanders on radio and television with his enthusiasm, family friendly programming and his love for Rhode Island and its coastline. In fact, it is his love for the water which earned him the nickname "Salty." But, Salty's contribution to Rhode Island has been more than just entertainment. He has been a consistent supporter of charitable organizations and an inspiration for the disabled.

Brine has been a role model for Rhode Islanders and has been named a member of the National Commission for the March of Dimes, National Commission on Muscular Dystrophy, and both the President's and Rhode Island's committees on the employment of the handicapped. He has been a supporter of the Meeting Street School for Crippled Children and the Rhode Island Association for Retarded Children. Brine was named the recipient of the 1999 Nellie A. Greenwood Humanitarian Award and numerous other honors have been bestowed on Salty by organizations such as the Cranston Jaycees, Rhode Island Big Brother, Veterans of Foreign Wars and American Legion.

Brine lent his support to the Lt. Governor's Rhode Island Fights Back Program that asked the public to help support local businesses that suffered after September 11.

Brine's love for the water has led to his involvement in the preservation of State beaches and waterways. He is on the Board of Trustees of Save the Bay and in 1990, a State beach was named in his honor.

As an on-air personality it was Salty's folksy, contagious enthusiasm that endeared him to the Rhode Island public. Almost every lifelong Rhode Islander, young and old, can remember Brine's winter storm school closings announcements, highlighted by a line that has become a unique part of Rhode Island culture, "No school Foster-Glocester!"

Brine dominated morning radio on WPRO for decades and he remained a ratings winner until he left WPRO in 1993, though he continued to make the famous school closing announcements from home during snowy Rhode Island winters. WPRO's broadcast center is now named after him.

I first glimpsed Salty back in the 1950s when he came to visit his son, Wally, at St. Matthew's School in Cranston. Wally and I were grade school classmates. Salty was the first "celebrity" I ever saw in person. Almost 50 years later, he's still the best as well as the first.

In the early days of television Brine developed "Salty Brine's Shack," a children's show that ran on Channel 12 from 1958 to 1968. Many still remember Brine closing the show telling kids to "Brush your teeth and say your prayers."

Rhode Island has certainly been lucky to have Salty Brine and in an interview with the Providence Journal Brine expressed a mutual love, "I've been very lucky," he said. "I've had the most wonderful association with the State of Rhode Island anyone could ever have."•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

Pursuant to 5 U.S.C. 802(c), the Committee on Health, Education, Labor, and Pensions was discharged from the further consideration of the following join resolution, which was placed on the calendar:

S.J. Res. 17. A joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3615. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to the United Grain Standards Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3616. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dially Sulfides; Exemption from the Requirement of a Tolerance: Correction" (FRL#7320-5) received on August 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3617. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a draft of proposed legislation relative to the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3618. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Addition of a New Varietal Type Quality Requirements for Other Seedless-Sulfured Raisins" (Doc. No. FV02-989-1) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3619. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Revision of User Fees for 2002 Crop Cotton Classification Services to Growers" (RIN0581-AC04) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3620. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports" (Doc. No. CN-02-002) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3621. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendments to the Child Nutrition Infant Meal Pattern" (RIN0584-D26) received on August 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3622. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to the Grain Standards Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3623. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "General Regulations Subpart J—Appeal Procedure and Subpart T; Group Risk Plan of Insurance Regulations for the 2001 Succeeding Crop Years; and the Common Crop Insurance Regulations, Basic Provisions" (RIN0563-AB85) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3624. A communication from the Chair, Farm Credit Insurance Corporation, transmitting, pursuant to law, the Corporation's annual report for calendar year 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3625. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Update of Nursery Stock Regulations" (Doc. No. 98-062-2) received on August 26, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3626. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Requirements for Recognizing the Animal Health Status of Foreign Regions" (Doc. No. 01-036-2) received on August 26, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3627. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to the Poultry Products Inspection Act, Federal Meat Inspection Act, and Egg Products Inspection Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3628. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2,6-Diisopropy 1 naphthalene; Temporary Tolerances" (FRL#7321-6) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3629. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hydramethlynon; Pesticide Tolerance" (FRL#7319-5) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3630. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spinoad; Pesticide Tolerances for Emergency Exemption" (FRL#7317-3) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3631. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tralkoxydim; Time-Limited Pesticide Tolerance" (FRL#7315-9) received on August 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3632. A communication from the Chief Information Officer, Department of Defense, transmitting, pursuant to law, the Department's annual report on the Defense Information Assurance Program; to the Committee on Armed Services.

EC-3633. A communication from the Assistant Secretary of Defense, International Security Policy, Department of Defense, transmitting, pursuant to law, the Department's report on progress in Kosovo; to the Committee on Armed Services.

EC-3634. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary of Defense, Special Operations/Low Intensity Conflict, received on August 22, 2003; to the Committee on Armed Services.

EC-3635. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation: Federal Acquisition Circular 2001-15" (FAC2001-15) received on August 22, 2003; to the Committee on Armed Services.

EC-3636. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the Department's report relative to initiatives that use the authorities of Section 584 to support various programs; to the Committee on Armed Services.

EC-3637. A communication from the Assistant Secretary of Defense, Reserve Affairs, transmitting, pursuant to law, the Department's STARBASE Program Annual Report for Fiscal Year 2001; to the Committee on Armed Services.

EC-3638. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report entitled "Acquisition"; to the Committee on Armed Services.

EC-3639. A communication from the Director, Naval Reactors, transmitting, pursuant to law, the Naval Nuclear Propulsion Program's latest reports on radiological waste disposal and environmental monitoring; to the Committee on Armed Services.

EC-3640. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 65) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3641. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3642. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-P-7624) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3643. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-D-7541) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3644. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA-7811) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3645. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3646. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3647. A communication from the General Counsel, Federal Emergency Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3648. A communication from the General Counsel, Federal Emergency Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3649. A communication from the General Counsel, Federal Emergency Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 65) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3650. A communication from the General Counsel, Federal Emergency Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-P-7610) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3651. A communication from the General Counsel, Federal Emergency Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 65) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3653. A communication from the Assistant General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Terrorism Risk Insurance Program" (RIN1505-AA96) received on August 11, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3654. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Removal, Suspension, and Debarment of Accountants from Performing Audit Services" received on August 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3655. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments" received on August 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-3656. A communication from the Vice President of the United States, transmitting, pursuant to law, a report relative to national emergencies; to the Committee on Banking, Housing, and Urban Affairs.

EC-3657. A communication from the Vice President of the United States, transmitting, pursuant to law, a report relative to national emergency with respect to Iraq; to the Committee on Banking, Housing, and Urban Affairs.

EC-3658. A communication from the Vice President of the United States, transmitting, pursuant to law, a report relative to the national emergency with National Union for the Total Independence of Angola; to the Committee on Banking, Housing, and Urban Affairs.

EC-3659. A communication from the Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to U.S. exports to Hong Kong; to the Committee on Banking, Housing, and Urban Affairs.

EC-3660. A communication from the Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to U.S. exports to Ethiopia; to the Committee on Banking, Housing, and Urban Affairs.

EC-3661. A communication from the Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to U.S. exports to Singapore; to the Committee on Banking, Housing, and Urban Affairs.

EC-3662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller, Inc., McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company Propellers" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Israel Aircraft Industries Ltd Model 1124 and 1124A Series Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777 Series Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: New Piper Aircraft Inc. Models PA 34 200T, -220T, -180, and 180T Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc Model RB211 Turbofan Engines" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas MD 90 30 Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3668. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: International Aero Engines AG V522-A5, V2524-A5, V2527-A5, V2527E-A5, V2527M-A5, V2530-A5 Turbofan Engines" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3669. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Model 365N1, AS365-N2, AS365N3, and SA366G1 Helicopters" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3670. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1600 2B19 Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3671. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca Turmo IV A and IV C Series Turboshaft Engines" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3672. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW400 Series Turbofan Engines" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3673. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328-100 Series Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3674. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd Models PC 12 and PC 12/45" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3675. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 100, 100B SUD, 200B, 200F . 200C, 300, SR and SP Series Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3676. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS332C, L, and L1 Helicopters" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3677. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727-100 and 2300 Series Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3678. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model ATP Airplanes" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3679. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB2-11-22B Series Turbofan Engines" (RIN2120-AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3680. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Amendment of Class E5 Airspace; Waycross, GA" (RIN2120-AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Marshall AK" (RIN2120-AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Eureka, KS" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Legal Descriptions of Multiple Federal Airways in the Vicinity of Farington, NM" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Restricted Area 4809; Tonopah, NV" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class B Airspace; Kenton, OH: Revocation of Class E Airspace" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Beatrice, NE" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; Elizabeth City, NC" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E5 Airspace at Afton Municipal Airport; Afton, WY" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3689. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sac City, IA: Confirmation of Effective Date" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3690. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Red Oak, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3691. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Aurora, MO" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3692. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Sibley, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Pocahontas, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Odel A319, A320, and A321 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MD Helicopters, Inc. Model MD900 Helicopters" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT8D–200 Series Turbofan Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc Trent 768–60, Trent 772–60, and Trent 772B–60 Turbofan Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney Canada Turboprop Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, B1, B2, B3, BA, and D Helicopters" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation .

EC-3700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca Arriel 1 Series Turboshaft Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 10–10, 10–10F, 10–30F, 10–40F, MD10–10F, and MD10–30F Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3703. A communication from the Chief, Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "User Fee Airports" (CBP Decision 3–22) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International Inc., Model RE220 Auzxliary Power Units" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness DirectivesL Empresa Brasileira de Aeronautica SA Model EMB 120 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B SUD, 200B, 200C, 200F, 300, 400, 400D, and 400F Series Airplanes; and Model 747SR Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes Equipped with General Electric CF6–45 or CF6–50 Series Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3708. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (4 Regulations)" (RIN1625–AA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3709. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Islais Creek, San Francisco, CA" (RIN1625–AA09) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3710. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation; SLR: Atlantic Ocean, Atlantic City, NJ" (RIN1625–AA08) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3711. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (3 Regulations)" (RIN1625-AA09) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3712. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area: 2003 Gravity Games, Cleveland" (RIN1625-AA11) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3713. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Safety and Security Zones: Long Island Sound Marine Inspection and Captain of the Port Zone" (RIN1625-AA11) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3714. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Tampa Bay, Florida" (RIN1625-AA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3715. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 2 Regulations)" (RIN1625-AA09) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3716. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Navigation and Navigable Waters—Technical, Organizational, and Conforming Amendments" (RIN1625-ZA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3717. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Basic Rates and Charges on Lake Erie and the Navigable Waters From Southwest Shoal to Port Huron, MI" (RIN1625-AA74) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3718. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Special Anchorage Areas/Anchorage Grounds Regulations/Security Zones; Rockland, Maine" (RIN1625-AA01) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3719. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation; SLR (Including 2 Regulations)" (RIN1625-AA08) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3720. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Special Anchorage Areas/Anchorage Grounds Regulations/Security Zones; Tall Ships 2003. Navy Pier, Chicago, IL. July 30-August 4, 2003" (RIN1625-AA01) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3721. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 4 Regulations)" (RIN1625-AA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3722. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 7 Regulations)" (RIN1625-AA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3723. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Confidential Business Information" (RIN2127-AI13) received on July 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3724. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Producer-operated Outer Continental Shelf Natural Gas and Hazardous Liquid Pipelines that Cross Directly into State Waters" (RIN2137-AD42) received on July 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3725. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions" (RIN2137-AD41) received on July 31, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3726. A communication from the Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies 200 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 or the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations" (FCC03-154) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3727. A communication from the Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies 200 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 or the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations" (FCC03-128) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3728. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce" (RIN2126-AA52) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3729. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Operation of Motor Vehicles By Intoxicated Persons" (RIN2127-AI44) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3730. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Directed Fishing for Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska" received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3731. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Halibut and Red King Crab Bycatch Rate Standards for the First Half of 2002" received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3732. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Retention of Sablefish by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska" received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3733. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closes Second Seasonal Apportionment of the Shallow-Water Fishery Using Trawl Gear, Gulf of Alaska" received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3734. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Commercial Shark Management Measures" (RIN0648-AP70) received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3735. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Extension of the Emergency Interim Rule That Implemented Steller Sea Lion Protection Measures and Implemented 2002 Harvest Specifications for the Groundfish Fisheries Off Alaska" (RIN0648-AQ02) received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3736. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, a report of discontinuation of service in acting role for the position of Associate Deputy Secretary, Department of Transportation, received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3737. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Framework Adjustment 38 to the Northeast Multispecies Fishery Management Plan" (RIN0648–AQ76) received on August 22, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3738. A communication from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Non-Commercial Representations and Certifications and Evaluation Provisions for Use in Simplified Acquisitions" (RIN2700–AC33) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3739. A communication from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Shipment by Government Bills of Lading" (RIN2700–AC33) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3741. A communication from the Secretary of Transportation, transmitting, pursuant to law, a copy of the Report to Congress on the Transportation Infrastructure Finance and Innovation Act of 1998; to the Committee on Commerce, Science, and Transportation.

EC–3742. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 9 Regulations)" (RIN1625–AA00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3743. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans" (FRL#7546–8) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3744. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oklahoma: Incorporation by Reference of Approved State Hazardous Waste Management Program" (FRL#7479–3) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3745. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New Mexico: Incorporation by Reference of Approved State Hazardous Waste Management Program" (FRL#7479–5) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3746. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District" (FRL#7536–2) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3747. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan; Sacramento Metropolitan Air Quality Management District" (FRL#7526–4) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3748. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL#7526–6) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3749. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District" (FRL#7535–1) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3750. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation Implementation Plans Georgia: Approval of Revisions to State Implementation Plan" (FRL#7543–9) received on August 22, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1264. A bill to reauthorize the Federal Communications Commission, and for other purposes (Rept. No. 108–140).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1046. A bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations (Rept. No. 108–141).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN (for himself and Mr. REID):

S. 1575. A bill to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; to the Committee on Energy and Natural Resources.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1576. A bill to revise the boundary of Harpers Ferry National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THOMAS:

S. 1577. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 1578. A bill to amend the Internal Revenue Code of 1986 to classify qualified rental office furniture as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mr. DEWINE:

S. 1579. A bill to provide for the continuation of the Pediatric Research Initiative; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mr. DEWINE):

S. 1580. A bill to amend the Immigration and Nationality Act to extend the special immigrant religious worker program; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mr. ENZI):

S. 1581. A bill to mitigate the harm to individuals throughout the Nation who have been victimized by identity theft, to prevent identity theft, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 249

At the request of Mrs. CLINTON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 249, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a deceased veteran after age 55 shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse.

S. 300

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 431

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 431, a bill to amend the Solid Waste Disposal Act to impose certain limits on the receipt of out-of-State municipal solid waste.

S. 511

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

S. 538

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 538, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 971

At the request of Mr. HARKIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1055

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1055, a bill to amend the Internal Revenue Code of 1986 to provide physicians and other health care professionals with a tax credit for qualified expenditures for medical professional malpractice insurance, and for other purposes.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1190

At the request of Mr. BINGAMAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1190, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 1289

At the request of Mr. GRAHAM of Florida, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1289, a bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone.

S. 1331

At the request of Mr. SANTORUM, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1384

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1384, a bill to amend title 23, United States Code, to provide State and local authorities a means by which to eliminate congestion on the Interstate System.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1543

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1543, a bill to amend and improve provisions relating to the workforce investment and adult education systems of the Nation.

S. 1566

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1566, a bill to improve fire safety by creating incentives for the installation of automatic fire sprinkler systems.

S. CON. RES. 17

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution establishing a special task force to recommend an appropriate recognition for the slave laborers who worked on the construction of the United States Capitol.

S. RES. 169

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

S. RES. 204

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 204, a resolution designating the week of November 9 through November 15, 2003, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 205

At the request of Mr. COLEMAN, the names of the Senator from Montana (Mr. BURNS), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 205, a resolution expressing the sense of the Senate that a commemorative postage stamp should be issued on the subject of autism awareness.

S. RES. 210

At the request of Mr. HATCH, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 210, a resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month".

S. RES. 212

At the request of Mrs. FEINSTEIN, the names of the Senator from California (Mrs. BOXER), the Senator from Indiana

(Mr. LUGAR), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Oregon (Mr. SMITH), the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 212, a resolution welcoming His Holiness the Fourteenth Dalai Lama and recognizing his commitment to non-violence, human rights, freedom, and democracy.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 1576. A bill to revise the boundary of Harpers Ferry National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, today I am introducing legislation to expand the park boundaries for the Harpers Ferry National Historic Park. Harpers Ferry, located at the confluence of the Potomac and Shenandoah Rivers, is one of West Virginia's jewels. Its place in American history, coupled with the natural scenic beauty of the park and its surroundings, make for a one-of-a-kind experience for local residents and visitors alike. Now is the time to move forward with that effort.

Harpers Ferry has been the backdrop for remarkable historic events. Here, in one setting, several themes in America's story converge: exploration, industry and transportation, the question of slavery, the Civil War, and the natural splendor of our Nation.

We are taught that the Lewis and Clark Expedition began in Wood River, IL, on the Mississippi River in 1804. But, in fact, Harpers Ferry also contributed to that important historic expedition by providing a cache of supplies that helped sustain these brave explorers as they traveled to the Pacific Ocean and back.

One of Harpers Ferry's most famous incidents occurred in 1859 when the fierce abolitionist leader John Brown and a small band of raiders held Federal troops at bay in the Federal arsenal. John Brown's capture fueled the growing tensions on the issue of slavery.

The property includes the operational Baltimore & Ohio train station, and it borders a part of the Chesapeake and Ohio Canal. Both the railroad and the canal made Harpers Ferry a key transit point during the Civil War.

In September 1862, 37,000 Union and Confederate troops wrestled for the control of Harpers Ferry. Over the course of 4 days, a famous West Virginian, GEN Thomas Jonathan "Stonewall" Jackson, battled Union troops that were under the leadership of COL Dixon Miles in the area of Schoolhouse Ridge and Bolivar Heights. When it was over, the largest surrender of Union soldiers, 12,500 in all, occurred. Jackson's victory allowed GEN Robert E. Lee to carry his fight further to Sharpsburg, MD, where the bloodiest single day battle of the Civil War the Battle of Antietam—was fought.

Harpers Ferry's rich history is matched only by its great natural beauty. Throughout the year, residents and visitors alike can be seen enjoying fishing, hiking, biking, horseback riding, rafting, canoeing, kayaking, and much more in this scenic park. In the summer of 2001, the Peregrine Falcon Restoration Project began at the park. Since that time, 12 peregrine falcon chicks have been released across the Potomac River on Maryland Heights. This and other efforts are underway to restore these incredible raptors to their native nesting sites in the Appalachian region.

Today, the park is home to a vast array of outdoor and recreational opportunities. The historical, recreational, and ecological significance suggests that the time is right to expand the boundaries of Harpers Ferry National Historic Park. The boundary expansion has the support of a number of groups, including the Friends of Harpers Ferry, the Harpers Ferry Conservancy, and the Civil War Preservation Trust.

Harpers Ferry became a part of the National Park System in 1944. My legislation would expand its boundary by 1,240 acres, from its current 2,505 acres to 3,745 acres. In order to educate local residents about the expansion process, I directed the National Park Service, in the year 2000, to conduct a public outreach program. As part of that program, the Park Service asked for public response to potential expansion. Since the publication of the study, some lands have been purchased under the current acquisition ceiling. Further, the larger expansion proposal, which would be authorized by the passage of my legislation, has the strong support of 94 percent of the responders.

So, Mr. President, we must do all that we can to protect such very special places. Therefore, I am proud to introduce this legislation that I hope will protect an important place for West Virginia and the Nation as a whole.

Mr. President, I yield the floor.

By Mr. DEWINE:

S. 1579. A bill to provide for the continuation of the Pediatric Research Initiative; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PEDIATRIC RESEARCH INITIATIVE.

The Director of the National Institutes of Health in implementing the Pediatric Research Initiative under section 409D of the Public Health Service Act (42 U.S.C. 284h), shall—

(1) continue the Initiative and emphasize the importance of pediatric research, particularly translational research; and

(2) not later than January of 2004, continue to report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of the Pediatric Research Initiative, including—

(A) the extent of the total funds obligated to conduct or support pediatric research across the National Institutes of Health, including the specific support and research awards allocated by the Office of the Director through the Initiative;

(B) the activities of the cross-institute committee on pediatric research in assisting the Director in considering requests for new or expanded pediatric research to be funded through the Initiative;

(C) how the Director plans to budget dollars toward the Initiative for fiscal year 2004;

(D) the amount the Director has expended to implement the Initiative since the enactment of the Initiative;

(E) the status of any research conducted as a result of the Initiative;

(F) whether that research is translational research or clinical research;

(G) how the Initiative interfaces with the Off-Patent research fund of the National Institutes of Health; and

(H) any recommended modifications that Congress should consider in the authority or structure of the Initiative within the National Institutes of Health for the optimal operation and success of the Initiative.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mr. DEWINE):

S. 1580. A bill to amend the Immigration and Nationality Act to extend the special immigrant religious worker program; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Religious Workers' Act of 2003. It provides permanent authority for 5,000 visas per year for non-minister religious workers. These religious workers fulfill a need in the religious communities around this nation. I would like to thank Senators KENNEDY and CHAMBLISS for cosponsoring this bill.

The provision relating to the "non-minister" religious workers was enacted through the Immigration Act of 1990. Prior to 1990, churches, synagogues, mosques, and their affiliated organizations experienced significant difficulties in trying to gain admission for a much needed minister or other persons necessary to provide religious services to the communities. Through the 1990 Act, Congress recognized that religious institutions deserved to be on equal footing as the business and educational institutions in terms of having their human resources needs addressed.

I would like to quote from a letter written by the late Mother Theresa to

Senator Abraham shortly before her passing, asking for continuation of this visa category when it was about to sunset in 1997. Mother Theresa said:

> It means so much to our poor people, to have Sisters who understand them and their culture. It takes a long time for a Sister to understand the people and a culture, so now our Society wants to keep our Sisters in their mission countries on a more long-term basis. Please help us and our poor by extending this law.

The simple plea of this great humanitarian speak volumes regarding why this law is needed.

In addition, I recently received a letter from Bishop Thomas Wenski, Chairman of the U.S. Conference of Catholic Bishops' Committee on Migration. Bishop Wenski tells me that the religious workers covered by this act would provide humanitarian services to the most needy, such as shelter and nutrition. They would care for and minister to the sick, aged, and dying in hospitals. They counsel adolescents and others suffering hardship, and support families in crisis. Bishop Wenski further advises that there is a "rapid decrease in the number of Americans turning to religious vocations. . . . In these times of uncertainty, it is more important than ever that faith based organizations be able to serve the communities through the essential services provided by religious workers."

I ask unanimous consent that the letters of Mother Teresa and Bishop Wenski be printed in the RECORD.

The extension would allow religious organizations to continue their important programs and would provide a measure of stability that religious organizations need to set long term objectives. It is very important that faith-based organizations be able to serve the community through the essential services provided by religious workers.

I ask for the support of my colleagues for the Religious Workers' Act of 2003.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the letters and the bill were ordered to be printed in the RECORD, as follows:

MISSIONARIES OF CHARITY,
Calcutta, India, July 20, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR ABRAHAM: This brings you my prayers, greetings and gratitude for all that you have done to help my Sisters and all Religious serve the poor in the United States.

I am writing to ask you to help us in solving a very urgent problem. My Sisters in New York have told me that the law which allows the Sisters to apply for permanent residence in the United States expires on September 30, 1997. Please, will you do all that you can to have that law extended so that all Religious will continue to have the opportunity to be permanent residents and serve the people of your great country.

It means so much to our poor people to have Sisters who understand them and their culture. It takes a long time for a Sister to understand the people and a culture, so now our Society wants to keep our Sisters in their mission countries on a more long term basis. Please help us and our poor by extending this law.

I am praying for you and the people of Michigan. My Sisters serve the poor in Detroit where we have a soup kitchen and night shelter for women. Let us all thank God for this chance to serve His poor.

God bless you.

M. TERESA, MC.

USCCB COMMITTEE ON MIGRATION,
C/O MIGRATION AND REFUGEE SERVICES,
Washington DC, July 24, 2003.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee,
Dirksen Senate Office Building.

DEAR MR. CHAIRMAN: As Chairman of the Committee on Migration of the United States Conference of Catholic Bishops, I write to express my strong support of your bill to authorize a permanent extension of the non-minister special immigrant religious worker visa program. As you know, the religious worker visa program (RWVP) allows U.S. religious denominations to fill critical religious worker positions with qualified religious workers from abroad. The Catholic Church and others rely heavily on this program and are committed to working for its continuation.

Under the RWVP, religious entities may bring in both minister and non-minister religious workers. The non-minister provision of the program covers those who are called to a vocation or are in a traditional religious occupation. Those who are called to a vocation include nuns, monks, and religious brothers and sisters. Those in religious occupations would include missionaries, counselors, instructors, translators, and others.

Religious workers may work in the United States as non-immigrants or as special immigrants. The special immigrant visa allows qualified religious workers to immigrate to the United States permanently and later become citizens if they so choose and meet the qualifications. It is the non-minister special immigrant provision of the RWVP that will expire soon unless Congress acts to reauthorize it or to create a permanent provision for non-minister special immigrants.

If this provision is allowed to expire, religious denominations across the country will face a critical shortage of non-minister religious workers who perform essential services for their communities. The denominations and the communities they serve will suffer. Among the important tasks non-minister religious workers perform are:

providing human services to the most needy, including shelter and nutrition;

caring for and ministering to the sick, aged, and dying in hospitals and special facilities;

working with adolescents and young adults;

assisting religious leaders as they lead their congregations and communities in worship;

counseling those who have suffered severe trauma and/or hardship;

supporting families, particularly when they are in crisis;

offering religious instruction, especially to new members of the religious denomination; and

helping refugees and immigrants in the United States adjust to a new way of life.

With the rapid decrease in the number of Americans turning to religious vocations, religious organizations are experiencing an acute shortage of non-minister religious workers in the United States. In these times of uncertainty, it is more important than ever that faith-based organizations be able to serve the community through the essential services provided by religious workers.

Since its enactment, the special immigrant provision of the non-minister religious worker visa program has been extended three times, and is currently set to expire on September 30, 2003. Temporary extensions of this program have had unfortunate consequences; in the past, as expiration dates have drawn near, government agencies have had difficulties processing applications because of uncertainty over whether the provision will be extended. Thus, religious organizations have had to endure anxiety and disruptions in their planning as they wonder whether or not they will have enough staff in the coming years to perform their services. Local communities have had to worry about losing vital services that religious organizations provide. Congress could end this anxiety and uncertainty by permanently extending this small, but vital program, as you have proposed.

On behalf of the USCCB, I welcome the introduction of this important bill and offer our full support and commitment to working with you for a permanent extension of the Non-Minister Special Immigrant Religious Worker Program.

Sincerely yours,

BISHOP THOMAS G. WENSKI,
Coadjutor Bishop of Orlando, Chairman,
Committee on Migration.

S. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Workers Act of 2003".

SEC. 2. PERMANENT EXTENSION OF SPECIAL IMMIGRANT RELIGIOUS WORKER PROGRAM.

(a) IN GENERAL.—Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking "2003" each place that term appears and inserting "2008".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

By Ms. CANTWELL (for herself and Mr. ENZI):

S. 1581. A bill to mitigate the harm to individuals through the Nation who have been victimized by identity theft, to prevent identity theft, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President, I rise today to re-introduce legislation critical to helping victims of identity theft. This legislation, the Identity Theft Victims Assistance Act, passed the Senate by unanimous consent in the 107th Congress, and I look forward to its passage again this Congress. Last year, the legislation had strong bipartisan support, as evidenced by the fact that Senator MIKE ENZI is cosponsoring it again. The bill has broad support from law enforcement, consumers' groups, and privacy advocates. Last year, the National Center for the Victims of Crime, the Fraternal Order of

Police, Consumers Union, Identity Theft Resource Center, U.S. Public Interest Group, Police Executive Forum, Privacy Rights Clearinghouse, and Amazon.com supported the bill. Twenty-two State Attorneys General signed a letter supporting the legislation.

Identity theft is the fastest-growing crime in the country. The Federal Trade Commission found that complaints of identity theft increased 87 percent between 2001 and 2002, and over 161,000 complaints were received by the agency last year. A July 2003 study by Gartner Inc. found that there was a 79-percent increase in identity theft in the past year alone. Identity theft now accounts for 43 percent of consumer fraud complaints and leads the list of consumer frauds. It is an insidious crime because it often occurs without the victim's knowledge, yet leaves scars on their credit records and reputations that can last for years, and cost thousands of dollars to repair.

The Secret Service has estimated that consumers lose $745 million to the problem each year, and this number is clearly growing as the number of identity thefts increases. When a victim realizes that his or her identity was stolen it's just the beginning of their troubles. The FTC estimates that it costs the average victim $1,000 in long-distance phone calls, notary charges, mailing costs and lost wages to get his or her financial life back in order after an identity thief strikes. The Identity Theft Resource Center estimates that average identity theft victims spend 175 hours to clear their records.

But the costs are not confined to consumers—identity theft hits businesses and the economy, too. Identity theft-related losses suffered by MasterCard and Visa jumped from $79.9 million in 1996 to $144.3 million in 2000. One study estimates that by 2006 identity theft will cost the financial institution sector alone $8 billion per year.

To take just one of many examples from my state, Jenni D'Avis of Mill Creek, Washington, had her Social Security number stolen when a thief took her mail and found the number listed on a letter from her community college. The criminal used the number to obtain a state identification card, and in turn used that to get credit. In just 23 days, the thief ran up $100,000 in bad debt—all in Jenni's name. Once she became aware of the problem, she had to become a "Nancy Drew," and track down information. Businesses were reluctant to give her the information she needed to determine the extent of the problem and clear her name and credit record. She is still repairing the damage.

Sadly, Jenni's story is not unique. Victims of identity theft have difficulty restoring their credit and regaining control of their identity, in part, because they have no simple means to show creditors and credit reporting agencies that they are who they say they are. In order to prove fraud, a victim often needs copies of creditors records, such as applications and information, and records from the companies the identity thief did business with. Ironically, victims have difficulty obtaining these business records because the victim's personally identifying information does not match the information on file with the business.

This bill fixes that problem. The Identify Theft Victims Assistance Act creates a standardized national process for a person to establish he or she is a victim of identity theft for purposes of tracing fraudulent credit transactions and obtaining the evidence to repair them. It requires the Federal Trade Commission to make available a simple certificate that, when notarized, provides certainty to businesses and financial institutions that the person is who they claim to be, is a victim of identity theft, and has filed claims with both local law enforcement and the FTC. With this document in hand, the victim can then obtain from businesses the records they need.

The need for a national system is readily apparent, as identity theft is increasingly a crime that crosses State lines. One of the greatest challenges identity theft presents to law enforcement is that a stolen identity is used to create false identities in many different localities in different states. Although identity theft is a federal crime, most often, state and local law enforcement agencies are responsible for investigating and prosecuting the crimes. Yet law enforcement has yet to fully recognize the serious nature of the problem or to develop a coordinated investigative strategy. For example, in the case of Michael Calip of Centralia, Washington, identity thieves not only ran up $60,000 in debts, they also committed crimes using his name—trashing his credit record and creating a criminal record. Michael tracked the thieves to Wyoming, but had difficulty convincing local authorities there to pursue his case.

My bill for the first time also permits a victim to designate the investigating agency, either local or State law enforcement or Federal investigators, to act as their agents in obtaining evidence of identity theft. This both eases the burden on the victim and aids police in investigating suspected identity theft rings. In addition it requires the existing Identity Theft Coordinating Committee to consult with State and local law enforcement agencies.

Acquiring the evidence of the fraudulent use of identity currently can be an enormous and time-consuming problem for victims. The Identity Theft Victims Assistance Act makes this job easier by establishing that any business presented with the FTC certificate identifying the person as a victim of identity theft, together with a police report and a government issued photo ID must deliver copies of all the financial records that document the fraud to the victim within 20 days. This is a critically important change from current law because it guarantees that victims will be able to obtain the evidence they need while also providing businesses more certainty that they are not violating someone's privacy or providing sensitive information to the wrong parties. It also provides new liability protections for businesses that make a good faith effort to assist victims of identity theft.

Of course, the greatest harm to consumers victimized by theft of their identity is often a bad credit rating or a poor credit score that results from fraudulent use of the consumer's identity. According to the FTC, it often takes about a year for people to discover someone is using personal information for fraudulent purposes, allowing significant damage to otherwise stellar credit records. Even after a consumer reports to a credit reporting agency that they have been victimized by identity theft, the consumer often can not get the reporting agencies to block reporting of activities that resulted from the identity theft.

My bill again requires that presentation of the FTC certificate, police report and photo identification establish that the person is in fact a victim of identity theft and requires credit-reporting agencies to block information that appears on a victim's credit report as a result of the identity theft. It also changes current law that requires individuals to bring suit against a credit reporting agency within two years from the time the agency commits a violation of laws on fair reporting of credit. This makes little sense, since it may be years before a misrepresentation comes to the attention of a victim of identity theft. The bill requires that the statute of limitations begin ticking from the time when a consumer discovers or has reason to know that a misrepresentation by a credit reporting agency has occurred.

The bill leaves in place State laws that are more stringent and provides that either Federal prosecutors or State Attorney Generals may enforce this law.

Jenni and Michael's stories illustrate the unique problems victims of identity theft face. Although penalties exist for identity thieves, no remedies are available for their victims. The scope of the problem is made worse because it's too easy for a criminal to steal someone's identity and cause serious harm before the theft is even discovered. And when these criminals cross state lines, it can be even harder for victims to trace the problem and repair the damage. For these reasons, it's imperative that we pass federal legislation for the victims of identity theft.

The government, creditors and credit reporting agencies have a shared responsibility to assist identity theft victims mitigate the harm that results from frauds perpetrated in the victim's name. We need to build up the law enforcement network, already started by the Federal Trade Commission and other federal agencies under the Identity Theft and Assumption Deterrence Act of 1998. We need to further improve law enforcement coordination, particularly between the various local and state jurisdictions combating identity theft and the associated crimes.

We also need to provide better and timelier information to businesses so they can head off fraud before it happens. That is why my bill also expands the jurisdiction of the interagency coordinating committee established under the Internet False Identification Act of 2000. Currently, the coordination committee has the mandate to study and report to Congress on federal investigation and enforcement of identity theft crimes. The Identity Theft Victims Assistance Act broadens the mandate for the coordinating committee to consider state and local enforcement of identity theft law and specifically requires the committee to examine and recommend what assistance the federal government can provide state and local law enforcement agencies to better coordinate in the battle against identity theft.

There is no doubt about the scope of the problem: identity theft is already a major problem, and it's getting worse. We must provide victims with the tools they need to regain control of their lives. The Identity Theft Victims Assistance of 2003 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft Victims Assistance Act of 2003".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The crime of identity theft is the fastest growing crime in the United States. According to a recent estimate, 7,000,000 Americans were victims of identity theft in the past year, a 79 percent increase over previous estimates.

(2) Stolen identities are often used to perpetuate crimes in many cities and States, making it more difficult for consumers to restore their respective identities.

(3) Identity theft cost consumers more than $745,000,000 in 1998 and has increased dramatically in the last few years. It has been estimated that identity theft victims within the business community lose an average of $17,000.

(4) Identity theft is ruinous to the good name and credit of consumers whose identities are misappropriated, and consumers may be denied otherwise deserved credit and may have to spend enormous time, effort, and money to restore their respective identities.

(5) As of the date of enactment of this Act, a national mechanism does not exist to assist identity theft victims to obtain evidence of identity theft, restore their credit, and regain control of their respective identities.

(6) Consumers who are victims of identity theft need a nationally standardized means of—

(A) establishing their true identities and claims of identity theft to all business entities, credit reporting agencies, and Federal and State law enforcement agencies;

(B) obtaining information documenting fraudulent transactions from business entities;

(C) reporting identity theft to consumer credit reporting agencies.

(7) Business entities, credit reporting agencies, and government agencies have a shared responsibility to assist victims of identity theft to mitigate the harm caused by any fraud perpetrated in the name of the victims.

SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) In General.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028 the following:

"§ 1028A. Treatment of identity theft mitigation

"(a) Definitions.—As used in this section—

"(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

"(A) account numbers and balances;

"(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

"(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

"(5) the term 'identity theft' means a violation of section 1028 or any other similar provision of applicable Federal or State law;

"(6) the term 'means of identification' has the same meaning given the term in section 1028;

"(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or with the intent to aid or abet, an identity theft; and

"(8) the terms not defined in this section or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

"(b) Information Available to Victims.—

"(1) In general.—A business entity that has provided credit, provided, for consideration, products, goods, or services, accepted payment, otherwise entered into a commercial transaction for consideration with a person that has made unauthorized use of the means of identification of the victim, or possesses information relating to such transaction, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

"(2) Rule of construction.—

"(A) In general.—No provision of Federal or State law (except a law involving the nondisclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

"(B) Limitation.—Except as provided in subparagraph (A), nothing in this section permits a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

"(c) Verification of Identity and Claim.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

"(1) as proof of positive identification, at the election of the business entity—

"(A) the presentation of a government-issued identification card;

"(B) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

"(C) personally identifying information that the business entity typically requests from new applicants or for new transactions at the time of the victim's request for information; and

"(2) as proof of a claim of identity theft, at the election of the business entity—

"(A) a copy of a police report evidencing the claim of the victim of identity theft;

"(B) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(C) any properly completed affidavit of fact that is acceptable to the business entity for that purpose.

"(d) Verification Standard.—Prior to releasing records pursuant to subsection (b), a business entity shall take reasonable steps to verify the identity of the alleged victim requesting such records.

"(e) Limitation on Liability.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment pursuant to, and in compliance with, this section, where such disclosure is made—

“(1) for the purpose of detection, investigation, or prosecution of identity theft; or

“(2) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

“(f) Authority To Decline To Provide Information.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity determines that—

“(1) this section does not require disclosure of the information;

“(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

“(3) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

“(g) No New Recordkeeping Obligation.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

“(h) Enforcement.—

“(1) Injunctive actions by the attorney general.—

“(A) In general.—Whenever it appears that a business entity to which this section applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this section, the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to—

“(i) enjoin such act or practice;

“(ii) enforce compliance with this section; and

“(iii) obtain such other equitable relief as the court determines to be appropriate.

“(B) Other injunctive relief.—Upon a proper showing in the action under subparagraph (A), the court shall grant a permanent injunction or a temporary restraining order without bond.

“(2) Administrative enforcement.—

“(A) Federal trade commission.—

“(i) In general.—Except to the extent that administrative enforcement is specifically committed to another agency under subparagraph (B), a violation of this section shall be deemed an unfair or deceptive act or practice in violation of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), for purposes of the exercise by the Federal Trade Commission of its functions and powers under that Act.

“(ii) Available functions and powers.—All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this section.

“(B) Other federal agencies.—Compliance with any requirements under this section may be enforced—

“(i) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)—

“(I) by the Office of the Comptroller of the Currency, with respect to national banks, and Federal branches and Federal agencies of foreign banks (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

“(II) by the Board of Governors of the Federal Reserve System, with respect to member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.);

“(III) by the Board of Directors of the Federal Deposit Insurance Corporation, with respect to banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers); and

“(IV) by the Director of the Office of Thrift Supervision, with respect to savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

“(ii) by the Board of the National Credit Union Administration, under the Federal Credit Union Act (12 U.S.C. 1751 et seq.), with respect to any federally insured credit union, and any subsidiaries of such credit union;

“(iii) by the Securities and Exchange Commission, under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), with respect to any broker or dealer;

“(iv) by the Securities and Exchange Commission, under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), with respect to investment companies;

“(v) by the Securities and Exchange Commission, under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), with respect to investment advisers registered with the Commission under such Act;

“(vi) by the Secretary of Transportation, under subtitle IV of title 49, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

“(vii) by the Secretary of Transportation, under part A of subtitle VII of title 49, with respect to any air carrier or any foreign air carrier subject to that part; and

“(viii) by the Secretary of Agriculture, under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), except as provided in section 406 of that Act (7 U.S.C. 226, 2271), with respect to any activities subject to that Act.

“(C) Agency powers.—

“(i) In general.—A violation of any requirement imposed under this section shall be deemed to be a violation of a requirement imposed under any Act referred to under subparagraph (B), for the purpose of the exercise by any agency referred to under subparagraph (B) of its powers under any such Act.

“(ii) Rule of construction.—Nothing in this section shall be construed to prevent a Federal agency from exercising the powers conferred upon such agency by Federal law to—

“(I) conduct investigations;

“(II) administer oaths or affirmations; or

“(III) compel the attendance of witnesses or the production of documentary or other evidence.

“(3) Parens patriae authority.—

“(A) Civil actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

“(i) enjoin that practice;

“(ii) enforce compliance with this section;

“(iii) obtain damages—

“(I) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of the State; and

“(II) punitive damages, if the violation is willful or intentional; and

“(iv) obtain such other equitable relief as the court may consider to be appropriate.

“(B) Notice.—Before filing an action under subparagraph (A), the attorney general of the State involved shall, if practicable, provide to the Attorney General of the United States, and where applicable, to the appropriate Federal agency with the authority to enforce this section under paragraph (2)—

“(i) a written notice of the action; and

“(ii) a copy of the complaint for the action.

“(4) Intervention.—

“(A) In general.—On receiving notice of an action under paragraph (3), the Attorney General of the United States, and any Federal agency with authority to enforce this section under paragraph (2), shall have the right to intervene in that action.

“(B) Effect of intervention.—Any person or agency under subparagraph (A) that intervenes in an action under paragraph (2) shall have the right to be heard on all relevant matters arising therein.

“(C) Service of process.—Upon the request of the Attorney General of the United States or any Federal agency with the authority to enforce this section under paragraph (2), the attorney general of a State that has filed an action under this section shall, pursuant to rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Attorney General of the United States or the head of such Federal agency, with a copy of the complaint.

“(5) Construction.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

“(A) conduct investigations;

“(B) administer oaths or affirmations; or

“(C) compel the attendance of witnesses or the production of documentary and other evidence.

“(6) Limitation on state action while federal action is pending.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States, or appropriate Federal regulator authorized under paragraph (2), for a violation of this section, no State may, during the pendency of that action, institute an action under this section against any defendant named in the complaint in that action for such violation.

“(7) Venue; service of process.—

“(A) Venue.—Any action brought under this subsection may be brought in the district court of the United States—

“(i) where the defendant resides;

“(ii) where the defendant is doing business; or

“(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

“(B) Service of process.—In an action brought under this subsection, process may be served in any district in which the defendant—

“(i) resides;

“(ii) is doing business; or

“(iii) may be found.

"(8) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

"(A) the business entity has made a reasonably diligent search of its available business records; and

"(B) the records requested under this section do not exist or are not available.

"(9) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

"1028A. Treatment of identity theft mitigation.".

SEC. 4. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

"(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

"(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

"(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—

"(A) that the information may be a result of identity theft;

"(B) that a police report has been filed;

"(C) that a block has been requested under this subsection; and

"(D) of the effective date of the block.

"(3) AUTHORITY TO DECLINE OR RESCIND.—

"(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

"(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

"(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

"(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

"(4) EXCEPTIONS.—

"(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

"(i) dishonored checks;

"(ii) accounts closed for cause;

"(iii) substantial overdrafts;

"(iv) abuse of automated teller machines; or

"(v) other information which indicates a risk of fraud occurring.

"(B) RESELLERS.—

"(i) NO RESELLER FILE.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

"(I) does not maintain a file on the consumer from which consumer reports are produced;

"(II) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(III) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

"(ii) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this subsection, with regard to any request of a consumer under this subsection, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use if—

"(I) the consumer, in accordance with the provisions of paragraph (1), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft;

"(II) the consumer reporting agency is acting as a reseller of the identified information by assembling or merging information about that consumer which is contained in the database of not less than 1 other consumer reporting agency; and

"(III) the consumer reporting agency does not store or maintain a database of information obtained for resale from which new consumer reports are produced.

"(iii) NOTICE.—In carrying out its obligation under clause (ii), the consumer reporting agency shall provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.".

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.".

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

SEC. 5. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years after the effective date of this Act." and inserting "on December 28, 2005.".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2003), including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

"(A) the Committee on the Judiciary of the Senate;

"(B) the Committee on the Judiciary of the House of Representatives;

"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(D) the Committee on Financial Services of the House of Representatives.";

(2) in subparagraph (E), by striking "and" at the end; and

(3) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft; and

"(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of cases involving—

"(I) identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.".

AMENDMENTS SUBMITTED AND PROPOSED

SA 1547. Mr. REID (for himself, Mr. Bingaman, Mrs. Clinton, Ms. Mikulski, Mrs. Murray, Mr. Kennedy, Mr. Kerry, and Mr. Corzine) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1548. Mr. CAMPBELL (for himself, Mr. Chambliss, Mr. Inouye, Mr. Bunning, Mr. Lieberman, and Ms. Landrieu) submitted an amendment intended to be proposed by him to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1549. Mr. LAUTENBERG (for himself, Mr. Corzine, Mr. Dorgan, Ms. Landrieu, and Mrs. Murray) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1550. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1551. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1552. Ms. MIKULSKI (for herself, Ms. Collins, Mr. Kerry, Mr. Jeffords, Mrs. Clinton, Mrs. Murray, Mr. Daschle, Mr. Lieberman, Mr. Biden, Mr. Lautenberg, Mr. Sarbanes, Mr. Kohl, Mr. Leahy, Mr. Schumer, Mr. Edwards, Mr. Corzine, Ms. Landrieu, Mr. Baucus, Mr. Durbin, Mr. Dodd, Mr. Reid, Mr. Nelson of Florida, Mr. Bingaman, Mr. Smith, Ms. Snowe, and Ms. Cantwell) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1553. Mr. DORGAN (for himself, Mr. Inhofe, Mr. Lautenberg, Mr. Conrad, Mr. Kerry, Mrs. Murray, Mr. Daschle, Mr. Nelson of Nebraska, Mr. Johnson, Mr. Allen, Mr. Hagel, Mr. Corzine, Mr. Akaka, Mrs. Clinton, Mr. Baucus, and Mr. Nelson of Florida) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1554. Mr. DAYTON proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1555. Mr. DeWINE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1547. Mr. REID (for himself, Mr. Bingaman, Mrs. Mikulski, Mrs. Murray, Mr. Kennedy, Mr. Kerry, and Mr. Corzine) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of title III, insert the following:

Sec. 306. (a) In addition to any amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) an additional $20,000,000 to carry out part H of title I of the Elementary and Secondary Education Act of 1965 (dropout prevention);

(2) an additional $85,000,000 to carry out title III of the Elementary and Secondary Education Act of 1965 (language instruction);

(3) an additional $6,449,000 to carry out part A of title V of the Higher Education Act of 1965 (Hispanic-serving institutions);

(4) an additional $4,587,000 to carry out part C of title I of the Elementary and Secondary Education Act of 1965 (migrant education);

(5) an additional $11,000,000 to carry out high school equivalency program activities under section 418A of the Higher Education Act of 1965 (HEP);

(6) an additional $1,000,000 to carry out college assistance migrant program activities under section 418A of the Higher Education Act of 1965 (CAMP);

(7) an additional $12,776,000 to carry out subpart 16 of part D of title V of the Elementary and Secondary. Education Act of 1965 (parental assistance and local family information centers); and

(8) an additional $69,000,000 to carry out migrant and seasonal Head Start programs: *Provided*, That such sum shall be in addition to funds reserved for migrant, seasonal, and other Head Start programs under section 640(a)(2) of the Head Start Act.

(b) Of the funds appropriated in this Act for the National Institutes of Health, $150,000,000 shall not be available for obligation until September 30, 2004.

(c) The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,105,011,000 and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,573,489,000.

SA 1548. Mr. CAMPBELL (for himself, Mr. Chambliss, Mr. Inouye, Mr. Bunning, Mr. Lieberman, and Ms. Landreiu) submitted an amendment intended to be proposed by him to the bill H.R. 2660, making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

SEC. . SUMMER HEALTH CAREER INTRODUCTORY PROGRAMS.

(a) Findings.—Congress finds that—

(1) the success of the health care system is dependent on qualified personnel;

(2) hospitals and health facilities across the United States have been deeply impacted by declines among nurses, pharmacists, radiology and laboratory technicians, and other workers;

(3) the health care workforce shortage is not a short term problem and such workforce shortages can be expected for many years; and

(4) most States are looking for ways to address such shortages.

(b) Grants.—The Secretary of Health and Human Services, acting through the Bureau of Health Professions of the Health Resources and Services Administration, may award not to exceed 5 grants for the establishment of summer health career introductory programs for middle and high school students.

(c) Eligibility.—To be eligible to receive a grant under subsection (b) an entity shall—

(1) be an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(2) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(d) Duration.—The term of a grant under subsection (b) shall not exceed 4 years.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2004 through 2007.

SA 1549. Mr. LAUTENBERG (for himself, Mr. Corzine, Mr. Dorgan, Ms. Landrieu, and Mrs. Murray) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 15 and 16, insert the following:

Sec. . In addition to amounts made available under this title to carry out title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), there shall be made available to carry out such title amounts appropriated for such title for fiscal year 2003 that were rescinded. Amounts made available under this title (including this section) for such purposes shall be used, consistent with the amendments made by the Older Americans Act Amendments of 2000 (Public Law 106-501)—

(1) to award grants, at not less than the program year 2002 grant award level, to all national grantees under such title that received grants for the program year ending June 20, 2003, that—

(A) currently satisfy the responsibility tests under section 514(d) of such title;

(B) meet the eligibility requirements under such title; and

(C) meet or exceed the program year 2002 performance goals of such grantee;

(2) to award grants, with any funds remaining after grants are awarded under paragraph (1), to organizations eligible under such title V based on the results of the competitive process conducted by the Department of Labor in fiscal year 2003 and a determination by the Secretary of Labor that any such organization has demonstrated fiscal integrity and accountability in the administration of Federal grants; and

(3) to implement the requirements of section 514(e) of such title V as amended by the Older Americans Act Amendments of 2000 with respect to any program year 2002 national grantee under such title that failed to meet the performance goals of such grantee.

SA 1550. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. . (a) ELIGIBILITY.—For the purpose of calculating a payment under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for any local educational agency described under section 8003(b)(2)(B)(i)(II) of such Act (20 U.S.C. 7703(b)(2)(B)(i)(II)), the Secretary shall treat as eligible any child described in section 8003(a)(1)(D)(i) of such Act (20 U.S.C. 7703(a)(1)(D)(i)) and educated off-base by another local educational agency without tuition charge, if such child meets the requirements of subsection (b).

(b) REQUIREMENTS.—A child referred to in subsection (a), is any child for whom the applicant local educational agency is unable to provide a free public education in such agency's own schools due to grade span limitations or who would have resided in housing on Federal property within the applicant local educational agency's boundaries and been described under section 8003(a)(1)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)(B)), except that such housing was undergoing renovation or rebuilding, as determined under section 8003(a)(4) of such Act (20 U.S.C. 7703(a)(4)), on the applicant local educational agency's survey date, or both.

(c) EFFECTIVE DATE.—This section shall be effective for any fiscal year beginning with fiscal year 2001.

SA 1551. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. . Notwithstanding section 8002(b)(1)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(b)(1)(C)), the Secretary of Education shall take no action to recover payments under title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) received by the local educational agency serving New Town, North Dakota for fiscal year 2000.

SA 1552. Ms. MIKULSKI (for herself, Ms. COLLINS, Mr. KERRY, Mr. JEFFORDS, Mrs. CLINTON, Mrs. MURRAY, Mr. DASCHLE, Mr. LIEBERMAN, Mr. BIDEN, Mr. LAUTENBERG, Mr. SARBANES, Mr. KOHL, Mr. LEAHY, Mr. SCHUMER, Mr. EDWARDS, Mr. CORZINE, Ms. LANDRIEU, Mr. BAUCUS, Mr. DURBIN, Mr. DODD, Mr. REID, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. SMITH, Ms. SNOWE, and Ms. CANTWELL) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for programs and activities under the Nurse Reinvestment Act (Public Law 107-205) and for other nursing workforce development programs under title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.), there are appropriated an additional $63,000,000 for such programs and activities: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $80,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,958,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,720,301,000.

SA 1553. Mr. DORGAN (for himself, Mr. INHOFE, Mr. LAUTENBERG, Mr. CONRAD, Mr. KERRY, Mrs. MURRAY, Mr. DASCHLE, Mr. NELSON of Nebraska, Mr. JOHNSON, Mr. ALLEN, Mr. HAGEL, Mr. CORZINE, Mr. AKAKA, Mrs. CLINTON, Mr. BAUCUS, and Mr. NELSON of Florida) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for Impact Aid programs, there are appropriated an additional $26,000,000 for Federal property payments under section 8002 of the Elementary and Secondary Education Act of 1965, an additional $160,000,000 for basic support payments under section 8003(b) of such Act, and an additional $1,000,000 for payments for children with disabilities under section 8003(d) of such Act: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $595,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,082,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,596,301,000.

SA 1554. Mr. DAYTON proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of title III, insert the following:

SEC. 306. Notwithstanding any other provision of this Act, the total amount appropriated, out of any money in the Treasury not otherwise appropriated, to carry out parts B, C, and D of the Individuals with Disabilities Education Act shall be $22,109,931,000, of which $20,941,000,000 shall be available to carry out part B of the Individuals with Disabilities Education Act (other than section 619 of such Act).

SA 1555. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . To demonstrate the appreciation that the Senate has for, and to further encourage, the efforts of the Director of the National Institutes of Health in implementing the Pediatric Research Initiative under section 409D of the Public Health Service Act, it is the sense of the Senate that—

(1) the Director should continue the Initiative and emphasize the importance of pediatric research, particularly translational research; and

(2) not later than January of 2004, the Director should continue to report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of the Pediatric Research Initiative, including—

(A) the extent of the total funds obligated to conduct or support pediatric research across the National Institutes of Health, including the specific support and research awards allocated by the Office of the Director through the Initiative;

(B) the activities of the cross-institute committee on pediatric research in assisting the Director in considering requests for new or expanded pediatric research to be funded through the Initiative;

(C) how the Director plans to budget dollars toward the Initiative for fiscal year 2004;

(D) the amount the Director has expended to implement the Initiative since the enactment of the Initiative;

(E) the status of any research conducted as a result of the Initiative;

(F) whether that research is translational research or clinical research;

(G) how the Initiative interfaces with the Off-Patent research fund of the National Institutes of Health; and

(H) any recommended modifications that Congress should consider in the authority or structure of the Initiative within the National Institutes of Health for the optimal operation and success of the Initiative.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 3, 2003, at 9:30 a.m., in closed session to receive a classified Operations/Intelligence briefing regarding ongoing military operations and areas of key concern around the world.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet on Wednesday, September 3, 2003, at 9:30 a.m., in SR–253, for a hearing on the *Columbia* accident investigation board's report on the space shuttle *Columbia* accident.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet on Wednesday, September 3, 2003, at 2:30 p.m., in SR–253, for a hearing on the proposed lease of Boeing 767 tankers by the USAF.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, September 3, 2003, at 10:30 a.m., for a hearing titled "U.S. Postal Service: What Can Be Done to Ensure Its Future Viability?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, September 3, 2003, at 10:00 a.m. in the Dirksen Senate Office Building Room 226 on "Judicial Nominations'."

Witness List

Panel I: Senators.

Panel II: Carlos T. Bea to be United States Circuit Judge for the Ninth Circuit.

Panel III: Marcia A. Crone to be United States District Judge for the Eastern District of Texas; Phillip S. Figa to be United States District Judge for the District of Colorado; William Q. Hayes to be United States District Judge for the Southern District of California; John A. Houston to be United States District Judge for the Southern District of California; Robert Clive Jones to be United States District Judge for the District of Nevada; and Ronald A. White to be United States District Judge for the Eastern District of Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Terrorism, Technology, and Homeland Security be authorized to meet to conduct a hearing on "Terrorism: First Responders" on Wednesday, September 3, 2003, at 2:00 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: The Honorable Christopher Cox, United States Representative, R-CA, 48th District; The Honorable Jim Turner, United States Representative, D-TX 2nd District.

Panel II: The Honorable Warren Rudman, Chair, Independent Task Force on Emergency Responders Washington, D.C.; Mr. Richard Clarke, Senior Adviser, Independent Task Force on Emergency Responders Washington, D.C.; Paul Posner, Ph.D., Managing Director of Strategic Issues, United States General Accounting Office, Washington, D.C.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APRIL 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Timothy Rieser:									
United States	Dollar				1,260.00				1,260.00
Brazil	Real		1,206.00						1,206.00
Paul Grove:									
United States	Dollar				2,148.90				2,148.90
Colombia	Dollar		525.00						525.00
Total			1,731.00		3,408.90				5,139.90

TED STEVENS,
Chairman, Committee on Appropriations, June 24, 2003.

AMENDED—CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Nelson:									
Belgium	Dollar		1,440.50				69.50		1,510.00
Bosnia	Dollar		139.00				15.00		154.00

AMENDED—CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2002—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Italy	Dollar						55.00		55.00
Spain	Dollar		798.00						798.00
Total			2,377.50				139.50		2,517.00

JOHN WARNER,
Chairman, Committee on Armed Services, July 1, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Maren Leed:									
Germany	Euro		485.28		5,488.92		5.88		5,980.08
Evelyn N. Farkas:									
Philippines	Peso		152.41						152.41
Singapore	Dollar		496.43						496.43
Japan	Yen		47.64						47.64
Elizabeth King:									
Philippines	Peso		138.00						138.00
Singapore	Dollar		511.00						511.00
Japan	Yen		79.00						79.00
Senator Jack Reed:									
Philippines	Peso		134.00						134.00
Singapore	Dollar		410.00						410.00
Japan	Yen		79.00						79.00
Total			2,532.76		5,488.92		5.88		8,027.56

JOHN WARNER,
Chairman, Committee on Armed Services, July 1, 2003.

AMENDED—CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JAN. 1 TO MARCH 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Delegation Expenses: *									
United Kingdom								593.27	593.27
Total								593.27	593.27

* Delegation expenses include direct payments and reimbursements to the Department of State under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384.

RICHARD SHELBY,
Chairman, Committee on Banking, Housing and Urban Affairs, July 28, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM APR. 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
McLane Layton:									
Romania	Dollar		1,080.00						1,080.00
Russia	Dollar		1,171.00						1,171.00
United States	Dollar				2,328.50				2,328.50
Total			2,251.00		2,328.50				4,579.50

DON NICKLES,
Chairman, Committee on the Budget, June 30, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM APR. 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kristine Lynch:									
Germany	Euro		1,020.67		798.34				1,819.01
Andrew Minkiewicz:									
Scotland	Pound		2,160.00		1,781.85				3,941.85

Total			3,180.67		2,580.19				5,760.86

JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, July 21, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peter B. Lyons:									
Japan	Yen		673.41		189.55				862.96
United States	Dollar				7,317.29				7,317.29
Total			673.41		7,506.84				8,180.25

PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, June 10, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Everett Eissenstat:									
United States	Dollar				6,077.00				6,077.00
Switzerland	Franc		938.92						938.92
John Gilliland:									
United States	Dollar				6,077.00				6,077.00
Switzerland	Franc		565.19						565.19
Total			1,504.11		12,154.00				13,658.11

CHARLES GRASSLEY,
Chairman, Committee on Finance, July 2, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Durbin:									
United States	Dollar				9,129.87				9,129.87
Botswana	Pula		358.00						358.00
South Africa	Rand		1,045.00						1,045.00
Michael Daly:									
United States	Dollar				9,129.87				9,129.87
Botswana	Pula		358.00						358.00
South Africa	Rand		1,045.00						1,045.00
Susan Hardesty:									
Haiti	Dollar		260.02						260.02
Total			3,066.02		18,259.74				21,325.76

SUSAN COLLINS,
Chairman, Committee on Governmental Affairs, April 29, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALLL BUSINESS AND ENTREPRENEURSHIP FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher Bond:									
United States	Dollar				7,178.00				7,178.00
India	Rupee		1,040.00						1,040.00
Malaysia	Ringgit		474.00				166.00		474.00
Singapore	Dollar		422.00						422.00
John Bartling:									
United States	Dollar				7,176.00				7,176.00
India	Rupee		1,040.00						1,040.00
Malaysia	Ringgit		308.00						308.00
Singapore	Dollar		422.00						422.00
Brian Klippenstein:									
United States	Dollar				6,964.00				6,964.00
India	Rupee		1,040.00						1,040.00
Malaysia	Ringgit		308.00						308.00
Singapore	Dollar		422.00						422.00
Senator Maria Cantwell:									
United States	Dollar				405.00				405.00
Mexico	Peso		358.00						358.00
Cuba	Peso		166.00						166.00
Travis Sullivan:									
United States	Dollar				1,631.00				1,631.00
Mexico	Peso		358.00						358.00
Cuba	Peso		166.00						166.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALLL BUSINESS AND ENTREPRENEURSHIP FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2003—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			6,358.00		23,354.00		166.00		29,878.00

OLYMPIA SNOWE,
Chairman, Committee on Small Business and Entrepreneurship, July 8, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL EXECUTIVE COMMISSION ON CHINA FOR TRAVEL FROM OCTOBER 1 TO DECEMBER 30, 2002

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Keith Hand:									
Austria	Euro		2,347.28						2,347.28
John Foarde:									
United States	Dollar				8,707.00				8,707.00
China	Yuan		2,324.00						2,324.00
Hong Kong	Dollar		1,644.00				628.00		2,272.00
Belgium	Euro		1,236.00						1,236.00
Lawrence Brown:									
United States	Dollar				6,656.51				6,656.51
Hong Kong	Dollar		2,466.00						2,466.00
China	Yuan		1,108.00						1,108.00
Selene Ko:									
United States	Dollar				5,336.30				5,336.30
Hong Kong	Dollar		3,557.00						3,557.00
Susan Weld:									
United States	Dollar				9,000.98				9,000.98
China	Yuan		3,942.00						3,942.00
Belgium	Euro		1,236.00						1,236.00
Total			19,860.28		29,700.79		628.00		50,189.07

MAX BAUCUS,
Chairman, Congressional-Executive Commission on China.
December 17, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA FOR APRIL 1 TO JUNE 30, 2002

Name an country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Steve Marshall:									
United States	Dollar				6,248.50				6,248.50
China	Yuan		3,228.00						3,228.00
Ira Wolf:									
United States	Dollar				6,248.50				6,248.50
China	Yuan		3,228.00						3,228.00
Anne Tsai:									
United States	Dollar				6,248.50				6,248.50
China	Yuan		3,228.00						3,228.00
Total			9,684.00		18,745.00				28,429.00

MAX BAUCUS,
Congressional-Executive Commission on China, June 4, 2002.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CAUCUS ON INTERNATIONAL NARCOTICS CONTROL FOR TRAVEL FROM JANUARY 1 TO MARCH 31, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Eric Akers:									
United States	Dollar				1,479.00				1,479.00
Colombia	Peso		875.00				333.32		1,208.32
Total			875.00		1,479.00		333.32		2,687.32

CHARLES GRASSLEY,
Chairman, Caucus on International Narcotics Control, June 25, 2003.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SENATOR BILL FRIST, REPUBLICAN LEADER, FOR TRAVEL FROM APR. 12 TO APR. 22, 2003

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
Japan	Yen		546.00						546.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		781.00						781.00
Senator Don Nickles:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		781.00						781.00
Senator Conrad Burns:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		738.00						738.00
Senator Susan Collins:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		746.00						746.00
Senator Lincoln Chafee:									
Japan	Yen		817.00						817.00
South Korea	Won		620.00						620.00
Taiwan	Dollar		200.00						200.00
China	Yuan		631.00						631.00
Senator Bill Nelson:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		781.00						781.00
Senator Ben Nelson:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		806.00						806.00
Emily Reynolds:									
Japan	Yen		817.00						817.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		731.00						731.00
Steve Biegun:									
Japan	Yen		1,017.00						1,017.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		831.00						831.00
Jim Dohoney:									
Japan	Yen		917.00						917.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		731.00						731.00
Bob Stevenson:									
Japan	Yen		975.48						975.48
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		831.00						831.00
George Tolbert:									
Japan	Yen		717.00						717.00
South Korea	Won		511.00						511.00
Taiwan	Dollar		200.00						200.00
China	Yuan		531.00						531.00
Sally Walsh:									
Japan	Yen		817.00						817.00
South Korea	Won		622.00						622.00
Taiwan	Dollar		282.00						282.00
China	Yuan		831.00						831.00
Delegation Expenses: *									
Japan	Yen						18,183.90		18,183.90
South Korea	Won						7,206.45		7,206.45
Taiwan	Dollar						9,674.81		9,674.81
China	Yuan						7,663.90		7,663.90
Totals			32,433.48				42,729.06		75,162.54

*Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Republican Leader, June 27, 2003.

ORDERS FOR THURSDAY, SEPTEMBER 4, 2003

Mr. ALEXANDER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, September 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALEXANDER. Mr. President, the leader has asked me to make these comments for the information of all Senators.

Tomorrow the Senate will resume debate on the Labor-HHS-Education appropriations bill. The leader asked me to say we made significant progress on the bill today. The leader would also inform all Members that rollcall votes will occur throughout the day tomorrow. As always, Members will be notified when the first vote is scheduled.

On behalf of the leader I would also announce it had been our hope to appoint conferees to the Energy bill during today's session. I understand the other side of the aisle will be prepared to name the conferees tomorrow.

Therefore, we will try again during Thursday's session to move forward on the Energy legislation.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. ALEXANDER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:29 p.m., adjourned until Thursday, September 4, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 3, 2003:

SECURITIES AND EXCHANGE COMMISSION

PAUL S. ATKINS, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2008. (REAPPOINTMENT)

DEPARTMENT OF TRANSPORTATION

KAREN K. BHATIA, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE READ VAN DE WATER.

ENVIRONMENTAL PROTECTION AGENCY

MICHAEL O. LEAVITT, OF UTAH, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE CHRISTINE TODD WHITMAN, RESIGNED .

SOCIAL SECURITY ADMINISTRATION

BRADLEY D. BELT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2008, VICE STANFORD G. ROSS, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JENNIFER YOUNG, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE SCOTT WHITAKER.

DEPARTMENT OF STATE

WILLIAM J. HUDSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

INTER-AMERICAN DEVELOPMENT BANK

HECTOR E. MORALES, OF TEXAS, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK, VICE JORGE L. ARRIZURIETA, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES MCBRIDE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2008, VICE NATHAN LEVENTHAL, TERM EXPIRED.

SELECTIVE SERVICE SYSTEM

WILLIAM A. CHATFIELD, OF TEXAS, TO BE DIRECTOR OF SELECTIVE SERVICE, VICE ALFRED RASCON, RESIGNED.

DEPARTMENT OF DEFENSE

GORDON ENGLAND, OF TEXAS, TO BE SECRETARY OF THE NAVY. (REAPPOINTMENT)

MICHAEL W. WYNNE, OF FLORIDA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS, VICE EDWARD C. ALDRIDGE, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. DENNIS E. HARDY, 6357

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

MARC E BOYD, 5745
CHRISTOPHER M DAVIS, 1861
JACQUELYNN E FISHER, 7816
DANIEL D HETLAGE, 9507
THURRAYA S KENT, 8454
HEIDI J LENZINI, 7710
STEVEN J MAVICA, 1497
SCOTT D MCILNAY, 8321
MONICA M RICHARDSON, 0100
ELISSA J SMITH, 1521
WENDY L SNYDER, 2480

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

OLIVIA L BETHEA, 0048
EDWARD F BOSQUE, 2898
JOHNNY E BOWEN, 9366
CHRISTINE J CASTON, 9541
NICOLE L DERAMUS, 3398
MICHAEL A FAVATA, 4105
LISA F FLORES, 1937
TAWANNA M HOPSON, 1085
RHONDA M H HUDSON, 6636
KIMBERLEY C JORDAN, 3477
ABSOLON S KENT, 6980
PATRICK S MARTIN, 3104
ERIN A MCAVOY, 4048
LEE A C NEWTON, 1591
SHEILA A NOLES, 9112
KAREN L SRAY, 9676
THERESA A TALBERT, 3563

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JASON B BABCOCK, 8059
BOBBY J BECK, 5451
DARREL T BISHOP, 2136
RICHARD A BORDEN, 8181
JOHN BOS, 1371
STACY A BOWMAN, 6745
MICHAEL P CADENAZZI JR., 1433
SAMUEL G CHANCE, 5210
BARRY W COOK, 1352
JAMES C COUDEYRAS, 2457
PATRICK A COUNT, 6206
JOEL D DAVIS, 4331
KATHRYNN R FESTA, 5614
CLARENCE FRANKLIN JR., 5123
CYNTHIA M FULMER, 4350
HARRY JURICIC, 7728
EDWARD N KELLY, 1212
WILLIAM P KINNISON, 4279
RUSSELL L MARSH, 6674
GILBERT MARTINEZ, 2909
CHARLES W MCCAFFREY, 7057
KRISTOFER D MICHAUD, 0548
KURTIS A MOLE, 1690
DANNY L NOLES, 3507
TROY D OSTEN, 9226
DONOVAN I OUBRE, 1423
CESAR G RIOS JR., 8056
ANGEL A RIVERA, 1983
WILLIAM L RODGERS III, 4438
DONALD L SAVAGE, 6072
DENISE M SCHIAVONE, 1940
RICHARD M SCHMIDT, 9086
TRISHA R SNYDER, 8562
FRED K STRATTON, 5392
BRIAN D SWANSON, 3729
MICHAEL J TODD, 6468
STEVEN W TUMISKI, 1665
DAVID C VANBRUNT, 9212
ALLISA M WALKER, 1947
JEFFREY L WILLIAMS, 5890
TIMOTHY J ZINCK, 8430

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

REID B APPLEQUIST, 1013
TIMOTHY J BERGAN, 9129
RICHARD A BRAUNBECK III, 7796
BEVERLY D COLE, 0571
JOSE R CORDERO, 4120
DERICK W DIAZ, 4502
THOMAS C ENGLAND, 8394
ERIKA L GOMPERS, 9080
ANTHONY K JARAMILLO, 2736
WESLEY J JOSHWAY, 1229
ROBERT M KERNER, 0711
HUMPHERY G LEE, 5772
JIMMY F PATE JR., 4019
BERNARD L SIMONSON, 6908
BRET A WASHBURN, 8469

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

TRACIE L ANDRUSIAK, 0729
DANIEL J COLPO, 7328
JOSEPH DITURI, 9518
HAROLD W DUBOIS, 6078
KENNETH A EBERT, 5821
DANIEL W ETTLICH, 1343
ALLAN S FELICIANO, 1634
JONATHAN C GARCIA, 8818
TIMOTHY N HANEY, 0522
JON A JONES, 3739
JOSEPH J KELLER, 5233
PETER A LASHOMB, 0372
GEORGE M LAWLER, 1969
CARL L PARKS, 9853
JOHN T PHELAN JR., 8262
JASON L RHOADS, 1635
FRANCIS D ROCHFORD, 5570
JOHN ROROS, 3157
GREGORY D ROSE, 3171
JACK W RUST, 0134
RONALD J RUTAN, 3781
DJUENO S SEARLES, 6657
NEIL G SEXTON, 0670
BLANCA A SHAEFFER, 0592
STEFAN T SIDAHMED, 5281
PETER D SMALL, 1356
BRIAN K VAZQUEZ, 5021
VINCENT C WATSON, 4894
DOUGLAS L WILLIAMS, 9775
ROBERT A WOLF, 4353

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

TIMOTHY A ANDERSON, 8762
KEITH P BARTO, 9552
BRADY A BROWN, 7203
DAMON B DIXON, 2827
CLAUDE F GAHARD JR., 1493
CHRISTY J GOODE, 2464
CHRISTOPHER R HOLDBROOKS, 6343
ROBERT D JONES, 5890
RENWICK M MOHAMMED, 1494
RICHARD M MURPHY, 7310
DEXTER A NEWTON, 6749
SEAN D ROBINSON, 4740
MICHAEL C ROST, 7259
RACHAEL A SPOLLEN, 2464
WENDY A TOWLE, 1082
DOUGLAS T WAHL, 0840

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SOWON S AHN, 9612
PAUL D ALLEN, 9436
ALBERT ANGEL, 3433
SCOTT M AYERS, 9833
SCOTT J BRADY, 6463
ERIC G BROOKS, 7619
JEFFREY W CALL, 8346
ANDREW J CHARLES, 9874
ALEXANDER P DUNMIRE, 5121
RICHARD B EDWARDS, 4308
TODD N EPLEY, 7319
ROBERT G FONTENOT, 0943
GARY T FOUTS, 5441
CHARLES E HANS, 2027
ROBERT F HIGHT JR., 6007
JEFFREY J JAKUBOSKI, 7733
ROBERT P JOHNS, 7571
CHRISTOPHER L JONES, 8568
DONALD E JUNE, 4524
DOUGLAS M KELCHNER, 7214
REBECCA N KERSCHL, 4839
CHRISTOPHER R KOPACH, 8101
ERIC E LAHTI, 7985
ADAM L LANDRY, 7249
TIMOTHY P LAWLOR, 9806
THOMAS J LAWRENCE, 2593
RICHARD J LEGRANDE JR., 7410
ROBERT T LEIBOLD II, 9402
DOUGLAS A MCWILLIAMS, 6880
ALEXANDER W MILLER, 9740
CHARLES F MILLHOLLAN, 8286
STEVEN A NEWTON, 8917
PAUL A POSTOLAKI, 6296
ANTONIO QUILES, 7573
JEREMIAH J RABITOR, 8779
JEFFREY P RICHARD, 7244
PAUL S ROSE, 4158
BRIAN K ROWER, 5507
FRANK G SCHLERETH III, 5333
JONATHAN E SCHWARTZ, 6310
LAWRENCE E SHAFFIELD, 0883
PETER N SHEPARD, 9878
BRUCE T STARKEY, 9954
HENRY A STEPHENSON, 3387
EARL SYMONDS, 0585
TIMOTHY W TERRY, 5846
SETH A WALTERS, 8033
TROY WEBER, 0031
DANIEL L WHITEHURST, 7892
CRAIG M WHITTINGHILL, 5086
SCOTT D YOUNG, 7132

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

LEON S ABRAMS, 8965
ROBERTO M ABUBO, 2118
STEVEN W ALLEN, 3395
ANTHONY M ANDERSON, 5268
DONALD J ANDERSON, 2922
LUKE ARKINS, 8587

NEEDHAM L AUSTIN III, 2089
RUBEN J AVALOS, 9908
PHILLIP J BACHAND, 4123
SCOTT A BAIR, 7542
DAVID G BAKER, 3732
THOMAS R BEARDEN, 6623
MARK A BELL, 6742
DALE R BENNETT, 2899
EDWIN BERRIOS, 8733
BRIAN T BERRY, 2774
DENNIS R BERRY JR., 2259
GARY W BLAKESLEY, 3085
EDWARD S BLUESTONE, 9635
ETIENNE M BOSCOVITCH, 9207
GLEN D BOURQUE, 3864
JOSEPH E BRIGHTWELL, 7223
MICHAEL T BROADUS, 7029
FRED BUCKLEY III, 1118
JAMES P BUNNELL, 0085
AUDREY V BURTON, 8404
MICHAEL E CALDWELL, 5810
CHARLES K CARL, 2001
SCOTT L CARPENTER, 1868
KERRI D CASHION, 1338
PATRICK T CHRISTIAN, 7294
LINDA L CIAMBOR, 4967
LACONTA D COLEMAN, 1684
STEVEN W CONNELL, 3420
THOMAS H COTTON, 1307
JOSE M CRUZ, 5867
KEVIN CURLEY, 0760
ROBERT E CURRAN, 3525
RANDALL A CURTIS, 4368
JOSEPH M DADY, 1497
MERVIN E DAWSON, 7083
BRIAN J DETERS, 8611
GREGORY S DEXTER, 2324
PAUL DICKSON, 1083
KENNETH P DONALDSON, 8614
DANIEL E DOOLITTLE, 7431
CHARLES W ENSINGER, 9158
MICHAEL G FARMER, 3372
KIRK FLANAGAN, 4912
THOMAS A GABEHART, 6433
JAMES J GALOPPA JR., 6874
JAMES P GETMAN, 5960
KEVIN M GLANCEY, 6597
JUAN GONZALEZ, 2240
STEVEN P GOODMAN, 9254
GREGORY S GORDON, 5978
FRANCIS P GORMAN, 4356
TODD A GRAF, 1793
MICHAEL P GRAMOLINI, 8680
JON C GRANT, 6290
DAVID L GROESCHEL, 0332
RONALD P GUSTIN, 8551
WILLIAM A HALE, 9941
PAUL E HAMANN, 5429
JOHN M HANSEN, 4946
TROY L HARE, 1499
KEITH A HARIG, 8612
LANCE A HARPEL, 7750
JEFFREY T HILL, 5762
DONALD T HOLDEN, 0158
FREDERICK B HOO, 7774
JESSE L HOWELL III, 1569
BILLY D HUNTER, 9024
CHARLOTTE M HURD, 4346
MARK L HURSEY, 8229
MICHAEL S IRELAND, 1888
WILLIAM D IRVIN, 1643
GLEN P JACKSON, 2032
BRIAN D JACOBSON, 3017
VINCENT J JANOWIAK, 3316
CHARLES A JOHNSON, 9159
DARRON K JOHNSON, 1644
JAMES D JOHNSON, 9446
PHILIP A JONES, 4789
GREGORY J KAYSER, 9241
JAMES G KELZ, 6239
THOMAS P KENNEDY, 5333
JACKIE D KNICK, 3941
MARK J KNIGHT, 1365
BRYANT S KOHUT, 9664
LOWELL R KURZ, 6677
DAVID E KUSH, 0359
KEITH R LAFOUCADE, 4662
THOMAS J LALLY, 4584
JEFFREY D LAMB, 1353
TIMOTHY B LAWS, 9987
MARTIN H LEVERING, 5313
DAVID R LEVESQUE, 8390
DANIEL L LIDSTER, 4191
DWAYNE L LLOYD, 3760
MICHAEL J LOGAN, 2524
JOHN A LOISELLE, 9140
RICHARD A LOTT JR., 3321
SHANNON L LOVEJOY, 3728
ALLAN J LUCAS, 0604
RALPH B LYDICK, 7657
DEAN S LYONS, 8434
ROBIN A MACLEAN, 3852
BRIAN T MAHONEY, 2960
DANIEL E MANETZKE, 8809
DAVID E MCCONAGHAY, 9365
MATTHEW B MCCOY, 1218
THOMAS W MCDONALD, 8554
ARTIS E MCELHANEY, 9213
STEPHANIA Y MCGARITY, 1543
BRUCE D MCGEE, 7743
RICKY MCIVER, 3244
ROBERT N MCLAFFERTY, 6962
CAROL A MCMILLAN, 5796
ANGEL M MELENDEZ JR., 6729
CHARLES W MILLINER, 7361
LUCKY M MOISES, 7160
GILBERT P MUCKE, 4904
JON P MUMPER, 8041
JAMES L MUNIZ, 5631
CLIFTON B MYGATT, 4814
KENDAL S NAKANISHI, 6606
RICHARD A NAYSTATT JR., 5972
DAVID K NUHFER, 8442
JOHN M OBRIEN, 4012
MARIAN S OGRADY, 1578
GERALD R OLIN II, 1126
SCOTT D PALUMBO, 1762
JEFFREY PARA, 6051
RONNIE PARKS, 1111
MICHAEL G PASQUARETTE, 9567
WILLIAM PENNINGTON, 4334
MACKEY C PHILLIPS, 2167
MICHAEL T PIECHURA, 2335
DARYL PIERCE, 1776
RICKY PIERCE, 8564
CARLOS A PINERO, 5581
WILLARD POINDEXTER, 8875
WILLIAM J POWELL, 8422
TODD J PROSSER, 4233
JOHN P PROTZ JR., 8747
CLIFFORD S RADER, 0244
ANDREW G RAYMOND, 2528
WILLIAM D REABE, 0024
EDWARD J RHYNE, 6067
STEVEN L RICE, 7307
HARRY L ROBINSON, 8427
LOREN R ROLLS, 9465
KEITH J ROWE, 6112
MICHAEL D RUTLEDGE, 2090
DAVID B SAUCEDO, 4137
JOHN R SAUTER, 8007
ANDREW W SCHMIT, 9980
MATTHEW H SCHMITT, 8869
JOSE A SEIN, 0957
GEORGE R SHARP, 7817
RICHARD S SHERMAN, 2945
ANTHONY W SHIPMAN, 1851
TIMOTHY S SHIPMAN, 3604
RICHARD E SIMPSON, 3963
MARY K SIZEMORE, 1402
PHILIP E SMITH, 6302
GERALD T SODANO, 7132
PETER J STEVENS JR., 9965
LAURENCE G STOREY, 6178
KURT E STRONACH, 8161
MICHAEL STROUD, 0064
KENNETH W SZITTA, 7325
DONNA L TARPINIAN, 0839
MICHAEL C THIBODEAU, 6156
GUYTON L THOMPSON JR., 5988
KENNETH E TRANTHAM, 7606
JAMES A TRUHETT, 8524
JOSEPH P TUBBS, 4801
GARY L VANERT, 6123
PETER J VARGA, 9283
EDWARD C VAUGHN, 9212
MICHAEL A WALLACE, 3652
DARYL F WALLS, 0149
MARK E WARNER, 1948
CURTIS W WARRENFELTZ, 6100
HENRY A WEBB, 7364
LARRY G WELLS, 0790
DARRELL G WHITE, 7094
MICHAEL A WHITT, 7292
DELMAS WHITTAKER JR., 8484
JOHN A WILHELM, 9113
ALLEN M WILLIAMS, 4688
ANTHONY G WILLIAMS, 8652
GILBERT L WILLIAMS, 5051
RICKIE D WILLIAMS, 6849
WILLIAM H WILLIAMS, 6539
BRUCE A WITT, 1207
BYRON WRICE, 3071
KEVIN E WRIGHT, 5683
CARL ZEIGLER, 6422

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

RAFAEL A ACEVEDO, 9084
JOHN R ADAMS, 2007
JONATHAN Q ADAMS, 6754
MARK T ADAMY, 9994
SHANE A AHALT, 1517
KELLY V AHLM, 3753
BRADLEY A ALANIZ, 1055
MITCHELL W ALBIN, 7315
BYRON V T ALEXANDER, 5626
ERIK P ALFSEN, 4908
CHRISTOPHER D ANDERSON, 1421
DAVID K ANDERSON, 2036
ERIK C ANDERSON, 0164
KEVIN S ANDERSON, 8563
SEAN R ANDERSON, 9192
TIMOTHY J ANDERSON, 2128
NICHOLAS E ANDREWS, 1120
BRADLEY J ANDROS, 8442
CHRISTOPHER ANGELOPOULOS, 1462
MICHAEL S ANSLEY, 6049
JULITO T ANTOLIN JR., 4032
JULIANA F ANTONACCI, 2227
PETER L ANTONACCI, 6352
SCOTT M ASACK, 8365
KUMAR ATARTHI, 4122
CONNIE J AVERY, 1798
ADAM M AYCOCK, 5598
ROBERT F BAARSON JR., 0785
ANGELA J BAKER, 1651
BRADFORD W BAKER, 0135
DAVID C BAKER III, 9544
VINCE W BAKER, 9879
BRYAN W BALGENORTH, 8370
DAVID J BALSITIS, 7552
ROGER T S BANKS, 5340
ROBERT C BARBEE, 1624
CHRISTOPHER M BARBER, 5537
MATTHEW P BARENTS, 3820
STEVEN M BARR, 0392
ANDREW C BARRY, 3577
MATTHEW P BARTEL, 6488
DAVID S BARTELL, 5270
CHARLES B BASSEL, 8195
GREGORY J BATCHELDER, 9601
JUSTIN T BATES, 3251
LYNDSI N BATES, 1963
STEWART L BATESHANSKY, 3872
AMY N BAUERNSCHMIDT, 6873
WILLIAM H BAXTER, 1804
CRAIG R BEAL, 9674
ROBERT D BEAL, 8185
ADRIAN G BEALE, 2470
ROBERT E BEBERMEYER, 5528
BRIAN C BECKER, 9347
JOEL R BECKER, 9095
KARL W BECKER, 3975
PATRICK A BECKER, 6411
JAMES A BEDARD, 3258
RYAN J BEDNER, 7987
CAESAR S BENIPAYO, 0413
MICHAEL C BIEMILLER, 2296
JEFFREY M BIERLEY, 5102
MICHAEL E BIERY, 7823
DALE D BIGHAM, 6099
CRAIG W BILYEU, 6039
JOSEPH P BINGHAM, 3787
JOSEPH J BIONDI, 3188
JOHN R BIXBY, 3429
BRENT M BLACKMER, 2730
JERRY S BLACKWELL, 0672
JEFFREY D BLAKE, 4140
THOMAS E BLAKE JR., 8758
JAMES R BLANKENSHIP, 7012
JASON B BLITZ, 8864
JOHN A BLOCKER, 5572
TODD D BODE, 3143
JAMES H BOLIN II, 2431
TODD A BONHAM, 6104
WALTER BONILLA, 7452
TROY D BOOKER, 1604
DALE W BOPP, 6016
MARC D BORAN, 1053
KEVIN D BORDEN, 2190
ANDREW J BORDICK, 3023
MICHAEL L BOSSHARD, 2266
RANDALL W BOSTICK, 4655
PAUL D BOWDICH, 3225
ERIC J BOWER, 5802
KENDRA M BOWERS, 8920
BRIAN D BOYCOURT, 0884
SEAN P BOYLE, 9412
SCOTT T BRACHER, 2555
DOUGLAS A BRADLEY, 4716
DOUGLAS M BRADSHAW, 8295
TONY R BRANCH, 4350
MATTHEW J BRAUN, 3092
EDWARD A BRAY, 4633
TRACY A BRINES, 0598
SCOTT A BRIQUELET, 5535
PHILIP M BROCK, 6553
CHRISTOPHER D BROWN, 8057
SEIHO P BROWN, 8675
MICHAEL R BRUNEAU, 9747
JEREMY D BRUNN, 6028
BRANDON S BRYAN, 0573
JAMES R BRYAN, 8135
ROBERT B BRYANT, 5599
JOSEPH G BUCKLER, 6791
JAMES E BUCKLEY, 5369
MATTHEW A BUCKLEY, 2182
CHRISTOPHER J BUDDE, 7887
DOUGLAS R BUEHNE, 3734
GERALD J BURGHARDT, 0439
DENNIS M BURKE, 9121
RICHARD K BURKHART, 2802
MATTHEW S BURTON, 0327
CHARLES N BURWICK, 6892
ERIC V BUSH, 3438
THOMAS A BUSHAW, 2913
RICHARD A BUTLER, 5736
CHRISTOPHER BUZIAK, 1403
ROBERT L BYERS, 9843
JEFFREY T CAHILL, 6049
CHRISTOPHER R CALDWELL, 2319
DANIEL B CALDWELL, 6640
JOHN R CALLAWAY, 8176
CURTIS S CALLOWAY, 9749
DARRELL S CANADY, 3537
MARVIN W CARLIN II, 2841
ANDREW F CARLSON, 6250
GARY J CARLSON, 6740
BRUCE L CARLTON, 8655
CHRISTOPHER J CARMONA, 3584
DOMINIC S CARONELLO, 6164
SCOTT A CARPENTER, 0584
STEVEN M CARPENTER, 9860

STEVEN B CARROLL. 9296
RYAN T CARRON. 9222
JEFFREY J CARTY. 5512
GREGORY R CASKEY. 9951
BRIAN L CASPER. 1936
BRIAN V CELLILLI. 8269
QUENTIN K CHANDLER. 9936
VINCENT S CHERNESKY. 2093
JAMES D CHRISTIE. 6877
CHRISTOPHER F CIGNA. 4458
CHAD C CISCO. 5400
BENEDICT D CLARK. 1050
MATTHEW C CLAY. 8005
CHARLES M COHN. 7780
BRET B COLBY. 5370
STANFORD P COLEMAN. 2013
PETER M COLLINS. 1013
KYLE J COLTON. 7033
JOHN C COMPTON. 2412
MICHAEL R CONNER. 7976
MITCHELL R CONOVER. 9311
BENJAMIN R COOK. 0902
TIMOTHY V COOKE. 1739
STANLEY L COOLEY. 9416
JEFFREY M COOPER. 5682
MARK E COOPER. 6633
ERIC C CORRELL. 0767
DANIEL P COVELLI. 3491
ANTHONY C CREGO. 6776
TREMAYNE G CRINER. 2440
RYAN P CROLEY. 4018
RUSSELL A CROW. 2112
HERMAN A CRUZ. 7496
ANDRE T CUEVAS. 2680
MARVIN W CUNNINGHAM. 5038
WARREN E CUPPS. 5068
DOUGLAS W CZARNECKI. 9544
NOEL J DAHLKE. 7232
PAUL M DALE. 0859
JOSEPH J DANTONE III. 9324
MERRYL DAVID. 1454
ALEXANDER DAVILA. 4314
CLEDO L DAVIS. 4615
DEARCY P DAVIS IV. 2547
JASON H DAVIS. 6242
LEONARDO A DAY. 9623
CARL W DEGRACE. 1065
TRES D DEHAY. 3910
TOM S DEJARNETTE. 9810
KEVIN H DELANO. 8893
PAUL C DEMARCELLUS. 2003
CHRISTOPHER R DEMAY. 6125
BRIAN A DENEVE. 2787
DAVID J DERMODY. 4033
TRACY G DEWITT. 4845
SCOTT P DICKINSON. 9844
MICHAEL J DILLENDER. 9745
PAUL K DITCH. 6307
CHARLES S DITTBENNER II. 9979
JOSH E DITTMAR. 1278
CORY A DIXON. 1331
THOMAS E DIXON. 2788
THOMAS J DIXON. 7036
H T DOANE. 3198
CHRISTOPHER G DOBSON. 1387
CORNEALIS N DONAHUE. 4656
DARREN J DONLEY. 2026
RICHARD K DOUGHERTY. 7499
JAKE B DOUGLAS. 5559
RONALD A DOWDELL. 8857
JOHN B DOWNES. 5395
KEVIN J DOWNEY. 9175
RICHARD H DOWNEY. 0372
SCOTT C DOWNEY. 2723
DENNIS M DRUMMOND. 3346
DAVID W DRY. 0950
DWAYNE D DUCOMMUN. 1342
JONATHAN C DUFFY. 4422
ERIC V DUKE. 3109
GRANT A DUNN. 8871
JAMES P DUNN III. 9059
STEVEN M DUPONT. 2773
ROBERT M DURLACHER. 7898
JAMES A DUTTON. 8520
DAVID C DYE. 6392
JASON C EATON. 8264
JAMES W EDWARDS JR.. 3325
MICHAEL L EGAN. 0190
KENNETH EHRESMAN. 8378
TODD EHRHARDT. 2840
BLAKE D EIKENBERRY. 5165
BRIAN P ELKOWITZ. 3966
JAMES E ELLIS. 4544
DIRK W ELWELL. 4733
BRANDON N EMANUEL. 6315
JOE M EMMERT. 0861
FERMIN ESPINOZA. 7083
MATTHEW D EVANS. 8162
SETH A EVANS. 6786
TODD M EVANS. 4638
DARIN A EVENSON. 3800
MARC A FASSNACHT. 3885
JOSEPH FAUTH. 0827
DAVID A FEATHERBY. 6711
JOSEPH D FEMINO. 8551
MARK A FERLEY. 3252
TOMMY L FIFER. 6899
TODD A FIGANBAUM. 8080
ROBERT D FIGGS. 0856
JOHN A FISCHER. 1246
JOHN R FITZGERALD. 2817
CHRISTOPHER E FLAHERTY. 8448
STEPHEN A FLAHERTY. 1450
MATTHEW S FLEMMING. 7020
BRIAN C FLICK. 1227
GEORGE A FLOYD. 4506
MICHAEL A FLUDOVICH JR.. 5815
DAVID D FOLDY. 5767
CHRISTOPHER S FORD. 3735
CHARLES A FORTINBERRY. 1625
JERRY D FOSTER JR.. 8826
JOEL W FOUST. 5017
DAVID E FOWLER. 6426
JOHN H FOX. 3748
EUGENE N FRANKS. 6821
FRANCIS G FRANKY. 2804
JOEY L FRANTZEN. 7075
TODD C FREISCHLAG. 3882
HARRY P FULTON III. 0386
JON R GABRIELSON. 1112
JOHN C GALLEGRO. 6651
JUSTIN P GANS. 6307
CHARLES E GARRETT. 3199
MICHAEL S GARRICK. 5982
BRENT C GAUT. 5977
JOHN W GEHLE. 6859
SAM R GEIGER. 3083
ROBERT E F GENTRY. 5211
ERIC E GEORGE. 7585
FRANK E GIANOCARO. 8672
TIMOTHY M GIBBONEY. 0878
SCOTT A GILES. 5837
MARCO P GIORGI. 1873
CHRISTOPHER F J GLANZMANN. 7066
CHADWICK A GODLEWSKI. 0846
JEFFREY A GOLDBERGER. 4390
NOEL D J GONZALEZ. 7435
JASON E GOODALL. 1139
JOSEPH A GOODNER. 5157
SHAWN M GOODRICH. 8301
DANIEL C GORDON. 2170
RICHARD J GORMAN. 0879
WILLIAM M GOTTEN JR.. 2142
WAYNE J GOVEIA. 3438
GREGGORY A GRAY. 2180
SCOTT W GRAY. 0552
RICHARD C GREEN. 8784
JOHN P GREENE. 8697
JEFFREY A GREGOR. 6214
MATTHEW K GRIFFETH. 2818
JOHN H GRIMES. 6309
JOHN C GROVE. 6222
DARREN B GUENTHER. 7680
JOSEPH H GUERREIN III. 6483
SCOTT A GUNDERSON. 4377
JAMES B GUNDY. 8391
JEREMY W GUNTER. 6418
MATTHEW G GURGEL. 6567
RUSSELL S GUTHRIE. 3370
JUAN J GUTIERREZ. 6505
EDDY HA. 5985
IN H HA. 3603
MICHAEL D HAAS. 2991
CRAIG A HACKSTAFF. 2930
KEVIN K HAGAN. 6878
JOSEPH K HALL. 5731
BRIAN J HAMLING. 7997
LEIF E HAMMERSMARK. 4354
BRANDON S HAMMOND. 9808
MORGAN K HAMON. 5004
JOHN S HANNON. 7005
WILLIAM B HANRAHAN. 9394
JAMES K HANSEN. 5339
JOSEPH T HANSEN. 9750
CHRISTOPHER C HARRINGTON. 7298
STEPHEN C HARRINGTON. 1506
CHRISTOPHER J HARRIS. 4458
MICHAEL K HARRIS. 7746
MICHAEL T HARRISON. 5756
RONALD M HART. 3886
MATTHEW W HARTKOP. 5552
KEITH E HARTMAN. 0115
SCOTT A HARVEY. 9966
DANIEL E HARWOOD. 8954
KEITH A HASH. 2683
BRIAN W HAWKINS. 4051
MATTHEW A HAWKS. 0218
JOHN W HAYES. 3058
STEPHEN C HAYES. 3792
DANIEL A HEIDT. 0221
RYAN J HEILMAN. 8286
LAWRENCE H HENKE III. 0613
CHAD F HENNINGS. 1515
TIMOTHY J HERALD. 8917
KRISTEN M HERRGARRETT. 8440
WILLIAM C HERRMANN. 0276
ANDREW C HERTEL. 1663
LARRY W HERTER. 9051
TRENTON D HESSLINK. 0540
JAMES B HEWETTE III. 8564
CURTIS J HICKLE. 3046
TURHAN I HIDALGO. 7464
JEFFREY T HILLS. 8972
CHADWICK Q HIXSON. 7257
DAMEN O HOFHEINZ. 5976
KEITH A HOLIHAN. 4826
CURTIS E HOLIWAY. 1239
ROBERT C HOLLOWAY. 9261
GREGORY D HOLMES. 8630
JOHN M HOLMES. 8148
THOMAS H HOOVER. 4615
DANIEL P HOPKINS. 2180
BRIAN S HORSTMAN. 9056
JACK E HOUDESHELL. 1652
BRENT A HOUSE. 5503
JOHN L HOWREY. 8952
FRANKLIN R HUBBARD. 7000
TODD C HUBER. 7029
KEVIN D HUDSON. 1111
CLARK A HUFFMAN. 6192
DANIEL K HUME. 9261
PAUL R HURLBERT. 2163
FRANKIE D HUTCHISON. 8066
SEAN S IVERSON. 9065
BRIAN E JACKSON. 8976
MATTHEW C JACKSON. 9682
JAMES E JACOBS. 0668
GARY L JACOBSEN. 6553
BRIGITTE L JACOBSON. 1471
JEFFERY P JACOBY. 8162
LUKE P JAMES. 9652
GREGORY T JASSO. 0767
STEVEN M JAUREGUIZAR. 2571
REID W JEFFERS. 2071
DONALD J JENKINS. 5511
BRYAN L JOHNSON. 4954
IAN L JOHNSON. 2640
KEVIN D JOHNSON. 4879
KIRK L JOHNSON. 7979
STEPHEN E JOHNSON. 8225
CHARLES B JOHNSTON. 1810
MICHAEL S JOHNSTON. 1565
GARRETT D JONES. 1393
MICHAEL K JONES IV. 8309
RUSSELL W JONES. 4077
REED W JORGENSON. 8639
SCOTT B JOSSELYN. 9445
BRADLEY D JUHL. 1715
QUENTIN J JURIN. 5063
STACEY E JUSTESEN. 6096
CRAIG G KAHRS. 5151
ROBERT A KAMINSKI. 1843
JAMES M KATIN. 0633
DAVID E KAUFMAN. 9175
SEAN D KEARNS. 3044
EMERSON J KELLY. 5352
KEVIN M KENNEDY. 2821
CHRISTOPHER M KIDD. 8852
CHRISTIAN N KIDDER. 8324
JACKIE L KILLMAN. 4557
KEVIN M KIRIN. 2736
JASON E KLEIN. 0680
JONATHAN P KLINE. 8636
LARRY D KNOCK. 2816
JOHN N KOCHENDORFER. 4069
MATTHEW G KONOPKA. 3951
JOHN R KOON. 4182
JOSEPH J KRASINSKI. 8963
MICHAEL E KRAUS. 8557
GARRETT V KRAUSE. 3454
RICHARD E KREH JR.. 5498
EDWARD A KRUK. 9320
DAVID T KUDISH. 5272
STANLEY L KUMOR. 9098
DANIEL W KURIGER. 5093
ROBERT M KUROSU. 2917
KERRY D KUYKENDALL. 5054
STEPHEN C LABASH. 0212
VICTOR A LAKE. 7528
DAVID J LALIBERTE. 7063
JASON D LAMB. 9508
JOHN F LANE. 6327
JOHN P LANGIS II. 5213
PAUL J LANZILOTTA. 9206
BRENT B LAPP. 8818
DAVID B LARSEN. 3581
JOSHUA LASKY. 6662
GARY W LAUCK. 3837
ANDY M LEAL. 3738
JAMES R LEBAKKEN. 6053
MICHAEL R LEBESCH. 9608
MICHAEL D LEBU. 8694
ERIC J LEDNICKY. 6896
MARCUS H LEE. 8780
JOHN H LENOX III. 3022
JOSEPH P LEPORATI. 5496
MAGNUS C LESLIE. 9010
DAVID A LEVY. 6673
JARED M LIEB. 9673
DANIEL D LIEBMANN. 5156
DAVID R LIEVANOS. 3395
STEPHEN M LIGHTSTONE. 3405
RANDALL K LIMBERG II. 9612
CHARLEYNE A LINDER. 2526
KEON LINDSEY. 5057
DANIEL A LINQUIST. 4113
DOUGLAS V A LOF. 1168
BLAINE S LORIMER. 3019
ROBERT E LOUGHRAN JR.. 4694
VAN D LOVETT. 0266
TIMOTHY M LOY. 8545
MICHAEL D LUCKETT. 7585
MATTHEW M LYLE. 7639
HANS E LYNCH. 0605
IAN D MACDIARMID. 1515
DANIEL L MACKIN. 3230
JORGE I MADERAL. 3053
ELIZABETH A MALECHA. 2046
WILLIAM H MALLORY. 1542
CHRISTOPHER S MALONE. 8430
ERIC M MANFULL. 3244
SHAWN K MANGRUM. 4706
DONALD W MARKS. 2679
TIMOTHY S MARKS. 8653
WILLIAM D MARKS JR.. 5896
CHRISTOPHER D MARRS. 1024

BRUCE J MARSACK, 7117
RAYMOND B MARSH II, 8505
BRANDON J MARSOWICZ, 0775
MICHAEL A MARSTON, 8121
JON MARTINDALE, 9517
THOMAS A MARTUCCI III, 6025
ROBERT F MASSARO, 2326
DANIEL S MASSEY, 2947
DAVID R MATZAT, 8341
DAVID E MAXWELL, 5021
MICHAEL D MAXWELL, 4512
DOUGLAS K MAYFIELD, 3480
MICHAEL A MCABEE, 1405
DARREN F MCCLURG, 1353
JODY L MCCULLOUGH, 4771
CHRISTOPHER R MCDOWELL, 3038
CHARLES R MCENNAN, 3540
SEAN G MCKAMEY, 2920
CHARLES G MCKINNEY, 2151
ZACHARY C MCMECHAN, 6684
DAVID F MCMULLEN, 4068
LAWRENCE E MEEHAN, 6380
MATTHEW S MEMMELAAR, 6156
RICHARD M MEYER, 2074
KEVIN P MEYERS, 1173
ROBERT J MICHAEL, 6444
MARC J MIGUEZ, 4925
TIMOTHY I MIKLUS, 3743
ANDREW S MILLER, 6814
ANDREW T MILLER, 5243
ANTHONY H MILLER, 4611
BRIAN J MILLER, 5493
JAMES B MILLER, 2251
MICHAEL J MILLER, 7787
MICHAEL R MILLER, 6045
PHILIP S MILLER, 8273
STEVEN L MILLER, 9143
TREVOR L MILLWARD, 6962
CHAD T MINGO, 5841
PABLO F MIR, 9366
JAMES R MIRES, 7823
CARLOS MONTANEZ, 0720
LUIS M MONTEALEGRE, 4786
LIAM J MONTGOMERY, 6190
DANIEL MONTOYA, 5947
ANTHONY D MOORE, 3358
ROBERT B MOORE III, 5567
JOSEPH W MOORHOUSE, 0807
MICHAEL P MORAN, 2235
PATRICK J MORAN, 0873
MICHAEL R MORELAND, 3108
MICHAEL E MORERA, 1968
JON H MORETTY, 1286
MARK S MORRELL, 7472
ROBERT T MORRIS, 2018
MATTHEW J MOWAD, 6682
PATRICK T MOWLES, 7083
ANDREW V MRSTIK, 2525
MARTIN J MUCKIAN, 7588
GREGORY M MUHLNER, 8011
KEVIN M MULLANEY, 4018
RYAN C MURPHY, 0651
WILLIAM J P MURPHY, 5838
JAMES MUSGRAVES, 6185
DEREK F NALEWAJKO, 5679
CHRISTOPHER A NASH, 8314
DAVID D NEAL, 4170
CHRISTOPHER M NELSON, 8181
DANIEL A NELSON, 9576
DARREN W NELSON, 3406
CHRISTOPHER A NERAD, 8397
MARK A NICHOLSON, 3566
PAMELA E NICKRAND, 9595
MATTHEW R NIEDZWIECKI, 2036
KENNETH C NIELSEN III, 2655
PETER K NILSEN, 7566
ROSS B NISWANGER, 1239
CHRISTOPHER P NODINE, 5133
BRUCE D NOLAN, 5008
DAMON E NOLTING, 9489
MICHAEL E NOONAN, 7367
KRIST D NORLANDER, 2236
CASSIDY C NORMAN, 9825
SCOTT M NOVINGER, 9789
JEFFREY M ODONNELL, 8881
MICHAEL B ODRISCOLL, 2242
DANIEL A OGDEN, 2870
ROBERT F OGDEN, 1959
JAMES E OHARRAH JR., 3888
RUDOLPH M OHME III, 0571
MICHAEL A OLEARY, 1010
ROBERT D OLIVER II, 6786
CRAIG R OLSON, 6227
JASON H OWENS, 5636
BARRY C PALMER JR., 0292
LAWRENCE E PALMER, 1230
TONY S W PARK, 4330
TIMOTHY V PARKER, 1430
CHESTER T PARKS, 8123
ROBERT W PATERSON, 3902
CHASE D PATRICK, 2565
ANDREW J PATTERSON, 1422
DAVID A PAWLOWSKI, 8263
MICHAEL B PAYNE, 7901
JOHN G PAYSSE, 3515
CARL M PEDERSEN, 5819
EDWARD K PEIRSON, 2191
MICHAEL J PELLERITO, 6548
SAMUEL D PENNINGTON, 7486
DAVID E PEREIRA, 9561
WILLIAM A PERKINS, 5632
DAVID I PERRIN, 0474
MATTHEW J PERUN, 0208
CHRISTOPHER L PESILE, 1871
ROBERT E PETERS, 0366
ANDREW G PETERSON III, 6508
BRIAN M PETERSON, 0662
PAUL E PEVERLY, 8412
PATRICK L PFANZ, 2791
MICHAEL PFARRER, 6326
JASON D PHILLIPS, 2696
MATTHEW A PHILLIPS, 5463
TODD J PIERCE, 0837
GELL T L PITTMAN III, 7348
RICHARD M PLAGGE, 3265
JEFFREY M PLAISANCE, 4642
TIMOTHY J POE, 2984
STEPHEN R POLK, 3582
BRODY L PRIETO, 9357
PAUL G PROKOPOVICH, 6194
JOHN J PUDLOSKI, 3693
SJAHARI PULLOM, 2570
BRIAN K PUMMILL, 6737
PHILIP J PYLES, 5744
CRAIG A RADOMSKI, 8495
CHARLES C RALEY, 5058
ARMANDO RAMIREZ JR., 8294
BRIAN H RANDALL, 5783
TARIQ M RASHID, 9673
BRIAN J RASMUSSEN, 0652
DAVID P RASMUSSEN, 0942
WILLIAM K RAYBURN, 0299
VERNON J RED, 3765
KELVIN L REED, 1218
NATHANIEL R REED, 4374
PAUL S REINHART, 3136
LLOYD R REINHOLD, 3492
BENJAMIN C RENDA, 6320
JOHN C RENNING, 4653
ARISTIDES G REYES, 0291
DAVID W REYNOLDS, 3375
ROBERT W REYNOLDS, 8433
THOMAS S REYNOLDS, 6903
RICHARD G J RHINEHART, 0831
ANTHONY A RICCI, 4023
CHRISTOPHER C RICHARD, 6095
MATTHEW S RICK, 9668
STEVEN M RIEDEL, 2002
JOSEPH J RING, 3438
MICHAEL J RIORDAN IV, 9227
DAVID H RIOS, 5053
RONALD RIOS, 7198
GEORGE RIVERA, 2863
JESS V RIVERA, 2693
RAYMOND A RIVERA, 9453
RICHARD A RIVERA, 1691
SCOTT V RIVERA, 4247
TRISTAN G RIZZI, 8797
ANTHONY C ROACH, 7300
DAVID G ROBERTSON, 0814
MATTHEW H ROBINSON, 0780
BARRY F RODRIGUES, 2133
JOSE L RODRIGUEZ, 3089
CHARLES L ROGERS, 6152
DOUGLAS W ROSA, 4883
ASHLEY C ROSE, 6610
ANTHONY E ROSSI, 7830
AARON P ROULAND, 0469
CHRISTOPHER J RUDIN, 0590
STEVEN E RUMPH, 8627
MICHAEL K RUNKLE, 9875
DAVID J RUPPERT, 8079
CHRISTIE M RUSHING, 3352
CHRISTOPHER R RUSSELL, 2797
JOHN D SACCOMANDO, 6980
BRENT D SADLER, 7177
LUIS E SANCHEZ JR., 9408
CARLOS SANCHO, 8846
ROBERT D SANDERS, 0722
CHRISTOPHER P SANTOS, 7385
STEPHEN F SARAR, 0626
ANTHONY M SAUNDERS, 8846
MATTHEW I SAVAGE, 5775
MARK A SCHAFER, 0284
PAUL M SCHALLER, 6363
JASON B SCHEFFER, 1435
ANDREW C SCHMIDT, 2752
JASON J SCHNEIDER, 0335
LAURA A SCHUESSLER, 1424
TIMOTHY J SCHULMEISTER, 9670
KEVIN P SCHULTZ, 1211
JAYSON W SCHWANTES, 0785
MARC S SCOTCHLAS, 0288
JAMES E SCOTT, 6869
MICHAEL S SEATON, 3999
MARK S SEELBACH, 3913
GEORGE E SEGREDO, 3843
JOHN J SEIFERT, 7656
CHRISTOPHER M SENENKO, 2578
RAMON I SERRANO, 8469
CHRISTIAN N SETTLEMIER, 2510
ERIC L SEVERSEIKE, 6246
DANIEL A SHAARDA, 9267
JOHN A SHAFFER, 7785
WILLIAM K SHAFLEY III, 8760
BRIAN J SHEAKLEY, 3787
BLANE T SHEARON, 2817
KELLY M SHEKITKA, 7597
KENNETH S SHEPARD, 1161
THOMAS A SHEPPARD, 2093
SCOTT H SHERARD, 5955
REBECCA M SHERRILL, 0392
WILLIAM R SHERROD, 4438
MATTHEW B SHIPLEY, 4481
BRET A SHOCKNEY, 6188
WILLIAM C SHOEMAKER, 0633
THOMAS E SHULTZ, 1807
CRAIG C SICOLA, 4721
JOSEPH M SILVER JR., 4051
DAVID W SIMMONS, 0533
STEPHEN D SIMS, 9129
TRAVIS D SISK, 0223
CHRISTOPHER T SLAYMAN, 3670
GREGORY A SLEPPY, 6774
BRADLEY S SLOCUM, 5161
JASON E SMALL, 6013
DANIEL J SMELIK, 7161
BRIAN T SMITH, 5627
CHARLES R SMITH, 7340
COLIN S G SMITH, 6450
DOUGLAS D SMITH, 1671
ERIC B SMITH, 4057
JOEL C SMITH, 0115
MATTHEW J SMITH, 6472
ROBIN S SMITH, 8386
RYAN C SMITH, 1974
SHERRY L SMITH, 0124
XAVIER G SMITH, 4233
ALEXANDER T SOE, 4912
WILLIAM E SOLOMON III, 5721
GABRIEL E SOLTERO, 7010
JEFFREY L SORICELLI, 9057
MICHAEL R SOWA, 5406
STEVEN K SPEIGHT, 9330
ERNEST L SPENCE, 0933
JULIE A SPENCER, 0587
AXEL W SPENS, 2948
ROBERT J SRDAR, 1287
ANTHONY J STAFFIERI, 7072
BRAD L STALLINGS, 4393
HARRY F STATIA, 9765
RANDAL D STEFFEN, 3062
PAUL J STEINBRENNER, 3780
ROBERT L STEPHENSON JR., 4273
JASON D STEVENS, 9069
DAVID G STILL, 5182
MARK G STOCKFISH, 8110
CHRISTOPHER D STONE, 7704
ROBERT P STRAHM, 7581
NATHANIEL J STRANDQUIST, 8597
JEFFREY E STRANGE, 7652
MARK G STUFFLEBEEM, 8067
MARK B SUCATO, 1047
JOHN R SUDDUTH, 3635
DAVID C SULLIVAN JR., 7349
MICHAEL J SUPKO, 5931
ERIC B SVENSSON, 3527
CALVIN F SWANSON, 2005
CHRISTOPHER A SWARTZ, 7730
EDMUND E SWEARINGEN, 6104
CHARLES T SWEENEY, 2897
SEAN K SZYMANSKI, 0147
STEVEN M TABORSKY, 6674
ALETHA S TATGE, 8600
CHRISTOPHER A TAYLOR, 7783
ERIC D TAYLOR, 8610
MICHAEL C TAYLOR, 0882
RHONDA J TAYLOR, 6232
BRADLEY B TERRY, 9910
JASON R J TESTA, 7952
CHUONG N THAI, 7976
WILLIAM G THARP III, 0507
HEATH A THOMAS, 5945
ROBBIE J THOMAS, 7482
ROBERT W THOMAS JR., 0154
LANCE E THOMPSON, 3038
MICHAEL K TIBBS, 4648
ROBERT H TIDBALL, 1253
JOHN D TINETTI, 5694
SHANNON K TOLLIVER, 8459
MARK A TORREANO JR., 3274
MICHAEL A TORRES, 4683
JAMES K TRAN, 2792
HENRY D TRAVIS, 7757
KERRY N TRIPP, 8908
PAUL J TRUDELL, 4889
ROGER A TURPIN, 6892
DAVID A URSINI, 6502
MARK J VAGEDES, 1227
FRANCISCO O VALDEZ, 8491
DARIN L VALLETTE, 5730
RUSSELL J VANDIEPEN, 6001
MICHAEL E VANHORN, 2348
DANIEL L VANMETER, 0474
NICK A VARES, 8917
LARRY P VARNADORE, 4788
JANA A VAVASSEUR, 4341
JOHN J VECOLI, 7974
CHRISTOPHER R VEGA, 2182
JASON P VELIVLIS, 7192
ALVIN S VENTURA, 4151
PHILBERT V VENTURA, 2839
RICHARD K VERHAAGEN, 7623
PAULO B VICENTE, 3691
MICHAEL R VITALI, 4305
DANIEL S VOGEL, 7361
CHRISTOPHER J V VOLK, 7772
STEVEN R VONHEEDER, 3162
SHANE C VOUDREN, 2130
KEVIN H WAGNER, 9323
ALEXIS T WALKER, 6156
CEDRIC L WALKER, 0692
MICKEY M WALKER II, 9870
WAYNE C WALL, 9253
MICHAEL E WALLACE, 4051
DAVID P WALT, 6966

MICHAEL P WARD II, 3517
CHARLOS D WASHINGTON, 8115
BRYAN D WATERMAN, 5098
RONALD WEATHERED, 3755
RICHARD F WEBB, 3920
SCOTT L WEBER, 5618
RICHARD M WEEDEN, 6197
GEORGE W WEHRUNG, 5318
BRIAN D WEISS, 7504
KENNETH C WELLER, 6961
CHRISTOPHER C WESTPHAL, 2304
TODD E WHALEN, 0734
JENNIFER L WHEREATT, 9949
BRYAN D WHITCOMB, 2803
PAUL J WHITE, 3060
WILLIAM WHITE, 4912
ULYSSES V WHITLOW, 3287
LANCE R WIESE, 1290
JENNIFER K WILDERMAN, 7337
WILLIAM G WILKINS JR., 7505
AMAHL K WILLIAMS, 8883
CHRISTIAN B WILLIAMS, 1287
DONALD D WILLIAMS, 5360
FLOYD M WILLIAMS JR., 5501
MARTIN O WILLIAMS, 9253
MICHAEL J WILLIAMS, 2040
NEIL S WILLMANN, 1826
KENNETH T WILSON, 7907
SCOTT M WILSON, 9395
WEYLIN J WINDOM, 8668
JEFFREY W WINTERS, 3043
ROBERT E WIRTH, 1978
JEFFREY P WISSEL, 9780
MARK S WITHYCOMBE, 3346
FRANK C WITTWER, 7592
COREY D WOFFORD, 3157
CHRISTOPHER C WOHLFELD, 5936
STACEY K WRIGHT, 6840
MATTHEW J WUKITCH, 0542
STEVEN A WYSS, 4576
ALEJANDRO YBARRA, 5671
DAVID J YODER, 9670
WILLIAM J YODER, 6316
STACEY W YOPP, 9093
NATHAN S YORK, 1679
DANIEL F YOUCH, 8453
EARL YOUNG, 7422
FORREST O YOUNG, 6038
DAVID A YOUTT, 7928
JAMES A YSLAS, 5661
STEVEN J ZACCARI, 2482
ADAM S ZACHER, 8209
RANDY ZAMORA, 2412
MATTHEW H ZARDESKAS, 7517
GREGORY M ZETTLER, 4638
TODD A ZIRKLE, 7203

HOUSE OF REPRESENTATIVES—*Wednesday, September 3, 2003*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. SCHROCK).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 3, 2003.

I hereby appoint the Honorable EDWARD L. SCHROCK to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Almighty Father, our strength and our holy inspiration, be present to the Members of the House of Representatives as they begin the work of this fall session of the 108th Congress of the United States of America. Since responsibilities here have called Members to distance themselves, in some way from their loved ones, bless their spouses, their families and friends. Keep them safe and at peace.

May all those who work in this House of legislative business be blessed in their deepest commitments. May they know Your loving presence in the midst of daily activities and in every interaction with others.

Be especially gracious to those who are new in their service to this noble institution with its honored history and lofty standards. This very building is a symbol of freedom and justice for the world.

May the unfolding story of this Congress strengthen this Nation in its security and prosperity and renew the people's confidence in government.

Lord, make us fit instruments to accomplish Your holy will now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 13. An act to reauthorize the Museum and Library Services Act, and for other purposes.

H.R. 659. An act to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals.

H.R. 2417. An act to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2417) "An Act to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Select Committee on Intelligence: Mr. ROBERTS, Mr. HATCH, Mr. DEWINE, Mr. BOND, Mr. LOTT, Ms. SNOWE, Mr. HAGEL, Mr. CHAMBLISS, Mr. WARNER, Mr. ROCKEFELLER, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, and Ms. MIKULSKI; Committee on Armed Services: Mr. ALLARD and Mr. NELSON of Florida; to be the conferees on the part of the Senate.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 209. Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

The message also announced that the Senate has passed bills and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. 523. An act to make technical corrections to laws relating to Native Americans, and for other purposes.

S. 678. An act to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 926. An act to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies.

S. 929. An act to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes.

S. 1547. An act to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State.

S. 1571. An act to increase the Federal Housing Administration mortgage commitment level to carry out the purposes of section 203(b) of the National Housing Act.

S. Con. Res. 25. Concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes.

S. Con. Res. 63. Concurrent resolution authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003.

SETTING PRIORITIES, KEEPING PROMISES

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, between now and adjournment, the House's top-three priorities will focus squarely on correcting the missed opportunities of the recent past. This summer's blackout revealed the urgency of one of them. America needs a national policy to meet the energy demands of a 21st-century information economy, and it is our job to make that policy. House and Senate negotiators are hard at work developing a final bill; and when it is done, we will have our first comprehensive energy policy in a decade, more than 2 years since the House first passed it.

We are also working with the Senate to complete a Medicare bill that includes prescription drugs to finally strengthen and improve health care for American seniors.

This has been a top domestic priority for several years. We have already passed prescription drug legislation three times over Democrat partisanship, and we are committed to finishing the job this time. And finally,

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

this fall we will complete the remainder of the Federal spending bills for the coming year.

We said all along that saving time during the budget process would save us money during the spending process, and now we have a chance to live up to that promise. Recent Congressional Budget Office projections of future deficits should serve as a warning to all of us about the need for spending restraint. These deficits are spending-driven deficits, and the only way to get the budget back to balance is through spending restraint and economic growth. Thanks in part to the tax relief the Republican Congress has passed in recent years, the American people are starting to revive the national economy, and the best thing we can do to help them is to maintain the fiscal discipline laid out in the budget proposed by the President and passed by the House. The last thing we want is to explode the deficit with new spending like the almost-$1 trillion worth proposed by the minority so far this year.

Mr. Speaker, the Republican majority is committed to maintaining spending discipline and keeping the Federal budget on a glide-path to balance just as we are committed to completing the American people's unfinished business.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 1, 2003.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on August 1, 2003 at 11:00 a.m.

That the Senate passed without amendment H.R. 1018.

That the Senate passed without amendment H.R. 1412.

That the Senate passed without amendment H.R. 1761.

That the Senate passed without amendment H.R. 2195.

That the Senate passed without amendment H.R. 2465.

That the Senate passed without amendment H.R. 2738.

That the Senate passed without amendment H.R. 2739.

That the Senate passed without amendment H.R. 2854.

That the Senate passed without amendment H.R. 2859.

That the Senate passed with an amendment H. Con. Res. 259.

With best wished, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker pro tempore TOM DAVIS of Virginia signed the following enrolled bills on Friday, August 1, 2003:

H.R. 1018, to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building";

H.R. 1761, to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the "Garner E. Shriver Post Office Building";

H.R. 2465, to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted;

H.R. 2859, making emergency supplemental appropriations for the fiscal year ending September 30, 2003;

S. 1015, to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes;

S. 1435, to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

And Speaker pro tempore BARTLETT of Maryland signed the following enrolled bills on Tuesday, August 5, 2003:

H.R. 1412, to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency;

H.R. 2195, to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes;

H.R. 2738, to implement the United States-Chile Free Trade Agreement;

H.R. 2739, to implement the United States-Singapore Free Trade Agreement;

H.R. 2854, to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The Speaker pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, July 23, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed please find resolutions approved by the Committee on Transportation and Infrastructure on July 23, 2003, in accordance with 40 U.S.C. §3307.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

SITE AND DESIGN, SAN YSIDRO—U.S. BORDER STATION, SAN DIEGO COUNTY, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for site and relocation and design of a 311,000 gross square foot United States Border Station, including 400–500 parking spaces, located in San Diego County, California, at a site and relocation cost of $25,630,000 and design cost of $8,581,000 for a combined estimated cost of $34,211,000, a prospectus for which is attached to, and included in, this resolution.

AMENDMENT—CONSTRUCTION, U.S. BORDER STATION, JACKMAN, ME

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the construction of a 53,217 gross square foot United States Border Station, including 12 inside parking spaces, located in Jackman, Maine, at an additional estimated construction cost of $6,267,000 (estimated construction cost of $7,967,000 was previously authorized) and additional site, design and management and inspection cost of $1,445,000 (site, design and management inspection cost of $2,095,000 was previously authorized) for a combined estimated cost of $7,712,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution dated June 26, 2002, which authorized estimated construction cost and management and inspection cost of $9,194,000, which amended a Committee resolution dated July 18, 2001, which authorized additional design cost of $249,000, and which amended a Committee resolution dated June 21, 2000, which authorized design cost of $619,000.

CONSTRUCTION, BUREAU OF THE CENSUS, BUILDING II, SUITLAND, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 1,010,800 gross square foot building for the Bureau of the Census, including 864 parking spaces, located in Suitland, Maryland at a management and inspection cost of $7,779,000 and estimated construction cost of $138,672,000 for a combined estimated total project cost of $154,638,000 (design cost of $8,187,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Provided, That all of the requirements of the authorized prospectus can be constructed and the combined estimated total cost is not exceeded, appropriations may be used to construct up to an additional 644 spaces for a total of up to 1,508 spaces.

Construction, Ambassador Bridge Cargo Inspection Facility, Detroit, MI

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 23,500 gross square foot cargo inspection facility, including 230 parking spaces, for the Ambassador Bridge, located in Detroit, Michigan, at a management and inspection cost of $1,852,000 and estimated construction cost of $23,535,000 for a combined estimated total project cost of $34,857,000 (site and design cost of $9,470,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Construction, U.S. Border Station, Champlain, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the site, design and review, management and inspection, and construction of a United States Border Station, including parking, located in Champlain, New York, at a total authorized cost of $42,831,000 (includes $4,000,000 for site acquisition and design and review appropriated pursuant to P.L. 108–7; site acquisition and design and review cost of $3,800,000 was authorized by Committee resolution on November 7, 2001), a prospectus for which is attached to, and included in, this resolution.

Construction Phase III, U.S. Border Station, Del Rio, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 110,560 gross square foot United States Border Station, including 145 parking spaces, located in Del Rio, Texas at a management and inspection cost of $2,326,000 and estimated cost of $21,640,000 for a combined estimate total project cost of $25,835,000 (design and review cost of $1,869,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Construction, U.S. Border Station II, Eagle Pass, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 153,950 gross square foot United States Border Station, including 130 parking spaces, located in Eagle Pass, Texas at a management and inspection cost of $3,245,000 and an estimated construction cost of $28,735,000 for an estimated total project cost of $34,236,000 (design cost of $2,256,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Construction, FBI Field Office, Houston, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 394,750 gross square foot Federal Bureau of Investigation Field Office, including 795 parking spaces, located in Houston, Texas at a management and inspection cost of $3,408,000 and an estimated construction cost of $54,672,000 for an estimated total project cost of $64,348,000 (design and review and site acquisition cost of $6,268,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Design/Build, Anzalduas Border Station, McAllen, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 64,785 gross square foot border station, including parking, at the Anzalduas Bridge, at a management and inspection cost of $1,691,000, an estimated construction cost of $13,872,000 and a design cost of $2,375,000 for an estimated total project cost of $17,938,000, a prospectus for which is attached to, and included in, this resolution.

Site and Design, Peace Arch U.S. Port of Entry, Blaine, WA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for site and design of a 102,400 gross square foot facility, including 148 parking spaces, located at the U.S. Port of Entry in Blaine, WA at a site acquisition cost of $7,060,000 and a design cost of $2,752,000, for an estimated total cost of $9,812,000, a prospectus for which is attached to, and included in, this resolution.

Site and Design, Federal Building, Atlanta, GA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for site acquisition, relocation and design of a 123,025 usable square foot facility, located adjacent to the Elbert P. Tuttle Court of Appeals Building, in Atlanta, Georgia, at a site acquisition cost of $9,100,000, relocation cost of $1,500,000 and design cost of $6,725,000, for an estimated total cost of $17,325,000, a project survey report for which is attached to, and included in, this resolution.

Alteration, Byron G. Rogers Federal Building—Courthouse, Denver, CO

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Byron G. Rogers United States Courthouse located at 1961 Stout Street in Denver, CO, at an additional design and review cost of $467,000 (design and review cost of $3,688,000 was previously authorized), an estimated construction cost of $44,008,000 (construction cost of $9,000,000 was previously authorized), and management and inspection cost of $3,961,000 for a combined estimated total project cost of $52,124,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized design cost of $3,688,000 dated July 18, 2001.

Amendment—Alteration, 320 First Street Building, Washington, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the building located at 320 First Street building, in NW Washington, DC, at an additional estimated construction cost of $6,631,000 (estimated construction cost of $7,215,000 was previously authorized), additional design and review cost of $543,000 (design and review cost of $722,000 was previously authorized), and additional management and inspection cost of $311,000 (management and inspection cost of $323,000 was previously authorized) for an estimated total project cost of $15,745,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution dated July 18, 2001, which authorized design and review cost of $722,000, management and inspection cost of $323,000, and estimated construction cost of $7,215,000.

Alteration, Federal Office Building 8, Washington, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of Federal Office Building 8 located at 2nd & C Streets, SW, in Washington, DC, at an estimated construction cost of $126,080,000, additional design and review cost of $2,301,000 (design and review cost of $7,761,000 has been previously authorized), and a management and inspection cost of $6,491,000 for an estimated total project cost of $142,633,000, a prospectus for which is attached to, and included in, this resolution.

Amendment—Alteration, Main Interior Building, Washington, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration for the Department of Interior's main headquarters building located at 1849 C Street, NW, Washington, DC, at a design and review cost of $10,722,000, a management and inspection cost of $19,228,000, and an estimated construction cost of $190,265,000 for an estimated total project cost of $220,265,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution dated November 16, 1995, which authorized an estimated total project cost of $120,635,000.

Alteration, Eisenhower Executive Office Building, Washington, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for alteration of the 17th Street portion of the Eisenhower Executive Office Building located at Pennsylvania Avenue and 17th Street, Washington, DC, at an estimated construction cost of $63,531,000 and a management and inspection cost of $2,226,000 (management and inspection cost of $3,456,000 was previously authorized) for an estimated total project cost of $74,931,000 (design and review cost of $5,718,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

Amendment—Alteration, 1724 F Street, NW, Washington, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the 1724 F Street, NW, Washington, DC, at an additional design cost of $59,000 (design cost of $336,000 was previously authorized), an additional management and inspection cost of $44,000 (management and inspection cost of $170,000 was previously authorized), and an additional estimated construction cost of $403,000 (estimated construction cost of $2,228,000 was previously authorized) for an estimated total project cost of $3,240,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution dated August 5, 1999.

ALTERATION, RICHARD B. RUSSELL FEDERAL BUILDING, ATLANTA, GA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Richard B. Russell Federal Building in Atlanta, GA at an estimated construct cost of $29,586,000 and a management and inspection cost of $2,587,000 for an estimated total project cost of $35,090,000 (design and review cost of $2,917,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, EVERETT M. DIRKSEN COURTHOUSE & JOHN C. KLUCZYNSKI FEDERAL BUILDING, CHICAGO, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Everett M. Dirksen Courthouse and John C. Kluczynski Federal Building in Chicago, Illinois, at an estimated construction cost of $20,980,000, a management and inspection cost of $1,462,000, and a design and review cost of $1,614,000 for an estimated total project cost of $24,056,000, a prospectus for which is attached to, and included in, this resolution.

ALTERATION, PAUL H. FINDLEY FEDERAL BUILDING—U.S. COURTHOUSE, SPRINGFIELD, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Paul H. Findley Federal Building and United States Courthouse in Springfield, IL, at an estimated construction cost of $5,661,000 and a management and inspection cost of $522,000 for an estimated total project cost of $6,722,000 (design and review cost of $539,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, JOHN W. MCCORMACK POST OFFICE AND COURTHOUSE, BOSTON, MA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the John W. McCormack Post Office and Courthouse located at Five Post Office Square in Boston, MA at an estimated construction cost of $67,107,000 and a management and inspection cost of $5,930,000 for an estimated total project cost of $78,375,000 (design and review cost of $5,338,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, EMANUEL CELLER COURTHOUSE, BROOKLYN, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Emanuel Celler Courthouse located at 225 Cadman Plaza East, Brooklyn, NY at an estimated construction cost of $61,046,000 and a management and inspection cost of $4,465,000 for an estimated total project cost of $69,032,000 (design and review cost of $3,791,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, FEDERAL BUILDING—POST OFFICE, FARGO, ND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Federal Building—Post Office in Fargo, ND at an estimated construction cost of $5,201,000, a management and inspection cost of $416,000, and an additional design and review cost of $184,000 (design and review cost of $336,000 was previously authorized) for an estimated total project cost of $6,137,000, a prospectus for which is attached to, and included in, this resolution.

ALTERATION, JOHN W. BRICKER FEDERAL BUILDING, COLUMBUS, OH

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the John W. Bricker Federal building located at 200 North High Street in Columbus, OH at an estimated construction cost of $9,960,000 and a management and inspection cost of $747,000 for an estimated total project cost of $11,770,000 (design and review cost of $1,063,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, BUILDING 7, AUBURN FEDERAL COMPLEX, AUBURN, WA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the warehouse in Building 7 in the Auburn Federal Complex at an estimated construction cost of $16,943,000 and a management and inspection cost of $1,372,000 for an estimated total project cost of $19,449,000 (design and review cost of $1,134,000 was previously authorized), a prospectus for which is attached to, and included in, this resolution.

ALTERATION, HENRY M. JACKSON FEDERAL BUILDING, SEATTLE, WA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Henry M. Jackson Federal Building located at 915 2nd Avenue in Seattle, WA at an additional estimated construction cost of $5,723,000 (estimated construction cost of $24,750,000 was previously authorized), an additional management and inspection cost of $499,000 (management and inspection cost of $2,027,000 was previously authorized), and an additional design and review cost of $646,000 (design and review cost of $1,728,000 and an additional design and review cost of $55,000 were previously authorized) for an estimated total project cost of $35,428,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends a Committee resolution dated June 26, 2002, which authorized $26,832,000 for additional design, construction and management and inspection.

ALTERATION, FIRE AND LIFE SAFETY REPAIR/REPLACEMENT, VARIOUS BUILDINGS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the repair and or replacement of existing fire and life safety systems in the Wilbur J. Cohen Building at a cost of $19,558,000, the Forrestal Building at a cost of $40,278,000, the Theodore Roosevelt Building at a cost of $5,414,000, each located in Washington, D.C., and the Department of Energy Main Building located in Germantown, Maryland at a cost of $2,938,000, for an estimated total cost of $68,188,000 a prospectus for which is attached to, and included in, this resolution.

LEASE, DEPARTMENT OF ENERGY, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 107,376 rentable square feet of space for the Department of Energy currently located in leased space at 950 L'Enfant Plaza, SW, in Washington, DC, at a proposed total annual cost of $4,831,920 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF STATE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 297,697 rentable square feet of space for the Department of State in Washington, DC, at a proposed total annual cost of $14,116,365 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF TRANSPORTATION, FEDERAL RAILROAD ADMINISTRATION, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 86,479 rentable square feet of space for the Department of Transportation currently located in leased space at 1120 Vermont Avenue, in Washington, DC, at a proposed total annual cost of $3,891,555 for a lease term of 5 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF JUSTICE, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 108,000 rentable square feet of space for the Department of Justice currently located in leased space at 1151 Seven Locks Road, in Rockville, MD at a proposed total annual cost of $3,348,000 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, FOOD AND DRUG ADMINISTRATION, 9200 CORPORATE BLVD., SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 115,507 rentable square feet of space for the Food and Drug Administration currently located in leased space at 9200 Corporate Blvd, in Rockville, MD at a proposed total annual cost of $3,580,717 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, FOOD AND DRUG ADMINISTRATION, 1350 PICCARD DRIVE, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 108,136 rentable square feet of space for the Food and Drug Administration currently located in leased space at 1350 Piccard Drive, in Rockville, MD at a proposed total annual cost of $3,352,216 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, PRINCE GEORGE'S COUNTY, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 268,762 rentable square feet of space for the Department of Commerce currently located in leased space at 5200 Auth Road, in Camp Springs, MD at a proposed total annual cost of $8,869,146 for a lease term of 13 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

AMENDED PROSPECTUS—LEASE, FEDERAL BUREAU OF INVESTIGATION, LAS VEGAS, NV

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 106,955 rentable square feet of space for the Federal Bureau of Investigation currently located in leased space at various locations, in Las Vegas, NV at a new proposed total annual cost of $3,422,560 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution. This resolution amends a Committee resolution dated September 27, 2000, which authorized a total annual cost of $2,620,398.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF DEFENSE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 99,168 rentable square feet of space for the Department of Defense currently located in leased space at the Park Center Office building, 4501 Ford Avenue, in Alexandria, VA at a proposed total annual cost of $3,371,712 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF DEFENSE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 149,087 rentable square feet of space for the Department of Defense currently located in leased space at Skyline VI, 5109 Leesburg Pike; Falls Church, VA at a proposed total annual cost of $5,068,958 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, ENVIRONMENTAL PROTECTION AGENCY, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 103,068 rentable square feet of space for the Environmental Protection Agency currently located in leased space at 2800 Crystal Drive, in Arlington, VA at a proposed total annual cost of $3,504,312 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, U.S. MARSHALS SERVICE, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 173,898 rentable square feet of space for the U.S. Marshals Service currently located in leased space at 1735 Jefferson Davis Highway, in Arlington, VA at a proposed total annual cost of $5,912,532 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, SOCIAL SECURITY ADMINISTRATION, SOUTHEAST PROGRAM SERVICE CENTER, BIRMINGHAM, AL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 587,528 rentable square feet of space for the Social Security Administration currently housed in a leased facility at 12th Avenue and 19th Street in downtown Birmingham, AL at a proposed total annual cost of $16,450,784 for a lease term of 20 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE, DEPARTMENT OF AGRICULTURE, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 306,890 rentable square feet of space for the Department of Agriculture currently located at 4700 River Road, Riverdale, MD at a proposed total annual cost of $7,672,000 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

DESIGN, VARIOUS LOCATIONS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the design of projects scheduled for the James A. Walsh Federal Courthouse in Tucson, Arizona, at a design cost of $1,588,000; for the Herbert C. Hoover Building in Washington, D.C., at a design cost of $12,800,000; for the Mary E. Switzer Memorial Building in Washington, D.C., at a design cost of $944,000; for the Federal Building in Des Moines, Iowa, at a design cost of $3,588,000; for the Hale Boggs Federal Building and Courthouse in New Orleans, Louisiana, at a design cost of $2,161,000; for the John Minor Wisdom Court of Appeals in New Orleans, Louisiana, at a design cost of $939,000; for the Richard Bolling Federal Building in Kansas City, Missouri, at a design cost of $10,881,000; for Building 102 of the Federal Center in St. Louis, Missouri, at a design cost of $1,193,000; for the Anthony Celebrezze Federal Building in Cleveland, Ohio, at a design cost of $2,274,000; for the Edith Green/Wendell Wyatt Federal Building in Portland, Oregon, at a design cost of $3,173,000; for the Post Office and Courthouse located in San Antonio, Texas, at a design cost of $2,909,000; and for the William K. Nakamura U.S. Courthouse in Seattle, Washington, at a design cost of $395,000; at a total design cost of $42,845,000, for which a prospectus is attached to, and included in, this resolution.

Amendment—Design, United States Courthouse, San Antonio, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the design of a 377,691 gross square foot United States Courthouse, including 37 inside parking spaces, located in San Antonio, TX, at an additional design cost of $1,251,000, for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $6,926,000 for design cost, dated July 24, 2002.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Amendment—Site and Design, United States Courthouse, Anniston, AL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the design of a 65,482 gross square foot United States Courthouse, including 20 inside parking spaces, located in Anniston, AL, at additional site and design cost of $1,291,000, for a total site and design cost of $4,381,000 (site cost of $1,257,000 and design cost of $1,833,000 was previously authorized), for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $1,257,000 for site and $1,833,000 for design dated July 24, 2002.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Amendment—Site and Design, United States Courthouse, Harrisburg, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the design of a 262,970 gross square foot United States Courthouse, including 40 inside parking spaces, located in Harrisburg, PA, at additional design cost of $1,222,000 and additional site cost of $5,785,000 for a total site and design cost of $25,682,000 (a total site and design cost of $18,677,000 has been previously authorized), for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $14,215,000 for site and $4,462,000 for design dated July 24, 2002.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Amendment—Site and Design, United States Courthouse, Greenville, SC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the design of a 257,347 gross square foot United States Courthouse, including 74 inside parking spaces, located in Greenville, SC, at additional design cost of $2,627,000 for a total site and design cost of $10,934,000 (a total site and design cost of $8,307,000 has been previously authorized), for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $3,451,000 for site and $4,856,000 for design dated July 24, 2002.

Provided, That any design shall; to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Amendment—Design, United States Courthouse, Charlotte, NC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That, pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the site and design of a 390,724 gross square foot United States Courthouse, including 60 inside parking spaces, located in Charlotte, NC, at additional design cost of $1,034,000 for a total design cost of $8,053,000 (design cost of $7,019,000 was previously authorized), for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $7,401,000 dated July 24, 2002.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Construction, United States Courthouse Annex, Savannah, GA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 166,955 gross square foot United States Courthouse located in Savannah, GA, at additional design cost of $668,000 (design cost of $2,386,000 was previously authorized), estimated construction cost of $45,818,000 and management and inspection cost of $4,250,000 for an estimated total project cost of $56,333,000 (site cost of $3,211,000 was previously authorized), for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Amendment—Site and Design, United States Courthouse, San Jose, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the site and design of a 404,361 gross square foot United States Courthouse, including 76 inside parking spaces, located in San Jose, CA, at additional site and design cost $6,681,000, for which a fact sheet is attached to, and included in, this resolution. This resolution amends a Committee resolution that authorized $19,441,000 for additional site and design dated July 18, 2001, which amended a Committee resolution that authorized $10,800,000, for site dated July 23, 1998.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Construction, United States Courthouse, El Paso, TX

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 231,945 gross square foot United States Courthouse, including 60 inside parking spaces, located in El Paso, TX, at additional design cost of $673,000 (design cost of $4,493,000 was previously authorized), additional site cost of $1,000,000 (site cost of $6,700,000 was previously authorized), management and inspection cost of $4,285,000, and estimated construction cost of $49,927,000 for an estimated total project cost of $67,078,000, for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Construction, United States Courthouse, Mobile, AL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 342,273 gross square foot

United States Courthouse, including 50 inside parking spaces, located in Mobile, AL, at additional design cost of $491,000 (design cost of $6,590,000 was previously authorized), estimated construction cost of $80,007,000 and management and inspection cost of $5,245,000, for an estimated total project cost of $97,033,000 (site cost of $4,700,000 was previously authorized), for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

CONSTRUCTION, UNITED STATES COURTHOUSE, LAS CRUCES, NM

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 206,881 gross square foot United States Courthouse, including 81 inside parking spaces, located in Las Cruces, NM, at additional design cost of $319,000 (design cost of $4,110,000 was previously authorized), estimated construction cost of $48,096,000 and management and inspection cost of $3,967,000, for an estimated total project cost of $57,092,000 (site cost of $600,000 was previously authorized), for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

ADDITIONAL SITE, UNITED STATES COURTHOUSE, SALT LAKE CITY, UT

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the site of a 329,896 gross square foot United States Courthouse, including 44 inside parking spaces, located in Salt Lake City, UT, at additional site cost of $3,765,000 (site cost of $12,802,000 was previously authorized), for a combined site cost of $16,567,000, for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

CONSTRUCTION, UNITED STATES COURTHOUSE, ROCKFORD, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 150,365 gross square foot United States Courthouse, including 55 inside parking spaces, located in Rockford, IL, at additional design cost of $377,000 (design cost of $3,133,000 was previously authorized), additional site cost of $1,012,000 (site cost of $1,800,000 was previously authorized), estimated construction cost of $44,062,000, and management and inspection cost of $3,384,000 for an estimated total project cost of $53,768,000, for which a fact sheet is attached to, and included in, this resolution.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

BUILDING PROJECT SURVEY, U.S. COURTHOUSE—FEDERAL BUILDING, FORT LAUDERDALE, FL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to Title 40 U.S.C. §3314(b), the Administrator of General Services shall investigate the feasibility and need to construct or acquire a facility to house a United States Courthouse and Federal Building, in Fort Lauderdale, FL. The analysis shall include a full and complete evaluation including, but not limited to: (i) the identification and cost of potential sites and (ii) 30 year present value evaluations of all options; lease, purchase, and Federal construction, and the purchase options of lease with an option to purchase or purchase contract. The Administrator shall submit a report to Congress within 60 days.

BUILDING PROJECT SURVEY, U.S. COURTHOUSE, GREENSBORO, NC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to Title 40 U.S.C. §3314(b), the Administrator of General Services shall investigate the feasibility and need to construct or acquire a facility to house a United States District Court and related agencies, in Greensboro, NC. The analysis shall include a full and complete evaluation including, but not limited to: (i) the identification and cost of potential sites and (ii) 30 year present value evaluations of all options; lease, purchase, and Federal construction, and the purchase options of lease with an option to purchase or purchase contract. The Administrator shall submit a report to Congress within 60 days.

BUILDING PROJECT SURVEY, U.S. COURTHOUSE, BENTON, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to Title 40 U.S.C. §3314(b), the Administrator of General Services shall investigate the feasibility and need to construct or acquire a facility to house a United States Courthouse, in Benton, IL. The analysis shall include a full and complete evaluation including, but not limited to: (i) the identification and cost of potential sites and (ii) 30 year present value evaluations of all options; lease, purchase, and Federal construction, and the purchase options of lease with an option to purchase or purchase contract. The Administrator shall submit a report to Congress within 60 days.

BUILDING PROJECT SURVEY, U.S. COURTHOUSE ANNEX, SIOUX FALLS, SD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to Title 40 U.S.C. §3314(b), the Administrator of General Services shall investigate the feasibility and need to construct or acquire a facility to house a United States Courthouse Annex, in Sioux Falls, SD. The analysis shall include a full and complete evaluation including, but not limited to: (i) the identification and cost of potential sites and (ii) 30 year present value evaluations of all options; lease, purchase, and Federal construction, and the purchase options of lease with an option to purchase or purchase contract. The Administrator shall submit a report to Congress within 60 days.

There was no objection.

VANDALISM IN WEST COVINA AND DUARTE

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise to express my disgust and dismay at destructive acts that currently took place in the 32nd congressional district; and I am talking about vandalism and arson that occurred, that was represented by a group of so-called "eco-terrorists."

These criminals vandalized car dealerships in my district in West Covina and the City of Duarte that sell sports utility vehicles and Hummers, and in the process they caused well over $2.5 million worth of destruction to local business, all in the name of protecting the environment.

But these eco-terrorists have it completely wrong. They forget that the reason we fight for a cleaner environment is to protect our families and to keep them healthy and safe, and violence is no way to keep our families safe. The true heroes of the environmental movement know that progress is achieved through peaceful means and education, not destructive ones.

Leading legitimate groups like the Sierra Club have come out and condemned all acts of violence in the name of the environment, and specifically those by the Earth Liberation Front.

I want to commend the FBI and our local law enforcement and local elected officials who have come together in pursuing these criminals to make sure that they never terrorize our residents in the San Gabriel Valley.

MOTHER TERESA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last week would have been Mother Teresa's 93rd birthday. She was an amazing woman who served those no one else cared about, the poorest of the poor.

On February 5, 1994, she spoke to the National Prayer Breakfast. I had the privilege of hearing her address. And in her speech she challenged people there to love others as God has loved us. And in front of that audience of 3,000-plus people, this little amazing woman said that the West had lost its credibility in the effort to promote peace around the world, and she could have pointed to a number of things to prove her point, but incredibly here is what she cited: she cited abortion as the reason.

Rather than ruin her message with words of my own, I would like to submit her speech for the RECORD and just read one sentence. She said: "I feel that the greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of the innocent child, murder by the mother herself. And if we accept that a mother can kill even her own child, how can we tell other people not to kill one another?"

Maybe she had some insight the rest of us do not. Read her remarks and judge for yourself.

GOVERNMENT WASTE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to speak on the enormous waste that occurs every day as Federal agencies continually fail to use proper oversight of disbursements of taxpayer dollars, and I want to cite three specific examples.

Instead of using its Federal food stamp funds to provide food for poor children, California chose to waste these funds on microwave ovens, catering services, and even on fees for marriage licenses. Some agencies, like the Departments of Education and Commerce, have such inadequate computer systems that over $2 million of illegal meal reimbursements and payroll tax withholdings were not detected and escaped oversight. And these systems are inadequate, even though they continue to inappropriately spend millions of dollars trying to devise systems.

In the past few years, the Federal Department of the Interior was unable to account for $11 billion of its financial transactions until it checked with other Federal agencies for confirmation of payment.

Mr. Speaker, all of these examples stand as proof of why this Congress must continue to hold Federal agencies responsible and accountable for their accounting standards and move them toward compliance with the Federal Financial Management Improvement Act. Otherwise, Mr. Speaker, this government will not make any progress in reducing our bloated Federal bureaucracy; and billions of dollars in taxpayer money will continue to be wasted.

□ 1415

INTRODUCTION OF FINANCIAL LITERACY COMMISSION CENTS ACT

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, the state of financial literacy among our children is not good. Sixty percent of preteens do not know the difference between cash, credit and checks; 28 percent of 12-year-olds do not know that credit cards are a form of borrowing; and almost 40 percent of them do not know that banks charge interest on loans. That is why I am introducing today a bill that will better coordinate public and private sector efforts to enhance financial literacy among our youth.

The CENTS legislation, as in dollars and cents, establishes a commission that will provide recommendations on how to interrogate high-quality, standards-based economic and financial education. The commission will identify the best practices in the teaching of economics and personal finance and it will recommend how to better coordinate Federal, State and private sector efforts.

Mr. Speaker, I urge my colleagues to join me in cosponsoring the CENTS Act to improve the financial literacy of our Nation's young people.

BEING ASHAMED OF THE FEDERAL DEFICIT

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, last Friday the Congressional Budget Office came out with their new economic outlook, and I am somewhat ashamed as a Republican that it does not look very good in terms of what Republicans and Democrats have done in the last several years.

They are estimating for this year, 2003, we are going to run a deficit of $562 billion. That includes the $162 billion we are borrowing from Social Security, but it also considers what we are borrowing from all of the other trust funds. They estimate the deficit for 2004, next year, is going to be $644 billion.

Mr. Speaker, when you realize that it took the first 200 years of this country, the first 200 years, to accumulate a debt of $500 billion and now we are exceeding that every year, we should be ashamed. I am ashamed.

The gentlewoman from North Carolina (Mrs. MYRICK) and the Republican Study Committee just issued a report that said if Republicans and Democrats and the President had stuck to the commitment that we made in 1966, we would have a balanced budget today, even with the tax cuts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SCHROCK). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

WINSTON E. ARNOW FEDERAL BUILDING DESIGNATION ACT

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1572) to designate the historic Federal District Court Building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow Federal Building," as amended.

The Clerk read as follows:

H.R. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 100 North Palafox Street in Pensacola, Florida, shall be known and designated as the "Winston E. Arnow United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Winston E. Arnow United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to welcome everybody back after our recess, and I have to confess a little bit of disorientation. As I walked into the Chamber today, I thought for a moment I was in the Committee on Financial Services when I see Mrs. Cole, now a member of the Clerk's office, and I congratulate the Clerk on that hire; and further I am confused by the whiskers growing on the Parliamentarian's chin.

Mr. Speaker, H.R. 1527, as amended, was introduced by the gentleman from Florida (Mr. MILLER) and it designates the historic building located at 100 North Palafox Street as the Winston E. Arnow Federal Building.

This bill was amended during subcommittee markup to make some minor technical changes relating to the designation of the building. These changes were made with the full support of the bill's sponsor, the gentleman from Florida (Mr. MILLER).

Judge Arnow was born in 1911 in Micanopy, Florida. He attended the University of Florida, where he received a bachelor's degree in 1932 and his law degree in 1933. He was admitted to the bar, and for 2 years served as a research clerk for the Florida Supreme Court, the first person to hold such a position.

From 1935 to 1942, he worked in private practice, when he was called to serve in the Army infantry for a year before being transferred to the Judge Advocate General Corps, wherein he was discharged as a major in 1945.

From 1946 until 1967, Judge Arnow practiced law as a partner in the firm of Clayton and Arnow. While in private practice, Judge Arnow served as a member and as chairman of the numerous bar committees, including the Steering Committee for Florida Civil Practices Before Trial and Committees on Continuing Legal Education and Rules of Civil Practice.

He was a member of the Florida Bar Committee that wrote the 1954 Consolidated Rules of Civil Procedure, in addition to authoring or coauthoring several other books and articles on the topic.

In 1968, President Lyndon Johnson appointed Bo Arnow to serve as a judge for the United States District Court, Northern District of Florida. During his tenure, he served first as a Judge, then as chief judge from 1969 until he took senior status in 1981.

Judge Arnow has been recognized for his achievements by the University of Florida, the Florida Chamber of Commerce, the Order of the Coif, an important legal honor society, as well as by the Judicial Conference for the 11th Circuit.

Mr. Speaker, this is a fitting tribute to a dedicated public servant. I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. H.R. 1572 is a bill to designate the Federal Building in Pensacola, Florida, as the Winston E. Arnow United States Federal Courthouse.

Judge Arnow was a native son of Florida. He was born in 1911 in Micanopy, Florida, attended public schools, and graduated from the University of Florida in 1932. He received his law degree in 1933. Judge Arnow was a World War II veteran, serving in the infantry in the United States Army.

Although he graduated from college and law school during the Depression, Winston Arnow became the first research clerk at the Supreme Court of Florida. He then practiced law for 30 years in Gainesville. President Johnson appointed him to the Federal bench in 1968. In 1969, he became the senior judge, and served in that capacity until 1981. As senior judge, Judge Arnow continued his work on the bench until his death in 1994.

Judge Arnow was instrumental in enforcing civil rights law during the critical period from 1969 through 1978. He based his decisions on the strength of the Constitution, and his decisions leave a legacy of fairness and integrity. On the bench he was all business and showed no favoritism. His social and economic decisions had a profound effect on the social fabric of Northern Florida.

In 1972, Judge Arnow's decisions regarding the Naval Live Oaks Reservations ended a long and controversial dispute over ownership, when he declared the historic woodland in the Gulf to be owned by the citizens of the United States.

He was a warm and gracious judge, generous with his time and advice. Judge Arnow was a fearless decision-maker, known for integrity and honesty. This designation is a fitting tribute to his long and distinguished career. I support this legislation and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Florida (Mr. MILLER), the author of this legislation, and to congratulate him for shepherding this legislation to the floor today.

Mr. MILLER of Florida. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, it is indeed my distinct privilege to rise today as the House considers H.R. 1572, a bill to designate the Historic Federal District Court Building located at 100 North Palafox Street in Pensacola, Florida, as the Winston E. Arnow Federal Building.

Since the United States District Court in the Northern District of Florida moved to a new courthouse location in 1999, this building has been undergoing a major renovation and is expected to be ready for occupancy in the latter part of 2004. Occupying the building will be the Bankruptcy Unit of the District Court, the United States Probation Offices and a portion of the District Court, eventually including a U.S. District Judge and staff. The building will become an integral part of the Florida Northern District Court in Pensacola.

Mr. Speaker, earlier this year I introduced this measure to provide a fitting tribute to the service and life of a man who did so much for northwest Florida. He is widely acknowledged as the judge who made the hard decisions that reshaped our local area in the late sixties and seventies. Judge Arnow's decisions have shaped northern Florida's governments, its schools and its jails. These courageous decisions, which led to numerous threats on his life, have stood the test of time.

A man of honesty and rigid judicial integrity, Judge Arnow believed that a Judge had to follow the Constitution, the statutes and appellate precedents. He did not care whether he liked them or not. He did this as his duty, and he did it as he saw it, regardless of who the litigant or the lawyer was.

He was a friendly, soft-spoken country lawyer. Friends and colleagues regarded Judge Arnow as a southern gentleman in the traditional sense; very formal in court, yet very warm and friendly in everyday life. An avid sportsman, he was a good shooter and could frequently be found in his mint-condition green Jeep on his way to a dove hunt.

Today, the name Judge Winston E. "Bo" Arnow is an integral part of the revolutionary period from 1969 to 1978 in northwest Florida when he followed U.S. Supreme Court mandates to ensure the election of blacks, public school desegregation, and the new Escambia County Jail to improve living conditions of the inmates.

He was the first Federal Judge to be a Pensacola resident since 1934. He served as Chief Judge of the Northern District of Florida stretching from Pensacola to Gainesville until 1981. He was still on the bench into his eighties, dying at the age of 83 on November 28, 1994.

Judicial associates saw Judge Arnow as all integrity, ignoring criticism by doing what he thought was the right and proper thing to do to protect civil liberties. In court he was all business. Once on the bench, he had no friends, only the fairness of law, and he took great pride in giving stern direction to wayward lawyers. His philosophy was, "Be on time and be damn ready when you get there." He was polite and he was fair, and exercised a no-nonsense attitude in his jurisprudence.

Judge Arnow went out of his way to protect the rights of the accused, and yet was equally stern in sentencing the guilty. His social and governmental decisions had profound effect; election of the first black county commissioner since Reconstruction; construction of the Escambia County Jail and renovation of the Santa Rosa County Jail. In 1972, as we have already heard, Judge Arnow ended the long-simmering dispute over ownership of the Naval Live Oaks Reservation by declaring the historic woodland in the Gulf Island National Seashore belonged to the people of the United States.

A political conservative and a strict constructionist, Judge Arnow believed firmly in the United States Constitution and followed the statutes and higher Federal Court decisions to the letter, even if he may have personally disagreed.

The people of northwest Florida, past, present and future, owe a debt of gratitude to Judge Arnow's wife, the former Frances Day Cease, and his daughter, Ann Arnow Moulton, for sharing their husband and father with northwest Florida for so many years.

I want to thank the Committee on Transportation and Infrastructure, the subcommittee chairman, the gentleman from Ohio, and his ranking member, the gentlewoman from District of Columbia, for their assistance in getting this bill to the floor today. I also want to thank my 24 colleagues from the Great State of Florida for their co-sponsorship.

I urge my colleagues to support this measure to recognize a legacy of American fairness by a man whose decisions were in the right spirit of the instrument in which he believed most, the Constitution of the United States of America.

Mr. MICHAUD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume simply to correct the record earlier so we do not get inundated with phone calls relative to the aforementioned whiskers not belonging to Mr. JOHNSON, the Parliamentarian, but to his distinguished colleague, Mr. SULLIVAN.

Mr. Speaker, I yield back the balance of my time, and urge passage of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1572, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the 'Winston E. Arnow United States Courthouse'.".

A motion to reconsider was laid on the table.

ED EDMONDSON UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1668) to designate the United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, as the "Ed Edmondson United States Courthouse".

The Clerk read as follows:

H.R. 1668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, shall be known and designated as the "Ed Edmondson United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Ed Edmondson United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Oklahoma (Mr. CARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

□ 1430

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1668, introduced by the gentleman from Oklahoma (Mr. CARSON), designates the building located at 101 North Fifth Street in Muskogee, Oklahoma, as the Ed Edmondson United States Courthouse.

Ed Edmondson was a life-long resident of Oklahoma. He attended the public schools of Muskogee, Muskogee Junior College, and the University of Oklahoma where he graduated in 1940. Following graduation, Congressman Edmondson joined the Federal Bureau of Investigation after 3 years with the FBI. He served in the Navy for 3 years and then 24 years in the Naval Reserve. During his service, Congressman Edmondson attended law school at Georgetown University. Upon his discharge from active duty and graduation from law school, Congressman Edmondson was admitted to the Washington, D.C. Bar Association. He then returned to Oklahoma to work in private practice and then as county attorney of Muskogee County.

In 1952, Congressman Edmondson was elected to the 83rd Congress and was reelected nine times, representing his home State for 20 years. After his service in the House, Congressman Edmondson returned to his native State and lived out his life in Muskogee where he passed away in 1990.

This is a fitting tribute to a dedicated public servant. I urge my colleagues in supporting passage.

Mr. Speaker, I reserve the balance of my time.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am honored and pleased to support H.R. 1668, a bill I introduced to designate the courthouse in Muskogee, Oklahoma, as the Ed Edmondson United States Courthouse. Congressman Edmondson devoted his life to the service of the country and people of Oklahoma. It was a call to service that many members of his family, past and present, have answered.

Congressman Edmond A. Edmondson was born in Muskogee, Oklahoma, on April 7, 1919. And after graduating from the University of Oklahoma in 1940, he came to Washington, D.C. to study law at Georgetown University. While working on his studies, he became a tour guide at the Federal Bureau of Investigation and was quickly elevated to clerk and then special agent. His studies and service to the FBI were interrupted by a call to higher duty in the Navy during World War II where he served for 25 months in the South Pacific. During the war he met and married his lovely wife, June, who was serving as a WAVE in the war effort.

After the war, Congressman Edmondson's military service continued until 1970 in the United States Naval Reserve. After returning from the war and completing his education, Congressman Edmondson returned to Oklahoma to serve as county attorney in 1949, until he was elected to represent the people of the Second Congressional District of Oklahoma in 1952. During his time in Congress, he served on the Committee on Public Works and the Committee for Interior and Insular Affairs, until he left the House to run for the United Nations Senate in 1972.

As a member of the Committee on Public Works, he championed water projects, especially for arid Western lands. Congressman Edmondson was a supporter of programs of the new frontier and also a champion of veterans like himself. His political style helped lay the foundation for Oklahoma's conservative Democratic traditions.

He had a tremendous respect for public service and came from a politically active family. His brother, J. Howard Edmondson, served as the Governor of Oklahoma, and his work inspired many people, including two of his own sons, to make careers in the public sector and to work for the people of Oklahoma. His son, Drew Edmondson, is today the attorney general of Oklahoma; and his other son, Jim, is a State district judge in Muskogee County.

The naming of this Federal building in the honor of Ed Edmondson would commemorate his long-time service to his community and to his State. I ask Members' support for this legislation. I thank Members for the opportunity to commemorate this great Oklahoman with this honor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself the balance of my time.

I congratulate the gentleman from Oklahoma (Mr. CARSON) for shepherding this bill to the floor and its expected passage today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHROCK). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1668.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1572 and H.R. 1668.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONGRATULATING LANCE ARMSTRONG

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 350) congratulating Lance Armstrong for winning the 2003 Tour de France.

The Clerk read as follows:

H. RES. 350

Whereas Lance Armstrong won the 2003 Tour de France, the 100th anniversary of the race, by completing the 2,125-mile, 23-day course in 83 hours, 41 minutes, and 12 seconds, finishing 1 minute and 1 second ahead of his nearest competitor;

Whereas Lance Armstrong's win on July 27, 2003, marks his fifth Tour de France victory;

Whereas with this victory, Lance Armstrong joined Miguel Indurain as the only riders in history to win cycling's most prestigious race in 5 consecutive years;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership in prevailing over the mountainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to winning the premier cycling event in the world;

Whereas in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 6 years;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas Lance Armstrong's courage and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong continues to be the face of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, cancer survivor, and advocate have made him an inspiration to millions of people around the world: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Lance Armstrong and the United States Postal Service team on their historic victory in the 2003 Tour de France; and

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong.

SEC. 2. The Clerk of the House of Representatives shall transmit an enrolled copy of this resolution to Lance Armstrong.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Texas (Mr. BELL) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 350.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 350 congratulates Lance Armstrong for winning the 2003 Tour de France, a race many consider the most grueling sporting event in the world.

Mr. Speaker, on July 27 Lance Armstrong won the incredible 23-day bicycle race through French mountains, countryside and cities to become the fifth cyclist in the 100-year history of the race to earn five Tour de France victories. Even more impressively, Lance won the race for the fifth consecutive year, becoming only the second person ever to do so.

Since this House recessed for the summer the same weekend as Lance's victory, I am very proud that on its first day back this distinguished body is recognizing the inspirational Lance Armstrong and his unbelievable courage, grit, and determination.

Lance Armstrong, one of the giants of American athletes over the last decade, was born to a 5′3″, 105-pound 17-year-old mother in the suburbs of Dallas in September 1971.

Growing up, while other classmates were playing football or partying, Lance spent much of his free time running, riding his bicycle, swimming and exercising. At the age of 13, Lance began to enter triathalons all over the U.S. where he biked, ran and swam with the Nation's best.

As a high school senior, Armstrong qualified to train with the U.S. Olympic team, but ultimately he focused solely on cycling. As a cyclist he won the U.S. National Amateur Championship in 1991. Over the next 5 years, Lance won 12 bike races, including the World Championships in 1993. By 1996 Lance Armstrong was a top-rated cyclist in the world, but it was during 1996 after a victory at the Tour DuPont in North Carolina that he began to feel more fatigue and discomfort than usual, even after an exhausting race. Later that year he was diagnosed with testicular cancer. Some of Lance's doctors at the time gave him only a 40 percent chance of surviving. He would say later he thinks that they were only being nice when they said that.

Lance soon underwent three major operations and chemotherapy to fight off the disease that had spread to his abdomen, his lungs and his brain. The treatments were successful; and within a year of being diagnosed with cancer, he was pronounced cancer free. As a survivor, Lance has become one of the world's most influential cancer research advocates. Lance founded the Lance Armstrong Foundation to promote cancer research and awareness. He also wrote the best selling book, "It's Not About the Bike: My Journey Back to Life," that tells the full story of how his early successes were interrupted by cancer, how he survived cancer, and how he eventually returned to racing and won his first Tour de France in 1999.

This year, having never won the race in his previous five victories by less than 6 minutes, Lance made his fans sweat a little bit. He ultimately won the 2,125 mile race by 61 seconds after he endured rain, fog, heat, illness, and even protesters, not to mention the indescribably punishing course.

President Bush called to congratulate him on the night of his fifth straight triumph.

In his book, Lance describes in gut-wrenching detail the miserable initial symptoms of testicular cancer. He explained the anguish of how it felt to learn he acquired the deadly disease in 1996 at a point when his racing career was literally just starting to take off. Perhaps the following excerpt that describes his life's spirit is the more enduring words of his book. He said, "I want to die at 100 years old with an American flag on my back and the star of Texas on my helmet, after screaming down an Alpine descent on a bicycle at 75 miles per hour. I want to cross one last finish line as my wife and my 10 children applaud, and then I want to lie down in a field of those famous French sunflowers and gracefully expire: the perfect contradiction to my once anticipated poignant early demise."

Mr. Speaker, Lance Armstrong is an incredible role model to all citizens for his relentless work ethic, unmatched physical fitness that has helped him become perhaps the greatest cyclist of all time. It is remarkable that he achieved his great accomplishments in the cycling world after he overcame cancer, proving to all that a person can not only defeat cancer, but can thrive after beating it.

Mr. Speaker, Lance turns 32 years old this month, more than 7 years after he miraculously overcame the cancer that experts said he had less than a 50 percent chance of surviving. Almost as remarkably, he has assured all his fans that he is determined to pursue a sixth straight Tour de France victory next summer. I, for one, cannot wait to cheer him on.

For all of these reasons, I urge all Members to support the adoption of

House Resolution 350 that commemorates Lance Armstrong's fifth Tour de France victory.

Mr. Speaker, I reserve the balance of my time.

Mr. BELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support today of House Resolution 350. Mr. Speaker, Lance Armstrong, national and world champion cyclist, two-time Olympian, humanitarian, cancer survivor, and now five-time winner of the Tour de France, faced his first athletic challenge as a fifth grader in a second grade swim class. Through his now signature hard work and determination, Lance Armstrong was eventually put in a swim class with his own age group and later went on to place fourth in the 1,500 meter freestyle in his State.

At age 13 Lance became a junior triathalon athlete. At age 15, just 5 years after being placed in that second grade swim class, Lance Armstrong won so many triathalons he made over $20,000 in just one year. The swimming and running components of the triathalon gave way to cycling. In his junior year of high school, the U.S. Cycling Federation invited him to join the 1990 Junior World Championship Team in Moscow.

Born on September 18, 1971, Lance's athleticism was nurtured by his mother, Linda, a single parent who has been a constant source of strength and inspiration for Lance. This shy, all-American kid from the great State of Texas would become only the fifth rider in history to win the Tour de France five times. In 1991, Lance Armstrong won the Amateur Cycling Championship. He turned professional in 1992 and captured 10 titles by 1993. By the mid-1990s he had won the Tour DuPont twice and was being hailed as the finest U.S. cyclist.

In 1996, however, he was diagnosed with a very serious form of cancer. Given only a 50 percent chance of survival, he underwent surgery and chemotherapy. In one of the more impressive comebacks in sports history, he returned to cycling in 1998 and reached the pinnacle of his sport with five consecutive victories in the Tour de France, the sport's toughest and most prestigious race.

Lance Armstrong is truly in a class by himself and is well-deserving of this resolution in his honor.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no further speakers.

Mr. BELL. Mr. Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, on behalf of the House, I want to congratulate Lance Armstrong for his most recent Tour de France win. I urge all Members to support the adoption of House Resolution 350.

Mr. BELL. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I rise to acknowledge the extraordinary accomplishment of Lance Armstrong in winning five consecutive Tours de France.

I have with me the principal newspaper in Paris that follows athletic events, Le Journal de Paris, whose headline says, "les Parisiens étaient la à l'arrivée du Tour," 'Parisiens were there when the tour arrived in Paris', and so was I. I made it my point, a long-held dream, to be on the Champs Elyssees for the final stage of the Tour de France, as an avid cyclist, to cheer and support Lance Armstrong, whom I have known for quite some time. I also got to ride the last leg of the tour, as this newspaper shows 11,000 other cyclists, wearing yellow jerseys with the logo "La randonnée du centenaire" (The Centennial Ride), riding the Champs Elyssees over the last 40 kilometers of the Tour de France; and not only that, but I was interviewed on French national television just quite by accident, I will say to my friend and my colleague from Texas, in French, and represented the United States I think very appropriately.

It is impossible to understand the accomplishment of Lance Armstrong unless one follows the events of cycling and understands the technical intricacies of the Tour de France. To say that it is like running a marathon every day for 3 weeks is in itself an understatement of the athleticism and the strength and the mental toughness that it takes to lead the tour, to win it five times in a row. And only one other cyclist in the 100-year history of the Tour de France has done that, Miguel Indurain of Spain. Three others have won it five times, though not consecutively; only two have won it consecutively.

Lance Armstrong represented the very best of America, the very best of athleticism, the very greatest in accomplishment in athletic history in winning five consecutive Tours de France, and all of America's proud of him, and I must say that all of France acknowledges his accomplishment. They recognize great accomplishments and great achievements on the athletic field and in other arenas as well, but for this one, Lance stands on the pedestal of history alone.

Mr. BELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I am here this afternoon principally, as with our colleague the gentleman from Minnesota (Mr. OBERSTAR), to honor my constituent Lance Armstrong. I join in offering hearty congratulations to a heroic American, Lance Armstrong. This proud Texan, cancer survivor, public health advocate, Olympian and now five-time Tour de France champion has captivated the imagination and won the hearts not only of Texas, but of our Nation and the world. However, I believe it is fair to say that nowhere is the enthusiasm for Lance's achievements greater than in his hometown of Austin, Texas.

We have an old French embassy from the days of the Republic of Texas there, and our relationships with France are good, so we mean no disrespect in saying that among us Austinites we refer to it as the "Tour de Lance" because he has had such success in representing our State and our country in this world athletic competition.

Lance was in Austin last Sunday night to be honored at the University of Texas Longhorn football game and victory, and he is honored there most every day by his many neighbors who applaud his success.

While we are proud to have Lance wear the red, white, and blue of our country and of the U.S. Postal Service team when he is in a race, we prefer to see him in yellow, when he crosses that finish line in that yellow jersey, a sign of courage, a sign of victory. It is appropriate for Lance's team to be sponsored by the Postal Service: while not faced with too much snow, despite rain and considerable heat and gloom of night, he stayed the course as a swift competitor for all of his appointed rounds.

Lance is a champion, defined not by his setbacks but by his relentless determination to overcome them. Indeed, this year's victory particularly was symbolic of the often rocky road that Lance Armstrong has ridden. Not until after a painful struggle through searing heat and a frightening crash late in the race did the true fortitude of the real Lance Armstrong emerge for all to see, a familiar grimace on his face, avoiding any obstacle in the way and leaving his closest competitors in the dust. Just as not so long ago when faced with his very steepest climb in life, Lance persevered and pushed himself to beat daunting challenges against long odds.

In Austin, we began development of the Lance Armstrong bikeway. This cross-town trail is a fitting tribute for his accomplishments, and it will be a safe route for community cyclists and pedestrians who want to get off the road when they exercise or commute to work. It is one of the examples of the worthwhile projects resulting from the transportation enhancements program this House will consider this week.

Lance has joined with those of us who are members of the bipartisan House cycling caucus on a number of occasions and has been active in promoting cycling. It is not just the people who wear a yellow jersey or race competitively who can enjoy the many benefits of cycling.

I hope the House will honor him not only with this resolution today, but by its actions in maintaining our commitment to the transportation enhancement program that will be on the floor on Friday.

Lance Armstrong also voices his concern in Austin and here in Washington through the Lance Armstrong Foundation, a foundation that he set up to encourage other nonprofits in their efforts to promote cancer survivorship. They are doing an outstanding job in Texas of raising this issue in cooperation with other health organizations here in Washington, D.C.

This Congress can pay tribute to Lance by seeing that we have the resources dedicated to cancer survivorship that are so very important to millions of Americans and adopting legislation to advance this important issue. The Cancer Survivorship and Quality of Life Act expands and coordinates the activities of the National Institutes of Health and the Center for Disease Control with respect to cancer survivorship research.

So to Lance we say thanks for your contributions to our country, particularly to central Texas, and your inspiration to children, to cancer survivors and to athletes worldwide. Congratulations on your success not only on the bike but, most importantly, for all of your successes in life. You have taught us the importance of survivorship; it is that we have so much for which to live.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of Chairman DAVIS' Resolution H. Res. 350, honoring Lance Armstrong. Mr. Chairman, I had planned to introduce a similar resolution with 24 cosponsors along with Representative MCHUGH and Representative DOGGETT. I have turned these cosponsors over to Chairman DAVIS and appreciate him adding them to his resolution.

Mr. Speaker, today we honor a man who has shown tremendous strength, courage, and perseverance in his struggle to overcome seemingly insurmountable odds. Lance Armstrong is a world-class cyclist who came back from a grueling battle with cancer to dominate in his sport; a man who has remembered those still battling against cancer and who strives each day to make a difference in their lives. I am pleased to join in honoring Mr. Lance Armstrong.

On Sunday, July 27, 2003, Lance Armstrong achieved his fifth consecutive Tour de France victory. The completion of this 23-day, 2,125-mile cycling race is a significant accomplishment. Yet, even more significant are the odds that Mr. Armstrong overcame in order to compete in this, his ninth, Tour de France. After competing in the race from 1993 to 1996, Lance Armstrong was informed that he had testicular cancer that had spread to his abdomen, lungs, and brain.

This information was undoubtedly devastating to Lance Armstrong. However, this man was not about to give up on his life and dreams. He chose, instead, to fight cancer with all of his strength. He decided that the disease would not win. It took a long and difficult struggle, chemotherapy, and surgery, but Lance Armstrong remained strong and never gave up hope.

Mr. Armstrong is now in recovery, but he continues to fight cancer. After succeeding against enormous odds, he is now helping others as they face their own battles with cancer. In 1997 he founded the Lance Armstrong Foundation, or the LAF. This organization provides support, information, and services to cancer patients and survivors. Through the LAF, Lance Armstrong has supported thousands of cancer patients and survivors by actively advocating for their needs. His books It's Not About the Bike: My Journey Back to Life and Every Second Counts offer inspiration to those devastated by this terrible disease. By sharing his story, Mr. Armstrong has given comfort and hope to untold numbers of people battling cancer and their families.

Lance Armstrong's battles have only just begun. He continues to fight cancer through the Lance Armstrong Foundation and to hold his position as one of the greatest cyclists of all time. He has truly earned the pride of his coach, Chris Carmichael, his main sponsor, the United States Postal Service, and all of his loyal fans.

Mr. Speaker, it is with great pleasure that I congratulate Mr. Armstrong on his many tremendous accomplishments, especially his fifth consecutive Tour de France victory, and wish him all the happiness that life has to offer. I also want to commend Ms. Sarah Kinneer, a summer intern of mine, for her work on this Resolution. She worked hard and did an outstanding job.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 350.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TOM DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

J. STEPHEN HORN POST OFFICE BUILDING

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2309) to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Signal Hill, California, as the "J. Stephen Horn Post Office Building," as amended.

The Clerk read as follows:

H.R. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, shall be known and designated as the "Stephen Horn Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Stephen Horn Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Texas (Mr. BELL) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2309.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

□ 1445

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2309, as amended, introduced by my distinguished colleague from the State of California (Ms. MILLENDER-MCDONALD), designates the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the "Stephen Horn Post Office Building."

Mr. Speaker, this legislation would rename this southern California post office after one of our most distinguished former Members, Congressman Steve Horn. Congressman Horn retired this past January at the conclusion of the 107th Congress. He was one of the most intelligent, respected and admired Members of the House of Representatives, and we are all proud to have had an opportunity to serve with him and to recognize his service today.

Congressman Horn spent his entire professional life around or within the Federal Government. Along the way, he particularly studied and mastered the procedural details of succeeding as a legislator on Capitol Hill. He has viewed the legislative process from every possible perspective: as a congressional aid, an executive branch staff member, an academic, a writer and, ultimately, as an elected official.

Following his extensive education that includes a master's degree from Harvard and a Ph.D. from Stanford University, Steve Horn began his career in public service in 1959 as an aide to then-Labor Secretary James Mitchell in the Eisenhower administration. Within 2 years, Steve came to Capitol Hill for the first time as a legislative assistant to former California Senator

Tom Kuchel. I first met him when he was an aide to Senator Kuchel when I was a young page over in the Senate back in the 1963–64 time frame, and I will never forget his replacement, when he left the Senator's office, who was a young man named Leon Panetta who also went on to serve and was distinguished in this body.

After stints as a senior fellow with the Brookings Institute and a dean of American University, Mr. Horn returned to California as president of California State University at Long Beach. From his studies and experience, he has written important books on congressional ethics, parliamentary procedure, and the Senate Appropriations Committee.

Professor Steve Horn left academia to make a run for the Republican nomination to the House of Representatives in 1988. Although he came up short in that race, he ran another campaign 4 years later in a different district in 1992 and won the Republican nomination. During the general election season, he based his campaign headquarters out of his son's apartment and mailed out nearly 50,000 15-minute videotapes to voters about himself. As a result of his efforts, Steve Horn was elected to the House of Representatives from the 38th District of California in November of 1992.

Mr. Speaker, once he was elected to Congress, Congressman Horn quickly became known as one of the most diligent Members of the House. He tirelessly chaired the Committee on Government Reform's Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations until his retirement, and I was very fortunate to have served on that subcommittee during his tenure. He held countless hearings that aimed to improve the accountability and effectiveness of the Federal Government. Specifically, he was a leader in encouraging Federal agencies to prepare their technology systems for the Y2K bug and worked on various government debt collection bills that aimed to allow the government to obtain outstanding debts.

Today, Congressman Horn lives in semi-retirement with his wife Nini in California. He continues his public service to this day, working in a consultative role with the National Academy of Public Administration.

Mr. Speaker, I urge all Members to support the passage of H.R. 2309, as amended, that honors Congressman Steve Horn for his 5 terms in the House and his service to the people of California and the entire Nation. He was a rarity, a very bipartisan Member of this body, looking not at interest groups, not at partisanship, but for what he felt would be the best result. I think this institution would be better served with more Members like Steve Horn. This is an appropriate acknowledgment of the service that he gave his country here in the Congress.

I thank my colleague, the gentlewoman from California, for introducing this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. BELL. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me the time, and I thank the gentleman from Virginia for bringing this legislation to the House floor to so appropriately honor Steve Horn.

I thank the gentlewoman from California for allowing me to precede her in my remarks. I join in the Chairman's eloquence on Steve Horn, whom I came to know personally on our committee, whom I have the greatest personal as well as professional respect for.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today to pay tribute to our former colleague Steve Horn. I also want to thank my friend and colleague the gentlewoman from California (Ms. MILLENDER-MCDONALD) for her spirit of bipartisanship in introducing this legislation to honor a man who worked well with Members on both sides of the aisle.

I first met Mr. Horn longer ago than I would like to admit, back in my days at Stanford University. I was an undergraduate. He was a teacher's aide, commonly called a TA, in one of my government classes while he pursued his Ph.D. Even back then, he had established a reputation for being hardworking and thorough.

When I first came to Washington, I was privileged to serve with Mr. Horn on the Committee on Government Reform. As chairman of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, he was always searching for ways to make government run more smoothly and more efficiently. This was not always the most glamorous or most exciting work, but Mr. Horn gladly took it on.

Nowhere was this more evident than his work on the Y2K bug. It was Steve Horn who initiated a system of grading Federal agencies on Y2K readiness and publicizing the results using report cards. These report cards let agencies know where their weaknesses were and allowed them to focus their efforts on efficiently improving their operating systems for the switchover to the year 2000. The same report card system was recently used to evaluate Federal agencies on their bioterrorism readiness.

It is only fitting that we name this post office after Steve Horn. Another one of his many legislative achievements was securing a separate ZIP code for the neighborhood surrounding the post office.

I am very proud today to support this legislation to make this the J. Stephen Horn Post Office. I congratulate Mr. Horn on all his hard work and I wish him and his wife, Nini, all the best in their much-deserved retirement. I urge all my colleagues to support this legislation to honor a truly deserving man.

Mr. BELL. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me the time.

I am pleased to join our colleagues in honoring our former colleague, Steve Horn. It is sometimes said that someone is a gentleman and a scholar. Steve Horn is genuinely both. He contributed mightily to the House and worked with people of both parties, and I am pleased that he is being recognized today.

□ 1500

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of and with gratitude to my colleague, the gentlewoman from California (Ms. MILLENDER-MCDONALD) for her resolution honoring our colleague, now our retired colleague, Steve Horn, a colleague and a friend and a much-admired person here in Washington, D.C.

He is not a bicycle rider and he is not an Olympic athlete here, but I guess it is fitting for us to have the U.S. Post Office, which has sponsored one of our athletes, and today we are talking about the naming of a post office after Steve Horn. I cannot think of a better candidate than Steve Horn to name a post office after, especially on Signal Hill, California.

Steve Horn, of course, started out as an academic and ended up working for a United States Senator from California, Senator Kuchel, and later on became president of Long Beach State College. Let me note that I graduated from Long Beach State College and was part of the committee, elected by the students of Long Beach State College, to be part of the selection committee to find out who would be the president, and that selection committee ended up choosing Steve Horn to be the President of Long Beach State College, which later became Long Beach State University.

Steve Horn did a terrific job as president of that university. He was an incredible leader in the academic community. He was tough, but he was an intellectual and he was always very thoughtful. When he came here to Congress it was an interesting transition between the President of Long Beach

State and coming to Congress. Steve and I actually ran against each other on my very first run for Congress. Steve was in the primary. It was a crowded primary of eight people, and I always thought of Steve as the one opponent I had in that primary who I dearly respected. He was such a thoughtful person.

I always thought of it as the Jeffersonians versus the Hamiltonians. As our country started out we had these two different groups vying intellectually, and Steve was definitely a Hamiltonian and I thought of myself as a Jeffersonian. Now he would think of that as a great compliment, even though in the end, the Jeffersonians won in the beginning of our country's history. They won the battles with the Hamiltonians in terms of the electoral process. But as any very thoughtful historian will tell you, it was the Hamiltonians that ended up having a dominant influence on the structure of our government.

Steve, of course, was someone who wanted to have an influence. He was someone who wanted to get tangible things done rather than talk about philosophy. He carried a book with him at all times, taking notes so he could have the details down on the things that he wanted to remember and to follow through on. He was a pragmatist of the highest order and someone who actually gives honor to that title of pragmatist because he wanted to make government work. He wanted it to work for the people, but, yes, work in its most efficient way.

He was on the Committee on Government Reform and he served on it after he was elected in 1992. He came here and ran again in 1992 and won and was here for 10 years as Representative of the 38th District. During that time period we faced the challenge that our computer system may go haywire, and Steve headed the subcommittee on technology and spent a great deal of time working with, of course, the chairman of the committee, the gentleman from Virginia (Mr. TOM DAVIS) and others to make sure that our country did not suffer horrible repercussions of being unprepared for the turn of the century that was going to make our computers all malfunction. With Steve's leadership, we were able to avert a great crisis at that time that probably saved our country billions upon billions of dollars and all sorts of disruption.

This was a man who was making things better by making government work. He was also on the Committee on Transportation and Infrastructure on which he worked so diligently to make sure that our transportation needs, especially in southern California, were met.

So let me say again that even though Steve and I had been at odds, we had run against each other and at times we had our disagreements, he was a person whose methodology in his own life demanded a certain degree of respect even for those who disagreed with him. And then when we did agree, it was such a pleasure to have someone as efficient as Steve on your side, who was focused on detail and getting the job done.

I think together in the Republican majority we were able to accomplish a great deal with Steve Horn and myself on the same team. And that is what the Republican majority, we hope, has been all about. We are missing Steve now and we wish him well. This post office that we are naming after him he fought long and hard to get a ZIP Code for in Signal Hill, so I think it is very, very fitting that we offer him this tribute by putting his name on that post office.

So I thank once again the gentlewoman from California (Ms. MILLENDER-McDONALD). This is a very nice bipartisan tribute to a man who really appreciated bipartisanship.

Mr. BELL. Mr. Speaker, I yield such time as she may consume to the very patient gentlewoman from California (Ms. MILLENDER-McDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, let me thank the distinguished gentleman from Texas (Mr. BELL) and the distinguished gentleman from Virginia (Mr. TOM DAVIS) for their input on this important bill. I would also like to recognize my colleague and friend who represents Long Beach with me, the gentleman from California (Mr. ROHRABACHER), and my dear friend who served with me as cochair of the Congressional Caucus for Women's Issues, the gentlewoman from Illinois (Mrs. BIGGERT). All of us have come to honor Steve Horn.

Before I do that, let me congratulate also and be a part of the voices to congratulate Lance Armstrong who represents the best of America and has won his second championship in the Tour de France. We are all very honored that he is an American who represents us very well.

Mr. Speaker, it is an honor for me to offer the Stephen Horn Post Office Building Designation Act, H.R. 2309, today. The post office is located at 2300 Redondo Avenue in the city of Long Beach, in my district, in honor of our distinguished former colleague Steve Horn.

Before being elected to Congress, Steve Horn served in the world of academics. From 1970 to 1988, he served as the President of Cal State University Long Beach, and remained as a trustee and professor of political science at the university from 1988 to 1992. His distinguished academic career reads as follows: A Bachelor of Arts degree from Stanford University and an M.P.A. degree from Harvard University in Cambridge, and a Ph.D. from Stanford University as well.

From 1960 to 1966, Steve Horn first began to mix his academic prowess with his politically inclusive sensibilities, serving as a legislative assistant to former California Senator Thomas H. Kuchel. From 1966 to 1969 he continued his academic pursuits as a senior fellow at the prestigious Brookings Institute in Washington, D.C.

From 1992 until his retirement in 2002, Steve Horn was a colleague and friend to many of us in Congress, and he remains a friend to us. His pursuit of good public policy and fairness consistently crossed party lines. As a colleague on the Committee on Transportation and Infrastructure, it was my pleasure to serve with Steve Horn for 7 years, during which time we grappled with many challenges together, especially the 1998 transportation reauthorization bill, TEA-21.

I believe that I can speak safely for the members of the Committee on Transportation and Infrastructure in saying that his voice and perspective will be missed on our committee. The naming of this post office is a combination of Steve Horn's contribution as Congressman, former president of the Cal State University Long Beach, and as an honorable private citizen.

Specifically, the naming of this post office highlights Steve Horn's efforts to secure a separate ZIP Code for the city of Signal Hill. For years, Signal Hill city manager Ken Farfsing said the city and its 9,000 residents had had problems with higher insurance rates, misreported sales taxes affecting the city's revenue, and misapplied utility taxes by long-distance companies. Thanks to Steve Horn's tireless efforts, the city of Signal Hill finally received a separate ZIP Code in early 2002.

The length that Steve Horn went to secure a separate ZIP Code for Signal Hill is indicative of the passion and persistence he brought to his job as a Member of Congress. It is a great story. Some in Signal Hill might call it a great epic. It is worth repeating.

When Steve Horn came to Congress as Signal Hill's Representative in 1993, he made securing a ZIP Code for the city one of his top priorities. He met with city and Postal Service officials to try to address concerns raised by postal officials. In 1994, the Signal Hill City Council requested that the Long Beach postmaster place the Signal Hill Post Office on the 5-year capital improvement plan and that he complete the ZIP Code survey.

Early the next year, the Long Beach postmaster rejected Signal Hill's request, stating none of the existing facilities have the ability to house additional routes for Signal Hill. The city filed an appeal with regional headquarters, which was sent to the Postal Service Washington headquarters. A few months later, Postmaster General Runyon upheld the denial.

Postmaster General Runyon wrote Congressman Horn in June of 1995 stating, "ZIP Code analysis for 20 years for code 90804, 90806, and 90807 indicates that no additional ZIP Codes are required before 2014. The growth rate remains stable and the resultant density and mail volume will not require new ZIP Codes in the foreseeable future." However, Congressman Steve Horn met with the postmaster, who would not change his position.

This continued into 1996, as Postmaster General Runyon wrote letters to both Congressman Horn and Senator BARBARA BOXER denying their request on behalf of the city of Signal Hill. In 1997, the Signal Hill City Council authorized a postal survey and retained the Economics Department of California State University Long Beach to review the Postal Service model. The completed survey found that 85.1 percent of residents supported a single ZIP Code. The survey was then sent to the postmaster and Congressman Horn wrote him as well, but again to no avail.

Frustrated with the lack of responsiveness on the part of the Postal Service, Steve Horn in 1998 introduced H.R. 4429, legislation requiring ZIP Codes for communities with 5,000 or more in population. In 2000, he introduced another bill, H.R. 3739, requiring single ZIP Codes for small cities split by multiple ZIP Codes. In that same year, he amended the Postal Service appropriation bill to require that the Postal Service report back by August 1 on the Signal Hill ZIP Code.

Finally, the Postal Service began to demonstrate some awareness of the problems created by the city of Signal Hill in being split into three Zip Codes. It began a study of the situation, and in August of 2000 began researching for a vacant property for the West Carrier Annex in the city. The next month, Congressman Horn, along with Signal Hill's mayor, Mike Noll, and City Manager Ken Farfsingm met with Long Beach Postmaster Jenkins and District Supervisor Shapiro to discuss the status of the annex.

□ 1515

In October, the Postal Service selected a site for the annex. Unfortunately, in March 2001, postal officials placed a hold on all capital projects. Six months later they indicated that all Postal Service projects would be indefinitely delayed due to the anthrax attacks that took place that fall.

At this point Congressman Horn met with the new Postmaster General to discuss the idea of using the existing postal facility in Signal Hill for the Signal Hill ZIP Code. In November 2001, the Postal Service mailed out a survey to residents completed the next January. Finally, in January 2002, with the completed survey showing two-thirds of the residents wanted a unified Signal Hill ZIP Code, the city got the good news it would receive the recognition desired for so long, its own ZIP Code.

This was vintage Congressman Steve Horn, passionate and persistent in making sure that this city, which deserved its ZIP Code, got it. Steve Horn's refusal to take no for an answer, his commitment to his constituents, and his persuasiveness in pressing the argument with postal officials had enabled the city of Signal Hill to prevail.

I can think of no other appropriate recognition for Steve Horn than to name that post office after him. He is a rarity, Mr. Speaker, a bipartisan public servant. That is why I ask that this legislation receive prompt consideration and passage. I thank all of the gentlemen and gentlewomen who spoke on behalf of the Steve Horn Post Office designation.

Mr. BELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join with the gentleman from Virginia (Mr. TOM DAVIS) in the consideration of H.R. 2309 which, as amended, names a postal facility in Long Beach, California, after former Representative Stephen Horn.

H.R. 2309, which was introduced by the gentlewoman from California (Ms. MILLENDER-MCDONALD) on June 3, 2003, enjoys the support and cosponsorship of the entire California delegation. In addition, on July 24, 2003, the Committee on Government Reform unanimously passed and ordered the bill reported to the House floor for consideration.

Former Representative Horn, a Republican, represented the 38th Congressional District for 10 years, from 1992 to 2002. As a longtime public servant and political scientist, Mr. Horn worked at the U.S. Commission on Civil Rights, the Brookings Institute, and in academia as a dean at American University here in Washington, and later as President of Cal State in Long Beach, California.

As a member of the Committee on Government Reform, Stephen Horn served as chairman of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. He is credited with focusing on the Federal Government's ability to respond to the Y2K crisis that we heard so much about a few short years ago in grading Federal agencies for computer security.

Mr. Horn retired after serving his community and the public for more than 50 years. Mr. Speaker, I urge swift adoption of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from California (Ms. MILLENDER-MCDONALD) for introducing this important legislation. Steve Horn was not an athlete, he was not a recordholder, but he was in every sense a champion, a champion of good government and government efficiency and a champion for the American people.

I urge all Members to support the passage of H.R. 2309, as amended.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of this important legislation.

When Chairman Horn retired last year, Congress lost one of the greatest advocates for meaningful government oversight, indeed one of the greatest advocates for the American People who ever walked our hallowed halls.

His work on the Government Reform Committee includes his eight years of service as the Chair of the Government Efficiency, Financial Management and Intergovernmental Relations Subcommittee.

I had the pleasure of serving with Chairman Horn on this subcommittee since 1993, my first year in Congress. As a Congressman, Steve Horn championed the public's Right to Know. As the Chairman, he cosponsored a bill (H.R. 3802) that expanded the Freedom of Information Act to include electronic information. He was outspoken against the abuse of secrecy by executive agencies and the willingness of many Congressional Committees to ignore their duties and allow such secrecy. He forces the CIA and the Department of Defense to release documents so that Congress could effectively perform oversight. I was particularly proud to work with him on the Debt Collection Bill that I sponsored.

Congressman Steve Horn believed in good government. He understood that there is a public right to know and as the people's representatives we must never forget this fundamental right.

To capture some of his good karma, my staff and I moved into Mr. Horn's Rayburn office in December!

I miss working with Steve Horn, and I hope he is enjoying life after Congress.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in support of H.R. 2309, the Stephen Horn Post Office Building Designation Act.

This bill honors a former distinguished Member of Congress, Steve Horn.

For years, Mr. Horn fought to have the City of Signal Hill get its own Zip Code. In honor of his accomplishment it is appropriate that we designate the Signal Hill Post Office after Mr. Horn.

This is just one of many examples that illustrate Steve Horn's commitment and willingness to fight for his constituents.

With the same vigor, it is an honor for me to be representing some of his constituents.

I urge my colleagues to vote in favor of this bill to honor Steve Horn's commitment to public service.

Ms. SLAUGHTER. Mr. Speaker, I rise today to support H.R. 2309 and the designation of the United States Postal Service in Signal Hill, California as the "J. Stephen Horn Post Office Building."

I had the distinct pleasure of serving with Congressman Steve Horn throughout his ten years in the U.S. House of Representatives.

From my personal experience, I can attest that Steve is an honest, genuine, and upstanding man. He stood up for his principles and represented his constituents with decency and humanity. His background as a university professor was evident in his thoughtful, reasoned approach to issues great and small. From 1997 to 2002, we served together as co-chairs of the Congressional Arts Caucus, where Steve did yeoman's work for arts programs across the nation. Steve never hesitated to reach across partisan, geographic, or other lines to build the alliances that would allow him to achieve our mutual goals.

I urge all my colleagues to support this resolution, which salutes our friend and colleague Steve Horn—a man of courage, integrity, and dedication.

Mr. DREIER. Mr. Speaker, I rise today in strong support of H.R. 2309, the Stephen Horn Post Office Building Designation Act. Our good friend and respected former colleague, Steve Horn, retired from this body after 10 years of distinguished service to his community.

One of the cities Steve represented throughout his tenure in Congress is the City of Signal Hill, California. What many people may not know about Signal Hill is that it is a small city geographically surrounded by the larger city of Long Beach, California. Unfortunately, they did not have their own postal designation which separated them from the rest of the region. This resulted in problems with higher insurance rates, misreported sales taxes which affected the city's revenues, and misapplied utility taxes by long distance companies. Steve took it upon himself to work with the U.S. Postal Service and the City of Signal Hill to give this community their own postal zip code.

This small legislative accomplishment, critically important to one of the many cities he represented, was indicative of Steve's career in Congress. He never turned his back on his district's needs, great or small. He brought those needs to Washington, and without partisan politicking, effectively solved problems for his constituents.

We all still look with awe at Steve's distinguished and vast public service career. He served in the Eisenhower Administration under Labor Secretary James P. Mitchell, and then worked for California Senator Thomas Kuchel on historic legislation including the Civil Rights Act of 1964 and the Voting Rights Act of 1965. In addition, Steve dedicated 18 years to the California State University, Long Beach, where he was recognized as one of the most effective college presidents in the country.

With all the honors Steve and Nini Horn have received over the years, I know that they would never lobby to have his name placed on a public building. But this is a fitting tribute to a man of character, whose devotion to the City of Signal Hill and their cause gave them a stronger identity and a little more community pride.

And by the way, that Zip Code is 90755.

Ms. HARMAN. Mr. Speaker, I rise today to join my colleagues in honoring our friend, former colleague, and my former neighbor, Stephen Horn, by naming the United States post office in Signal Hill after him.

Steve served in Congress with great distinction for 10 years. My friendship with him began in the 103rd Congress, the first Congress for both of us. Steve represented the 38th Congressional District, which included most of Long Beach and Lakewood, all of Signal Hill, Bellflower, Paramount, Downey, and a small portion of San Pedro, while I represented the neighboring 36th District.

Steve, of course, was a student of Congress. As a political scientist, Steve has written books on parliamentary procedures, the Senate Appropriations Committee and campaign finance. He worked at the Brookings Institution, was a dean at American University, and then from 1970 to 1988, was president of Cal State University at Long Beach.

Early in his career, he was appointed Administrative Assistant to Secretary of Labor James P. Mitchell, followed in late 1960 with a move to Capitol Hill where he served as the Legislative Assistant to U.S. Senator Thomas H. Kuchel (R–Calif.), one of the four leaders of the Senate. And, he was in Everett Dirksen's office helping draft the 1965 Voting Rights Act.

With his election to the 103rd Congress, Steve had an opportunity to put his love of politics and governing into practice. I am particularly proud that we worked together to lead a successful bi-partisan coalition that saved the McDonnell Douglas/Boeing C–17 program. Congress approved the multi-year purchase of this cargo aircraft, which employed 9,000 workers in our respective districts and, as demonstrated in the recent conflicts in Iraq, Afghanistan and the Balkans, has proven to be one of the most versatile cargo aircraft in the military's inventory.

When his party took control of the House in 1994, Steve became chairman of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations—a position which he used to improve government services, overhaul federal agencies' debt collection practices, and help prepare agencies to meet the Y2K problem.

Steve was also a leader of Southern California's effort to secure funding for the Alameda Corridor, a below-grade rail line linking the busy Ports of Long Beach and Los Angeles with the rest of the nation. He was also known for his advocacy of higher education and as a passionate supporter of the arts and I recall Steve's strong defense of the National Endowment for the Arts and the National Endowment for the Humanities as co-chair of the bipartisan Congressional Arts Caucus.

Always the keen observer, Steve was known for the ubiquitous notebooks in which he detailed his daily activities, insights and observations while in Congress. Undoubtedly, these volumes help refresh the recollections which he now uses to teach others at Cal State Long Beach about politics, governance, and responsibility in a democratic society.

Mr. Speaker, never one to falter in his congressional duties or to toe the party line, Steve Horn served in Congress with courage and independence. I am proud to have served with him and to cosponsor and urge passage of this measure honoring him with the designation of J. Stephen Horn post office in Signal Hill, California.

Ms. ROYBAL-ALLARD. Mr. Speaker, I am pleased to be a cosponsor of H.R. 2309, Congresswoman MILLENDER-MCDONALD's legislation to name the post office at 2300 Redondo in Long Beach, CA, after our distinguished former colleague, Steve Horn.

Like Congresswoman MILLENDER-MCDONALD, I am honored to now represent two cities, Bellflower and Downey, which Steve Horn represented with such distinction during his decade in Congress. Steve and I were elected in the same year, 1992, and I had the pleasure to work with him on behalf of a number of initiatives important to our communities and others in Los Angeles County and throughout Southern California.

Steve Horn was an accomplished legislator who achieved much in his time in Congress. Not only did he author a number of bills that have made a considerable difference in improving the way our government operates, but he also provided strong oversight as chair of the Government Reform Committee's Subcommittee on Government Efficiency, Financial Management & Intergovernmental Relations.

It was Steve Horn who first raised the public's consciousness regarding the looming Y2K problem. Through his work on his subcommittee, he played an essential role in encouraging federal agencies to take the necessary steps to upgrade their computer systems and forestall potential problems as we made the transition to the new century. His early efforts were the precursor of the new Homeland Security Department's focus on the potential cyber security threat.

The legislative legacy Steve Horn left behind following his retirement from Congress is substantial. Through his subcommittee, he initiated a number of other efforts to make the federal government run more effectively and efficiently, and to make it more responsive to the American public. He helped bring together the Los Angeles-area Congressional delegation to build the support needed to fund the Alameda Corridor and make it a reality. Today, the Corridor provides a direct rail connection from the Ports of Long Beach and Los Angeles to the main inland east-west transportation links.

Steve and I worked together on numerous issues during our service in Congress together. Today I am proud to continue work on two of those critical projects in the City of Downey, the largest municipality completely in my district and one that I inherited from Steve. First is the Columbia Memorial Space Science Learning Center that will serve as one important piece of the multi-million dollar redevelopment project scheduled for the Downey site of the former space shuttle manufacturing plant, Rockwell International. I am working closely with Downey representatives in support of the redevelopment project, and I have introduced legislation that will name that space science learning center in honor of the Columbia Space Shuttle and its crew who perished in the shuttle's February 2003 crash.

Secondly, whether it was ensuring safe and reliable water to the Los Angeles area or cleaning up the storm water that runs into the Los Angeles River, Steve was always involved in the numerous bipartisan efforts regarding Los Angeles water. Along these lines, I am continuing the effort Steve and I began last year to mitigate trash that storm waters carry into the Los Angeles River.

Despite Steve's impressive legislative work, it is his strong, personal commitment to the people of the 38th District of California during his 10 years in Congress and his many years of dedicated community involvement service that makes this legislation on the floor today so appropriate. As Congressman, he was deeply committed to serving the needs of all his constituents. I regularly hear from his former constituents of the services he offered and the strong support he provided for all the communities of his district. Steve Horn was also actively serving his community long before he came to Congress. During his tenure as a professor and then President at Cal State-Long Beach, Steve and his wife Nini were deeply involved in a wide range of civic and cultural activities that enriched and improved their community.

And, as I know Congresswoman MILLENDER-MCDONALD has noted in her statement, he refused to give in to bureaucratic resistance when the City of Signal Hill asked for its own zip code, rather than sharing three different zip codes with portions of the City of Long Beach, which adjoins it. The Redondo post office serve as the distribution center for the Signal Hill routes, so it is particularly appropriate that it is the one designated with Steve Horn's name.

I commend the Government Reform Committee and the House leadership for their expeditious consideration of H.R. 2309. And I thank Steve Horn for his friendship and for all he did—and continues to do—for his community. My best wishes go to Steve, Nini and their family.

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to J. Stephen Horn, a former Member of Congress who faithfully served this institution for ten years. Today the House of Representatives is honoring his contributions to his community, his state and his country by naming a post office located in Signal Hill, California after him.

Steve had led an exceptionally distinguished life beginning with his graduation from Stanford University in 1953. He then went directly to graduate school and earned his M.P.A. from Harvard University in 1955 and yet that was not quite enough for him. He went back to Stanford and received his Ph.D. in 1958. During this same period of time, from 1954 to 1962, he was a member of the United States Army, honorably serving his country for eight years.

Steve began his career in politics as an assistant to the Secretary of Labor in 1959. In 1960, he served as a legislative assistant to Senator Thomas H. Kuchel for six years. He then went to work for the Brookings Institute as a senior fellow until 1969.

His career then took a turn away from politics and towards education as he became an administrator for American University and then became President of California State University, Long Beach in 1970. In 1993, he was elected to the United States House of Representatives and served for ten years.

Steve's career in Congress is marked by his tenure on the Government Reform committee and his dedication to the operational security of governmental agencies. He also focused on the constant improvement of information technology.

Steve Horn has also been a member of numerous organizations including the United States Commission on Civil Rights; the advisory board for the National Institute of Corrections; the California Republican League; and the California Educational Facility Authority.

Some would say that Steve was destined to make his mark in public affairs from an early age. In 1948, as a high school senior, Steve interned at both the Republican and Democratic National Conventions that were both held in Philadelphia. In 2000, Steve went full circle by attending the GOP Convention in Philadelphia as a Congressman and member of the California delegation.

Today's dedication is a culmination of gratitude for the work of Stephen Horn. His tireless passion for public service and volunteerism is part of what makes the history of this institution the place that it is today; a place of honor, debate, sacrifice, duty and justice. Stephen Horn embodies these qualities and I congratulate him as we dedicate this post office in his name.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHROCK). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 2309, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TOM DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING THE SECURITIES LAWS TO PERMIT CHURCH PENSION PLANS TO BE INVESTED IN COLLECTIVE TRUSTS

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1533) to amend the securities laws to permit church pension plans to be invested in collective trusts, as amended.

The Clerk read as follows:

H.R. 1533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONFORMING AMENDMENTS FOR CHURCH PLAN PARTICIPATION IN COLLECTIVE FUNDS.

(a) AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended by striking "such trusts or government plans, or both" and inserting "one or more of such trusts, government plans, or church plans, companies or accounts that are excluded from the definition of an investment company under paragraph (14) of this subsection".

(b) AMENDMENTS TO THE SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended—

(1) by striking "or" at the end of clause (B); and

(2) by inserting before "other than any plan described in clause (A)" the following: "or (D) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940,".

(c) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) Section 3(a)(12)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amended—

(A) by striking "or" at the end of clause (ii); and

(B) by inserting before "other than any plan described in clause (i)" the following: "or (iv) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940,".

(2) Section 12(g)(2)(H) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(2)(H)) is amended—

(A) by striking "or" at the end of clause (i); and

(B) by inserting before the period at the end the following: ", or (iii) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on H.R. 1533.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services for managing the bill and his support. I would also like to thank my colleague, the gentleman from Tennessee (Mr. FORD), for his support and cosponsorship of this bill. I understand he would have been here but his plane has been diverted.

H.R. 1533, the Church Pension Fairness Act, will give the clergy and laypeople who work for churches the same investment opportunities that other workers have in America. Right now our securities laws prohibit church pension plans from participating in what we call collective trusts. As a result, church pension plans cannot pool their assets and reap the benefits of collective buying power. H.R. 1533 will correct this inequity.

One thing most working Americans understand is the importance of saving money to ensure financial security after they retire. Just as important, they understand that investing in an employer-sponsored pension plan is a great way to help achieve this goal.

America's clergy are no less interested in their retirement. In fact, for thousands of dedicated men and women of our clergy, pension plans are just as important, if not more so, as they are to members of the laity. Yet for far too long, Congress has failed to update church pension laws, making it more difficult for clergy and other church employees to maximize their retirement savings.

One arcane yet important provision of our security law allows corporate and other secular pension plans to band together into what are called collective trusts. These trusts allow pension plans to pool their assets for investment purposes in various stock and nonstock options.

They represent a way for pension plans to diversify their investments and to share the risks and transaction costs with other pension plans. Collective trusts are not the problem. The problem is that current law prohibits thousands of church pension plans across the country from participating in collective trusts. As a result, church pension plans cannot pool their assets and reap the benefits of collective buying power. H.R. 1533 will change this.

Mr. Speaker, I should add that collective trusts will continue to have sole management and control over the assets that are invested as required by the SEC. Nothing in this legislation is intended to alter the traditional SEC interpretation that the financial institution is responsible for exercising hands-on control over the collective trust. H.R. 1533 allows church plan assets to be included in collective trust funds that also include assets of private employee and governmental plans. But this measure does not in any way affect Tax Code provisions governing the treatment of pension plans, including the requirement that a church plan must be maintained by a church or eligible church-affiliated organization.

I urge my colleagues to join me in supporting this bill. Our clergy deserve no less than the millions of other working men and women of America.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Tennessee (Mr. FORD) who, as the gentlewoman mentioned, is literally held up. His plane is probably trying to land, and he deserves a great deal of credit for this initiative.

This a perfectly common sense piece of legislation. It corrects what must have been an oversight in the legislation. There was never any reason to restrict churches. We are taking an action that expresses our confidence in the management of these institutions. It allows them to make rational choices about how best to maximize their funds.

I think this is particularly important because as we know, the clergy, that is one of the professions in this country that is, in my judgment, that is undercompensated. People who choose to go into the clergy are generally selfless people who care a great deal about others, as well as about their theology. They work very hard. They work on days that the rest of us, by definition, think of as days of rest, and they are not sufficiently compensated. We often hear of people who gave their lives not just to the clergy but to support roles, to the secretaries, to the support people, to the youth workers, and the notion that in their retirement years they would not be fully protected and given the maximum amount is a very troubling one.

This small step today is a very important one because it does as much as we can do within this context to take some steps towards enhancing the retirement security of some very decent hardworking people who, as I said, were somewhat undercompensated. I appreciate the initiative. I was pleased that our committee unanimously reported this out.

Mr. Speaker, I yield back the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Committee on Financial Services, the gentleman from Ohio (Chairman OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) for their support for this legislation which was reported out of committee unanimously, and I thank the gentleman from Tennessee (Mr. FORD) for his strong support as well as the chairman of the Subcommittee for Capital Markets, Insurance and Government Sponsored Enterprises, the gentleman from Louisiana (Mr. BAKER), and the ranking member, the gentleman from Pennsylvania (Mr. KANJORSKI).

There is no sound reason in our securities laws to exclude the church plan participation and specifically tailored pension plan investments; and I think the gentleman from Massachusetts is right, this has been an oversight as we have changed the securities laws in the past that the church pension plans were not included. So the Church Pension Plan Fairness Act is a reasonable, measured, and fair response to many of the concerns raised by the clergy and other church employees around the country. Having no further requests for time, I urge my colleagues to support the legislation.

Mr. OXLEY. Mr. Speaker, I am pleased to offer my strong support for H.R. 1533, a bill to equalize the treatment of church and governmental pension plans. I want to commend a great member of the Financial Services Committee, Mrs. BIGGERT, for drafting excellent, bipartisan legislation and the gentleman from Louisiana (Mr. BAKER), Chairman of the Capital Markets subcommittee, for his leadership in bringing this measure to the Floor today.

The purpose of this bill is straightforward: it provides parallel securities law treatment of church plan assets with those of governmental plans.

Under current law, there is a basic inequity with respect to church plans. This disparate treatment has real consequences. The inability of church plans to participate with other pension plans in collective trusts unnecessarily increases the costs for these investments and makes it more difficult for church plans to diversify their investments.

Mr. Speaker, there is no rational basis for treating church plans differently. Mrs. BIGGERT's legislation imposes fairness by eliminating this unnecessary burden on church pension plans. I urge all of my colleagues to support the bill.

Mr. BIGGERT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 1533, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. BIGGERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 28 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

House Resolution 350, by the yeas and nays; H.R. 2309, by the yeas and nays; and H.R. 1533, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONGRATULATING LANCE ARMSTRONG

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 350.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. Tom Davis) that the House suspend the rules and agree to the resolution, House Resolution 350, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 38, as follows:

[Roll No. 460]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—38

Bilirakis
Burns
Burton (IN)
Capuano
DeGette
DeMint
Diaz-Balart, M.
Dooley (CA)
Fattah
Frank (MA)
Gephardt
Gilchrest
Gutierrez
Houghton
Hulshof
Janklow
John
Kennedy (RI)
Markey
McInnis
Mica
Myrick
Payne
Pickering
Platts
Putnam
Rangel
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Smith (WA)
Taylor (NC)
Tierney
Towns
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. Biggert) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1851

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the second vote in this series will be conducted as a 5-minute vote. The third and final vote will be a 15-minute vote.

J. STEPHEN HORN POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2309, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. Tom Davis) that the House suspend the rules and pass the bill, H.R. 2309, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 395, nays 1, not voting 38, as follows:

[Roll No. 461]

YEAS—395

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor

Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—1

Cunningham

NOT VOTING—38

Bilirakis
Burns
Burton (IN)
Capuano
Carter
DeGette
DeMint
Diaz-Balart, M.
Dooley (CA)
English
Fattah
Gephardt
Gilchrest
Gutierrez
Hulshof
Janklow
John
Markey
McInnis
Mica
Myrick
Payne
Pickering
Platts
Putnam
Rangel
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Serrano
Smith (WA)
Taylor (NC)
Tierney
Towns
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the 'Stephen Horn Post Office Building'.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PLATTS. Mr. Speaker, on rollcall No. 460 and 461 I was unavoidably detained. Had I been present, I would have voted "yea."

AMENDING THE SECURITIES LAWS TO PERMIT CHURCH PENSION PLANS TO BE INVESTED IN COLLECTIVE TRUSTS

The SPEAKER pro tempore (Mrs. BIGGERT). The pending business is the question of suspending the rules and passing the bill, H.R. 1533, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 1533, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 37, as follows:

[Roll No. 462]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster

Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—37

Bilirakis
Burns
Burton (IN)
Capuano
DeGette
DeMint
Diaz-Balart, M.
Dooley (CA)
English
Fattah
Gephardt
Gilchrest
Gutierrez
Hulshof
Janklow
John
Kirk
Markey
McInnis
Mica
Myrick
Oxley
Payne
Pickering
Putnam
Rangel
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Smith (WA)
Taylor (NC)
Tierney
Towns
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1918

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MICA. Mr. Speaker, a storm delayed my U.S. Air flight and I was unable to vote on rollcall Nos. 460, 461, and 462. Had I been present, I would have voted "yea" on each of these measures.

PERSONAL EXPLANATION

Mr. ENGLISH. Mr. Speaker, I was unable to attend the votes this evening for H.R. 2309 and H.R. 1533. Had I been able to attend, I would have voted "yea" for H.R. 2309. Had I been able to attend, I would have voted "yea" for H.R. 1533.

PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcall vote 460, 461, and 462. Had I been present, I would have voted "aye" on each of those rollcall votes.

PERSONAL EXPLANATION

Mr. BILIRAKIS. Mr. Speaker, due to inclement weather in the Tampa area, my flight was delayed and I missed rollcall votes 460, 461, and 462. Had I been present, I would have voted "yea" on all three votes.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. COOPER. Madam Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, the Child Tax Credit bill. The form of the motion is as follows:

Madam Speaker, I move that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

Number one, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Number two, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment (again not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones around the world, a child tax credit based on the earnings of the individuals who are serving in the combat zone.

Number three, the House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits which are not offset by other provisions.

Number four, to the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the Columbia shuttle disaster.

Number five, and finally, the House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with Senate conferees, and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

The SPEAKER pro tempore. The gentleman's notice will appear in the RECORD at this point.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICARE PRESCRIPTION DRUG CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, as we return from the August recess, we face the great challenge of passing a Medicare bill that will provide a good prescription drug benefit for seniors. Republicans in the House passed a bill in July, or June, earlier this year that caters to drug companies, HMOs, and that destroys Medicare. This is obvious for many reasons evident in the detail of the bill. However, I want to highlight two ways in which Republicans are killing the Medicare program and in the process contributing to the endless suffering and hardship of seniors nationwide.

Madam Speaker, the Republican bill turns Medicare into a voucher program. This means that traditional Medicare will essentially be phased out by the year 2010. Seniors will find it difficult to stay in traditional Medicare because it will cost them more. They will only be able to afford the private insurance that is available with the voucher given to them by the Federal Government. By making Medicare a voucher program, seniors would be forced into private plans, the same companies that have said in the past that they do not want to cover seniors and have pitiful records of providing them care. Medicare HMOs have not been effective in providing health coverage to the more than 2 million seniors who have seen their coverage disappear over the past 5 years. In my State alone, in New Jersey, Medicare HMOs dropped almost 80,000 seniors from coverage after concluding that Medicare beneficiaries were not profitable.

Madam Speaker, when Republicans are pushing seniors into private insurance plans that offer no stability or security, they are at the same time taking away the seniors' rights to choose and enroll in a dependable drug plan under the Medicare program. Under the Republican bill, a prescription drug benefit is essentially available only if they join an HMO, and Democrats, to the contrary, believe that a prescription-sponsored drug plan should be available to all seniors including those enrolled in traditional Medicare.

Madam Speaker, the Medicare bill should offer a benefit to all seniors all across the country regardless of how many private drug-only insurance plans or Medicare HMOs are available in any particular area. All seniors should pay the same premium, the same deductible, the same coinsurance, and would have the same benefit.

Democrats plan to offer a series of motions to instruct conferees that would ensure that the Medicare bill does not privatize Medicare and that it offers a guaranteed fallback prescription drug plan for all those in traditional Medicare.

Madam Speaker, there are many provisions in the Republican bill that passed the House that are highly problematic. For example, the bill does nothing to reduce the cost of prescription drugs and forbids the Secretary from negotiating reduced costs of prescription. The Republican bill provides an inadequate benefit that should be called "pay more, get less." And, lastly, the Republican bill encourages erosion of employer-sponsored coverage.

Overwhelmingly, Madam Speaker, America's seniors want and deserve a guaranteed comprehensive and affordable prescription drug benefit that is part of basic Medicare. A meaningful Medicare drug benefit must be voluntary. It must be guaranteed for all. It must be funded adequately to attract widespread participation, and it must contain an effective mechanism to lower the costs of drugs. It must hold together the bargaining power of 40 million seniors, and it must contain a framework that could be expanded in future years. The House Republican plan does nothing to meet these tests, and it is now more important than ever to encourage our conferees of the House and the Senate to include measures that guarantee a Medicare fallback and that guarantee that Medicare will not be privatized.

CONGRATULATIONS TO IRA CLARK

The SPEAKER pro tempore (Mr. CARTER). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to take this opportunity to extend my congratulations to Ira Clark, the former president and chief executive officer of the Public Health Trust of Dade County. And why? Because he is retiring from this prestigious post.

The Public Health Trust of Dade County, Florida is the governing body of Jackson Memorial Hospital, one of the largest and busiest hospitals in the United States. Jackson Memorial Hospital has a major teaching affiliation with the University of Miami School of Medicine. In addition, it has a long history as the major Medicaid provider in the State of Florida.

Under Ira's leadership, Jackson Memorial has maintained its stature as one of the top hospitals in the country. As president and CEO of the hospital, Ira Clark has been concerned with the County, with the State and Federal programs, as well as funding for the hospital and its satellite facilities. Ira's stewardship of Jackson Memorial Hospital is testament to his understanding of our community and its health care needs. Through internal and external collaboration, he has brought about operational improvements that have strengthened the hospital and has initiated multiple expansion projects to help the hospital better serve the people of our South Florida community.

Ira has dedicated many years to assuring that quality health care is available for every South Florida resident through primary care networks. Because the mission of the Public Health Trust is so extensive, Ira determined that it should evolve as a system rather than as a single-locator health provider. So Jackson Health System now includes a hospital which was renamed Jackson South Community Hospital, a network of primary care centers located in medically underserved neighborhoods, school-based clinics, and long-term facilities, providing residents that appropriate care in their very own neighborhoods. Jackson has a tremendous team of health care professionals, nurses such as Debra Diaz O'Reilly, who is the Chair of the Committee on Political Education and is up here in Washington, D.C. this very week lobbying on behalf of the Service Employees International Union of the AFL–CIO, which services the residents and the patients of Jackson Hospital. And upon arriving at Jackson in 1987, Ira delineated several central goals to strengthen the hospital's position as all things to all people.

□ 1930

His first goal was to find a predictable source of recurring financing that would maintain Jackson's quality and mission. He was able to secure the necessary funds from a half penny sales tax. In addition, the Public Health Trust sold more than $150 million in revenue bonds in the spring of 1994, which brought in much-needed capital to expand and remodel Jackson and its satellite facilities.

The money from the half penny tax gave the institution stability and allowed for Ira to realize his second goal of decompression. Decompression has been realized through the establishment of the Jackson North Maternity Center; the Taylor Breast Health Center, which provides complete care for cancer detection and positive management of all breast-related problems; the Diagnostic Treatment Center, which provides residents with access to diagnostic procedures such as outpatient surgery, mammography, ultrasound diagnostics and endoscopic and fluoroscopic tests in a setting closer to home, as well as the Ryder Treatment Center.

The Ryder Treatment Center is the largest, most comprehensive trauma center in the world. It provides resuscitation, emergency surgical intervention, diagnostic and medical treatment and intensive care to Dade County's trauma victims. In addition, the center features extensive research and educational facilities. Its primary focus is on lowering the preventable death rate by increasing the delivery of trauma care during the critical 60 minutes after an injury.

In addition to the aforementioned centers, tremendous strides have been made in enhancing the hospital and the invaluable services that it provides to our State of Florida. Relationships have been established with other prime providers to position the Public Health Trust as a leader.

Jackson has evolved from a single-location health provider into a system that stretches throughout the county and includes 12 primary care centers, four school-based clinics, two medical long-term facilities, a maternity hospital and a community hospital. All this has been established while maintaining Jackson as one of the foremost hospitals in the country.

The Public Health Trust also has responsibility for clinics in six of the county's correctional facilities and a number of other services, such as the South Florida AIDS Network.

Throughout his career, Ira Clark's talent and energy have been focused on one overall mission: providing high-quality health care to all people. He has clearly achieved and surpassed this vision.

Thank you, Ira, for your outstanding contribution to the enhancement of the lives of our south Florida residents.

LOWERING THE HIGH COST OF DRUGS FOR AMERICANS

The SPEAKER pro tempore (Mr. CARTER). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, today in USA Today, they released a poll that showed that 71 percent of the American people believe they should be allowed to buy prescription drugs from Canada and other European countries. People from around the world come to the United States for their medical care, yet Americans are forced to go around the world for their medications. The American people know what is going on here, and they know the situation is wrong and it is unsustainable.

A recent Families USA study found that the prices of 50 drugs most commonly used by seniors have increased in price by an average of 3.5 times the rate of inflation over the past year. Between 2000 and 2003, seniors' expenditures on prescription drugs increased by 44 percent.

For too long, seniors have been paying premium prices for the same prescription drugs that are available in other countries. Take tamoxifen. It costs $60 in Germany, and $360 in the United States.

We cannot sit back and allow this situation to continue. Right before we left for recess in August, the United States House of Representatives passed legislation to allow Americans, elderly, folks of any age, to buy their medications in Canada and Europe. It is competition, the free market, and allowing choice to exist.

Today we exist in a closed market and Americans pay the highest price. If we had a free market system, allowing Americans to buy their prescription drugs if they want in Canada or Europe, their name-brand drugs, prices would drop dramatically in this country. Today we are paying 40 to 50 percent more than the poor starving French and Germans. That price would be reduced here in the United States.

A lot of folks in the pharmaceutical industry say it is a safety risk. Right after our vote here in the House, Pfizer, the largest pharmaceutical company in the country, said they were going to pull out of the Canadian market or limit their sales in Canada. It had nothing to do with safety. When people tell you it ain't about money, folks, it is about money.

The second argument the pharmaceutical industry raises is they say this will endanger research and development. Today the American taxpayers fund the National Institutes of Health for $27 billion. They also fund research at the pharmaceutical industry with a tax credit for R&D.

There is not a single cancer drug or major AIDS drug or drug dealing with diabetes that has not been developed without taxpayer-funded research. The American people pay for the research on the front end, and they pay the most expensive prices on the back end. That is a system we have created. It is working for the pharmaceutical industry, and it is time we changed the law so it works on behalf of the American people.

Today our legislation is in conference on the prescription drug bill. We are thinking about a $400 billion expansion of an entitlement, the largest expansion of an entitlement program in over 40 years, and I think we owe the taxpayers of this country, if we are about to go spend $400 billion of their money, we owe them the decency to get them the best price, not the most expensive price.

Today, all we can guarantee is 20-year-old legislation on generics that guarantees that generics are held off the market, which would save our seniors money. We guarantee the pharmaceutical companies tax credit R&D as well as the National Institutes of Health funding, so the taxpayers pay for all the research, and we guarantee that the Americans pay the highest price for the prescription drugs.

There is a reason the pharmaceutical industry has paid $28 million to try to defeat the legislation, because they have got a good thing going here and they do not want to change it; because they have got taxpayers funding the research on the front end, and they have got Americans paying the most expensive prices on the back end.

So we have a chance to change that system. We have a chance to bring competition and choice to bear on the market, and the pharmaceutical industry will try to live under the free market, like every other industry. Right now, they have a closed market, and the end result of it is the American people are paying the highest prices.

We can make a difference here. We did it in the House. We now need our colleagues in the other Chamber to do better and join us in giving a voice to the 71 percent of Americans who said they too want the choice of the free market. No more continuation of this closed market, forcing Americans to pay the highest prices.

Over the summer, the reputable group called the AARP, that speaks for 34 million seniors, endorsed this legislation. Today their seniors, who are members of the AARP, who buy their pharmaceutical products in Canada, get reimbursed from United Health Insurance that represents the AARP members.

Now, do you really believe the AARP would be endangering the health of their members? There is a reason they did this: because the market is speaking. They pay 25 to 30 percent less in Canada than we here in the United States for the same drugs.

EXPRESSING GRATITUDE TO THE NATIONAL PARK SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, I rise tonight with some hesitation, fearful that I might simply be accused of coming to the floor of the Congress to report on what I did on my summer vacation. But the truth is, Mr. Speaker, that I rise today with a deep sense of gratitude to the National Park Service, and in a deep impression imposed upon me and my three small children and my wife Karen during our visit to a place called Yellowstone.

The first of the national parks, established in 1880, it in fact inspired President Teddy Roosevelt himself to establish the National Park Service during his administration at the turn of the century, and now I know why.

With the assistance of an amateur photographer, age 11, by the name of Michael Joseph Pence, who I am sure is eagerly watching at this very hour, I hope to introduce you to some of the experiences of Yellowstone of our family and the remembrances of those who first explored it.

It was, in fact, General Washburn in 1870 who was commissioned by Congress to survey Yellowstone thoroughly for the very first time, and the Pence family expedition was filled with the same wonder this past August. In fact, it was September 14, 1870, when General Washburn wrote, "There is daily crowded upon my vision so much novelty and wonder which should be brought to the notice of the world and which, so far as my individual effort is concerned, will be lost to it if I do not record the incidents of each day's travel, that I am determined to do so and omit no details."

Images like this, at the base of the Upper Falls in Yellowstone, bespeak the extraordinary glory and splendor that General Washburn experienced in his expedition, and my family certainly experienced in ours.

Of course, here are the geysers, not just Old Faithful, captured here memorably by my 11-year old son, but literally dozens of active geysers described by General Washburn as a geyser "exposed to the sun, whose sparkling rays fill the ponderous column with what appear to be the clippings of a thousand rainbows." So it was on September 19, 1870, and so it is today.

But my greatest memory came, as it does for many Americans, at a place called Inspiration Point. It is a place, perhaps the very best view of the falls and the Grand Canyon of the Yellowstone. It was there in August of 1870 that General Washburn wrote of this very picture and image, Mr. Speaker, "The place where I obtained the best and most terrible view of the canyon was a narrow projecting point situated two miles from the lower fall. Standing there, rather lying there for greater safety, I thought how utterly impossible it would be to describe to another the sensations inspired by such a presence. As I took in this scene, I realized my own littleness, my helplessness, my dread exposure to destruction, my inability to cope with or even comprehend the mighty architecture of nature." August 1870.

These visions inspired General Washburn's expedition, and they inspired the expedition of the Pence family this August and my young son, an amateur photographer.

But as I close, Mr. Speaker, in the words of General Washburn when he left Yellowstone he wrote, "We are all overwhelmed with astonishment and wonder at what we have seen, and we feel we have been near the very presence of the Almighty."

And so it is that as Americans in this generation, as in the past and in the future, because of the contribution of the National Park Service and its extraordinary stewards in the Yellowstone Park of Montana and Wyoming, Americans of this next century and every century, it is my hope, will be able to feel that same great presence amidst His great architecture of nature.

TELLING THE TRUTH ABOUT IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, 165 years ago in this House of Representatives, John Quincy Adams came to the floor of the House to share letters from his constituents, letters which allowed him to speak about an issue that the House rules prohibited him from speaking about.

Mr. Speaker, the House of Representatives in 1838, 1840, and 1842 passed a rule prohibiting, banning, a discussion of slavery, the biggest blemish in American history, prohibiting the discussion of slavery, banning the slavery debate from the floor of the House of Representatives. As a result, John Quincy Adams, former President, then Member of Congress in those years, came to the House floor and read letters from various constituents, organizations in his Massachusetts district and throughout the State of Massachusetts.

Today we see something perhaps not quite as serious, but pretty serious, and that is the questions of whether President Bush told us the truth about Iraq, about the weapons of mass destruction, about Saddam Hussein's and Iraq's links to al Qaeda, and the focus the President has lost from the war on terrorism by attacking another country, as bad as Saddam Hussein was, attacking another country and not 'fessing up to the American people the real story.

□ 1945

So because the President, this leadership, and this Congress will not let us really investigate what, in fact, happened, what the President said, what the truth is, I am reading letters tonight from constituents all over Ohio brought to us by an organization called MoveOn.org. MoveOn.org has received almost half a million signatures of people asking for this investigation. And about 100,000 of those petitioners to MoveOn have sent letters to the United States Congress, and I would like to share some of those letters from citizens in my State concerned about investigating how it is that we ended up in Iraq.

From Lorain, Ohio, in my district, a petitioner writes, "Our leaders must respect our democracy. If our leaders lie or mislead their own people to support military action and to make an immense change in foreign policy, this greatly undermines our country. Saddam Hussein was evil, to be sure. Maybe we should have gone ahead with this invasion, but that decision should have been based on accurate reporting by the leaders and not by deceiving the American people."

From Cleveland, Ohio: "United States citizens, particularly the families of soldiers in Iraq, deserve to know the truth about whatever intelligence did or did not exist regarding weapons of mass destruction in Iraq and support for terrorism by Saddam Hussein prior to the war and about whether or not that intelligence was falsely represented to Congress and the American people to make the case for war."

From Marion, Ohio: "It is time for the Oval Office to quit hiding behind false and misleading information. We were wrong to invade Iraq. Please help to spread honesty in the Federal Government."

From Cincinnati, Ohio: "I am very concerned about what led our government to undertake war in Iraq. Clearly the threat of imminent danger to the U.S. and her citizens was trumped up. It is an extremely serious situation which has led to the loss of over 150 American soldiers and thousands of Iraqi citizens, mostly civilians."

From Cleveland Heights, Ohio: "There is no graver abuse of trust than a leader who deceives his fellow citizens into sacrificing themselves, their sons and their daughters in the name of protecting their liberty. These charges are too serious not to pursue until every question is answered."

From Loveland, Ohio: "This is a very important issue. Our credibility in the world is already at grave risk. We can restore it in part by taking this misinformation seriously and tracking down the process that led to erroneous statements by Colin Powell to the United Nations and by President Bush in his State of the Union address. I implore you to consider the image in a nonpartisan light and support an independent investigation."

From Columbus, Ohio: "As a decorated combat veteran and the parent of a currently-serving member of the U.S. Navy, both status that is not shared with many administration officials or Members of Congress, I gather, I am particularly concerned that there be no hint that our military forces are being used primarily for political ends." That was from Columbus.

From Cincinnati, Ohio: "As a daughter and sister of veterans, I am appalled that soldiers may have been lied to about the reasons they were sent to Iraq. Please support an independent, nonpartisan investigation to get to the truth of the administration's call to arms."

From Granville, Ohio: "It was obvious at the time that the Bush and Blair administrations were playing fast and loose with the facts in order to drum up support for a war they had wanted to wage since September 11. It is time that the American people and British citizens, as well as people of the world, learn the facts."

Mr. Speaker, these are letters from constituents in Ohio.

TAX RELIEF PROVEN TO STIMULATE THE ECONOMY

The SPEAKER pro tempore (Mr. CARTER). Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, in late July Congress recessed and the Republicans headed back to their districts amid a firestorm of criticism from the left for passing record levels of tax relief.

Democratic candidates for President issued blistering condemnations of tax relief, vowing to repeal the Bush tax cuts. News coverage painted the picture of a Nation questioning the value of tax relief. In a July 28 Washington Post column entitled, "Democrats Not Shying Away From Tax Talk: Candidates Discuss Raises, Not Cuts," of two of those candidates, both called for repeal of the cuts, a move The Washington Post notes would raise tax rates for all income taxpayers; reinstate the marriage penalty on joint filers, and shrivel the popular child tax credit for middle-income tax payers.

The article says that the Democratic tax increases would be used to provide universal health coverage and to rev up the economy. They actually believe raising taxes would rev up the economy.

Moving on down the line, two Senators, Senator KERRY and Senator LIEBERMAN, are on record suggesting raising some income tax brackets to pre-Bush levels. Senator EDWARDS called for raising some income tax brackets, and once again treating dividends as taxable income. Under his leadership, he would not only increase the newly lowered 15 percent capital gains rate; he would increase it to a whopping 25 percent.

Mr. Speaker, it appears that the Democratic leadership's primary economic policy can be summed up in 2 words: tax increases.

Fortunately, August must have been a painful month for those who lept on the tax increase bandwagon because today economists are finally giving credit to the President and the Republicans in Congress for passing tax relief and fueling economic growth. Tax relief, not tax increases, have revved up the economy. Critics of the tax relief legislation must be shocked to see that lower taxes are providing stimulus.

Today we see a stock market on the rise. The NASDAQ closed at a 17-month high. The Dow and the S&P 500 ended today at 15-month highs.

The headlines are revealing: "Manufacturing Index at an 8-Month High."

"Chain Store Sales Rise."

"Construction Spending Inches Up."

"U.S. Growth Tops Forecasts."

"Fed Says Economy Shows Gains."

"Consumer Confidence Rises."

Mr. Speaker, the GDP, the broadest measure of the Nation's economy, grew at 3.1 percent in the quarter. That is up 1.4 percent in previous quarters.

Clearly, the signs are good and clearly the tax cuts are working. Now, there are sure to be some bumps in the road, but the facts are that relief is doing exactly what we said it would.

Mr. Speaker, I want to speak on one other subject, a subject that our majority leader, the gentleman from Texas (Mr. DELAY), came to the floor and talked about earlier today. He reaffirmed our commitment to control government spending, and I want to thank him for doing that. He knows that we provided tax relief to stimulate the economy, that we have attacked terrorism at its root and taken steps to improve the quality of life for our troops.

Now is the time to direct attention to wasteful spending. Our freshman class has made its mission working on eliminating government waste, fraud and abuse. The momentum for true reform and reductions in spending are there. We have proved that tax cuts work, and we have the trust of the American People.

ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

CONCERNS OVER IRAQI WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, those of us who have taken an oath of office to serve the American people welcome the opportunity to come back to the United States Congress and to be able to help guide this Nation as we move into the 21st century.

A lot of activity has taken place over the August work recess; and I believe, Mr. Speaker, it warrants commentary and it warrants action.

More than 6 months ago as we looked to the future, and more than that time frame when we debated the question of war and peace as it relates to Iraq, there were many of us who vigorously opposed the administration's war in Iraq. We argued for a constitutional vote on this floor, to vote war up or down. As that was overridden and the President decided unilaterally to go to war and ignore the United Nations and NATO allies and others, we continue to suggest that following this war, recognizing and appreciating the greatness of those young men and women willing to offer themselves and sacrifice themselves for the principles of this Nation, that we should design an aftermath to Iraq.

We began to deliberate and to discuss how should we, in fact, secure Iraq; how should we, in fact, provide safety to the people, to provide peace to the people, democratization to the people, and certainly provide the protection to our young men and women on the ground. Unfortunately, this administration decided to go it alone. And lo and behold, though we wish not to be able to say that this evening, all we can say is, I told you so.

We find in the papers of the last couple of days terrible atrocities. One, for example, is that there are bomb incidents almost every day. Might I say to the U.N., United Nations family, my deepest sympathy for the tragic loss of those who are on the ground for humanitarian purposes. We are also offering our deepest sympathy to the families who have lost their young men and women on the front lines and, yes, those lives that will continue to be lost.

We find out by recent reports in newspapers that a congressional study shows that the Army lacks the active duty troops to keep the current occupation force in Iraq past March of 2004 without getting extra help from either other services and reserves or other nations. It was not too long ago when we said to the administration, it is imperative that if you fought the war alone, then you clearly need to keep the peace in the multi-lateral posture with the United Nations, with NATO allies and even with allies from the Arab region. Being in the Arab region, in the Medius region in April, it was clear that our Arab nations wanted to participate in the peace, our friends in India wanted to participate in the peace. But were they asked? No.

As the President moves for a U.N. Security Council resolution, tentative as it is, I believe it is time for the President of the United States to take to the bully pulpit and restore the value to the United Nations, restore our friendship with the United Nations, and begin to put together before the U.N. Security Council a sincere effort, a sincere offering that we would like to collaborate in building the peace. There is no shame in working with friends or collaborating. There is no shame in promoting the United Nations, the very entity upon which we built after World War II in order to generate a forum that nations could come together and fight for peace as opposed to war. But yet this administration turned its back on a vehicle that could be helpful; and now here we come back, suggesting that we would like our friends to donate troops and money. Well, we cannot get that kind of action unless you show true sincerity.

To the President I say that this report is worse than we would like. Released on Tuesday by a nonpartisan Congressional Budget Office, it said that if the Pentagon sticks to its plan of rotating active duty Army troops out of Iraq after a year, it will only be able to sustain a force of 67,000 to 106,000 using active duty and reserve and Marine forces.

We need help and there is no shame in that. I hope that the President will gather his thoughts and go to the United Nations in a collaborative way, not in an undermining way, not in undermining troops. I frankly support the ideas of the United Nations' effort led by the leadership of the United States military. We have the facts. We are on the ground. We know the facts.

But, Mr. Speaker, I think it is shameful to note that we have lost more soldiers than when it was announced that the war was over. I think it is shameful that when those soldiers die we are ignoring the fact that we have, in fact, lost our wounded, over 1,104, and that there are wounded individuals every single day that go unreported because of the fact that we are only reporting those who have died.

Mr. Speaker, as I close, let me simply say the poverty rate is going up. We, frankly, need to do this together, keeping the peace, providing for the peace. We will need world friends. It is time now for us to design an aftermath that will provide for democracy and safety in Iraq.

IRAQ WATCH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 60 minutes as the designee of the minority leader.

Mr. HOEFFEL. Mr. Speaker, the House is back in session this week. And on the first evening back in session, we are resuming the Iraq Watch.

This is an effort that has been going on since late in the spring, primarily by four of us here on the floor of the House, the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Hawaii (Mr. ABERCROMBIE), and the gentleman from Illinois (Mr. EMANUEL), to raise questions about our policies in Iraq, to suggest corrections in those policies, to ask questions about the diplomacies leading up to military action, to ask questions about the intelligence relating to weapons of mass destruction, the use of that intelligence, the presence and whereabouts and the custody of those weapons of mass destruction, fundamentally questions about whether we are winning the peace and what exit strategy we have and when we will turn Iraq back to the Iraqis.

□ 2000

I know my colleagues have a lot of things to say tonight because a lot has been happening since we were last in session, and much of it bad, in Iraq, and we all have our own focus we would like to put on the debate this evening.

I am going to open up and ask some questions focused on the fundamental issue of credibility, and I am then going to turn to the gentleman from Illinois (Mr. EMANUEL) who has a conflicting time commitment, if my colleagues will agree, for the points that he would like to make in just a few minutes.

There are so many unanswered questions about credibility relating to our actions in Iraq. Why did the White House press the CIA to approve misleading language in the State of the Union, suggesting that Hussein was uranium shopping throughout Africa, when the White House knew that that information was not accurate? Why did the administration hype alleged strong ties between Saddam Hussein and al Qaeda, although those ties have never been established? Why did the White House exaggerate the threat of the weapons of mass destruction themselves and hype both the nature of those weapons and the urgency of the danger caused by those weapons?

The real threat that I see posed by Hussein, who was clearly a murderous tyrant who used weapons of mass destruction in the past against innocent civilians, the real threat was his potential to restart those weapons of mass destruction programs, including the ability and perhaps the desire on his part to restart or even purchase nuclear weapons if the international community lost its focus, if the focus and pressure for resumption of international inspections were to have been set aside, or if sanctions were lifted or if we simply lost interest. That was the threat from Saddam Hussein.

Why did President Bush not stick to that? Why did he exaggerate the threat caused by weapons of mass destruction and these other alleged ties that have not come to pass? We know now that these claims by the administration were exaggerated.

Last fall, in the lead-up to the congressional vote, the administration publicly and privately stated with complete certainty that Hussein had weapons of mass destruction, that he was seeking more; that his chemical and biological and nuclear programs were well underway; that there were ties between al Qaeda and Hussein; that he had these weapons, he was trying to get more and he was likely to give them away to terrorists. Now we know from declassified intelligence documents that at this very same time the administration was being told by our intelligence agencies that there was a great deal of uncertainty about the status of the weapons of mass destruction in Iraq.

The Defense Intelligence Agency report of September 2002 and the national intelligence estimate of October 2002 raised serious doubts about this, used phrases like no credible evidence of an Iraqi chemical weapon program. Yet the administration publicly and privately said it is a sure thing, we count on it, we have got to stop it.

Does this matter? Maybe this is the question that we need to address. Does this pattern of deception matter? Do the ends not justify the means? Should we not all be rejoicing that Saddam Hussein is out of power?

I think this pattern of deception does matter because the administration's credibility is shot as a result of this, and when the administration's credibility is shot, our national credibility is threatened. It matters when a government uses deception to try to achieve its goals because that deception can become a habit. It can be habit forming and we reach a point where the government loses its credibility and its moral stature.

The administration oversold the need for war. They oversold the prospects of winning the peace. They oversimplified the challenge of bringing liberty and democracy to Iraq, all the while insisting that we could do this on our own unilaterally, without the help of our traditional alliance, the Western alliances, and in the international community, willingly proclaiming all this time that the U.S. and Britain should be known as the occupying powers, the occupying powers in Iraq, and ignoring the international institutions and the assets they can bring to bear to help a people become a free people and develop democratic institutions. It is time for the administration to level with the American people, to stop this pattern of deception that undermines the work we are trying to achieve.

The President should answer seven questions. The first is he should tell us how long the military occupation is going to take, how long will it last.

Secondly, how much will the military occupation cost? The current estimates are $1 billion a week, $4 billion a month, to maintain our military occupation.

Thirdly, how long is the reconstruction going to take?

Fourthly, how much will that cost? Most estimates I have seen, $20 billion a year for at least 5 years. That is $100 billion to reconstruct Iraq.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, while we were back in our districts working this past month, I am sure the gentleman noticed the announcement put out by the Congressional Budget Office in terms of the deficit that is accruing day by day on the future of the American taxpayers. If my colleague knows the number, I would like to hear it.

Mr. HOEFFEL. A $450 billion deficit.

Mr. DELAHUNT. Mr. Speaker, I have to say that my colleague is wrong, my dear friend from Philadelphia. The CBO, the Congressional Budget Office, predicts the deficit for the next fiscal year will be $480 billion, $480 billion. And in the course of the past several years, just this past year, 1.4 million Americans fell below the poverty line. And my colleague is speaking tonight in terms of just simply for the reconstruction of Iraq, rebuilding Iraq, if you will, $20 billion a year for 5 years.

Mr. HOEFFEL. Mr. Speaker, the fiscal picture is bleak. It is daunting. One of the things the President has to tell us is how we are going to finance his reconstruction plans in Iraq, because I do not know how we are going to pay for it. The gentleman is absolutely right to bring that up, and I can see the gentleman from Illinois is anxious to make a point.

Mr. EMANUEL. Mr. Speaker, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Illinois.

Mr. EMANUEL. Mr. Speaker, I am anxious to make a point. I am glad my colleague started on this, asking the administration to come forward with what is our exit strategy, how long will the American troops be there and what will be the total cost to the American taxpayer.

My colleague knows that since 2001, about 3 million Americans have lost their jobs, 5 million more Americans have lost their health insurance, to the record heights of people working without health insurance. Nearly $1 trillion worth of corporate assets have been foreclosed on, and more than 1 million Americans have walked out of the middle class to poverty in this country. Yet at the same time, the United States Government has pledged $8 billion dollars to pay Iraqi Government salaries for people who do not show up for work in Iraq, $7 billion for repairs to public works and services, $5 billion in humanitarian aid and $3 billion to settle 1 million Iraqi refugees next year alone. That is some of the costs the American taxpayer is being asked to foot while we have record-high unemployment, record foreclosures, losses of health insurance, no plan for middle-class families to afford their college education.

I come from Chicago. We think we know something about no-show jobs. The notion there would be close to 100,000 Iraqis getting a salary with no-show jobs can make a workman in Chicago a little jealous; but let alone that over the summer, while we were also gone, America experienced an unprecedented blackout where the infrastructure and America's electrical grid was short and not capable of handling the type of economy we have. At the same time, the head of Iraq's reconstruction, American counsel Paul Bremer announced that he would like $2 billion to rebuild the Iraqi electric grid. Yet here in the United States we were the ones with the blackout, and we cannot get a single dollar from the administration to help rebuild our electric grid which is an important piece of our economic infrastructure to allow the economy to grow. As many people said, we have a world-class economy sitting on top of a Third World economic grid. Yet Iraq, $2 billion to the electric grid; America, a blackout.

Mr. DELAHUNT. Mr. Speaker, what was the cost to our economy of the blackout that I think was of a 12- to maybe 24-hour duration, what was the cost?

Mr. EMANUEL. Billions of dollars.

Mr. DELAHUNT. Billions of dollars, and yet we cannot find the money here to invest in America.

Mr. EMANUEL. Mr. Speaker, one thing I want to run the statistics by is the people who remember, because I think it is often in this administration where the right hand misses what the left hand is doing.

In the area of health care, there is a proposal for 13 million Iraqis, half the population, to get universal health care. Yet America now has record-high uninsured in this country, with no plan on the table. A hospital and clinic in Baghdad is operating and one in every city will be up and running.

In education, there are proposals on the table to rebuild 1,200 schools in Iraq. Yet the administration fights and it does not have a single dollar for rebuilding and modernizing America's schools.

There are 25,000 units of affordable housing in Iraq, yet only 5,000 proposed here for the United States.

In the area of infrastructure we have a 10 percent cut in the Corps of Engineers proposed by the administration; yet the deepwater port of Umm Qsar in Iraq will be built from top to bottom.

We have a plan for Iraq's reconstruction and its economic growth in the future, and yet the entire proposal here for the United States is blackouts, cuts in education, cuts in health care, cuts in infrastructure and cuts in housing. My point is the American people, ever since World War II, have been unbelievably generous and they will continue to be. Yet we cannot offer the Iraqi people a future that is brighter than the one we are proposing for our own children.

I do want to add one point away from the financing to the issue of the loss of lives of Americans in Iraq. Some people have gone to Iraq and come back and said, what we need is more American troops. The fact is, we need more American allies, not more American troops.

Second is, there have been four major battles since the post-Cold War: Gulf War 1, Bosnia, Kosovo and Gulf War 2. In every war except for this war, the democratic nations of the world have spoken with one voice against tyranny, and the loss of life by Americans has been minimal. There is only one war where the democratic nations of the world were divided and the loss of life by Americans has surpassed all other wars.

Foreign policy based on "my way or the highway" has not served our men and women correctly. They deserve better. Their families are facing losses. They are doing their job under tremendous stress, unbelievably well, and we should have a foreign policy that brings people together to speak for democratic values in one voice, and yet we are not doing that. The American servicemen and -women are bearing a burden that is not being shared, and the American taxpayer is paying a price that is not being shared. The consequence both here at home and overseas in Iraq is devastating to Americans, and we deserve to give the American people and our American men and women in uniform a better national agenda and an international posture than the one they have been getting.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, not only was that well stated, not only was the logistics of the politics well stated, but the sentiments expressed by yourself and by the previous speakers take us then to the question of what are we to do? The difficulty I think that has been faced by those of us who had reservations, if not outright opposition, to the attack on Baghdad, which is what the initial military activity was, because we feared that a war in Iraq would then erupt, one for which we were not prepared, I think the difficulties associated with the thrust of their remarks made to this point is that the American people said, well, where is this opposition, what does it mean, why are we not coming forward with it?

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We were drowned, literally, in the rhetorical excesses and visual stimulus of embedded media, following along with and literally with the troops. We were regaled with admonitions to support the troops by virtue of not questioning the policies that sent those troops in in the first place, and not analyzing the context and circumstances under which those troops were placed in harm's way. And I do not think we can avoid that any longer.

How are we to deal with the analysis of the gentleman from Pennsylvania (Mr. HOEFFEL) regarding the circumstances under which we entered and what has taken place? How are we to deal with the questions raised by the gentleman from Massachusetts (Mr. DELAHUNT) about the deficits, about the costs that are associated, the literal costs? How are we to deal with the elegant formulation by the gentleman from Illinois (Mr. EMANUEL) of the juxtaposition between that which is required for us in the United States to deal with our basic needs and that which is required for the Iraqi people under the circumstances over which we now, ostensibly, have control and obligation? What are we to do?

The gentleman from Pennsylvania (Mr. HOEFFEL) and I, earlier this evening, engaged in a discussion with one another about, well, how should we address this question? And I think, if my colleague will allow me just a moment or two more, I want to posit what I think needs to be done or at least what needs to be done in terms of a dialogue.

We established a governing cabinet which, according to The New York Times yesterday, is the Iraqi Governing Council. It says we have right now, and by we I am talking about the so-called coalition, because that is all it is. There may be some attendance on the periphery, but we have Great Britain, and we have the United States. Great Britain is now going through the throes of its own investigations and self-analysis. Who knows how long the Prime Minister will even be in office, let alone the support there. But it says we now have an Iraqi Governing Council, I am quoting The New York Times from yesterday, "appointed a 25-member cabinet today to begin taking over day-to-day control of the government. The Iraqi ministers appointed today are to take over important portfolios in foreign affairs, finance, internal security and oil."

Now, my suggestion is if that is in fact the case, and if one accepts the premise for discussion sake that the motives for going into Iraq were sound, even if the process and the planning was inadequate at best, then this has been achieved. There was an attack on Baghdad. There was an occupation that took place. We now have a 25-member governing council to take over all of these areas. When are we going to bring the troops home?

The same paper announces, the same news media announces yesterday that two U.S. military officers have died, another wounded when their Humvee hit a bomb along a highway in southern Baghdad. The military police brigade was traveling along a main supply route at 3:19 p.m. in the afternoon when their vehicle hit "an improvised explosive device."

Mr. DELAHUNT. Mr. Speaker, if the gentleman will yield for just a moment. As he refers to that particular incident, I want to take a moment to express my most profound condolences to a particular family, the Caldwell family of Quincy, Massachusetts, which is my hometown, the birthplace of John Adams and John Quincy

Adams. The Caldwell family lost their son, their brother, in that particular incident. The war has come home to Quincy and to the United States.

Mr. ABERCROMBIE. Mr. Speaker, as we stand here speaking, airplanes are coming in every day and every night discharging the wounded. When we can manage to get people acknowledged in the newspaper or on the television as having been killed in Iraq, and I say when we manage to get them acknowledged because more and more this is fading from the front page, this is fading from the A section of the newspaper. We have to pay attention to ex-steroid users running for governor out in California. We are competing with that right now. The clown show is taking place on C–SPAN II right now. Maybe tonight we can forgive the fact that the media once again are not here to record what might be said or not said here with respect to Iraq and its implications because they are watching the clown show. It is no clown show at Bethesda Naval Hospital. It is no clown show at Walter Reed Hospital, where now the grievously wounded are in the thousands.

I suppose one could make an argument if it was in the dozens that it might be more acceptable. But it is not. We have the spectacle of the President of the United States now backtracking from the show that he put on on the aircraft carrier, that shameless display of arrogance and hubris. Oh, that was the end of major combat operations. So the family to which my colleague referred, are they supposed to take some comfort with the idea that their son died in a minor confrontation, a minor incident? There is nothing minor about the deaths and grievous wounding of American men and women in combat in Iraq.

Mr. EMANUEL. Mr. Speaker, if my colleague will yield for one last comment. In Bosnia, the United States troops share a burden with other Democratic nations under the command of a United States general. They are not serving under anybody else's command. There has not been any major deaths post combat. That is true also in Kosovo.

Mr. ABERCROMBIE. None. Zero.

Mr. EMANUEL. Right. This is the only war post combat, after the President has declared hostilities have ceased, that there have been more deaths in the aftermath of the war than during the war.

Again, I think it comes back to the fact that Saddam Hussein is a tyrant. That is not an arguable fact. The arguable fact was are we going to do this alone, or should we have done the hard work that was done by the first Bush Presidency, of calling up allies, calling up friends, having the Democratic nations of the world and others speak as one voice about ridding the world of an aggressive act.

But in this war, because we refused to do the hard work of listening and persuading and talking, deciding to go alone, deciding to make other political points, more Americans have died after the hostilities have ceased than prior. It is a policy that does not do justice to the sacrifice on the ground by our men and women. It is the only war post the Cold War in which, as I always say, the Democratic nations were divided, not united. And because of that, and because of the result that we do not have other American allies but we have mainly American men and women there, more Americans, such as the family from the gentleman's district who he just spoke about, touching all of us about how it has come home, this war.

There has not been an exit strategy provided for. We have not talked about what it takes to bring allies to bear, about burden sharing. We can do better. The American people and the American servicemen and women deserve better.

And then there is a whole discussion about the reconstruction of Iraq. At a time when the American people are paying astronomical taxes, property taxes, seeing service cuts at their schools, having their health care costs explode, having the cost of a college education for their kids explode, with no plan provided for that, and yet there are some in this Chamber and across the hall whose recommendation to the American people is we will stay the course. We will put more American troops, more American hard-earned dollars to work in Iraq while here at home that is not the recipe that the American people deserve. They deserve a plan for here as much as for Iraq. They deserve a policy that says we will bring Democratic nations together, not divide them.

Mr. HOEFFEL. Mr. Speaker, just quickly, I wish to ask the gentleman from Illinois if in his review of our military history, and I know his statements are accurate and insightful, has he ever come across an example where an American President has taunted the enemy to "bring it on"? Has my colleague ever seen an example where after victory is declared, while Americans are continuing to die post declaration of victory due to a guerilla war, that the President of the United States taunted the opponents to "bring it on" and subsequent to that taunt another 60 or 70 Americans have been assassinated in this guerilla opposition in Iraq?

And my question to all three of my colleagues, and the gentleman from Massachusetts (Mr. DELAHUNT) talked about the war coming home to Quincy, what does the President say to those families? It is a tough enough job for the Commander in Chief in good faith to deal with any death to any American serviceman or woman, but what does he say to the families when he said on that day we have enough force in Iraq to protect our own troops so bring them on? What does he say to those that have died since?

Mr. EMANUEL. Well, Mr. Speaker, having worked in the White House, I want to be clear, I do not think anybody here is saying the President, and I am sure the President, the First Lady, and the entire administration feels for every one of these families. Having worked in the White House, I think we all know there are things either a President or even ourselves have said that we wish we had never said.

Mr. DELAHUNT. I do not think anybody doubts that at all.

Mr. EMANUEL. But when the President said "bring it on," it was close to putting, unfortunately I think given the guerilla warfare and the terrorists that have now come into Iraq, I think it has put a target on the American service people that existed before but only heightened given the war psychology and world opinion that terrorists are playing against this administration. I do not know of another time a President has ever done that or an administration has done that.

I want to add one other thing. I think Mr. Bremer said that in a few weeks from now Iraq will run out of money, and they will have to come to the United States for more financial assistance for all the reconstruction they are planning. I plan on reintroducing my American parity bill that says whatever we plan on spending in Iraq for housing, health care, infrastructure, economic growth, salaries, for no-show jobs, we have to do the same here at home.

They should not have a better housing plan than what we plan for here at home. They should not have a better education plan in Iraq than we have for modernizing our schools. They should not have a better health care plan for half the population when we have nothing for our population. So I will be introducing that bill as an amendment to the Iraq reconstruction supplemental, that we should have an American parity act.

I am going to vote to help Iraq, but I am not voting for deconstruction in the United States.

Mr. DELAHUNT. Mr. Speaker, my friend knows that he will have three colleagues that will be cosponsoring that particular amendment with him. And I daresay that when my colleague alluded earlier to the proposal to provide universal health care coverage for half of the Iraqi population as well as 100 percent maternity coverage for Iraqi women, maybe, just maybe, we could convince our colleagues in the House to restore the $95 billion that they cut from the Medicaid.

Mr. EMANUEL. One out of four children in America are covered by Medicaid for the maternal care. So the cuts in Medicaid affect directly the newborn children and the health care coverage, where we are talking about universal coverage in Iraq.

Mr. ABERCROMBIE. Mr. Speaker, I wish to add an addendum to the last point the gentleman from Illinois (Mr. EMANUEL) made when he talked about the no-show jobs. The problem we have in the United States now is people are showing up and there are no jobs. They want to have a job.

We have lost two-plus million jobs, manufacturing jobs, in this country. There are plenty of people who want to show up for work, but the work is not there because it is being out sourced overseas. Because we are providing an opportunity for the Vice President's cronies in Halliburton and all these other construction companies to send mercenaries overseas to make the big dollars off of the taxpayer dollar here.

□ 2030

I want to see people at work in the United States. When we have a prosperous United States, we can start worrying about carrying the burden for the rest of the world.

Mr. DELAHUNT. Those that will be employed by Halliburton in Iraq will be Iraqis. They will not be Americans. The low-wage jobs and the medium-wage jobs will be Iraqis. Meanwhile, as earlier stated, in this country we have lost 3 million jobs. And ironically, of course, the unemployment rate is going down by two-tenths of a point from 6.4 to 6.2 percent because we are not counting people anymore.

We now have a new category called the discouraged worker because he or she has been looking for a job, whether it be in Ohio, Massachusetts or Hawaii or Pennsylvania, and as has been indicated, those manufacturing jobs are leaving this country daily. They cannot find a job. They are discouraged and their unemployment has been exhausted, so they no longer count as American workers. They are discouraged workers.

Mr. ABERCROMBIE. Mr. Speaker, as President Bush is so fond of saying, help is on the way. Let me read from the Wall Street Journal of yesterday:

A consortium of 13 international banks, lead by J.P. Morgan Chase and company, was chosen to lead the newly created Trade Bank of Iraq. I thought it was going to be the United States was going to get some help. No, we have J.P. Morgan and 13 international banks, and they are going to put together something called the Trade Bank of Iraq.

The coalition authority that I just referred to, the 25-member coalition authority which is now in charge of finance, according to the New York Times, in Iraq created the Trade Bank to allow Iraqi ministries to begin making "big ticket purchases abroad."

This is all a corporate scam and the country has to wake up to the fact that we are utilizing our young men and women in harm's way in the military uniform of the United States to carry out the corporate interests of this administration, and that Iraq, if not before now, is a quicksand of corporate endeavor on behalf of profit-taking by corporations utilizing the all-volunteer force of the United States, and we have to take seriously whether or not we are going to allow it to continue.

My view is, and I put it forward for consideration, that if we are going to deal with this situation straightforwardly, we have to talk about letting this 25-member authority take over. They say they are in charge of finance, they are in charge of security, they are in charge of trade, they are in charge of banking, in charge of oil, let them be in charge. Bring the American troops on out of there and let that Iraqi authority set the terms and conditions under which the United Nations will come in and help put this together.

I am perfectly willing to vote funds because we caused this problem, funds that will enable the Iraqi people to get back on their feet, provided it is done in an international context at the behest of and request of the Iraqi authority which we supposedly have not only set up but now have in charge of these various ministries.

Mr. DELAHUNT. Mr. Speaker, let me just segue into an observation that was made by the general who successfully commanded the coalition, the true coalition of the willing in Gulf War I, and that is General Schwarzkopf, and he was recently interviewed. It was on one of the Sunday morning magazines and he was talking about the troops and his concern for the morale of the troops and the suggestion that more troops are needed to provide stability and security before this particular White House can rebuild Iraq.

I am just going to quote some excerpts from his statement. This is General Schwarzkopf. "I do not think, based on the information we are hearing ahead of time, that anybody thought Iraq was going to be anywhere near as tough an egg to crack as it has become. We did not have a rotation policy at that time." He was talking about rotating American military personnel in and out. "We were just going to go in, the people were going to throw flowers at our feet, and everybody was going to welcome democracy and we were all going to go back home. But I think we really became very surprised by the amount of resistance we have run into since. The number of deaths that has been inflicted on our troops, and it happens every day, and that has a very, very eroding effect on the morale. Believe me, when someone is shooting at you and you cannot shoot back, I know from experience because I have been through that." That is General Schwarzkopf.

What are we doing? What are we inflicting on the American military?

We have all sponsored a resolution urging the President of the United States to seek a new United Nations resolution making the United Nations part of the solution, under the command of the U.S. military when it comes to the security issue, but making them part of this enormous effort of nation-building because that is what this administration is about; it is about nation-building. And the costs, and we hear it again and again. We talk about $4 billion a month.

As Members know, and we have been joined by the gentleman from Washington (Mr. INSLEE), that $4 billion a month, that $50 billion a year is just for a military presence. It does not involve rebuilding Iraq. It does not involve nation-building. This White House, this administration, upon coming to office, derided nation-building, and yet they have embraced nation-building in a magnitude that is mind-boggling; and some within the administration, some within the administration, not Secretary Powell, because I understand he is attempting to negotiate a new U.N. resolution, but some want to go it alone. We cannot afford it either in terms of American lives or American dollars. We are going to go broke.

The gentleman from Hawaii (Mr. ABERCROMBIE) mentioned Gulf War I under the leadership of the father of the current President. He did create a true coalition. The cost of that war to the American people, the total cost, was a little over $4 billion. That is the cost of just sustaining our military presence in Iraq now for a month, and we are going to be there for years.

Mr. HOEFFEL. Mr. Speaker, not only is the administration engaging in a unilateral nation-building, but I would submit it is a stealth nation-building because they do not want to tell us the cost, the length, how many troops might be needed, how many more civilians of all manner might be needed. I think we need to ask the President three fundamental questions. The first is what is in store in Iraq, what is it going to cost and how long is it going to take?

Secondly, what is he doing to build the international support that he has finally acknowledged that we need, as the gentleman from Massachusetts (Mr. DELAHUNT) has just referred to. What can we expect him to do to reach out to the international community to get their assets and their troops, if necessary, and their civilian reconstruction experts into the mix. And as the gentleman from Hawaii (Mr. ABERCROMBIE) has been saying all night and in private conversation as well, the third question is how soon do we put the Iraqis back in charge, and what is the administration prepared to do to put the Iraqis back in charge?

I would respectfully say to the gentleman from Hawaii (Mr. ABERCROMBIE) that the Iraqi governing coalition is not ready to run those ministries that have been identified, and I think the gentleman knows that, too. They are not ready. We need the President to tell us when, and I yield to the gentleman.

Mr. ABERCROMBIE. I do not wish to dispute who is ready and who is not. All we can account for is ourselves. We were not ready, and now these poor people have to bear the brunt of our failure to be ready. I understand that. But the question here that I have raised here is what in fact is the role of the United States and these troops? How do we make it work? Let me put it this way, that is not an argument.

In my dreams I keep thinking Thomas Edward Lawrence, where are you, come back. Lawrence, come back and tell us what it is we are forgetting.

What do we think we can do when people made an argument back in World War I that the Arabs were not ready. This was a Western concept. This is people coming in from the outside telling somebody else that they were not ready. They were not ready to have the French divide up and the English divide up Iraq for their political purposes, but they were certainly ready to do whatever it was that they felt was necessary.

I am sure that the colonial armies under George Washington were not ready. Cornwallis was wandering all over, wandering through Maryland and New Jersey, wandering through upstate New York; and back in England they said, We have got to get out. It does not matter whether they are ready or not. We are going to be adrift with our people being picked off one by one in the American Revolutionary War. We are facing the same kind of situation in terms of the material prospect for the military of the United States in Iraq today. It is not up to us to decide whether or not they are ready.

Let me tell what one of the members of the governing council said yesterday. Abdel Aziz Hakim, the brother of Ayatollah Hakim who was killed in the car bomb, a member of the United States appointed governing council to which I have referred this evening told mourners, and I quote, and this is from The Washington Post of yesterday, "The occupation force is primarily responsible for the pure blood that was spilled in holy Najaf, the blood of Hakim and the faithful group that was present near the mosque. Iraq must not remain occupied and the occupation must leave so we can build Iraq as God wants us to do."

My point is we are dealing with a situation in which we do not have the prerogative of decisionmaking other than what we do about ourselves and for ourselves. We cannot decide for others. If the argument was, and again I do not want to dispute that because we have Members on this floor who voted for the resolution, who did not vote for the resolution who had different ideas what that resolution meant or did not mean, that is not an issue. I have no intention of pointing fingers and extracting some kind of admissions about what might have been the true faith at the time.

What I am saying is we now face a situation in which we have to make a determination whether our continued presence is a positive or negative force and what should constitute our continued presence.

Mr. DELAHUNT. Those questions are not being posed. And that same story that was quoted yesterday that the gentleman quoted from, the funeral of that particular Ayatollah who was a moderate leader among the Shiite community in southern Iraq, where some would suggest there has been stability and some limited progress has been made, things are beginning, they are in the process of falling apart.

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A piece of that story that the gentleman did not read is extremely disturbing when it comes to our role. His brother's clarion call resounded with the crowd. I am quoting from that same story. Mourners who came from as far away as Basra and Baghdad beat themselves with chains in the traditional ritual for mourning religious martyrs and chanted "death to America."

We have to be listening very, very carefully. There is a growing anger, not just in the so-called Suni triangle, not just in Tikrit, but all over Iraq in terms of the American presence. That is why I would suggest it is absolutely critical that we internationalize the presence.

Mr. ABERCROMBIE. And the ones who will pay the price of that attitude should it become more pervasive, "death to America," is not going to be us here. They are getting ready to celebrate. Come on. They are closing down the mall tomorrow. For those of you out there tuning in, they are closing down the mall tomorrow because the National Football League is getting underway. The Redskins are going to play. No traffic. People are taking days off. They are taking sick leave, whatever it is. They are closing down the mall, not because of a terrorist threat but because the Washington Redskins are going to start the National Football League and that is what we are going to concentrate on. And what do you think will be on the front page of The Washington Post on Friday morning? Whether or not the Redskins won the game. But will there be a story about two more kids getting wounded or killed over in Baghdad or Tikrit or some other godforsaken place that nobody knows anything about and cannot spell?

Let me tell you what has happened, how much we care about this supporting the troops. If I hear that one more time from these hypocrites. The toughest thing we have ever done since 9/11, which is coming up in a couple of days, the biggest sacrifice we ever made is not the inconvenience of taking off your shoes walking through a testing device at the airport, we postponed the Super Bowl for 1 week. That is the big sacrifice. We are supposedly in a total war. The President tells me that I am in a war, a total war, over maybe 10 years and we are going to go and we are going to conduct this war with every fiber that we have. We are not doing anything of the kind. We are watching the football game on television.

When I see those guys out on the field, I see there is a kid from Ohio State, he cannot decide whether he wants to go to class or not. He does not know whether it is worth it. I do not blame him. They are marketing him over there. They are making a million dollars out of him. We are worried about whether some professional basketball player took advantage of a young woman and we are going to spend more money and time on that. They are all pretty healthy, it looks to me. Why are they not in uniform over there? Why do we not have a draft if we really mean that this is a war against terror and this is something that we have to fight right through to the end with all the resources of the United States?

That is what I cannot bear. I cannot bear the idea that we sit here, 435 of us that have been designated on the trust and faith of our constituents to try and make good judgments. We do not have a referendum in here in this country. This is not something where we just run out and take a vote on the fashion of the moment. We are supposed to be trying to use what brains that God gave us and what judgment we have been able to accrue over the experiences of our lifetime and, based on the faith and trust of our constituents, render responsible policies and obligations for this country. What I am saying is that these young men and women have volunteered for the armed services of the United States not because we expect them to throw their lives away on the political fashion of the moment, but because we expect to be able to provide them with the necessities of being able to carry through on the strategic interests of this Nation.

I say that the strategic interests of this Nation now requires us to have an exit plan out of Iraq and to turn the question of Iraq and its governance over to the Iraqis as soon as possible so that they can make the necessary arrangements with the United Nations, of which we are a part, in order to aid and assist them.

Mr. INSLEE. If the gentleman will yield, these are really hard discussions because we have been saying this now for months in the evenings with this group, that this effort needs to have more international support. We need to give our troops enough support so that they indeed can be secure. Since we last said that and then we went back to our districts for August, 40 more of our proud troops have died in Iraq, with the administration ignoring the obvious need to internationalize this effort. Over 100 people have been seriously injured, over 1,000 in the Iraq war, people coming back without limbs. But this administration cannot pay enough attention to common sense to put down their hubris and their arrogance for 10 minutes to come up with a policy that will keep our troops safe. The thing that is galling about it, and you do not have to be a Rhodes scholar and spend 40 hours a week thinking about foreign policy to know this.

Yesterday I went out, the fellow was working on a cable wire in front of our house, it was a hot day, it has been really hot in August in Seattle. I just went out and gave him a pop and we started talking. He says, "I'm not an international expert. I can't figure out why George Bush wants just our kids to die in Iraq. I just can't figure that out. That doesn't make any sense to me."

I think when a cable guy on Holly Street in Bainbridge Island has that recognition, this administration ought to change its attitude to this effort, not want to be a bring-it-on mentality but an attitude of working with the international community. There is another thing I want to report to you about what people out on the street know about this issue. They know that we still have to get to the bottom of why the American people were not told the straight scoop before this war started. That is why we are cosponsors of a bill to have a bipartisan commission to get to the bottom of why Americans were deluded about the nature of the security threat in Iraq.

I am not the only one who feels this. Two weeks ago in Shoreline, Washington, we just published a little notice, we were going to have a little meeting about Iraq intelligence. We were going to have it at noon on a Thursday on an 80-degree day in Seattle. We booked a room for 200 people. We had indications more were going to show up. We booked a room for 400, then for 600. We had 1,100 people show up at noon in Shoreline, Washington, who were raving angry about why this administration did not tell America the truth about Iraq before they got us into this war. They had one request and demand of the U.S. Congress: Do a bipartisan commission to get to the bottom of what happened here.

Let me tell you why this is important, and we had pretty good people talking about this. Ambassador Joe Wilson, the guy who blew the whistle on the administration's fraudulent use of the claim about uranium from Africa, he flew all the way from D.C.; retired Admiral Bill Center, distinguished Navy career, who talked about the fact that he certainly did not see the threat that the administration was saying existed; Brewster Denny of the University of Washington School of Public Policy. They agreed with everybody in the room who recognized that if we are going to internationalize this effort in Iraq, you cannot do that successfully unless we have a full accounting about who was responsible about selling the American people and the world a bill of goods about what happened in Iraq. And 1,100 people recognized that in Shoreline, Washington.

This measure of accountability that we need is necessary to clear the decks to get the type of alliance we need in the international community that maybe, just maybe, the administration is starting to finally figure out, way, way late. We hope we are going to have some support on the other side of the aisle about going forward to get to the bottom of this in a bipartisan fashion.

Mr. ABERCROMBIE. If we cannot get to the bottom of it in a bipartisan fashion, there is one way for people to make that clear and that is in the voting booth. If we cannot pass it in here, you are going to have to get the people in here who are willing to pass it.

Mr. HOEFFEL. Let me thank the gentleman from Washington for joining us and for his comments. And, the first time with Iraq Watch, the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. I want to thank the gentleman. I sat here in my heart cheerleading as the gentleman from Hawaii (Mr. ABERCROMBIE) was talking with us. Because the fact is we sit here in this Chamber, in the safety and security of this Chamber, and as we sit here and make decisions, young Americans are in danger. Every day I get up and I turn on the TV and usually the first thing I hear is that we have lost another American soldier or two American soldiers in Iraq. It does anger me. Because I think we have been irresponsible in the course we have taken, but we are continuing to accept in almost a casual way the fact that young Americans are being killed on a daily basis.

I got a letter from a young soldier from Baghdad just the other day. In the letter, this young soldier said, I am so proud of the Army and we are working so hard to do the right thing over here. But, you know, my fellow soldiers are appalled at the President's bring-them-on rhetoric.

The fact is this is a serious situation we find ourselves in. We all have different ideas, I guess, about how we should deal with this. But I think we should either put sufficient numbers of troops in there to provide a high level of security or we should go to the United Nations and we should seek their support and even cede some control over the decision-making, or we should bring our troops home, because just tolerating daily deaths is intolerable. I think it is intolerable for the American people, but it should be intolerable for this President and for those of us who serve in this House of Representatives. These young Americans are willing to fight and die for the benefit of this country, but they are not willing, I believe, to give their lives for purposes that are less than central, absolutely central to what is essential for this country's well-being.

We need to rethink what we are doing. The President and this Congress needs to come together and to look at the seriousness of this situation and to change our course here.

Mr. ABERCROMBIE. The difficulty I think here is that there has been a tendency, at least to this point, and I detect a change coming here, too, the tendency has been, if not the outright policy, is equate support for the troops with the political policies of those who have sent them over there. That to me is an abomination of the idea of patriotism. Serving as I do on the Committee on Armed Services, I am only too well aware of the caliber of the fighting man and woman in the United States Armed Forces today. The capacity that they have to carry out their mission is extraordinary. The morale that they do have associated with their own perception of what they are capable of, believe me, could not be higher. The question is, are we up to the task? Are the politicians up to the task of representing that same kind of competency and professionalism, if you will, in providing what that mission should be?

Mr. STRICKLAND. That is right. But we all know that talk is cheap. And the fact is that there are a lot of lofty words spoken in this Chamber, but we have a serious problem. There are moms and dads and sweethearts and husbands and wives, children, whose loved ones at this very moment are serving under the most difficult circumstances. They cannot be adequately protected. They are sitting ducks. We got excited in this town when there was a sniper loose and it took us weeks to identify that person, to find out who it was. Now there may be a sniper loose in the State of West Virginia and we are concerned about that. Baghdad is full of such snipers. Our soldiers are in fixed positions and they are being killed on a daily basis.

I asked Ambassador Bremer, what are we going to do? What is the plan? How are we going to keep these deaths from occurring? The answer I got is that we probably are going to have to accept the fact that there are likely to be continuing casualties.

That is not acceptable. We have got a responsibility to take a different course of action.

Mr. DELAHUNT. I know we are winding down, but before we do, I think we would be remiss if we did not note the deteriorating situation in Afghanistan. In the future, I would hope we would include Afghanistan, because those same brave young men and women are in Afghanistan. Two stories today, Associated Press. The Taliban are no longer on the run and have teamed up with al Qaeda once again, according to officials and former Taliban, who say the religious militia has reorganized and strengthened since their defeat at the hands of the U.S.-led coalition nearly 2 years ago.

And now the administration is talking about doubling the aid from $900 million to almost $2 billion. I daresay that will be insufficient, but remember this, it is costing us $11 billion a year to maintain a military presence in Afghanistan.

Mr. HOEFFEL. I thank my colleagues for being part of this tonight. Iraq Watch will be back next Tuesday night.

□ 2100

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2989, DEPARTMENTS OF TRANSPORTATION AND TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. LINCOLN DIAZ-BALART of Florida (during the Special Order of Mr. SMITH of Michigan), from the Committee on Rules, submitted a privileged report (Rept. No. 108-258) on the resolution (H. Res. 351) providing for consideration of the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, Social Security. I am disappointed that there are only about 22 people that have ever sponsored legislation to help solve the Social Security problem, probably one of the greater challenges that we have faced in this country as far as financial.

Certainly I yield to the gentleman from Hawaii (Mr. ABERCROMBIE), my friend.

Mr. ABERCROMBIE. Mr. Speaker, I just want to say, and I want this on the RECORD, he is the man. He is the man on this. He and I have had these discussions in the past; and if there is anybody who understands the issue, anybody who has been more devoted on this issue, I do not know who it is. I have enormous respect for him not only for the depth of research that he has done on it but the passion he brings to the discussion. And it is something, in the context especially of the tragic circumstances we were just outlining, that definitely needs to be put forward because the financial stability of this country is at stake; and if there is anybody who is a leader in trying to confront that issue in a positive way, it is him.

Mr. SMITH of Michigan. Mr. Speaker, the gentleman from Hawaii and I discussed, maybe it was 8 years ago, the problems of Social Security and the problems that we were pretending somehow that taking all the Social Security surpluses and spending them for other programs was not being something considered in this body or in the White House. The challenges of Social Security are real, and as short a time ago as 5 years to 6 years, it was considered very unpopular to discuss any changes in the Social Security system.

Certainly the fact that we have an aging population and a slowing down of the birth rate, in fact, many countries of the world, and the United States is approaching that situation, where we are going even below the zero sum growth. If a mother has an average of something like 2.2 children, then on average it is going to replace the mother and the father. But many countries of Europe, most countries of Europe, and now the United States, are approaching a situation where we are not reproducing a workforce that ultimately is going to have to pay Social Security benefits, and that is because we have a Social Security system that is referred to as "pay as you go." That means we tax the existing workers of this country and their taxes immediately are sent out in benefits to recipients.

And to demonstrate how much Social Security has grown as far as a percentage of the total budget, I have drawn this pie chart; and that shows that Social Security is now the largest piece of pie, the largest portion of total Federal spending, representing 22 percent of total Federal spending. And defense, even with the increased challenges that we are now facing in Iraq and Afghanistan, Social Security is still a much higher cost than defense. And of course we see other entitlements. All other entitlement programs only represent 14 percent, but we should not overlook Medicare and Medicaid. Medicare it allows at 11 percent; but if prescription drugs are added to that program, the estimates are that the cost of Social Security and Medicaid will soon even be greater than Social Security.

So the question is what do we do about it? How do we come up with money? What do we do in an aging society? An aging society does not mean that each one of us is growing older, which is true, but rather that the elderly population is increasing more rapidly than the population as a whole. The second is that Social Security systems which provide most of the elderly people's financial support are not sustainable as they are presently structured. All we have seen in some other countries, what we have seen in most States of the United States, is moving from a fixed benefit program to a fixed contribution program.

There are three goals that I think we need to pursue in terms of making any changes in Social Security. Number one, that current retirees do not have a reduced benefit program. Number two, is that future retirees, our young workers today, can expect even a better retirement in terms of guaranteed money coming in during their retirement years than exist today for the current population. The number three requirement is that it should be a program that does not jeopardize our economy but encourages economic growth.

The next chart represents what has been happening in the Social Security. This past Friday the Congressional Budget Office came out with their new estimates of the economy and projections for our deficit spending in this country. Their projection was for this fiscal year, 2003, we would be having deficit spending, spending more than we are taking in, of $562 billion. 562 billion includes all of the surplus money that is coming into the Social Security trust fund. Next year, they are projecting that we are going to have deficits, spending more than we are taking in, of $644 billion. And I just say in relation to Social Security, we cannot continue to expand the spending of the Federal Government and at the same time not deal with the unfunded liability of Social Security, the unfundability of our other programs, Medicare, Medicaid, the promises that we have made to military retirees, the promises that we have made to civil servants for their retirement.

This chart shows the projections of where we are going in deficits, and deficits are the annual overspending. Debt of this country is the sum or the accumulation of that annual overspending to how much this country has gone in debt. We have a law in this country that says we cannot increase how much the government goes into debt unless we have a law that ups that amount and it is passed by the U.S. House of Representatives, it is passed by the Senate, and it is signed by the President. We have been doing that on a regular basis, and now we sort of hide it into the inner chapters of some budget resolution that automatically increases how much we are allowed to go in debt.

But, Mr. Speaker, nobody should misunderstand what deficit spending and debt does in terms of the obligation to our children and our children's children, and deficit spending and debt are the promises of tax increases in the future. Just let me say, to pretend that our problems today are such that it justifies taxing younger workers and kids that are not even born, pretending that maybe their problems are going to be less than what we have today is not only unfair, it is unconscionable. This simply says that gross Federal debt by 2013 is going to be approaching $10 trillion. Today it is $6.8 trillion, rising very rapidly at the rate of $562 billion this year and another $644 billion next year.

This is sort of a red and blue display of what is happening in Social Security. The short very small bluish-purple area is surpluses that are coming in from Social Security; and we have surpluses coming in from Social Security because in the past history of Social Security, since it started in 1935, has been every time we are shy on money to pay out promised benefits or we increase promised benefits because it is politically popular, we raise taxes; and in 1983, under the Greenspan Commission, we dramatically increased taxes and reduced benefits. And so we have a short-term surplus that is going to be coming in and available. As we see, it is diminishing until about 2017, and then by 2018 we dramatically go into the red, and the red means that there are not enough tax revenues coming in from our payroll taxes, taxing workers in this country to pay promised benefits to retirees.

The coming Social Security crisis. Our pay-as-you-go retirement system will not meet the challenge of demographic change, and this represents workers paying into the system for each one retiree. And of course as we age, as we are living longer, and the wealthier nations do live longer, the more impoverished nations die at an early age, and actually those developing countries actually have a higher birth rate. So there is a greater replacement. But in wealthy nations like the United States, like most of Europe, they are having a birth rate or a replacement that means that there is going to be a decline in the birth rate and an increase in the number of years that people live and therefore it is going to take more workers working, paying into the system to accommodate every one retiree.

So we go from 50 workers in 1940 working, paying in their taxes for every one retiree. By the year 2000, it is three workers. The estimate is by 2025, there are going to be two workers for every individual over 65 years old. So a greater obligation. So what we have done in the past is continue to reduce benefits or increase wages. And as we started out with what I think should be the goals, we should not reduce the benefits to current recipients of Social Security. Insolvency is certain. I mean, we are not guessing. We know how many people there are, and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out. Payroll taxes will not cover benefits starting in 2017, and the shortfalls will add up to $120 trillion between 2017 and 2075. Between 2017 and 2075, we are going to be short $120 trillion to pay benefits. $120 trillion is going to be needed over and above what comes in in Social Security taxes.

□ 2115

Now, just to put that in comparison, our annual budget is a little over $2.2 trillion, a huge financial challenge for this country and this Congress. Yet I am so disappointed that we have known that this problem existed since 1994, very accurately in our projections from the actuaries at the Social Security Administration, and yet in my count there are less than 22 Members of Congress in both the House and the Senate that have ever signed on to a bill that can keep Social Security solvent. It should disturb us all that we have been unwilling to face up to probably the greatest challenge that we have, and I think all of us agree that Social Security is a program that has served us well and served so many seniors in their retiring years.

In most developed countries they are dealing with similar challenges for an aging population. Take Japan or Germany or France or Italy. In France, the payroll tax is 51 percent. Can you imagine? Out of every dollar you make as a worker, now you are taxed 51 cents on that payroll dollar in France. Germany is approaching that amount. A little over 40 percent tax in Germany to accommodate their aging population.

What this does, of course, it puts businesses at a competitive disadvantage. If businesses have to in effect pay this Social Security tax or in effect pay less wages to the workers because they have got to come up with the Social Security tax or the senior retirement tax that is going to accommodate seniors, then it makes those particular companies in those particular countries less competitive.

So my plea is, let us not allow this to happen in the United States. Let us start moving to a system that is going to protect current retirees, that is going to make existing young workers even better off than their fathers and grandfathers. It is going to make sure that it strengthens our economy in the United States and it does not weaken it.

This is another example of what a bad investment Social Security is, because this chart represents how many years you are going to have to live after retirement, assuming you retire at 65, how many years you have to live after retirement to break even on the money you and your employer have sent in to the Social Security system. It was not bad in the early years, when we were first getting started, but by 1995 you had to live 16 years after retirement. By 2005, it is 23 years. Then by 2015 it is projected you have to live 26 years after retirement is projected. That is just to break even on the investment.

So is there a better way? My suggestion is there is a better way. Some people have suggested that if government would just keep its fingers out of the pot of the Social Security trust fund, everything would be okay.

We should keep our fingers out of the pot of the Social Security trust fund, and that should be invested to make sure Social Security stays solvent instead of Congress and the President spending all of the surpluses. Of course, that is what we have been doing for the last several years, is taking all the Social Security surplus and spending it on other government programs. So when we talk about prescription drugs or some other good sounding programs, what we are doing is borrowing that money from Social Security, or borrowing it from other areas the government can borrow from, like Wall Street, to pay for expanded programs that this Congress comes up with.

Back to my chart. The trust fund is short $1.3 trillion that we owe Social Security. The shortfall after repayment of the trust fund, the shortfall, if we came up with the money right now, is $10 trillion. Remember earlier I mentioned $120 trillion over the next 75 years? What we need in today's dollars to put into an investment account is $10 trillion. In other words, the unfunded liability of Social Security, some estimates are $10 trillion. Some estimates are $9 trillion.

The system is stretched to its limit. Seventy-eight million baby-boomers begin retiring in 2008, Social Security spending exceeds tax revenues in 2017 and the Social Security trust fund goes broke in 2037, although the crisis is going to arrive much sooner. When the crisis arrives is 2017.

Where do you come up with the extra money? Some people suggest, well, if we can get the economy going, or all government has to do is pay back what it has borrowed from the trust fund. That will keep us going until 2037.

On the economy, the fact is that a stronger economy that results in higher wages has a short-term effect of increasing revenue coming into the Social Security system. But the long-term effect, because of the fact that benefits are directly related, benefits in your retirement years are directly related to the wages and the taxes you pay in on those wages when you are working, means that ultimately it is going to be a bigger problem in terms of the amount of dollars that is paid out. So suggesting that a strong economy will solve Social Security is totally inaccurate.

I like to put in this chart with a picture of Franklin Delano Roosevelt, because he created the Social Security program over six decades ago. He wanted it to feature a private sector component to build retirement income. Social Security was supposed to be one leg of a three-legged stool to support retirees. It was supposed to go hand-in-hand with personal savings and private pension plans.

Let me tell you an interesting research item I found as I went through the archives of that debate back in 1934 and 1935. As it turns out, the Senate had decided on private investments in the name of the worker, so that it was the property of the worker. Even though it was restricted and he could not take out that investment until he retired, the Senate decided that that was the best way to go, to allow private required deductions from payroll to go in a fund that was owned by the worker.

The House, on the other hand, said, well, government should run the system and have that extra money available to government, and then be responsible for paying out the benefits in later years.

When it went to the conference committee between the House and the Senate, the final decision was what we have today, and that is government taking all the money that comes in and then being responsible for paying out the benefits. But, of course, over the years what has happened, as there ended up demographically fewer workers in relation to the number of retirees that were promised benefits, the United States on every occasion when they did not have enough money coming in taxes to accommodate promised benefits, is they increased the tax and/or lowered benefits. Usually it was both.

In most countries, issues of the administration have not been fully explored. Most countries do not have the kind of market-based economy we do in the United States. They are not used to having 401(k)s and other investment plans which individuals own and are a little more responsible for some of those investments. But in the United States, we are pretty used to it. Yet we have put off a market-based system for Social Security that can accomplish the goals of more retirement income for the retirees.

I chaired the House Committee on the Budget Bipartisan Task Force on Social Security. We had experts in from this and other countries testifying to the problems of accommodating senior citizens through a government program. The Democrats and Republicans on that task force agreed that something must be done as quickly as possible to change Social Security to keep it solvent, and that privately-owned investment accounts should be one option.

One of the criticisms of private investment accounts was that it would cost too much. The brokers would be charging the individuals huge amounts to keep track of the investments of those individuals. We had testimony from several individuals that it could be as low as one or two cents.

This is the letter I wrote David Walker, Comptroller General of the United States, in which I stated, "The House Budget Committee Task Force on Social Security recently heard testimony from William Shipman. His firm completed a study that concluded that the administrative annual costs for establishing broadly diversified Social Security personal retirement accounts would equal between $3.38 and $6.58 per account holder."

I continued in the letter to the Comptroller General, "If verified, I believe the conclusion will prove highly significant as Congress evaluates plans to modernize the retirement system. It will demonstrate that it is possible to provide meaningful investment opportunities to all Americans for only one or two cents a day. For that reason, I am requesting that the GAO study the methods and conclusions of this report and determine its accuracy."

What they determined is this was possible, and very likely, if we had indexed investments, such as we do in our Thrift Savings Account that is available to all Federal employees. So arguing that the brokers are going to get rich off of this program or that "snake-oil" salesmen will convince some of the investors to invest in bad investments is safeguarded in the Social Security bills that I have introduced over the last 6 years.

Just as a footnote to introducing a bill, let me mention that next Wednesday at 10:30 a.m. in Room 2200 we are going to have a press conference on the reintroduction of my 2003 Social Security bill that has now been scored by the Social Security Administration to keep Social Security solvent, and it meets the three goals that I expressed earlier.

Again, let me demonstrate how bad a savings retirement investment this is by using the existing Social Security system. The real return of Social Security is less than 2 percent for most workers and shows a negative return for some, compared to over 7 percent market return as far as equities.

If you are poor and if you are hungry and, as it turns out, if you are a young black worker, you die before you reach age 65. That means that you pay in for most of your life, but you do not reach the age that you are going to take out and accrue the benefits that supposedly you paid in for.

If we have a private investment account, what I am suggesting in my legislation that I will be introducing next week is you allow 2.5 percent out of the 12.4 percent FICA tax that goes into Social Security to be privately owned. The investments are restricted. There are safeguards in government, oversight of how the money is handled, similar to our Thrift Savings Account for Federal employees and for Members of Congress. But the safeguards can be there.

What this chart demonstrates is that if you are a young worker that is poor, that means you are probably going to die before age 65, or if you are a black worker, which means you are going to die on average before age 65, that it is your money. It can go into your estate for your heirs.

The average again is 7 percent. But the market return, and this includes the last three downside years of the market, the Wilshire Index from 1993 to 2003 had a 7 percent return, real return on equity, a 7 percent return over and above inflation. There has been no 12 year period in the last 100 years where there has not been a very substantial positive return to equity investments, and, if they are diversified, that assures additional safety.

One of the most often talked about solutions for Social Security in the United States and other countries, I represented the United States in a forum in England several years ago where all countries were coming in talking about their problems and potential solutions for accommodating an aging population, most often the suggestion was either reducing benefits or increasing taxes, if you will, sort of like a band-aid for the problem, for temporarily fixing the problem; instead of making a transition from a fixed benefit program to a fixed contribution program, using the market economy especially available in the United States to accommodate even higher returns in retirement for young workers.

□ 2130

I was disappointed that the U.S. trails many other countries in saving its retirement system. In the 18 years since Chile offered personal retirement accounts, 95 percent of Chilean workers have created accounts. Their average rate of return has been 11.3 percent per year. Now, remember, this compares to the 1.6 percent return we are getting on Social Security in America. Among others, Australia, Britain, Switzerland, offer workers their own personally owned retirement accounts.

Let me emphasize with this chart that there is no Social Security account with your name on it. And I quote from the Office of Management and Budget, "These trust fund balances are available to finance future benefit payments, trust fund balances, trust funds. They are there to finance future benefit payments and other trust fund expenditures but only in a bookkeeping sense. There are claims on the Treasury that when redeemed will have to be financed by raising taxes, borrowing from the public or reducing benefits or other expenditures."

So we have been borrowing from Social Security all of these years. We now owe Social Security a little over $1.3 trillion. The question is where are we going to come up with the money when it comes time to start paying those funds back. What we should be doing now is developing a system where we get real returns from the Social Security taxes coming in, the surplus coming in that is available for real investment with real returns.

Economic growth will not fix Social Security. Social Security benefits are indexed to wage growth. When the economy grows, workers pay more in taxes but also will earn more in benefits when they retire. Growth makes the numbers look better now but leaves a larger hole to fill later. The biggest risk is doing nothing at all. Social Security has a total unfunded liability of over $9 trillion. The estimate when I made this chart is $9 trillion; now it is closer to $10 trillion. The Social Security trust fund contains nothing but IOUs to keep paying promised Social Security benefits. The payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. Let me say that again. It is part of the desperate situation that we are faced with in solving Social Security if we continue to put off a solution.

This Chamber, the Chamber across the Capitol, the Senate, the administration, the tendency is for politicians to not deal with tough problems like solving Social Security until the disaster is upon us. But the longer we put off a solution, the more drastic that solution has to be. I know that because this is my fifth Social Security bill that I have introduced; and every session, every 2 years, it takes a little more in terms of coming up with money to fund the program than it did the 2 years earlier. That is because the surplus for Social Security is running out, and after 2017 there will no longer be more money coming in from taxes than is required for benefits.

If you remember the red chart, that is where very deeply we go into some other form of financing Social Security.

So some people have said, Should we turn Social Security into a welfare program? Should we just make the rich pay in and more greatly reduce or not pay benefits to rich retirees? Well, even the unions have suggested this is a dangerous direction to go because most of us in America think that we are going to make it and to have the government say, look, we are going to mandate that you save for your retirement but if you are successful and work hard and invest, then we are not going to give it to you after all, would decrease the problem for a Social Security system.

It is not working as a welfare system because we are not giving those people that really need it enough, and it is not working as a system to tax the rich simply because we give higher income earners a greater retirement benefit in the end, even though it is very progressive. That means if you are lower income, you are going to make 95 percent of what you were making on average when you were working. However, if you are a high-income retiree making a very large salary, you can get as little as 15 percent on average of what you were making during your working years back as a Social Security benefit.

Here is what we have done. Here is a chart that does not show earlier years. It does not show what some have suggested for future years. But it shows, it demonstrates not the reduction in benefits, and I should make a chart on that, how we have reduced benefits, and you reduce benefits trickily, because if you are a politician you do not want your voters scolding you, so we simply do things like we are reducing the COLA by a little bit or we are increasing the retirement age. Of course, that is what we did in the 1983 program. We said we are going to start increasing the retirement age. That means reducing benefits. Or we are going to index benefits, instead of wage inflation, we are going to index them to CPI, just plain inflation.

You can reduce benefits, but in the long run we need a transition from a fixed benefit program to a market-oriented program that is also going to help the economy.

In 1940 we had a 2 percent tax on the first $3,000 for a maximum tax for any American worker of $60. By 1960 we saw the working population go down in comparison to the number of retirees, and we upped not only the rate but we upped also the base so the maximum taxes for any one year was $288. By 1980 we increased the rate to 10.16 percent on the first $26,000, $25,900; and by the year 2000, the 1983 changes we had indexed the base up to $76,200. Now that based is 84,000 with a 12.4 percent tax.

The next chart shows the number of American workers that pay more in the Social Security tax than they do in the income tax, and that is a current debate. So right now the percentage of families that pay more in the Social Security tax than they do in the income tax is 78 percent. Seventy-eight percent of American workers pay more in the Social Security tax than they do in the income tax. And so to think that we can accommodate this problem with solutions that simply raise taxes on American workers, I think should be out of the question.

Personal retirement accounts, they do not come out of Social Security. They have become part of your Social Security retirement benefits. A worker will own his or her own retirement account, and it is limited to safe investments that will earn more than the 1.9 percent paid by Social Security.

How do we get Congress interested in dealing with this problem? And the reason politicians are not interested in solving Social Security is because if you are a Republican, the Democrats go back home the next election and they demagog the issue saying that I am trying to ruin Social Security. Vote him out of office, and vote me in and I will save your Social Security.

The only way to save Social Security is two ways: either increase revenues or reduce benefits. Maybe a third way is a combination of the two. It is not complicated. We have got to do one or the other, and what I am suggesting is that we increase revenues by a better return on investments.

Findings of the House Budget Task Force on Social Security that I chaired a couple of years ago are that guaranteed return securities and annuities can be used with personal as part of an investment safety net.

So we can have companies that are now willing to offer a greater return than the 1.6 or 1.7 percent depending on how much you earn that is given by Social Security, companies that will guarantee that they will give you better than what Social Security is offering as far as an investment.

A universal Social Security survivor and disability benefit program needs to be maintained. And let me just stress that point. Some people have said, well, Social Security is sort of an insurance policy against getting injured on the job or if you happen to die, benefits for survivors. No suggestion of any Social Security proposal that I or any other Members have introduced do anything to touch the insurance part of that program. The injury and survivor benefit insurance program should be maintained and is going to be maintained.

Congress should consider paying for a portion of disability benefits for workers who have been in the system a short time using monies from the general fund. And I agree. We need to. In fact, the legislation that I am offering next week will have an additional amount contributed by government to their personal savings investment account for workers that are earning less than $34,000 a year. That is so some of these individuals may very well have more money in retirement than they did in their working years.

The six principles of saving Social Security: protect current and future beneficiaries, allow freedom of choice; and freedom of choice, my bill and most every other bill that has been introduced says it is going to be voluntary. You do not have to have private investments accounts you earn, but you have the option of having those accounts. And what we will be announcing at the press conference next week is we have a provision where we can guarantee a greater return than Social Security is now paying retirees. Makes Americans better off not worse off, it creates a fully funded system, and no tax increases.

This is a challenge that we need to deal with. Because of past demographic realities and in order to pay promised benefits, government has too often responded by either increasing taxes or slowly but relentlessly decreasing benefits. It is not fair to current retirees, it is not fair to future retirees to start reducing those benefits. And it is not fair to current or future workers to say we are going to continue to tax you more because we have not adequately planned for the kind of demographics that we are challenged with in Social Security.

Again, let me reemphasize that a country like France that now taxes 51 percent of what that individual worker earns is simply money that effectively comes out of that business operation and that they have to pay for by reducing the wages they pay to employees or by increasing the price that they charge customers that might buy their particular product. So for the three goals that I think we all should agree on, let us have changes that do not reduce benefits for current retirees. Let us develop the kind of changes that are going to keep the program solvent, that are going to increase the benefits for current and future workers as far as their potential increase in retirement income; and let us have a program that is going to help the economy of the United States.

□ 2145

That means savings and investments, to allow those savings and investments to expand our research efforts and expand the kind of products that we develop that people want to buy and to increase our productivity in this country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. ROYBAL-ALLARD (at the request of Ms. PELOSI) for today and the balance of the week on account of illness in the family.

Ms. WOOLSEY (at the request of Ms. PELOSI) for today through September 12 on account of medical reasons.

Mr. JANKLOW (at the request of Mr. DELAY) for today and the balance of the week on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mrs. BLACKBURN, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today and September 4.

Mr. BURTON of Indiana, for 5 minutes, September 4, 5, and 9.

Mr. MCCOTTER, for 5 minutes, September 4 and 5.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 523. An Act to make technical corrections to laws relating to Native Americans, and for other purposes; to Committee on Resources.

S. 926. An Act to amend section 5379 of title 5, United States Code, to increase the annual and aggregate limits on student loan repayments by Federal agencies to Committee on Government Reform.

S. 1547. An act to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State; to Committee on Energy and Commerce.

S. 1571. An act to increase the Federal Housing Administration mortgage commitment level to carry out the purposes of section 203(b) of the National Housing Act; to Committee on Financial Resources.

S. Con. Res. 25. Concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes; to Committee on Government Reform.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore Mr. TOM DAVIS of Virginia on August 1, 2003:

H.R. 1018. An act to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building".

H.R. 1761. An act to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the "Garner E. Shriver Post Office Building".

H.R. 2465. An act to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted.

H.R. 2859. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2003.

Also, Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore Mr. BARTLETT of Maryland on August 5, 2003:

H.R. 1412. An act to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency.

H.R. 2195. An act to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

H.R. 2738. An act to implement the United States-Chile Free Trade Agreement.

H.R. 2739. An act to implement the United States-Singapore Free Trade Agreement.

H.R. 2854. An act to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1435. An act to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on August 7, 2003, he presented to the President of the United States, for his approval, the following bills.

H.R. 1018. To designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building".

H.R. 1412. To provide the Secretary of Education with specific waiver authority to respond to a war on other military operation or national emergency.

H.R. 1761. To designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the "Garner E. Shriver Post Office Building".

H.R. 2195. To provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

H.R. 2465. To extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted.

H.R. 2854. To amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

H.R. 2859. Making emergency supplemental appropriations for the fiscal year ending September 30, 2003.

Also, Jeff Trandahl, Clerk of the House reports that on August 22, 2003, he presented to the President of the United States, for his approval, the following bills.

H.R. 2738. To implement the United States-Chile Free Trade Agreement.

H.R. 2739. To implement the United States-Singapore Free Trade Agreement.

ADJOURNMENT

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Thursday, September 4, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3639. A letter from the Administrator, FSIS, Department of Agriculture, transmitting the Department's final rule—Changes in Fees for Meat, Poultry, and Egg Products Inspection Services—Calendar Year (CY) 2003 [Docket No. 02-034F] (RIN: 0583-AC94) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3640. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Revision of Varietal Types [Docket No. FV03-989-6 IFR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3641. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Dried Prunes Produced in California; Temporary Suspension of the Mandatory Outgoing Prune Inspection and Quality Requirements, and Modification of the Undersized Prune Disposition Requirements Under the Marketing Order; and Suspension of the Prune Import Regulation [Docket No. FV03-993-3 IFR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3642. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Kiwifruit Grown in California; Relaxation of Pack Requirements [Docket No. FV03-920-1 FR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3643. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Reduction in Additional Storage Payments Regarding Reserve Raisins Intended for Use as Cattle Feed [Docket No. FV03-989-7 IFR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3644. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Dried Prunes Produced in California: Decreased Assessment Rate [Docket No. FV03-993-4 IFR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3645. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Grapefruit and Oranges (Texas and States Other than Florida, California, and Arizona); Grade Standards [Docket Number FV-00-304] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3646. A letter from the Secretary, Department of Agriculture, transmitting a copy of the Department's draft bill entitled, "Packers and Stockyards Licensing Fee Act of 2003"; to the Committee on Agriculture.

3647. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 2,6-Diisopropylnaphthalene; Temporary Tolerances [OPP-2003-0127; FRL-7321-6] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3648. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hydramethylnon; Pesticide Tolerance [OPP-2003-0251; FRL-7319-5] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3649. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tralkoxydim; Time-Limited Pesticide Tolerance [OPP-2003-0180; FRL-7315-9] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3650. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Diallyl Sulfides; Exemption from the Requirement of a Tolerance Correction [OPP-2003-0134; FRL-7320-5] received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3651. A letter from the Deputy Associate Administrator, Envrionmental Protection Agency, transmitting the Agency's final rule — Spinosad; Pesticide Tolerances for Emergency Exemptions [OPP-2003-0207; FRL-7317-3] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3652. A communication from the President of the United States, transmitting notification of the intention to reallocate funds previously transferred from the Emergency Response Fund; (H. Doc. No. 108–116); to the Committee on Appropriations and ordered to be printed.

3653. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement Vice Admiral John J. Grossenbacher, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

3654. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Multiyear Procurement Authority for Environmental Services for Military Installations [DFARS Case 2003-D004] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3655. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Buy-to-Budget Acquisition of End Items [DFARS Case 2002-D036] received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3656. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Charles S. Mahan, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3657. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Community and Economic Devleopment Entities, Community Development Projects, and Other Public Welfare Investments [Docket No. 03-20] (RIN: 1557-AC09) received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3658. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Removal, Suspension, and Debarment of Accountants From Performing Audit Services: Department of the Treasury, Office of the Comptroller of the Currency [Docket No. 03-XX] (RIN: 1557-AC01); Board of Governors of the Federal Reserve System [Docket No. R-1139]; Federal Deposit Insurance Corporation (RIN: 3064-AC57); Department of the Treasury, Office of Thrift Supervision (RIN: 1550-AB53) received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3659. A letter from the Assistant General Counsel (Banking & Finance), Department of the Treasury, transmitting the Department's final rule — Terrorism Risk Insurance Program (RIN: 1505-AA96) received August 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3660. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Public Housing Capital Fund Program Obligation and Expenditure of Funds [Docket No. FR-4507-F-02] (RIN: 2577-AC16) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3661. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Republic of Panama pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

3662. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Bahrain pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

3663. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule —

Broker-Dealer Exemption from Sending Certain Financial Information to Customers [Release No. 34-48272; File No. S7-48-02] (RIN: 3235-AI68) received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3664. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (NIDRR) (RIN: 1820-ZA17) received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3665. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (NIDRR) (RIN: 1820-ZA18) received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3666. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (NIDRR) (RIN: 1820-ZA24) received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3667. A letter from the Assistant Secretary, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (NIDRR) (RIN: 1820-ZA17) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3668. A letter from the Assistant Secretary, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (NIDRR) (RIN: 1820-ZA18) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3669. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled "Office of Juvenile Justice and Delinquency Prevention (OJJDP) Annual Report 2001," pursuant to 42 U.S.C. 5617 and 42 U.S.C. 5601; to the Committee on Education and the Workforce.

3670. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule — Alternate Locking Devices for Plug and Receptacle-Type Connectors on Mobile Battery-Powered Machines (RIN: 1219-AA98 (Phase 10)) Recived August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3671. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Report for Fiscal Year 2002; to the Committee on Education and the Workforce.

3672. A letter from the Chairperson, National Council on Disability, transmitting the Council's report entitled "National Disability Policy: A Progress Report" December 2001 thru December 2002, pursuant to 29 U.S.C. 781(a)(8); to the Committee on Education and the Workforce.

3673. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3674. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "Mild Traumatic Brain Injury (MTBI) in the United States: Steps to Prevent a Serious Public Health Problem" dated July 2003; to the Committee on Energy and Commerce.

3675. A letter from the Trial Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule — Confidential Business Information [Docket No. NHTSA-02-12150; Notice 2] (RIN: 2127-AI13) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3676. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulation to Prevent and Control Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchanges [WV041/046-6015a; FRL-7525-2] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3677. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agnecy's final rule — Approval and Promulgation of Implementation Plans; Revisions to Florida State Implementation Plan: Transportation Conformity Rule [FL-078-200335(a); FRL-7541-9] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3678. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [MO 188-1188a; FRL-7542-3] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3679. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Commonwealth of Kentucky and Jefferson County, Kentucky [KY-200334(a); FRL-7542-6] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3680. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting fhe Agency's final rule — Hazardous Waste Management System; Exclusion for Indentifying and Listing Hazardous Waste and A Determination of Equivalent Treatment; Final Exclusion [SW-FRL-7541-7] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3681. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List [FRL-7542-7] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3682. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District [CA 172-0276a; FRL-7524-7] received August 6, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3683. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan [GA-60, GA-61-200332(a); FRL-7543-9] received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3684. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program — Revised Final Standards for the Acceleration Simulation Mode Exhaust Emissions Test [PA 207-4213; FRL-7544-7] received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3685. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Arizona; Nevada [AZ NV-095-NEGDECa; FRL-7534-8] received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3686. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — New Mexico: Incorporation by Reference of Approved State Hazardous Waste Management Program [FRL-7479-5] received August 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3687. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Forsyth County, North Carolina Update to Materials Incorporated by Reference [NC-200317; FRL-7524-4] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3688. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Visible Emissions and Sulfur Dioxide Testing Regulations [MD140-3094a; FRL-7523-7] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3689. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Regulations [OH155-3; FRL-7539-4] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3690. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to Pittsburgh-Beaver Valley Area Ozone Maintenance Plan [PA206-4212a; FRL-7524-9] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3691. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Operating Permits Program; State of Kansas [KS 189-1189a; FRL-7540-7] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3692. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Part 71 Federal Operating Permits Program for California Agricultural Sources, Announcement of a New Deadline For Application Submittal [CA 098-NOA; FRL-7537-1] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3693. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Reconsideration [Docket No. A-90-37; FRL-7538-1; E-Docket ID No. A-2001-0004 (Legacy Docket ID No. A-90-37)] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3694. A letter from the Acting General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Standardization of Generator Interconnection Agreements and Procedures [Docket No. RM02-1-000] received August 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3695. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Hydroelectric Licensing under the Federal Power Act [Docket No. RM02-16-000; Order No. 2002] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3696. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Adjustment of the Maximum Retrospective Deferred Premium (RIN: 3150-AH23) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3697. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 14-03 which informs of intent to sign Amendments Number three and four to the Arrow System Improvement Program (ASIP) Memorandum of Agreement (MOA) between the United States and Israel, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

3698. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting a report prepared by the Department of State concerning international agreements other than treaties entered into by the United States be transmitted to the Congress within a sixty day period specified in the Case-Zablocki Act, pursuant to 1 U.S.C. 112b(b); to the Committee on International Relations.

3699. A communication from the President of the United States, transmitting a notice of continuation of national emergency beyond August 17, 2003 declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979. pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108–110); to the Committee on International Relations and ordered to be printed.

3700. A communication from the President of the United States, transmitting a final report concerning the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order No. 12865 of September 26, 1993, pursuant to 50 U.S.C. 1641(c); to the Committee on International Relations.

3701. A communication from the President of the United States, transmitting a report on the national emergency with respect to Sierra Leone and Liberia that was declared in Executive Order 13194, of January 18, 2001 and expanded in scope in Executive Order 13213, of May 22, 2001 also to implement the "Clean Diamond Trade Act," Public Law 108-19, pursuant to 50 U.S.C. 1703(b) and 50 U.S.C. 1631; (H. Doc. No. 108–114); to the Committee on International Relations and ordered to be printed.

3702. A communication from the President of the United States, transmitting six month periodic report on the national emergency with respect to Sierra Leone and Liberia that was declared in Executive Order 13194, of January 18, 2001 and expanded in scope in Executive Order 13213, of May 22, 2001. pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 108–115); to the Committee on International Relations and ordered to be printed.

3703. A communication from the President of the United States, transmitting a six month periodic report on the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 108–117); to the Committee on International Relations and ordered to be printed.

3704. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to Iraq is to continue in effect beyond August 2, 2003, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108–118); to the Committee on International Relations and ordered to be printed.

3705. A communication from the President of the United States, transmitting the text of a proposed Agreement for Cooperation within the context of the North Atlantic Treaty Organization (NATO) between the United States and the Czech Republic, the Republic of Hungary, the Republic of Poland and Spain, pursuant to 42 U.S.C. 2153(b); (H. Doc. No. 108–119); to the Committee on International Relations and ordered to be printed.

3706. A letter from the Under Secretary, Department of Defense, transmitting a copy of Transmittal No. 16-03 which informs of an intent to sign a Memorandum of Understanding (MOU) between the United States and the United Kingdom for the Development, Documentation, Production and Initial Fielding of Advanced Extremely High Frequency (AEHF) Military Satellite Communications (MILSATCOM), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

3707. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 15-03 which informs you of our intent to sign Amendment Number One to the Swedish Technology Research Development Projects (TRDP) Memorandum of Agreement (MOA) between the United States and Sweden, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

3708. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Japan (Transmittal No. DDTC 066-03), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

3709. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Canada (Transmittal No. DDTC 082-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3710. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Russia (Transmittal No. DDTC 076-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3711. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United Arab Emirates (Transmittal No. DDTC 048-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3712. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2003-28 entitled, "Waiver Prohibition on United States Military Assistance to Parties to the Rome Statute Establishing the International Criminal Court"; to the Committee on International Relations.

3713. A communication from the President of the United States, transmitting an additional report, consistent with the War Powers Resolution to keep the Congress informed on clashes between Liberian government and rebel forces in the vicinity of the United States Embassy in Monrovia, Liberia, to augment the United states Embassy security forces and to aid in the evacuation of United states citizens from Liberia if required; (H. Doc. No. 108–112); to the Committee on International Relations and ordered to be printed.

3714. A communication from the President of the United States, transmitting a report including matters relating to post-liberation Iraq as consistent with the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243); (H. Doc. No. 108–120); to the Committee on International Relations and ordered to be printed.

3715. A communication from the President of the United States, transmitting notification to expand the scope of the national emergency declared in Executive Order No. 13303 of May 22, 2003 with respect to the blocking of property of the former Iraqi Regime, it's Senior Officials and their family members, and taking certain other actions, pursuant to 50 U.S.C. 1703(b) and 50 U.S.C. 1631; (H. Doc. No. 108–122); to the Committee on International Relations and ordered to be printed.

3716. A letter from the Arms Control and Disarmament Agency, transmitting Annual report, pursuant to 22 U.S.C. 2590; to the Committee on International Relations.

3717. A letter from the Director, Defense Security Cooperation Agency, transmitting the quarterly reports in accordance with Sections 36(a) and 26(b) of the Arms Export Control Act; to the Committee on International Relations.

3718. A letter from the Deputy Chief Counsel (Foreign Assets Control), Department of the Treasury, transmitting the Department's final rule — Rough Diamonds (Sierra Leone & Liberia) Sanctions Regulations; Rough Diamonds Control Regulations — received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3719. A letter from the Director, Bureau of the Census, Department of Commerce, transmitting the Department's final rule — Automated Export System Mandatory Filing for Items on the Commerce Control List (CCL) and the United States Munitions List (USML) that Currently Require a Shipper's Export Declaration (SED) [Docket Number 010622161-3092-03] (RIN: 0607-AA34) received August 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3720. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's annual report entitled "Report to Congress on Arms Control, Nonproliferation and Disarmament Studies Completed in 2002," pursuant to 22 U.S.C. 2579; to the Committee on International Relations.

3721. A letter from the Secretary, Department of Commerce, transmitting the Inspector General's semiannual report to Congress for the reporting period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

3722. A letter from the Comptroller General, General Accounting Office, transmitting a report on the Month in Review: June 2003 Reports, Testimony, Correspondence, and Other Publications, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

3723. A letter from the Human Resource Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3724. A letter from the General Counsel, Executive Office of the President, transmitting report on federal vacancy confirmed in Senate, position of Deputy Director, Office of Management and Budget; to the Committee on Government Reform.

3725. A communication from the President of the United States, transmitting an alternative plan for across-the-board and locality pay increases payable to civilian Federal employees covered by the General Schedule (GS) and certain other pay systems in January 2004, pursuant to 5 U.S.C. 5305(a)(3); (H. Doc. No. 108–121); to the Committee on Government Reform and ordered to be printed.

3726. A letter from the Director of Compensation and Benefits, AgFirst Farm Credit Bank, transmitting the annual reports of Federal Pension Plans Required by Public Law 95–595 for the plan year January 1, 2002, through December 31, 2002, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

3727. A letter from the Director, Bureau of the Census, Department of Commerce, transmitting the Department's final rule — Amendments to Age Search Procedures [Docket Number 010828220-3161-02] (RIN: 0607-AA24) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3728. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3729. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3730. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3731. A letter from the Secretary, Department of Transportation, transmitting the Secretary's Management Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period ending March 31, 2003, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

3732. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3733. A letter from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting report on vacancy in Senate confirmed position; to the Committee on Government Reform.

3734. A letter from the General Counsel, Executive Office of the President, transmitting report on federal vacancy confirmed in Senate, position of Director, Office of Management and Budget; to the Committee on Government Reform.

3735. A letter from the General Counsel, Federal Housing Finance Board, transmitting the Board's final rule — Amendments to the Description of Organization and Functions Regulation [No. 2003-09] (RIN: 3069-AB25) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3736. A letter from the General Counsel, Federal Housing Finance Board, transmitting the Board's final rule — Privacy Act and Freedom of Information Act; Implementation [No. 2003-08] (RIN: 3069-AB07) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3737. A letter from the Director, Office of Government Ethics, transmitting the Office's inventories of Commercial and Inherently Governmental Activities for Year 2003 as pursuant to the Federal Activities Inventory Reform Act, pursuant to Public Law 105–270; to the Committee on Government Reform.

3738. A letter from the Architect of the Capitol, transmitting a report entitled "Architect of the Capitol Injury and Illness Analysis Report Quarterly Update FY03 Quarter 2"; to the Committee on House Administration.

3739. A letter from the Chair, Office of the General Counsel, Federal Election Commission, transmitting the Commission's final rule — Public Financing of Presidential Candidates and Nominating Conventions [Notice 2003-12] received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

3740. A letter from the Assistant Secretary, Land and Minerals Management, Departent of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Documents Incorporated by Reference--API RP 14F and API RP 14FZ (RIN: 1010-AC89) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3741. A letter from the Assistant Secretary for Fish and Wildlife, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Establishment of Three Additional Manatee Protection Areas in Florida (RIN: 1018-AJ06) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3742. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Montana Regulatory Program [MT-023-FOR] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3743. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Pennsylvania Regulatory Program [PA-137-FOR] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3744. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska [Docket No. 021122286-3036-02; I.D. 072303B] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3745. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska [Docket No. 021122286-3036-02; I.D. 072803B] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3746. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 021212307-3037-02; I.D. 072903A] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3747. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area [Docket No. 021212307-3037-02; I.D. 073003B] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3748. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands [Docket No. 021212307-3037-02; I.D. 071503C] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3749. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #1 — Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon [Docket No. 020430101-2101-01; I.D. 062503A] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3750. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Recreational Measures for the Summer Floudner, Scup, and Black Sea Bass Fisheries; Fishing Year 2003 [Docket No.

030509120-3171-02; I.D. 033103D] (RIN: 0648-AQ32) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3751. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska [Docket No. 021122286-3036-02; I.D. 071803A] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3752. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska [Docket No. 021122286-3036-02; I.D. 071803C] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3753. A letter from the Director, Regulations and Forms Services, Department of Homeland Security, transmitting the Department's final rule — Extension of Validity Period of Approved Form I-600A, Application for Advance Processing of Orphan Petition [CIS No. 2288-03] (RIN: 1615-AB07) received August 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3754. A letter from the Attorney, Office of the General Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Immediate and Continuous Transit Programs [CBP DEC. 03-14] (RIN: 1515-AD36) received August 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3755. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Clarifying of Release Gratuities—Release Transportation Regulations to More Closely Conform to Statutory Provisions [BOP-1108-I] (RIN: 1120-AB21) received June 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3756. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report regarding certain settlements and injunctive relief as required by Section 202(a)(1)(c) of Public Law 107-273, the "21st Century Department of Justice Appropriations Authorization Act," pursuant to Public Law 107–273; to the Committee on the Judiciary.

3757. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — VISAS: Documentation of Nonimmigrants Under the Immigration and Nationality Act-Suspension of Transit Without Visa Program — received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3758. A letter from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting notification that funding under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, will exceed $5 million for the response to the emergency declared on March 27, 2003, for the State of New York as a result of the record/near record snow on February 17-18, 2003, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

3759. A letter from the Director, Federal Emergency Management Agency, transmitting notification that funding under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, will exceed $5 million for the response to the emergency declared on April 9, 2003, for the State of New York as a result of the record/near record snow on March 17-20, 2003, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

3760. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations, Motor Vessel VOC FRONTIER, Blair Waterway, Commencement Bay, Puget Sound, Washington [CGD13-03-006] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3761. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-033] (RIN: 1625-AA00) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3762. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chicago, IL [CGD09-03-200] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3763. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia [CGD-05-03-028] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3764. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, James River, VA [CGD05-03-026] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3765. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-027] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3766. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia [CGD-05-03-025] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3767. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-024] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3768. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia [CGD-05-03-021] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3769. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Ice Conditions, Elk River and Chesapeake and Delaware Canal, Maryland [CGD05-03-020] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3770. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Ice Conditions, Elk River and Chesapeake and Delaware Canal, Maryland [CGD05-03-015] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3771. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-011] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3772. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chesapeake Bay, Hampton Roads, James River, VA [CGD05-03-014] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3773. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-009] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3774. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Military Ocean Terminal Sunny Point, Cape Fear River, Brunswick County, NC [CGD05-03-006] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3775. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC [CGD05-03-005] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3776. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Bogue Sound, Morehead City, NC [CGD05-03-004] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3777. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia [CGD-05-03-002] (RIN: 2115-AA97) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3778. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Bayou LaLoutre, Ycloskey, LA [CGD08-03-013] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3779. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, mile 1060.5 at Fort Lauderdale, Broward County, Florida [CGD07-03-129] (RIN: 1625-AA09) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3780. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Atlantic Ocean, Point Pleasant Beach to Bay Head, New Jersey [CGD05-03-101] (RIN: 1625-AA08) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3781. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; Race Week Miami Super Boat Race, Miami Beach, Florida [CGD07-03-098] (RIN: 1625-AA08) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3782. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Captain of the Port Detroit zone [CGD09-03-399] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3783. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Offshore Gran Prix, Huntington Beach, CA [COTP Los Angeles-Long Beach 03-005] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3784. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Colorado River, Laughlin, Nevada [COTP San Diego 03-025] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3785. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, MO [COTP Paducah-03-014] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3786. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Milwaukee Zone [CGD09-02-501] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3787. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations, Seafair Blue Angels Performance, Lake Washington, WA [CGD13-03-023] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3788. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks display in the Captain of the Port Portland Zone, Colombia River, Astoria, Oregon [CGD13-03-013] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3789. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-050] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3790. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Harley Davidson Motor Company 100th Anniversary Fireworks, Milwaukee, Wisconsin [CGD09-03-224] (RIN: 1625-AA97) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3791. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port Hueneme Harbor, Ventura County, CA [COTP Los Angeles-Long Beach 01-013] (RIN: 1625-AA00 (Formerly RIN: 2115-AA97)) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3792. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; Chesapeake Bay, Maryland and Tributaries [CGD05-03-102] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3793. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland [CGD05-03-103] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3794. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Basic rates and charges on Lake Erie and the navigable waters from Southwest Shoal to Port Huron, MI [USCG-2002-12840] (RIN: 1625-AA74 (Formerly 2115-AG46)) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3795. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Navigation and Navigable Waters—Technical, Organizational, and Conforming Amendments [USCG-2003-15404] (RIN: 1625-ZA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3796. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Regulations: Rockland, Maine [CGD01-02-129] (RIN: 1625-AA01) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3797. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Tall Ships 2003, Navy Pier, Chicago, IL, July 30-August 4, 2003 [CGD09-03-207] (RIN: 1625-AA01) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3798. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Atlantic Ocean, Point Pleasant Beach to Seaside Park, New Jersey [CGD05-03-052] (RIN: 1625-AA08) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3799. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Presidential Visit, New London, CT [CGD01-03-048] (RIN: 1625-AA11) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3800. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones, Security Zones, and Special Local Regulations [USCG-2003-15813] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3801. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; Former President Clinton's Visit, JFK Library, Boston, MA [CGD01-03-052] (RIN: 2115-AA97) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3802. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety; Vietnam Veterans Fireworks 2003, East Haven, CT [CGD01-03-055] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3803. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Summer Music at Harkness Fireworks Display 2003, Waterford, CT [CGD01-03-056] (RIN: 1625-

AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3804. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Godfrey Wedding Fireworks Display, Westport, CT [CGD01-03-058] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3805. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; Ammunition Load, U.S. Coast Guard Integrated Support Center Boston, MA [CGD01-03-077] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3806. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Chesapeake Bay, James River, Williamsburg, Virginia [CGD05-03-041] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3807. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-045] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3808. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Isle of Wight Bay, Ocean City, Maryland [CGD05-03-053] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3809. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Chesapeake Bay, Rappahannock River, Tappahannock, Virginia [CGD05-03-054] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3810. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Hampton Roads, Elizabeth River, VA [CGD05-03-067] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-069] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3812. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-03-070] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3813. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety zone; Patapsco River, Baltimore, Maryland [CGD05-03-071] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3814. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Muskego Lake, Muskegon, MI [CGD09-03-220] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3815. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Charleston, SC [COTP Charleston 03-093] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3816. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. John's River, Jacksonville, Florida [COTP Jacksonville 03-055] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3817. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Cocoa Beach, FL [COTP Jacksonville 03-059] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3818. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Banana River, Cocoa Beach, FL [COTP Jacksonville 03-061] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3819. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Intracoastal Waterway, Fernandina Beach, FL [COTP Jacksonville 03-074] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3820. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Indian River, New Smyrna Beach, FL [COTP Jacksonville 03-096] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3821. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; "Cincinnati Offshore Grand Prix," Ohio River Miles 448.5 to 452.0, New Richmond, OH [COTP Louisville-03-002] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3822. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; McCellan-Kerr Arkansas River Mile 335.3 to 336.3, Sallisaw, OK [COTP Memphis-03-001] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3823. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule -Safety Zone: WCI Communities, Inc. Fireworks, West Palm Beach, FL [COTP Miami 03-065] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3824. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Fort Lauderdale Air & Sea Show, Fort Lauderdale, FL [COTP Miami 03-067] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3825. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Sun Fest West Palm Beach, FL [COTP Miami 03-068] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3826. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 94.0 to 96.0, Above Head of Passes, New Orleans, LA [COTP New Orleans-03-008] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3827. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Lower Mississippi River, Mile Marker 19.0 to 21.0, Above Head of Passes, Port Sulphur, LA [COTP New Orleans-03-009] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3828. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 430.0 to the Gulf of Mexico, Above Head of Passes, LA [COTP New Orleans-03-010] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3829. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Lower Mississippi River, Above Head of Passes, LA [COTP New Orleans-03-011] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3830. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Inner Harbor Navigational Canal, New Orleans, LA [COTP New Orleans-03-012] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3831. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Clearwater Harbor, Florida [COTP Tampa 03-058] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3832. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 403.5 to 404.5, Burlington, IA [COTP St. Louis-03-003] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3833. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, San Francisco, California [COTP San Francisco Bay 03-015] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3834. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Half Moon Bay and vicinity of Pillar Point, California [COTP San Francisco Bay 03-016] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3835. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Half Moon Bay and vicinity of Pillar Point, California [COTP San Francisco Bay 03-018] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3836. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [COTP San Juan 03-063] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3837. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [COTP San Juan 03-084] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3838. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security zone: Savannah River, Savannah, GA [COTP Savannah-03-056] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3839. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-064] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3840. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Brunswick River, Brunswick, GA [COTP Savannah-03-070] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3841. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-077] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3842. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-03-085] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3843. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Savannah River, Savannah, GA [COTP Savannah-03-086] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3844. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Hudson River, Middle Ground Flats, Hudson, NY [CG01-03-015] (RIN: 1625-AA97) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3845. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Town of Branford Annual Fireworks Display, Branford, CT [CGD01-03-032] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3846. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Boston Harbor Fireworks- Armed Forces Network, Boston, Massachusetts [CGD1-03-049] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3847. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY-03-007] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3848. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY-03-008] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3849. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Mile Marker 962 to 963, Grand Chain, IL [COTP Paducah, KY-03-011] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3850. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, Missouri [COTP Paducah, KY-03-012] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3851. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Tennessee River, Mile Marker 446.0 to 475, Chattanooga, TN [COTP Paducah-03-013] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3852. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Delaware Bay and River [COTP PHILADELPHIA 03-018] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3853. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River Mile Marker 0.3 to Mile Marker 0.7, Pittsburgh, Pennsylvania [COTP Pittsburgh-03-003] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3854. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River Mile Marker 0.3 to Mile Marker 0.7, Pittsburgh, Pennsylvania [COTP Pittsburgh-03-004] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3855. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monongahela River Mile Marker 97.5 to Mile Marker 98.5, Star City, West Virginia [COTP Pittsburgh-03-005] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3856. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulf Intracoastal Waterway (GICWW) Mile Marker 319.0 [COTP Port Arthur 03-003] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3857. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Port Arthur Ship Canal, Port Arthur, TX [COTP Port Arthur-03-004] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3858. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port

Arthur Ship Canal, Port Arthur, TX [COTP Port Arthur-03-005] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3859. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Neches River, Port Neches, TX [COTP Port Arthur-03-006] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3860. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Waters Adjacent to National City Marine Terminal, San Diego, CA [COTP San Diego 03-016] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3861. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Waters Surrounding Naval Base Coronado, San Diego, California [COTP San Diego 03-020] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3862. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Colorado River, Between Laughlin Bridge and Davis Dam (This section of the Colorado River divides Arizona and Nevada.) [COTP San Diego 03-021] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3863. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Laughlin, Nevada [COTP San Diego 03-024] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3864. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Suisun Bay, Concord, California [COTP San Francisco Bay 03-006] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3865. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-007] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3866. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; San Francisco Bay, Oakland Inner Harbor, Oakland, California [COTP San Francisco Bay 03-011] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3867. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, Oakland Estuary, Alameda, California [COTP San Francisco Bay 03-012] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3868. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Half Moon Bay and vicinity of Pillar Point, California [COTP San Francisco Bay 03-013] (RIN: 1625-AA00) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3869. A letter from the Assistant Chief Counsel for Regulations, TSA, Department of Homeland Security, transmitting the Department's final rule — Transportation Security Administration Transition to Department of Homeland Security; Technical Amendments Reflecting Organizational Changes [Docket No. TSA-2003-14702; Amendment Nos. 1500-1, 1502-1, 1503-1, 1510-3, 1511-2, 1540-5, 1542-1, 1544-4, 1546-1, 1548-1, 1550-1] (RIN: 1652-AA20) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3870. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sibley, IA [Docket No. FAA-2003-15080; Airspace Docket No. 03-ACE-48] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3871. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kaiser, MO [Docket No. FAA-2003-15076; Airspace Docket No. 03-ACE-44] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3872. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Pocahontas, IA [Docket No. FAA-2003-15077; Airspace Docket No. 03-ACE-45] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3873. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Window Rock, AZ [Docket No. FAA-2003-15299; Airspace Docket No. 03-AWP-9] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3874. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce RB211 Series Turbofan Engines [Docket No. 2000-NE-13-AD; Amendment 39-13200; AD 2003-12-15] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3875. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Airplanes [Docket No. 2003-CE-12-AD; Amendment 39-13204; AD 2003-13-04] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3876. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Iniziative Industriali Italiane S.p.A. Models Sky Arrow 650 TC and 650 TCN Airplanes [Docket No. 2003-CE-11-AD; Amendment 39-13206; AD 2003-13-06] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3877. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Iniziative Industriali Italiane S.p.A. Models Sky Arrow 650 TC and 650 TCN Airplanes [Docket No. 2003-CE-10-AD; Amendment 39-13205; AD 2003-13-05] (RIN: 2120 AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3878. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and 767-300 Series Airplanes [Docket No. 2002-NM-187-AD; Amendment 39-13203; AD 2003-13-03] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3879. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2002-NM-143-AD; Amendment 39-13201; AD 2003-13-01] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3880. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A321-131 Series Airplanes; Equipped with International Aero Engines (IAE) V25()()-A5 Series Engines [Docket No. 2003-NM-134-AD; Amendment 39-13202; AD 2003-13-02] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3881. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2003-NM-02-AD; Amendment 39-13197; AD 2003-12-12] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3882. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. 2001-NM-271-AD; Amendment 39-13194; AD 2003-12-09] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3883. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aeropatiale Model ATR42-200, -300, -320, and -500 Series Airplanes; and Model ATR72-102, -202, -212, and -212A Series Airplanes [Docket No. 2002-NM-331-AD; Amendment 39-13195; AD 2003-12-10]

(RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3884. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-80A1/A3 and CF6-80C2A PMC Series Turbofan Engines [Docket No. 2002-NE-09-AD; Amendment 39-13193; AD 2003-12-08] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3885. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines [Docket No. 97-ANE-05-AD; Amendment 39-13192; AD 2003-12-07] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3886. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145 Series Airplanes [Docket No. 99-NM-98-AD; Amendment 39-13196; AD 2003-12-11] (RIN: 2120-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3887. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. ()HC-()(2,3)(X,V)()—() Series and HA-A2V20-1B Series Propellers with Aluminum Blades [Docket No. 96-ANE-40-AD; Amendment 39-13212; AD 97-18-02R1] (RIN: 2021-AA64) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3888. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30369; Amdt. No. 3059] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3889. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30372; Amdt. No. 3061] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3890. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30373; Amdt. No. 3062] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3891. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA [Docket No. FAA 2002-13362; Airspace Docket No. 02-ASO-7] (RIN: 2120-AA66) received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3892. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Falls City, NE [Docket No. FAA-2003-15256; Airspace Docket No. 03-ACE-49] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3893. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Muscatine, IA [Docket No. FAA-2003-14936; Airspace Docket No. 03-ACE-39] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3894. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rock Rapids, IA [Docket No. FAA-2003-14843; Airspace Docket No. 03-ACE-28] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3895. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D, E4, E5 Airspace; Elizabeth City, NC [Docket No. FAA-15311; Airspace Docket No. 03-ASO-6] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3896. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Tuscaloosa, AL [Docket No. FAA-2003-15360; Airspace Docket No. 03-ASO-7] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3897. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspce; Cambridge, NE [Docket No. FAA-2003-15257; Airspace Docket No. 03-ACE-50] received July 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3898. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials; Miscellaneous Amendments [Docket No. RSPA-02-13773 (HM-218B)] (RIN: 2137-AD73) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3899. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30377; Amdt. No. 3066] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3900. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting Standard Instrument Approach Procedures: Miscellaneous Amendments [Docket No. 30376; Amdt. No. 3065] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3901. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2003-NM-156-AD; Amendment 39-13224; AD 2003-14-05] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3902. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2002-NM-02-AD; Amendment 39-13230; AD 2003-14-11] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3903. A letter from the Paralegal. Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Boeing Model 737-600, 737-700, 737-700C, 737-800, 737-900, 757, and 767 Series Airplanes [Docket No. 2002-NM-282-AD; Amendment 39-13227; AD 2003-14-08] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3904. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Boeing Model 737-200, 737-300, 737-400, 737-500, 737-600, 737-700, 737-800, 737-900, 757-200, and 757-300 Series Airplanes; and McDonnell Douglas Model DC-10-10F, DC-10-30, DC-10-30F, DC-10-40, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. 2003-NM-152-AD; Amendment 39-13223; AD 2003-14-04] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3905. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A-1, 269B, 269C, and TH-55A Helicopters [Docket No. 2002-SW-25-AD; Amendment 39-13217; AD 2003-13-15] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3906. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2003-NM-165-AD; Amendment 39-13225; AD 2003-14-06] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3907. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, and 222U Helicopters [Docket No. 2002-SW-27-AD; Amendment 39-13214; AD 2003-13-13] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3908. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule – Airworthiness Directives; Bell Helicopter Textron Canada Model 206A, 206A-1, 206B, 206B-1, 206L, 206L-1, 206L-3, and 206L-4 Helicopters [Docket No. 2002-SW-01-AD; Amendment 39-13216; AD 2003-13-14] (RIN: 2120-AA64) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3909. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Window Rock, AZ; Correction [Docket No. FAA-2003-15299; Airspace Docket No. 03-AWP-9] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3910. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Falls City, NE [Docket No. FAA-2003-15256; Airspace Docket No. 03-ACE-49] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3911. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Susanville, CA [Docket No. FAA-2003-14848; Airspace Docket No. 03-AWP-5] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3912. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wichita Mid-Continent Airport, KS [Docket No. FAA-2003-15454; Airspace Docket No. 03-ACE-52] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3913. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sioux Center, IA [Docket No. FAA-2003-15455; Airspace Docket No. 03-ACE-53] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3914. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Pocahontas, IA [Docket No. FAA-2003-15077; Airspace Docket No. 03-ACE-45] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3915. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Vinton, IA [Docket No. FAA-2003-15456; Airspace Docket No. 03-ACE-54] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3916. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Red Oak, IA [Docket No. FAA-2003-15078; Airspace Docket No. 03-ACE-46] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3917. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sibley, IA [Docket No. FAA-2003-15080; Airspace Docket No. 03-ACE-48] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3918. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sac City, IA [Docket No. FAA-2003-15079; Airspace Docket No. 03-ACE-47] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3919. A letter from the Attorney, Research and Special Program Administration, Department of Transportation, transmitting the Department's final rule — Pipeline Safety: Producer-operated Outer Continental Shelf Natural Gas and Hazardous Liquid Pipelines that Cross Directly into State Waters [Docket Number RSPA-99-6132; Amdt. Nos. 191-15, 192-92, 195-72] (RIN: 2137-AD42) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3920. A letter from the Attorney, Research and Special Program Administration, Department of Transportation, transmitting the Department's final rule — Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions [Docket No. RSPA-2002-13658 (HM-215E)] (RIN: 2137-AD41) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3921. A letter from the Chief Scientist, National Aeronautics and Space Administration, transmitting the Administration's final rule — Investigation of Research Misconduct [Notice 03-083] (RIN: 2700-AC50) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

3922. A letter from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Conformance with Federal Acquisition Circular (FAC) 2001-14 and Miscellaneous Administrative and Editorial Changes (RIN: 2700-AC72) received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

3923. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 108–111); to the Committee on Ways and Means and ordered to be printed.

3924. A communication from the President of the United States, transmitting notification of his determination that a waiver of the application of subsections (a) and (b) of section 402 of the Trade Act of 1974 with respect to Turkmenistan will substantially promote the objectives of section 402, pursuant to 19 U.S.C. 2432(c) and (d); (H. Doc. No. 108–113); to the Committee on Ways and Means and ordered to be printed.

3925. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the intent to initiate negotiations for a free trade agreement between the United States and the Kingdom of Bahrain, pursuant to Section 2104 (a)1 of the Trade Act of 2002; to the Committee on Ways and Means.

3926. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" rule — Medicare Program; Changes to the Inpatient Rehabilitation Facility Prospective Payment System and Fiscal Year 2004 Rates, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3927. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" rule — Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates [CMS-1470-F] (RIN: 0938-AL89) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3928. A letter from the Chief, Regulations Branch, Bureau of Customs and Border Protection, Department of Homeland Security, transmitting the Department's final rule — Performance of Customs Business by Parent and Subsidiary Corporations [CBP Dec. 03-15] (RIN: 1515-AD14) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3929. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the intent to initiate negotiations for a free trade agreement between the United States and the Dominican Republic, pursuant to Section 2104 (a)1 of the Trade Act of 2002; to the Committee on Ways and Means.

3930. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Dual Consolidated Loss Recapture Events [TD 9084] (RIN: 1545-AY27) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3931. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Life Insurance Contract Defined (Rev. Rul. 2003-95) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3932. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Arbitrage and Private Activity Restrictions Applicable to Tax-exempt Bonds Issued by State and Local Governments; Investment-type Property (prepayment); Private Loan (prepayment) [TD 9085] (RIN: 1545-AY12) received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3933. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Coverdell Education Savings Accounts [Notice 2003-53] received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3934 A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2003-58] received August 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3935. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2003-70) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3936. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Canadian Retirement Plan Trust Reporting [Notice 2003-57] received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3937. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Revision of Income Tax Regulations under Sections 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submissions under the Section 897 and 1445 Regulations [TD 9082] (RIN: 1545-AY24) received August 5, 2003, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3938. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Golden Parachute Payments [TD 9083] (RIN: 1545-AH49) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3939. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural, and Miscellaneous (Rev. Proc. 2003-69) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3940. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Definition of Regulated Investment Company (Rev. Rul. 2003-84) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3941. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Property Transferred in Connection with the Performance of Services (Rev. Rul. 2003-98) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3942. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Rules and Regulations (Rev. Rul. 2003-99) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3943. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2003-61) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3944. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2003-68) received August 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3945. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2003-100) received August 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3946. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Simplified Service Cost Method; Simplified Producation Method [Notice 2003-59] received August 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3947. A letter from the Assistant Secretary for Civil Rights, Department of Education, transmitting the Department's report entitled "Annual Report to Congress" for fiscal years 2001 and 2002; jointly to the Committees on Education and the Workforce and the Judiciary.

3948. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Award of Grants and Cooperative Agreements for the Special Projects and Programs Authorized by the Agency's FY 2003 Appropriations Act — received August 1, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Transportation and Infrastructure and Energy and Commerce.

3949. A communication from the President of the United States, transmitting notification of his determination that an applicable waiver has retroactive effect to January 1, 2003 and will remain in effect until December 31, 2006 as consistant with "The Clean Diamond Trade Act," pursuant to Public Law 108–19; (H. Doc. No. 108–123); jointly to the Committees on Ways and Means and International Relations, and ordered to be printed.

3950. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" rule — Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update [CMS-1469-F] (RIN: 0938-AL90) received July 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on July 25, 2003, the following report was filed on July 30, 2003]

Mr. ISTOOK: Committee on Appropriations. H.R. 2989. A bill making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–243). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on July 25, 2003, the following reports were filed on August 4, 2003]

Mr. BOEHLERT: Committee on Science. H.R. 1085. A bill to make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes; with an amendment (Rept. 108–244, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 2692. A bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974 for fiscal years 2004 through 2006, and for other purposes; with an amendment (Rept. 108–245). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on July 25, 2003, the following report was filed on August 14, 2003]

Mr. BOEHLERT: Committee on Science. H.R. 2608. A bill to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes; with an amendment (Rept. 108–246, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

[Filed on September 3, 2003]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1837. A bill to improve the Federal acquisition workforce and the process for the acquisition of services by the Federal Government, and for other purposes; with an amendment (Rept. 108–117, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 1985. A bill to amend the National Housing Act to increase the maximum mortgage amount limit for FHA-insured mortgages for multifamily housing located in high-cost areas; with an amendment (Rept. 108–247). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 1533. A bill to amend the securities laws to permit church pension plans to be invested in collective trusts (Rept. 108–248). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 234. Resolution condemning bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans (Rept. 108–249). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 292. A bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed (Rept. 108–250). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 233. An act to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System (Rept. 108–252). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 278. An act to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes (Rept. 108-253). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1409. A bill to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes (Rept. 108–254). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1616. A bill to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes (Rept. 108–255). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1651. A bill to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; with an amendment (Rept. 108–256). Referred to the Committee on the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2059. A bill to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes (Rept. 108–257). Referred to the Committee on the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 351. Resolution providing for consideration of the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–258). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[The following action occurred on August 4, 2003]

Pursuant to clause 2 of rule XII the Committee on Government Reform discharged from further consideration. H.R. 1085 referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on August 14, 2003]

Pursuant to clause 2 of rule XII the Committee on Resources discharged from further consideration. H.R. 2608 referred to the Committee on the Whole House on the State of the Union and ordered to be printed.

[The following action occurred on September 2, 2003]

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. H.R. 2535 referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 1658. A bill to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes (Rept. 108–251). Referred to the Private Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[Omitted from the Record of July 25, 2003]

H.R. 2535. Referral to the Committee on Financial Services extended for a period ending not later than September 2, 2003.

[The following action occurred on August 4, 2003]

H.R. 1085. Referral to the Committee on Government Reform extended for a period ending not later than August 4, 2003.

[The following action occurred on August 14, 2003]

H.R. 2608. Referral to the Committee on Resources extended for a period ending not later than August 14, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. BIGGERT (for herself, Mr. SCOTT of Georgia, Mr. HINOJOSA, Mr. ROSS, Mr. SANDERS, Mr. LUCAS of Kentucky, Mrs. MALONEY, Ms. LEE, Mr. BAKER, Ms. HART, Mr. OSE, Mr. KANJORSKI, Mr. GONZALEZ, Ms. HARRIS, and Mr. EMANUEL):

H.R. 2990. A bill to establish a Commission to Educate our Nation's Teachers and Students on Financial Literacy Skills; to the Committee on Education and the Workforce.

By Mr. DREIER:

H.R. 2991. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga County Water District recycling project; to the Committee on Resources.

By Ms. HOOLEY of Oregon:

H.R. 2992. A bill to modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index; to the Committee on Armed Services.

By Mr. KING of New York (for himself, Mrs. MALONEY, Mr. ACEVEDO-VILÁ, Ms. BORDALLO, Mrs. CHRISTENSEN, Mr. FALEOMAVAEGA, and Ms. NORTON):

H.R. 2993. A bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Financial Services.

By Mr. PETERSON of Minnesota:

H.R. 2994. A bill to amend the Small Business Act to prohibit the Administrator of the Small Business Administration from selling loans made by the Administrator under the disaster loan program; to the Committee on Small Business.

By Mr. PETERSON of Minnesota:

H.R. 2995. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month); to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 2996. A bill to amend the Indian Health Care Improvement Act to require that certain technical medical employees of the Indian Health Service be compensated for time during which they are required to be on-call; to the Committee on Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF:

H.R. 2997. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes; to the Committee on Government Reform.

By Mr. YOUNG of Florida:

H.R. 2998. A bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized; to the Committee on Armed Services.

By Mr. CONYERS:

H.J. Res. 67. A joint resolution proposing an amendment to the Constitution of the United States to permit persons who are not natural-born citizens of the United States, but who have been citizens of the United States for at least 20 years, to be eligible to hold the Office of President; to the Committee on the Judiciary.

By Mr. ROGERS of Michigan (for himself and Mr. TIERNEY):

H. Con. Res. 270. Concurrent resolution supporting the goals and ideals of College Savings Month; to the Committee on Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Mr. DAVIS of Illinois, Mr. MCHUGH, Mr. DOGGETT, Mr. CARTER, Mr. CULBERSON, Mr. SESSIONS, Mr. BURTON of Indiana, Mr. PAUL, Mr. GREEN of Texas, Mr. SHAYS, Mr. HALL, Mr. EDWARDS, Mr. BURGESS, Mrs. JONES of Ohio, Mr. TOWNS, Mr. WYNN, Mr. BISHOP of Georgia, Mr. WICKER, Mr. OBERSTAR, Mr. HASTINGS of Florida, Mr. CONYERS, Mr. SWEENEY, Mr. ADERHOLT, Mr. COSTELLO, Mr. FALEOMAVAEGA, Mr. FROST, Ms. JACKSON-LEE of Texas, Mr. SNYDER, Mr. EMANUEL, Mr. BLUNT, Mrs. CAPPS, Mr. WAXMAN, Mr. LANGEVIN, Mr. SKELTON, Mr. SAM JOHNSON of Texas, Mr. BLUMENAUER, Mr. SMITH of Texas, Mr. HENSARLING, Mr. HINOJOSA, Mr. PLATTS, and Mr. BARTON of Texas):

H. Res. 350. A resolution congratulating Lance Armstrong for winning the 2003 Tour de France; to the Committee on Government Reform. considered and agreed to.

By Mr. BISHOP of Georgia (for himself, Mr. THOMPSON of Mississippi, Mr. LEWIS of Georgia, Mr. WYNN, Mr. WATT, Mr. SCOTT of Georgia, Mr. CLYBURN, Mrs. JONES of Ohio, Ms. MILLENDER-MCDONALD, Mr. BALLANCE, Mr. DAVIS of Alabama, Ms. MAJETTE, Mr. CUMMINGS, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, Mr. RUSH, Ms. KILPATRICK, Ms. WATSON, Ms. CORRINE BROWN of Florida, Mr. SCOTT of Virginia, Mr. HASTINGS of Florida, Mr. DEUTSCH, Ms. WATERS, Mr. CONYERS, Mr. MEEKS of New York, Ms. LEE, Mr. JACKSON of Illinois, Mr. FORD, Mr. MEEK of Florida, Mr. OWENS, and Ms. JACKSON-LEE of Texas):

H. Res. 352. A resolution remembering and honoring the March on Washington of August 28, 1963; to the Committee on Government Reform.

By Mr. BURR (for himself, Mr. BALLENGER, Mr. COBLE, Mr. TAYLOR of North Carolina, Mrs. MYRICK, Mr. HOUGHTON, Mr. WILSON of South Carolina, Mr. SCOTT of Georgia, Mr. SIMMONS, Mr. MILLER of North Carolina, Mr. HASTINGS of Washington, Mr. GOODE, Mr. FROST, Mr. BOUCHER, Mr. HAYES, and Mr. JONES of North Carolina):

H. Res. 353. A resolution commending R.J. Reynolds Tobacco Company and its employees for their 33-year relationship with motorsports and their contributions to the sport of stock-car racing; to the Committee on Government Reform.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H. Res. 354. A resolution encouraging nonprofit organizations to increase the number of women and minorities on their governing boards and encouraging Americans to enrich their lives and serve their communities by volunteering to serve on the governing boards of nonprofit organizations; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

190. The SPEAKER presented a memorial of the General Assembly of the State of New York, relative to A legislative resolution memorializing the President of the United States and the United States Congress to compel the federal govenment to federalize

security at New York's Indian Point 1, 2 and 3, for the safety of our generation and future generations; to the Committee on Energy and Commerce.

191. Also, a memorial of the Legislature of the State of Nevada, relative to Assembly Joint Resolution No. 5, memorializing that the Nevada Legislature urge Congress to appropriate just compensation to the State of Nevada for losses of revenue for public education from the impact of land in Nevada held by the Federal Government; to the Committee on Resources.

192. Also, a memorial of the General Assembly of the State of Nebraska, relative to Assembly Joint Resolution No. 6, memorializing that the Nevada General Assembly urge Congress to increase payments in lieu of taxes and make certain other reparations for the detrimental effects of federally held lands in Nevada; to the Committee on Resources.

193. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 26 memorializing the United States Congress to work with the appropriate federal agencies in adopting guidelines on beach maintenance activities as defined in 2003 PA 14 and to encourage the United States Army Corps of Engineers to work cooperatively with property owners on the stewardship of beaches; to the Committee on Transportation and Infrastructure.

194. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 35 memorializing the Congress of the United States to enact legislation giving federal income taxpayers who forego compensated employment in order to remain at home and personally provide care to their children and other dependents a tax benefit comparable to that currently given to wage earners who pay others to provide such care; to the Committee on Ways and Means.

195. Also, a memorial of the General Assembly of the State of Nebraska, relative to Assembly Joint Resolution No. 4, memorializing that the Nevada General Assembly urge President Geoge W. Bush and Congress to support a free trade agreement between the United States and Taiwain; to the Committee on Ways and Means.

196. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 131 memorializing the United States Congress to adopt House Resolution 121 to endorse stronger protections for Lake St. Clair, the Heart of the Great Lakes; jointly to the Committees on Resources and Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under Clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. ISAKSON, Mr. DEMINT, and Mr. JONES of North Carolina.

H.R. 36: Mr. YOUNG of Florida, and Mr. LATOURETTE.

H.R. 58: Mrs. BIGGERT, Mr. MILLER of North Carolina, and Mr. TIERNEY.

H.R. 106: Mr. COX and Mr. WILSON of South Carolina.

H.R. 121: Mr. SANDERS.

H.R. 127: Mr. BOSWELL.

H.R. 141: Mr. MARSHALL.

H.R. 284: Mr. MARKEY, Mrs. HOOLEY of Oregon, Mr. NEUGEBAUER, Mr. MEEHAN, Mr. OSE, and Mr. LUCAS of Kentucky.

H.R. 286: Mr. KIND.

H.R. 299: Mr. ENGEL.

H.R. 303: Mrs. BIGGERT, Mr. ISSA, Ms. JACKSON-LEE of Texas, Ms. DUNN, Mr. TAYLOR of North Carolina, Ms. MCCARTHY of Missouri, and Mr. MCCOTTER.

H.R. 318: Mr. RUSH, Mr. MOORE, and Mr. BOSWELL.

H.R. 338: Mr. PAUL and Mr. FILNER.

H.R. 375: Mr. GREEN of Wisconsin and Mr. WAMP.

H.R. 466: Mr. BACA.

H.R. 476: Mr. THOMPSON of California.

H.R. 569: Mr. INSLEE.

H.R. 571: Ms. PRYCE of Ohio and Mr. DEMINT.

H.R. 580: Mrs. LOWEY and Mr. KING of New York.

H.R. 583: Mr. KING of New York.

H.R. 664: Ms. LORETTA SANCHEZ of California.

H.R. 687: Mrs. BONO.

H.R. 713: Mr. BONNER, Mr. PETERSON of Pennsylvania, Mr. WYNN, and Mr. NETHERCUTT.

H.R. 728: Mr. NEUGEBAUER.

H.R. 792: Mr. VAN HOLLEN.

H.R. 806: Mr. LEWIS of Georgia, Mr. DELAHUNT, Mr. FORD, and Mr. CUNNINGHAM.

H.R. 852: Ms. HOOLEY of Oregon and Mr. MORAN of Virginia.

H.R. 876: Mr. RENZI, Ms. GRANGER, Mr. WILSON of South Carolina, Mr. BURTON of Indiana, and Mr. SWEENEY.

H.R. 886: Mr. FILNER.

H.R. 898: Mr. BURR.

H.R. 931: Mr. RAMSTAD.

H.R. 935: Mr. ANDREWS and Ms. BERKLEY.

H.R. 942: Mr. LEWIS of Kentucky, Mr. BARRETT of South Carolina, and Mr. BOEHLERT.

H.R. 979: Mr. WU.

H.R. 980: Ms. KAPTUR, Mr. CALVERT, Mrs. KELLY, Mr. WOLF, and Mr. ALLEN.

H.R. 983: Mrs. MALONEY.

H.R. 997: Mr. LUCAS of Oklahoma and Mrs. MUSGRAVE.

H.R. 1002: Mr. MARIO DIAZ-BALART of Florida.

H.R. 1004: Mr. GRIJALVA.

H.R. 1083: Mr. DEAL of Georgia and Mr. PRICE of North Carolina.

H.R. 1087: Mr. FALEOMAVAEGA.

H.R. 1097: Mr. CASE.

H.R. 1105: Mr. BACA and Ms. VELÁZQUEZ.

H.R. 1109: Mr. LIPINSKI.

H.R. 1125: Mr. KENNEDY of Minnesota, Mr. ISAKSON, Mr. NEUGEBAUER, Mr. WOLF, Ms. MAJETTE, and Mr. MCINNIS.

H.R. 1131: Mr. ENGLISH, Mr. FROST, Mr. ISRAEL, Mr. OWENS, and Ms. WATSON.

H.R. 1157: Mr. WEXLER, Mr. LEWIS of Georgia, Mr. MEEHAN, and Mr. LARSON of Connecticut.

H.R. 1168: Mr. UDALL of New Mexico.

H.R. 1191: Mr. HYDE.

H.R. 1225: Mr. KENNEDY of Rhode Island, Mr. ANDREWS, Mr. SHAYS, and Ms. SOLIS.

H.R. 1229: Mr. GOODLATTE, Mr. DELAY, and Mr. TAYLOR of North Carolina.

H.R. 1231: Mr. BALLENGER, Mr. YOUNG of Florida, Mr. MATSUI, Mr. LEWIS of California, Mr. STEARNS, Mr. NUNES, Mr. SWEENEY, Mr. BERRY, Mr. REYES, Ms. SOLIS and Mr. LANGEVIN.

H.R. 1245: Mr. TIERNEY.

H.R. 1258: Mr. LARSON of Connecticut.

H.R. 1321: Mr. ROSS.

H.R. 1359: Ms. ESHOO.

H.R. 1372: Mr. HALL, Mr. MCCRERY, and Ms. HARRIS.

H.R. 1374: Mr. UDALL of New Mexico.

H.R. 1376: Mr. EHLERS and Mr. ANDREWS.

H.R. 1414: Mr. FILNER and Mr. CUMMINGS.

H.R. 1425: Mr. DELAHUNT.

H.R. 1472: Ms. HARMAN and Mr. NADLER.

H.R. 1483: Mr. STUPAK and Mr. HONDA.

H.R. 1532: Mr. SHAW, Mr. GRIJALVA, and Mr. THOMPSON of Mississippi.

H.R. 1543: Mr. BARTLETT of Maryland and Mr. BEAUPREZ.

H.R. 1608: Mr. WOLF.

H.R. 1626: Mr. WOLF.

H.R. 1633: Ms. KILPATRICK.

H.R. 1689: Mr. PRICE of North Carolina and Mr. ETHERIDGE.

H.R. 1710: Mr. MCINTYRE.

H.R. 1713: Mr. TIERNEY.

H.R. 1735: Mr. ANDREWS, Mr. DEUTSCH, and Mr. NEY.

H.R. 1746: Mr. MURTHA, Mrs. BIGGERT, Mr. SHAW, Mr. BRADY of Pennsylvania, Mr. INSLEE, Mr. WICKER, Mr. KING of New York, and Mr. CROWLEY.

H.R. 1778: Mr. EHLERS, Mrs. MUSGRAVE, and Mr. CASE.

H.R. 1812: Mr. MILLER of North Carolina, Ms. ESHOO, Mr. DOGGETT, and Mr. TIERNEY.

H.R. 1813: Mr. THOMPSON of California, Mr. SNYDER, Ms. KAPTUR, Mr. KILDEE, and Ms. KILPATRICK.

H.R. 1819: Mr. GORDON, Mr. MOORE, Mr. EHLERS, Mr. SMITH of New Jersey, Mr. PICKERING, Mrs. MCCARTHY of New York, Mr. PALLONE, and Mr. DELAHUNT.

H.R. 1824: Mr. SAXTON, Mr. WILSON of South Carolina, Mr. BARTLETT of Maryland, Mr. JOHNSON of Illinois, Mr. MENENDEZ, Mr. KENNEDY of Rhode Island, and Mr. GREENWOOD.

H.R. 1865: Mr. BAKER and Mr. CUMMINGS.

H.R. 1873: Mr. WAMP.

H.R. 1895: Mr. STARK.

H.R. 1905: Mr. GALLEGLY.

H.R. 1910: Mr. MILLER of North Carolina.

H.R. 1914: Mr. ETHERIDGE, Mr. LEWIS of Georgia, Mr. ENGLISH, Mr. MILLER of North Carolina, Mr. MCINTYRE, Mr. KINGSTON, MR. VAN HOLLEN, Mr. FEENEY, Ms. HARRIS, Mr. CLYBURN, Mr. CARDIN, Mr. GILCHREST, Mr. ISAKSON, Mr. MOLLOHAN, Mr. RAHALL, Mr. SPRATT, Mr. WAXMAN, and Mr. UPTON.

H.R. 1918: Ms. HOOLEY of Oregon.

H.R. 1919: Mr. NEAL of Massachusetts.

H.R. 1929: Mr. PAYNE and Mr. HINOJOSA.

H.R. 1943: Mr. KINGSTON and Mr. LEWIS of Kentucky.

H.R. 1991: Mr. WEXLER.

H.R. 2032: Mr. BELL, Mr. WALSH, and Mr. LEACH.

H.R. 2038: Mr. KIND, Mr. PRICE of North Carolina, and Mr. PASTOR.

H.R. 2045: Mr. HALL, Mr. GREEN of Wisconsin, Mr. CRAMER, and Mr. SULLIVAN.

H.R. 2047: Mr. GERLACH.

H.R. 2060: Mr. WOLF, Ms. KILPATRICK, Mr. HOYER, Mr. GOODE, and Mr. BAKER.

H.R. 2096: Mr. SNYDER, Mr. DEAL of Georgia, Mr. PRICE of North Carolina, Mr. LEWIS of Kentucky, Ms. DUNN, Mr. PUTNAM, Mr. HALL, Mr. BRADLEY of New Hampshire, Mr. GORDON, Ms. BALDWIN, Mr. DICKS, Mr. ABERCROMBIE, Mr. KENNEDY of Rhode Island, Mr. SHUSTER, Mr. ROSS, Mrs. KELLY, Mr. NEAL of Massachusetts, Mr. LOBIONDO, Mr. HINCHEY, Mr. LUCAS of Kentucky, Mr. QUINN, Mr. COSTELLO, and Mr. DEFAZIO.

H.R. 2103: Mr. TIERNEY.

H.R. 2118: Ms. CARSON of Indiana, Mr. CARSON of Oklahoma, Mr. DAVIS of Alabama, Mr. KNOLLENBERG, Mr. GREENWOOD, and Mr. HALL.

H.R. 2157: Mr. GRIJALVA.

H.R. 2181: Ms. CARSON of Indiana, Mr. WALSH, AND Mr. BURTON of Indiana.

H.R. 2198: Mr. GRIJALVA.

H.R. 2208: Mr. VITTER.

H.R. 2214: Mr. GIBBONS.

H.R. 2256: Ms. ESHOO.

H.R. 2269: Mr. BARTLETT of Maryland.

H.R. 2295: Mr. RYAN of Ohio and Mr. ABERCROMBIE.

H.R. 2298: Mr. RANGEL.

H.R. 2318: Mr. CONYERS and Mr. SHERMAN.

H.R. 2327: Mr. BAIRD and Mr. WHITFIELD.

H.R. 2333: Mr. DEAL of Georgia.

H.R. 2340: Mr. SHAYS.

H.R. 2360. Ms. HOOLEY of Oregon.

H.R. 2365. Ms. HART and Mr. FROST.

H.R. 2366: Mr. MATHESON.

H.R. 2370: Mr. SMITH of New Jersey.

H.R. 2379: Mr. ROGERS of Michigan, Mrs. MILLER of Michigan, and Mr. STUPAK.

H.R. 2393: Mr. STRICKLAND.

H.R. 2402: Mr. RYAN of Ohio.

H.R. 2404: Mr. UPTON.

H.R. 2426: Ms. ESHOO.

H.R. 2444: Mr. GOODLATTE and Mr. FOLEY.

H.R. 2452: Mr. ACKERMAN, Mrs. KELLY, Mr. WEINER, Mr. MEEKS of New York, Mr. ISRAEL, Mr. CROWLEY, Mr. FOSSELLA, Mr. ENGEL, Mr. MCNULTY, Mrs. MCCARTHY of New York, Mr. HOUGHTON, Mr. BOEHLERT, Mr. HINCHEY, Ms. SLAUGHTER, Mrs. MALONEY, Mr. SERRANO, Mr. NADLER, Mr. QUINN, Mr. OWENS, Mr. TOWNS, Mr. MCHUGH, Mr. SWEENEY, and Mr. WALSH.

H.R. 2456: Mr. FORD, Mr. FROST, and Mr. INSLEE.

H.R. 2464: Mr. DEUTSCH.

H.R. 2482: Mr. SHAYS.

H.R. 2504: Mr. RANGEL.

H.R. 2505: Ms. KAPTUR and Ms. ESHOO.

H.R. 2517: Mr. COOPER.

H.R. 2524: Ms. ESHOO and Ms. ROS-LEHTINEN.

H.R. 2527: Mr. DOGGETT, Mr. WEXLER, Ms. ESHOO, Mr. SHAYS, Ms. SCHAKOWSKY, and Mr. ALLEN.

H.R. 2536: Mr. WAXMAN.

H.R. 2537: Ms. LEE.

H.R. 2538: Mr. FOLEY, Mr. CRENSHAW, and Mr. BOYD.

H.R. 2545: Mr. MANZULLO.

H.R. 2569: Mr. MILLER of North Carolina, Mr. DAVIS of Tennessee, Mr. MATHESON, and Ms. LEE.

H.R. 2587: Mr. WAMP.

H.R. 2602: Mr. BURTON of Indiana.

H.R. 2620: Mrs. JO ANN DAVIS of Virginia.

H.R. 2622: Mr. SCHROCK, Mr. REYNOLDS, Ms. PRYCE of Ohio, Mr. EMANUEL, and Mr. BEAUPREZ.

H.R. 2625: Mr. MCNULTY, Mr. BOUCHER, Mr. LEVIN, Ms. VELÁZQUEZ, Mr. VISCLOSKY, Mr. BISHOP of New York, Ms. ESHOO, and Mr. LARSEN of Washington.

H.R. 2626: Ms. JACKSON-LEE of Texas and Mr. SANDERS.

H.R. 2655: Mr. MURPHY and Mr. FRANK of Massachusetts.

H.R. 2665: Mr. ABERCROMBIE, Mrs. JONES of Ohio, and Mr. BOEHLERT.

H.R. 2668: Mr. MCHUGH and Mr. RYAN of Ohio.

H.R. 2671: Mr. HUNTER, Mr. EVERETT, Mr. SAM JOHNSON of Texas, Mr. SIMPSON, Mr. BALLENGER, Mr. SULLIVAN, Mr. GRAVES, Mr. MCINTYRE, Mr. TANCREDO, Mr. SHAW, Mr. FEENEY, Mr. DOOLITTLE, Mr. TURNER of Ohio, and Mr. CARTER.

H.R. 2700: Mrs. NAPOLITANO, Mr. ROGERS of Michigan, Mr. BARTON of Texas, and Mr. ROHRABACHER.

H.R. 2705: Mr. SANDLIN, Mr. ISRAEL, Mr. WEXLER, Mr. PASTOR, Mr. GOODE, Mr. SIMPSON, Ms. CARSON of Indiana, Mr. BONILLA, Mr. RANGEL, Mr. WAMP, and Mr. GORDON.

H.R. 2711: Mr. GONZALEZ, Ms. ESHOO, Mr. STRICKLAND, and Mr. NADLER.

H.R. 2722: Mr. DELAHUNT and Mrs. TAUSCHER.

H.R. 2727: Mr. ACKERMAN, Mr. ISRAEL, Mr. LEACH, and Mr. TIERNEY.

H.R. 2732: Mr. BAKER, Mrs. JO ANN DAVIS of Virginia, Mr. WAMP, Mr. HAYES, Mr. WOLF, Mr. RAMSTAD, Mr. NUNES, Mr. ROGERS of Alabama, Mr. GALLEGLY, Mr. FEENEY, Mr. HYDE, Mrs. CUBIN, Mr. BURTON of Indiana, Mr. SULLIVAN, Mr. RENZI, and Mr. FLAKE.

H.R. 2733: Mr. WAMP, Mr. DUNCAN, and Mr. JOHNSON of Illinois.

H.R. 2743: Mr. KINGSTON, Mr. BARRETT of South Carolina, Mr. PAUL, and Mr. BARTLETT of Maryland.

H.R. 2762: Mr. SHIMKUS and Mr. HAYWORTH.

H.R. 2763: Mr. SHIMKUS.

H.R. 2768: Mr. HOEFFEL, Mr. SCHROCK, Mrs. MYRICK, Mr. KINGSTON, Mr. CONYERS, Mr. RANGEL, Mr. DEMINT, Mr. WOLF, Mr. ROGERS of Michigan, Mr. NORWOOD, Mr. MCCOTTER, Mr. TURNER of Texas, Mr. LANGEVIN, Mr. CARTER, Mr. EMANUEL, Mr. BISHOP of Georgia, Mr. DELAHUNT and Mrs. MALONEY.

H.R. 2784: Ms. ESHOO.

H.R. 2792: Ms. LOFGREN.

H.R. 2806: Mr. ROGERS of Alabama.

H.R. 2809: Mr. SNYDER and Mr. NEY.

H.R. 2810: Mr. SNYDER and Mr. NEY.

H.R. 2853: Mr. DELAHUNT, Mr. LYNCH, Mr. CROWLEY, Mr. HONDA, Mr. TIERNEY, and Mr. GRIJALVA.

H.R. 2871: Mr. MATHESON.

H.R. 2883: Mr. FROST.

H.R. 2885: Ms. ROS-LEHTINEN.

H.R. 2891: Mr. CONYERS, Mr. RUPPERSBERGER, and Mrs. MCCARTHY of New York.

H.R. 2899: Mr. CROWLEY.

H.R. 2904: Mr. LARSEN of Washington, Mr. INSLEE, and Mr. DICKS.

H.R. 2929: Mr. SHIMKUS.

H.R. 2945: Mr. NADLER, Mr. HONDA, Mr. LANTOS, Ms. NORTON, and Mr. RODRIQUEZ.

H.R. 2969: Mr. CASE.

H.J. Res. 56: Mr. CULBERSON, Mr. MANZULLO, Mr. OSBORNE, Mr. FEENEY, Mr. LUCAS of Kentucky, and Ms. HART.

H. Con. Res. 56: Ms. HOOLEY of Oregon and Ms. CARSON of Indiana.

H. Con. Res. 111: Mr. HOLT and Mr. CONYERS.

H. Con. Res. 114: Mr. WYNN and Ms. DELAURO.

H. Con. Res. 116: Mrs. MUSGRAVE.

H. Con. Res. 176: Mr. TERRY.

H. Con. Res. 196: Ms. WOOLSEY, Mr. FROST, Mr. ACEVEDO-VILÁ, Mr. SANDERS, Mr. WEXLER, Mr. BELL, Mr. GONZALEZ, Ms. NORTON, Mr. HOEFFEL, Mrs. JONES of Ohio, Mr. AKIN, Mrs. MALONEY, Mr. GRIJALVA, and Mr. MCNULTY.

H. Con. Res. 213: Mr. BLUMENAUER and Mr. UDALL of New Mexico.

H. Con. Res. 242: Mr. WEINER.

H. Con. Res. 247: Mr. FRANK of Massachusetts.

H. Res. 141: Mr. LEWIS of Georgia.

H. Res. 144: Mr. DOYLE.

H. Res. 234: Mr. WAXMAN and Mr. GARY G. MILLER of California.

H. Res. 259: Mr. EVANS.

H. Res. 273: Mr. KING of New York.

H. Res. 313: Mr. ROTHMAN.

H. Res. 325: Ms. WATSON, Mr. ABERCROMBIE, Mr. DEUTSCH, and Mr. BELL.

H. Res. 337: Mr. FROST, Mr. GILLMOR, and Mr. WALSH.

PETITIONS, ETC.

Under clause 3 of rule XII,

38. The SPEAKER presented a petition of Village of Hoffman Estates, Cook and Kane Counties, Illinois, relative to Resolution No. 1201-2003 petitioning the United States Congress that the Village Board endorses support for the Metra Star Line as the locally preferred alternative for providing New transit service within the northwest corridor; to the Committee on Transportation and Infrastructure.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2989

OFFERED BY: MR. DELAHUNT

AMENDMENT NO. 2: Page 157, insert the following after line 2:

SEC. 742. None of the funds made available in this Act may be used to enforce any restriction on remittances to nationals of Cuba or Cuban households, including remittances for emigration expenses, covered by section 515.570 or 515.560(c) of title 31, Code of Federal Regulations, other than the restriction that remittances not be made from a blocked source and the restriction that no member of the payee's household be a senior-level government official or senior-level communist party official.

H.R. 2989

OFFERED BY: MR. FARR

AMENDMENT NO. 3: Page 157, after line 2, insert the following:

SEC. 742. None of the funds made available in this Act may be used to disestablish any pay locality (as defined by section 5302 of title 5, United States Code).

H.R. 2989

OFFERED BY: MR. HASTINGS OF FLORIDA

AMENDMENT NO. 4: Page 5, line 21, after "$45,000,000" insert "(decreased by $45,000,000)".

Page 68, line 11, after "$1,628,739,000" insert "(decreased by $165,000,000)".

Page 91, line 1, after "$495,000,000" insert "(increased by $232,000,000)".

Page 108, line 23, after "$35,914,000" insert "(decreased by $22,000,000)".

H.R. 2989

OFFERED BY: MR. HASTINGS OF FLORIDA

AMENDMENT NO. 5: At the end of the bill (before the short title), insert the following:

SEC. ___. (a) None of the funds appropriated by this Act may be used by the Office of Management and Budget, under OMB Circular A–76 or any other administrative regulation, directive, or policy, to require agencies—

(1) to establish an inventory of inherently governmental activities performed by Federal employees;

(2) to establish or implement any streamlined competition procedures;

(3) to require any follow-on competition; or

(4) to implement the tradeoff source selection process for any activities other than information technology activities.

H.R. 2989

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 6: At the end of the bill (before the short title), insert the following:

SEC. ___. Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $893,000,000.

H.R. 2989

OFFERED BY: MR. HOLT

AMENDMENT NO. 7: Page 2, line 8, after the first dollar amount, insert the following: "(reduced by $2,000,000)".

Page 43, line 22, after the dollar amount, insert the following: "(increased by $2,000,000)".

H.R. 2989

Offered By: Mr. Holt

Amendment No. 8: Page 2, line 8, after the first dollar amount, insert the following: "(reduced by $2,000,000)".

Page 43, line 22, after the dollar amount, insert the following: "(increased by $2,000,000)".

Page 43, line 23, after the dollar amount, insert the following: "(increased by $2,000,000)".

H.R. 2989

Offered By: Ms. Hooley

Amendment No. 9: Page 2, line 8, after the first dollar amount insert the following: "(increased by $500,000)".

Page 83, line 7, after the first dollar amount insert the following: "(reduced by $500,000)".

H.R. 2989

Offered By: Mr. Hoyer of Maryland

Amendment No. 10: Page 2, line 8, after the first dollar amount insert the following: "(increased by $8,268,000)".

Page 5, line 21, after the dollar amount insert the following: "(reduced by $8,268,000)".

H.R. 2989

Offered By: Mr. King of Iowa

Amendment No. 11: Page 106, insert after line 4 the following:

Sec. 511. (a) Section 301(d) of the Help America Vote Act of 2002 (42 U.S.C. 15481(d)) is amended by striking the period at the end and inserting the following: ", or January 1 of the first calendar year which begins after the fiscal year during which the aggregate amount appropriated for all fiscal years for requirements payments under subtitle D of title II is equal to or greater than $3,000,000,000, whichever is later.".

(b) None of the funds appropriated in this Act for requirements payments under subtitle D of title II of the Help America Vote Act of 2002 may be used to obtain any voting system which is not capable of providing a permanent, auditable, and individually verifiable paper record of each vote cast on the system.

H.R. 2989

Offered By: Mr. LoBiondo

Amendment No. 12: Page 10, line 8, after the first dollar amount, insert the following: "(reduced by $2,000,000)(increased by $2,000,000)".

H.R. 2989

Offered By: Mr. LoBiondo

Amendment No. 13: Page 11, line 16, after the first dollar amount, insert the following: "(increased by $39,485,000)".

H.R. 2989

Offered By: Mrs. Maloney

Amendment No. 14: At the end of title II insert the following new section:

Sec. 213.(a) In General.—None of the funds appropriated by this Act may be used to assess or collect any tax liability attributable to the inclusion in gross income of amounts paid (from funds referred to in subsection (b)) to any person as assistance on account of any property or business damaged by, and for economic revitalization directly related to, the terrorist attacks on the United States that occurred on September 11, 2001.

(b) Funds.—The funds referred to in this subsection are amounts appropriated by—

(1) Public Law 107–206 under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Community Planning and Development",

(2) section 434 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Public Law 107–73),

(3) amounts appropriated by Public Law 107-38 and designated by the President for community development block grant purposes, and

(4) amounts appropriated by Public Law 107-117 for the Community Development Fund under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, COMMUNITY PLANNING AND DEVELOPMENT, COMMUNITY DEVELOPMENT FUND".

(c) Coordination with Certain Means-tested Programs.—None of the funds appropriated by this Act may be used to treat amounts to which subsection (a) applies as income or resources for purposes of—

(1) the United States Housing Act of 1937,

(2) title V of the Housing Act of 1949,

(3) section 101 of the Housing and Urban Development Act of 1965,

(4) sections 221(d)(3), 235, and 236 of the National Housing Act,

(5) the Food Stamp Act of 1977, and

(6) the Social Security Act.

H.R. 2989

Offered By: Mr. McHugh

Amendment No. 15: At the end of the bill before the short title, insert the following:

Sec.   . None of the funds made available by this Act may be obligated or expended to establish or implement any essential air service program that requires communities to provide matching funds to be eligible to participate in that program.

H.R. 2989

Offered By: Mr. Quinn

Amendment No. 16:

Page 39, line 1, strike "$900,000,000" and insert "$1,712,000,000".

Page 39, line 2, strike "$400,000,000" and insert "$668,000,000".

Page 39, lines 3 through 6, strike "$373,000,000 for quarterly grants for capital expenses along the Northeast Corridor Mainline, and $127,000,000 for quarterly grants for general capital improvements: *Provided*" and insert "$1,044,000,000 for quarterly grants for capital improvements: *Provided*, That the Secretary shall not obligate more than $544,000,000 for quarterly grants for general capital improvements before October 1, 2004: *Provided further*, That no payments of principal or interest shall be collected during fiscal year 2004 for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822): *Provided further*".

Page 157, after line 2, insert the following new section:

Sec. 742. Each amount appropriated or otherwise made available by this Act for the Department of the Treasury that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 4 percent.

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 17: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 742. None of the funds appropriated by this Act may be used during the appellate process to assist in overturning the judicial ruling contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM).

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 18: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 742. None of the funds appropriated by this Act may be used during the appellate process to participate in judicial proceedings relating to the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM.).

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 19: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 742. None of the funds appropriated by this Act may be used for any activity that is in contravention of the judicial ruling on section 204(b) of the Employee Retirement Income Security Act of 1974, contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM) except with respect to the administration of the Internal Revenue Code.

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 20: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 742. None of the funds appropriated by this Act may be used for any activity that is in contravention of the judicial ruling on section 204(b) of the Employee Retirement Income Security Act of 1974, contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM) except with respect to the administration of section 411(b)(1)(h) of the Internal Revenue Code.

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 21: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec.   . None of the funds appropriated by this Act may be used by the Secretary of the Treasury for any activity to finalize proposed regulations of the Secretary published in the Federal Register on December 11, 2002 (relating to reductions of accruals and allocations because of the attainment of any age; application of nondiscrimination cross-testing rules to cash balance plans) (67 FR 76123), which pertain to plan amendments adopting a cash balance formula.

H.R. 2989

Offered By: Mr. Sanders

Amendment No. 22: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used by the Secretary of the Treasury for any activity to carry out section 9204(e) of Public Law 99-509.

H.R. 2989

OFFERED BY: MR. SANDERS

AMENDMENT NO. 23: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 742. None of the funds appropriated by this Act may be used for any activity that is in contravention of the judicial ruling on section 204(b) of the Employee Retirement Income Security Act of 1974, contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99-829-GPM).

H.R. 2989

OFFERED BY: MR. SESSIONS

AMENDMENT NO. 24: At the end of the bill (before the short title), insert the following:

SEC. 742. None of the funds made available in this Act may be used to operate individual Amtrak routes whose Operating Ratio (defined as expenses divided by revenues, where revenues include State subsidies) is identified as greater than 2.0 in the February 7, 2002, report by the Amtrak Reform Council entitled "An Action Plan For the Restructuring and Rationalization of the National Intercity Rail Passenger System".

H.R. 2989

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 25: Page 17, line 16, after the dollar amount, insert the following: "(increased by $320,000,000)".

Page 39, line 1, after the dollar amount, insert the following: "(reduced by $320,000,000)".

Page 39, line 2, after the dollar amount, insert the following: "(reduced by $120,000,000)".

Page 39, line 3, after the dollar amount, insert the following: "(reduced by $100,000,000)".

Page 39, line 5, after the dollar amount, insert the following: "(reduced by $100,000,000)".

H.R. 2989

OFFERED BY: MS. WATERS

AMENDMENT NO. 26: Page 15, after line 13, insert the following:

SEC. 108. (a) REVIEW.—The Secretary of Homeland Security shall conduct a review of the proposed project for construction of a remote passenger check-in facility at Los Angeles International Airport to determine whether the project as designed will protect the safety and security of air passengers and the general public.

(b) REPORT.—Upon completion of the review, the Secretary shall transmit to Congress and the Administrator of the Federal Aviation Administration a report containing the results of the review.

(c) PROHIBITION.—The Administrator shall not allow construction of the proposed project until such time, if any, as the Secretary has completed the review and determined that the proposed project as designed will protect the safety and security of air passengers and the general public and will offer greater protection than is currently available at the exiting facilities of Los Angeles International Airport.

EXTENSIONS OF REMARKS

IN HONOR OF THE CALVERT COUNTY BOARD OF COMMISSIONERS' RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Calvert County Board of Commissioners. The Calvert County Board of Commissioners received a 2003 Chesapeake Bay Gateways Network Grant to makeover exhibits at a Gateways Network regional information center.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refugees and other sites in five States and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. The Calvert County Board of Commissioners is receiving a grant of $24,520 and $32,289 in partner contributions.

The project proposed by the Calvert County Board of Commissioners will bring about a complete makeover of exhibits at the Solomons Island Visitor Center, a Gateways Network regional information center. Calvert County will design, produce and install a series of interpretive displays on both the inside and outside of the building. Presently the building presents basic information on visitor sites in Southern Maryland. The new elements will enable the center to orient people to particular Gateway sites in the region and introduce visitors to Bay themes and resources in Southern Maryland. Calvert County will contribute labor and funding to match the Gateways grant.

Mr. Speaker, it is with the assistance and vision of organizations such as the Calvert County Board of Commissioners that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Calvert County Board of Commissioners on receiving this grant and wishing them the best of luck in completing their project.

TRIBUTE TO FLORIDA SHERIFF'S OFFICERS

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASCRELL. Mr. Speaker, Mr. ROTHMAN and myself would like to call your attention to six brave officers from the Sumter County and Hernando County Sheriff's Departments who, at great risk to their own lives, pursued and engaged in an exchange of gunfire with a heavily armed suspect accused of shooting and killing a fellow police officer.

On Wednesday, July 23, 2003, the New Jersey Honor Legion honored Sergeant Scott Bierwiler, Sergeant Lanny Corlew, Corporal Lawrence "Bo" Amman, Deputy John Melanson, Sergeant Danny Button, and Deputy Thomas Williams for their valiant actions. It is only fitting that these six Florida Law Officials be honored in this, the permanent record of the greatest freely elected body on earth.

On Thursday, April 17, 2003, while assisting Clifton Police Officer Steven Farrell in a traffic stop, Fair Lawn Police Officer Mary Ann Collura was fatally wounded. The incident sparked what would become an interstate manhunt, culminating three days later with the death of the suspect during a gun battle in Sumter County, Florida.

After fleeing the State of New Jersey following Collura's murder, the suspect traveled via New York State down to Florida. On Sunday, April 20, 2003, Sheriff's officers in Hernando County, Florida, noticed a car matching the description of the suspect's car. When approached by the officers, the vehicle fled, leading six sheriff's deputies from Sumter and Hernando Counties on a 20 mile chase. The chose, during which the suspect repeatedly fired out of the back window of the car, came to an end when the suspect emerged from his car and opened fire at the police officers. The suspect was killed in the subsequent exchange of gunfire.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing the accomplishments of such brave and dedicated individuals as the members of the Sumter County and Hernando County Sheriff's Departments. Their selfless and unquestioning act of heroism is a tribute to the close bond shared by law enforcement officials everywhere. Each of these officers deserves an expression of our immeasurable esteem.

Mr. Speaker, we ask that you join our colleagues, the members of the New Jersey Honor Legion, and us in honoring these brave men.

H.R. 2473

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I intend to vote "no" on H.R. 2473 because it carelessly threatens the safety of American consumers. In a recent hearing before the House Oversight and Investigations Subcommittee, of which I am a member, we heard from numerous individuals including William Hubbard, the Associate Commissioner for Policy and Planning with the Food and Drug Administration. Commissioner Hubbard testified that since late 1996, the FDA has initiated 73 counterfeit drug cases that have netted in 44 arrests and 27 convictions. He further testified that they have seen an increase in drug counterfeiting activity targeting high volume, high cost drugs primarily those used for treating cancer and AIDS patients.

One case, cited by Florida's Assistant Statewide Prosecutor, revealed a 2001 investigation that discovered South Florida criminals had counterfeited Procrit, a drug used to boost the immune systems of cancer and HIV/AIDS patients. The criminals re-labeled approximately 110,000 bottles of low strength Epogen to make the bottles appear to contain high strength Procrit, a drug 20 times the strength of the Epogen in the bottles. The criminals re-sold the relabeled drugs into the wholesale market with forged pedigree papers, passing the drugs through four states. Investigators located 800 boxes of the counterfeit Procrit at a large Texas wholesaler, which had unknowingly purchased the counterfeit Procrit. In addition, investigators found some of the product in Kentucky. In all, investigators recovered less than 10% of the counterfeit Procrit.

In conclusion, "the imported drugs arriving through the mail, through private express couriers, or by passengers arriving at ports of entry are often unapproved new drugs that may not be subject to any reliable regulatory oversight. FDA cannot assure the safety of drugs purchased from such sources," stated Commissioner Hubbard. It is for these reasons that I can not support such legislation that we have no way of knowing of its content or origin. I am firmly committed to continuing efforts to reduce the out-of-pocket costs for pharmaceuticals for all Americans but H.R. 2473 and drug reimportation without any safety measures is the wrong approach.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO ROOTS OF PEACE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. LEE. Mr. Speaker, Ms. ESHOO, Ms. PELOSI, Ms. TAUSHER, Ms. WOOLSEY and myself honor Roots of Peace, a humanitarian organization dedicated to fostering prosperity in the spirit that turns swords into plowshares.

Since its founding in 1997 by Ms. Heidi Kuhn, Roots of Peace has worked towards the global eradication of landmines, sowing seeds of goodwill by transforming "mines into vines." In communities throughout the world, Roots of Peace restores hope and prosperity by replacing toxic minefields that maim and kill with blossoming vineyards and fields of grain.

Understanding that landmines impact not only individual victims and their families, but hold entire communities hostage emotionally, environmentally, and economically, Roots of Peace implements comprehensive and lasting solutions. The organization has waged its campaign against landmines on four fronts: awareness, removal, treatment, and restoration.

Landmines maim or kill approximately 26,000 people each year, 10,000 of them children. Lurking patiently beneath the earth's surface, mines can wait almost indefinitely for their victims. Today, an estimated 70 million mines in over 70 nations are waiting for a mere eight pounds of pressure to detonate. These indiscriminate weapons of terror neither know nor care if that pressure is applied by the boot of a marching soldier or the bare foot of a playing child.

The successful removal of these gruesomely destructive weapons is both dangerous and costly. In contrast to the three dollars required to manufacture and plant a landmine, its removal can cost up to 1,000 dollars. Since its inception, Roots of Peace has worked tirelessly garnering the resources necessary to rid vast expanses of land of the mines that keep them lying fallow and transform them into thriving farmland.

This summer alone, Roots of Peace is planting rice in Cambodia, orchards in Croatia, and grapes in Afghanistan. Also, in a particularly poignant expression of hope for a lasting peace, Roots of Peace will be planting wheat in Iraq, bringing the dream of neighbors in this war-torn country breaking bread together closer to fruition.

We ask all of our colleagues to join us in commending Roots of Peace for their outstanding work which saves lives and restores livelihoods in communities around the world.

HONORING MARY LAVERONI

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Mary Laveroni for her 50 years of service with Groveland Community Service District and her other contributions to the community of Groveland. She will be honored at a ceremony on August 19th to dedicate Groveland's Wayside Park as Mary Laveroni Community Park.

Laveroni has shown continuous involvement and commitment to the Groveland community. She was one of three founding directors who formed the Groveland Community Service District in 1953 to address the area's water problems. She served on its board for a total of 26 years, 18 as Board President. Along with fellow board members, Laveroni helped secure a reliable and low cost water supply from San Francisco's Hetch Hetchy project. Today, the Groveland Community Service District handles not only the area's water needs by providing wastewater collection and treatment, but also park maintenance, fire and rescue and other vital services to the community.

Laveroni's contributions to her community go beyond the formation of the services district. Mary is responsible for donating the land and financing the construction of the Groveland Medical Clinic. She also served for 17 years in the U.S. Forest Service.

Mr. Speaker, I rise today to recognize Mary Laveroni for her contributions to the Groveland community. I invite my colleagues to join me in honoring Mary for her continual service and years of dedication.

IN HONOR OF CAPTAIN TIMOTHY McHENRY

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. ESHOO. Mr. Speaker, I rise to honor Captain Timothy McHenry who has served with distinction in the San Mateo County Sheriff's Department for almost thirty-seven years and who is now retiring.

Before his career with the Sheriffs Office, Tim McHenry drove an ambulance and served in the Army Reserves. He joined the Sheriff's Office on September 19, 1966 as a Deputy Sheriff, a rank he held for eight years. In this position he was assigned to the patrol unit, the courts and the manpower pool. He took over the Explorer program in 1969, devoting himself to serving the youth of our community. He has earned the many commendations from the five Sheriffs he has served under in his career for his extraordinary leadership and affiliation with Exploring.

Tim McHenry was promoted to Sergeant on October 1, 1974, a rank he held for 23 years. He served as Administrative Sergeant in the Reserve Program and was also active with the Divers, beginning the organization of the Emergency Services Bureau. He developed the Emergency Services Detail, the primary unit within San Mateo County that searches for lost people. He also launched a second Explorer post and the Deputy Cliff Rescue unit which has been responsible for many rescues on the cliffs of San Mateo County.

Tim McHenry developed the search and rescue coordinator position, a 24-hour on-call position for search and rescue, fires, floods, earthquakes and hazardous materials. This program has been expanded to include terrorism response. He initiated the County Commanders' paging system for mutual aid, developed the mobile field force concept for enforcement in mutual aid zones and developed, with the County's police chiefs, the personal protective equipment concept for all law enforcement in San Mateo County.

Tim McHenry has been honored by several Sheriffs for developing STAR camp, a very successful summer camp opportunity for youth in San Mateo County. He brought the Exploring Challenge, a regional Explorer event with competitions and education for teenagers, to San Mateo County in 1996 and 2000.

Tim McHenry was promoted to Lieutenant in March 16, 1977 and to Captain in March, 2002.

Mr. Speaker, I ask my colleagues to join me in honoring Captain Tim McHenry for his extraordinary service to our community spanning almost four decades and in wishing him every blessing in his well-deserved retirement.

IN HONOR OF POINT LOOKOUT STATE PARK'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize Point Lookout State Park and the Maryland Department of Natural Resources. Point Lookout State Park received a 2003 Chesapeake Bay Gateways Network Grant for a project designed to enhance key sites and resources at the park. The Maryland Department of Natural Resources will match the grant.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, State parks, wildlife refuges and other sites in five States and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. Point Lookout State Park is receiving a grant of $39,320 and $39,415 in partner contributions.

The project proposed by Point Lookout State Park and the Maryland Department of Natural Resources will develop a series of up to 14 outdoor interpretive exhibits, or waysides, highlighting key sites and resources at the park. A number of exhibits will focus on Civil War era stories showing how the Chesapeake Bay and the Potomac River played important roles in the war. Additional exhibits will highlight the Point Lookout lighthouse and the lives of lighthouse keepers. With nearly a half million visitors annually, Point Lookout provides a real Bay experience for many people. The new exhibits will greatly expand interpretive information for visitors and share more of the Bay story.

Mr. Speaker, it is with the assistance and vision of organizations such as Point Lookout State Park and the Maryland Department of Natural Resources that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating Point Lookout State Park and the Maryland Department of Natural Resources on receiving this grant and wishing them the best of luck in completing their project.

TRIBUTE TO THE SOUTHERN REGIONAL ROLLER HOCKEY TEAM

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the members of the Southern Regional High School Roller Hockey Team. On Monday, August 4, 2003, New Jersey's Southern Regional High School Rams defeated Georgia's Milton Eagles in the final game of the USA Hockey Inline High School National Roller Hockey Championships held in Alpharetta, Georgia.

Led by Coach Robert Schoka, the Rams were seeded number two in the playoffs with a tournament record of 5–2 when they entered the tournament finals. Their hard-earned victory against the Eagles came in overtime, with a final score of 6–5, allowing the Rams to become the first ever National Championship Team in high school roller hockey history.

In addition to taking home the national championship title, several members of the Rams took home awards for their individual performances during the tournament. Goaltender Kenny Calicchio, who started and finished all eight games in goal, received an award for the Best Goaltender in the tournament for his record of 187 saves on 207 shots made on goal. Donald Cioffi, the third highest scorer in the tournament with eight goals and eight assists, was selected to the All-Tournament Team. Most impressive, however, is the Team Sportsmanship Award that the tournament referees awarded to the Rams for the team's fair play and sportsmanlike behavior.

It is only fitting that the Rams' exemplary performance during this historic event in U.S. High School Athletics be honored in this, the permanent record of the greatest freely elected body on earth.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing the individual and team accomplishments of such talented young individuals as the members of the Southern Regional Rams.

Mr. Speaker, I ask that you join our colleagues, the Rams' families and friends, and me in honoring Coach Schoka and the members of the Southern Regional High School Roller Hockey Team.

TRIBUTE TO SANDY DRAGGOO

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Ms. Sandy Draggoo of the Capital Area Transportation Authority (CATA) as she has recently received the American Public Transportation Association's Outstanding Public Transportation Manager Award. Ms. Draggoo has dedicated nearly thirty years to the Capital Area Transportation Authority and is responsible for the successful enterprise it is today.

In 1974, Sandy Draggoo's career with CATA began while the authority was in its infancy. Just two years after its inception, Sandy started as the secretary to the Executive Director. She was soon promoted to Personnel Manager in 1976, and after nine successful years succeeded her former boss as Executive Director in 1984. Under Ms. Draggoo's leadership, CATA has changed markedly in the last eighteen years. Annually, CATA provides over 8.7 million rides, more than twice the number it provided just five years ago, and almost twelvefold the roughly 730,000 rides the authority provided in 1974. This dramatic increase in ridership is a testament to Sandy's dedication and hard work and earned CATA the American Public Transportation Association's Outstanding Transit System Award in 1991.

In 1997, CATA announced the opening of the CATA Transportation Center, an intermodal passenger transfer center that had been a project of the authority since the mid 1980's. Sandy's leadership was paramount in overcoming the many hurdles necessary to bring this project to fruition. More recently, Sandy secured a contract with Michigan State University to assume operation of their bus system and consequently increased ridership from 850,000 to nearly 3 million. Ms. Draggoo brought extended CATA routes to Michigan State University students living in new off campus communities, averting severe congestion that worried local residents and municipal leaders.

Mr. Speaker, in her tenure, Sandy Draggoo has transformed the Capital Area Transportation Authority from a startup public transportation system into one of the nation's most premier. Her hard work and determination have eared her the American Public Transportation Association's Outstanding Public Transportation Manager Award. I ask my colleagues to join me in recognizing Ms. Draggoo for the receipt of this award and for her leadership and commitment to my community.

HONORING EDWIN HAWKINS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. LEE. Mr. Speaker, I rise today to honor Edwin Hawkins on his 60th birthday for his achievements as a gospel music pioneer and community activist. He has been a composer, producer, songwriter and vital force in gospel music for four decades.

The album "Let Us Go into the House of the Lord" was the first to bring acclaim to Mr. Hawkins. Among its highlights was the track "Oh Happy Day," which unexpectedly found a home on underground FM playlists across San Francisco. The single quickly began earning airplay on mainstream R&B and pop outlets across the country, and in the spring of 1969 it reached the U.S. Top Five on its way to selling an astounding seven million copies and taking home a Grammy award for Best Gospel/Soul Performance of 1969. At this time the choir was rechristened the Edwin Hawkins Singers, although the featured voice on "Oh Happy Day" belonged to singer Dorothy Combs Morrison, who soon exited in pursuit of a solo career.

In 1970 the group made a return appearance on the pop charts supporting the artist Melanie on her hit "Lay Down (Candle in the Rain)." Edwin Hawkins remained a critical favorite, and in 1972, the Singers won a second Grammy for "Every Man Wants to Be Free." Recording prolifically throughout the remainder of the decade, in 1980 they won a third Grammy for "Wonderful"; a fourth award, for "If You Love Me," followed three years later.

In 1982, Edwin founded the Edwin Hawkins Music and Arts Seminar, an annual week-long convention that offers workshops exploring all facets of the gospel industry and culminating each year with a live performance by the assembled mass choir. The 2002 Love Fellowship Mass Choir included hundreds of representatives from the United States, Europe, and Japan.

Gospel musicians and vocalists from around the world will meet to celebrate this great composer, musician, and vocalist on his 60th birthday. On a personal note, I would like to thank Edwin for his long-standing friendship and encouragement. He is a true believer, and has been steadfast in his honesty and support. I take great pride in joining his friends, colleagues, and family to salute the extraordinary Edwin Hawkins.

HONORING THE CENTENNIAL ANNIVERSARY OF COLONEL CHARLES YOUNG

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to honor the centennial anniversary of Colonel Charles Young's service as superintendent of Sequoia National Park. A ceremony was held in his honor at Sequoia National Park on Saturday, August 23.

Colonel Young graduated from the United States Military Academy at West Point in 1884. While serving as a Captain in the Cavalry at the Presidio of San Francisco he received orders to take his troops to Sequoia National Park. In doing so, he became the first black superintendent of the park. His men, known as the "Buffalo Soldiers", were the all-black members of the 9th U.S. Cavalry. They completed the first road into the Giant Forest, constructed trails, and began active protection of the world's largest trees. Colonel Young later went on to have a successful career in a practically all white army. He was buried at Arlington National Cemetery with full honors.

The ceremony will include a special rededication ceremony of the Booker T. Washington Tree, which Colonel Young named in 1903. People initially wanted to name the tree after Colonel Young to honor his service to the park; he refused and instead named the tree after his friend, Booker T. Washington. Sometime over the ensuing 99 years the sign on the tree disappeared and the tree became lost. Park staff was able to relocate the tree in 2002 utilizing historical photos of the tree and surrounding forest. The rededication ceremony will be used to highlight Colonel Young's accomplishments during Colonel Young's time as superintendent.

Mr. Speaker, it is my pleasure to honor the centennial celebration of Colonel Charles Young. I urge my colleagues to join me in posthumously recognizing Colonel Charles Young for his dedication and service to Sequoia National Park.

HONORING JUDY GAITHER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. ESHOO. Mr. Speaker, I rise to honor Judy Gaither who is retiring from the Executive Directorship of the Human Investment Project (HIP) for Housing, a non-profit group that provides affordable housing in San Mateo County, after serving with distinction for almost eight years.

Mrs. Gaither joined HIP Housing as a senior citizens housing specialist in 1984, and has served as director for several of the organization's programs before being named Executive Director in 1995.

Mrs. Gaither has earned countless honors and awards. She was selected as an honoree for Women's History Month by KQED, and was inducted into the San Mateo County Women's Hall of Fame in 2002. She sits on the board of directors for the San Mateo Area Chamber of Commerce, the board of the Housing Action Team, and is board Chairperson for the Housing Leadership Council of San Mateo County.

Mrs. Gaither's passion for helping adults, children and seniors in need has been the driving force behind her extraordinary work. Under her leadership HIP Housing has expanded dramatically, acquiring 177 apartment units for low- and fixed-income residents of San Mateo County during her tenure, including a 92-unit apartment complex for seniors and 11 housing units for people with developmental and physical disabilities. HIP Housing has also grown into an organization with a significant budget, of which an extraordinary 85 percent goes directly to client services.

Mr. Speaker, I ask my colleagues to join me in honoring Judy Gaither for her extraordinary service to our community and our country, and wish her every blessing in her well-earned retirement.

IN HONOR OF THE FRIENDS OF THE PATUXENT RESEARCH REFUGE'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Friends of the Patuxent Research Refuge. Friends of the Patuxent Research Refuge received a 2003 Chesapeake Bay Gateways Network Grant to construct a pilot demonstration Schoolyard Habitat site at Patuxent Research Refuge's National Wildlife Visitor Center.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refuges and other sites in five States and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. The Friends of the Patuxent Research Refuge is receiving a grant of $14,457 and $14,795 in partner contributions.

The project proposed by the Friends of the Patuxent Research Refuge will serve the dual purpose of improving the habitat quality surrounding the National Wildlife Visitor Center and educating the community on BayScaping techniques and Schoolyard Habitats. Volunteers and visitors will help create the project, involving themselves in a direct habitat restoration effort that can stimulate further involvement later. Watershed signs, a walking path, an outdoor classroom, and an indoor kiosk will be used to interpret the habitat site and how it and similar efforts contribute to the Chesapeake Bay's health.

Mr. Speaker, it is with the assistance and vision of organizations such as the Friends of the Patuxent Research Refuge that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Friends of the Patuxent Research Refuge on receiving this grant and wishing them the best of luck in completing their project.

TRIBUTE TO THE HONORABLE RAYMOND A. REDDIN

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the work of an outstanding individual who I am honored to call my friend. Raymond A. Reddin officially took his oath of office as a New Jersey Superior Court Judge in the County of Passaic on Wednesday, August 20, 2003.

The Honorable Raymond Reddin has dedicated the past twenty-four years to tirelessly serving the men and women of Passaic County. It is only fitting that he be honored, in this, the permanent record of the greatest freely elected body on earth.

Raymond Reddin first decided upon a career in law after graduating from Montclair State University in 1975. He went on to attend Widener University's Delaware Law School, graduating in 1978, with a Juris Doctor Degree. That same year he passed the New Jersey bar exam, becoming a licensed attorney in his home state.

Ray's career in law is as colorful as it is long. Opening a private practice in the city of Paterson in 1979, Ray immediately began to demonstrate his strong personal commitment to justice. Focusing primarily on criminal matters, personal injury, and civil litigation, Raymond Reddin soon began to take on a number of high profile cases in which he represented police officers, doctors, political figures, professional athletes, and several celebrities.

A native of Paterson, New Jersey, Ray Reddin has continued to give back to the community in which he was raised, serving the people of Passaic County both in and out of the courtroom. He has lectured at the Passaic County Police Academy, is a past member of the Passaic County Judicial Selection Committee, a participant in the Robert Clifford Inns of Court Program, and a past President of the Passaic County Ethics Committee. In each of these positions, he has brought a youthful enthusiasm and years of expertise. I am confident that he will bring these same qualities to his new assignment in the Criminal Division of the New Jersey Superior Court.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing individuals who have devoted themselves to serving the special needs of the people in their community. Judge Reddin's long history of leadership, integrity, and service to the people of Paterson and Passaic County is unparalleled.

Mr. Speaker, I ask that you join our colleagues, Ray's family and friends, and me in recognizing the invaluable service of the Honorable Raymond Reddin.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of July 25, 2003, the House had a procedural vote on H.R. 2859, the FY 2003 Emergency Supplemental Appropriations bill. On House rollcall vote No. 448, I was unavoidably detained. Had I been present, I would have voted "aye."

HONORING PARADISE BAPTIST CHURCH

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. LEE. Mr. Speaker, I rise today to honor Paradise Baptist Church of Oakland, and its pastor, Reverend Leon McDaniels, Sr. Today marks the dedication celebration of the new Paradise Baptist Church Worship Center.

Paradise Baptist Church had its beginning in February 1960. Rev. C. William Johnson was the assistant pastor at the First Baptist Parchester Church of Richmond, California when he was called to begin a church in the Columbian Gardens area of Oakland. He set out with four volunteers and went door to door sharing their vision for a new community of the spirit. In May 1960, a meeting was called and the Paradise Baptist Mission was organized. In August of that year, Paradise was officially founded and established as the Paradise Baptist Church with Rev. C. William Johnson as pastor.

Paradise Baptist Church has had many homes over the years. Early on, Pastor Johnson purchased a home with his Veterans Administration certificate and converted it into a house of worship. In November 1963, a house on Empire Road was purchased, and the church moved to this location.

By 1968, a larger facility was needed. A church was constructed adjacent to the house where the congregation had been worshipping, but by 1970 even that building was too small. Many of the faithful financed the building project by taking out second mortgages and borrowing funds which they donated unconditionally. On the third Sunday of August 1972, the new sanctuary was complete.

Over the next 10 years, Paradise experienced substantial growth, and in 1988, Pastor Johnson brought in Rev. Leon McDaniels, Sr. as the full-time evangelism coordinator. Rev. McDaniels' spark and enthusiasm spread throughout the entire church body.

On September 17, 1993, Pastor Johnson's time on earth came to an end, leaving the Paradise family filled with grief. Following a period of mourning, Rev. Leon McDaniels, Sr. took office as the new pastor and vowed to make a significant difference in the Columbian Gardens community, and in all of Oakland.

There has been great growth during the tenure of Pastor McDaniels. Today, numerous ministries are available to the congregation, including the Prayer Ministry, Soul-Winning Ministry, Christian Education Training, Alpha Omega Youth Ministry, Pastoral Care, Wistar Redemption and Recovery, Inc., Financial Management, Real Estate Ministry (the HUD Home Buyers Program), Married Couples Ministry, Singles Ministry, Camp Ministry and Political Liaison Ministry.

Pastor McDaniels realized a larger facility was sorely needed. By faith, the groundbreaking ceremony was held in August 17, 1997. Once again, the membership stepped in and made contributions and personal sacrifices in their commitment to further the ministry.

The congregation has been blessed with the New Paradise Baptist Church Worship Center located at 9704 Empire Road in Oakland, California.

The Paradise Baptist Church family has come a long way since its humble beginning in 1960. Rev. C. William Johnson knew 43 years ago that Paradise would make a difference in the city of Oakland. This vision has come to fruition under the leadership of Pastor Leon McDaniels, Sr. with a congregation of more than 400 members and numerous ministries that reach out to the community.

I take great pride in joining friends, family, and the congregation to salute Paradise Baptist Church and its leader, the extraordinary Pastor Leon McDaniels, Sr. on this auspicious dedication.

HONORING GENERAL A.J. COMTE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to posthumously recognize General A.J. Comte for his years of distinguished service to his country. A.J. passed away on Sunday, August 3rd.

General Comte began his 50-year military career in 1945 when he enlisted in the U.S. Navy. After four years of active service, he went on to serve in the Air National Guard, Army National Guard, and the U.S. Army Reserve. During his service he received numerous military decorations including: the Army Meritorious Service Medal, WWII Victory Medal, Army Reserve Components Medal, and the California Medal of Merit.

After his service, A.J. worked at the City of Fresno Construction Management Division as Chief Engineering Inspector. Following his retirement, he became self-employed and provided school inspection services in the Bakersfield, Porterville, and Clovis School Districts. He also served as the DSA Inspector of Record for several projects in the Clovis Unified School District including Copper Hills Elementary, the Buchanan Educational Center, and the Reagan Educational Complex.

General Comte was also greatly involved in his community. He was an active 32-Degree Mason; a member of the Fresno Scottish Rite, Clovis Elks, National Sojourners; and active in several military, veteran, and construction associations. He is survived by his wife Trudie; son, Alan James; step-children, Karen Palazzola, Kathy Gray-Wagner, Gordon Gray, Mary Craig, and Carl Husband; and several grand and great-grandchildren.

Mr. Speaker, I rise today to posthumously honor General A.J. Comte. I invite my colleagues to join me in recognizing General Comte for his extraordinary service and years of dedication to his community.

IN HONOR OF THE POTOMAC TRAIL COUNCIL'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Potomac Trail Council. The Potomac Trail Council received a 2003 Chesapeake Bay Gateways Network Grant for a project designed to improve access and interpretation along a one mile section of trail in Piscataway Park and Fort Washington Park in Accokeek, Maryland.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refuges and other sites in five states and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed, Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. The Potomac Trail Council is receiving a grant of $40,500 and $45,300 in partner contributions.

The project proposed by the Potomac Trail Council will make significant improvements to access and interpretation along a one mile section of trail in Piscataway Park. The route, which parallels Piscataway Creek (a tributary of the Potomac River) will be improved through several measures to control erosion and puddling, including the addition of permeable surface materials, french drains, and culverts. Six interpretive waysides and other signs will also be developed to provide trail users with key information and interpret features along the route. The Potomac Trail Council will coordinate work on the project in collaboration with park staff.

Mr. Speaker, it is with the assistance and vision of organizations such as the Potomac Trail Council that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Potomac Trail Council on receiving this grant and wishing them the best of luck in completing their project.

TRIBUTE TO REVEREND DR. FRANK NAPIER, JR.

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the life and work of an outstanding individual who I feel fortunate to have been able to call my friend. The late Reverend Doctor Frank Napier, Jr. of Paterson, New Jersey, was recognized on Friday, August 15, 2003, for his unwavering commitment to education with the official dedication of Paterson Public School #4 as the Dr. Frank Napier, Jr. School of Technology.

During his distinguished career in education, Dr. Napier served the young men and women of Paterson as an elementary school teacher, administrator, coach, role model, and friend. It is only fitting that he be honored in this, the permanent record of the greatest freely elected body on earth.

For as long as I can remember, the personal and professional life of Dr. Napier has been inextricably intertwined with the city of Paterson, New Jersey. Born and raised in Paterson, Frank attended Public School #4 and Paterson Central High School before going on to receive his B.S. and M.A. degrees from William Paterson Teachers College. For those who knew him, his decision to return to the city of Paterson after college came as no surprise. It was during this period that Frank and his wife, Margaret, chose to settle down in Paterson and raise their family. Over the next 37 years, Dr. Napier's life work as an educator and community leader in Paterson would change the lives of countless young men and women.

Frank Napier began his professional career in the Paterson School System as an elementary school teacher and assistant football coach of Kennedy High School. In 1972, he was appointed the Assistant Superintendent of Paterson Public Schools and, four years later, became the first African American to serve as the Superintendent of Schools. Always searching for ways to better serve his students and their families, Frank returned to school once more and, in 1984, earned his Doctorate in Education from the University of Massachusetts. Soon after receiving this degree, Dr. Napier began augmenting his work as Superintendent of Schools by returning to the classroom as an adjunct professor at William Paterson University.

In many ways, Dr. Napier's commitment to the community of Paterson extended far beyond the classroom walls. As district chairperson for the Passaic County Boy Scouts of America, as an active member of the Board of Trustees for the Paterson Public Library, and as pastor of the Gazaway Baptist Church, Dr. Napier left an indelible mark on the lives of all with whom he came in contact. The quest for personal and professional excellence to which Dr. Napier dedicated his life, is a legacy that lives on in each of the students whose lives he touched.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing the efforts of devoted educators and public servants like Doctor Napier. I ask that you join our colleagues, the faculty and students of Paterson School #4, Dr. Napier's family and friends, and myself in recognizing the late Reverend Dr. Frank Napier, Jr., for his life of outstanding service.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Wednesday, July 23, 2003, the House had a vote on an amendment sponsored by Representative RUSH to the FY 2004 Commerce, Justice, State Appropriations bill. On House rollcall vote No. 421, I was unavoidably detained. Had I been present, I would have voted "no."

IN HONOR OF THE BATTLE CREEK NATURE EDUCATION SOCIETY'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Battle Creek Nature Education Society. The Battle Creek Nature Education Society received a 2003 Chesapeake Bay Gateways Network Grant for a project designed to enhance the Flag Ponds Nature Park and King's Landing Park in Calvert County, Maryland.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refuges and other sites in five states and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateway Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. Battle Creek Nature Education Society is receiving a grant of $32,050 and $62,762 in partner contributions.

The project proposed by the Battle Creek Nature Education Society will create an overall plan for guiding interpretation at Flag Ponds Nature Park and King's Landing Park, as well as an extensive series of outdoor exhibits at each park. Up to twenty way-side panels will be developed to help visitors enjoy and learn about these two sites and their relationship to the Chesapeake Bay watershed. A short sampling of anticipated stories to be told includes: the geology behind the ever-changing sand bars that shape habitats at Flag Ponds; early 20th century uses of the area; and the importance of the swamps and freshwater pond habitats that have been naturally formed over hundreds of years.

Mr. Speaker, it is with the assistance and vision of organizations such as the Battle Creek Nature Education Society that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Battle Creek Nature Education Society on receiving this grant and wishing them the best of luck in completing their project.

TRIBUTE TO THE ROTARY CLUB OF WEST ORANGE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the work of an outstanding organization in my district. On Friday, September 5, 2003, the Rotary Club of West Orange celebrated its 75th anniversary at Mayfair Farms.

Seventy-five years ago, in June of 1928, twenty-two business men from the City of West Orange came together with the common intent to pool their individual skills and occupations in order to serve the community in which they lived. Together, these pioneers formed the Rotary Club of West Orange, officially becoming the 2,900th Club of Rotary International.

Today, the West Orange Rotarians continue to contribute their various talents and services to ensuring that the changing needs of the local and international community are met. It is only fitting that, upon their 75th anniversary, the Rotary Club of West Orange be honored, in this, the permanent record of the greatest freely elected body on earth.

Throughout its history, the Rotary Club of West Orange has served as a paradigm of the time-honored motto "Service Above Self. . . . He Profits Most Who Serves Best." This profoundly simple tenet has been the driving force behind each of their community-oriented projects, many of which focus on assisting local youth.

Through annual scholarships and educational programs such as the youth exchange program and the dictionary project, members of the Rotary Club of West Orange consistently demonstrate their commitment to fostering the academic, moral and social education of the city's young men and women. Leading by example, the West Orange Rotarians work hard to promote personal integrity, excellence, and service, helping to mold the leaders of tomorrow.

On the global level, the Rotary of West Orange has recognized that education can only come after the basic needs of an individual have been met. With this in mind, the West Orange Rotarians have dedicated themselves to making much-needed medical treatments available to children in developing countries. Their continued participation in programs such as Polio Plus, Rotaplast, and their extraordinary "Gift of Life Program," demonstrates the great extent of their humanitarian efforts.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing organizations such as the Rotary Club of West Orange that give so much of themselves to the members of their community. The Rotary's long history of leadership and service to the citizens of West Orange is matched only by their commitment to humanitarian efforts worldwide.

Mr. Speaker, I ask that you join our colleagues, the members of the Rotary, the City of West Orange, and me in recognizing the outstanding and invaluable service of the Rotary Club of West Orange.

IN HONOR OF THE SOTTERLEY FOUNDATION'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Sotterley Foundation. The Sotterley Foundation received a 2003 Chesapeake Bay Gateways Network Grant to enhance exhibits at the historic Sotterley Plantation.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refuges and other sites in five states and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. The Sotterley Foundation is receiving a grant of $28,000 and $28,000 in partner contributions.

The project proposed by the Sotterley Foundation will restore, display and interpret a Chesapeake Bay log canoe discovered in nearby Sotterley Creek. Visitors exploring this historic plantation along the Patuxent River will have the opportunity to examine and learn about a workboat that once plied the waters off the site. The log canoe will be protected under a shelter, and interpreted through several exhibit panels.

Mr. Speaker, it is with the assistance and vision of organizations such as the Sotterley Foundation that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Sotterley Foundation on receiving this grant and wishing them the best of luck in completing their project.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 4, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 5

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the employment situation for August.

SD–628

SEPTEMBER 8

2 p.m.

Governmental Affairs

Financial Management, the Budget, and International Security Subcommittee

To hold hearings to examine defined benefit pension plans and the Pension Benefits Guaranty Corporation, focusing on specific changes that may be required within the current pension system to help ensure the financial stability of companies with underfunded pension liabilities.

SD–342

SEPTEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the state of transportation security.

SR–253

Foreign Relations

To hold a closed briefing on the situation in North Korea.

S–407, Capitol

10 a.m.

Armed Services

To hold hearings to examine U.S. military commitments and ongoing military operations abroad.

SD–106

Banking, Housing, and Urban Affairs

To hold hearings to examine the implementation of the Sarbanes-Oxley Act (Public Law 107–204), and restoring investor confidence.

SD–538

Energy and Natural Resources

To hold hearings to examine the nominations of Suedeen G. Kelly, of New Mexico, to be a Member of the Federal Energy Regulatory Commission, and Rick A. Dearborn, of Oklahoma, to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs.

SD–366

Judiciary

To hold hearings to examine Congress and the continuity of the United States Government.

SD–226

Aging

To hold hearings to examine protecting seniors from representative payee fraud in relation to social security programs.

SD–628

2 p.m.

Judiciary

To hold hearings to examine problems and solutions on peer-to-peer networks regarding pornography, technology, and process.

SD–226

SEPTEMBER 10

9 a.m.

Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine the cause of the August 2003 Northeast blackouts, and what the Federal Government can do to ensure that blackouts of this magnitude do not occur again.

SD–342

10 a.m.

Judiciary

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine terrorism two years after 9/11.

SD–226

SEPTEMBER 11

9:30 a.m.

Foreign Relations

To hold hearings to examine U.S.-China relations.

SD–419

2:30 p.m.

Energy and Natural Resources

To hold hearings to examine S. 432, to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct and support research into alternative treatments for timber produced from public lands and lands withdrawn from the public domain for the National Forest System, S. 849, to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, and S. 511, to provide permanent funding for the Payment In Lieu of Taxes program.

SD–366

SEPTEMBER 16

10 a.m.

Health, Education, Labor, and Pensions

Aging Subcommittee

To hold hearings to examine abuse of the elderly.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to receive the legislative presentation of The American Legion.

SH–216

SEPTEMBER 17

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine the report of the Mental Health Commission.

SD–430

SEPTEMBER 23

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine health technology.

SD–430

SEPTEMBER 24

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

SEPTEMBER 25

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine intellectual diversity.

SD–430

SEPTEMBER 30

10 a.m.

Health, Education, Labor, and Pensions

Substance Abuse and Mental Health Services Subcommittee

To hold hearings to examine underage drinking.

SD–430

CANCELLATIONS

SEPTEMBER 10

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

POSTPONEMENTS

SEPTEMBER 9

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 808, to provide for expansion of Sleeping Bear Dunes National Lakeshore, S. 1107, to enhance the Recreational Fee Demonstration Program for the National Park Service, and H.R. 620, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

SD–366

SENATE—*Thursday, September 4, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. This morning our prayer will be led by our guest Chaplain, Max Lucado, Minister of the Oak Hills Church of Christ, San Antonio, TX.

PRAYER

The guest Chaplain offered the following prayer:

Oh Lord, God of our Fathers. You are the God who is in heaven. You rule over all the kingdoms of the nations. Power and might are in Your hand, and no one can withstand You.—2 Chron. 20:6.

We declare Your sovereign strength and confess that all decisions of rulers, kings, parliaments, and Senators ultimately serve Your will.

Grant that these leaders may do just that. Bless them with faith and vision. Strengthen those who are weak. Heal those who are sick. Superintend the affairs of their families and finances. Quiet any fears. Remind them of Your unquenchable, unconditional love.

Set the compass needle of our hearts on You. Affirm us when we seek Your will; forgive and correct us when we don't. Speak to us about the brevity of this life and the beauty of the next. And, most of all, prepare our souls for the moment we meet You face to face.

By the source of mercy we pray. To You be the glory forever and ever. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will resume debate immediately this morning on the Labor-HHS-Education appropriations bill. It is the first bill we are addressing coming back from our recess. We made significant progress on the bill on Tuesday and on Wednesday. I thank our colleagues for coming forward and offering their amendments. Today will be an important day as we wrap our hands around how many amendments we have so we can systematically address those and engage in debate and vote accordingly.

I inform all Members that rollcall votes will occur throughout the day today. It is our intention that we can set a vote on one or more amendments to occur this morning. Members will be notified when the first vote is scheduled.

I wish to make one final plea: That people come forward as soon as possible to talk to the managers and make it clear what their intentions are on the various amendments.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, while the majority leader is still on the floor, I would like to renew the managers' plea for amendments to come to the floor. There has been good cooperation with the distinguished assistant Democratic leader about moving toward the preparation of the list. If we are to finish this bill and get it completed before September 30, we are going to move ahead with expeditious diligence. If we do not get it completed by September 30, we are going to lose $3 billion. This is a very tight bill as it stands at the present time.

There is always concern about what is going to happen on Friday. In my capacity as manager of the bill, it is my desire to move ahead and have substantive votes tomorrow morning. Our custom is to conclude by noon, but I believe we are going to have to do that if we are going to finish this bill in a timely way.

There is word that there are 13 amendments ready to go today, which is good. But we may be a little slow getting out of the box here with amendments being ready to come to the floor as early as 10 o'clock. The Senator from Florida, Mr. NELSON, is ready to go. But that may be a short amendment.

I think it would be advisable to work on into the evening with the stacking of votes tomorrow morning early. There might be an earlier departure, if we have a list, if we know where we are going, and if we see that there would be a conclusion, say, next Tuesday.

This is an issue where we have already been advised about the need to bring some Members in from the other side of the aisle.

We prefer not to schedule in accordance with the Presidential candidacies. But we understand that people can talk, and we want to work it out on a cooperative basis. That would be a Tuesday target to wrap it up completely. To accomplish that, we are going to have to go into the evening and have votes tomorrow morning—at least until midmorning, and perhaps until noon. At least that is as this manager sees it.

We did not complete as much work as we should have yesterday. The quorum call was on for a considerable period of time. As I have said repeatedly, that is sort of the bane of a manager's existence—trying to do third reading and go to completion.

The majority leader advised everyone on August 1—more than a month ago—to be ready with amendments. It is my hope that our colleagues will come forward with amendments so we can get a list and see precisely where we stand so we can accommodate a lot of conflicting and competing interests on schedules.

I hope we will proceed with amendments today. If we work into the evening, we could stack votes early in the morning and have a departure which would not be too late to accommodate the schedules of many Members who would like to understandably depart going back to their home States.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant Democratic leader.

Mr. REID. Mr. President, I say through you to the manager and distinguished majority leader that we are going to cooperate in every way we can to move this most important piece of legislation. We have eight appropriations bills and a short time to complete them. We will do the best we can to wrap them up as soon as possible.

Mr. FRIST. Mr. President, if I could ask that a few minutes be devoted to accommodate the Senator from Texas with comments on the guest Chaplain.

The PRESIDENT pro tempore. The Senator from Texas is recognized.

PASTOR MAX LUCADO

Mr. CORNYN. Mr. President, I appreciate the indulgence of the majority leader, the bill's managers, and Senator NELSON and Senator REID. Before we get on to the business of the day today, I wish to say a couple of words about our guest Chaplain, Max Lucado, who opened the Senate with prayer this morning.

Max is a longtime friend of mine and our family and is the minister of the Oak Hills Church in San Antonio. He has a wonderful wife, Denalyn, and he is a loving father to their children: Jenna, Andrea, and Sara.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Most people will know Max because of his best-selling books. Currently, he has more than 33 million books in print, and is America's leading inspirational author.

A half century ago, Dietrich Bonhoeffer wrote about the difference between "cheap grace" and "costly grace" when it comes to our faith. Cheap grace, he said, requires nothing of us but vague sentiment—but costly grace requires a lifetime of faithful sacrifice and service.

Someone who understands and embraces that kind of costly grace with a whole heart is a true disciple. By that definition, Max Lucado is a man who exemplifies what a disciple is and can be.

I thank Max for his service to Texas, to America, and today to the Senate, and also to his Creator who chose to set a disciple like him among us for such a time as this.

Thank you, Mr. President. I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2660, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Byrd amendment No. 1543 (to amendment No. 1542), to provide additional funding for education for the disadvantaged.

Akaka amendment No. 1544 (to amendment No. 1542), to provide funding for the Excellence in Economic Education Act of 2001.

Mikulski amendment No. 1552 (to amendment No. 1542), to increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs.

The PRESIDENT pro tempore. The Senator from Florida is recognized.

AMENDMENT NO. 1557 TO AMENDMENT NO. 1542

Mr. NELSON of Florida. Mr. President, I send to the desk an amendment.

The PRESIDENT pro tempore. Is there an objection to setting aside the pending amendments? If not, without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 1557.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a study and report on the propagation of concierge care)

On page 61, between lines 14 and 15, insert the following:

SEC. ___. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) CONCIERGE CARE.—In this section, the term "concierge care" means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

Mr. NELSON of Florida. Mr. President, this is an amendment that I think is noncontroversial, that I am led to believe will be accepted by both sides. It calls for a study by the GAO of a practice that is going on in health care today that I have considerable concerns with, which could cause the beginning of the demise of a major part of Medicare, which is our health insurance system provided by the Federal Government for senior citizens.

The practice, interestingly, started in my State of Florida. It has spread to other States. We do not know the extent of this practice. That is one of the reasons for the GAO study that would take place over the next year and a half.

But here is what happens: Let's say a doctor has a patient list of some 3,000 patients, and the doctor wants to constrict his or her practice. So the doctor writes all of the patients—and what I am recounting right now is in fact what has happened in Florida—the doctor writes all of the patients and says: Henceforth, I am going to limit my practice. If you want to continue with me, you must pay an entrance fee of $1,800 per year. In some cases it has been noted in articles that have appeared in periodicals such as the Los Angeles Times, the Washington Post, and the New York Times that that entrance fee is as high as $20,000 per patient.

So what happens is, patients who have enjoyed the services of that physician in the physician-patient relationship, and who cannot afford the entrance fee, suddenly have to go elsewhere to seek their health care services.

You may say: Well, that sounds reasonable because we ought to have the opportunity for individuals to charge what they want for the services they provide as a physician. And, of course, that is our free market system way of doing things. But when part of the equation is a health insurance system funded by the Federal Government for senior citizens, and the doctor wants to continue to receive reimbursement by that health insurance system called Medicare, and the doctor is limiting the access of patients with an entrance fee which that patient must pay, then what we start to create under Medicare is a two-tier system of those who can afford it and those who cannot. It was never contemplated that is what Medicare would be.

Let me give you an example in the private sector. If Blue Cross/Blue Shield has a panel of doctors, and those doctors on that panel are entitled to receive reimbursement from the health insurance company—in this case in the private sector my example is Blue Cross/Blue Shield—if those doctors say, "Well, I will be glad to see you, enrollee of Blue Cross/Blue Shield, insured by Blue Cross/Blue Shield, but you have to pay me $1,800 a year before I will see you," do you think Blue Cross/Blue Shield is going to keep that doctor on its panel of physicians who are going to handle those insureds of that insurance company? The answer to that is, of course not.

If that will not occur in the private sector, then why, in the public sector, in a health insurance system funded by the Federal Government for senior citizens, should the Federal Government close its eyes and look the other way while the physicians limit their practice with that entrance fee?

We have already addressed this. The Senate took its first step in opposing the use of these access fees by doctors who treat Medicare patients by including a provision in last year's budget resolution that expressed the Senate's preference that Federal funds should not reimburse doctors who charge their Medicare patients any unnecessary fees.

What has happened in the meantime is the doctors who practice this, of course, want these entrance fees because they can now limit their practice. But, oh, by the way, they still want to continue to receive the insurance benefits from Medicare, so naturally they are going to fight this. And they have engaged all kinds of lobbyists to fight it.

So what I am asking for is a study. It is my understanding that both sides of the aisle have agreed to have this provision. This is a study by the GAO over the next year and a half that will look at how extensive this is and whether there is any diminution in the service through Medicare to the Medicare recipients we are trying to help. I maintain there is.

What the doctors will tell you is: No, no, no; what we are doing is we are adding all kinds of different services. We are adding an annual health checkup, a physical exam. We are going to give them hot towels. There won't be any waits in a waiting room. They will have a special private waiting room.

I do not have any problem with that if that is what the patient wants to pay. But to say no patient can come to that doctor who is receiving Medicare reimbursement unless that patient is, at the same time, paying them that entrance fee—which ranges across America from $1,800 per patient in Florida to $20,000 per patient that was noted by the New York Times and the Los Angeles Times in a case out in California—then I think it is beginning to establish a dangerous precedent that in effect could impose a means test to access Medicare providers. That would further increase the gap between those who can afford health care and those who cannot. That is not the purpose of Medicare.

The purpose of Medicare is to assist all seniors, not just some seniors. The purpose of Medicare is a health insurance system funded by the Federal Government for all senior citizens, not just some. I think the logical extension of this practice is, as you go down the line, with access limited, we are going to create a two-tier system, and that is not what Congress had in mind.

So what I am offering is an amendment that would get at the heart of this. Let's be fair. If the doctors can make their case to GAO, then so be it. I personally believe strongly that it is the beginning of the disintegration of the main principle of Medicare, which is to have access to health care for all senior citizens.

Mr. President, that is the essence of the amendment. I will abide by the leaders of the bill as to how they want to dispose of it. If the leader of the committee, the chairman, would like me to call for a vote, I would be happy to do so. It is whatever is the pleasure of the distinguished chairman of the committee, the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator from Florida for offering this amendment. I think he has articulated good reasons for a study by the General Accounting Office. These are important issues which could have a significant impact on health care delivery in our country. We are prepared to accept the amendment.

Mr. NELSON of Florida. Mr. President, I am grateful to the Senator from Pennsylvania.

The PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. SPECTER. Trying to be brief in acceptance to give plenty of time for other amendments to be offered, but as the Chair can observe, there are no Senators in the Chamber seeking to offer amendments. If we are to proceed, as I said earlier, to get this bill considered and acted upon, we will have to have people coming to the floor with amendments.

I urge the adoption of the amendment.

The PRESIDENT pro tempore. Is there any further debate?

The question is on agreeing to amendment No. 1557.

The amendment (No. 1557) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, we are having a little down time. We expect a significant number of Senators to have their schedules arranged so they will be here, but it is not right now; it probably won't be until 45 minutes or so. We will see what we can do to try to get someone to come. We have people who have indicated they will offer their amendments today, a dozen Senators. But we have had difficulty getting people to come during the 10 o'clock hour.

The PRESIDENT pro tempore (Ms. MURKOWSKI). The Senator from Florida.

AMENDMENT NO. 1543

Mr. NELSON of Florida. Madam President, with the permission of the two leaders, I would like to speak to another amendment that is pending. That is Senator BYRD's amendment. Since we have no one else in the Chamber ready to offer an amendment, I would like to do so at this time.

Senator BYRD's amendment, on which we will be voting probably later today, will allow us to fulfill the promises we made when we passed 2 years ago the No Child Left Behind Act which was the additional educational assistance from the Federal Government to the States and local governments in order to help children by increasing title I for disadvantaged children. Let me go back and cite a little of the history.

The Federal Government has had a very limited role in education. Today, of all the expenditures for education—be it at the university level all the way down to the beginning of school, pre-K and K—the Federal Government only engages in 7 percent of those expenses. Ninety-three percent is borne by the governments you would expect to carry the load in education—the State and the local governments, mainly through the school boards.

Along about 20 years ago or so, when we set up the Department of Education—and I don't remember the exact time title I was set up—it was believed that there was a particular role for the Federal Government to play in assisting State and local government on educational expenses by helping the children who had disadvantaged backgrounds, and thus was born title I which sends money to help children who come from disadvantaged backgrounds. Indeed, an example is the School Lunch Program. It is clearly an acknowledgment that a child cannot learn if the child is hungry—and a whole host of other kinds of moneys that flow from the Federal Government to try to reach that principle that every child should have an equal opportunity to an education.

In the Senate 2 years ago—fortunately, then, we were looking at a surplus in our Federal budget—we crafted, in a give and take, not only with the other body, the House of Representatives, but also with the White House—especially with the White House—this act that is referred to as No Child Left Behind. It had additional provisions of accountability, testing so that you could measure the progress of children in those school districts in those States. It was authorized at a specific level. It was authorized at approximately $18 billion, whereas at the time the funding was about $11 billion. That was the clear intent when we passed it.

But when we got around to appropriating the moneys, for whatever reason, the White House decided it was not going to support the increased funding to the level authorized in the bill, the No Child Left Behind Act, of $18 billion, but instead was only going to support an increase of roughly $1 billion, to the tune of somewhere around $12 billion, from $11 billion.

As a result, I had about 25 townhall meetings when I was home in August. When those school board members came, when that superintendent of the schools came to that townhall meeting or when I met, in one case, in Volusia County, with the entire school board, they were crying the blues that they have all kinds of requirements under this new law we enacted but the money did not flow with it.

Senator BYRD has offered an amendment to take that level of funding up to what was worked out with the President and the Senate in our negotiations in a bipartisan way in the Senate as well as between the leadership of the Senate—at that time it was under the leadership of Senator DASCHLE, as majority leader—and the White House. That is what Senator BYRD's amendment does. It increases it roughly about $6 billion to the level authorized.

Folks back home—and I believe it is this way all over America, not just in Florida—are crying the blues about how the No Child Left Behind Act was not funded as promised. Title I schools provide education to the most disadvantaged children in our country. These are the very children we pledged not to leave behind. Typically they use those funds to buy educational material, to provide afterschool programs, to provide professional development to teachers, all of these things aimed at that special category of children, the disadvantaged children. This is separate and apart from the disabled children.

We had an amendment yesterday, which unfortunately did not pass, to bring up the level of funding on the program known as IDEA which is special funding from the Federal Government for disabled children. Think of all the problems that a school board, that a school, that a classroom teacher has to confront these days—disabilities, as well as children coming from disadvantaged backgrounds. We were not able to pass that amendment yesterday on disabled kids. I hope we will be able to pass this one for disadvantaged children.

Why we would deny the most needy schools, providing education in the most difficult circumstances, the resources they need to make a difference in the lives of those disadvantaged kids is, to use a southern expression, beyond me. Why would we pass a law that claims to leave no child behind and then underfund the very reforms that were included in the bill to reach all of those students? In order to ensure that every child, no matter where that child comes from, has the opportunity to achieve, we simply have to stop paying lipservice to educational reform and we have to start funding it. That is what I promised my people back home in Florida that I was going to come back up here and try to articulate to this Senate.

It doesn't make any sense, given all the budgets we have, that our education budget is any lesser priority, especially given that this is the future of America. So with Senator BYRD's amendment, we have the opportunity to reach a little over 2 million more disadvantaged students. I simply don't want us to pass up this opportunity.

HEAD START

Madam President, as long as I don't see any other Senators seeking recognition, I want to bring something else to the attention of the Senate. It came home to me loudly and clearly when I was home. The last week before the August recess, the House of Representatives passed a bill by a one-vote margin that is starting the demise of another one of the most successful and tremendously popular programs, the Head Start Program.

What the House of Representatives passed in late July before they left—and most people around the country don't know this. There was a simple one-line mention in the newspapers that the House of Representatives had passed, by a vote of 217 to 216, a bill to take the funding formula for Head Start and change it in eight States, to be determined, instead of in those eight States sending the funding directly to those Head Start centers—instead, to package it in a block and send it to the Governor and the legislatures of eight States, yet to be determined.

Now, let me tell you why I think this is the beginning of the demise of Head Start. Head Start is a wildly popular program because it has been so successful over three decades of doing what? Of bringing 3-year-olds, 4-year-olds, and 5-year-olds who come from disadvantaged and poor backgrounds up to the level that, by the time they enter school at prekindergarten and the first grade, they are not so far left behind that they have a chance to compete and they don't become discarded in the system and then, of course, so much more expensive in the long run because of the cost to society of the dropout, and so forth.

I visited a Head Start center and you should have seen it. It was down in Boynton Beach in Florida. It has this happy little classroom environment where these 3, 4, and 5-year-olds are beginning to learn their numbers, beginning to learn the alphabet, beginning to interact in a classroom setting, beginning to learn self-discipline, respect for property, respect for others, and respect for themselves—a wildly successful and. therefore, enormously popular program. There are 19,000 Head Start centers all over America, and the funding formula—since this was a program that was set up by the Federal Government over three decades ago, again, with that principle that we are trying to achieve that of giving each child an equal opportunity for an education—the funding was set up by the Federal Government to try to assist the States.

Now, let me tell you—well, I don't have to: just go talk to your school board members, talk to the principals and the teachers in those elementary schools. Ask them whether they think it is of extremely high value—the Head Start Program—when those kids are in pre-K and the first grade and they see their progress throughout the elementary school system. They will give you an earful of just how important it is to keep it.

But that is not what the House of Representatives did. The House of Representatives, by that one-vote margin, decided they were going to fund it in a different way. Instead of the money, as it has for over 30 years, going straight to the Head Start center based on a formula of how many children and what kind of background, instead, they are going to ball up all that money for all of the Head Start centers in eight States, yet to be chosen—by the way, you can pick eight States that have well over half of the population of the entire country—and they are going to give that in a block grant to the Governor and legislature of those States. Well, have we missed reading all of the chronicling on the front pages of the newspapers of how 48 of the 50 States are in fiscal cardiac arrest, how they are hurting so much they don't have enough funds? Can you imagine the temptation, even though we might try to put requirements on it, to find ways around it to siphon off some of those funds from Head Start into other educational programs? I am telling you, if we did that, in this Senator's judgment, that would be the beginning of the demise of one of the most successful and popular programs in America, the Head Start Program.

I have enough confidence in the common sense of this Senate and in the sensitivity of the Members of this body in listening to their people back home—even though what the House did didn't get a lot of press attention—that this Senate would not even consider the change of that funding formula. But we have to speak out on it because it hasn't gotten a lot of attention.

It is appropriate that while we are debating the question of funding on education, particularly with Senator BYRD's amendment that goes to title I, which is getting at those disadvantaged kids, we also ought to talk about Head Start, which is getting at the very beginning of the educational process of those disadvantaged kids before they ever get to the elementary level of education.

So I wanted to share with the Senate—to again use a southern expression—that I had received an earful back home. I am glad I did and I am glad I could share this with the Senate. When that bill comes over from the House they passed in the last week of their session, I hope we will tell them nothing doing, we are not messing with an extremely popular program. Instead, what we are going to do with that popular and successful program is expand it because today it only, as successful as it is, reaches 60 percent of the eligible children. Even of the earlier ones that we can start working on below age 3, we are only reaching about 3 percent of that eligible population. We have a lot of room to help these little folks as they get ready to compete so they don't get so far behind once they enter school.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, since the issue of education has been brought up not only this morning but over the last couple of days, and I have listened to some wailing and comments, I feel compelled to talk a little bit about education myself.

This week, many of my colleagues have come to the floor to criticize the President and criticize his administration and even to criticize the Senate leadership for their commitment to education. This is a discussion we need to have every time the Senate debates spending, but every time we seem to plow the same old ground. There are a lot of platitudes and myths out there that keep being regenerated. It takes a lot of time, and it keeps us from completing the spending bills. I hope I can say a few words that will put this debate in perspective.

My colleagues have argued that the current appropriations bill cuts education spending and it underfunds the No Child Left Behind Act. They have suggested, and I suppose will continue to insist, that the bill contains harsh and unacceptable cuts to education and that it will somehow leave students and teachers on their own. That is simply not the case.

The bill contains over $12 billion for title I programs, the third straight year it has had an increase. That is a total increase of 45 percent in title I funding since 2001.

It also contains $1 billion for Reading First, close to $700 million for State education technology grants, and over $1.1 billion for impact aid programs. All told, this bill contains about $56 billion for education programs, over $12 billion more—$12 billion more—than fiscal year 2001. Yet my colleagues insist that this bill cuts too much from education. They argue it does not go far enough and that we must increase our Federal deficit by several billion dollars more to assure we have adequately funded education. Where are these disastrous cuts? How is a $12 billion increase in education funding over 4 years a harsh and unacceptable cut?

Before I came to the Senate, I worked as an accountant. I learned how to balance accounts and read ledgers, and I am astounded to see my colleagues insisting that a $12 billion increase in education funding for over 4 years somehow constitutes a cut. I guess that kind of gives you an idea why we have some problems. It does not take special training in accounting to understand that a $3.9 billion increase in title I spending since 2002 is not a cut. Even without my training as an accountant, I am confident I would understand, as do families across America, that a $12 billion increase is not a cut, no matter how you frame it.

It is interesting to see how many of my colleagues are now criticizing the President and this administration for recommending less than the authorized amounts—authorized amounts—under No Child Left Behind. Let me explain authorized amounts.

We go through a three-step process around here. We have a budget process. A budget is something the President has to present to us by February so that we can approve a massive outline of how we are going to do spending by April 15. It is a Federal statute. It has been complied with twice in the history of the country. Once was this year. The other one was many decades ago. We did a budget.

Then there is a second part to the process. It does not necessarily have to come after the first part. It can be contiguous or it can be before the first part. It is called authorization. Authorization is when a bill is drafted by the committee of jurisdiction, the ones that have the knowledge and the concentration and focus on the problem. They do an authorization bill. It is usually a 6-year authorization, and it is an authorization for the maximum amount that will be spent, not minimums.

I hope everybody catches that. The authorization bill does not give minimums of spending, it gives the authorization for the maximums of spending, and that is the maximums of spending over a 6-year period.

Taking into account inflation, new programs, and issues such as those, nobody ever starts at the maximum and hopes they can sustain and increase that through the period of the authorization bill. That is not how it works. We always start at less than the authorized amount, and we build up to it over the 6-year period.

Let's take a look at some history because I seem to recall that this body did the exact same thing last year when they were doing No Child Left Behind in this particular bill.

My colleagues, of course—now they are in the minority—held all of the leadership positions at that time. They were in charge of doing this appropriations bill. They were the ones in charge of figuring out how much of that authorization could logically be tucked into this appropriations bill.

If we look at the appropriations bill reported out of committee last year, we find that it contained $3.5 billion less than the authorized level in title I funding. Somehow the administration is now being taken to task for recommending more than the colleagues on the other side of the aisle who were in charge last year recommended, even though they both recommended less than the fully authorized amounts. That is not unusual, and it shows that both sides of the aisle understand how this works.

Remember, we will find that the appropriations bill reported out of committee last year contained $3.5 billion less than the authorized level in title I funding, and the administration is now being taken to task for recommending more than the other side of the aisle did. I guess that should cut both ways. You cannot accuse the President of cutting education spending because he asked for less than the fully authorized amount when the other side of the aisle has done the same thing.

Even though my colleagues approved a bill last year that left a gap between appropriations and the fully authorized amounts, it has now become unacceptable in their eyes to fund No Child Left Behind at less than the fully authorized levels. In Wyoming, we have a lot of expressions we use to describe that kind of behavior, but the only one I can probably use on the floor of the Senate is doubletalk.

I also want to point out that we never made it to an Education appropriations bill last year. We never passed a budget last year. That was when the other side of the aisle was in the leadership. And it took us until this spring, under our current leadership, to pass any increase in title I and the No Child Left Behind Act. I think that bears a little bit of extra description.

Yes, I have held town meetings in Wyoming, and I have had to answer to education, and I have had to explain to them that a year ago we could not even pass a budget. A year ago, we did not even take up Education appropriations. Yes, we had this new authorization bill for No Child Left Behind, but, Madam President, do you know what. You cannot appropriate any additional dollars if you do not do an appropriations bill, and that appropriations bill never got done under the leadership last year. There was not a dime of increase passed last year.

When Senator FRIST became the majority leader this year, we went to work on getting the appropriations done, and with the cooperation across the aisle, we were able to get nine bills approved in 8 days. I think that is about how it was.

That was the first funding for education under No Child Left Behind. When did that happen? The President signed it into law on February 26, and the bureaucratic machine moved faster than it ever has. By March 26, the checks went out to the States. Miraculous. But school in this country ends at the end of May or the middle of June at the latest. So on March 26, the mail went out. Eventually the States got those checks. Then the States had to do the allocation out to the school districts.

I do not imagine they got that done in one day. I do not imagine they got that done in a month. So now we are talking about the end of April, and school is going to end the next month. What kind of education funding is that?

So nobody got an increase for last year. They had to operate on the budget that they had from the year before. We never passed a budget. It took us until this spring, under our current leadership, to pass any increases in title I and the No Child Left Behind Act.

The current Senate leadership can point to two separate increases in funding for education compared to last year when this body did not approve any increases in education funding. If this issue is such a priority for my colleagues, why did we adjourn last fall without passing an additional dollar for education? As I am sure my colleagues will recall, we left Washington last year without a single dime more for education than was available the year before. Incidentally, because of this delay, when the President made his budget recommendation to Congress—that is that first step of the process I mentioned—we were still working on fiscal year 2003 appropriations; we had not finished them.

Those appropriations should have been the base for the President's recommendation, but we require him to have that in by February, and he did. That is the only way we can get our work done by April. He complied. So what figures could the President use?

The present administration is being blamed for this body's failure to pass an appropriations bill last fall, and that seems preposterous to me. Of course, he had to base his budget on what we had done for 2002, and he did, and he made substantial increases.

I want to mention just a little bit about the budget process we went through, too. During the budget process, we had an interminable number of votes attempting to do unprecedented earmarking. Well, that is not really what it was designed to do. What it was designed to do was to make it look as if a majority of the Senators who were doing responsible budgeting were actually voting against key programs that are normally not outlined specifically with earmarking. So the responsible Senators did the right thing and voted against what looked like voting against kids, and that is exactly politically how it was designed to be. But they did it so that we could have a responsible budget.

Now here we go again with the interminable number of votes I am sure we will be expected to take that will earmark an increase and change, and all of them are outside of the budget process that has already been approved.

Fortunately, I am sure the people across America are educated enough—I am sure our system has done that—to see through what is happening. We all know the Senate's budget process and we know the President is required to make that recommendation in February. When this body does not pass the appropriations bill that normally serves as the basis for the President's recommendation, it is unconscionable to then criticize the President for his recommendations.

The bottom line is that this body passed last year's appropriations bill 6 months late, and only then under the current Senate leadership. A better comparison would be the President's recommendations on the fiscal year 2002 appropriations, which were the only figures available at the time the President submitted his recommendation to Congress.

Clearly, this discussion is not about funding levels, it is about politics. This body has too much important business before it to waste time playing politics, particularly playing politics on education. There are students and teachers depending on this body to give them additional funding, and that is what my colleagues on the Appropriations Committee have done. Let us get the business of the Senate completed so these students and teachers can get what they need this year, rather than another day, another week, or another month of debate that could once again push the dollars into the following year.

Let us get our work done timely. Let us give some consideration to what kind of amendments are being offered. Let us put the politics behind for our kids and let us get this bill done.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1558 TO AMENDMENT NO. 1542

Mr. KOHL. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 1558 to amendment No. 1542.

Mr. KOHL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for the ombudsman program for the protection of vulnerable older Americans)

At the appropriate place insert the following:

SEC.   . In addition to any amounts otherwise appropriated under this Act under the heading of ADMINISTRATION ON AGING, there are appropriated an additional $1,000,000: *Provided*, That in addition to the amounts already made available to carry out the ombudsman program under chapter 2 of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.), there are made available an additional $1,000,000.

Mr. KOHL. Madam President, this is a noncontroversial amendment I hope will be accepted later today. It addresses the tragedy of abuse and neglect in our Nation's nursing homes and other long-term care settings.

Our seniors made our country what it is today, and they have earned the right to live out their days with dignity and the best possible care.

For most seniors in long-term care, they have that opportunity. The vast majority of nursing homes, home health agencies and other long-term care providers do a good job taking care of their patients under difficult circumstances. But too often across this country, there have been and continues to be cases in which our elderly and disabled are abused, beaten, starved, or neglected.

Last year, a House Government Reform Committee report found that nearly one-third of nursing homes had been cited for an abuse violation in the past 2 years. Ten percent of nursing homes had violations that caused actual harm or placed residents in immediate jeopardy of injury or death. The Senate Aging Committee, on which I serve, has repeatedly heard from the GAO that abuse and neglect are a major problem in our Nation's nursing homes.

Tucked away in this appropriations bill is a little program that has a big impact on these problems. The State Long-Term Care Ombudsmen Program places caring people throughout each State to assist elderly and disabled patients who have been abused or neglected. The ombudsmen have the responsibility to make sure that patients' complaints are investigated and addressed. They help these vulnerable people and their families navigate the complicated system and get the help they need.

In addition, the ombudsmen work with nursing homes to improve care. They also serve a large number of patients in home health care and assisted living. In cases where a nursing home must be closed because it cannot or will not improve, the ombudsmen help patients relocate to the best possible setting.

Unfortunately, a lack of funding and staff make it difficult for the ombudsmen to serve the large number of people who need their services—leaving patients vulnerable to substandard care.

A recent Administration on Aging report found that complaints to ombudsmen increased 48 percent from 1996 to 2001. Yet funding still lags far behind what is needed. Ombudsmen are being asked to do more and more, and Congress should make sure they have the resources to do their jobs.

I greatly appreciate the chairman and ranking member's willingness to work with me over the past several years to increase funding for the ombudsman program. Through our efforts, we have increased funding by $6 million since fiscal year 2000.

This is a great start. But I have been advised by the National Association of Ombudsman Programs that it would take a $36 million increase to adequately fund the program. I realize that such a large increase is not possible in a single year—especially a year that has such tight fiscal constraints as this one. But I am concerned that the bill before us includes no increase at all.

This amendment would take another small but real step forward by increasing the program by $1 million this year. This increase will help ombudsmen keep up with the growing demand for their services. And it will help make sure that patients are better protected from abuse at the hands of those who are supposed to care for them.

I thank the chairman and ranking member for working with me. I know we all have the same goal of making sure our seniors are adequately protected in law term care.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Wisconsin for offering this amendment. I share his concern about adequate care for seniors in nursing homes. That account is currently funded at $13.361 million. I note that the Senator from Wisconsin wants to add $1 million. We would'like to be accommodating. However, as Everett Dirksen once said, a million here and a million there add up.

I would be interested to know if the Senator from Wisconsin would care to respond why he picks $1 million instead of $2 million or $750,000? Where does the Senator from Wisconsin see the need for an additional $1 million when there already is $13.361 million? I am searching for some rationality as to why this million should be added.

Mr. KOHL. I do appreciate that. As I say, it will take $36 million, in our judgment, to adequately fund the entire program. I know very well that is not possible. That is not going to happen. I could pick out a figure larger or smaller than a million, and it was Senator Dirksen who did say a million or a billion added up to quite a bit of money. I do recognize $1 million is a lot of money, but considered in the context of what we are talking about and the importance of the program, which I know the Senator from Pennsylvania agrees, $1 million is a reasonable number.

I would not impose on the Senator the burden of having to make a difficult decision if that number were considerably larger. So I am asking for the support of the Senator with respect to a rather nominal number when we are considering the people we are talking about and the need for our service to them.

Mr. SPECTER. Madam President, the difficulty which I have as manager, we are now up to our 302(b) allocation. To find another $1 million, we have to take it from somewhere. It is a matter of evaluating whether $1 million means anything significant on top of $13 million which we already have.

However, I understand the interests of the Senator, the thrust of the argument by the Senator from Wisconsin. It is a worthwhile program. I will sharpen my pencil and pull down my green eyeshade and see if we can find some money to accommodate what the Senator from Wisconsin would like to have done. No commitments, but we will take a close look.

Mr. KOHL. I thank the Senator.

Mr. SPECTER. Madam President, the Senator from Georgia is on the floor and has requested an opportunity to speak for a few moments on another subject. From the manager's point of view, this would be a good time to do that. There is no other Senator on the floor now. I see Senator MURRAY is on the floor, but I think we can accommodate the Senator from Georgia for 7 minutes. I ask unanimous consent the Senator from Georgia be permitted to speak as if in morning business for 7 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

(The remarks of Mr. MILLER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask the pending amendment be laid aside so I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1559 TO AMENDMENT NO. 1542

Mrs. MURRAY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1559.

Mrs. MURRAY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore funding for certain programs under the Workforce Investment Act of 1998)

In the matter under the heading "TRAINING AND EMPLOYMENT SERVICES" under the heading "EMPLOYMENT AND TRAINING ADMINISTRATION" in title I, add at the end the following:

Subject to the following sentence, for necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998, $801,000,000, of which—

(1) $100,000,000 is available to carry out activities described in section 132(a)(1) of that Act (relating to adult employment and training activities);

(2) $159,000,000 is available to carry out activities described in subparagraphs (A) and (B) of section 132(a)(2) of that Act (relating to dislocated worker employment and training activities and other activities for dislocated workers);

(3) $99,000,000 is available to carry out chapter 4 of subtitle B of title I of that Act (relating to youth activities);

(4) $250,000,000 is available to carry out section 169 of that Act (relating to youth opportunity grants);

(5) $23,000,000 is available to carry out section 167 of that Act (relating to migrant and seasonal farmworker programs);

(6) $20,000,000 is available to carry out section 166 of that Act (relating to Native American programs); and

(7) $150,000,000 is available for the acquisition and improvement of one-stop center infrastructure, including acquisition of real estate, payment of rent or utilities, improvement of technology, and staff development.

The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,696,199,000 and the amount $6.783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,982,301,000: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $370,000,000 shall not be available for obligation until September 30, 2004.

Mrs. MURRAY. Madam President, I come to the floor this morning to offer an amendment to help some of the millions of Americans who are looking for work in this very tough economy. The amendment I am offering right now provides an additional $801 million for critically needed worker training and retraining programs under the Workforce Investment Act. I am proud that Senators KENNEDY, DODD, LEAHY, JEFFORDS, and BINGAMAN are cosponsors of this important amendment.

Today our Nation faces both a jobs crisis and a skills crisis. There are 9.1 million Americans searching for jobs and another 5 million more Americans are working part time because they cannot find full-time work in this stagnant economy. Those millions of workers need training and skills to get good jobs that are going to last, and that is what this amendment before us provides.

I am proud that a wide range of organizations have endorsed my worker training amendment, including the U.S. Conference of Mayors, the National Association of Counties, the National Workforce Association, the Paralyzed Veterans of America, and the National Association of Workforce Boards.

My office has also received hundreds of letters of support from local workforce boards, mayors, county executives, employers, and just ordinary Americans. They all want this Senate to provide additional training opportunities for our workers.

The amendment before us would provide training opportunities for an additional 200,000 adults, young people, dislocated workers, Native Americans, and migrant and seasonal farmworkers.

Most of these workforce and training programs have not had any—none—increases in funding for the entire last decade.

Think about that. We are in the middle of a jobs and skills crisis but most of our training programs have not had any funding increases in a decade.

My amendment will increase funding for adults by $100 million; for dislocated workers by $159 million; for youth by $99 million; for youth opportunity grants by $250 million; for migrant and seasonal farmworkers by $23 million; for Native Americans by $20 million; and for one-stop infrastructure by $150 million. That funding is going to make a huge difference.

I think any Senators who spent time with their constituents during the August recess from which we have just returned will recognize the urgent need for jobs and job training.

Last month when I was home I visited two of our one-stop employment centers in my State and I met with staff members who are working to train residents. I met with local employers who want to hire people in the community if they have the right skills. I met with workers, from young people who are just starting their careers to established workers who have been displaced by much larger economic forces. All of them want the skills they need to find a good job. But for many of them it is very tough going.

In King County, where Seattle is located, there is currently a 10,000 person waiting list for training. That is appalling. These are people who want to work. They desperately want training. But in King County alone they are stuck on a waiting list with 10,000 other people. They have been waiting a long time. In King County, the freeze on training services began last January. It has been a very long and very difficult year for everyone on that waiting list. They need our help and the Murray amendment will provide it.

Residents of the State of Washington continue to suffer with the third highest unemployment in the country, 7.5 percent. Since January of 2001, my State alone has lost 73,000 good-paying jobs in areas such as technology, aerospace, and manufacturing. Workers who were accustomed to earning $30 to $40 an hour as engineers in my State are now forced to accept warehouse jobs that pay $8 to $12 an hour.

Today, one-stop employment centers across the country are being asked to serve more people than ever before, yet their funding remains below what it was in fiscal year 2001 when our country was still experiencing relative economic prosperity. As a result, workers who are searching for jobs are taking longer than in previous recessions to find work. In 2000, it took an average of 12 weeks to find a new job. Currently, it takes approximately 20 weeks, and that is only if there are jobs to be found.

According to the Center on Budget and Policy Priorities, some 1.1 million workers have exhausted their extended unemployment benefits with no employment prospects on the horizon. These workers have worked hard and they have played by the rules, yet they are losing their homes in record numbers and even foregoing medical treatment for their children. Unfortunately, there is no guarantee these jobs are going to return, making it even more crucial that this Senate provide the retraining dollars to help those workers find jobs in the industries and sectors of the economy that have the greatest potential for growth.

Unfortunately, young people seem to be the hardest hit by the current job crisis. The youth unemployment rate has hit a 10-year high of 19.3 percent. The minority youth unemployment rate continues to hover around 30 percent.

Recent studies have shown that nearly 50 percent of the job losses in this recession have occurred to young people who are 16 to 24 years old. Young people desperately need help but our Federal workforce dollars currently serve only about 7 percent of our eligible youth nationally.

My amendment would increase the youth formula grant money to States and localities, and would fully fund the Youth Opportunity Grant Program, which has a real track record of success in many communities and on Indian reservations around the country. My amendment also provides desperately needed modest increases for some of our most vulnerable populations—migrant and seasonal farmworkers and Native Americans. These two groups often have unemployment rates above 50 percent with few prospects for jobs that will provide a sustainable income to support themselves and their families.

As a nation, we have to place a higher priority on helping these chronically underserved populations. My amendment does just that.

Finally, my amendment provides critical infrastructure funding for our national network of 1,900 one-stop employment centers. These one-stop employment centers integrate nearly 20 Federal workforce and social service programs at the local level.

In the HELP Committee, we have been working very hard to reauthorize the Workforce Investment Act, and to include more related programs such as TANF, small business, and transportation into the one-stops with an additional emphasis on program integration and seamless service delivery for all eligible Americans.

In summary, the Murray amendment that is before this body will provide additional hope and opportunity for citizens who need jobs today. Given the employment trends we will face over the next decade, we cannot afford to waste the talents of any worker as we continue to compete in the global economy.

I hope all Senators will agree with me that taking care of the training needs of our workers at home should be a top priority for our Government. The rest of the world is monitoring how we train our workforce because these foreign governments are looking for every advantage to capture additional market share for goods and services that are currently produced in the United States.

Let us not give our competitors a leg up. Let us support the Murray amendment so we can continue to have the most highly skilled and productive workforce in the world and so we can put our Americans back to work in good jobs that will last.

I urge my colleagues to support the Murray amendment.

Mr. KENNEDY. Madam President, will the Senator yield?

Mrs. MURRAY. I am happy to yield to the Senator.

Mr. KENNEDY. The Senator from Washington has just made an excellent presentation on an issue which is the heart and soul of our economic challenge; that is, to ensure that we are going to have continued upgrading of skills for workers to be able to compete in the world economy.

On Labor Day, I heard the President of the United States talk about the importance of job training and the importance of continuing education in the employment field. Yet it is my understanding, in terms of the administration's request, that there was actually a reduction in funding for this program—not that money in and of itself is the sole answer. But the Senator is very aware that the job training program that has been worked out and is in place at the present time is really the result of a very strong, bipartisan effort by Senator Kassebaum, Senator MURRAY, myself, and others involved in trying to work out one-stop shopping working with labor, work, and business. We finally got a program that is effective, and now the resources are really needed. We find that workers getting the training are able to find employment. It is really a key issue in terms of our economy today and in terms of the future.

Is the Senator not somewhat perplexed, given the statements by the President that we would have a reduction in funding of the program, which program reflects strong bipartisan effort, passed overwhelmingly in the House and Senate, and supported by the President, and which is so necessary in terms of having people getting the skills necessary for them to get back to work?

Mrs. MURRAY. The Senator from Massachusetts is correct. I heard the

President on Labor Day. I was delighted to hear that he was facing up to the fact that our economy is struggling, with thousands of people out of work. I am very perplexed that he is not willing to add additional money to train our workers.

As the Senator from Massachusetts knows, when a young man or woman is laid off, they don't have the money to provide for their family. It impacts not just themselves but their entire family and their entire community as they struggle. They are not going to find the same jobs. Our economy is changing. The only way they are going to get back into the workforce is if we give them the skills and training to get into the economic sectors that have job openings. These programs are critical in getting our economy back on track. They are fundamental to getting our economy back on track.

It is very perplexing to me that the President has not asked for nor supports the amendment before us that will help those workers.

Mr. KENNEDY. The Senator also understands that we are talking about a different aspect in terms of the need for training. We have the youth, we have the adult workers, and we have those who are laid off because of skills. There are a variety of different challenges out there, are there not? What we want to try to do is make sure we are going to take scarce resources and use those resources in ways which will result in giving skills to individuals—whether they are young, whether they are dislocated, whether they are the adult workers—and get them back into gainful employment, paying taxes and really returning resources to the economy in a very constructive and productive way.

I understand the Senator's amendment attempts to do that. Am I correct?

Mrs. MURRAY. The Senator from Massachusetts is absolutely correct. As I traveled around in August to talk to people in my State, where we have been severely impacted—we have the third highest unemployment in the Nation—I talked to students just out of high school who cannot afford to go college because of tuition increases and who do not have the skills to simply enter the workforce. It is very different than talking to a young father who is 35 years old with three young kids, who was an engineer at Boeing, who will not get that job back and doesn't have the computer training skills to get into another job that will provide him with the income to sustain a family with three children.

There are different programs funded in my State which we have worked on and which were supported in the HELP Committee. They are different for dislocated workers or for adults or for youth.

Mr. KENNEDY. Beyond that, as I understand it, some of the resources could be used to retain individuals actually in school rather than retraining young workers who drop out of school.

This has an important relationship to what we have been trying to do in terms of focus, attention, and support for strengthening our education process to reach out to those individuals who may be tempted to drop out but can be retained in school and perhaps acquire some skills.

This effort is reflective of a long experience—not that there shouldn't be some changes and alterations in a program.

I see our good friend from Wyoming, Senator ENZI, on the other side of the aisle who is an expert in terms of training programs, OSHA, and otherwise.

We have tried to work this out in a bipartisan way. This is really a key to our economic recovery.

I thank the Senator from Washington for bringing this to the attention of the Senate. I hope we will have strong bipartisan support. We have had bipartisan support in the past. This certainly is an amendment that deserves it. I thank her for offering it on the appropriations bill.

Mrs. MURRAY. I thank the Senator from Massachusetts for his support, his words of wisdom, for his longstanding commitment to people in this country who do not have the opportunities, and for making sure that every American, no matter who they are, where they come from, or what circumstances have hit them in their lives, gets the opportunities for the American dream that all of us want. Certainly this amendment is part of that effort.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, as chairman of the Subcommittee on Employment, Safety, and Training of the Health, Education, Labor, and Pensions Committee, I have enjoyed working with the Senator from Washington, the ranking member. I appreciate all of her efforts on the Workforce Investment Act, and, of course, the ranking member of the full committee, Senator KENNEDY, who has been working with us, and his staff who have been working in great detail to be sure we have a Workforce Investment Act we can pass this year so that we can make sure the money is funneled through the proper channels and the most people are taken care of for the money. It is up for reauthorization this year. It is particularly critical that we do it. It is landmark legislation that is a priority for both myself and my colleague from Washington. I am pleased that they worked so closely on getting this bipartisan bill to this point. I think we will be able to finish it and get it marked up sometime this month.

During the reauthorization process, we have considered how resources are most effectively used for the people who need it most. There is no problem for anybody to see that there is a problem.

Having said that, I need to explain that I will be opposing this amendment. I want to carefully explain that. I am not questioning the importance of job training in these difficult economic times, nor am I questioning the importance of the Workforce Investment Act as our Federal workforce development system. But I am opposing the amendment that increases funding for job training without appropriately offsetting such increased amount. At the appropriate time, I will be taking that action.

The way this appears to be offset but really isn't is through what we use rather liberally in some of the amendments, even a couple pending before us now, which is advance funding. That means that we steal a little bit out of another year's appropriations so we can spend it in this year's appropriations, and, oddly enough, spend it in that year's appropriations, too. You can see if we get into a process of spending money twice, we are going to be in some real trouble.

This amendment increases funding that is not targeted to individuals who are in most need of job training and assistance. Of the $801 million increase in funds, only $159 million will go to the dislocated workers program—those individuals most in need of assistance to get back to work.

So we are going to throw $801 million at the dislocated worker problem. Granted, there are uses for that money in those other areas, but we are going to do that to take care of $159 million that will go to dislocated worker programs. I don't think that is the right way for us to go about the process.

The committee bill provides $5.1 billion for job training and employment services, and that is $164 million above the budget request. Of this total amount, the committee bill provides $1.43 billion for dislocated worker activities.

We went through this during the process of the budget. We approved a budget. A change in the budget is what results in budget points of order. So the Labor-HHS bill must seek to address a lot of important needs, not the least of which is job training funding to ensure American workers are equipped to contribute and succeed in a changing economy. Of course, we always want that to happen faster than it is ever possible for it to happen.

The committee bill does reduce job training funding from fiscal year 2003 by $85 million, but I explained in a speech just a little while ago how that comes about. The President had to submit his budget before he knew what we were going to do in 2003, because we did not do a budget for the previous year; and then we did not pass the appropriation. So what we were going to be doing was not known until after he had to submit a budget to us. So he had to base his budget on what had been done for 2002, and there was a significant increase from 2002. Again, we raised it a little bit, and did so again in the appropriation.

So unless that can be offset, I am going to have to reluctantly oppose the amendment. Again, I don't think we ought to spend $801 million trying to solve a $159-million problem. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Wyoming, and I understand he is opposing the amendment. I just say we are in a crisis in this country. We are in a crisis when there are 10,000 people on a waiting list in King County alone to try to get into a training program in order to get the skills they need to get back to work. We are in a crisis when our economy continues to struggle and people are unable to put food on the table, send their kids to college, and to be able to feel secure when it comes to their jobs.

We all know we are spending $1 billion a week in Iraq in order to reconstruct that country. It seems to me totally reasonable to ask for $801 million for next year to help train our workers, to get our economy back on track, and to give American families the security they need in their homes to know they can take care of their own.

Mr. President, I encourage my colleagues to support this amendment at the appropriate time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the amendment offered by the Senator from Washington addresses a very important issue on job training, beyond any question. In structuring this appropriations bill, it has been very difficult, given the budget resolution and the allocation which we had.

We have at the present time in the Senate bill $3,564,436,000 on this line. With respect to the dislocated workers assistance, this committee increased the recommendation of the President, which had been at $1,383,040,000, and we put it back up to the funding of 2003 at $1,431,340,000.

The youth opportunity grants is a program which had a 5-year sunset. The President did not ask for funding for migrant farm workers, but we reinstated more than $77 million there.

We maintained the funding for Native Americans, and maintained the funding for one-stop centers.

Now, in an ideal world, with more funds, the amendment offered by the Senator from Washington might well be the thing to do. But the subcommittee is faced with the constraints, and we structured the very best we could in allocating, as I say, in excess of $3.5 billion for job training.

Unless we can find some offset—and we are constantly taking a look at the long list of items which we have where the appropriations are recommended for the total of $137 billion—it is very difficult to see how the amendment can be accepted, without some offset, without exceeding the limits which we have under our allocation from the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I take the floor for a few minutes to discuss an amendment Senator KENNEDY and I and others plan to offer to address a very important issue, one that affects the livelihood of millions of American workers and their families. It is an issue that bubbled up earlier this year when the Department of Labor—and I choose this word carefully—sort of surreptitiously issued proposed regulations, changes in regulations that would affect the 40-hour workweek and take away overtime protection for millions of American workers.

They did not have one hearing on that. They published it, put this out as a proposed change in the rules and regulations. Not too many people knew about it. However, I am now aware that over 78,000 comments have come in on this issue from around the country. So now the Department of Labor is hearing back, and more and more Americans are beginning to find out about this proposal.

Senator KENNEDY and I, and a number of our colleagues, will offer an amendment to protect the 40-hour workweek and to make sure overtime protections are there for American workers.

What the administration has proposed is a change in our regulations that would eliminate the 40-hour workweek by allowing employers to deny millions of workers overtime pay, workers who are currently covered and guaranteed overtime pay protections under the Fair Labor Standards Act of 1938.

This proposal by the administration is antiworker, it is antifamily, and it is bad economic policy. It is an attack on America's middle class. It won't create one job in our struggling economy. In fact, it will do just the opposite. It will cost us jobs. It is part of what I call the "economic malpractice" of this administration. And it is working Americans who are the victims.

Unemployment continues to climb. It is now at 6.2 percent, the highest level since 1994. That means 9.4 million people looking for work can't find any.

Since President Bush was sworn in, we have lost 3.1 million private sector jobs. We are losing jobs every month. The economy is limping along. Our deficit continues to bloom. It is now over $450 billion, I am told, by the end of this year and may be $500 billion by the end of next year. So the administration passed two record tax cuts for the wealthy to explode the deficit. And instead of trying to put money in the pockets of working Americans, the administration now wants to take it away, taking money out of the pockets of hard-working Americans, hard-working Americans who may be working overtime to help pay some extra bills.

Late last month, the Economic Policy Institute issued a report that analyzed the reach of this administration's proposal. It found that up to 8 million workers who currently are eligible for overtime pay will lose that eligibility. And as they noted, overtime pay for many of these workers can make up to 25 percent of the family's income. We are talking about people such as nurses, police officers, firefighters, retail managers, journalists, medical technicians, surveyors, among a whole host of others. For most of these men and women, that overtime pay is not spare change or for frivolous spending; it is essential. It helps pay the mortgage, feed the kids, and maybe put a little bit away for college for their kids or save a little bit for retirement.

I have a recent letter from the National Association of Police Organizations that represents thousands of law enforcement officers from across the country. They oppose the administration's proposal because, as they said:

> [U]nder such regulations, America's State and local law enforcement officers, already strained by countless overtime hours ensuring community safety from terrorist threats, could lose their basic benefit accorded for their efforts.

A recent national survey shows that working Americans are now becoming more aware of this proposal and have great concerns about it. A survey released this past week by Peter D. Hart Research Associates, pollsters, found that Americans overwhelmingly disagree with the Bush administration proposal. By 17 to 1, the public believes that Federal laws governing overtime should be changed to cover more employees rather than fewer. Fifty-one percent said it should cover more employees. Only 3 percent said it should cover fewer employees. Seventy-four percent of Americans in this poll oppose the Bush administration's proposal to eliminate several million employees' legal right to overtime pay.

I would like to take a few minutes to explain briefly how the rules work right now under the Fair Labor Standards Act of 1938. Hourly workers are generally guaranteed overtime pay when they work more than 40 hours a week. That has been accepted since 1938. Many salaried workers are also eligible for overtime pay under current law.

So what the administration's proposal would do would be to make it much easier for employers to deny salaried workers overtime pay protection.

The result is that millions of salaried workers, earning more than $22,100 a year, currently eligible for overtime will be denied overtime under these proposed changes. This proposal will keep workers from spending time with their families, working longer hours without compensation. Employers will be able to force workers to work longer hours without pay.

In case someone says that isn't happening, I suggest they might want to go back and read the story in the Sunday Post of August 31 by Kirstin Downey, who documented some of the things that are happening in the country today.

For example, Wal-Mart Stores, Incorporated, the Nation's largest retailer, is facing 37 lawsuits in 29 States from employees who allege they were illegally forced to work extra hours free to meet corporate productivity demands. In December, a Federal jury in Portland, OR, found Wal-Mart guilty of asking workers to clock out and then return to work unpaid. About 400 current and former Wal-Mart employees participated in the lawsuit, with some workers testifying that they falsified their time records to keep their jobs because they live in small towns with few other jobs.

About 270 insurance claims adjusters have filed suit in U.S. District Court in Washington, DC, alleging that their employer, GEICO, broke the law by improperly classifying them as workers exempt from overtime pay.

Stan Fortune, quoted in this article, age 47, a former Wal-Mart manager in Weatherford, TX, said he felt driven to climb into store management ranks during the 17 years he worked there. On one temporary assignment in Las Vegas, he said he worked 13 to 14 hours a day from September 1 through December 26 with only 1 day off. Said Fortune:

> It builds up to where that's the norm. You get three or four hours' sleep. It becomes what you are used to. Now that I look back it is pretty sad.

That is happening around the country today. More and more workers are being asked to work longer hours. What the administration wants to do is say: We will make that legal. We are just going to exempt them.

American workers already work longer hours than any other industrialized country. Right now, according to this article in the Washington Post, according to the International Labor Organization, American workers work more than other people in developed economies. They found that American workers put in an average of 1,825 hours per year. French workers, by comparison, average 1,545 hours per year; German workers, about 1,444 hours per year. According to Lawrence Johnson, chief of the ILO's employment trends team:

> The European Union and the United States have two different systems and react to economic conditions differently. . . . A lot of what Europeans have—longer vacations, shorter hours—are legislated, and in the United States, it is handled through collective bargaining.

The problem is now only 13 percent of American workers are covered under collective bargaining. So most workers are not in the collective bargaining agreements that cover overtime.

Major women's organizations, including the National Partnership for Women and Families and the American Association of University Women, oppose this proposal because they fear that an increase in mandatory overtime would take time away from families and disrupt the schedules of working parents as well as impose additional childcare and other expenses.

Ross Eisenbrey of the Economic Policy Institute has shown that this proposal, probably more than anything else, affects women in this country. It is women who are working in these jobs that are about at that level, but it is also the women who have to take their children to childcare. So get this: What the administration is saying is that you will have to leave your child in childcare longer hours during the day. You will be forced to work overtime, longer hours, but you won't get one more nickel for it. Talk about fairness. Talk about compassion.

This proposal will not create one new job. It will do just the opposite. What it will do is give employers a disincentive to hire people because it will allow them to work their current workers longer hours, force them to work longer hours without any extra pay.

When President Roosevelt signed the Fair Labor Standards Act into law in 1938, he made that exact point, that if a worker is working 50 hours a week and not getting paid for that, it does two things—takes him away from his family and, secondly, it is a disincentive to hire anyone else to work. So that is what this proposal will do. It will add to the unemployment figures in America, not put people to work.

As columnist Bob Herbert recently wrote in the New York Times:

> You would think that an administration that has presided over the loss of millions of jobs might want to strengthen the protections of workers fortunate enough to still be employed. But that's not what the administration is about.

Again, as I said in my opening, the administration does not want the American worker to find out what they are doing. They didn't hold one hearing on its proposed rule. Maybe they thought they would slip it through and people would not know about it.

I don't think we should in the shadows set policy that would affect millions of workers and their families. We need to do it in the open. That is why I plan to offer this amendment.

My amendment is very simple. It would prohibit any money, any taxpayer dollars, from being spent to in any way implement any administration proposal that would exempt more workers from overtime pay protections, who are now currently eligible. Very simple and straightforward. It would allow the administration today, tomorrow, or at any time, to increase the number of workers who are eligible for overtime pay.

Again, I wish to take a couple of minutes to clarify some of the claims that some of the opponents of our amendment have made about the administration's proposal.

The first claim is that the proposed regulation will only result in denying overtime pay protection to 644,000 workers, not 8 million. Well, that is because the administration is only counting people right now who are getting overtime pay. There are millions more eligible for overtime pay but they are not getting it because the employers don't want to pay the overtime. However, if you now exempt them, the employer has no disincentive whatsoever. They can work those people longer than 40 hours per week and not have to pay them one additional nickel. So the administration's estimate completely ignores the incentive that will be built in for employers to work these eligible people longer hours per week.

Claim No. 2: The administration's proposal will actually guarantee an additional 1.3 million low-income workers overtime pay.

This is an overstatement. They are saying it because they are raising the current income threshold from $8,060 a year to $22,100 a year—no one is opposed to that—and it is long overdue. Of course, it has been raised several times since 1938.

According to the National Employment Law Project—a coalition representing the interests of low-wage workers—most, if not all, of those 1.3 million workers were already covered by overtime protections because they were working in low-paying nonexecutive jobs. They add that the DOL's proposed threshold increase "does not help nearly enough workers, because 80 percent of the workforce still makes over the proposed threshold [of $22,100], and workers earning more than the threshold are barely making ends meet in today's economy." Again, I point out that my amendment does not affect the increase in the threshold limit.

The third claim they make is that first responders—police and firemen—will not lose their overtime protection with this proposal. They have been making this claim all along. Unfortunately, the proposed regulation as written would, in fact, put many first responders—police and firefighters and others—at risk of losing overtime eligibility. There is no specific carve-out for first responders. This proposed regulation is so vague that it would apply to many first responders who may have minimal supervisory duties.

The National Association of Police Officers and the International Union of Police Associations both oppose the regulations as written.

The fourth claim: This proposal simplifies current regulations, and it will make it easier for employers to determine who qualifies for overtime and who doesn't. It will also reduce litigation.

Well, perhaps that is so. It would reduce litigation because it is going to exempt all these people from overtime protection. But it is not going to make it easier. In fact, it would make the rules more confusing by replacing well-established standards with vague and ambiguous language and would spawn litigation over the meaning of these new rules.

According to the Chicago Tribune:

> The Labor Department's [Wage and Hour Administrator] Tammy McCutchen predicts a deluge of lawsuits as employees and employers press for clarifications once the new rules go into effect.

Also, a recent analysis by the Congressional Research Service found that the proposal is vague—it will be largely up to the interpretation of employers and the Labor Department to determine who qualifies and who doesn't qualify for overtime pay protection.

So what that says to me is that employers will have wide discretion—compared to what they have now—to reclassify and disqualify all kinds of workers from overtime pay protection in order to make them work longer hours without compensation. I don't really expect the Labor Department to proactively go around and check on these employers. They don't do it now. What if a worker complains? How many workers are going to risk losing their jobs by complaining? As a person who worked for Wal-Mart said, "In a small town there are no other jobs. Therefore, when they want you to work overtime without any extra pay, that is what you do."

I close by saying that I also believe this proposed regulation is designed to give cover to employers that are already abusing standing overtime laws. Lawsuits by the hundreds—cases pending before the Labor Department that are now months and years backlogged—will be wiped off the books because now the employers that are denying overtime pay will be legal in doing so.

So why do we want to make it easier to deny American workers overtime pay? How does it help the economy to take money away from millions of low- and middle-income men and women?

Again, the administration's proposal will do nothing to put money in the pockets of working Americans. It will not create new jobs. It will keep people away from their families longer hours. It is a slap in the face to millions of hard-working Americans—men and women who are starting to make ends meet and yet spend some time with their families. It is bad policy. We have an opportunity to stop it with my amendment. I plan to offer that shortly. I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

WITHDRAWAL OF ESTRADA NOMINATION

Mr. FRIST. Mr. President, a few moments ago we received a message from the White House. I will read the message and I have comments to make on that particular message, and it will explain the interruption of the debate on this very important bill that we are addressing.

The message from the White House reads:

> *To the Senate of the United States:*
>
> I withdraw the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

That message was signed by President George W. Bush.

It was 29 months ago that the President of the United States nominated Miguel Estrada. Today, we have received this message that Miguel Estrada's name has been withdrawn from further consideration by the Senate. I expect that many on the other side of the aisle will be glad of this. Indeed, we have seen our Democrat colleagues block the entire Senate from having a very simple, honest up-or-down vote for 29 months—well over 2 years.

Today is a shameful moment in the history of this great institution. The Senate has been denied the right to confirm or reject a brilliant and a well-qualified nominee because of the obstruction of the few—a hard-working and honorable immigrant American who has excelled in the pursuit of the law and risen to the very top of his profession has been turned away because of the rankest political partisanship.

In rising today, I wish to take a moment to express my regret to Mr. Estrada and to his family and to express my regret to the American people who have been denied the service of this extraordinarily talented and accomplished man.

The record, however, is clear—it is crystal clear: Miguel Estrada was and is superbly qualified to serve on the bench. He was, in fact, unanimously well qualified, according to the rating by the American Bar Association, a rating Democrats once called the gold standard.

Miguel Estrada graduated with honors from Columbia University and then from Harvard Law School where he was editor of the Law Review. He went on to public service, including 2 years of service in the Clinton administration. No one—no one—can claim this man is not qualified to serve on the Federal judiciary, and I fully expect that some day he will stand for a vote by this Senate again.

Mr. President, as you know, earlier this year the Senate engaged in an unprecedented month-long debate on the Estrada nomination. This debate has continued for months thereafter and, indeed, before the August recess we took the seventh—the seventh—cloture vote to end debate and to allow the Senate—a very simple request—a simple up-or-down vote, as the Constitution requires. No nominee has ever had this many cloture votes.

As a result of the Estrada debate, the Senate has had the opportunity to consider the proper nature of the advise-and-consent role of the Senate and to question the propriety of the filibuster as applied to judicial nominees. That self-examination is far from over. The fact is that the use of unprecedented filibusters to deny the Senate the freedom to give advice and consent has, I believe, done great harm to the Senate and to, more generally, public discourse.

Mr. President, let me review the lengthy saga of Miguel Estrada's confirmation process.

Miguel Estrada was nominated by President Bush on May 9, 2001, 29 months ago. He was among the very first nominees to be sent to the Senate for consideration, as the Constitution requires, for this body, the Senate, to advise and consent.

It is worth noting since that time Miguel Estrada was nominated, our country has fought two wars and changed the regimes of two nations.

For the first 505 days of the Estrada nomination, the Democrat leadership refused even to hold a hearing. They defended this delay by arguing that they knew nothing about the candidate, as if a hearing were not the usual and customary way to resolve such a concern of hearing about the candidate. In truth, there was more in Mr. Estrada's record than in the records of many judicial nominees Democrats had comfortably confirmed in previous years.

Opponents also argued at the time that Estrada lacked judicial experience, despite the fact this was not an impediment to the Clinton nominees who had never served on the bench, nominees, it should be noted, who went on to serve on the very same court to which Estrada was nominated. In fact, Earl Warren, William Rehnquist, William Douglas, Lewis Powell, and Thurgood Marshall—none of these great jurists had any judicial experience when first nominated to a Federal court. But no matter, our Democrat colleagues continued to obstruct. They continued their obstructionist tactics. Then after finally giving Mr. Estrada a hearing a year ago, they announced it was too late in the year to give Mr.

Estrada a vote in the Judiciary Committee.

After the Republicans won the majority in 2002 and Democrats no longer controlled the calendar or the committee, opponents moved to plan B, to level baseless charges.

First came the accusation that Mr. Estrada had "refused to answer a single question" at his hearing. At best, that is hyperbole. In fact, Mr. Estrada answered over 125 questions. The transcript from Mr. Estrada's 7-hour long hearing weighs nearly 3 pounds. Admittedly, the transcript is heavy with questions my colleagues knew full well Mr. Estrada could not answer. They knew he could not answer and also maintain his respect for the independent judiciary and abide by the code of judicial ethics.

We learned through the course of a lengthy debate that, in truth, some nominees of President Clinton answered fewer than 20 questions. One nominee answered only three questions, and he was smoothly confirmed by a Republican-led Senate.

In truth, Mr. Estrada answered more than twice as many questions as all three of President Clinton's appointees to the same circuit court were asked at their hearings—all three combined.

Such facts as these naturally raise the serious question as to why our Democrat colleagues imposed a double standard on this particular nominee with his particular background. In fact, the only questions Mr. Estrada declined to answer, as previous nominees had similarly declined to answer, involved how he would rule on cases that might come before him. During his hearing, Mr. Estrada explained why. He told the committee members that he prizes the independence of the judiciary; that he believes a judge must put aside his personal views and maintain impartiality. In my mind, rather than being a reason or a cause for opposing his nomination, his integrity only strengthened the case for supporting him.

Since that hearing, Democrats had almost 12 months to ask further questions of him—any at all. Repeatedly, the White House offered Mr. Estrada to answer any written question posed to him. To my knowledge, only one Democrat Senator took up that extraordinary offer. Additionally, the White House offered Mr. Estrada to meet with any Senator. To my knowledge, only two Democrat Senators took up that particular offer. But unlimited availability in writing and in person was simply not enough.

Mr. Estrada's opponents continued that partisan drumbeat and continued to obstruct a simple up-or-down vote by their colleagues so we would have that opportunity to express advice and consent.

At the end, when all the false arguments were exposed, our Democrat colleagues fell back on one last carbuncle. They denied Mr. Estrada a vote, they said, because the Justice Department refused to hand over to them Mr. Estrada's workpapers from the years while he was in the Office of the Solicitor General in the Clinton administration.

This was their asking price, despite the fact that every—every—single living Solicitor General, both Democrat and Republican, told the Senate that such a release of documents would create a harmful new precedent against the interest of the American people.

All of this now has passed. What the American people now deserve is an explanation of why. I suspect many know the answer. The saga of Miguel Estrada is a tale of great and unbridled Democratic partisanship, and the American people, sadly, are the losers.

In the course of the Estrada debate, I observed and I listened and I have reached my own conclusion. I do not believe anyone in the Senate would block a nominee based solely on ethnicity. I do not believe any of my colleagues harbor this kind of rank bigotry. I do believe, however, that what happened to Mr. Estrada was due to base politics.

To date, the President has nominated a greater percentage of Hispanic nominees to the Federal bench than any President before him. The President has made clear that he shares the aspiration of the American people to see a Latino serve on the Supreme Court. I believe Miguel Estrada's incredible abilities and special talents would have eventually led him down this path. I believe, as many do, that given his strong credentials, he would be a superb candidate should there be an opening on that Court.

Many Democrats and hard-left Washington special interests fear that possibility. They do not want this President to have a Hispanic nominee of Miguel Estrada's extraordinary abilities named to the Supreme Court should a vacancy arise. I believe when all is said and done, the American people, who are sensible and fair, will reach a similar conclusion about this sorry chapter.

The fight is not over. We will continue to press for an up-or-down vote for the President's nominees. We will continue to press for fairness. We will continue our fight to put qualified women, men, and minorities on our courts.

We will fight the obstructionist tactics of the Democrats and the liberal special interest ideologues that drive them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished majority leader for those comments and express my own personal regret on the withdrawal of the nomination of Miguel Estrada. It is not too long ago that I was in college, in law school, and to hear the academic record of Miguel Estrada is enormously impressive. One does not go to Columbia and rank cum laude and one does not go to Harvard and serve as editor of the Law Review there without very substantial academic achievements.

Miguel Estrada is a man with a superb record beyond his academic achievements. When the issue was raised about not disclosing the contents of memoranda which he had written when he was an assistant in the Solicitor General's Office is absolutely specious. It is just a red herring. There is no reason for that at all. If one is going to ask to have a lawyer's work product made available, there would be an enormous chilling effect on lawyers who are working day in and day out expressing their views, giving their opinions in an honest and candid way so their superiors can make an evaluation and a judgment as to what to do.

Having gone to college and law school, and having been a lawyer writing memoranda, which I wrote plenty of, I know the indispensable quality of being able to say what you believe without having somebody look over your shoulder years later in an attempt to deny some appointment. If you are going to have to play defense all the time, you cannot have the kind of ingenuity, assertiveness, independence, and intelligence which is what has made our country strong.

I believe the country is much weaker for the withdrawal of Miguel Estrada as a potential Federal judge. There have been a lot of objections raised to a lot of nominees, but the situation with Estrada was uniquely unmeritorious in what his detractors had to say.

He is a young man, and I agree with the majority leader that he will be back.

I yield the floor.

Mr. ALLEN. Mr. President, will the Senator from Pennsylvania yield?

Mr. SPECTER. I do.

Mr. ALLEN. I say to my good colleague from the Commonwealth of Pennsylvania that I know he is on the Judiciary Committee. Since Miguel Estrada lives in Virginia, my colleague, JOHN WARNER, and I presented Miguel Estrada to the Judiciary Committee. The Democrat leader was then in charge.

Was the Senator from Pennsylvania present at that committee meeting?

Mr. SPECTER. I was.

Mr. ALLEN. I remember him being there. I remember the joy of that committee meeting. Miguel Estrada was there. His wife was there. His mother Clara and his sister Maria were all there. They were so proud of this young man, who came to this country from Honduras as a teenager. He was unable to speak English. He applied himself, worked hard, and went on to an Ivy League school for undergraduate studies. He then went to Harvard Law School, where he graduated magna cum laude. He later worked in the Solicitor General's Office under President Clinton, where he argued 15 cases before the Supreme Court of the United States, winning most of them. He also clerked for Supreme Court Justices. The American Bar Association unanimously recommended him with their highest qualifications. It was really a day of joy. It was uplifting.

There were four vacancies on the court. I remember saying "adelante", come, "Miguel Estrada." So people were charged up about this country seeing that a Horatio Alger story still was possible. Seeing that if someone worked hard in this country and applied themselves, that if someone recognizes them, like President Bush, and allows them to serve their country on the second most important court in this country, which is the D.C. Court of Appeals, that everyone would say, this is what America is all about; there is opportunity for all people, regardless of their background, so long as they have that record of performance.

Then we saw obstruction month after month. It took everything the Senator could do on the Judiciary Committee to even get him out of committee. When the Senator from South Dakota, Mr. DASCHLE, was Leader, we could not even get it out of committee. So this hold continued, these personal fouls.

Now we come to this day, 28 months after President Bush nominated Miguel Estrada. I have not served as long as the Senator from Pennsylvania, Mr. SPECTER, or our great leader, Senator FRIST of Tennessee, but I know my colleagues all look at history. Today I think is a very sad, dark day in the history of the Senate. An injustice has been perpetrated, an injustice to this gentleman with impeccable credentials, who is an inspiration to all Americans.

In particular, this was an opportunity for a Hispanic American for the first time ever to serve on the D.C. Court of Appeals. The real motive of this obstructionism is not his qualifications, not his judicial philosophy, not claims that Miguel Estrada would be an activist or does not understand the proper role of a judge, but the reality is they want to deny him that added aspect on his record of performance that he served on the Court of Appeals. They fear that, should a vacancy arise on the Supreme Court of the United States, President Bush would like to make history and appoint someone who has the proper judicial philosophy and is also a Hispanic American to the Supreme Court.

This is a sad day for America. As the Senator from Pennsylvania says, he is a young man. He is willing to serve in the future and we are going to still champion Miguel Estrada. I know Senator SPECTER, Senator MCCONNELL, Senator FRIST, and those on this side of the aisle, and a few on the other side of the aisle, such as Senator MILLER of Georgia, Senator NELSON of Florida, Senator NELSON of Nebraska, and Senator BREAUX of Louisiana, we are going to keep fighting for well-qualified judges such as Miguel Estrada.

I hope and pray some day in the future we will have another opportunity to vote on Miguel Estrada to serve this country, because we are going to stand for people of quality, of character, of performance, and of competence. This sort of obstruction needs to stop. Senators do not have to vote in favor of judges if they so desire, but they should vote one way or the other—not delay, not hold, not obstruct. It is wrong to treat people in such an unjust, unfair, and inequitable way.

I thank the Senator from Pennsylvania, Mr. SPECTER, for his great leadership in getting Miguel Estrada out of the Judiciary Committee. It is a shame and I think a disgraceful day that Miguel Estrada has been forced to withdraw his name so he can focus, with his family, on his future.

He has a bright future. I know Senators share my view that he has a great future for service in this country someday when the Senate stops its obstruction.

Mr. SPECTER. I have been on the Judiciary Committee for 23 years, and very few nominees have come with Miguel Estrada's record. When a man comes to Washington to serve with that record, we ought to welcome him, not send him packing.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on the day of the withdrawal of Miguel Estrada, it is important to keep in mind we have approved 145 of the President's judicial nominees. We have worked with the President to do so in a swift and unprecedented pace. Despite the anti-Hispanic rhetoric surrounding Mr. Estrada's nomination generated by some on the other side of the aisle, a Democratic President appointed the vast majority of Latino Americans serving now in our Federal courts.

Mr. Estrada's withdrawal presents a positive opportunity for the President.

I have worked with the Presiding Officer. The President should look at what we have done in Nevada as a model for selecting nominees. Senator ENSIGN and I have worked closely on recommending nominees to the White House. I have worked with the junior Senator from Nevada, who is a representative of the President's party, in selecting four judges.

Larry Hicks, who has waited 10 years to become a judge, was selected previously by the first President Bush. He patiently waited. He was nominated again by the Senator from Nevada and confirmed and is now sitting as a judge.

Jim Meehan, I practiced law in the same community as Judge Meehan. He was a fine lawyer. He has made a fine judge.

In the Ninth Circuit, Jay Bybee. Jay Bybee was criticized by some as being too idealistic, but his background is superb, an academic, someone who worked not only in academia but worked in various administrations of at least two Presidents. He was approved very quickly and swiftly.

Yesterday, we completed a hearing on Robert Clive Jones to be a district court judge.

We do not need the furor surrounding judicial nominations. We have approved 145 judges. We should work to have bipartisan support of these judges. There are lots of judges who have more conservative ideology who do not draw a lot of attention. One hundred forty-five judges have been approved and three have not been approved.

The victim in this has been Miguel Estrada. Miguel Estrada has stated publicly that he would answer the questions, but we were told by the President's counsel that he was not going to answer the questions. We were told by the President's counsel, Mr. Gonzales, that Mr. Estrada would not be allowed to come forward with the memorandums he had written while in the Solicitor's Office. He was taking directions from the President's lawyer, Mr. Gonzales.

If there is a victim in all this, it is Miguel Estrada—I acknowledge that with the majority—but it is caused by the President and the people surrounding him, not caused by us. All we wanted was to have him answer questions and supply the memo while in the Solicitor's Office.

I heard a statement as I walked in the room saying we have to stop this kind of obstructionism. One hundred forty-five judges are now serving, and we have approved those judges—we have turned down three—but 145 to 3 is not bad. It is overwhelmingly positive.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope our colleagues listen carefully to the statement of my friend and colleague from Nevada in outlining the factual situation regarding the consideration of Mr. Estrada. He states it quite accurately as a member of the Judiciary Committee.

The real issue is whether the Senate is going to perform as our Founding Fathers expected us to perform. Any fair reading of the Constitutional Convention indicates quite clearly until the final few weeks of the Constitutional Convention that appointed power of all United States judges was in the Senate. Only in the last few weeks was the decision made to make it a shared power. It was never understood that we were to be a rubber stamp for anything that the Executive posed in terms of judicial nominees.

The members of the Judiciary Committee in the Senate take that responsibility very carefully and closely. Part of fulfilling the responsibility after the President makes a nomination is for us to make a balanced and informed judgment. In order to make a balanced and informed judgment, we ought to know, the people ought to know, the Senate ought to know the information the White House knows; that the President knows when he is going to make a nomination to the district court, in this case.

When the nominee comes before the Judiciary Committee and says, look, I am quite prepared to share that information, and where Members of the other side of the aisle implore the White House to make that information available so that there could be a complete understanding of the positions taken by Mr. Estrada, and then a movement toward the completion of the nominee, the White House indicated they were not going to comply with that particular request. They are the ones who made the judgment that it was more important for them not to have that information shared than the consideration for the Senate of the United States to make a balanced and informed judgment about the complete positions, understanding, and awareness of this nominee and how they view the Constitution of the United States.

I am very hopeful, as the Senator from Nevada pointed out, since there has been sufficient and overwhelming acceptance of so many of the White House nominees, that in the future we will be able to work out the process so we can have someone who is qualified, someone who can command the kind of strong support in the Senate as so many other nominees have. And, in particular, this is an enormously important court, as the Senator from Nevada knows, the DC Circuit Court. It has very special jurisdiction. The considerations of the rights to workers, those appeals from the NLRB go to the DC Circuit Court. The interpretations of the environmental laws go to the DC Circuit Court. Protections and matters regarding the Patriot Act go directly to the DC Circuit Court.

It has an extremely important role in terms of our whole judicial system which increases the responsibility we have in ensuring this information about the nominee is going to be available to the American people.

I wish the best to Mr. Estrada. I agree with the characterization of the Senator from Nevada that he has been the victim of the decision made by the White House to refuse to cooperate with the Senate.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

Mr. KENNEDY. It is a privilege to join Senator HARKIN on this urgently needed proposal to protect the 40-hour workweek and the right to overtime pay for millions of working men and women. The Bush administration's new regulations are an unfair scheme to prop up business profits by allowing firms across America to reduce their costs by denying overtime protections to more than 8 million hard-working men and women, including 200,000 in my own State of Massachusetts. Police officers, nurses, cooks, clerks, physical therapists, reporters, and many others would be required to work longer hours for less pay.

Our amendment is very clear. It says that no worker now eligible for overtime protections can be denied overtime pay as a result of the new regulation.

With a failing economy, with more than 9 million Americans out of work, with so many other families struggling to make ends meet, cutbacks in overtime pay are a nightmare that no worker should have to bear. Overtime pay now makes up a quarter of their total pay, and the administration's proposal will mean an average pay cut of $161 a week for them.

Hard-working Americans do not deserve this pay cut, and it is wrong for the administration to force it on them. Overtime protections of the Fair Labor Standards Act have been a fundamental right of this Nation's workers for more than half a century. This basic law was enacted in the 1930s to create a 40-hour workweek. It requires workers to be paid fairly for any extra hours. Especially in times such as these, it is an incentive for job creation because it encourages employers to hire more workers instead of forcing current employees to work longer hours.

The economy has lost more than 3 million private sector jobs since President Bush took office. The Bush administration is wrong to propose regulations that will enable businesses to require their employees to work longer hours and reduce the need to hire additional workers.

According to the congressional General Accounting Office, employees without overtime protection are more than twice as likely to work overtime as those covered by that protection. Americans are working longer hours today than ever before, longer than in any other industrial nation. At least one in five employees now has a workweek that exceeds 50 hours, let alone 40 hours a week.

We know that employees across America are already struggling hard to balance their family needs with their work responsibilities. Requiring them to work longer hours for less pay will impose an even greater burden to this daily struggle. Protecting the 40-hour workweek is vital to protecting the work/family balance for millions of Americans in communities all across the Nation. The last thing Congress should do is to allow this antiworker administration to make the balance worse than it already is.

Sixty-five years ago the Fair Labor Standards Act was signed into law by President Franklin Roosevelt and established minimum wage and maximum work hours. It was in the midst of the Great Depression, and as President Roosevelt told the country:

> . . . if the hours of labor for the individual could be shortened . . . more people could be employed. If minimum wages could be established, each worker could get a living wage.

Those words are as true in 2003 as they were in 1938. Our modern economy has lost more private sector jobs during this economic decline than in any recession since the Great Depression.

What can the administration be thinking when it comes up with such a shameful proposal to deny overtime protections on which millions of workers rely? Congress cannot sit idly by when more and more Americans lose their jobs, their homes, their livelihoods, and their dignity. We will continue to battle to restore jobs, provide fair unemployment benefits, raise the minimum wage, and we will do all we can to preserve the overtime protections of which so many American families depend.

I urge my colleagues to support this essential proposal to keep faith with the Nation's working families.

I wish to take a few moments of the time of the Senate to review what is happening to American workers in relation to other countries around the world. It is reflected in this chart. The red columns indicate the number of hours workers are working and comparing it with other industrialized nations of the world.

As you can see from this chart, American workers are working longer and harder than those in any other industrial nation of the world. That has been a phenomenon that has really developed in the recent times.

This chart shows that U.S. work hours have increased while those in other industrial nations actually decreased. The United States—we see over here the increases; and the decline in other industrial nations. So here we have a workforce that is prepared to work and prepared to work long and hard. Yet we find the administration is attempting to penalize these workers for being willing to work and for working long and hard.

This chart here is "Workers Without Overtime Protections Are More Than Twice As Likely To Work Longer Hours."

What does this chart say? That if the workers do not have the overtime protections, the employers work them more than twice what they would work if they did have the overtime protection. Why is that important? Because this particular proposal is taking away this kind of protection. The result will be that the workforce, which is working longer and harder than that in any other industrial nation in the world, is going to find they are going to have to work even longer and harder to make ends meet. This is true, even if they are working 50 hours a week. Then they are three times as likely to be required to work longer than if they had the overtime protections.

So we have a situation where we see Americans working longer and harder. We have a situation that, if they do not have the overtime protections, they are required by their employers to work twice as hard as those with the overtime protections. In the instances of those who work 50 hours a week, they are required to work three times as hard.

These are the facts. Nearly 3 in 10 employees already work more than 40 hours a week and one in five Americans work more than 50 hours a week. One in five Americans are working more than 50 hours a week. These working Americans don't have the time they need to meet their family responsibilities.

Parents today define that biggest daily challenge as balancing work and family responsibilities and instilling values in their children. When parents have more time to spend with their children, they achieve more academically, improve behavior, and demonstrate lower dropout rates.

This proposal by the administration is an antifamily proposal because it is going to deny essential resources for families to be able to meet their particular needs. The result will be all the additional social problems that impact families that do not have a chance to be together, to stay together, to work together, to pray together, to enjoy each other.

The Fair Labor Standards Act overtime protection works. Workers are compensated time and a half their regular pay for hours worked in excess of the 40 hours per week. That is what the law is. Employers have a financial disincentive to work employees excessive hours. Employers have an incentive to hire more workers instead.

As we see, that is the current law. This is the current employment situation where we see the loss of jobs for more than 3 million American workers over this period of time. So we are finding at the present time our workers are working longer and they are working harder in order to provide for their families. We have the greatest loss of jobs that we have had since the time of the Great Depression.

What this particular proposal is saying is that isn't even enough. Even though you are working longer and working harder than at any time before, we are going to take away the protections which are going to effectively deny the average family who is receiving overtime about $161 a week.

With all the challenges we are facing in this country, the fact that workers who are working longer and harder and are making $161 on average in overtime is not on the front burner. These Americans are working. They ought to be entitled to that protection.

We have now more than 8 million workers—2.5 million workers are salaried employees and 5.5 million hourly workers—who will lose their overtime pay under the Bush proposal. Even some who are salaried workers are eligible for overtime. This is 8 million who would be eligible for overtime who will be denied that.

Even the business community admits this will have widespread effects. According to the Society for Human Resource Management:

> This is going to affect every workplace, every employee, and every professional.

This is widespread in its impact on working families in this country.

This is a chart which should give you some kind of historical perspective of the number of workers who were protected in terms of overtime. The percentage of workers who were not protected was 17 percent in 1983. In 1998, it was 20 percent. Now, under the Bush proposal—here it is—33 percent. Thirty-three percent of the workers, effectively.

It includes the 8 million who will not be eligible. The impact of this is very clear. That is sort of a major pay cut for workers. American workers are working longer and harder than any other industrial society in the world. Who are they? They are millions of workers who would lose overtime protections under the Bush proposal.

Let us be clear for any who are watching this debate. Police officers will be affected. Nurses will be affected. Cooks and chefs and clerical workers will be affected. Firefighters and physical therapists will be affected. It is interesting that these are first responders—police officers, firefighters, and nurses. They are our first responders. We are talking about trying to give support to our first responders on the one hand, and on the other hand we are taking away the economic protections they need to provide for their families.

We continue along with the various groups: Paralegals, reporters, dental hygienists, graphic artists, bookkeepers, lab technicians, and social workers.

The interesting irony is that they are our first responders. We not only fail to give support to the local communities which they need for the first responders to terrorism, but on the other hand we are sending a message to the police officers, firefighters, and nurses that we are going to reduce their pay at the same time. What kind of message is that at a time when we are talking about homeland security?

Millions of workers depend on their overtime pay to make ends meet. The most recent statistics show that overtime pay accounted for more than 25 percent of the income of workers who worked overtime which they depend on in terms of their income. The workers are stripped of their overtime protection, and they will be forced to work longer hours for less pay.

That is what this is about. It is just a major broadside against workers in America who are working longer and harder, attempting to maintain their jobs, hopeful that they won't be dismissed or fired as a result of the economic policies of this administration which has seen the greatest growth of unemployment since the Great Depression as a result of economic policy.

The Senator from Iowa will remember when we had different economic policies. We had them during the period of President Clinton when we had the longest period of economic growth and price stability in this country since the early part of the 1960s. That was because of economic leadership at the national level. In the early 1960s, we had the longest period of economic growth and price stability than we had for better part of the century.

National economic leadership is essential in terms of ensuring the people are going to work. We have a failed economic policy with 3 million people left out of work. And for those who are left in, we are cutting back on the pay of some of the hardest working individuals in the world. That is unfair. That is unjust. It is done by the issuance of a regulation rather than as a result of legislation and hearings. It will not stand.

I commend the Senator from Iowa for his leadership in this area because he is involved in some other issues that affect working people and farmers and others on the forefront. I commend him for all he has done. I am proud to join with him in resisting this proposal because it is just wrong. It is wrong for the workers. It is wrong for our economy. It is wrong for families. This is a family issue. It is a homeland security issue. It is a children's issue. It is a women's issue because so many of these workers who work overtime in the economy are women.

Make no mistake, the women will be hurt by this proposal. They are working hard and trying to raise their families. Make no mistake about who is being impacted on this.

It has broad implications in terms of our economy. It is not right, it is not fair, it is not just, it is bad economics, and it is just lousy policy.

There are those of us who will be joining together with the Senator from Iowa to see that we resist this proposal.

Mr. HARKIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. HARKIN. I first wish to thank the senior Senator from Massachusetts for his many years of leadership and support on issues that really affect working families in America. No one has fought longer and harder and more successfully in the past to protect the working families of America than the senior Senator from Massachusetts. I am very proud to have his support for this amendment and for his joining us in trying to do what we can to stop this assault on the American working families, as the Senator so ably pointed out.

I must say to the Senator that people ask me all the time: Why would they do this? Why would the administration, sort of under the cover of darkness, want to at this point in time, or any time, take away the protections of overtime pay for millions of Americans? I must tell the Senator from Massachusetts that I am hard pressed to answer that question. Why would they want to do this? I throw up my arms. It makes no sense economically. It is antifamily, as the Senator from Massachusetts pointed out. It is bad economic policy. We are not going to create more jobs. In fact, we will cause the loss of more jobs. I am hard pressed.

I wonder if the Senator has any ideas to help me answer constituents and others who ask me why the administration proposes an outlandish assault on working families. I am at a loss. I don't know if the Senator can help me. Maybe they have given in to some of the people in the business community. As I say, it is not all the people. Not all the people in the business community agree with us. But there are a few who are pushing.

Maybe the answer is that people in the business community just want to be able to tell their workers what to do, when to do it, and how to do it, with no restrictions whatsoever on how they tell their workers what to do and when they can work. That is the best I can come up with.

Mr. KENNEDY. The only answer I can reach is that it is the result of pressure being exerted on the administration by these business groups that do not want to be in a position of having to hire additional workers, and they don't want to be paying additional overtime pay that has been a part of the whole social balance in this country and society and recognized as such by Republicans and Democrats since the 1930s.

Forty hours of work a week is what workers ought have as an opportunity for employment. Under special circumstances, if they are going to have to work longer or want to work longer, they get the time and a half.

Now what we undermining is the age-old concept about the importance of protecting a 40-hour week. We are effectively eliminating that. Make no mistake about it. Effectively, the 40-hour workweek will be eliminated for millions of workers with this proposal because now employers will be able to require hours from the workers without having to give them fair compensation.

But let me ask the Senator. The Senator from Iowa is a floor manager with the Senator from Pennsylvania on this legislation which has important funding for education programs, for health programs, for job training programs, for the NIH, and all the research we are doing in terms of cancer research—all kinds of research.

Is it true that this administration has said, if their proposal—which will deny millions of workers overtime pay—is eliminated, this administration and this President will veto the underlying bill which they feel so strongly about in terms of the income of working families who are working longer and harder providing for their children; that they are prepared to risk the funding of these vital services which are absolutely at the heart of the quality of life of the American people?

Am I correct in understanding that this is the administration's position, that they feel so strongly about taking away the overtime pay for workers that they are prepared to risk the whole funding stream for education, for health, for NIH, and for job training, the range of different services that are so important to the well-being and health and education of people in this country?

Mr. HARKIN. I just respond to the Senator, he made a great point. I can only say what Reuters news agency reported 1 day ago, yesterday, saying:

> The White House issued a veto threat . . . against a Democratic bid to derail its proposed changes in federal work rules that [would] cost millions of Americans overtime pay. . . .
>
> If the Senate adopted the amendment, President Bush's advisers would recommend he veto the spending bill, the White House budget office said.

I say to the Senator from Massachusetts, this is again mind-boggling, that if the Senate expresses its will that we do not want these rules to go into effect, they are going to veto this bill that has money in it for vital basic medical research for all of NIH, the National Institutes of Health, all of the funding for higher education and Pell grants—and, by the way, I know the Senator and others have amendments to make sure we get those Pell grants up, and I support him in that effort—all of the funding for elementary and secondary education, Head Start programs, maternal and child health care programs. They are going to veto the whole thing because they are so adamant that they want to take away overtime pay from American workers.

I hope this is a mistake. I hope Reuters was wrong, but I can only rely upon what they have said. The White House has not communicated this to me directly, but this has been reported from the White House, that they are going to veto this bill over this.

I say to the Senator from Massachusetts, I am glad he mentioned that because, again, it just shows to me the zeal—the zeal—with which this administration and their advisers want to attack working families in this country and to take away overtime pay; that they are willing to put out that threat of a veto and take away Head Start Program funding, maternal and child health care, elementary and secondary education, all the other things that are in this bill, simply because they want to take away overtime pay from millions of American workers. Again, I find this bordering on the bizarre.

Mr. KENNEDY. I say to the Senator, I certainly agree. I know we are going to have an opportunity to address this and debate this issue, but I hope our colleagues, over the period of the next day or so, will really think long and hard and deeply about this proposal.

We have been attempting in this body to raise the minimum wage for working families. Effectively, without raising the minimum wage this year, we will lose all of the gains of the last increase. And we are denied on the other side of the body. We indicated we would like to raise the minimum wage.

In fact, there are millions of workers in this country who are working two or three jobs a day. These are primarily women. About 62 or 63 percent of those workers who earn the minimum wage are women. One-third of those women have children, so it is a children's issue. It is a women's issue. It is a civil rights issue because most of the people working at the minimum wage are men and women of color. And it is a fairness issue.

The American people support overwhelmingly the fact that people who want to work hard, 40 hours a week, 52 weeks a year, should not have to live in poverty for themselves and their children. We cannot get a vote on it. The other side will not let us have a vote on it.

So they will not let you take care of those who are at the lower end of the economic ladder. Here they are going on to take the overtime away. They have assaulted Davis-Bacon, which is ways of giving protection to workers who are trying to do a decent job in terms of building and constructing the great parts of American commerce. And what in the world, we find out that on the issue of worker health and safety, they are now rescinding the proposed tuberculosis standards which have been in development for 10 years, when we have a dramatic increase in the problems of tuberculosis and other airborne diseases in this country. The list goes on and on.

What is it about this administration? With all the challenges, with Iraq adrift, our grids and electrical systems crashing, the judicial nomination process in shambles, and the economy sputtering, they are spending their time attacking and assaulting working men and women in this country. Can the Senator possibly help me understand how this is a priority, given all the other kinds of needs we are facing in this Nation?

Mr. HARKIN. I respond to the Senator from Massachusetts, from all the polls we have seen, all the data we have seen, the American people do not want this. They want more overtime pay protection, not less.

I say to the Senator from Massachusetts, while he was speaking, I was thinking about something I said a few days ago about the fact that the administration is turning the clock back prior to 1938 when we passed the Fair Labor Standards Act. And someone said that was sort of overblown rhetoric on my part—that of course no one wants to turn the clock back.

As I started doing more research into what happened with the Fair Labor Standards Act, I came across an interesting item. The first kind of strikes that occurred asking for an 8-hour day started in 1886, the famous Haymarket Square riot in Chicago. That was trying to get an 8-hour day at that time. This finally built up to the 1930s during the Great Depression. The 40-hour workweek was a compromise. The Senate, in 1937, passed a measure providing for a 30-hour workweek. Think about that. If we were to propose a 30-hour workweek around here, I don't know how many votes you would get. You would not get many.

In 1937, the Senate passed a measure providing for a 30-hour workweek. It was only because business ganged up and they said they had to compromise, and they compromised on a 40-hour workweek.

So when I say they are turning the clock back to before 1938, I mean it. That is exactly what they are trying to do, put us back to a time when people worked 10, 12 hours a day with no compensation for it and had little time with their families. That is exactly what this measure is intended to do.

You couple that with what the Senator from Massachusetts said about Davis-Bacon, the fact that we can't even get a vote on the minimum wage. The Senator from Massachusetts for the last couple, 3 years has been trying to get this vote up. We can't get a vote up. They won't let us vote on it. I hope we will vote sometime this year on the minimum wage. But these are all attacks on workers.

Mr. KENNEDY. Pensions.

Mr. HARKIN. All of them.

(Mr. GRAHAM of South Carolina assumed the Chair.)

Mr. DAYTON. Will the Senator yield for a question?

Mr. KENNEDY. I have the floor, and after the Senator has finished, I will be glad to yield.

Mr. HARKIN. Go ahead.

Mr. DAYTON. Isn't it also true that this administration proposed eliminating taxation on other income? Doesn't the Senator think it is a little odd for an administration to be penalizing people who want to work, people who want to work overtime and, at the same time, providing tax breaks or tax elimination for people who don't work for their income?

Mr. KENNEDY. The Senator is quite correct. There is a panoply of different issues that affect working families. On each and every one of them, I think any fair assessment is that the administration comes down on the wrong side of it. Today it is overtime. And this is a debate at the core of what policy this administration is focused on.

But I think, as Senator DAYTON and others have pointed out, there are a whole range of issues that shortchange American workers, and we have every intention of continuing the battle for them.

Mr. President, I would like to speak briefly on another subject. I know there are others who want to speak. But I will just take a moment of the Senate's time to address an education issue which, hopefully, we will have a chance to address and debate further. But I think it is important that we have it out in the RECORD so our colleagues are aware of it.

Mr. President, many of us are deeply concerned about the continuing failure of our appropriations for education to fulfill to promise that the Congress and the administration made to pay for the school reforms of No Child Left Behind signed just a year and a half ago.

Make no mistake, the bill before us continues to have harsh cuts in education that will hurt families, students, and teachers throughout the country. These are the children of these workers we were just talking about.

The President and Congress promised to reform and improve public education, to leave no child behind over a year ago. We said to the parents and teachers: Help is on its way. But if we pass the school budget before us, the message to parents and teachers and schools would be: You are on your own.

A pattern is emerging. Each year the President picks a large area to work on in a bipartisan fashion and promises compassion and help. In the past, that area has been in education. This year, it is the global AIDS crisis, and we hope that the promised support will happen. But on education, the promises made consistently have been broken. In fact, the bill before us contains a litany of broken promises on education, because the Republican Congress refuses to keep them:

In January 2002, President Bush promised that "America's schools will be on a new path of reform . . . our schools will have greater resources to meet those goals." But the bill before us cuts funding for the No Child Left Behind Act by $200 million. We have raised standards and raised expectations on school children. We hold schools accountable for better performance. Yet now, the Republican majority wants to cut funding for school reform.

President Bush promised that we would "leave no child behind," and that became the title of the landmark school reform bill he signed into law over a year and a half ago.

But the bill before us leaves 6 million children behind. It underfunds the Title I program for needy children by over $6 billion. Under the Republican education budget, some 6 million needy children will not get smaller classes, will not get supplemental services, and will not get the special attention they need to meet high standards.

In March of last year, President Bush promised to support teachers, making sure they "get the training they need to raise educational standards."

But the bill before us cuts 20,000 teachers from professional development programs. It completely eliminates training for teachers in technology. We need to upgrade and expand teacher quality efforts, not downgrade teacher training. The No Child Left Behind Act requires schools to give every classroom a high quality teacher. They need more resources, not fewer resources, to reach that goal.

President Bush promised that his Administration "will promote policies that expand educational opportunities for Americans from all racial, ethnic, and economic backgrounds."

The bill before us undermines support for non-English speaking children and undermines support for many of the nation's neediest children.

The bill before us cuts 32,000 children from English as a Second Language programs.

It cuts 40 percent of funding for the children of migrant workers struggling to get their GED and go to college.

It eliminates dropout prevention funding.

It eliminates the Thurgood Marshall Scholarship program.

This legislation basically does nothing to help families afford college, at a time when the rising cost of college is keeping minority and low-income students out. Average public college tuition rose almost ten percent this past year. The average public university's annual costs now equal more than 62 percent of a working class family income. Each year, over 400,000 college-ready, low-income students do not pursue a four-year college degree, because they cannot afford the cost. Yet this bill has a zero increase in individual student Pell grants, zero increase in the campus-based financial aid program, and zero increase in the college work study program.

After all the promises made and all the public visits to schools, how can we possibly approve a cut to the No Child Left Behind Act?

If we intend to hold schools and students accountable, Congress and the Administration have to be accountable too. We know what works in school reform. When we provide the resources, we know that schools can be turned around. They can upgrade their curricula, provide diagnostic tests that identify learning needs early, train teachers in the latest and best instructional techniques, and give students the after-school academic help and English language instruction they deserve. We have seen hundreds of high-poverty schools across the country turn themselves around with exactly these reforms, because they have the necessary resources to do. We need more, not fewer, resources for school reform, so that the reforms we say we care so much about can actually succeed.

Sadly, the Senate is suddenly starting to move even more harshly in the wrong direction. For the first time in eight years, the Senate education budget is lower than the House proposed education budget. And the House Republican bill falls short by over $8 billion, compared to the amount needed to fully carry out the No Child Left Behind Act. The Senate bill before us is even worse. This bill actually cuts funds for the No Child Left Behind Act.

Obviously, money is not the answer to all the problems of our schools. But the way we allocate resources in the federal budget is a pretty clear expression of our view of the nation's priorities. And the priorities on education reflected in the bill before us—the product of a Republican-only budget process—are profoundly wrong.

I hope a bipartisan group of colleagues will come together as we consider this legislation, and keep the promises we made to help these schools. Our nation and our nation's schools and students deserve no less.

I want to talk about the issue of higher education, specifically. In the area of education, the amendment I offer with Senator COLLINS increases the maximum Pell grant by $500, increases other financial aid to keep pace with the soaring tuition costs college students and their families are now facing. A coalition of 56 higher education and student organizations throughout the country supports it. The $2.2 billion is offset by the same mechanism the majority uses in the underlying substitute to offset their funding levels. We rescind $2.2 billion in fiscal year 2004 advanced appropriations made in fiscal 2003 and reappropriate those funds in fiscal 2003.

Our Nation faces a growing crisis in higher education because of the soaring costs of tuition in recent years. The crisis is now far worse because State and local budgets are in crisis, too. Cash-strapped States are dealing with $80 billion in deficits by cutting higher education funds and forcing public colleges to raise tuition. According to a USA Today report last week, over 40 percent of public colleges in America, which educate three-quarters of all college students, are raising tuition by more than 10 percent a year. There has been a $1,750 increase in tuition and fees at the University of Massachusetts. Northern Virginia Community College, which has the most community college students in Virginia, has raised tuition by 45 percent. Iowa has raised tuition by 19 percent at all public colleges. The University of Arizona has raised tuition by 28 percent; the University of Missouri by 18 percent. Unless this amendment is adopted, over 100,000 current college students are in danger of dropping out because of higher tuition costs and zero increased financial aid.

Hard-working students are threatened, students like Tawn Pham at the University of Massachusetts in Boston. Tawn is 21 years old. He works at the local courthouse. He is a Pell grant recipient. He borrows Stafford loans. His family came to America from Vietnam in 1987. Without financial aid, he would never have gone to college. Without increased financial aid, his college education is threatened by recent tuition and fee hikes. The American dream we all pay homage to is threatened for young students like Tawn Pham because of our threatened failure to increase financial aid.

The answer is not simply to allow students to borrow more and more. Vast numbers of college students are already borrowing, for example, tens of thousands of dollars to pay for their education. Twenty years ago a typical aid package was 40 percent loans, 60 percent grants. Today the figures are reversed. The typical package is now 60 percent loans and 40 percent grants. And students who are pursuing graduate work confront upwards of $120,000 in student loan debt. Yet the banking industry proposed that students borrow even more at higher interest rates to go to college.

Last year the Bush administration proposed to make consolidated student loans more expensive. No young person should have to mortgage their future in order to go to college. They should be paying off the loans they have at lower interest rates, not higher interest rates.

Vast numbers of students are already taking jobs to defray the costs of their education. Half of all college students who take part-time jobs are now working 25 hours a week and trying to be full-time students, too. Their studies are clearly suffering, and so is their future.

According to GAO, only 41 percent of students who work between 20 and 31 hours a week complete a college degree. For students who work 32 hours a week or more, the figure is even worse.

Sadly, this bill provides virtually no new help for students and families struggling to pay the increased cost of higher education.

In the bill before us, there is zero increase in the maximum Pell grant; zero increase in Perkins loans; zero increase in work-study aid; zero increase in campus-based financial aid; zero increase in support for leveraged State student aid.

The amendment Senator COLLINS and I are proposing is a stopgap effort to provide assistance for hard-pressed college students and their families. It will help the 4.8 million Pell grant recipients whose median family income is $15,000 a year. There are 4.8 million students who are going to institutions of higher learning, and their family income is $15,000 a year. It will bring new Pell grants to 200,000 new recipients. It will expand the TRIO and the GEAR-UP Programs to enable historically underrepresented students to achieve the goal of a college education. It supports graduate students in the science, humanities, and public interest.

It will bring us a step closer to guaranteeing all Americans a promise of education security. Just as we have made Social Security and Medicare a promise to our senior citizens over 60 years ago, we should make education security a promise to young men and women. If you work hard, finish high school, and are accepted for admission to college, we should guarantee you will have the opportunity to earn a college degree.

I urge my colleagues to support the pending amendment. Surely we have reached the stage in America where we can say it and mean it—inability to pay the cost will never again be a barrier to the dream of a college education.

I would just point my colleagues' attention to a statement from the administration, an administration policy. I will include the relevant parts—executive branch, September 2 statement, Pell grant programs:

> "The bill provides $12.2 billion for Pell grants, $538 million less than the President's request for the high priority program."

This is the administration saying that the underlying substitute is $538 million below what the President of the United States even requested.

Under the Department's most recent estimates of Pell, the Senate level may be insufficient to cover the cost for student awards in 2004. That's true.

We believe that this amendment that we're offering ought to be accepted. It is related obviously not only to those children who are going on to college, but it also helps and assists GEAR-UP children coming in—which are basically the children who would fit into this category, and helps the TRIO Programs. It gives general support for the education continuum for these children that would otherwise definitely not have the chance to attend higher education.

I ask unanimous consent to set the pending amendment aside so that I might offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1566 TO AMENDMENT NO. 1542

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Ms. COLLINS, Mr. DODD, Mr. REED, Mr. BINGAMAN, Mrs. MURRAY, Mr. KERRY, Mr. LIEBERMAN, Mr. EDWARDS, Mr. PRYOR, Mr. CORZINE, Ms. STABENOW, Mr. AKAKA, Mr. LAUTENBERG, and Mr. SCHUMER, proposes an amendment numbered 1566 to amendment No. 1542.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase student financial aid by an amount that matches the increase in low- and middle-income family college costs)

On the appropriate page and line, insert before the period the following: ": *Provided further*, That of the funds appropriate in this Act for the National Institutes of Health, $1,470,000,000 shall not be available for obligation until September 30, 1994".

On page 76, between lines 4 and 5, insert the following:

SEC. . (a) INCREASE IN FUNDING.—In addition to any amounts otherwise appropriated under this Act for Federal Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $1,688,000,000 for such grants. In addition to any amounts otherwise appropriated under this Act for Federal Supplemental Education Opportunity Grants under subpart 3 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $115,000,000 for such grants. In addition to any amounts otherwise appropriated under this Act for Federal Work-Study Programs under part C of title IV of the Higher Education Act of 1965, there are appropriated an additional $157,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for the Leveraging Educational Assistance Partnership Program under subpart 4 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $33,445,000 for such program. In addition to any amounts otherwise appropriated under this Act for Federal Trio programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $160,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for Gear Up programs under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $57,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for loan cancellations under the Federal Perkins Loans program under part E of title IV of the Higher Education Act of 1965, there are appropriated an additional $33,000,000 for such loan cancellations. In addition to any amounts otherwise appropriated under this Act for the Graduate Assistance in Areas of National Need program under subpart 2 of part A of title VII of the Higher Education Act of 1965, there are appropriated an additional $13,200,000 for such program. In addition to any amounts otherwise appropriated under this Act for the Thurgood Marshall Legal Educational Opportunity Program under subpart 3 of part A of title VII of the Higher Education Act of 1965, there are appropriated an additional $7,000,000 for such program. The amount $4,050 under the heading 'Student Financial Assistance' in this title shall be deemed to be $4,500. The amount $9,935,000 under the heading 'Higher Education' in this title shall be deemed to be $15,000,000.

(b) BUDGETARY AUTHORITY.—The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $9,151,909,000. The amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $4,526,591,000.

Mr. KENNEDY. Mr. President, I understand there are a number of pending amendments, the order of which and the time of which will be worked out by the floor managers. We wanted to make available to the Members today this amendment. We will obviously work with the leadership and floor managers to have appropriate time for debate and discussion.

I yield the floor.

Mr. CORZINE. Mr. President, first I wanted to speak on Senator HARKIN's amendment with regard to protecting overtime pay for hard-working Americans. I also want to second the efforts Senator KENNEDY is making. Both Senators HARKIN and KENNEDY are giants with regard to protecting hard-working Americans who are under incredible stress in our economy today.

I heard Senator KENNEDY talk about the people with $15,000 annual incomes who benefit from Pell grants. Tuitions are going up 15, 20 percent across the board. They are 9 percent in New Jersey, so I guess we are doing well at Rutgers. We are not increasing our financial aid at all. The Senator also knows that back in the drawing rooms of the Education Department they are changing the regulations that are reducing the amount of grants and availability of funding for both grants and financial aid for middle-class Americans. It is unbelievable what we are doing to and the pressure we are putting on the American people, the hard-working people who drive this economy. I compliment the Senator on his efforts in raising this issue on higher education.

I think what singles out more than almost anything I have heard debated is trying to take away overtime pay for the American people. I am just one individual who believes that the best way to grow our economy is to have rising tides lift all boats, making sure everybody participates in the excellence and the wealth of America. But we are doing everything we can to undermine that for millions of American workers. So I am proud to join Senator HARKIN, Senator KENNEDY, and all those who want to speak up for those who are making America work.

We are talking about the whole of America's economy. We need to put it in the context of what is happening in the American economy. People talk about the stock market going up, rising to the point that we have recouped $2 trillion of $7 trillion lost; but the fact is we have not recouped job one yet during any kind of economic turnaround. Nine million Americans are unemployed today. A million have dropped out—actually 2 million have stopped looking for jobs. The unemployment rate hovers at 6.2 percent even today. We have heard that unemployment claims went up to 15,000 today, the highest in the last 12 weeks, above the threshold that shows there is weakening job growth in the economy.

The average length of unemployment is longer than it has ever been—19 weeks. It spiked this summer to the highest level in two decades. Quite honestly, we are seeing the worst employment recession we have had since the Great Depression. It is a real problem for working Americans. And now we are trying to make it really hard on the people who do have jobs. Not only are we not doing addressing unemployment in this country in a real sense, but we are now placing burdens on those who actually are delivering and working every day. I think it is just discouraging to undermine the economic well-being of those who are working, as well as ignoring those who are left out in this jobless recovery we have.

Senator HARKIN has been so eloquent in talking about this back-to-history view of where we are taking ourselves. Looking at the 1938 Fair Labor Standards Act and the 40-hour workweek—one of the highest ones in economically developed countries—nobody is arguing that we ought to change that; we are saying you ought to get time and a half when working overtime, and we should define it in a way that is really meaningful for people who work on hourly wages.

I just don't understand the timing. I don't understand the proposition of it. We should be encouraging having resources in the pockets of people who will go out and spend it and drive the economy. When we are talking about how we get jobs growing in this country, people need the ability to create demand. This does the opposite. It just seems hard to understand why we want to strip workers of their right to overtime pay, particularly at a time of economic stress in our economy.

American families are the drivers of our economy. It is the vast middle class in this country who are in these jobs. They are not in executive positions. This is not redefining what executive positions are. This is trying to cut away at the bulk of those people who are working on an hourly basis, really providing so much of what is good happening in our economy.

These changes mean real losses—on average, 25 percent of annual income—for an estimated 8 million Americans. By the way, if that happens, what does that do to the competitive labor market, or for changes in what is going on? This is about building up the bottom line of corporate America at the expense of working Americans. Again, I go back to rising tides lift all boats and why we want to undermine the economic well-being of policemen, nurses, firefighters, EMTs, and even journalists. Some of us sometimes have trouble with them, but journalists are also folks who would be carved out of this.

I have heard Senator KENNEDY say—and I am sure Senator HARKIN mentioned this before—that so much of this is focused on women in the workplace. It is incredible. We are asking families to have two wage earners so they can make it in today's society, and we have turned the situation into where overtime pay will be taken away from the folks making the sacrifices, trying to get their kids into higher educational environments where they can have access to the American promise.

I don't get it. I don't think the American people get it. I think we have to make sure everyone understands this administration, and those who believe they want to so-call "clarify" the rules and change them, is really undermining the economic health and welfare of our American middle class—the people who are paying the bills, living their lives within the rules, and doing the right things for everyone.

Mr. President, this country deserves better, in my view. I stand fully behind the efforts of Senator HARKIN and those who are pushing very hard to block this work rule change that I think undermines the health of our economy and the health and welfare of working Americans in our economy. It is bad and it should not go through. We need to support this amendment that protects working Americans. By the way, that will be good for everybody. That will be good for business, good for creating demand in our society, and I hope we understand we have to look at this on a holistic basis, not on something that just helps special interests and a limited number of folks in our economy.

I think we can do a lot to improve our economy. One of the ways to do it is to stop these kinds of actions from taking place. I am proud to stand with Senator HARKIN in this effort.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I am a little confused because for the last hour I have been listening to debate on an overtime amendment and, as far as I can tell, an overtime amendment has not been laid down. But it is my understanding that when it is, what it will do is keep the Secretary of Labor from spending a single dollar to review the proposed rule dealing with overtime.

Now, the process we usually have is that agencies propose rules, they publish them, and then they get comments. As I understand it, there are 80,000 comments on this. Now, the job of the agency following that is to take those comments into consideration and, if worthy, put them into the rule. What we are saying is we don't want anybody to look at what the public is saying; we don't want anybody to say what the 80,000 people who took the time to comment said. We don't want to see if there can be a change to this rule. We think we can blast it best in its present form. So don't let the Secretary look at the comments.

It is her job to look at them. It is her job to see if there needs to be a change to the proposed rule. All this amendment does is keep the Secretary from taking that action. I suppose it is no coincidence that we are possibly taking up this amendment right after the Labor Day weekend. Each year at this time, we honor those who work hard and help to strengthen the economies of our States and the country. The holiday cannot help but remind us of those workers this amendment purports to protect.

Now we must carefully consider who is really helped and hurt by this amendment—this amendment that stops the Secretary of Labor from looking at 80,000 comments on ways to improve her rule.

Most of us were able to spend a considerable amount of the August work period meeting with our constituents. At each town meeting I held, there was usually someone in attendance who was quite concerned about Government regulations. I was often told to rein in big Government, keep the rules and regulations simple, current, responsive, and make sure they make sense in today's everchanging workplace.

This amendment that would keep the Secretary of Labor from looking at the 80,000 comments has the opposite approach. Instead of keeping the regulations simple and current, it would prohibit the Secretary of Labor from updating the rules exempting white-collar employees from the Fair Labor Standards Act overtime requirements. Simply put, it is an attempt to reject the new, turn back the clock, look to yesterday for the answer to tomorrow's problems. It is an approach that is doomed to failure before it is even applied, and I am opposed to it.

There is no question that the workplace has dramatically changed during the last half century. It changed during the last half decade. The regulations governing white-collar exemptions, however, remain substantially the same as they were 50 years ago. The existing rule takes us back to a time when workers held titles such as "straw boss," "keypunch operator," "legman," and other occupations that do not exist today. As our economy has evolved, new occupations have emerged that were not even contemplated when those regulations were written 50 years ago.

A 1999 study by the General Accounting Office recommended that the Department of Labor "comprehensively review current regulations and restructure white-collar exemptions to better accommodate today's workplace and to anticipate future workplace trends." That was the General Accounting Office telling the Department of Labor they needed to "comprehensively review current regulations and restructure white-collar exemptions to better accommodate today's workplace and to anticipate future workplace trends." That is precisely what the Department of Labor's proposal to update and clarify the white-collar regulations will do.

While the Department's proposal will update and clarify, this amendment will do neither. It keeps it from happening, it keeps the comments from being reviewed, and it will set the clock back to 1954 and try to force the square peg of the jobs of the 21st century into the round hole of the workplace of 50 years ago.

I am a former shoe salesman, and I know how to tell when something will not fit. This amendment just will not fit. It is like trying to force a size 10 foot into a size 6 shoe. It will not fit no matter how hard you try.

So let's be clear about what this amendment will do. The amendment that keeps the Secretary from looking at the 80,000 comments will undermine the Department of Labor's efforts to extend overtime protection to 1.3 million low-wage workers. Under the current rules, these 1954 rules, only those rare workers earning less than $8,060 a year are automatically protected for overtime. You have to make under $8,060 to automatically be protected.

The administration's proposed rule would raise that threshold to $22,100. As a result, 20 percent of the lowest paid workers would be guaranteed overtime pay. The overtime provisions of the Fair Labor Standards Act were originally intended to protect lower income workers. The proposed rules would provide lower income workers with the protection they deserve.

By undermining the administration's efforts to better protect lower income workers, whom will this amendment protect? The supporters of this amendment claim that an estimated 8 million workers will become ineligible for overtime under the proposed rules. However, this estimate is based on a study by the Economic Policy Institute, and I have to tell you, Mr. President, it looks as if it is riddled with errors.

For example, the study includes in its calculations at least 18 percent of the workforce who work 35 hours or less a week. These part-time workers do not work more than 40 hours a week and, therefore, they do not receive overtime in the first place.

The study also claims the proposed rule will deny overtime pay to white-collar employees earning more than $65,000 a year. However, not all employees earning over $65,000 are exempt under the proposed rule—only those performing office or nonmanual work or one or more exempt duties. This means that workers such as police officers, firefighters, plumbers, teamsters, carpenters, and electricians will not lose their overtime pay. Of course, under union contracts, that is already stipulated regardless of what kind of rule there is.

The Department of Labor does acknowledge the possibility that 644,000 highly educated workers making over $65,000 a year might lose their overtime. It rings in 1.3 million making under $22,100, and then there is the possibility that 644,000 making over $65,000 a year would lose their overtime.

Supporters of this amendment claim the proposed rules will strip overtime pay for first responders and nurses. If we strip the rhetoric from the reality, we will find there will be virtually no change in status for the first responders and nurses under the proposal. Under both the current and the proposed regulations, only registered nurses are exempt from overtime pay.

Again, what this amendment does is keep the Secretary of Labor from looking at the 80,000 comments on the proposed rule to see if the rule ought to be changed. There is not anything in the appropriations bill that automatically puts into place any rule, but it will keep her from looking at the comments that have been sent in.

Whom will this amendment protect if not lower income workers, first responders, nurses, or millions of other working Americans? The antiquated and confusing white-collar exemptions have created a windfall for trial lawyers. Ambiguities and outdated terms have generated significant confusion regarding which employees are exempt from overtime requirements. The confusion has generated significant litigation and overtime pay awards for highly paid white-collar employees. Wage and hour cases now exceed discrimination suits as the leading type of employment law class action.

The amendment will not preserve overtime for millions of working Americans. This amendment will not help employers and employees clearly and fairly determine who is entitled to overtime.

The only clear winners of this amendment will be the people filling in their time from chasing personal injuries. It is a sideline. So the trial lawyers will continue to benefit from the current state of this confusion.

Businesses need to know the rules. The rules need to be interpretable by the average small businessman. I really object to the inference that the only reason anybody would pay overtime is that the Federal Government said you had to. That is not true. That is not the way it works, and I can tell you that even if the Federal Government says you have to, there will still be one-tenth of 1 percent of the people who will not comply. But for the most part, 99.9 percent of the people do comply and want to comply—not only will comply but will exceed complying in a number of areas.

We are spending taxpayers' dollars sorting through the court cases that could be solved with clarity. We are talking about taxpayer money being spent to review the 80,000 comments. I think that is entirely necessary. I expect any agency that has a rule to review the comments of the rule and to make changes based on the comments.

The Department of Labor has received and is currently reviewing those 80,000 comments to the proposed regulation. We should allow that regulatory process to continue and give the Department a chance to complete its review of the proposed rules.

Once the review is completed, the Department will align the white collar regulations with the realities of the 21st century workplace and what they have learned from the comments, should they get to read them, and the intent of the Fair Labor Standards Act.

I want to assure my colleagues that if the rule has gone astray, when it is finished we put into place something called the Congressional Review Act. That is where we get to jerk these agencies back to reality if they do not follow the proper procedures, if they do not pay attention to what is being said. We have used that before, and that would be the appropriate place for us to jerk the Department of Labor back to reality if they do not pay attention to the comments that are coming in.

I urge my colleagues to oppose this amendment, allow those comments to be read, check and see if there are going to be changes to the overtime rules, and see if it does not clarify it for the workers and the employers so that there will be less conflict.

Time spent in court does not benefit anybody but the trial lawyer. There is no point in having that done if we can clarify things so everybody understands what the rules are, and we raise that terrible $8,000 up to $22,100 so that we are covering more people for overtime.

I do ask that the amendment be defeated when it is put in, should it be put in.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, an agreement has been cleared on both sides, and I ask unanimous consent that the vote in relation to the Murray amendment No. 1559 occur at 1:45 today; provided that no amendments be in order to the amendment prior to the vote, and that there be 2 minutes equally divided for debate prior to the vote.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, with respect to the amendment offered by the Senator from Massachusetts, which would increase Pell grants and increase other funding in higher education, there is no doubt that it would be highly desirable to have more funding on more lines. The Kennedy amendment seeks to raise the Pell grants from $4,050 to $4,500.

Mr. REID. Mr. President, will the Senator yield?

Mr. SPECTER. I do.

Mr. REID. I apologize for interrupting, but I would appreciate that in the future, before any UCs are offered, that we be on the floor.

Mr. SPECTER. Mr. President, I think that is a fair request. I had made a similar request to the assistant Democratic leader last year when we were debating the resolution on the use of force in Iraq when there was a unanimous consent agreement made when I was off the floor. I had thought this was cleared. The one last year on Iraq was not cleared with me, but I think that is a good idea and I will adhere to it during my managerial time.

Mr. REID. I thank the Senator.

Mr. SPECTER. Going back to the issue on the Pell grants, I do not think anybody has fought harder to raise the Pell grants than this Senator. During my tenure as chairman of the Appropriations Subcommittee on Education, I have battled, along with Senator HARKIN, to raise the Pell grants. If one takes a look at where they were a few years ago in fiscal year 1997, they were at $2,700. Now they are at $4,050. It is an increase of about 50 percent in the course of those few years.

When the fiscal year budget for 2002 was set with the Pell grants at $4,000, there was a vociferous objection from the Director of the Office of Management and Budget. I recall the meeting in my Senate office where there was a very strong objection that we had gone too far. They wanted a recision on our bill, but we held our ground. We kept the Pell grants at $4,000.

So it would be a delight to me to be able to raise them to $4,500, but it simply cannot be done within the confines of the funding we have available, unless we go to some other lines to balance out by cuts in programs like community health centers or strengthening historical black colleges. Now I am not about to suggest cuts there, but if we are to have an increase of $2.2 billion, as the Senator from Massachusetts wants, we are either going to be way over our allocation or we are going to have to make some other cuts.

The Senator from Massachusetts has added funding on a number of lines. He has added funding on leveraging education assistance partnership, on the Federal work study, on TRIO, on GEAR UP, on Perkins, on the Javits Fellow Graduate Assistance, all of which would be highly desirable in many ways if we had an allocation which would support it.

One of the most difficult jobs I have every year is managing this bill. I cast more controversial votes in my capacity in managing this bill than I do in all the rest of the year combined. As the manager, it is my obligation to try to bring this bill in in accordance with the budget resolution and in accordance with the allocation which has been made to this subcommittee.

In the absence of any other Senator seeking recognition at this time—pardon me. The Senator from Minnesota is present. I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I sympathize with the predicament the distinguished Senator from Pennsylvania has expressed. He has been a stalwart in support of increased funding for many of these educational efforts over the years, and I note that his independence and integrity have resulted in his being cited by yet another prominent publication today.

If those qualities of an independent mind, intelligence, experience, and real compassion for people are considered to be detriments, then it is a sad and unfortunate day for the Senate. I think the Senator's record shows clearly to the contrary.

Mr. SPECTER. If the Senator would yield for a question.

Mr. DAYTON. I would be happy to yield.

Mr. SPECTER. I ask him what publication he is referring to. Independence has its price, and I am prepared to pay it.

I thank the Chair.

Mr. DAYTON. The Senator's distinguished record speaks for itself.

I rise on a matter related to what the Senator just described, the quandary regarding funding for education programs. Yesterday, for the fourth time, I attempted to obtain 40 percent of Federal funds for special education to fulfill a promise that was made by the Federal Government to States and school districts 27 years ago, which today, and if we pass the appropriation measure that is before us, would be less than half of that 40 percent share. Every one of my colleagues in the Republican caucus voted against this amendment, evidencing that special education funding in the scheme of everything else is simply not a high enough priority.

At that time, yesterday, the chairman of the Health, Education, Labor and Pension Committee made some observations that I still find rather astounding, particularly as it relates to the actual experience of educators in my State of Minnesota. According to the senior Senator from New Hampshire, it seems we are putting so much Federal money into the education programs—in fact, to quote the Senator, so much so fast under President Bush and the Republican Senate that we now have a situation where a large percentage of the dollars which we have already appropriated cannot be spent and have not been spent.

Over $9 billion were cited that are supposedly sitting in some vault somewhere over at the Department of Education, title I funding, that was appropriated over the last 2 or 3 years evidently that the States have not drawn down to spend.

We were told before that funding for other areas of education had increased so rapidly that those dollars could not be utilized. We were told by the Senator about 2 months ago that there are so many Head Start slots available that some of those are unfilled because there is more availability than parents desiring to put their children into Head Start.

That comes as quite a surprise to parents and educators and Head Start service providers in Minnesota where there has been known to be a serious shortage of funding for those who are eligible and would like to utilize that program for years. It would come as a surprise to the school board members in school districts all over Minnesota that there is unused money in Washington for education. Our State is experiencing a shortage of some $250 to $300 million in education funding resulting in school districts across the State having to make drastic cuts in funding for public education, cutting teacher positions, cutting curriculum offerings, cutting supportive services.

I wrote this morning to the Secretary of Education to ask him exactly the circumstances resulting in this $9.2 billion of unexpended Federal funds and to ask for his recommendation on what can be done to make these funds available to schools and school districts throughout the country where the funds, I can guarantee, would be well used today, tomorrow, or the day after so we do not have a situation where we have supposedly $9 billion of Federal funds lying around waiting for some school or school board to identify this opportunity to provide the educational services that schoolchildren in Minnesota are being denied today because of a critical shortage of funding.

We also offered yesterday amendments to increase funding in this bill before Senators were lambasted for our fiscal irresponsibility. We were told again by the chairman of the HELP committee that we have finally set up in the Senate this year a budget for ourselves and we have renewed the concept of fiscal discipline through a budget after having been abandoned for a year under prior leadership of the Senate. Even though we have a budget, we should, we are being told, ignore it and fund all these additional programs for education.

Yes, I did seek yesterday to increase funding for special education by $11 billion next year. That is a lot of money. But it is money fulfilling broken promises of over a quarter of a century. It was lambasted for its fiscal excess.

Yesterday the manager of the bill noted there were no Senators offering amendments. It seems one of the reasons was that quite a number of Senators were at the White House literally at the same time I was offering my amendment. About the same time the critics were accusing my amendment and other amendments being offered for being fiscally reckless, Members were being notified by the President that he would seek another $60 billion or $80 billion—according to estimates I have seen, but it will actually be $100 billion—additional spending for the war effort in Iraq over the next fiscal year in addition to the $87 billion we approved earlier this year for additional funding for that effort, which I supported. And I will support, I expect, the request by the President for this continuing effort. Once we are in a war situation, as we are, we cannot conduct a war under budget. We have to conduct a war to win, to secure that victory, as the administration is trying now to do.

It struck me as an odd juxtaposition of priorities, particularly given the Republican assistant leader spoke yesterday and said we were very clear that what the President wants he is going to get in terms of additional dollars.

If we want to break the budget for an additional $160 million, as was one proposal yesterday for education—another proposal was for $68 million for education; in my case, $11 billion for additional funding for special education—those are figures that somehow break whatever this budget and this fiscal discipline the majority caucus claims we have established within this body. As soon as the administration wants another $80 or $100 billion next fiscal year, no questions asked. What the President wants, he will get.

I wish the President would add to his list of priorities in addition to funding the economic reconstruction of Iraq, for $10 billion, we are told in this proposal, and another $15 billion over the next few years for AIDS in Africa, a worthwhile cause, but I wish we would give the same priority to the special needs of the students of America, both those at the elementary and secondary levels and also, as Senator KENNEDY pointed out, those in postsecondary education who find getting a Pell grant or getting a college work-study opportunity about as scarce as finding a weapon of mass destruction in Iraq.

As the American people look at the fiscal crisis afflicting this Government's budget, from the beginning of this fiscal year of a projected deficit of $150 billion to now a deficit projected to be in the neighborhood of $550 billion—that includes, by the way, the use of the Social Security trust fund surplus of $155 billion for this year so actually the operating account of the Federal budget is in deficit close to $700 billion this year. Next year, the budget deficit for fiscal year 2004 was expected to be $200 billion and now it is already up to $480 billion. That does not count the $80 billion or $100 billion for the next fiscal year to be added for the President's request. So we are looking at the start of the fiscal year of a deficit next year of some $580 billion, almost three times what was projected a year ago. That is in contrast, by the way, to a surplus that we enjoyed in each of the last 4 years under President Clinton.

There is one area, however, where there does not seem to be such a problem on the spending side. That is when it comes to pharmaceutical industry prices and profits. There was another interesting article today in the New York Times looking at the practice of the Veterans Administration in successfully lowering the price of prescription drugs for the VA and making it possible for millions of veterans to pay just $7 for up to a 30-day prescription. It is astonishing to see what the Senate and House bills now contain for prescription drug coverage contrasted with the VA copay of $7 per prescription. No wonder thousands of veterans are signing up for this program every month, stretching those appropriated dollars.

I ask unanimous consent this New York Times article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1)

Mr. DAYTON. For all its apparent success, lawmakers have disregarded the Veterans Administration model and others like it that use the Government's immense power to negotiate lower prescription drug prices. In fact, under the Senate and House bills, under existing law, Congress would exempt the drug industry from the kind of cost controls in place for virtually every other major provider of Medicare services.

One of the founders of the current health maintenance organization concept who then recanted his support based on what they became, former Minnesotan Dr. Paul M. Elwood, said in the article:

> The legislation pending in Congress does more to deform than to reform Medicare.
>
> Drug companies [the article goes on] say they support prescription drug coverage under Medicare [since the taxpayer will be paying for more of these medicines]. But in the last few years, they have invested several hundred million dollars in campaign contributions, lobbying and advertising to head off price controls.

They were the largest contributor in the last campaign cycle for Federal campaigns, and of course those are not philanthropic contributions; they are political investments on which they expect and are receiving their desired return.

The article goes on to say:

> The legislation "reflects a political judgment that the pharmaceutical industry" would block "price controls or any arrangement that used the concentrated purchasing power of the government to buy prescription drugs," said Paul B. Ginsburg, president of the Center for Studying Health System Change, a private research institute.

Why would the pharmaceutical industry be able to block the Congress from enacting legislation that would lower prescription drug prices for the people of America? It begs the question, Whose interests are being represented, that an industry, the pharmaceutical industry, can block legislation right here on the Senate floor, right over there in the House of Representatives—can block legislation that would result in lower prescription drug prices for senior citizens and people of all ages across this country?

It goes on to say that the VA plan, by contrast, uses its buying power and uses it successfully to lower prices that VA pays for the medicines and that the veterans in turn pay. According to the National Academy of Sciences:

> . . . the VA's methods had achieved nearly $100 million in savings over the past 2 years.

But Congress did not consider that approach; in fact, Congress did the opposite. Congress said you cannot use that approach. Medicare cannot get involved in price reductions. Medicare cannot use the vast purchasing power on behalf of all senior citizens and others under Medicare, which goes far beyond what the Veterans' Administration has in terms of numbers—cannot use that clout to negotiate or insist on lower pharmaceutical prices for seniors, for others on Medicare. Why? Because that would cut into the profits of this already excessively profitable industry.

> Representative Michael Bilirakis, the Florida Republican who is chairman of the House Energy and Commerce Subcommittee on Health, said that if Medicare pooled its purchasing power, it would amount to "a form of price controls."
>
> "That's not America," Mr. Bilirakis said. "Many of my constituents would feel that price controls are a great thing. But ultimately some of us have to be responsible."

Since when is it responsible for Congress to allow drug prices to go up higher and higher, beyond the reach of our fellow citizens? Since when is it responsible in America to let an industry, the drug industry, write a letter that 53 Senators sign, saying they would oppose any kind of reimportation such as that proposed by my colleague from the House of Representatives, GIL GUTKNECHT, Republican House Member from Minnesota. He was one of those who courageously and successfully led the drug reimportation victory in the House, one which I hope this body will enact and follow suit.

But when a pharmaceutical industry lobbyist can write a letter that 53 Senators sign, stating exactly what the pharmaceutical industry wants said, that this is somehow dangerous to the safety and well-being and welfare of Americans, says a lot about who controls what happens in Washington.

In fact, if the record be shown, the imports of foreign-manufactured drugs exceeded $14 billion last year. These were drugs that were made, manufactured outside of this country and imported. The only difference is they were imported by the drug companies at higher prices. If the consumers want to import those same drugs from Canada or somewhere else at lower prices, that is what is objectionable. But once again, it is the pharmaceutical industry and its profits that are given priority over people.

So we have this very bizarre but, unfortunately for America, all too real juxtaposition of less spending for education. I see the distinguished Senator from West Virginia, who has been such a champion of funding for education and so many other causes benefiting the people of his State and across America. His amendment is one that we will consider. I wish and hope it will fare better than my amendment yesterday for special education. Given the votes on the other side of the aisle, I don't think that is promising.

But when time after time we try to put more money into education and are defeated, yet we can, without even a blink of an eye, put $80 billion or $100 billion more into economic reconstruction or other efforts in Iraq paying, as I was told, in Iraq, paying 1.8 million Iraqi citizens not to work, not to do anything, just not to foment revolution, pay 1.8 million Iraqi citizens not to work and we are not willing to pay Americans who want to work overtime, or extend unemployment benefits for those who want to work and are seeking work, when we can run up deficits of humongous proportions, the biggest deficits in this Nation's history, three times more 12 months later than they were projected to be, without a blink of the eye on the other side of the aisle. But there is nothing to be said when drug companies want to raise prices and take more money out of the pocket of Americans.

I would say it is time for this body to look very carefully at itself. It is time for the American people to look carefully at this body.

I yield the floor.

EXHIBIT 1

[From the New York Times, Sept. 4, 2003]

SOME SUCCESSFUL MODELS IGNORED AS CONGRESS WORKS ON DRUG BILL

(By Robert Pear and Walt Bogdanich)

By most measures, the Department of Veterans Affairs has solved the puzzle of making prescription drugs affordable for at least one big group of Americans without wrecking the Federal budget.

Wielding its power as one of the largest purchasers of medications in the United States, the V.A. has made it possible for millions of veterans to pay just $7 for up to a 30-day prescription. Thousands are signing up for the program every month.

Yet for all its apparent success, lawmakers have disregarded the V.A. model—and others like it that use the Government's immense power to negotiate lower prices—as they try to give older Americans relief from rising drug costs while reshaping how the elderly get medical services.

Instead, a Congress deeply divided by ideology has given birth to legislation that would add prescription drug coverage to Medicare, but that many experts say would fall short of meeting the needs of the elderly. The benefits, costing $400 billion over 10 years, are complex and limited, and the legislation relies in part on cost control mechanisms that are untested or unproven.

In fact, Congress would exempt the drug industry from the kind of cost controls that are in place for virtually every other major provider of Medicare services.

"The legislation pending in Congress does more to deform than to reform Medicare," said Dr. Paul M. Ellwood, a noted health policy analyst who was an early proponent of managed care. "Instead of creating a system of readily understandable choices based on cost and quality, Congress is writing legislation that will increase the complexity of Medicare, so it will be more difficult for seniors to navigate."

The effort to forge a final deal on Capitol Hill, blending separate House and Senate measures, was high on the agenda as Congress returned to work this week. Lobbyists and health policy experts say the likelihood that a comprehensive drug bill will become law this year seems no better than 50–50. But Thomas A. Scully, administrator of the federal Centers for Medicare and Medicaid Services, said yesterday that he was "95 percent sure we will get a Medicare bill out of Congress."

Politically, the legislation is a marriage of convenience, combining drug benefits, long sought by Democrats, with a Republic approach to administering the benefits, through private health plans and insurance companies. To secure votes, the Senate bill was festooned with provisions aiding various interest groups. There is language that would, for examples, aid chiropractors; marriage and family therapists; doctors in Alaska; hospitals in Iredell County, NC; operators of air ambulance services; and many other groups.

The need for bipartisan support "led to a series of compromises that resulted in a hodegepodge of a bill," said Senator James M. Inhofe, Republican of Oklahoma, who opposed the Senate bill.

Michael Valentino, a manager of the V.A.'s drug benefit program, praised Congress for trying to help Medicare patients buy prescription drugs. But he added that the coverage could be expanded if Medicare took full advantage of its purchasing power.

John C. Rother, policy director for AARP, the lobbying group for older Americans, said the legislation was a "real godsend" for people with low incomes or high drug expenses.

"But for many others," he said, "the benefits will be seen as inadequate."

Premiums and drug benefits could vary from plan to plan, state to state and year to year. The Senate and House bills both establish a standard drug benefit, with substantial coverage upfront and catastrophic coverage for high costs. But beneficiaries would have to pay all drug costs in the middle, until their out-of-pocket costs reached a certain level—$3,700 a year under the Senate bill and $3,500 under the House bill.

Robert D. Reischauer, former director of the Congressional Budget Office, said the gap in coverage "defies rational policy analysis" and was not found in commercial insurance. Congress engineered the gap to keep the drug plan's cost under the $400 billion limit.

'POLITICAL JUDGMENT'

Drug companies say they support covering prescription drugs under Medicare. But in the last few years, they have invested several hundred million dollars in campaign contributions, lobbying and advertising to head off price controls.

The legislation "reflects a political judgment that the pharmaceutical industry" would block "price controls or any arrangement that used the concentrated purchasing power of the government to buy prescription drugs," said Paul B. Ginsburg, president of the Center for Studying Health System Change, a private research institute.

The V.A. plan, by contrast, owes its relative success to its buying power—and a willingness to use it. Its doctors and pharmacists analyze research to establish a list of preferred drugs for various conditions. The V.A. obtains discounts through bulk purchasing arrangements—using generic drugs where possible—and competitive bidding.

"We are so far ahead of anybody else, it's almost ridiculous," Mr. Valentino said. In 2000, the National Academy of Sciences found that the V.A.'s methods had achieved nearly $100 million in savings over the previous two years.

But Congress decided not to adopt the V.A.'s approach; in fact, it was not seriously considered. Lawmakers also passed up other alternatives including vouchers for the purchase of health insurance and proposals to assist only people with low incomes.

Representative Michael Bilirakis, the Florida Republican who is chairman of the House Energy and Commerce Subcommittee on Health, said that if Medicare pooled its purchasing power, it would amount to "a form of price controls."

"That's not America," Mr. Bilirakis said. "Many of my constituents would feel that price controls are a great thing. But ultimately some of us have to be responsible."

The political imperative that seems to have produced today's fragile consensus stems from complaints that every lawmaker has heard from constituents: prescription drugs costs too much.

At Medicare's inception in 1965, policy makers chose not to cover outpatient drugs, because medicines now so indispensable to treating disease either did not exist or were relatively inexpensive.

Instead, Medicare focused on big-ticket items like hospital care and doctors' services. For years, Medicare mostly paid whatever bills health care providers submitted, but by the 1980's Congress decided it needed to restrain rising costs. In subsequent years, Medicare prospectively set limits on what it paid major health care providers, including hospitals, doctors, skilled nursing homes and home health agencies.

The controls have never been popular with the health care industry.

"In Medicare, the tendency is to set prices too low," said Dr. Donald J. Palmisano, president of the American Medical Association. Indeed, Carmela S. Coyle, senior vice president of the American Hospital Association, said 67 percent of hospitals lose money on Medicare.

By and large, however, the measures have managed to slow the growth of Medicare costs, say many health policy experts, including Bruce C. Vladeck and Nancy-Ann DeParle, who ran Medicare under President Bill Clinton. Drug costs, however, have skyrocketed, and while most of the elderly get some help from retiree health benefits, Medicaid or state programs, at least one-fourth of Medicare beneficiaries have no drug coverage.

Under the bills passed this year, the government would subsidize drug coverage provided to Medicare beneficiaries by private insurers and health plans. They would bargain with drug companies to secure discounts and rebates, a task likely to be delegated to pharmaceutical benefit managers, or P.B.M.'s, the companies that already perform the service for many employers. Both bills stipulate that Medicare officials cannot "interfere in any way" in those negotiations.

For President Bush and Republicans in Congress, the concept makes sense: let the marketplace set the prices, rather than government. For years, lawmakers have found fault with Medicare's arcane and voluminous regulations. Congress has frequently intervened to tweak the formulas, taking money from some providers while giving more to others—often to those with the most persuasive lobbyists.

That, in turn, contributes to anomalies in medical care, because doctors have financial incentives to perform certain services and not others. Mr. Scully, the Medicare administrator, said such anomalies were inevitable because Medicare was "a big dumb price-fixer."

Still, Medicare has been a boon to the elderly and their children. Surveys show that beneficiaries are overwhelmingly satisfied with their care. Before Medicare, only 56 percent of the elderly had hospital insurance; the program has contributed to an increase in life expectancy and a sharp reduction in poverty among the elderly.

Moreover, some studies show Medicare has done better at controlling medical costs than private health insurance. Cristina Boccuti, a researcher at the Urban Institute, and Marilyn Moon, a former public trustee of the Medicare program, said Medicare spending grew more slowly than private health insurance costs from 1970 to 2000. Republicans say such comparisons are misleading and contend that Medicare's cost controls have slowed access to new treatments and technology.

NEGOTIATED DISCOUNTS

But that does not seem to be a problem for the V.A. The study by the National Academy of Sciences found that its approach had "meaningfully reduced drug expenditures without demonstrable adverse effects on quality."

Mr. Valentino said: "When we make our recommendations, it's not because Doctor A, in his or her opinion, believes it is the best drug. It is because the evidence says it's the best drug." Echoing the criticisms of government investigators, he added that P.B.M.'s, by contrast, sometimes make deals favoring expensive drugs for their own financial benefit.

Under the House and Senate bills, Medicare beneficiaries would have access to drug discounts negotiated on their behalf by private insurers and P.B.M.'s. Supporters of the legislation say these discounts could reduce retail drug prices by 20 percent. But Congress consciously decided to disperse Medicare's purchasing power. It did not want Medicare to establish a uniform nationwide list of preferred drugs or a price list for those drugs—mechanisms that the drug industry opposes.

"Price controls cause artificially low prices," said Jeffrey L. Trewhitt, a spokesman for the Pharmaceutical Research and Manufacturers of America. And low prices for a government program, he added, would reduce the money available for researching new drugs and could prompt drug makers to seek higher prices from patients with private insurance.

Critics of the drug industry dispute such arguments—and say that they obscure the obvious.

"The obvious is that if you control prices, you pay less," said Mr. Vladeck, the former Medicare administrator. "There are some problems with it, and not all price controls work as well as others. But the pharmaceutical industry does have enough political juice to prevent any reasonable price controls."

The idea of giving people a choice between traditional Medicare and private health plans has deep roots.

"We must promote diversity, choice and healthy competition in American medicine if we are to escape from the grip of spiraling costs," the Nixon administration said in 1970, in words similar to those of President Bush in 2003.

In 1978, Alain C. Enthoven, a Stanford University economist, called for regulated competition among private health plans. Medicare, he said, would subsidize premiums, and the most efficient health plans would pass on their savings to consumers, so patients would have a financial incentive to enroll.

Prompted by such thinking, the government offered new private alternatives to the traditional Medicare program in the 1980's, and Congress encouraged the development of health maintenance organizations. Enrollment grew, in part because many H.M.O.'s offered drug benefits not available in traditional Medicare.

Medicare beneficiaries generally praised the care they received in H.M.O.'s, but the plans did not control costs as their proponents had hoped. Many H.M.O.'s began reducing some benefits, including drug coverage.

They also pressed Congress for more money, saying that their costs were rising 10 percent a year—five times the increase in payments from Medicare. Unable to persuade Congress to close the gap, many abandoned Medicare or curtailed their participation.

That track record has heightened critics' skepticism about the current legislation.

"The myth of the market," said Lynn M. Etheredge, who worked at the White House Office of Management and Budget from 1972 to 1982, "has a powerful sway over people's minds, despite evidence that it is not working in the Medicare program."

The Congressional Budget Office estimates that under the legislation, many private plans will cost slightly more than traditional Medicare. Moreover, there is widespread doubt that insurers—who do not now sell stand-alone drug insurance—will begin to do so.

Even Mr. Scully concedes that such drug coverage "does not exist in nature" and would probably not work in practice. The elderly are heavy users of prescription drugs, so few insurers are eager to write coverage for their drug costs alone, separate from their other medical expenses.

"It would be like providing insurance for haircuts," Charles N Kahn III said several years ago, when he was president of the Health Insurance Association of America.

LIMITS OF COVERAGE

Even if President Bush signs a Medicare drug bill in the coming year, it will not be the last word.

Health policy experts say that costs may well grow faster than the official projections suggest. That would increase pressure on Congress to hold down drug costs, just as lawmakers continually try to slow the growth of Medicare payments to hospitals.

At the same time, when Medicare beneficiaries realize the limits of the new drug coverage, they can be expected to lobby for more generous benefits. In supporting the Senate bill, Senator Edward M. Kennedy, Democrat of Massachusetts, made clear that it was only a down payment, a foundation for more comprehensive drug benefits.

Ms. DeParle predicts that the legislation will produce a huge demand for drugs, and she is far from certain that competition will do much to control costs. "It is pretty much theory, and that is what worries me about it," she said. The Congressional Budget Office estimates that per capita drug spending for the Medicare population will increase about 10 percent a year over the next decade.

Critics of the legislation doubt its cost can be kept to the $400 billion budgeted by Congress. "Utilization will go up dramatically, and costs could explode," said Senator Don Nickles, Republican of Oklahoma.

For now, however, politicians have chosen to favor drug companies over Medicare beneficiaries, said Prof. Uwe E. Reinhardt, a health care economist at Princeton University.

"On one hand, there is the taxpayer and, in fact, patients who would benefit from having costs controlled," Dr. Reinhardt said. "But on the other hand, those people do not finance the campaigns of these legislators."

Ms. Coyle of the hospital association declined to address the question of why her industry, but not the pharmaceutical industry, had been subject to price controls. Her group's biggest concern about the legislation, she said, is that "we are not addressing the larger problem: a health care system that is fundamentally broken." The nation, she said, wants the best care for everyone, but needs to decide if it is willing to bear the cost.

So who would be the big winners if the legislation is signed into law?

"The short-run political winner is George Bush, because this law will not be understood by anyone," Dr. Reinhardt said. "It is so complex. But he can go in 2004 and say, 'Look, for 30 years you tried to get a drug benefit—I got you one.' "

And, he added: "the elderly will benefit, too, relative to nothing. Who loses? Obviously the people who pay for it."

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is Senator KENNEDY's amendment, No. 1566.

Mr. BYRD. I thank the Chair. Mr. President, am I at liberty to speak out of order? I do not intend to speak on that amendment.

The PRESIDING OFFICER. The Senator is at liberty to speak out of order.

Mr. BYRD. Mr. President, after reading about the Bush administration's proposed rules with regard to overtime pay, there should be no question that American workers are under assault by the Bush administration.

The Denver Post reports that since President Bush's election in 2000, the Labor Department has repealed 41 worker-safety regulations in development, including two aimed at addressing hazardous chemical dangers. Within 2 months of taking office, President Bush sought to repeal the Labor Department's ergonomic standard to prevent repetitive stress injuries, and has issued four Executive orders to curb the rights of labor unions.

It is not enough that the Bush administration has sought to prevent Federal workers from unionizing or that the White House has blocked an increase in the minimum wage. It is not enough that over 3 million jobs have been lost under the Bush administration's watch or that over 9 million workers are unemployed. The administration now wants to take away the right of millions of workers to receive overtime pay.

America's workers should be very concerned about the overtime changes being proposed by the Bush administration. These rule changes would force workers in executive, administrative, and technical fields to labor for longer hours and could make as many as 8 million salaried and hourly workers, many of whom have grown to depend upon overtime pay, ineligible for it.

It is not just hourly workers in factories and restaurants who will be affected by these rules. We are talking about roughly 14 million U.S. workers who are considered to be eligible for overtime pay—from computer engineers, paramedics, and paralegals, to secretaries, grocery clerks, and delivery route drivers. We are talking about the policemen, firefighters, health care officials—the heroes of the September 11 attacks who worked around the clock. These are the workers from whom the administration wants to take overtime pay.

These are not innocuous rule changes. The Labor Department has been flooded with more than 80,000 letters and e-mails debating the merit of its proposed overtime changes, the most mail the agency has received on any wage-and-hour topic in at least a decade. The Washington Post quoted a number of these letters in a story last July:

"Shame on you, President Bush," read one letter.

"Please do not take away our overtime pay," wrote a Marylander, who said that her husband works overtime so that she can afford to stay at home to take care of their infant daughter.

"Deplorable," "unfair," "absurd;"—these are the words used to describe this administration's proposal. To these I would add callous, hard-hearted, and out-of-touch.

Overtime pay is about more than just making ends meet. In many cases, it is the money used for unexpected health care costs, to pay medical bills, to care for elderly parents. For many families, it is the money carefully squirreled away to pay for a college education years in the future—those things that make life more than simply going to work to survive. I don't believe that the administration has any real appreciation for how important these extra wages are to a family in these tough economic times.

After graduating from high school in the midst of the Great Depression, I sought employment wherever I could find the opportunity—pumping gas at a filling station, working as a produce salesman, and becoming a meat cutter. It was difficult to make ends meet. So I and my wife, Erma, can well appreciate the willingness to work extra time to provide for a better life for the family. Such willingness to go the extra mile should be rewarded.

Earlier this week, Americans celebrated Labor Day to show our appreciation to this Nation's workers. If we really want to show our appreciation, the Senate should stand up for America's workers against the assaults of this administration and support the amendment by Senators KENNEDY and HARKIN.

Mr. President, I ask unanimous consent that my name be added as a cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I come to the floor today to speak about an amendment I will be offering that will bring up the level of President Bush's international mother and child prevention of HIV initiative to the level which the President actually requested. Right now, the bill before us falls $60 million short of what the President requested. I believe we need to fix that. We need to get the numbers back up to what President Bush asked this Senate and asked this Congress to provide.

The international mother and child prevention of HIV initiative is truly one of the most cost-effective ways that we can stop the spread of HIV/AIDS to children. This initiative very simply allows doctors and nurses to give drugs to pregnant women who are HIV positive, or who have AIDS, to lessen the chance that this disease is then passed on to their unborn babies.

For as little as $3, doctors and nurses can give these mothers the drugs they need to lessen the likelihood that their babies are born HIV positive. In fact, when treated with drugs, we are seeing HIV/AIDS transmission rates from the mother who has AIDS to a child about to be born drop from 30 percent to 5 to 10 percent. It is almost a miracle.

Less than a week ago, I returned from a 10-day trip to southern Africa, along with Majority Leader BILL FRIST and Senators WARNER, ENZI, COLEMAN, and ALEXANDER. We traveled to South Africa, Mozambique, Botswana, and Namibia to assess the HIV/AIDS crisis in each one of these nations. On this trip, we saw firsthand how well these mother-to-child transmission programs are working in these countries and how important they are to saving the lives of these unborn babies.

There are already many programs in place in these countries and in other countries around the world—programs that are working and programs that are saving lives. We heard so many times people saying, Thank you—thank you to the United States, thank you to President Bush—for helping set up these programs and for making these programs work.

The bill in front of us provides additional resources for the continuation of these programs and the creation of more programs. The problem is that it does not go far enough. I simply will be asking in this amendment to fulfill the commitment and the request that President Bush made of this Congress to provide a specific amount which he has asked us to provide.

These programs work. We need to get them fully funded.

On our recent trip, for example, we visited a mother-to-child prevention program run by Catholic AIDS Action in Namibia, a nation with a 22.5-percent HIV rate for pregnant women—the fifth highest in the world. At St. Mary's Hospital in Rehoboth, Namibia, Catholic AIDS Action is doing a very good job in enrolling pregnant women in the Women-To-Infant Program. The program has an excellent success rate and is making a difference. We could see that difference. We heard about it.

We met with and talked with a HIV-positive mother. She told us about how this program had reached out to her. She was so very happy and so very proud that, even though she was HIV positive, she had given birth to a child who was healthy and was not HIV positive. She was so very happy. What a miracle it was. What a great thing it was to see.

We saw so many more examples of this throughout our trip. We saw so many good programs out there. People are already doing so much good work to stop the spread of this disease from mother to child.

There are many more good programs ready to go. We just need to get them funded with all the funds they truly need.

One of the most important things I took away from this trip is that we don't have time to delay in helping these people. Each day we delay, people die—real people, not statistics, real parents and children and babies. And there are things we can do now to start saving these lives.

Time, as the President of the United States told this Congress, is simply not on our side. We need to move forward and provide the proper levels of assistance. So I will be asking my colleagues to support the amendment I will be offering, an amendment to provide the President of the United States with the level of funding he requested for the mother and child initiative. Doing so will help save countless lives and offer hope to the next generation for a life free from HIV. It is the right thing to do.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1559

Mr. SPECTER. Mr. President, the time has arrived for voting on the Murray amendment. I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits specified in this section and therefore is not in order.

Mr. REID. Mr. President, on behalf of Senator MURRAY, I, by virtue of the relevant statute, move to waive the point of order that has been raised and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. SPECTER. Mr. President, I notice that the Senator from Washington is in the Chamber now. If she would like to have her 2 minutes of argument, I ask unanimous consent that we proceed to 2 minutes of argument on each side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. There are 2 minutes on each side.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the chairman and appreciate his accommodating me.

The amendment the Senate is about to vote on is a really important one. Across this country thousands of people who have lost their jobs will never get these same jobs back.

Today, in my home State of Washington, there are 10,000 people on a waiting list in King County alone trying to get into a retraining program in order to obtain the skills they need to get back into the workforce and put food on the tables for their families.

Certainly, at this time in our country's history, when our economy is sluggish, when people are struggling everywhere, the best we can do—and one of the most important things we can do—is give these workers the skills they need to get back into the workforce.

This amendment is critically important. Many of these training programs have not received any increase in funding in a decade. It is important to us as a country that we have a workforce that has the skills to be marketable. That is what this very critical amendment does. I urge my colleagues to support it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, if we had unlimited funding, I would say the Murray amendment would be a good one. But the fact is we do not. This account already has, in the Senate budget bill, in excess of $3.5 billion. The Murray amendment would seek to add another $163 million, and it simply is not within our allocation.

If we were to try to find some accommodation within the existing budget limit, we would have to cut other programs. As it is, the Senate report is $125 million over what the administration had requested. And when you look at the total sum of money which has in excess of $3.5 billion, that is, obviously, very substantial funding. So I ask my colleagues to vote no and not to waive the point of order.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Missouri (Mr. TALENT) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "Yea".

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The yeas ands nays resulted—yeas 46, nays 49, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Coleman
Collins
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—49

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Conrad
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Thomas
Voinovich
Warner

NOT VOTING—5

Edwards
Graham (FL)
Kerry
Lieberman
Talent

The PRESIDING OFFICER. On this vote the yeas are 46, the nays are 49. Three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Democratic leader.

Mr. DASCHLE. Mr. President, I want to offer an amendment in a moment, and I will ask unanimous consent to lay aside the pending amendments, but I would first like to announce we are prepared to go to conference on Energy. I am sure later on today we will ensure that the conferees are announced. I have been working with the distinguished ranking member on Energy, Senator BINGAMAN. He and Senator DORGAN, Senator BOB GRAHAM, Senator RON WYDEN, and Senator TIM JOHNSON, along with Senator BAUCUS from the Finance Committee, will be our conferees on the Energy Committee.

I thank Senator AKAKA for his willingness to allow Senator BAUCUS to take his place as a conferee as a result of the decision not to bifurcate conferences but to keep the conference membership together. Senator BAUCUS will be an official part of the entire conference, and Senator AKAKA kindly allowed Senator BAUCUS the opportunity to represent the Finance Committee as it relates especially to tax issues.

I know there was some comment that our Republican colleagues were waiting for us. We were told right before the August recess that they were not ready to go to conference and so we did not anticipate the need to appoint conferees until we were told a couple of days ago that they were now ready. Of course, we are prepared now to do so as well. So there was not any delay on our part. This is something we wanted to do for a long time. Given the fact we were told they were not ready, we did not feel the need to expedite this matter until we returned.

On another matter, I know there was a good deal of discussion this morning on an amendment that we will take up next week, but I wanted to speak to the amendment myself and that is the amendment relating to the overtime regulation.

Our economy has been hemorrhaging jobs over the last 3 years. We have lost more than 3.2 million private sector jobs since January of 2001, including 2.4 million jobs in the manufacturing sector alone. At the same time, incomes are flat. The only way many Americans can make ends meet is to work overtime. I know there are many Americans, and many South Dakotans, who I talked to over the course of the last couple of weeks, during the month of August, who told me that were it not for overtime they would lose up to a fourth of their income.

For millions of working families, overtime pay makes the difference between their ability to pay bills and their fear of greater indebtedness. Health bills, education bills, clothing bills, grocery bills, rent, mortgage, child care, all of that is possible.

The reason they work so hard and so long—and I might say that the average workweek has now grown to a larger number of hours than it has been in more than 50 years. This overtime pay reliance is possible because 65 years ago this country made a promise to the workers who drive our economy forward. It was called the Fair Labor Standards Act. It struck a balance between the needs of business and the rights of workers. It actually required employers to pay employees time and a half for every hour of overtime worked, and that now has been the law of the land, as I said, for 65 years.

This simple and fair bargain has improved the lives of hard-working Americans all over this country, expanded the job market by providing an incentive to employers to hire more people when business was good. It has been vital to our economy, and I think it has been the essence of prosperity for many families.

If the administration now gets its way, all of the practice and commitment we have made to workers for 65 years will be swept away and 8 million Americans will be forced to take a pay cut. This spring, the administration revealed its plans to undo protections of the Fair Labor Standards Act and end overtime for 8 million workers. This is an outrage.

Overtime is giving families the means to save for a house or a college education. For hundreds of thousands of families, it lifts them out of poverty. This is what the White House wants to abolish.

Just yesterday, the White House released its Statement of Administration Policy. It declares that if the Senate acts to protect workers' overtime pay in this bill, the President will veto it. The message comes through loud and clear. For them, abolishing overtime is more important than every other provision in this bill.

Let's be clear. This is one of the most egregious and brazen attacks on the American working family in years. The White House proposal would affect workers all over the country and virtually every sector of the economy.

As I said, while I was home in South Dakota during the August recess, I heard from all kinds of people who came up to me on the streets, in stores, concerned about these changes and they told me how it would devastate them: nurses and physician assistants caring for our sick, teachers educating our children, criminal investigators keeping our neighborhoods safe, and millions of others.

We need these people to do their jobs and to do them well. Frequently, their jobs ask that they work long hours away from their families. Their time is valuable. Their work is critical. They deserve to be paid fairly. We should be taking every possible step to increase job opportunities for working Americans, but changing the FLSA will not only undermine efforts to increase employment but lead to even more lost jobs as employers cut staff and demand increased hours from remaining employees.

This is a critical moment for our economy. Workers are struggling. Interest rates are rising. The number of people who are unemployed increases every single day. The answer to our economic problems is not to take still more money out of the pockets of working Americans. We cannot allow workers to be forced to spend more time on the job and have less pay to show for it.

Next week we will have an opportunity to vote on the Harkin amendment. I must say for working families all over this country, I do not think there will be a more important amendment this entire Congress. I would hope on a bipartisan basis we would say to this administration that 65 years of progress in treating Americans right and fair ought not be reversed by some regulation in this administration or by anybody else. Let us show on a bipartisan basis that we stand with the workers. We will continue to provide them the overtime pay they deserve.

AMENDMENT NO. 1568 TO AMENDMENT NO. 1542

Mr. DASCHLE. I have an amendment at the desk. I ask unanimous consent the pending amendment be set aside and this amendment be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Ms. COLLINS, Mr. CONRAD, Mr. DORGAN, Mr. DODD, Mr. BAUCUS, Mr. PRYOR, Mr. BINGAMAN, Mrs. LINCOLN, Mr. JOHNSON, Mr. KERRY, and Mr. NELSON of Nebraska, proposes an amendment numbered 1568 to amendment No. 1542.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for rural education)

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act to carry out part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7341 et seq.), there are appropriated an additional $132,347,000 to carry out such part: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $25,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,027,546,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,650,954,000.

Mr. DASCHLE. Mr. President, I thank Senator CONRAD and Senator COLLINS who have been partners in this effort. I thank them for their cosponsorship and I appreciate very much their help in addressing this challenge.

America's rural schools today educate nearly 40 percent of the children in our country. Many face funding challenges because of limited tax bases, their remote locations, and the large geographical areas they serve.

The Rural Education Achievement Program is part of the No Child Left Behind Act. It is designed to help schools in rural communities address these challenges and make sure rural students have access to a high quality education. Unfortunately, this program, like so many others in the new law, is grossly underfunded.

The amendment we offer today provides an additional $132 million to fully fund the REAP Program at the authorized level—I emphasize the "authorized" level—of $300 million. REAP is the first Federal program dedicated to helping rural schools address the unique challenges they face. It consists of two sections, the Small and Rural Schools Achievement Program and the Rural and Low-Income Schools Program. Small school districts generally receive low levels of funding under formula programs because of their small student populations, which are a very characteristic part of who they are. They also receive fewer competitive grants than their urban and suburban counterparts because they do not have grant writers. The Small and Rural Schools Achievement Program provides supplemental grants to rural schools with 600 or fewer students. It also allows these schools to combine their formula funds into one flexible fund to address their most critical areas of need. In the first full year of funding, more than 4,000 school districts applied to receive funding under the program. Of that group, 3,500 had never received competitive funds from the Department of Education. Over 85 percent of those who applied never received competitive funds in previous years from the Department of Education.

The average award in this program was $18,000. While the grants are small, most districts at least doubled the total funding they received from the Federal Government, and are able to use these resources to address many of their very critical needs.

The Rural and Low-Income Schools Program is targeted to larger rural districts that have high levels of poverty. These grants flow through State education departments to eligible local districts. The resources are used to enhance teacher recruitment and retention, educational technology acquisition, afterschool enrichment activities, and other areas that pose challenges for low-income rural districts.

More than 2,000 districts benefitted from this program in 2002, with an average award in that year of $30,000.

Nearly 40 percent of America's schoolchildren attend public schools in rural areas in small towns with populations of under 25,000. Almost 50 percent of the Nation's public schools are located in rural areas in small towns and 41 percent of public school educators teach in rural community schools.

Rural schools face formidable challenges in meeting the requirements of No Child Left Behind Act because their budgets are particularly limited.

I was in Kadoka, South Dakota in early August and a teacher approached me on the street. All he wanted to talk about was the No Child Left Behind Act. All he could say is that, for them, compliance was almost impossible unless they get some help. He pleaded with Congress to recognize the unique problems the No Child Left Behind Act presented to rural schools, especially Kadoka.

Per-pupil costs tend to be higher in rural districts. Because classes are smaller, the cost of providing teachers is higher per student. Superintendents in South Dakota are also concerned about the impact of the new teacher qualification requirements. Many teachers in rural schools teach several subjects but may not have degrees in all of those subjects. This, too, was an issue the teacher in Kadoka mentioned to me and expressed grave concern about. He noted it can be very difficult to find a good biology teacher, but in a small school that person often teaches general science and chemistry as well as physics because they have no other choice.

Similarly, transportation costs can be significantly higher in rural districts since buses must travel longer distances with fewer students.

In spite of these circumstances, rural schools are expected to apply the same academic standards and obtain the same higher results as urban and suburban school systems under the new law. Additional funding for rural school programs is desperately needed to help these schools address their unique challenges so they, too, can improve student proficiency.

My State has a particularly large number of rural school districts. More than two-thirds of our districts have fewer than 600 students. Administrators tell me they do not have the staff to deal with the paperwork needed to complete Federal grants. For example, when I notified our schools that the Early Reading First Program was seeking proposals, Jack Broome, the superintendent from Burke, SD, responded that while he thought his students might benefit he was unable to assign anyone to fill out the preapplication which was more than 100 pages long. He serves fewer than 250 children. Of those, 15 to 20 students need additional help with reading. REAP, however, is much easier to apply for and those funds are helping to fill that gap.

Although 2002 is the first year schools could participate in this program, 135 out of 177 school districts in South Dakota are currently participating just a year later. Nearly 40,000 children benefit in my State alone. School administrators tell me how much they appreciate and need this help.

Doug Voss is the superintendent in Centerville, SD, an agricultural community which educates about 250 students. They receive $17,809 in REAP funds, an increase of more than 10 percent above the amounts they received from other Federal programs. They used their funding to hire a part-time elementary schoolteacher, provide more training for other teachers, and expand their reading incentive program.

John LaFave, the superintendent of the Hansen school district, received $16,474. That represented a 10 percent increase in their Federal support. The Hansen school district serves 326 students. They used refunds to hire two teaching assistants to work with their growing population of English language learners.

The President's budget has actually proposed that we eliminate funding for the REAP program, for 2 years in a row. He did it last year, but Congress objected. He wanted to do it again this year.

The amendment I have offered would ensure that no student in a rural community is left behind as schools work to implement education reform under the No Child Left Behind Act. We simply cannot turn our backs on the needs of these rural communities. They are doing all they can to comply. Their intent is good. They are troubled; they are concerned; they are frustrated by their inability to comply because they don't have the resources.

Our amendment is very simple. It just says we are going to provide the funding authorized under the law by title VI of the No Child Left Behind Act passed in 2001. That is all it does.

These funds will be spent to enhance key areas outlined by the law, including teacher recruitment and retention, professional development, education technology, parental involvement, school safety, drug use prevention—all in an effort to enhance the academic achievement among rural students as we are demanding they do under the law.

This program is going to help many school districts, not only in my State but I daresay in every single State in the country. I urge my colleagues to support this important amendment. I hope we could see overwhelming bipartisan support as we take it to a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, as the Senator from South Dakota has outlined the need for funding in rural education, I think he raised a very valid point. I have special reference to that, having grown up in a small community myself, in a little town called Russell, KS. I think the Presiding Officer knows one of my fellow townsmen, a fellow named Dole, Bob Dole. It is a little town on the windswept plains of Kansas, has 4,989 people. It used to have 5,000 until Dole and I left town.

I am not sure that Russell qualifies under the Rural Education Achievement Program, but I think it probably does. The rural areas need help, although Russell perhaps not as much as some. Russell is located in an area where there was a lot of oil underground. In fact, they found oil to the south of town and to the northwest of town. Then they found oil in the town. The requirements were that to drill an oil well there had to be agreement of quite a number of property owners. They couldn't get the agreement because nobody wanted the oil well in their backyard. They all wanted the proceeds but didn't want the oil well. So I am not sure if Russell was in as great a need as some communities.

But that aside, just as a parenthetical expression, there is no doubt that helping the rural part of America is very important. I think it is worth noting that this is a very new program. It came into existence with the authorization in fiscal year 2002 at $162.5 million, raised $5 million in 2003. This year, the administration zeroed out the program, saying there would be sufficient funds from other lines.

When our subcommittee took a look at all of the programs, we decided we ought to keep it, and we funded it at a level rate, as we had to do with so many programs.

In structuring an appropriations bill for the Department of Labor, with worker safety; and the Department of Health with the tremendous needs of NIH and Head Start; and the Education Department, with the mammoth needs in so many directions, it is a Hobson's choice every time we turn around.

As the manager of the bill, along with Senator HARKIN, we have worked on a bipartisan basis. We felt constrained to live within our means as defined by the budget resolution and by the 302(b) allocations.

If we are to measure up to the full authorization and put in $133 million, we would either have to cut into some of the existing funding, or we would have to go beyond our allocation. I would be at a loss, frankly, to find where an offset might be found. If the proponent of this amendment has any ideas on offsets, I would be delighted to consider them on a comparative basis as to where the priorities ought to be.

When the Senator from South Dakota talks about all we want to do is come to the authorization, that is not quite so simple. It is the generalization that the authorization is characteristically higher than the appropriation. This issue came up in our consideration of the Byrd amendment. As I pointed out earlier, when it came to the issue of Title I funding for fiscal year 2002, when Senator BYRD was chairman of the Appropriations Committee and the Senator from South Dakota was the majority leader, the appropriation was for $10.35 billion or $2.85 billion under the authorization; so that the common practice is to have the appropriation under, and frequently substantially under, the authorization.

If you take a look at the Homeland Security bill, the Transportation Security Agency letter of intent for airport security had an authorization of $500 million and an appropriation of $309 million. Fire grants were $900 million authorization, $750 million appropriation. And so it goes on many lines. On the Violence Against Women Act, authorization $667 million; appropriation, $407 million.

I could go down on item after item where an appropriation is characteristically not as high as the authorization.

So in essence, I find the arguments of the Senator from South Dakota compelling on the desirability of having more funding for rural areas, having grown up in one myself, and, frankly, having been the beneficiary of a very good education system. I have gone to some outstanding educational institutions, but I never had a better education than at Russell High School or a better teacher than Ada May Groetzinger, who was the debate coach.

I think the Senator from South Dakota had a pretty good education, too, the way he handles himself, deports himself, and his achievement level. I would like to see many young people come out, come to the floor of the U.S. Senate. Not too many more competitors from Pennsylvania, I have enough this year. But I think the idea of improving educational attainment and more funding is an excellent idea. I just wish I had more money at my disposal for my subcommittee to grant the request made by the Senator from South Dakota. But I don't.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me say, first, I think the distinguished chairman, as always, does a fine job in working with the allocation with which he is presented. That is not only his choice. I know in many respects he has fought hard for greater allocations so we can address many of these issues. So my argument is not with him. He is making the most out of a very difficult situation.

Having said that, let me just say a couple of other things. We have used the same mechanism in an offset for this amendment that our colleague, the chairman of the Appropriations Committee, used in offering his amendment to increase the subcommittee's allocation for fiscal 2004. So I join with Senator STEVENS in using what apparently is an appropriate and acceptable mechanism for the offset.

So we have the offset. But I would make one other point. Again, I say this with all deference to the chairman of the committee. I don't remember how he voted on the budget. I didn't vote for the budget. I didn't vote for these allocations. I didn't vote for the priorities that that budget presents—$3 trillion of tax cuts over the course of the next 10 years.

We are going to be asked—I am told this morning by the White House—to find another $70 billion for Iraq. I am not sure yet what my vote will be. I want to hear the justification from the administration. I would like to ask them what their offset is. I would like to know how much money we are spending in rural Iraq for education compared to what we are spending in rural South Dakota. If we can find $70 billion for Iraq over the course of the next few months, I think we can find a few million dollars to fund the authorized amount of education funding for rural America so that we can go back and tell them they have the resources and now we want them to comply with the No Child Left Behind Act.

I don't know what answer I give to a school superintendent in South Dakota when he says, You tell me I don't have the resources, and then you—DASCHLE—go and vote for $70 billion for Iraq. Explain that to me. I don't have an answer.

Again, that is not the chairman's problem. But that is a problem I have. That is a problem of priorities that I think this administration is yet to explain.

So I don't buy the administration's argument that we just do not have the funds for education when we have all these funds and there is apparently more where that came from when we need it for Iraq.

Again, I compliment the chairman for the work he does in meeting many of the needs we have. He has a tough job. But on this issue, I think we can find the funds if we have the desire.

Mr. CONRAD. Mr. President. I am very pleased to join my distinguished colleague and the minority leader as a cosponsor of an amendment to increase funding for the Rural Education Achievement Program (REAP). No Senator has been a stronger advocate on behalf of rural schools and supporter of REAP. The amendment would increase REAP funding by $132 million, bringing appropriations for the program to the authorized funding level of $300 million under the No Child Left Behind Act.

As my colleagues are aware, the Senate Appropriations Committee reported a Labor-HHS bill that funds REAP at a level of $167.6 million for fiscal year 2004, the same funding level as fiscal year 2003. The House Labor-HHS appropriations bill, H.R. 2660, includes $170 million for REAP. I am especially grateful to appropriators in both the House and Senate for funding rural education, especially since the Administration failed to recommend any funding for REAP in the fiscal year 2004 budget.

While I am pleased with action by Senate appropriators to provide $167.6 million for REAP, the recent enactment of the No Child Left Behind Act has made clear the critical need for additional grant assistance for smaller, rural school districts. Historically, rural school districts receive a smaller percentage of federal education dollars because of their inability to compete as effectively for funding as larger urban or suburban districts are able to do. Additionally, the geographic isolation of many smaller, rural schools, many of which also have declining enrollments, a very limited tax base and significant transportation costs, makes it more difficult to find the resources to provide certain educational opportunities for students.

As my colleagues may recall, Senator SUSAN COLLINS and I introduced legislation to authorize the Rural Education Achievement Program during the 106th Congress. At the time, we were very concerned that many smaller, rural districts did not have the resources or staffing to compete effectively for many of the Department of Education competitive education grant programs. Additionally, in cases where rural school districts received formula allocated funds based on student population or other criteria, the funding was minimal and there was no flexibility to enable local school officials to more effectively use the limited funds to help improve student achievement or professional development.

The REAP program was enacted late in the 106th Congress and initially funded at a level of $162.5 million in fiscal year 2002. Under the REAP program, two small, rural schools programs were authorized. The Small and Rural Schools Achievement Program is a formula grant program that authorizes grants directly from the DOE to eligible school districts. The districts eligible under this program must have an average daily attendance of 600 students or less and be designated by the National Center for Education Statistics, NCES, with a locale code of 7 or 8. Under the Small and Rural Schools Achievement Program, school districts are permitted to consolidate new formula allocated funds under teacher quality, local technology, safe and drug free schools, and innovative programs. The consolidated funds may be spent on any of the preceding programs or Title I, Part A, language improvement and after school programs.

Under the Rural and Low-Income Schools Program, funding is competitive and school districts may apply directly to DOE. School districts must have an NCES local code of 6, 7, or 8 and have a census poverty rate of 20 percent. Funds may be sued for teacher recruitment, professional development, parental involvement, Title I, Part A, bilingual education or Safe and Drug Free Programs.

The REAP program is very important for smaller, rural schools, especially with the new requirements for testing and professional standards under the No Child Left Behind Act. Approximately 80 percent of schools in North Dakota are eligible for REAP funding. I know from a Budget Committee hearing that I chaired last week on implementation of the No Child Left Behind Act and conversations with rural school officials in North Dakota that the $1.2 million in REAP funding that went to North Dakota last year helped 117 school districts meet some of the challenges under the new Act. Funds were used for professional development for teachers, to provide distance learning opportunities to assist with the purchase of computer equipment for classrooms.

Unfortunately, Mr. President, funding in the fiscal year 04 Labor, HHS bill for No Child Left Behind including for rural education, is not adequate. Although S. 1356 provides $23.6 billion for DOE education programs, the bill provides $8.4 billion less than the authorized level in fiscal year 04 for No Child Left Behind, including $132 million below the authorized level for REAP. Without question, we are not fulfilling our responsibility to provide adequate funding to states and local school officials to help communities achievement the goals under NCLB. REAP is an essential program under NCLB, and I hope that my colleagues will support the Daschle amendment to fully fund rural education at the $300 million level.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

AMENDMENT NO. 1572 TO AMENDMENT NO. 1542

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. HAGEL, Mr. JEFFORDS, Ms. COLLINS, Mrs. MURRAY, Mr. DORGAN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, and Mr. PRYOR, proposes an amendment numbered 1572 to amendment No. 1542.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for grants to States under part B of the Individuals with Disabilities Education Act)

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for grants to States under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), there are appropriated an additional $1,200,000,000 for such grants: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $84,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $8,095,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,583,301,000.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself and my colleagues, Senator HAGEL of Nebraska, Senator JEFFORDS of Vermont, Senator COLLINS of Maine, Senator MURRAY, Senator DORGAN, Senator BINGAMAN, Senator KERRY, Senator MIKULSKI, and Senator PRYOR. There may be others who will ask to be added as a cosponsor, but those are the ones I have at this particular time.

This is an amendment that all of my colleagues are familiar with. They have voted on this amendment on several occasions over the last decade. On at least one occasion, we voted unanimously in support of an effort to increase funding for the Individuals With Disabilities Education Act, commonly known as IDEA.

This amendment deals with special education funding. There is not a Member here who has not met a Governor, a mayor, a county supervisor, or a teacher who has not talked about this issue and the importance of it and the implications to their communities and their States if the Federal Government does not live up to its commitment of 40% full funding. A commitment made almost three decades ago.

I offer today a modified version of full funding. We have already voted once, in the last, I think, 24 or 48 hours, on a special education proposal from my colleague from Minnesota, Senator DAYTON. He proposed a far more aggressive program, one that would have added about $11 billion, if I am not mistaken, to this program. My amendment is $1.2 billion above the Labor-HHS appropriations for special education grants to states. The budget within the bill adds $1 billion for Part B Grants to States. This amendment would add and additional $1.2 billion to that, for a total $2.2 billion increase.

Let me explain what we are trying to do and why I hope my colleagues understand how critically important this issue is, regardless of whatever feelings they have had about other proposals. First, obviously, this amendment will help provide needed education for children with special needs. Second, it will provide financial relief for communities.

Most of the dollars spent on special education come from local property taxes. Some States are different, but the overwhelming majority of States in this country support educational efforts through local property taxes. If we do not continue to provide some additional support and live up to the commitments we made three decades ago to fund IDEA at 40%, you are going to see an increase in local property taxes to meet these obligations. I don't think anyone needs to spell out the kind of hardship that would pose for a lot of families across this country. Families that are already facing tremendous economic pressures, with high unemployment, and with huge deficits at the State and local levels.

You have heard over and over again of the tremendous pressures communities are facing today. You have heard about the added burden of having to watch property taxes go up to meet obligations we promised we would make at the Federal level in regards to special education. This amendment would ease that burden by picking up some of the cost.

As I said, almost 30 years ago Congress passed the Individuals With Disabilities Education Act. This was designed to help States provide all children in this country with disabilities with a free, appropriate public education in the least restrictive environment possible.

When we passed this legislation, the Federal Government also made a commitment to our States and localities. We said we would cover 40 percent of the State cost of servicing these students with special needs over time.

Thirty years later—three decades later—we have yet to make good on that commitment. Today, our level of commitment hovers around 18 percent, not 40 percent. This means, of course, that States are bearing more than their share of responsibility for meeting a federally mandated requirement regarding disabled student's needs. States that, mind you, are facing astronomical deficits, as I mentioned a few moments ago. States that often have no choice but to pass costs on to municipalities, which then, of course, pass them on to every-day, average American taxpayers through local property tax increases.

The amendment I am offering with my colleague from Nebraska, Senator HAGEL, Senator JEFFORDS, Senator COLLINS, and others, is designed specifically to provide some relief in this area. This legislation would add an additional $1.2 billion to the special education fund, bringing us up to a $2.2 billion in the total increase to grants to States. This is exactly what we promised to provide in the fiscal year 2004 budget resolution. This is exactly what we voted on. We said this is what we would provide, an additional $2.2 billion. So not only did we make a commitment 30 years ago to provide 40 percent of the funding, as recently as within the last year this body made a commitment that we would fund an additional $2.2 billion in grants to States in the area of special education.

This amendment makes us live up to that commitment. This $1.2 billion added increase would raise the level of the Federal Government's IDEA commitment to 21 percent from 18 percent. That is just over half of the 40 percent we set as a goal almost 30 years ago. At this rate, $2.2 billion a year, the Federal Government would meet its goal of 40 percent full funding by the year 2012, some 9 years from now.

I know there are those who would suggest that we ought to fully fund this immediately. I wish we could do that. I would be supportive of that kind of an effort, but, obviously, given the tremendous fiscal problems we face at the national level, it is impossible. So rather than suggest we fully fund a remaining 21 percent or more, what we are suggesting here is a $2.2 billion increase for one year. If we maintained this increase over the next 9 years, up until the year 2012, we could fully fund the commitment that we made 30 years ago.

Currently the Labor-HHS appropriations bill adds roughly $1 billion in grants to states. According to the Congressional Research Service, this boost would fund IDEA at about 18.7 percent. More importantly, if this $1 billion increase were to become the standard rate of increase over the coming years, we would never fully fund the special education program. We would never be able to meet the goal that we promised 30 years ago of 40-percent funding, certainly not by the year 2012.

Again, the cost of special education is extremely high. We all know that. Talk to any superintendent of schools, any mayor, county supervisor, Governor, any teacher in any school, and they will tell you, whether they are Democrats or Republicans, anywhere in the United States, all 50 States, the cost of this program is extremely high. They understand the need for it as well. If you talk to them you begin to understand the tremendous fiscal pressures they feel in their communities. In fact, I am quite sure every one of us in this body, including in the other body, have had these types of conversations with our mayors and other local leaders, telling us how important it is that we try to meet our special education commitment of 40 percent.

Better yet, talk to any rural mayor or selectman in my State, Vermont, Nebraska, any one of the communities around this country, and you will begin to understand how as little as two or three special education students in a rural community can throw an entire district's budget off balance. These school districts need our help. They have been asking for it year in and year out.

To the credit of this institution, in years past we have risen to the challenge. This body has voted in support of special education funding. Keep in mind that the amendment I am offering on which Senators HAGEL, JEFFORDS, and COLLINS worked closely, provides for an additional $1.2 billion for only 1 additional year. It is not full funding. In the context of this bill, we have not asked to fully fund IDEA over a set number of years. We are merely asking that we provide our States with some fiscal relief now and provide our taxpayers with some fiscal relief now by providing States and rural counties with the funds they need to carry out their obligations to children with special needs today. It is a modest proposal but a much needed one across the country.

In my State of Connecticut, in spite of spending hundreds of millions of dollars to fund special education programs in our school districts—and it is true in almost every other State across the country—schools are struggling to meet the needs of students with disabilities. The costs borne by local communities and school districts are rising dramatically. The local burden is immense. This amendment is an opportunity not to alleviate it entirely but to alleviate some of that burden. Providing an additional $1.2 billion for special education not only demonstrates this body's commitment to universal access to education for all children, it helps entire communities by easing the tax burden of everyday taxpayers.

When we do not meet our Federal funding obligations then a mayor or county executive has to make up the difference. As you can imagine, there are only two ways to do this: Either you slash social services or you raise local taxes. I don't know about my colleagues, not all of them, but I can assure you that now is not the time to raise local taxes. I also do not want to see our students shortchanged in the quality and quantity of the programs that are offered from town to town and city to city all across the country. I don't understand how raising taxes or cutting services or quality of services are even options that ought to be considered.

Recently the President signed into law a tax cut of over a hundred billion dollars for some of the wealthiest of our fellow citizens. I represent, of course, one of the most affluent States in this country, Connecticut. Still I can say without equivocation that the vast majority of people in my State would support increasing expenditures for something as important as education. In fact, I know and am confident that even the wealthiest of my citizens, who are the beneficiaries of some of the tax cuts, would much rather see resources used to improve the quality of education for children in the 21st century than to provide a tax cut which most of them would tell you they don't need at all.

I am asking today that Congress, without equivocation, support the same thing that the overwhelming majority of our citizens say they support. I say this with the understanding that the Federal Government is facing its own budget challenge similar to that of the States. I understand that our economy is slumping and that the deficits at the State level are estimated to run at roughly $100 billion. Still, I cannot accept the argument that because our economy is faltering, we cannot provide our children and their families with the critical educational resources they need, and we need, as a nation. I cannot accept that we cannot increase the Federal commitment to special education and otherwise ease the burden of the average American taxpayer.

I do not find it acceptable, further, that we are yet again passing the overwhelming majority of costs of special education implementation on to our States. I do not find it acceptable that we are passing on the overwhelming majority of costs of special education implementation on to our local taxpayers.

Having said all of this, I stress again, education needs to be viewed as, and remain, a national priority. Investment in education is no less important in a weak economy. In fact, I could make a case it is more important. Education is the gateway to a better life, the key to a healthy democracy, and absolutely essential to our long-term national economic growth and security. For these reasons, I ask that my colleagues help our schools, our families, and our children by providing them with the resources they need to maximize their potential.

My colleagues understand that and know well how strongly the Governors, mayors, and county executives across this Nation feel about this issue. Inevitably, over the years they list special education as one of the most, if not the most, important areas in which the Federal Government can assist them by meeting the obligation that we proposed 30 years ago.

Thirty years ago, when we passed the Individuals with Disabilities Education Act, we told States we would help them meet their constitutional obligation to provide children with disabilities a free, appropriate education by providing States with 40 percent of the cost. They would have to pick up 60 percent. The States accepted this ratio of 40 to 60 percent.

Tragically, for three decades the States have picked up 80 percent; in fact, only recently, 80. Up until a few years ago it was more.

The amendment I am offering only gets us about halfway to 40 percent, to about 21 percent. At a rate of $2.2 billion it would be another 9 years before we fully meet the 40 percent obligation. But we have to start. We have passed this legislation in the past, or at least similar legislation, and regrettably the other body has refused to accept it and rejected it. But that doesn't mean we ought not to keep on trying.

I hope the President will step up and support this effort. Every mayor and Governor I have ever talked to, Republican or Democrat, tells me they need help in this area and they want us to live up to our obligations.

I urge my colleagues to support the effort my colleagues from Nebraska, Maine, Vermont, and I, and others, are offering. This is a bipartisan amendment being offered by Democrats and Republicans. This is one area in which we ought to find common cause and common bond and say to our States and mayors: We hear you. You are under great pressure today, tremendous pressure and we can help. Here is a modest proposal to get us to a level of funding that can truly make a difference in our Nation.

I will remind my colleagues that just 2 years ago a bipartisan group of 31 Members of this Chamber introduced legislation to direct the Appropriations Committee funds to fully fund special education by the year 2007. That bill, S. 466, was the foundation of the Harkin-Hagel amendment to the No Child Left Behind Act. It was passed by this body on a unanimous vote. Every single Member of this body voted for it. It would have increased Federal support for special education by $2.5 billion a year until we reached full funding.

Unfortunately, because of strong opposition from the President of the United States and the Republican House leadership, this provision, adopted unanimously by this body, was not included in the final drafting of the No Child Left Behind Act. The administration seemed to be saying no child left behind—unless, of course, he or she is a special needs child.

Today's amendment builds on the step this body took in 2001, 2 years later, through the Harkin-Hagel amendment, to fully meet our special education obligation. Today's amendment enables us, once again, as a bipartisan body, to recommit ourselves to this cause.

I ask my colleagues to support this amendment because it is good for students, families, for schools, municipalities, States, and for the average American taxpayer, because so much of education is paid for through local property taxes. Before 1975, only 20 percent of children with disabilities received a formal education. Eighty percent of kids with special needs were being left out of the educational process. Today, as a result of the Special Education Act, we serve 5.4 million school age children, as well as 200,000 infants and toddlers, and 600,000 preschoolers. That is something for which all of us can be deeply proud.

I remember working on this idea when, under President Gerald Ford, I was a new Member of Congress—30 years ago. I had a head of black hair in those days. And while it has turned white over 30 years of experience around here, I remember the great sense of pride in the country when President Ford initiated the effort to not leave behind 80 percent of special education students that were not getting services.

Let me recite the numbers again because every Member ought to be proud of the fact that this is a better and stronger country today because special education children are getting an opportunity to maximize their potential through our public schools, are getting an opportunity to be self-sufficient, independent, contributing citizens. 5.4 million school age children, 200,000 infants, and 600,000 preschoolers are all getting assistance as a result of IDEA. This assistance is being paid primarily with local property tax money.

We need to step up and meet our obligation. As a result of special education legislation, the number of children with disabilities who graduate from high school and go on to college has increased significantly over the last few years. These are things for which America can be proud.

Yet, while we are proud, we must also be concerned with the difficulty the cost of this program causes for cash-strapped States and localities in our Nation. We need to recognize that if we do our part—if we provide States with additional special education funds—we are helping to relieve tax burdens.

I am going to be asked, I am sure, how do we pay for this. We do this by forward funding—an idea used here by others in the Chamber. By forward funding, we can pick up the cost without creating the kinds of hardships that are felt by slashing away at other programs that need continued support.

Let me just mention, if I can, what this amendment may mean to States in terms of additional assistance. I don't have every State here, but to give you an idea, this amendment would provide an additional $130 million for California; $14 million for my State of Connecticut; for Nebraska, $8 million; for New Hampshire, $5 million; for Pennsylvania, $49 million more for special needs kids; for Tennessee, $26 million more. Think of what that means to the States. I will provide these numbers for my colleagues so they know exactly how much more passing this amendment would mean to their States. What kind of relief it could provide for them as they struggle to meet fiscal burdens and challenges.

I see my colleague from Vermont is here, a cosponsor of the amendment. I don't know how my colleague from Pennsylvania wishes to proceed. I presume he wants to hear from all of us.

At this point, I yield the floor and I hope others may be heard on this issue. I think it is extremely important and it is my fervent hope that this is an amendment that deserves broad-based support.

I ask unanimous consent that the distinguished Senator from Minnesota, Mr. COLEMAN, be added as a cosponsor as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. We are getting to the point where we have almost as many Democrats as Republicans cosponsoring this amendment. My hope is that we can all join together on this. We have been divided on a lot of issues. Special needs kids deserve us joining forces. We ought to demonstrate that we can do things together on something such as this. We did it in 2001. It is 2003 now and the problems are so much more severe today in terms of the burdens on States and localities.

I hope I can add every Senator to this amendment. What a wonderful message that would be as we have come back from the August break. The school year has begun and parents are worried about whether resources will be there for their kids. Taxpayers wonder whether there will be additional costs to them. This amendment provides an opportunity for us to get together and send a resounding message across the country that we are willing to get this job done. It may take another 9 or 10 years, but we are on the road to getting it done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleagues, Senators DODD, HAGEL, and others, in offering the amendment today that will provide an additional $1.2 billion in funding for special education. This will bring the total to $2.2 billion and put us on the path to fully fund special education within 8 years.

Unfortunately, I think this has become an annual event. Every year we try again to make the Federal Government fulfill its promise of nearly 30 years ago. Every year we have tried and every year we have failed. This battle started in 1975 when Congress passed the special education bill. As a freshman Congressman, I had the pleasure of working on that bill with my colleague, then-Congressmen HARKIN and DODD.

We recognized that special education would be costly, and we pledged to help States by covering 40 percent of these costs. But time and time again, the Federal Government has failed to keep its word. Instead of providing 40 percent, as we promised, we are currently providing only 18 percent.

The bill before us proposes to increase spending by about $1 billion, and many of my colleagues will speak to how significant an increase this is.

I wish to recognize the chairman and the ranking member for their efforts on increasing special education funding, but I am afraid it is just not enough to meet the needs of our schools. We could increase special education spending by $1 billion each year, but at this rate we could never reach the level of funding that was promised.

Congress has failed time and again to keep its word on special education, and

I am both embarrassed and troubled by this. I am embarrassed because we claim to be committed to educating our children, but we do not provide the support to our local schools to do so.

This pattern of chronic underfunding hurts all the children. When school boards develop their budgets, they have a court-ordered constitutional responsibility to ensure that special education needs are addressed. Too often, they are forced to raise local property taxes or to cut services to all children. Failure to fully fund our share of special education forces our school boards to make impossible choices and divides our communities.

We cannot continue to pretend we are doing our part here in Washington. We cannot continue to call for higher standards and greater achievement while not living up to our end of the bargain. We cannot continue to pit our students against each other in classrooms and school board meetings across the country. And we cannot continue to leave our States, our towns, and our local taxpayers to foot the bill because the Federal Government has failed to keep its promise.

I am troubled because in my State of Vermont, a promise is not made casually or taken lightly. In developing this legislation which has helped so many, I gave my word that this would be a shared responsibility and that the Federal Government would pay its fair share. We have not, and this has gone on for too long.

We have heard over and over from State legislatures and school boards around the country that full funding of special education is a top priority, a constitutional requirement.

In my small State of Vermont, we are talking about the difference between $21 million, the amount of the Federal special education funds my State will receive this year, and $44 million, which is what Vermont would have received if we had just kept our promise.

Right now, my State is struggling, like so many others, to cut budgets because of the economic downturn. Education dollars will not be spared, and that additional $23 million would have gone a long way this year toward easing the pain of the State's budget crunch.

We are here today to ask the Federal Government to keep its promise. While we are almost 30 years overdue, there is no better time than now to do it. I urge my colleagues to support this amendment. The Senate has repeatedly passed symbolic votes to fully fund IDEA, but these votes have been nothing more than symbolic. It is time to move beyond the symbolism. Please join me in passing this bipartisan legislation. Please allow us to be able to look into the eyes of the children and the citizens of our States and tell them we have kept our promise.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Vermont for his leadership on this issue. Along with Senator HARKIN, we were both freshmen Members of Congress in 1975. President Gerald Ford, along with the Congress, adopted the legislation which created the act to deal with students with disabilities. Senator JEFFORDS has been a champion on this issue for 30 years. I am so pleased to be joining with him in this effort once again. I regret it has taken us this long. We have had some great successes in the past.

As I mentioned earlier, less than 2 years ago we voted unanimously to send a message that we cared about this issue. In fact, we adopted a larger sum of money than what we are asking for today. The amendment Senator JEFFORDS offered, along with Senator HARKIN and Senator HAGEL, was for $2.5 billion. We are talking about $2.2 billion, when you add the $1.2 billion that is in the bill. It is less than what we asked for 2 years ago to get us on a road to meeting the full 40 percent funding commitment we made 30 years ago.

I thank the Senator from Vermont once again for his tireless efforts on behalf of America's children, their families, and taxpayers. I know others want to be heard on this matter.

I ask unanimous consent to print in the RECORD a listing of all the increases, to print what this $1.2 billion will mean State by State. I know the Presiding Officer, my good friend, will be curious to know how Idaho would do. Idaho will get an additional $6 million under this program if we get these additional dollars for special education funds. I am quickly looking down the list because I do not want to leave out my colleague from Oregon. An additional $14 million will go to his communities to defray the cost of special needs children. I include what this amount means to each State so my colleagues can have some idea as to how they will benefit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

State	FY2003 final amount	FY2004 Senate Appropriations Committee amount	FY2004 increase of $2.2 billion over FY2003 amount	FY2004 estimated full funding
Alabama	$143,066,000	$158,700,000	$178,923,000	$303,153,000
Alaska	26,501,000	29,838,000	33,468,000	57,692,000
Arizona	132,563,000	149,252,000	167,414,000	342,540,000
Arkansas	85,906,000	95,603,000	107,944,000	208,622,000
California	933,124,000	1,046,811,000	1,178,466,000	2,131,907,000
Colorado	112,272,000	126,407,000	141,789,000	258,992,000
Connecticut	103,861,000	114,227,000	128,051,000	236,382,000
Delaware	24,288,000	27,346,000	30,674,000	56,740,000
District of Columbia	12,212,000	13,750,000	15,423,000	38,422,000
Florida	479,525,000	530,376,000	596,151,000	1,244,798,000
Georgia	233,043,000	262,383,000	294,312,000	586,415,000
Hawaii	30,632,000	34,489,000	38,686,000	74,866,000
Idaho	41,226,000	46,416,000	52,064,000	92,671,000
Illinois	393,134,000	435,094,000	489,367,000	991,792,000
Indiana	200,791,000	221,789,000	248,948,000	533,684,000
Iowa	96,042,000	105,628,000	118,411,000	234,267,000
Kansas	84,072,000	93,293,000	105,220,000	203,511,000
Kentucky	122,827,000	135,917,000	152,848,000	319,394,000
Louisiana	142,508,000	160,449,000	179,974,000	321,458,000
Maine	43,047,000	47,343,000	53,073,000	118,272,000
Maryland	153,622,000	169,751,000	190,613,000	360,265,000
Massachusetts	223,317,000	245,605,000	275,328,000	495,396,000
Michigan	308,119,000	342,792,000	387,640,000	738,182,000
Minnesota	149,337,000	164,529,000	185,076,000	358,666,000
Mississippi	92,158,000	103,760,000	116,387,000	203,198,000
Missouri	178,701,000	196,536,000	220,321,000	459,105,000
Montana	28,125,000	31,490,000	35,519,000	61,335,000
Nebraska	58,742,000	64,605,000	72,424,000	139,774,000
Nevada	49,853,000	56,129,000	62,959,000	135,447,000
New Hampshire	37,334,000	41,060,000	46,029,000	98,661,000
New Jersey	284,356,000	312,736,000	350,583,000	750,016,000
New Mexico	71,699,000	79,229,000	88,969,000	165,292,000
New York	597,208,000	660,212,000	741,706,000	1,404,109,000
North Carolina	235,924,000	260,564,000	293,542,000	607,637,000
North Dakota	19,722,000	22,205,000	24,907,000	44,269,000
Ohio	344,364,000	386,101,000	434,899,000	790,180,000
Oklahoma	116,368,000	129,216,000	145,834,000	290,516,000
Oregon	100,991,000	112,110,000	126,494,000	245,531,000
Pennsylvania	336,056,000	374,907,000	424,147,000	835,395,000
Puerto Rico	81,033,000	91,234,000	102,337,000	220,777,000

State	FY2003 final amount	FY2004 Senate Appropriations Committee amount	FY2004 increase of $2.2 billion over FY2003 amount	FY2004 estimated full funding
Rhode Island	34,402,000	37,836,000	42,415,000	104,193,000
South Carolina	137,797,000	153,708,000	172,926,000	350,504,000
South Dakota	23,494,000	26,452,000	29,670,000	55,641,000
Tennessee	181,996,000	201,695,000	227,175,000	399,311,000
Texas	725,934,000	811,593,000	916,785,000	1,580,296,000
Utah	81,887,000	92,196,000	103,416,000	178,607,000
Vermont	19,016,000	21,410,000	24,015,000	43,718,000
Virginia	214,099,000	236,861,000	266,302,000	543,174,000
Washington	170,259,000	190,579,000	215,021,000	390,060,000
West Virginia	59,745,000	65,708,000	73,660,000	160,640,000
Wisconsin	163,780,000	181,384,000	204,153,000	404,601,000
Wyoming	19,949,000	22,461,000	25,194,000	42,329,000
State subtotals	8,740,029,000	9,721,766,000	10,937,631,000	21,012,405,000
Estimated amounts for outlying areas, BIA, and evaluation	134,368,536	136,766,744	136,766,744	NA
Totals	8,874,397,536	9,858,532,744	11,074,397,744	

Mr. DODD. Mr. President, I yield the floor, and I thank my colleague from Vermont.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before they leave, I commend my colleague from Connecticut, Senator DODD, and my colleague from Vermont, Senator JEFFORDS, for the tremendous work they are doing on behalf of that critically important population of kids.

As the Senator from Connecticut noted, my home State would receive substantial sums under their important amendment. I support it and urge all my colleagues in the Senate to support the amendment.

IRAQ RECONSTRUCTION

Mr. WYDEN. Mr. President, news reports last week revealed that the Bechtel Corporation would be receiving an extra $350 million in Iraq reconstruction work over and above the $680 million contract they were awarded by the U.S. Agency for International Development earlier this year.

Meanwhile, it was also reported that the Halliburton company has been awarded contracts totaling $1.7 billion in connection with the war in Iraq.

Despite repeated promises by the administration to recompete Halliburton's contract, most recently in July, this has still not occurred.

This is especially relevant today because the papers today reveal that the administration intends to seek more than $60 billion in additional taxpayer funding to cover the mounting costs in Iraq, and that is, of course, on top of the $79 billion wartime supplemental funding the President signed into law last April.

I come to the floor this afternoon because as this new debate begins, it should be noted that not once have U.S. taxpayers been given a true accounting of expenditures in Iraq.

This summer, I held, like so many colleagues, town meetings at home. I had 10 town meetings all across Oregon, and repeatedly at these sessions citizens would come up and say: Where are these vast sums going? What is being done to prevent waste in these expenditures? And isn't something being done to make sure that at a time when we are having so much difficulty in Oregon funding schools, health care, and essential services, steps are being taken at the national level to make sure these huge sums being spent for Iraqi reconstruction are being spent wisely?

But the fact is that the public and the Congress are in the dark with respect to a true accounting for these expenditures for Iraq reconstruction. I think the American people and the Congress deserve better.

The budget presented earlier this summer by the Administrator for Iraq, L. Paul Bremer, in effect, used accounting that resembled the approach about which Enron was talking. It had over $1 billion in capital expenditures off budget, and if these costs had been included, the budget simply would not have been in balance.

Certainly, no private company could operate this way. Its accounting would never pass muster with the Securities and Exchange Commission under the Corporate Accountability Act.

My concern is the American taxpayers do not want to find themselves, with respect to these Iraqi reconstruction expenditures, in a situation like so many Enron employees faced—I had constituents involved in this—that hits them when the house of cards begins to crumble.

With enormous sums at stake, American taxpayers deserve a full accounting of what they are getting for their hard-earned tax dollars.

The question now for the Senate is: How much longer is the Congress going to continue to shovel money out the door for Iraqi reconstruction without insisting on the truth for those at home whom we represent? Americans have been kept in the dark about how these handpicked contractors go about doing their business.

Senator COLLINS, Senator CLINTON, myself, and a group of Senators on a bipartisan basis, have been concerned about the substantial evidence that indicates that these contractors were not picked because they were the most cost competitive. In a rare moment of candor, one of the officials in the administration actually admitted that they were using companies to perform work that could be done at a lower cost. Yet there has been no justification for that, no explanation as to why time and again Federal agencies have let contracts for Iraqi reconstruction without asking for competitive bids at all or by confining the bidding process to a select group of U.S. companies that seem to have very good connections.

Earlier this year in the Defense appropriations bill, I was able to write into the legislation a measure that would require the administration to explain why it chose to let billions of dollars in private contracts for reconstruction go forward without open and competitive bidding. That measure is now in conference. I urge my colleagues to accept that provision, make sure that it gets to the President's desk, and that there is some accountability with respect to these dollars.

If billions of dollars are going to go out in private contracts, the rule ought to be open competitive bidding. Colleagues such as Senator COLLINS, who chairs the Committee on Governmental Affairs, have great expertise in this area. There have been various reports in recent years that have documented how it is fraught with problems for taxpayers if we get away from the principle of open and competitive bids. Yet it seems that the closed-bid process, closed and secret bids, are more the rule rather than the exception with respect to Iraqi reconstruction contracts.

I believe if Federal agencies had to justify their spending decisions in Iraq, there would be egregious cases of waste that would be stopped. We would not see money funneled to a handpicked group of companies, and we would see more of the contracts awarded to lower bidders who actually had to compete, and the public would see the fruits of full and open competition.

Clearly, as this rebuilding effort goes forward, the American people are saying, at a time when our schools are closing early, at a time when we have bridges, roads, and critical infrastructure crumbling from neglect, they want to know what is being done to ensure that their tax dollars are spent in a judicious fashion.

This is not the first time this request has been made on the Senate floor, and I am certainly not the only Senator who has been issuing this call. As I said, on various legislation, the Defense authorization, the Defense appropriations bill, a bipartisan group of us, particularly the chair of the Committee on Governmental Affairs, Senators COLLINS, CLINTON, BYRD, LIEBERMAN, and myself, all of us have said it is time for some sunshine. It is time for some sunshine at a period when vast sums of the people's money are being used for Iraqi reconstruction, and yet little is known about how this money is being spent and whether it is being spent in a prudent fashion.

At a time when Oregon families are hurting, when we are having difficulty getting funds for education at home in Oregon—and I know this is true elsewhere—I want the full truth about how these tax dollars are being spent in Iraq and why the administration is refusing to use the most cost-effective method again and again for doling these dollars out.

Most of all, it is time for the administration to level with the public. At this point, virtually the only information Congress and the citizens of this country have with respect to these billions of dollars worth of contracts are the news reports. Certainly, what I am reading makes the Iraqi contracting process look more like a cash grab for a few companies than a fair process to get the taxpayer the best deal. Instead of awarding the contracts to the lowest bidders, too often the administration has funneled ever larger sums to a select group of companies that seem awfully well connected.

Now, more than ever, taxpayers deserve to know the terms of the contracts that have been awarded and how these contractors were selected.

My amendment to the Defense appropriations bill would require the disclosure of that critical information. It would create not just openness in the contracting process but would help ensure that the careful spending of tax dollars in Iraq gets the value that America's working families deserve.

I think virtually every Member of the Senate would agree that the American people should not be asked to write blank check after blank check for the cost of rebuilding Iraq. They certainly should not be asked to do it when they have gotten absolutely no answers with respect to how their money is being spent and why. The American people have not received any assurance that their tax dollars are not being wasted in Iraq while so many of them are hurting at home.

So I intend to keep this fight visible on the Senate floor. I think all of us ought to be taking every step possible. We have two pieces of legislation to do it, to ensure that there is accountability for these expenditures, and to ensure that actual steps are taken to cut the waste. The families I represent in Oregon deserve careful, not wasteful, spending of tax dollars that are used to reconstruct Iraq. Right now, those citizens and the Congress are in the dark and the American people deserve better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today to comment on two of the amendments that I am pleased to join my colleagues in cosponsoring. First, let me acknowledge the hard work of Senator SPECTER and Senator HARKIN in shaping this bill. There are so many important priorities. They have done a very good job.

The amendments I have cosponsored have to do with education spending. First, I think it is important that all of the Members of this body acknowledge and recognize that under President Bush's leadership we have invested unprecedented amounts of Federal funding to improve the education of our children. We should never forget that fact. In fact, President Bush's budgets are 60 percent higher for education funding than the budgets presented under President Clinton. Nevertheless, there are a couple of areas where I think we can do even better and make a real difference.

AMENDMENT NO. 1566

For this reason, I have been very pleased to join my colleague from Massachusetts in offering an amendment to the bill to provide additional funding for higher education.

Our system of higher education is in many ways the envy of the world, but its benefits today have not been distributed equally to all Americans. As tuition rises, the road to higher education in America gets steeper and harder to climb for low- and middle-income families.

In 1979, a student in the top quartile of family income was four times more likely to obtain a baccalaureate degree by age 24 than a student from the bottom quartile. That discrepancy has grown by an additional 70 percent by graduation day for the class of 2001.

Tuition fees at 4-year public colleges have increased by 40 percent over the past decade. Everyone is familiar with the pressures State budgets are under, and that, too, has caused more pressure on the tuition at public universities and colleges.

At the same time, the value of Pell grants has declined by nearly half over the last 20 years. Today, Pell grants cover only 40 percent of the average fixed costs at 4-year public colleges whereas 20 years ago the Pell grant covered more than 80 percent of public college expenses.

From my experience in working at a Maine college before my election to the Senate, I know how critical Pell grants and other forms of Federal financial aid are in opening the doors of educational opportunity to many students. In fact, at Husson College where I worked, 85 percent of the students were reliant on Pell grants and student loans to finance their college education. Without that assistance, they simply would not be able to afford higher education.

I found more and more of our students are graduating with a mound of debt because of that change in ratio. It used to be that Pell grants and other forms of assistance covered most of the costs of a college education. Now, they cover far less and thus our students are forced to take out more and more and greater and greater amounts of loans to finance their education.

I am not saying education should be paid for the students, but we need to strike the right balance or else the doors of higher education and, thus, economic opportunity will be slammed shut for far too many low-income families.

Therefore, our amendment provides $2.2 billion to help fund crucial higher education programs including Pell grants, the SEOG, Work-Study, Perkins loans, the LEAP program, GEAR UP, and last but not least, the TRIO programs. The Kennedy-Collins amendment would provide desperately needed funding to increase the maximum Pell grant award. Our amendment provides a $450 increase in the maximum Pell grant and increases Pell grants to approximately 4.8 million students with a median family income of only $15,200. A Pell grant makes all the difference to these low-income families. It makes the difference between their children having economic opportunity, being able to pursue an education that is so necessary for a brighter future, that is necessary to participate in the American dream.

We can take this step, we can provide this $450 increase in Pell grants to these low-income children. In my State of Maine, this amendment results in an increase of $6.3 million in Pell grant aid.

I also want to talk about the importance of this amendment and the significant increases for other student-oriented programs. Again, I commend the committee and subcommittee chairmen for their hard work in bringing education spending up to unprecedented levels.

There is a program that I believe is so important to expanding opportunity for so many students. That is the TRIO Program. Our amendment provides a $160 million increase. The TRIO programs may be better known to many of my colleagues as Upward Bound, for example. That is an example of the TRIO programs. They help first-generation college students and low-income students get on the right track and begin to think about higher education as something that should be part of their lives.

I have talked to many students in Maine whose parents did not have the advantage of higher education. They told me that prior to participating in the TRIO programs, they just did not realize that college could be part of their lives. The TRIO programs exposed them to higher education, encouraged them, counseled them, helped them afford SATs, for example. It makes a difference. It truly changes the lives of so many students who come from families with absolutely no experience in higher education.

We have proposed to increase the funding for TRIO programs as well as for the GEAR UP and LEAP program which are aimed at younger children. The sooner we get students interested in higher education, the better. These programs change lives for the better. I hope we can help keep the doors of higher education open to all qualified students no matter their financial needs.

AMENDMENT NO. 1568

I am also very pleased to be a cosponsor of an amendment offered by Senator DASCHLE and Senator CONRAD that would increase the funding for the Rural Education Achievement Program. This program I authored along with Senator CONRAD as part of the No Child Left Behind Act.

Again, I acknowledge the tremendous efforts of the chairman, Senator SPECTER, on behalf of rural schools. The administration's budget, I am sad to say, eliminated funding altogether for the Rural Education Achievement Program. Senator SPECTER was able to restore this funding, which I deeply appreciate. It is essentially flat funded, however, and I would like to see an increase.

Our rural schools—and in Maine, that is 56 percent of the school districts in the State—need help in meeting the mandates of the No Child Left Behind Act. Children in small rural school districts deserve the same educational opportunities as their more urban counterparts.

We enacted the Rural Education Achievement Program to respond to two problems. First, smaller school districts do not have the grant writers and the other resources to compete for Federal grants the way the larger, more urban school districts do. Second, they often receive so little funding under the formula programs that it is not sufficient to accomplish the goals of those programs.

So the concept behind the Rural Education Achievement Program was to give more funding for rural schools, that they would not have to go through an elaborate grant-writing process, and to give them the flexibility of combining funding streams so they could have the funds available that would make a difference.

Let me give a couple of examples. In Jackman, ME, for example, a small community in western Maine, last year the school district received $16,000 in REAP funding in the Rural Education Achievement Program. The superintendent plans to use that money to support technology in the classroom and teacher training. There are other examples. In the Bradley School District in Penobscot County, ME, with 104 students, they received $21,000 through the Rural Education Achievement Program. The total Federal formula funding under ESEA going to this small school district will be about $25,000 this year. That is enough to allow Bradley the flexibility to hire a part-time reading specialist to meet the mandates of No Child Left Behind, to update computer systems, or provide some extended-day learning opportunities.

With the increased challenges of No Child Left Behind, our Nation's rural school districts need the additional financial resources and the flexibility provided by the rural education program now more than ever.

I hope my colleagues will join me in supporting this amendment as well.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I think the managers, if I can get Senator HARKIN's attention, are prepared to go to third reading. That notion is gaining support on the floor.

Mr. HARKIN. What a jester you are. I wouldn't mind it.

Mr. SPECTER. Senator HARKIN says he wouldn't mind. It is not a formal commitment. This may replace late-night television, Mr. President.

Mr. HARKIN. Does that mean you will accept all our amendments and just go to third reading?

Mr. SPECTER. Does that mean we will accept all your amendments? Let's hear some amendments so I will know if I can accept them or not. You cannot accept a pig in a poke, as the expression goes. I think that is an Iowa expression. It comes from Waterloo, IA.

Senator HARKIN and I are prepared to go to third reading if we don't have amendments down here by 4:15.

Mr. HARKIN. Waterloo, MO.

Mr. SPECTER. In a very serious vein, there is a long list of amendments and there is talk about Senators wanting to go home on Friday. That may or may not be possible, depending upon what the status of this bill is. But in the light of these assertions, I yield to my distinguished colleague from Iowa to concur.

Mr. HARKIN. I would like to ask my good friend, the chairman of the committee, does he know from the leadership on his side whether we will be having votes tomorrow? If we are, that is fine. We will get some votes packed in tomorrow, on some amendments tomorrow. I don't know. No one has advised me.

Mr. SPECTER. We cannot have votes tomorrow unless we have amendments. I think that is definitive. So the alternative to that is go to third reading and then we do have a vote.

Mr. HARKIN. I understand there are some amendments coming down this afternoon. There are some amendments pending right now.

Mr. SPECTER. There is no amendment being offered on the floor. There is no amendment we can put our hands around. The only thing we could put our hands around would be third reading. We could do that.

Mr. HARKIN. We have a vote at 5 o'clock, I understand. Was that already ordered? Oh, not yet.

There is the rural education amendment.

Mr. SPECTER. We have that, that we can vote on, and we can vote on the Dodd amendment? We can't vote on the Dodd amendment either? We can't vote on the Dodd amendment until the Senate is in session, and the Senate is not in session until the Democratic Presidents come back.

Mr. HARKIN. I understand we can have votes tomorrow on certain amendments. The Senator has an amendment which I am supporting on NIH. Is that going to be offered here this afternoon? We could vote on that. We have amendments on both sides. I am supporting that amendment, as my friend knows. Why can't we vote on that?

Mr. SPECTER. Mr. President, again, let me make a plea to our colleagues to come to the floor and offer the amendments. There are quite a few on the Republican side who have listed amendments, as well as Democrats.

Mr. HARKIN. I understand we want some people back for that, too, on NIH.

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, this has been cleared on both sides. In the presence of the ranking member of the subcommittee and the assistant Democratic leader, I ask unanimous consent that the vote in relation to the Daschle amendment No. 1568 occur at 5:10 today; further, that no amendments be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Is there a quorum call in effect?

The PRESIDING OFFICER. There is not.

Mr. REID. Mr. President, I would ask the distinguished Senator from Pennsylvania—and this is certainly not his fault—but we received a call. We need to change the time of the vote to 5:40, and with 10 minutes of debate prior to a 5:40 vote; 5 minutes for Senator DASCHLE and 5 minutes for those opposing the rural education amendment.

Mr. SPECTER. Well, if that is the best we can do, so stated.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified?

Hearing none, it is so ordered.

Mr. SPECTER. Mr. President, I have been asked, on behalf of the leader, to have that vote followed by a judge vote. So as in executive session, I ask unanimous consent that following the scheduled vote at 5:40 under the previous unanimous consent agreement, the Senate proceed to executive session to the consideration of calendar No. 349; further, that there be 2 minutes equally divided in the usual form for debate, and that the Senate then vote on the confirmation of the nomination, with no intervening action or debate. Finally, I ask consent that following the vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I am wondering if the Senator will withhold. We may be able to have the judge's vote first and then go to the Daschle amendment at 5:30. If the Senator would withhold just for a minute, we could check that out. It might be more convenient for everybody to have the vote earlier rather than later.

Mr. SPECTER. Mr. President, that would be agreeable.

Mr. REID. If we could, then, Mr. President, I ask the distinguished Senator from Pennsylvania—and I do again apologize to him, but I think it would be better for everyone involved if we had the vote on the judge at 5 o'clock, followed by a vote on the Daschle amendment at 5:40, and prior to the 5:40 vote there be 10 minutes of debate equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, this is kind of like the kangaroo cops on my side. We can't have the vote before 5:30—I apologize—the first vote. I apologize. The unanimous consent request offered by the Senator from Pennsylvania, as unmodified, we accept. We would have the first vote at 5:40, followed by a vote on the judge.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

AMENDMENT NO. 1575 TO AMENDMENT NO. 1542

Mr. HARKIN. Mr. President, shortly, I am going to offer another amendment dealing with school renovation and construction on behalf of myself and Senator CLINTON from New York. This is an issue I have been involved with for over almost 12 years now. I first started talking about the need for the Federal Government to be involved in school construction and renovation back in 1991. At that time, when I was seeking my party's nomination to be the candidate for President, I had come up with sort of a blueprint for America. But one of the cornerstones was the need to invest in the infrastructure of our country. In that infrastructure, aside from water and power generation and transportation, communications, one of the elements of the proposal was for the Federal Government to provide for meaningful funds for the renovation and reconstruction of schools throughout the country. I had picked up on this after reading "Savage Inequalities" by Jonathan Kozol from which it became clear to me that Mr. Kozol had provided a great service to our country by pointing out that all over America, the poorest schools—the worst schools, I should say—the schools that are the most rundown and in the most need of repair were those located in very low-income areas.

It became obvious the reason they did is because they were in low-income areas where they had low property tax values, and they simply didn't have the wherewithal to fix up the schools. However, the schools that were in high-income areas basically were in pretty good shape. Thus he termed it "Savage Inequalities."

Based upon that, I said: We ought to embark upon an effort to get the Federal Government involved in reconstructing schools. One of the reasons I proposed that and have been proposing it for the last 12 years is that I do firmly believe in local control of schools, local control in terms of curriculum, teachers, hiring, the general sort of thrust of the schools, how they are operated. That has been one of the geniuses of the American educational system. We have had this diverse approach to education in our country.

The fact is, giving construction money to the schools in no way takes away from local control. It just provides the funds they need. I also thought at the time that we would have a matching. We would have the States then come up with funds. For example, a low-income area that has low property tax values could take, let's say, a grant, a Federal grant of money that would lower the total cost of the bond or whatever is needed to be passed to provide for new construction; thus they might not only be more willing but at least able to build new schools or to reconstruct and renovate old schools.

Nothing happened on that in the early 1990s. Obviously, I did not get my party's nomination. I tried to get the Clinton administration to provide some of this. In fact, in 1994, we did get money for school renovation and reconstruction. It was rescinded the next year. I then embarked upon an effort to test my theories in the State of Iowa.

So beginning about 1997–1998, I got some money to go to the State of Iowa for school construction and renovation. And the State department of education handled that money and put out a requirement that there had to be certain local matches to get this grant money.

Local communities, at least in my State, could match that money one of three ways: They could either pass a bond, raise money through further bonding, they could have a local option sales tax, which we have in Iowa, or they could do it with what we call a plant and equipment levy. In the State of Iowa local jurisdictions are allowed to do that.

When we first put out several millions of dollars for this to test this theory, it turned out that the leveraging was incredible. The leveraging was over almost 20 times. In other words, for every Federal dollar we put out, we got about 20 times that in local moneys coming in to help. That is because they got the grant money, and they could see they could get maybe $100,000 or $200,000. And if they matched that with a local option sales tax or something or a bonding, then they get it. Many of these jurisdictions that had trouble passing bonds in the past found that with this carrot approach they were able to get the bond passed because obviously they didn't have to pass as big a bond as what they had in the past. Therefore, their local property tax levees would not be that great.

So it worked very well. In fact, there are schools all over the State of Iowa that have gotten these Federal grants now going back almost 5, 6 years. There are new classrooms; there are new schools; there are renovated buildings all over the State of Iowa that are testament to the fact that the theory I had actually does work.

So in 1991, we had $1 billion we had put into this program nationwide. That $1 billion was cut down to about $800 million in conference, but we got about $800 million out for school construction and renovation all over the United States. Every State has participated in this. Again, not all that money has been spent because it took some time to get the money out. People had to make contracts for construction, things such as that. But the reports we are getting back are that this has been something the States have found they can use and, as I said, multiply the amount of money. There is a multiplier effect to every Federal dollar that goes out.

It is estimated 14 million children in this country attend schools that are deteriorated. Just this morning, the American Society of Civil Engineers, a decidedly nonpartisan group, issued one of its periodic report cards which assess the condition of the Nation's physical infrastructure. In 2001, the ASCE awarded the Nation's schools a grade of D minus, the lowest grade for any individual category. That is bridges, water systems, sewage disposal systems, of all the infrastructure of America, schools got D minus, the lowest grade.

This morning, the American Society of Civil Engineers concluded there had been no progress in the condition of our schools. The report states: Due to aging, outdated facilities, severe overcrowding, or new class sizes, 75 percent of our Nation's school buildings remain inadequate to meet the needs of schoolchildren.

The ASCE also found that the average cost of capital investments needed to upgrade and replace our schools is $3,800 per student. That is more than half the average cost to educate that student for 1 year. They estimate the total cost to fix our schools at more than $127 billion nationwide.

I have said many times, it is a national disgrace that the nicest places that our children see are shopping malls, sports arenas, and movie theaters. The most rundown place they see is their public school. What kind of signal, what kind of message are we sending to our kids when the nicest things they see are shopping malls and movie theaters and sports arenas, and one of the most rundown places is the public school they attend every day?

What message does that say about the value we place on their education and their future? It is not just a matter of appearances. Numerous studies demonstrate the link between safe and healthy school buildings and student performance. That is basic common sense. If buildings are making teachers and students sick, obviously, they will not learn as well.

The Healthy Schools Network has reported many such problems around the Nation. For example, several parents have complained that their children were getting sick at a large city school near Albany, NY. The county inspected the school and found unsafe levels of lead and mold. The school has not been able to correct the problem, citing a lack of funding for repairs, but children are still attending the school.

A child in North Carolina missed several days of school suffering from headaches and stomachaches. During the summer break, the child's illnesses abate but come back when school resumes in the fall. The child attends class in an old trailer that has a musty odor and poor ventilation and mold.

A Virginia parent said her son felt sick at school and was doing poor in social studies. An inspector found nonfunctioning ventilators and several water-stained ceiling tiles.

We talk a lot about leaving no child behind but children such as these are being left behind all over the country today in bad school buildings. It doesn't have to be this way.

Last year I visited Longfellow Elementary School in Council Bluffs, IA. Longfellow school was built in 1939, the year I was born. Now you know how old I am. That was the year the school was built.

Basically, in the 2001–2002 school year, Longfellow recorded 4,893 student absences. The next year, after all the modifications and changes and everything, absences dropped by more than a half, to 2,357—cut in half in 1 year. Why? Well, that school received this Federal grant to make improvements to the school. Before this, they had an old boiler in the basement, an old water heating system. It was always leaking and it was many years old. There was mold all over the basement and mold on the ceilings. Kids were getting sick, plus there was poor ventilation. When you have these hot radiators in the middle of the winter, if you have a mild day, they are still hot. They just had all these problems, so they put in a new geothermal heating and cooling system. They put in better plumbing. They put in new window glazing with double-paned windows. They cleaned up everything. The mold and mildew has disappeared. The indoor air quality has risen dramatically. The building is not just a nicer place; it is a healthier place. In 1 year, they cut absences in half just by putting in this new system.

Another bonus came with the school's utility bill. As I said, they put in a new geothermal system. I looked at all the wells they drilled for this new system. Last winter the custodian at the school told me that when they first fired up this system on one of the coldest days of the year, the gas company called him to report what they thought was a broken meter in their school because they weren't using very much gas. The meter wasn't broken; it was just that the new system was so efficient. So this school district is now going to save money every single year because it won't be paying the high utility bills.

Here is a story of another school from a recent report by the Rural School and Community Trust, titled "Save a Penny, Lose a School: The Real Cost of Deferred Maintenance."

This report cited a 1998 incident in which the failure of a $12 gasket caused the flooding of a 6-year-old gymnasium, as well as the main building of the school. The problem might have been prevented by some routine maintenance. Instead, classes were canceled for 2 days and the gymnasium closed for 5 weeks. The total bill was nearly $200,000—$26,000 for emergency response and $160,000 for repairs.

Now, compare that with what happened in Waterloo, IA, where the school district in 1999 received another one of these Federal grants to upgrade their fire alarm system at West High School. A few months after they had put this new system in, an incident at the school one evening caused the water pipes to burst. But the upgraded alarm alerted authorities of the problem and an immediate response was taken to contain the damage. Without this early warning, the problem would not have been discovered until the next morning. Not a single day of instruction was lost. In addition, the new alarm saved the district money. The district officials estimated if the water had not been contained immediately, large areas of the school would have been flooded and over $400,000 in damages sustained.

I wish more schools could see results such as these. Unfortunately, the Federal Government is doing virtually nothing to help school districts address this critical problem.

As I said, in fiscal 2001, we provided $800 million for school repair. This program was extremely well received all over the country.

Unfortunately, President Bush zeroed out the program in his fiscal year 2002 budget, and we never have been able to restore it. That is why Senator CLINTON and I are introducing an amendment today to provide $1 billion, as we did in 2001, for a national school repair program. Grants would be made to school districts to make urgent repairs to fix a leaky roof, replace faulty wiring, or make repairs to bring schools up to local safety and fire codes. Funds could also be used to expand existing structures to alleviate overcrowding or make the school more accessible to students with disabilities.

Under this program, my own State would receive about $5.2 million, enough to create 125 jobs. Now, the amendment was fully offset and achieves this by rescinding the fiscal year 2004 advance appropriations and reappropriating those moneys in 2003. This is the exact same mechanism that the committee used in adding $2.2 billion to the base bill. The Harkin-Clinton amendment builds upon this and adds a billion dollars more for school renovation.

Let me also add a couple of other items I wanted to mention. I mentioned Longfellow school that was built in 1939 and the problems the kids were having and how sick they were getting with the mold and mildew and old heating system, and how absences were cut in half after they got the new system in and how the utility bills are lower. There is one other thing about that school I found. When I went into the school. I noted that it had been built in 1939 because it says so on the cornerstone. The principal of the school showed me the actual bill for the new school—how much it cost and everything.

The interesting thing was, guess who built the school. It was called the WPA, the Work Project Administration, instituted under President Franklin Roosevelt, supported by Congress. So it was a Federal Government project. They built that school in 1939.

Imagine that. It is still being operated today, with these modifications made with the new Federal grant. So this idea that somehow it is unheard of for the Federal Government to provide construction money or renovation money to local public schools is not so. It may have been unheard of in the recent past, in the last few years; but back in the 1930s and 1940s, we put a lot of Federal dollars into building new schools around the United States. So we have precedents for this. Many of the schools that are still being operated today were built by the WPA in the 1930s and early 1940s.

Secondly, this grant money that goes out to the schools, as I said, is money that would be used to reconstruct, renovate, make sure it is healthier and safer, and the results we have had back not only from Iowa but from around the country that this is not only needed but the amount of multiplier effect we get from this is much more than 10 to 1 nationally. In fact, it is approaching, if I am not mistaken, probably closer to 15 to 1 nationally for every dollar we put out.

Mr. President, I am proud to support this amendment with my colleague from New York. I will refrain from offering it until the Senator can be on the floor. I know Senator CLINTON is tied up, and I know she wants to speak on this amendment.

I will go ahead and send the amendment to the desk on behalf of myself, Senator CLINTON, Senator CORZINE, Senator KERRY, Senator BINGAMAN, and Senator MURRAY.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendments? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mrs. CLINTON, Mr. CORZINE, Mr. KERRY, Mr. BINGAMAN, Mrs. MURRAY, and Ms. STABENOW, proposes an amendment numbered 1575 to amendment No. 1542.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding for the Fund for the Improvement of Education)

On page 76, between lines 10 and 11, insert the following:

SEC. . (a) ADDITIONAL FUNDS.—

(1) IN GENERAL.—In addition to any amounts otherwise appropriated under this Act for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), there are appropriated an additional $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANTS.—The Secretary shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(b) OFFSET.—Of the funds appropriated in this Act for the National Institutes of Health, $352,000,000 shall not be available for obligation until September 30, 2004: *Provided*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,895,199,000, and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,783,301,000.

Mr. HARKIN. Mr. President, I see my colleague from Michigan on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent to add my name as a cosponsor to the Harkin-Clinton amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I commend my colleague from Iowa for his stalwart commitment year after year and month after month as it relates to education. I thank Senator HARKIN for his leadership particularly on this issue, as well as special education, as well as other critical needs for our children and our communities.

I rise today to lend my support—and it is a pleasure being a cosponsor—to the Harkin-Clinton amendment and to indicate my support for and cosponsorship of the Dodd-Jeffords amendment supporting special education which is long overdue. If we can do one thing to help our schools increase operating dollars, it would be to keep a commitment that was made over 25 years ago for 40 percent of the cost of special education to be borne by the Federal Government. That has never actually happened. If we were to do that, in 1 year alone, it would be close to $500 million additional resources coming in for Michigan children, not only to help special education but to help general education students as well. This is critical, as is the Harkin amendment.

I also wish to speak as a cosponsor to an additional amendment, the Kennedy-Collins amendment, to increase Pell grants.

First, as in anything else we do in this Senate or in the Congress, this is an issue of priorities. It is an issue always of values. I am a member of the Budget Committee, and this week we heard a midterm review of where we are in terms of the budget, with huge looming budget deficits. In fact, we are paying this year $322 billion in interest. That does not fix one school. It does not send one more young person to college. It does not fix a road. It does not help pay for Medicare prescription drugs. It is $322 billion in interest which, by the way, is almost as much as the entire—if you take away defense—nondefense discretionary budget of our country. It is amazing, astounding, that the interest on the publicly held debt now almost equals the entire spending on health, education, the environment, law enforcement, and most of the homeland security efforts.

Why do I mention that in the context of these amendments? Because it is an issue of values and priorities, and in the Budget Committee—and we hear over and over from esteemed witnesses, from the Chairman of the Federal Reserve to the head of the CBO, from whom we heard this week—we hear over and over talk about what drives the economy. It is increased productivity, which is education and innovation. It is being able to have more technology, more people who have the skills, the brain power, and the training to create that innovation in technology. It means more opportunity for children to receive a quality education and for people to be able to afford higher education. That is how we get to increased productivity which drives the economy.

Instead of the policies that have been used in this administration of focusing on supply-side economics—in other words, you give to a few at the top; you give tax breaks to a few at the top; you focus only on the needs of a few at the top of our income levels in our country, which, by the way, is a policy that has now created the largest single-year deficit in the history of the country and an interest payment of $322 billion this year. Instead of that, if we were to focus and invest very small amounts of money, relatively speaking, in educating our children in safe, quality schools where they do not have buckets in the corner to catch the water, that have the latest technology at each and every desk, if we make sure the funds that have been committed through special education, through Leave No Child Behind, through the commitments of the Government that are actually kept, small amounts of money, comparatively speaking, with huge results in increasing opportunities for everyone, increasing productivity, increasing jobs, lowering the Federal deficit—all of these things happen by focusing on opportunity and education and innovation, and that is what these important amendments do.

Think of the comparison now: $322 billion paid in interest on the debt this year versus $1 billion for more school construction so that children not only hear us say education is important, but they see it when they walk into a quality school building with technology, with the infrastructure they need, or special education.

I am pleased to be a cosponsor of the amendment Senators KENNEDY and COLLINS offered, to give more opportunities for young people to go to college and to receive something called a Pell grant. Right now there are 145,151 students in Michigan who have the opportunity to receive some assistance to get a higher education, to go to college. It is an investment not only in the students but it is an investment in us, in our country, in our future.

Under the amendment proposed by Senator KENNEDY and Senator COLLINS, in Michigan another 5,371 students would be able to afford to go to college—5,371 new opportunities for people to receive Pell grant assistance, and we would increase the average amount from $4,050 to $4,500 just to keep pace with the rising cost of higher education. We raise the amount a little less than $500 per grant per student, and we give more people an opportunity to go to college.

What would that do and what would that cost? That would cost $2.2 billion. I would say that is a very small investment for a very huge impact in terms of opportunity, growth, and productivity in the economy and strengthening our country.

Let me make one other comparison because right now, again, focusing on values and priorities, as we look at putting together this budget, we know that, in fact, $1 billion a week is being spent in Iraq to rebuild their infrastructure, to help them have health care, to help rebuild their schools.

While I certainly hope and pray that we will be successful in helping to rebuild Iraq and creating the climate for a Democratic process and an economy that can work in Iraq, should we do less at home? If we can spend a billion dollars a week in Iraq, and we are asking for a little over $2 billion for a year to increase the opportunity for Americans to be able to get higher skills, to get higher paid jobs, to increase that productivity we are hearing about from the experts that drives the economy and hopefully helps to lower this debt, is that not a small investment to make?

Two weeks in Iraq would address the funding needs in this amendment for students to be able to have Pell grant opportunities to be able to go to college.

One week in Iraq would fund the Harkin-Clinton amendment on school construction that is so critical. We can go right on down the line. We are talking about small investments, relatively speaking, for major impacts on real people. In the end it is, in fact, education and innovation that increases productivity and drives this economy and creates jobs that all of us want to make sure are there for ourselves and our families.

So I urge my colleagues to support these amendments, to advocate with us for a set of priorities to say to the American people we want to put opportunities for you and your children first; that we understand that creating opportunities for everyone to be successful through opportunities to go to college, through quality schools, through full funding of special education that guarantees the full range of opportunities to every child in our school, those things are an important part of making sure that everybody has a chance for the American dream.

We fight for that abroad. We need to make sure it is available at home, for every single young person who works hard, goes to school, plays by the rules, and wants to make it. They deserve a chance. We need them to succeed in order to be successful as a country.

I urge my colleagues to look at these amendments as important investments in the future for all of us.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New York.

Mrs. CLINTON. Mr. President, I want to echo and support the eloquent comments of my colleague from Michigan about the values and priorities of our Nation at this point in our history. I particularly wish to reinforce her strong statement of support for the Kennedy-Collins amendment concerning higher education and its affordability. This amendment that will increase access to higher education would invest $2.2 billion in Pell grants and other critical programs.

I think all of us know that investing in higher education pays off, but we also know we have put our students into a difficult dilemma. They understand the importance of going to college. That is why in the last week they have packed up; they have moved to campuses; they have enrolled in courses; they are prepared to do their part to acquire the skills and credentials they need to make a contribution to our country. Yet at the very time they are doing their part, accepting their responsibility, the costs of higher education are dramatically increasing.

States are reducing their support, increasing tuition, and other related costs. As a result, many qualified students from middle-income and low-income families, sometimes the first in their families to even dream of going to college, the first to apply, the first to believe they could put together the financial resources to attend and graduate from college, are coming up against the reality of not being able to fund their education. We know that on average each year a postsecondary education increases earnings by 6 to 12 percent.

Research also points out what many of us know from personal experience; that postsecondary education leads low-income citizens to become more self-sufficient, to lead productive lives. Clearly, this is a time when we cannot ignore the importance of preparing our workforce, making it as productive as possible, and providing programs such as GEAR UP and TRIO which have helped change the expectations and raise the vision of many children from families for whom college was not a reality.

I recently heard from Melissa Santos, a tenth grade GEAR UP student at Hempstead High School in my State of New York. She wrote to tell me something that sometimes young people do not realize until it is too late.

She writes: Life can take you many places. It all depends on the choices you make. I feel that life could be good, but it all depends on how you live it. For instance, if you decide to go to college and get your education, you will most likely live a good life. GEAR UP has a lot of benefits like helping students get into college, which is essential to making it in today's world. My philosophy is that education can break many boundaries.

Well, Melissa Santos is a young woman who is wise beyond her years, but she is taking advantage of a program that is giving her the structure, the incentive, and the motivation to dream about going to college. She is preparing herself to take advantage of that.

The Kennedy-Collins amendment will increase access to college for eligible students in all States, and it will be particularly important to students in New York where tuition at the State University of New York at our various campuses jumped by 28 percent. Students attending the city University of New York are now faced with a 25-percent tuition increase. Last year, 404,181 students received Pell grants in New York. This amendment will expand grant aid to additional students, but it will also make sure the grant amount is sufficient to keep students in school.

So I am hopeful, along with my friend and colleague from Michigan, that we will do something to invest in our own students, make it possible for these bright young men and women from all corners of our country to have an educational opportunity, not feel that they have to postpone it or drop out because of financial pressures.

AMENDMENT NO. 1575

Similarly, I join with my colleague, Senator HARKIN from Iowa, in working to amend the appropriations to provide critical relief to schools that are overcrowded and worn down and, as a side benefit, create much needed jobs in the economy. The Harkin-Clinton amendment would provide $1 billion to help needy schools make those critical repairs and renovations and relieve overcrowding.

For New York alone, this amendment would mean more than $100 million which, believe me, is money that is sorely needed. It is particularly needed because of the requirements of No Child Left Behind.

We promised that we would put a qualified teacher in every classroom. We led teachers, parents, and students to believe that a qualified teacher would be able to teach because the number of students sitting before him or her would be low enough that you could actually do the hard work of helping these students meet the new accountability standards.

Unfortunately, because of the deterioration in our public school stock, because at least one-third of our schools need extensive repair, we know that we have all kinds of learning and educational problems that we could help alleviate.

It is impossible for most of our communities to even think about raising property taxes to fix these schools.

On the other hand, because of the State, county, city, and school district budget crunches, we have schools that were contracted for and built a few years ago and we cannot even fill the classrooms with teachers because they do not have the money. We are creating a recipe for failure.

For many who voted for No Child Left Behind, we did so with the understanding there would be the resources, that the Government would do its part so our students, teachers, and parents would do their part. The net result would be better outcomes on learning measurements for our kids.

This amendment, the Harkin-Clinton amendment, is sponsored by a number of our colleagues. Senator BOB GRAHAM asked to be added as a cosponsor. I appreciate the support it has received. Clearly, we have to do more than just introduce amendments and talk about them. We need action.

We estimate 14 million American children are attending these deteriorating schools. Think if it were your child, your grandchild, your niece, or your nephew. Think what that would mean to you and what kind of confidence you would be able to instill in the future of that young boy or girl.

According to the General Accounting Office, one-fifth of all children attend schools with unhealthy air quality. I know a little bit about this now because of our work in lower Manhattan after 9/11. It is absolutely clear that air quality is associated with absenteeism. In fact, American children miss 10 million schooldays a year because of asthma exacerbated by indoor air quality. Poor indoor air quality has a disproportionate impact on racial minorities and students from low-income families. Black and Hispanic students have a much higher likelihood of living in neighborhoods with toxic waste facilities. Eighty percent of Hispanic children live in neighborhoods where quality does not meet EPA standards. According to the GAO, schools with at least 40 percent of students eligible to receive free or reduced-price lunch are more likely to have unsatisfactory air quality.

We are putting our children who need help and encouragement the most into the environments that are least likely to produce the kind of positive results we all hoped for from the unprecedented Federal mandate under No Child Left Behind.

These Federal requirements which we have imposed on our school districts are really a two-edged sword. On the one hand, we hope these requirements will inspire school districts to do things that maybe they should have done on their own but have not in the past; on the other hand, they may set up impossible barriers to any school district being able to achieve what is expected because we have not funded the resources that were called for in the authorization of No Child Left Behind.

I know many of my colleagues argue there is no Federal role for building and repairing schools. The reality is that we made an explicit Federal priority to close the achievement gap, to say my daughter and the sons and daughters and grandchildren of my colleagues would not have an unfair advantage by dint of birth and genetics and environment; they would be given all the opportunities we could give as their parents and grandparents, but we would do more to help those children who, through no fault of their own, might not have been provided all of the benefits we take for granted.

When we think about how we are going to achieve the standards put forth in No Child Left Behind and what our dearest hopes and dreams are for all children, I don't think we can ignore the compelling body of evidence that unhealthy school buildings are a detriment to performance.

If our goal is to leave no child behind, we must first start by leaving no school behind. The Harkin-Clinton amendment would help States and schools comply with the requirements of No Child Left Behind. I hope we will look seriously at this amendment that gives us the opportunity to put our money where our mouths have been about higher education standards.

We were ahead of the curve in New York. The New York regents already established standards for science, but many of our districts did not have the financial wherewithal to make sure their facilities were adequate. New York City lacks science labs in its junior high schools and has insufficient funds to construct then. We are still recovering from 9/11. We still have higher than 8 percent unemployment. Is it fair to say to the million children in the New York school district: You are not meeting the standards because we have not given you the basic equipment to be able to do that? I don't think so.

The city also lacks the funding to build or modernize science labs and high schools. Chancellor Joel Klein wrote in a letter to me in support of this amendment:

> [W]ithout the necessary resources to meet our acute needs in this area, our students are in danger of falling short of meeting these requirements.

The Harkin-Clinton amendment will also help alleviate overcrowding. Today, school enrollments are at their highest level in history, even more than the baby boomers. We filled up the classrooms, but the children of the baby boomers are even in greater numbers. A record 47.7 million children are enrolled in elementary and secondary schools today. The number will climb to 53.7 million by 2008. Between 1990 and 2000, school enrollments increased by 14 percent.

Anyone who has driven by a school recently often sees trailers parked on the grounds because that is the only way the children can be accommodated. The temporary facilities sometimes last years because there are not sufficient resources to do what needs to be done in terms of facilities.

We have a very big overcrowding problem in New York City. We have 30,000 more children than we have seats. We know we have to figure out what to do for those children, especially with the new standards and the testing requirements. But it is very hard to figure out how we are going to build the classrooms we need to seat those 30,000 children without some help.

Where does the help, such as it is, come from? We know it comes from local tax bases, local taxpayers, and we know that in the last several years, according to a survey conducted by the National League of Cities, virtually every State that provides aid to local communities is cutting back on that aid because of the current fiscal problems. Local taxpayers cannot be expected to bear the brunt of every education cut occurring at the local level. There is no way it can be done.

What administrators do is postpone costs, postpone repairs, postpone renovations, and even routine maintenance. Deferring the costs does not make them go away. Oftentimes it just leads to increased costs because something fails and then there is a bigger problem that is more expensive. There were $12 gaskets that failed at a school in New York costing $186,000 and forcing a gym to be closed for 5 weeks. Those are the things that happen as a matter of course through the country.

There are many educationally compelling reasons to vote for this Harkin-Clinton amendment. There are many benefits that would flow to our children, our teachers, to the enterprise we have committed ourselves to as a nation to improve educational outcomes among all children, leaving no child behind.

But there is another benefit, an ancillary benefit, and that is this would create jobs. We are in the worst, heightening slump since the Great Depression. More than 3.2 million private sector jobs have been lost since February of 2001; 1.4 million people have fallen back into poverty in the last 2 years. We have an unemployment problem. It is not going away. Some people say the economy is recovering, but even the most optimistic call it a jobless recovery. We know many people have even given up looking for work.

This is a way to stimulate the economy. I don't think it is the primary reason. The primary reasons are the reasons to which I have alluded. It would not hurt to put some people to work. Spending $1 billion on school construction would generate 23,765 jobs. In New York alone, it is estimated it would put 2,434 people back to work.

So this commonsense amendment, the Harkin-Clinton amendment, is really central to our achieving the purposes we claim to be supporting. I hope my colleagues will recognize the merit in this amendment and support it because I believe it has a tremendous amount of positive impact across the board. I further believe it would be affordable and, in comparison to the other challenges we are facing in Iraq and elsewhere, it would be a demonstration of real commitment to our goals.

I hope on the Kennedy-Collins amendment concerning Pell grants and other related support for higher education, and on the Harkin-Clinton amendment with respect to school construction, modernization, repair, and renovation, that this body will cast a vote that really puts our children first—not just in rhetoric but in resources.

Mr. DODD. Will the distinguished Senator yield?

Mrs. CLINTON. Certainly.

Mr. DODD. I wish to ask the distinguished Senator from New York; she has raised a tremendously important amendment here. I don't recall the numbers exactly. Maybe my colleague from New York does. What I have been told over the years is, back towards the turn of the 20th century, we were in this country building a new high school every week in order to provide for the challenges of the 20th century. We understood that creating places that were conducive to learning was critically important to take advantage of the technologies that were emerging at that time. Obviously, we are now in a new century, but the technologies and ability to provide students with access to education are unprecedented historically.

I wonder, from a historical standpoint, if the Senator might share her own thoughts on what has been the history of our Nation regarding the commitment to education, going back to the Northwest Ordinance, the GI bill even before the end of World War II. At times of great national crises, Congress and Presidents always found time, in the midst of other issues, to commit themselves to education. I wonder if she might share some comments and thoughts on that point.

Mrs. CLINTON. The Senator is absolutely correct. If one looks throughout our history, one sees the commitment to education is a constant. In the midst of the Civil War—hardly a moment one would think where any attention would be focused on any matter other than winning the war—President Lincoln forged ahead on land grant colleges because he understood that the war itself was not the only goal he had to keep in mind. He had to be constantly focused on what kind of country he was trying to save, what sort of union we would have. He understood that a citizenry committed to education, just as Thomas Jefferson understood and his successors after President Lincoln understood, was the kind of country he wanted to help create and make sure continued.

If we go into the 20th century, at the turn of the 19th to the 20th century when we had so many immigrants coming to our shores, looking for hope and work and opportunity, we invested in schools. In fact, New York State still has some of those schools. I have been in schools built in 1894 and 1910. I have been to schools that are so old, they can't figure out how to get through that thick brick exterior to wire the schools.

But all the way through the period, whether it was the Progressive period under President Roosevelt, the World War I era under President Wilson, and on to President Roosevelt and others, going forward, investing in schools was always key.

I would make identity with my good friend from Connecticut that certainly, given our, sort of, age at this time in our lives, we know the generation of our parents invested in education. The veterans who went off and saved freedom in World War II came home and made it clear they wanted to build schools for the children they wanted to see grow up in peace. I know the father of the Senator from Connecticut was a great champion of that.

I find it hard to understand how, here we are, a generation later, turning our back on the kind of facilities that are needed to demonstrate the public commitment we should be making to our children.

I thank the Senator from Connecticut for a very timely and historically important inquiry.

Mr. DODD. Mr. President, I thank our colleague for her observations. She is absolutely correct about Senator Morrill from Vermont, for whom it was named. The University of Connecticut is a land grant college established as a result of those efforts. Our colleague from New York is absolutely correct in pointing out, even prior—she mentioned during the Civil War—our predecessor body, in the midst of that conflict, found the resources to commit ourselves to higher education.

At the end of World War II, in the earliest days of 1945, the GI bill was adopted. There were a few weeks to go, months to go, but nonetheless that act was debated and discussed. It was debated because it was a lot of money in its day, to say to GIs coming back, we want to provide you with an educational opportunity.

You hear it over and over and over again, Mr. President, when you hear from our veterans, those who never, ever could have dreamed of getting a higher education but for the GI bill. Yet in the midst of the greatest conflict of the 20th century, the Congress of the United States and an American President said: We are going to be prepared for the tremendous opportunities that will come after this conflict. We have benefited a thousandfold, a millionfold for every dollar we spent, I believe. I think my colleagues would admit that for every dollar we spent, in 1945, investing, in the GI bill, the returns to this country and the world have been phenomenal.

So I am deeply grateful to my colleague from New York for her recollection of history and the importance this issue has been given throughout our Nation's seamless history, more than 200 years, of providing for the educational needs of our people. I thank her immensely for this amendment which she has offered to us. I join her in hoping our colleagues will support it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the objective of school construction is a very laudable one. I have supported Federal intervention and assistance on school construction. This was a cause championed by former Senator Carol Moseley-Braun.

The grave difficulty with the amendment is that there is no money in the budget resolution to pay for it. In the budget resolution which was voted on in the 105th Congress, there was a resolution relating to public school construction. It was supported by only three Republicans at that time—Senator CAMPBELL, Senator D'Amato, and myself. Regrettably, the resolution did not pass. But at that time I recorded my support for the principle of construction which would be assisted in the Federal budget.

A similar matter arose on April 1, 1998, when the issue in the budget resolution was building schools. On that occasion, Senator D'Amato and I supported the resolution, which regrettably was tabled on a vote of 54 to 46.

So the issue with which we are confronted now, in a very practical sense, much as we want to support education—and this bill has $53.5 billion in education funding—it is at an all-time high. On other amendments, we have analysed the increases which have occurred during the budget requests by President Bush, who has asked the Congress to increase the Education budget from $40 billion to $53 billion, on the three budget requests which he has made, an increase of 33 percent, which compares very favorably with the budget requests made by President Bush's predecessor, President Clinton.

On the statistics I had outlined before, in one 3-year period President Clinton had asked for increases over 26 percent and in another 3-year period had asked for budget increases of 33 percent, moving from $30 billion to $40 billion.

The issue is not really with the broad brush the Senator from Connecticut talks about, the good old days when we supported education, notwithstanding a war being fought, the Civil War. On the issue of education, there has been very considerable funding. Not as much, frankly, as I would like. And I have tried hard to get a larger allocation for education, a larger allocation for health and human services, and a larger allocation for workers' safety. Those are the competing items in the appropriations bill which this subcommittee has brought forward.

Our colleague, Senator HARKIN, has come to the floor. He and I have worked on a cooperative basis on this and on a bipartisan basis. I should add that Senator HARKIN has been a champion for school construction. I mentioned Senator Carol Moseley-Braun was a champion as well as Senator HARKIN in reference to a couple of votes in which I joined.

Mr. President, we need 10 minutes of debate starting at 5:30, I believe.

The PRESIDING OFFICER. That is correct. Under the previous order, at 5:30 there will 10 minutes of debate on the Daschle amendment.

Mr. SPECTER. Mr. President, in the absence of Senator DASCHLE, I ask unanimous consent that we may proceed for up to 4 minutes, or until Senator DASCHLE arrives, whichever occurs first.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I would.

Mrs. CLINTON. Mr. President, the Senator from Pennsylvania is correct in his statement of his own record and the record with respect to increasing the Federal commitment to education. The Senator from Pennsylvania knows very well because of the complex State he represents the importance of supporting education and also supporting construction for the kind of old school stock we have in cities in New York and Pennsylvania.

But would the Senator agree that with the No Child Left Behind Act the consequences for students and school districts under federally mandated accountability standards are considerably greater than they have ever been at any point in our history where for the first time the Federal Government has assumed a leadership role and accountability role with respect to public education?

Mr. SPECTER. Mr. President, in response to the question from the Senator from New York, I believe it is true that the Federal Government has assumed a greater responsibility; that the No Child Left Behind Act has targeted program standards and very specific efforts to improve the quality of education in the United States. But I do not believe the Federal Government has taken over the financing responsibilities. I took a look at the statistics as to where we stand now. The Federal Government still only contributes 8.4 percent of the total education budget. We don't have time to go into all of the statistics on construction, but construction is still left largely to the States. Here we have a targeted effort with the President spearheading the way and identifying a goal and using the power of his bully pulpit to focus attention. But I do not believe it has a corollary obligation to provide all the money to do all the things to be sure no child is left behind, much as I would like that. I didn't like voting against the Daschle amendment for rural schools. I come from a rural area originally myself—a small town in Kansas. I didn't like voting against the Murray amendment on workforce. I am not going to like voting against other education amendments. This is a very heavy responsibility. Maybe one day the Senator from New York will be the chairman of this subcommittee, and when she is chairman of the subcommittee and she has a budget resolution and a 302(b) allocation, she is going to have to defend it. She might not like to defend it. I don't care much for defending it. I have cast more bad votes in 2 days than I cast in the balance of the year. I should say "controversial votes"—not bad votes. There is no such thing as a bad vote, or a bad child. They are controversial votes on both sides.

But I would like to see a bigger pot. If there were a bigger pot, I would like to see it.

Senator HARKIN and I referenced two budget resolutions in 1997 and 1998 when in one year Senator CAMPBELL and Senator D'Amato and I were alone among Republicans voting for school construction, and another year when Senator D'Amato and I were alone. Senator Moseley-Braun and Senator HARKIN fought the good fight. Senator CLINTON is now here to assist in that.

But I am constrained to offer the other considerations as to what the limitations are because of the budget resolution and because of the allocation which this subcommittee has. Much as I would like to see my partner, Senator HARKIN, get $1 billion here, I just have to say no.

Mr. HARKIN. Mr. President, will the Senator yield for a question?

Mrs. CLINTON. Certainly.

Mr. HARKIN. I thank the Senator from New York for her remarks. I just appreciate her eloquence and her strength in supporting this proposal to rebuild and modernize our schools.

I wonder if the Senator from New York is aware of the number of jobs being created. I understand there is an estimate that this $1 billion would create about 24,000 jobs in the entire United States.

There is an article in this morning's paper which said the President is going to come up with a new budget request for Iraq of between $60 billion and $70 billion—twice what we were told about two months ago.

In July, we had a briefing by Mr. Bremer, who is our counsel over there. He gets to write all these checks for money in Iraq. He said something I couldn't believe I heard, so I wrote it down. He said they were putting a lot of money into rebuilding infrastructure in Baghdad—the streets, the sewers, and rebuilding schools because they found they got more bang for the buck when they put it in that.

I can't understand why we can do that in Iraq but we can't do the same here in the United States.

The leveraging of money has been great in the past with what we have done for schools.

I might ask again if the Senator will yield for a question. I am sure the Senator is aware the offset we are using we already used before to get an additional $2.2 billion for the bill. I am told there is about $13 million that could be used as an offset. I am wondering why we can't use this offset to get money to help rebuild and modernize our schools.

I am sort of at a loss. I wonder if maybe the Senator might know why we can't use this money. Since we have already used some of it before in the bill, why we can't use it for this?

Mrs. CLINTON. I share my colleague's bewilderment. It does appear to me that the offsets are certainly adequate for the money we believe should go into school construction. The Senator's reference to Iraq raises an additional question. I, too, am aware of the statement by the administration, by Mr. Bremer and others that we—the American taxpayers—were committed to rebuilding schools, hospitals, health clinics, roads, and powerplants. I don't think one would argue with that. It is our responsibility. Once we make the decision to pursue military action and change the regime, we inherit those responsibilities.

But not only does it seem fair and equitable to do the same for our own citizenry—particularly our students in rural areas and in underserved urban areas which both of us represent in our respective States—I would note a cautionary comment: that if we expect to have the broad population of this country support the long-term commitment we have taken upon ourselves, which is costing at least $1 billion a week—and we know the President is going to come and ask for between $60 billion and $70 billion more to support both the military mission and the reconstruction costs of Iraq—I think if we are serious about sustaining public support for what is a costly endeavor in terms of life and, much more important than money, the soldiers we are losing, the casualties, the injuries that are being incurred, it is important we support things here in our own country.

It will be impossible to go to this Nation and say keep spending money in Iraq when you do not have jobs, when your schools are crumbling, when your bridges, your wastewater treatment centers, and your electricity grid is crumbling. Who are we kidding? How do you sustain the broad American public support for this kind of endeavor that costs us blood and fortune without doing things here at home? This is a tangible way to demonstrate we care about what happens in America as well.

AMENDMENT NO. 1568

The PRESIDING OFFICER. The hour of 5:40 having arrived, the question is now on Daschle amendment No. 1568.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits specified in this section and, therefore, is not in order.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, pursuant to section 504(b)(2) of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, I move to waive section 504 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote yea.

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Grassley
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Wyden

NAYS—43

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Chambliss
Cochran
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Gregg
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Nickles
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—5

Edwards
Graham (FL)
Kerry
Lieberman
Miller

The PRESIDING OFFICER (Mrs. DOLE). On this vote, the yeas are 52, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. SPECTER. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF STEVEN M. COLLOTON, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the nomination of Steven Colloton, to be United States Circuit Judge. The clerk will report the nomination.

The legislative clerk read the nomination of Steven M. Colloton, of Iowa, to be United States Circuit Judge for the Eighth Circuit.

The PRESIDING OFFICER. There are now 2 minutes of debate evenly divided. Who yields time? The Senator from Utah.

Mr. HATCH. Madam President, I rise today to express my unqualified support for the nomination of Steven Colloton to the Eighth Circuit Court of Appeals and to urge my colleagues to confirm this fine nominee.

Mr. Colloton has excellent academic and professional qualifications for the Federal bench. A graduate of the prestigious Yale Law School, Mr. Colloton clerked for two distinguished judges, D.C. Circuit Judge Laurence H. Silberman and U.S. Supreme Court Justice William H. Rehnquist. Mr. Colloton then worked as an attorney with the White House's Office of Legal Counsel at the Department of Justice for a year and then, eager to return to his Midwestern roots, accepted a position as an assistant U.S. attorney in the Northern District of Iowa.

Mr. Colloton has impressive courtroom experience. He has argued 18 cases in the Federal courts of appeals, and has briefed several other cases. He has tried approximately 13 criminal cases to verdict. In addition, as an assistant U.S. attorney, Mr. Colloton was in the courtroom regularly to argue motions or evidentiary matters. He oversees an office which includes 25 attorneys.

Twenty-seven past presidents of the Iowa State Bar have written of Mr. Colloton, "[W]e submit that the exceptional quality of Mr. Colloton's experience, together with its relevance to this position, uniquely qualifies him to represent Iowa on the United States Court of Appeals."

I could not agree more. Mr. Colloton has demonstrated his capacity to excel on the Federal court bench. He possesses the qualifications, the capacity, and the temperament a judge needs to serve on the Eighth Circuit.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, today, we vote to confirm Steven Colloton to a lifetime appointment on the United States Court of Appeals for the Eighth Circuit. Mr. Colloton comes to us with bipartisan support from both his home-state Senators, for whom I have great respect. Steven Colloton currently serves as the U.S. Attorney for the Southern District of Iowa. While I continue to remain concerned that, at 40 years old, Mr. Colloton received a partial not qualified rating from the ABA, he has a good academic record and has a record of public service in the state of Iowa.

I note that Mr. Colloton is the ninth confirmed circuit court judge who is a member of the Federalist Society and the third former member of Whitewater prosecutor Ken Starr's office to be confirmed to a Federal judgeship. I would like to take this opportunity to express my hope that Mr. Colloton acts as a fair and impartial judge, despite his active role in conservative political causes and groups. It was very troubling that another former Starr prosecutor confirmed to the Federal bench overlooked years of precedent to rule in favor of Vice President CHENEY and against the American people's interest in open access to who was advising the administration on energy policy, a special concern in the aftermath of the blackouts in the Northeast this August.

Mr. Colloton's confirmation process stands in stark contrast to what occurred with judicial nominees during the Clinton administration. His confirmation process has been expeditious and smooth. In contrast, an earlier nominee to the Eighth Circuit from Iowa, Bonnie Campbell, never even received a vote before the Judiciary Committee following the hearing on her nomination. Ms. Campbell was a former attorney general of Iowa, a former head of the Department of Justice's Office on Violence Against Women, and a nominee who also had the support of both of her home-state Senators including a senior Republican Senator. Neither the nominee nor the Judiciary Committee members were ever told why the Republican majority refused to accord her nomination a Committee vote and, when given the chance to do right by her, President Bush instead decided to withdraw her nomination.

Another contrast exemplified by Mr. Colloton's confirmation process is the pace of confirming circuit court judges. Steven Colloton will be the 28th circuit court judge confirmed since President Bush has taken office. Again, this stands in strong contrast to what occurred during President Clinton's second term in office. More than 3 years passed in President Clinton's second term before the 28th circuit court judge was confirmed. And, we have already confirmed more circuit court nominees of this President, since July of 2001, than were confirmed at this time in the third year of President Reagan's first term, President George H.W. Bush's term, or either of President Clinton's terms.

Finally, I point out that with Mr. Colloton's confirmation, there will be as many active George W. Bush appointees on the bench as there are active George Herbert Walker Bush appointees. The President's father served 4 full years. This President has served less than three and already has made as much impact on the Federal courts across the country.

I congratulate Steven Colloton, his family, and the Senators from Iowa on his confirmation.

Madam President, to reiterate this will be the 28th circuit court judge confirmed since President Bush has taken office. For those who are wondering, that is more circuit court nominees confirmed than in the third year of President Reagan's first term or President George H. Bush's term or either of President Clinton's terms. We have done far better, I might say, for President George Bush than we have his three predecessors.

I will also note a contrast. Mr. Colloton's nomination moved very quickly, as contrasted to President Clinton's nominee for the same seat, Bonnie Campbell, who was never given a vote before the Judiciary Committee. Even though she had been a former attorney general of Iowa, she was the former head of the Department of Justice's Office of Violence Against Women, and she had the support of both of her home State Senators, she was never given a vote.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEAHY. I will support Steven Colloton.

Mr. GRASSLEY. Madam President, I urge my colleagues to support an excellent judicial nominee for the U.S. Court of Appeals for the Eighth Circuit. Steven Colloton is an outstanding individual with an extensive record of public service and impressive legal career. I am glad that the Senate is finally voting on this nomination.

Steve Colloton is an Iowan, born in Iowa City. He graduated from Princeton University and Yale Law School. He served as a law clerk to Judge Laurence Silberman on U.S. Court of Appeals for the D.C. Circuit, and then as a law clerk to the Honorable William Rehnquist, Chief Justice of the U.S. Supreme Court. Subsequently, Steve Colloton worked as an attorney with the Office of legal Counsel at the Justice Department and than as an assistance U.S. attorney in the Northern District of Iowa for 8 years, with a brief detail as an associate independent counsel in the Office of Independent Counsel. From 1991 to 2001, he was partner at a law firm in Des Moines, IA.

After the 9/11 terrorist attacks, Steve Colloton returned to government service and was unanimously confirmed by the Senate to the position of U.S. Attorney for the Southern District of Iowa. There he has focused his efforts on combating crime and enforcing drug laws, as well as fighting terrorism. He has done a great job serving our country as an Iowa U.S. Attorney.

In addition, Steve Colloton has many strong supporters. Twenty-seven past presidents of the Iowa State Bar wrote that "the exceptional quality of Mr. Colloton's experience, together with its relevance to this position, uniquely qualifies him to represent Iowa on the United States Court of Appeals."

Members of the Polk County Chiefs of Police and Sheriff's Association wrote, "Steve Colloton is the right choice for the Eighth Circuit Court Judge position, and we fully endorse President Bush's nomination." Even people who have worked on the other side of Steve Colloton think very highly of him. George Collins, the attorney for Jim Guy Tucker, wrote, "I am convinced Steve Colloton is an honorable man, and that, when cases come before him, he will call them as he sees them. . . . I believe that his case will be decided on the law, and, to the extent applicable, the facts. . . ." These quotes show just how much confidence people have that Steve Colloton will make a good Eighth Circuit judge.

Steve Colloton has all the right qualifications to be a Federal judge. He is a bright lawyer with tremendous legal experience and who is well respected by his peers. He is a man who will follow the law and have a healthy respect for case precedent. He understands that the role of a judge is to interpret the law, rather than create it. Steve Colloton will make an excellent judge on the Eighth Circuit, and I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Steven M. Colloton, of Iowa, to be United States Circuit Judge for the Eighth Circuit? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 327 Ex.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Hollings

NOT VOTING—5

Edwards
Graham (FL)
Kerry
Lieberman
Miller

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the President is notified of the Senate's action and the Senate returns to legislative session.

Mr. DASCHLE. Madam President, I will have a short statement but I ask unanimous consent that, following that, Senator HATCH be recognized for a statement as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS, SENATOR LAUTENBERG

Mr. DASCHLE. Madam President, I congratulate our friend and colleague, FRANK LAUTENBERG, on reaching a historic milestone: With the last vote, Senator LAUTENBERG became only the fourth New Jersey Senator in history to cast 6,500 votes in the Senate. Not bad for a freshman.

That incredible accomplishment is a reflection of Senator LAUTENBERG's deep commitment to his State, to his Nation, and to this Senate. One of the many reasons we are grateful he decided to end his retirement and return to the Senate is, over one 3-year period, covering the second session of the 101st Congress and both sessions of the 102nd Congress, Senator LAUTENBERG did not miss one vote. Out of 876 cast, he did not miss 1 single vote. The following year, he missed only 1 of 394 votes cast. He is what we all know to be a workhorse.

I am not sure if we should call him New Jersey's senior Senator or New Jersey's junior Senator, but there is no doubt he is a remarkable Senator.

I congratulate him again on this milestone. I look forward to seeing him cast many more votes in this Chamber. Congratulations.

I ask unanimous consent that Senator LAUTENBERG be recognized for a couple of minutes to respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I thank our leader, the Democrat leader, for the kind comments, and my colleagues, some of whom are more accustomed to differing with me than applauding for me, but I respect their views when they register a vote and I am sure the feeling would be returned.

I thank all of my colleagues for their many indulgences and their encouragement and willingness to take me back because here I stand in probably another record, maybe the oldest freshman who ever served in the Senate. I feel fresh, and I am glad to be here. I thank all of my colleagues for their friendship.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I compliment my colleague from New Jersey and am very proud of him for having cast those many votes.

I ask that my remarks be as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF ESTRADA NOMINATION

Mr. HATCH. Madam President, I rise today to speak on the unfortunate withdrawal of the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit. It is truly a sad record that the Senate, for the first time ever, has terminated a circuit court nomination by filibuster rather than by an up-or-down vote. It is particularly troubling that political tactics were used to destroy this extremely qualified nominee.

Let me state that a clear majority of this body supported this nomination, as has been demonstrated in the unprecedented seven cloture votes which have taken place. So it is regrettable that a minority of Senators followed their script of extraordinary obstructionism to prevent the Senate from concluding the debate on this nomination and proceeding to a final vote. It goes against all the honorable traditions of this body for Senators to rest behind a veil of procedural votes rather than taking a public stand on the merits of this outstanding nominee.

After all, all he or any of us wanted was an up-or-down vote, something we have always given every nominee who has come to the Senate floor and has been called up on the Senate floor.

While it is shameful that Miguel Estrada was subjugated to political whims, it is not entirely surprising. Opponents from the very outset, for their own ideological purposes, have been determined to defeat this nomination. Last fall, a Democratic staffer on the Judiciary Committee was quoted in the Nation magazine as saying:

> Estrada is 40 and if he makes it to the circuit then he will be Bush's first Supreme Court nominee. He could be on the Supreme Court for 30 years and do a lot of damage. We have to stop him now.

So it appears that the real reason for the filibuster against Miguel Estrada was the concern by opponents of a possible Justice Estrada on the U.S. Supreme Court.

An editorial appearing in the Atlanta Journal-Constitution said it best:

> The fear with Owen and Estrada is that one or both will be nominated to the United States Supreme Court should a vacancy occur. Senate Democrats are determined to keep off the circuit court bench any perceived conservative who has the credentials to serve on the United States Supreme Court.

There is an additional factor not based on any substantive objection to his nomination. I believe some Senate Democrats do not want the current President, a Republican President, to appoint the first Hispanic as the U.S. Circuit Court Judge for the District of Columbia Circuit. Let me read from an editorial published by the Dallas Morning News addressing this point. On February 17, 2003, the News wrote:

> Democrats haven't liked Mr. Estrada from the beginning. Part of that is due to his ideology—which is decidedly not Democratic. But part of it also has to do with the fellow who nominated him. Democrats don't relish giving President Bush one more thing to brag about when he goes into Hispanic neighborhoods when he goes into his reelection campaign next year. They are even less interested in putting a conservative Republican in line to become the first Hispanic Justice on the Supreme Court.

In an effort to prevent Mr. Estrada's confirmation, his opponents resorted to a number of troubling tactics. During his hearing there were frequent attempts to inject political ideology into the judicial nomination process. This was most evident as related to questions about his views on Roe v. Wade, the apparent litmus test for many Senate Democrats.

In response to this concern, he offered cases he had taken on as an attorney to illustrate his commitment to following the law instead of imposing any political agenda. He also testified under oath that he would follow Roe and Casey if he were confirmed. But even his outstanding record and testimony before the committee was apparently not enough to satisfy those determined to destroy his nomination.

Opponents repeatedly raised red herring issues with two additional demands. One was that Mr. Estrada answer their questions, though the record is clear that his responses were complete. Mr. Estrada spent hours during a day-long hearing answering my Democratic colleagues' questions. He answered written questions submitted after the hearing, although only two, only two committee Democrats bothered to ask him written questions.

He gave answers to questions that were substantially similar to answers given by Clinton nominees who were confirmed. Yet my Democratic colleagues continue to complain that he had not answered their questions. Really, their complaint is that in answering their questions, Mr. Estrada did not say anything that gave them a reason to vote against him. Simply put, they were not really interested in his answers to their questions. They were interested only in defeating his nomination.

This is why every effort to make Mr. Estrada available to answer additional questions has gone virtually unacknowledged. Only one Democratic Senator met with Mr. Estrada and only one submitted written questions to Mr. Estrada after the floor debate on his nomination began.

Their second demand was the unreasonable request that the administration release confidential internal memoranda he authored at the Solicitor General's office. This issue has been fully debated. The short response is that never before has a Presidential administration released confidential appeal, certiorari and amicus recommendations on the scale that my Democratic colleagues sought from Mr. Estrada. They attempted a full-scale fishing expedition, pure and simple, and the Justice Department was right to oppose it.

Furthermore, this demand constituted a double standard for Miguel Estrada. The Judiciary Committee confirmed numerous Clinton circuit court nominees who, like Miguel Estrada, had no prior judicial experience. A number of these nominees had worked in the Justice Department or other branches of the Federal Government, but Senate Democrats made no demands for their confidential memoranda or privileged work product. Yet Senate Democrats persisted in this demand, knowing full well that for sound reasons the administration, with the support of all seven living former Solicitors General, both Democrat and Republican—four of them were Democrats—would not and could not accede to that request.

When all other tactics failed, opponents turned to their ultimate weapon, the filibuster. Filibusters of judicial nominees allow a vocal majority to prevent the majority of Senators from voting on the confirmation of a Federal judge, a prospective member of our third, coequal branch of Government. It is tyranny of the minority and it is unfair to the nominee, to the judiciary, and to the majority of the Members of this body, and to the President. The unprecedented filibuster of Mr. Estrada was certainly unfair to a majority of Senators who stood ready to fulfill their constitutional responsibility by voting on Mr. Estrada's nomination.

It has been more than 2 years since Miguel Estrada was nominated by President Bush, on May 9, 2001, and nearly a year since his hearing before the committee. In all of that time, my Democratic colleagues had unlimited opportunities to make their case. Some of them opposed him. Others supported him. But one thing remained clear through this whole debate: There was no good reason to deny Mr. Estrada an up-or-down vote, the dignity of an up-or-down vote.

On the merits, Mr. Estrada was extremely qualified to serve on the court to which he was nominated. The qualifications of Miguel Estrada are well known to the Senate. He represents an American success story. After immigrating to the United States, after overcoming a language barrier and speech impediment, he graduated magna cum laud and Phi Beta Kappa in 1983 from Columbia College. At Harvard Law School he was an editor of the Harvard Law Review and graduated magna cum laude in 1986.

Mr. Estrada's professional career has been marked by one success after another. After graduation, he clerked for Second Circuit Judge Amalya Kearse, a Carter appointee and then Supreme Court Justice Anthony Kennedy. He worked as an associate in the distinguished firm of Wachtell Lipton in New York. He then worked as a Federal prosecutor in Manhattan, rising to become deputy chief of the appellate division. In recognition of his appellate skills, he was hired by the Solicitor General's office during the first Bush administration. He stayed with the Solicitor General's office for most of the Clinton administration. When he left the Solicitor General's office, he joined the DC office of Gibson, Dunn & Crutcher, one of the great law firms in this country, where he continued to excel as a partner and rose to the top of the ranks of oral advocates nationwide, having argued 15 cases before the U.S. Supreme Court.

The legal bar's wide regard for Mr. Estrada is reflected in his evaluation by the American Bar Association. The ABA evaluates judicial nominees based on their professional qualifications, their integrity, their professional competence, and their judicial temperament. Based on an assessment of all of those factors, the ABA bestowed upon Mr. Estrada its highest rating of "unanimously well qualified."

Yet despite the superb record of Miguel Estrada, opponents chose to deny him a simple up-or-down vote, injecting politics into the judicial confirmation process. Opponents have not only treated Miguel Estrada unfairly; they have further damaged this process.

One casualty is enough. I hope all Senators will consider the dangerous ramifications of the actions of the Senate in causing Miguel Estrada to withdraw his nomination through the use of the filibuster. This should never happen again.

Just one other thing on this. He was asked to comply when he couldn't do it, with a fishing expedition into the Solicitor General's most privileged documents, documents that have never been given in toto as requested by the Democrats, never before. Four Democrat former Solicitors General said they would never give these documents. Those Democrat former Solicitors General and three others said they opposed the release of these documents.

If this was a legitimate request, why didn't they ask for similar documents in the case of John Roberts? In other words, Miguel Estrada was treated completely different from other people. Why didn't Senate Democrats ask for these documents in the case of others through the years who worked in the Solicitor General's office? It was just a red herring that some in the media bought off on, to prevent this man from ever having the dignity of an up-or-down vote on the Senate floor.

The reason they prevented that is because they knew he would have won and he would have won a bipartisan vote in the Senate.

Frankly, filibusters should never occur again. Yet more judicial nominees face continuing filibusters on the Senate floor. We will soon once again put to the test the respect the Members of our body have for our constitutional duty to advise and consent on judicial nominations. We will continue to file for cloture to end debate and to give Priscilla Owen, Bill Pryor, and other judicial nominees that the left is intent on blocking the up-or-down votes they deserve.

These are outstanding nominees. Priscilla Owen broke through the glass ceiling, becoming one of the great partners of a major law firm in this country, and broke through the glass ceiling for women, yet she is being treated like dirt on the Senate floor. Also, Bill Pryor, who has more than shown his propensity to always follow the law, even though the law may differ from his own personal, deeply held beliefs.

There are, no doubt, factions of far left interest groups that are delighted to see Miguel Estrada has withdrawn his nomination. These same groups no doubt will declare victory and mount even more vigorous campaigns in an effort to ensure that other judicial nominees suffer the same fate. From what I understand, some of my colleagues in the Senate share those sentiments. But let me tell you right now, this is no occasion for celebration. We should be embarrassed that Miguel Estrada, having had enough of serving as a political football instead of as a Federal judge, decided to end his nomination. And we should be embarrassed of the continued attempts to usurp the nomination function from the President and the consent function from the Senate majority.

We should not stand back and allow a minority of Senators to prevent an up-or-down vote on any judicial nominee and especially those once they have come to the floor.

We should not inflict upon Priscilla Owen, Bill Pryor, or any others the same shabby treatment that led Miguel Estrada to withdraw his nomination. These all deserve better. And nominees in the future deserve better. The majority of the Senate that stands ready to confirm the ones I have mentioned deserve better. Most importantly, the American people expect their Senators to hold up-or-down votes on judicial nominees and deserve the opportunity to hold their Senators accountable for the votes they cast on the President's judicial nominees.

I have been around here a long time. Both sides have committed errors with regard to judicial nominees over the years. But nothing has ever reached the dimensions of what has been done to Miguel Estrada. Nothing has even come close. He has been treated in an especially onerous way that no other nominee I know of in the history of the Senate has been treated. He has been singled out primarily because he was viewed as being on the fast track to the Supreme Court, and because he is a conservative Republican Hispanic who might be pro-life and who is on the fast track to the Supreme Court. I don't think anybody who is honest can refute that statement.

I think it is pitiful what has happened. I just hope we wake up in this body and start treating people with fairness which the advise and consent clause of the Constitution demands. I hope that works on both sides.

There were those who wanted to filibuster on our side during the Clinton years. We stopped it. We were not going to set that precedent, nor were we going to do that type of activity. Frankly, everyone who came to the floor had a vote, and only one, if I recall correctly, was defeated by an up-and-down vote. But at least he had a vote. And Miguel Estrada deserved that just as much as any of the past nominees.

Mr. McCONNELL. Madam President, will the Senator yield?

Mr. HATCH. Yes, I yield for a question.

Mr. McCONNELL. I ask my friend from Utah, the chairman of the Judiciary Committee, if it is the case that the President's nominee, John Roberts, and the President's nominee, Miguel Estrada, both served in the Solicitor's Office at some point in their careers?

Mr. HATCH. They both did, and both were nominated at the same time, over 2 years ago.

Mr. McCONNELL. I ask my friend from Utah, the chairman of the Judiciary Committee, if it is also true that the internal work product documents that were requested of nominee Miguel Estrada were not requested of nominee John Roberts.

Mr. HATCH. Absolutely right. They were not requested. There was a different standard used with regard to Mr. Estrada—a very unfair standard knowing that the Solicitor General's Office could not allow a fishing expedition into those documents.

Mr. McCONNELL. Is it not the case that every former Solicitor—most of whom are Democrats—had the view that these internal working documents should not be shared?

Mr. HATCH. That is correct. Four of the seven former Solicitors General who are living today are Democrats, and all seven of them came out and said that these documents should not be given to the Senators of the United States because of their sensitivity and their privileged nature.

Mr. McCONNELL. Is it also not true that nominee John Roberts was confirmed unanimously?

Mr. HATCH. It is true that he was confirmed unanimously.

Mr. McCONNELL. We all know that Miguel Estrada was filibustered to the point where he subsequently withdrew today.

Mr. HATCH. The Senator is correct.

Mr. REID. Madam President, will my friend from Utah yield for a question?

Mr. HATCH. If my friend from Kentucky has concluded.

Mr. McCONNELL. I thank the chairman of the committee for yielding so we could point out the differences in treatment between these two nominees with very similar backgrounds and who were nominated for the same court at the same time.

Mr. HATCH. The illustration should not be limited to just John Roberts and Miguel Estrada. There are a number of people who are on the Federal bench and who have served on the Federal bench who also served in the Solicitor's Office who were never asked those questions, and rightly so. They should never have been asked. It was a red herring that many of my colleagues hid behind to justify this outrageous and, I think, shabby treatment of Miguel Estrada.

I yield to my friend for a question.

Mr. REID. Madam President, I understand the strength and feeling of the Senator from Utah and the Senator from Kentucky. The record has been spread with that for many months now. I would only say if the Senator wants to speak more, we have no problem.

Mr. HATCH. I yield the floor.

Mr. REID. Madam President, I draw the attention of my colleagues to the same statement which I made earlier today in response to the remarks of Senator FRIST about Miguel Estrada.

Madam President, I ask unanimous consent that a CONGRESSIONAL RECORD statement made by Senator FEINSTEIN on February 13, 2003, on the nomination of Miguel Estrada be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mrs. FEINSTEIN. Mr. President, I had an opportunity to come to the floor once before and express my views about the nominee who is before the Senate for confirmation, Miguel Estrada. But I want to make a few additional points at this time, and I hope I don't repeat myself.

I want to say for my part and for the part of many others in the body that this is not a debate we were eager to begin; this is not a debate we are eager to continue; but this is a debate that really goes to the heart of the separation of powers and the checks and balances that the Founders of this Nation so carefully crafted more than 200 years ago.

The President makes nominations to the Federal judiciary. This is true. But it is a judiciary that Congress fashioned, and it is a judiciary that the Senate has been given the constitutional responsibility to help fill, through our advice and consent role.

I am one who has always believed that every nominee should get a full and fair hearing and that every nominee should then get an up-or-down vote. For too long, I watched one after another Clinton nominee languish without any such courtesy, and with no explanation as to why. Many of his nominees were minorities who never even got the chance to speak to the Committee.

Chairman HATCH and I had many conversations during that time about moving more nominees through the committee. And I know he did more than many in his caucus would have liked him to do to move nominees. For that, I thank him. I believe deep in his heart he also believes nominees should move through and get a hearing. But still, too many nominees were stopped from even the most basic of rights during the nomination process—a hearing—a basic right for someone who is nominated to the Judiciary Committee. They should have a right to have a hearing, in my view.

In this case, the Democrat-controlled Senate gave Miguel Estrada a full and fair hearing and every opportunity to show the committee what kind of judge he would be. But he did not use that opportunity well.

Although I believe that every nominee deserves an up-or-down vote, an up-or-down vote on final confirmation should only occur after the Senate has had a full opportunity to learn about the nominee and to properly judge whether or not that nominee can serve impartially in the Federal judiciary. In this case, I don't believe we have enough information to make such a decision, as a direct result of the lack of cooperation by this nominee and by the White House. As a result, we should not be asked to make such an important decision.

I want to clearly state this is not an issue of retaliation, as some have suggested. It is true that the Republican Senate did block a number of very qualified Hispanic nominees—female nominees, and so on—under President Clinton.

And it is true that many on this floor have mentioned those nominees—Enrique Moreno, for instance. But they were mentioned not to begin some tit-for-tat exchange of blocked nominations. Quite the contrary. Under Chairman LEAHY, the Judiciary Committee and the Democrat-controlled Senate confirmed 100 nominees in just over a year.

Mr. Estrada has already been given far better treatment than many were given by the other side in the recent past. All we ask for is some basic answers to the most basic of questions. Think about this: Before us now, we have a 41-year-old nominee about whom we know little. He has been nominated to a crucial appellate court, the DC Circuit, which is, at present, evenly split. That raises the question, Do we have a right to know if this judicial nominee can be impartial? I believe we do.

In this case, this nominee, for some reason, has been very controversial from the beginning. We have heard from many who have worked with Mr. Estrada or even supervised him, and many who have watched him work throughout the years.

Without exception, all of these individuals believe Mr. Estrada is bright. And I am confident that every Democrat in this body agrees with that assessment. But that is not the problem. And that is not the question today.

Without exception, all these individuals believe Mr. Estrada to be well educated, as my colleagues on the other side of the aisle have indicated throughout the last few days. But that, too, is an issue that is not in doubt, and it is not the problem.

And essentially, without exception, all of these individuals believe Mr. Estrada is conservative. Some believe him to be very conservative, some less so, but all recognize him to be a conservative. Even Mr. Estrada himself, as I understand it, would likely describe himself in this manner. But make no mistake, this is not about whether or not Miguel Estrada is conservative.

I have already voted for nominees whom I know to be conservative, as have most, if not all, of my Democratic colleagues.

At the present time, I have just given my proxy to the Judiciary Committee that is considering three nominees to appellate courts who are, in fact, conservative. And I will vote yes on those nominees.

So the question is not whether this nominee—or any nominee—is liberal or conservative, White or Hispanic, Jewish or Catholic, or any other group or inclination. The question with this nominee—and with every nominee—is whether the nominee can put aside personal beliefs to rule fairly and impartially on the cases that come before him or her.

In some cases, we can get a clear idea of how a nominee would handle the responsibilities of a Federal judgeship. But in this case, as we tried to get a clear idea of how this nominee would handle these responsibilities, we were really stymied at every turn.

On the one hand, we have letters, phone calls. To my office, we have received almost 8,000 phone calls in opposition to this nominee; and less than 400 in favor. All these phone calls seem to indicate the belief that Mr. Estrada is an ideologue who cannot be trusted with a circuit court judgeship.

We have Professor Paul Bender, Mr. Estrada's direct supervisor at the Department of Justice, who said to the press that he believed Estrada to be so "ideologically driven that he couldn't be trusted to state the law in a fair, neutral way." Mr. Bender recently sent a letter to the chairman of the Judiciary Committee essentially reaffirming this statement.

We have major Hispanic organizations—just those groups one might expect to most strongly support Mr. Estrada—strongly opposing him instead.

On the other hand, as we look for facts to counteract such serious concerns, we have almost nothing.

Miguel Estrada has never been a judge, so we have no record of judicial decisionmaking to examine. This in itself is not dispositive, but it is the first area where we find no record to help us in our decisions.

Mr. Estrada is not a prolific writer, so again, unlike many, we have no real record of writings or speeches to examine. Again, this alone would not be dispositive, but, as I said earlier this week, in a sense, it is strike two in terms of where we can get information about this nominee.

We have not been granted access to the memos he wrote at the Department of Justice, so we can only take the word of the man who supervised him that those memos were ideologically driven and could not be trusted. That is strike three.

Mr. Estrada refused to adequately participate in his own confirmation hearing, so we have no real answers to these questions. And the questions are legitimate.

Even when given time to think about his answers, even when he was given questions in written form, he refused to answer those questions, using precisely the same language he used to refuse to answer at his hearing.

For instance, when Senator DURBIN asked this nominee, in writing: "Do you have an opinion on the merits of Roe v. Wade?" Mr. Estrada responded, as he did to me in committee, "it would not be appropriate for me to express such a view without doing the intensive work that a judge hearing the case would have to undertake—not only reading briefs and hearing the arguments of counsel, but also independently investigating the relevant constitutional text, case law, and history."

In the hearing, I asked him: Do you believe Roe was correctly decided? And he said he could not answer that question.

When Senator KENNEDY asked Mr. Estrada, in writing, how he would have resolved a case that came before the DC Circuit and was then decided by the Supreme Court—Hoffman Plastics—Mr. Estrada again answered that because he had not read the briefs and was not present at oral argument, he could not answer.

When Senator KENNEDY asked him about the Maryland/DC/Delaware Broadcasters case, again Mr. Estrada said he could not, or would not, answer.

When Senator DURBIN asked Mr. Estrada to name any judge, living or dead, whom he would seek to emulate, Mr. Estrada said he could name not one judge he would emulate.

In contrast, let me take a moment to talk about Judge Richard Paez, a well-qualified Hispanic nominee sent to the Senate by President Clinton and eventually confirmed to the Ninth Circuit Court of Appeals.

Judge Paez spent more than 1,500 days before this Senate before he finally got a vote. And this came despite the fact that he answered every question put to him.

For instance, Senator SESSIONS asked him: "Which Supreme Court Justice or federal judge has most influenced your judicial philosophy?" Judge Paez named Judge Harry Hupp, a man he appeared before as a litigator, and a colleague of his on the district court bench.

Senator SESSIONS asked Richard Paez: "In your opinion what is the greatest Supreme Court decision in American history?" Judge Paez did not refuse to answer, or claim that he could not give an answer because he had not been present at oral arguments. Instead, he simply named Brown v. Board of Education.

Senator SESSIONS then asked: "What is the worst Supreme Court decision?" Judge Paez answered: "Dred Scott." This is the decision where the Supreme Court ruled, essentially, "once a slave, always a slave."

Miguel Estrada, on the other hand, would not answer these types of questions.

Senator SCHUMER asked him to name any Supreme Court case he thought was wrongly decided.

He did not simply say he thinks Plessy v. Ferguson was wrongly decided. That is the case that upheld the concept of separate but equal. And even the Supreme Court has since overturned it. I know of few people who would claim Plessy was correctly decided. But Miguel Estrada apparently thinks he could not say so without having heard the oral arguments. He did not say he disagreed with the Dred Scott decision, which upheld slavery. He did not say he believed Korematsu, which upheld the right of the United States to put American citizens of Japanese descent into internment camps. He named none of these cases. He simply said he could not answer the question.

This is in direct contrast to a recent experience with Jeffrey Sutton during his hearing less than 2 weeks ago. Mr. Sutton is also a controversial nominee, but he answered every question put to him. We got a good sense of how he would think and act as a judge. I, myself, who was concerned about him initially, felt he was a strong advocate, but he knew the difference. He could separate himself from the positions of advocacy and become a fair and impartial judge. So I have given my proxy right now to be carried out to vote yes for Judge Sutton. Mr. Estrada, on the other hand, did his best to keep from putting himself on record on any issue of real substance.

Quite frankly, there are options. One, return this nominee to the Judiciary Committee for answers. The Senate deserves the answers. Democratic nominees were asked by distinguished Republican Senators to answer questions such as this, and they did. Even of those, many had judicial records. Many had prolific writings. Many had speeches so that there were tools we could go to to understand what their thinking was. But in this case we have no speeches. We have no writings. We have no record. Therefore, the answers to the questions become extraordinarily dispositive. They also become meaningful to any Senator who wants to cast an informed vote.

It is that simple. That is what this debate is about. We cannot possibly fulfill our constitutional duty to advise and consent to nominees if we are not given the necessary information about the nominee.

In a case where you have a critical circuit such as the DC Circuit, not only the plumbing grounds for the U.S. Supreme Court, but handling environmental appeals, Superfund appeals, wetlands appeals, OSHA appeals, all kinds of administrative case law appeals, how this court is tilted becomes important to us, particularly if we take this job of confirmation of nominees seriously.

There is another option. That option is appoint Miguel Estrada to a district court. Give him an opportunity to gain that record. He is 41 years old. He is younger than my daughter. Give him an opportunity to gain that record. Remember, this is a man who will serve for 30, 40, possibly even 50 years. It is a lifetime appointment. We are entitled to answers to these questions.

In Miguel Estrada's questionnaire, he admitted to having written no books, articles, or reports of any kind, save one Law Review article in law school. That was titled "The Policies Behind Lending Limits." He wrote that in 1985. At Miguel Estrada's hearing, he would not comment on whether any case had ever been wrongly decided, even cases that have been overturned. He would not name any single judge he would want to emulate on the bench in any way. He would not answer written questions put to him that would help us learn more about how he thinks about cases and how he would judge them. He would not even try to convince the Justice Department to turn over some of the memos he wrote for the Solicitor General's Office, nor would he himself turn them over.

If this nominee is confirmed, we believe we would be sending a signal that stonewalling the Judiciary Committee and the full Senate is the way to succeed on the way to a judgeship. That is the wrong signal and the wrong message.

In effect, we would be abdicating our constitutional role, our constitutional duty to advise and consent to nominees, because we would never again be able to learn enough about a nominee to make reasoned decisions.

Nominees could become increasingly young, increasingly ideological, and increasingly silent. The courts would soon be packed with judges of unknown disposition, unknown temperament, and unknown proclivities to judge fairly and impartially.

We should take our constitutional duties more seriously than that. We simply are determined not to let that happen.

I would like to read the concluding sentence from the editorial in today's New York Times:

> The White House can call this politics or obstruction. But in fact it is Senators doing their jobs.

I yield the floor.

Mr. REID. Madam President, the reason I am not going to give a statement is because we have Members here on the Senate floor today who could give a long statement on the misfortune of Miguel Estrada. But we have been asked by the two leaders to try to get some votes lined up for tomorrow. We have a manager of the bill who has been waiting. We have a Senator from New York who has been waiting.

I just simply say before we go to the Senator from Ohio and the Senator from New York, who have amendments to offer, that we have debated Miguel Estrada a lot. I don't know how many votes we have had—10 or 12—and not a single vote was changed.

We can debate this ad infinitum. The fact is, Miguel Estrada didn't respond to questions that we thought appropriate and didn't divulge information in the form of memos from the Solicitor's Office. The reason he is different than some others who worked in that same office is because we got the full information.

For example, we reviewed Judge Roberts off and on for more than 10 years. So he and Miguel Estrada are totally different.

The real victim in all of this is Miguel Estrada. I acknowledge that by virtue of the fact that the White House had the theory they were not going to allow questions nor submit information from the Solicitor's Office.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, my colleague from New York and other Members who are on the Senate floor have several amendments that I ask unanimous consent to have set aside. I anticipate speaking probably for about 10 minutes.

Mr. SPECTER. Madam President, will the Senator from Ohio yield for an announcement?

Mr. DEWINE. I yield.

Mr. FRIST. Madam President, just for the information of our colleagues, we will have no more rollcall votes tonight. The plan at this juncture is that most likely we will have two stacked rollcall votes in the morning. That is subject to change. People should stay in touch with the cloakrooms. But for tonight, there will be no more rollcall votes.

We will continue with amendments, and I ask Members to come to the floor so we can prepare for tomorrow. We will have stacked votes in the morning.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1561 TO AMENDMENT NO. 1542

Mr. DEWINE. Madam President, I call up my amendment numbered 1561.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 1561 to amendment No. 1542.

Mr. DEWINE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funds to support graduate medical education programs in children's hospitals)

On page 61, between lines 14 and 15, insert the following:

SEC. . (a) IN GENERAL.—To carry out programs to support graduate medical education programs in children's hospitals under section 340E of the Public Health Service Act (42 U.S.C. 256e et seq.), there are appropriated a total of $305,000,000, including amounts otherwise made available in this Act for such programs.

(b) OFFSET.—Amounts appropriated under title III under the heading "Program Administration" shall be reduced by $15,000,000.

Mr. DEWINE. Madam President, this amendment would increase the amount of pediatric graduate medical education funding to $305 million—up from the $290 million currently in the bill.

I remind my colleagues that a sense-of-the-Senate amendment was attached to this year's budget resolution which indicated that children's graduate medical education should be funded at $305 million.

This amendment would mirror the sense-of-the-Senate resolution which we have already adopted. That is all it would do. But I believe it is important that we provide these additional dollars.

This funding for pediatric graduate medical education is truly a vital part of our efforts to protect children's health in this country.

To date, children's hospitals, though they represent only 1 percent of all hospitals in the country, train 30 percent of all pediatricians and 50 percent of all pediatric specialists. They also provide hospital care to almost 50 percent of all seriously ill children in this country.

Furthermore, children's hospitals serve as the health care safety net for low-income children in their respective communities and are often the sole regional providers of many critical pediatric services.

These children's hospitals are often the only source of many pediatric specialty services, and it is their graduate training programs that make these services possible. Funding for pediatric graduate medical education helps provide our Nation with highly qualified pediatricians, pediatricians who can properly treat and care for our children when they are sick.

Clearly, funding for GME in children's hospitals is a sound investment in children's health and provides stability for the future of the pediatric workforce. I urge my colleagues to join me in providing this additional $15 million in funding for graduate medical education in children's hospitals.

Anyone who has had the occasion to take their child to a children's hospital, as I have, and to see the magical work these children's hospitals do, I think can appreciate the need for this amendment. To see the specialists descend on your child when you are concerned about that child's safety, maybe that child's life, is just something you really cannot describe.

The children's hospitals will tell you that this graduate medical education money has been a lifesaver for them. It is essential that we provide this money through the appropriations process, frankly, because of a quirk in the law. It is a quirk in the law that we have to do it through the appropriations process because they do not automatically get the money through the entitlement process because, obviously, they do not serve many Medicare patients. So it does not come to them automatically, as it does all the other hospitals in the country. So every year we have to go through this process.

I am simply asking that the funds be increased to $305 million. It is the right thing to do. It is the proper thing to do. I ask my colleagues to support this very simple amendment.

Madam President, I ask unanimous consent that this amendment be set aside for the time being.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

AMENDMENT NO. 1560 TO AMENDMENT NO. 1542

Mr. DEWINE. Madam President, I now call up amendment No. 1560.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 1560 to amendment No. 1542.

Mr. DEWINE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funds to support poison control centers)

On page 61, between lines 14 and 15, insert the following:

SEC. . (a) IN GENERAL.—To provide funding for poison control centers under the Poison Control Enhancement and Awareness Act (42 U.S.C. 14801 et seq.), there are appropriated a total of $27,600,000, including amounts otherwise made available in this Act for such centers.

(b) OFFSET.—Amounts appropriated under title III under the heading "Program Administration" for building alterations and related expenses for relocation shall be reduced by $5,300,000.

Mr. DEWINE. Madam President, the amendment I am now offering would fully fund poison control centers at $27.6 million. That is an increase of $5 million from what the bill currently funds at $22.3 million.

Members of the Senate, there are currently over 70 poison control centers nationwide. These centers have fielded over 1 million phone calls since January 2002, answering questions about poisonings, drug abuse, product contents, substance identification interactions, and adverse reactions. They can answer questions and concerns about what would typically be called poison products—things such as cleaners, bleaches, anything you would find in your home, any emergency a family might face. This is the most common poison exposure for children, children who typically ingest household products such as cosmetics and personal care products, cleaning substances, pain relievers, foreign bodies, and plants.

Our Nation's poison control centers handle an average of one poison call every 15 seconds. Clearly, these centers provide a vital service to the parents and family members.

The money we provide in this bill will go toward the continuation of the centers' work, as well as the maintenance of the toll-free nationwide poison control hotline. That number, of course, is 1-800-222-1222. Let me repeat that: 1-800-222-1222. That is a number that anybody in this country now can call. Wherever you are, if you are on vacation, if you are in your own home, if you are visiting someone, you can pick up the phone and call that number, and you will go onto a poison control hotline.

I have used it. My daughter has used it for her children. It is something that is so very valuable for a parent, anyone who has children. And certainly it is not just for somebody with children. It is for anybody who is in a position to be around someone who has ingested something and they don't know what it is.

As anyone who has visited poison control centers can tell you, it is also now particularly important in a day and age when we worry about terrorism. Poison control centers have a particular meaning for us today.

With the funding in the bill, and with the additional funding that would be provided by my amendment, we are not just making an investment in poison control; rather, we are making it easier to keep our children, our friends, and ourselves safe and healthier.

I therefore urge my colleagues to support this very modest investment in our health. And I might say, the Federal Government is only a small partner in the poison control centers. When you go and visit the poison control centers around the country, what you will find is that they are funded many times by the local hospitals that pay for them themselves. They are funded by State and local government units. The money we provide is a small part of the overall money, but it is a very crucial and very important part of that contribution to keep these poison control centers going.

This is a very modest amendment, but it is a very important amendment. I urge my colleagues to support it when we do, in fact, vote on the amendment.

Madam President, I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1555 TO AMENDMENT NO. 1542

Mr. DEWINE. Madam President, I call up amendment No. 1555.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 1555 to amendment No. 1542.

Mr. DEWINE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate concerning the Pediatric Research Initiative)

On page 61, between lines 14 and 15, insert the following:

SEC. . To demonstrate the appreciation that the Senate has for, and to further encourage, the efforts of the Director of the National Institutes of Health in implementing the Pediatric Research Initiative under section 409D of the Public Health Service Act, it is the sense of the Senate that—

(1) the Director should continue the Initiative and emphasize the importance of pediatric research, particularly translational research; and

(2) not later than January of 2004, the Director should continue to report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of the Pediatric Research Initiative, including—

(A) the extent of the total funds obligated to conduct or support pediatric research across the National Institutes of Health, including the specific support and research awards allocated by the Office of the Director through the Initiative;

(B) the activities of the cross-institute committee on pediatric research in assisting the Director in considering requests for new or expanded pediatric research to be funded through the Initiative;

(C) how the Director plans to budget dollars toward the Initiative for fiscal year 2004;

(D) the amount the Director has expended to implement the Initiative since the enactment of the Initiative;

(E) the status of any research conducted as a result of the Initiative;

(F) whether that research is translational research or clinical research;

(G) how the Initiative interfaces with the Off-Patent research fund of the National Institutes of Health; and

(H) any recommended modifications that Congress should consider in the authority or structure of the Initiative within the National Institutes of Health for the optimal operation and success of the Initiative.

AMENDMENT NO. 1555, AS MODIFIED

Mr. DEWINE. Madam President, further, I ask unanimous consent that the amendment be modified on page 2, line 8, to include the Senate and House Appropriations Committees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . To demonstrate the appreciation that the Senate has for, and to further encourage, the efforts of the Director of the National Institutes of Health in implementing the Pediatric Research Initiative under section 409D of the Public Health Service Act, it is the sense of the Senate that—

(1) the Director should continue the Initiative and emphasize the importance of pediatric research, particularly translational research; and

(2) not later than January of 2004, the Director should continue to report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Senate Committee on Appropriations and the House Committee on Appropriations on the status of the Pediatric Research Initiative, including—

(A) the extent of the total funds obligated to conduct or support pediatric research across the National Institutes of Health, including the specific support and research awards allocated by the Office of the Director through the Initiative;

(B) the activities of the cross-institute committee on pediatric research in assisting the Director in considering requests for new or expanded pediatric research to be funded through the Initiative;

(C) how the Director plans to budget dollars toward the Initiative for fiscal year 2004;

(D) the amount the Director has expended to implement the Initiative since the enactment of the Initiative;

(E) the status of any research conducted as a result of the Initiative;

(F) whether that research is translational research or clinical research;

(G) how the Initiative interfaces with the Off-Patent research fund of the National Institutes of Health; and

(H) any recommended modifications that Congress should consider in the authority or structure of the Initiative within the National Institutes of Health for the optimal operation and success of the Initiative.

Mr. DEWINE. Madam President, this amendment is a sense-of-the-Senate amendment expressing the importance of pediatric research at NIH. Specifically, this amendment says we should continue the work of the Pediatric Research Initiative. This is an effort I worked on with several of my colleagues and was included in the Children's Public Health Act of the year 2000.

This initiative helps ensure that more funds can be dedicated to children's health research within the National Institutes of Health.

Mr. SPECTER. Madam President, will the Senator yield for a question?

Mr. DEWINE. I yield.

Mr. SPECTER. Will the Senator from Ohio be willing to take a voice vote, at this point, accepting this amendment?

Mr. DEWINE. I would be more than happy to do that.

Mr. SPECTER. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment, as modified, is adopted.

The amendment (No. 1555), as modified, was agreed to.

Mr. SPECTER. I thank my distinguished colleague from Ohio and I thank the Chair.

AMENDMENT NO. 1578 TO AMENDMENT NO. 1542

Mr. DEWINE. Madam President, at this point I call up amendment No. 1578.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. ALEXANDER, Ms. STABENOW, Mr. GRASSLEY, and Mr. VOINOVICH, proposes an amendment numbered 1578 to amendment No. 1542.

Mr. DEWINE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for the Underground Railroad Education and Cultural Program)

On page 74, line 1, strike "$409,863,000, of which $13,644,000" and insert "$406,863,000, of which $10,644,000".

On page 76, between lines 11 and 12, insert the following:

SEC.   . For necessary expenses for the Underground Railroad Education and Cultural Program, there are appropriated $3,000,000.

Mr. DEWINE. Madam President, the amendment I offer now, along with Senators ALEXANDER, STABENOW, GRASSLEY, and VOINOVICH, will provide $3 million in funding for the Underground Railroad Education and Cultural Act, a 1998 law that Senator COLLINS and I wrote together. The Underground Railroad Education and Cultural Act was designed to assist in establishing programs to research, display, interpret, and collect artifacts and other items relating to the history of the underground railroad. The bill before us now has unfortunately zero-funded this program. I believe we must correct that.

Our amendment would provide $3 million for this program. As my colleagues know, the history of the underground railroad is a vital part of the history of our great country. In the 20 years or so prior to the Civil War, it is estimated—of course, no one will ever know what the true figure is—that more than 40,000 slaves used this underground railroad, as we refer to it, as a pathway to their ultimate freedom. It is a great story in the history of our country. It is a great story every schoolchild in America should know about.

More than 150 underground railroad sites have been identified in my State of Ohio alone. But Ohio is not unique. All the States that border along the Ohio River and were actually considered to be border States have sites on the underground railroad. There were people all along on both sides who helped slaves escape. African Americans helped slaves escape. White Americans helped slaves escape. There were so many heroes.

Their stories need to be told. There are many more other sites out there that frankly need to be identified, and their stories need to be told as well. These sites symbolize freedom for thousands and thousands of enslaved Americans. When I visit these sites, as I have with my family—in fact, I had the opportunity this August during our recess to visit several of them—it makes me pause and think about the sacrifice that was made by so many people. It reminds us of the history of this country. It reminds us of the horror of slavery, a part of our history that simply has to be told. But it also reminds us of the good part of that history; that is, the sacrifice made by so many people so others could be free.

This program is very important. I urge my colleagues to join me in support of this funding request. This funding request will enable this story to be told and told in a better way.

Madam President, I ask unanimous consent at this point that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL HIV INITIATIVE

Mr. DEWINE. Madam President, I will at some point, as I indicated this morning, be coming to the floor and offering an amendment concerning President Bush's International Mother and Child Prevention of HIV initiative. As I indicated this morning, unfortunately the bill before us does fall short by $60 million what the President requested. The President requested $150 million in regard to the amount of money to be provided for this initiative. I will be talking about this later and will be offering an amendment concerning it. This is the most cost-effective way to save lives.

A number of my colleagues went with Senator BILL FRIST to Africa. We returned just last week. We saw firsthand the good this program is already doing. For as little as $3, a pregnant woman can be given the help, the drugs she needs to ensure that her child will not be born HIV positive.

The statistics are staggering. For a mother who is HIV positive, the odds are approximately 30 percent that she, untreated, will give birth to a child who will be HIV positive. We all know what that means, what horrible tragedy that is. In countries we visited such as Namibia and South Africa, there are now ongoing programs. Many of them, because of the initiative of President Bush and this Congress, are good people working, reaching out to these pregnant mothers who are HIV positive. They have reduced that percentage now down to 5 or 10 percent. If that mother can be given a drug prior to the birth of that child—as I said, it now costs as little as $2, $3, maybe $4—we can reduce the odds from 30 percent to giving birth to a child who is HIV positive down to as little as 10 percent and possibly as low as 5 percent.

That is why it is so very important that we restore the funding in this bill to the $150 million requested by President Bush. I will be coming to the floor later on as we debate this bill and offering an amendment to restore the funding to the level President Bush requested. I will be back on the floor later on to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I commend and thank my colleague from Ohio who is always looking out for the children. This has been a mission of his, year in and year out. I thank him for the amendments he has just discussed because every one of them concerns the well-being of our children. I look forward to supporting these amendments. I particularly thank the Senator for amendment 1561 to restore the money for pediatric graduate medical education.

AMENDMENT NO. 1565 TO AMENDMENT NO. 1542

Mrs. CLINTON. Madam President, I ask unanimous consent that amendment 1565 be called up.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 1565 to amendment No. 1542.

Mrs. CLINTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide additional funding to ensure an adequate bioterrorism preparedness workforce)

On page 36, line 16, strike the period at the end and insert ": *Provided further*, That the amount $6,252,256,000 under the heading 'Health Resources and Services' shall be deemed to be $6,272,256,000 of which the additional $20,000,000 shall be available for carrying out sections 765 and 767 of the Public Health Service Act: *Provided further*, That the amount $4,588,671,000 under the heading 'Disease Control, Research, and Training' shall be deemed to be $4,631,871,000: *Provided further*, That the amount $1,726,846,000 under the heading 'Public Health and Social Services Emergency Fund' shall be deemed to be $1,756,846,000: *Provided further*, That the amount $1,116,156,000 under the heading 'Public Health and Social Services Emergency Fund' shall be deemed to be $1,146,156,000 *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,988,399,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,690,101,000: *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, $93,200,000 shall not be available for obligation until September 30, 2004.

Mrs. CLINTON. Madam President, this amendment is intended to provide the money that is needed to ensure that at the Federal, State, and local levels, we have an adequate bioterrorism workforce. In order to do that, we have to fund the pipeline.

This summer the Partnership for Public Service issued a report stating that 50 percent of our experts trained to respond to a biological or chemical attack will retire over the next 5 years. That puts our country and our public health at risk.

Obviously, every one of us in this body is committed to making our country safer and providing the bioterrorism funding we have fought for since 9/11. And I appreciate the great support the Senate has given to increasing dollars to combat the threat of bioterrorism. But, unfortunately, our frontline defenders, who are our health professionals, are decreasing in number when we need them more than ever.

According to the Office of Personnel Management, more than 2,600 public health professionals in the Federal Government are eligible to retire in 2008, and that number could soar to more than 8,000 in just the next few years.

Unfortunately, the shortage in personnel is not just Federal. It is already being felt at the State and county levels. In county after county in the public health departments, I have been given reports that so many of the staff members are being stretched thin and they are unable to do the work that is required. If we don't find ways to provide the resources to attract and pay for these professionals, we are going to be in a terrible dilemma not only if a horrible event or some kind of biological or chemical attack were to occur, but even with the outbreak of something like SARS, or something unpredictable that we may have never encountered before.

The Bioterrorism Preparedness and Response Act that we passed in 2002 does help with workforce training, recruitment and development. But with respect to what has occurred since 2002, we already know we have had increased demands on our public health system, and we have insufficient resources to expand personnel or, as these recent reports I have referenced indicate, keep pace at current levels.

The CDC and other agencies need to do strategic planning. My amendment includes $5 million to fund an annual needs assessment, with a report to Congress, of Federal, State, and local bioterrorism personnel, conducted by the Institute of Medicine or another competent and independent authority.

But even while we are looking longer term, we have immediate public health needs right now. I know that, for example, in New York, two Centers for Public Health Preparedness are located at SUNY Albany and Columbia University. They have already trained 10,000 people each year in bioterrorism preparedness. Many regions don't have these centers of excellence, and we have to figure out how we can get the resources and personnel to every part of our country.

According to the Association of Schools of Public Health Preparedness and Prevention, the 19 nationwide Centers of Public Health Preparedness have asked the administration for $50 million—nearly double what the President's budget proposes. I think we should meet those requests, and my amendment would provide the funds to do that.

My amendment also provides funds, in accordance with the recommendation of CDC's own National Advisory Committee on Children and Terrorism, to double the number of outbreak specialists in the Epidemic Intelligence Service. These EIS specialists are dispatched to respond to epidemics and bioterrorism.

The resident expertise that we need in State and local public health departments is also crucial. My amendment would provide $25 million to the Epidemiology Program Office, the National Center for Infectious Diseases, and the Public Health Practice Program Office of the CDC to recruit and train 1,600 epidemiologists, 800 laboratory personnel, 800 public health nurses, and 800 other public health professionals to work in State and local public health departments nationwide.

The Council of State and Territorial Epidemiologists estimates that State and local public health departments need to hire 1,600 epidemiologists over the next 10 years to prevent worsening shortages of State and local epidemiologists. It costs about $60,000 to train a public health professional. This proposal would spread that investment over 10 years.

Finally, the amendment also provides $20 million for carrying out sections 765 through 769 of the Public Health Service Act to title VII to encourage personnel to enter epidemiology and bioterrorism detection careers.

Title VII has been decimated each of the last 3 years. It has been a struggle to keep it even flat-funded from year to year. Unfortunately, the pipeline for epidemiologists and bioterrorism experts has suffered as a result.

I hope to be able to work this out without the manager of the bill. I understand completely the many competing considerations he has to balance, but it is imperative that we start to meet these needs. If we pass this amendment today and get the money in the pipeline, we can begin to train and hire the doctors, nurses, and other public health professionals who are going to be necessary for us to deal with whatever we face in the future.

Unfortunately, terrorists or epidemics like SARS don't wait while the retirement notices are stacking up. I don't think we should either. This $93 million would be money well spent that would make us better prepared to deal with the incredible challenges that we confront as we try to ensure that our vigilance and our concern is matched by the expertise we need to actually deal with any problem that we may confront.

Madam President, I ask that this amendment be supported, but I ask, too, that we look for a way to deal with this pipeline problem that is so critical to actually putting teeth into the preparedness that we have passed in this body and funded since September 11.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, there is no doubt of the tremendous need for preparation for bioterrorism. During the recess month, I spent most of it traveling through my State visiting first responders—essentially fire departments, in conjunction with police departments and other county organizations that are being set up for response to potential bioterrorist attacks.

When 9/11 struck, obviously, the U.S. was totally unprepared. I think the ranking member will recall that we had to have the hearing in the bowels of this building because we were kicked out of the other hearing rooms. We brought in the Centers for Disease Control and insisted that they give us an itemization of the various types of biological attack, what resources were currently available, and what additional resources we would need.

We had a very tough time getting information from the Centers for Disease Control by the time they went through the alphabet soup. They had to get permission from HHS, and then Health and Human Services had to get permission from the Office of Management and Budget. Finally, we got the information informally. We could not get it formally. We got it informally.

I have just been handed talking points and information and facts by my staff. The way the Senate functions is that these amendments come without any significant advanced notice. The Senator from New York was halfway through her argument before I got a copy of her amendment. I challenge anybody to read the amendment and follow it.

Well, people can't hear me on C-SPAN because my microphone wasn't on.

The point was that we did get a supplemental appropriations bill for approximately $3 billion. We had quite an extended discussion in the living quarters of the White House—something I probably ought not to talk about. But the President invited a group of us over and we got into a long discussion. There were those in the administration, according to an article published a day after Thanksgiving, that wanted to put it in next year's budget. They wanted to wait until 2002 to put it in 2003.

Talking directly to the President, a number of us prevailed and put $3 billion into the budget at that time.

We now have a very extensive itemization of funding. The CDC has $940 million for State and local preparedness. Upgrading CDC capacity: $143,700,000. Pharmaceutical stockpile: $300 million. Smallpox vaccine—and it goes down to a full page. I ask unanimous consent that list be printed in the RECORD so I need not read it all.

Activity	FY03 Enacted	.65% ATB	Transfers to DHS	FY 2003 Comparable	FY 2004 Request	FY 2004 Senate
CDC						
State and Local Preparedness	$940,000	$6,110	....	$933,890	$940,000	$940,000
Upgrading CDC Capacity	143,700	934	−584	142,182	143,700	143,700
Pharmaceutical Stockpile	300,000	1,950	−298,050	0		
Smallpox Vaccine	100,000	650	−99,350	0		
Anthrax Vaccine Research	18,040	117	....	17,923	18,040	18,040
Planning for Preparedness Resp.	10,700	70	....	10,630	10,416	10,416
Deterrence	4,000	26	....	3,974	4,000	4,000
Public Health Preparedness Centers	5,000	33	....	4,968	0	0
Health Alert Network	....	0	....	0	0	0
CDC Security PHSSEF	20,000	130	....	19,870	0	0
CDC Security (B&F non-add)	....	0	....	0	0	0
Independent Studies	2,000	13	....	1,987	0	0
Subtotal, CDC	1,543,440	10,032	−397,984	1,135,424	1,116,156	1,116,156
HRSA						
Hospital Preparedness	518,000	3,367	....	514,633	518,052	518,052
Education Incentives for Medical School Curriculum	28,000	182	....	27,818	60,012	60,012
EMS for Children	....	0	....	0	18,943	0
Poison Control	....	0	....	0	21,166	0
Subtotal, HRSA	546,000	3,549	....	542,451	618,173	578,064
OFFICE OF THE SECRETARY						
Transfers to DHS	88,420	575	−87,845	0	0	0
Medical Research Corps	10,000	65	....	9,935	10,000	10,000
Preparedness Planning	6,800	44	....	6,756	6,800	6,800
Operations	12,720	83	....	12,637	12,720	12,720
Advanced Research	5,000	33	....	4,968	5,000	5,000
Command and Control	....	0	....	0	0	0
National Security Early Warning	9,500	62	....	9,438	9,500	9,500
Secretary's Emergency Response Team	3,000	20	....	2,981	3,000	3,000
Media/Public Information	4,800	31	....	4,769	4,800	4,800
Commissioned Corps Revitalization	2,000	13	....	1,987	0	0
CyberSecurity	10,000	65	....	9,935	10,000	10,000
Subtotal, OS	152,240	990	−87,845	63,405	61,820	61,820
CDC—Supplemental	....	....	....	142,000	0	0
SAMHSA	....	0	....	0	0	0
AHRQ	5,000	33	....	4,968	0	0
Pandemic Flu	....	0	....	0	100,000	100,000
Subtotal, Bioterrorism—PHSSEF	2,246,,680	14,603	−485,829	1,888,247	1,896,149	1,856,040

Mr. SPECTER. Madam President, then the Department of Homeland Security bill was passed by this body with some $29 million, which covers a great deal more funding.

I appreciate the initiative taken by the Senator from New York and her diligence in coming up with this amendment in an area which, beyond any question, is of overwhelming importance, critical importance. I, frankly, do not know how to evaluate her request for $93 million additional in the context of all of the programs which are in existence.

I think it is fair to state, and I think the Senator from New York has an abundance of experience in the executive branch, that the executive branch has better planning capabilities in integrating these items in the overall program. Not that the $93 million might not be well placed, well positioned and critical. It might be, I just cannot say. But I do know there has been extensive consideration by the executive branch, and I also know that the $93 million is not within the 302(b) allocation.

I come back to this again and again on items which I concede are important, but we do not have the funds within the budget resolution and within the allocation.

I know the Senator from New York will not be surprised that there will be opposition to it. We will raise a point of order. But I do think the amendment serves a very useful function in identifying what the Senator from New York thinks are critical points that ought to be funded.

I commit this to the Senator from New York—to have a hearing on the subject and to include the precise items which she has raised so that we will take them into account in our funding stream as we move into the next fiscal year.

Mrs. CLINTON. Madam President, will the Senator from Pennsylvania yield?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I wish to express my appreciation to the chairman for that offer. Perhaps even before the bill is totally wrapped up we could take a look at some of those categories of funding because what I am concerned about, as the Senator rightly referenced, is in all of the funding categories, these requests I have put in this amendment are coming from constituent agencies, such as CDC, that at least believe at this point in time that the money available for bioterrorism has not been sufficiently targeted to this personnel issue.

I appreciate not only the kind offer of a hearing, because I think this is an issue that is going to go on for quite some time—it is not going to be resolved one way or another even if this amendment were successful—but also perhaps in the next several days if our staffs can look to see if there is a better opportunity to better target some of this funding to deal with this pipeline professional problem that is not only at the Federal Government level, but State and local as well.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I would be delighted to follow the suggestion made by the Senator from New York to take a look at them regardless of the outcome of the vote. It may be that the executive branch can learn from what the Senator from New York has found on her inquiries and can redirect some of the existing funds, or it is possible we could find some accommodation to this in the course of the conference.

We will look very closely at the suggestions which the Senator from New York has made and see if we can find a way to accommodate them.

AMENDMENT NOS. 1561, 1560, AND 1578

Mr. SPECTER. Madam President, I wish to turn for a few moments to the amendments offered by the Senator from Ohio. I did not take time to respond before the Senator from New York offered her amendment. She was very patient in waiting while the Senator from Ohio went through quite a long list of his amendments.

He has offered three amendments which are well directed and I think meritorious when he talks about the historical impact of the underground railroad. That is a matter of importance in education and it comes right into Pennsylvania where currently the development project in Lancaster has found remnants of the underground railroad. The House of Representatives has put in $2.235 million.

When the Senator from Ohio talks about poison control centers for $5 million, again he is on a good point. And when he talks about graduate medical education, he is not bringing it up to last year's level, he is adding money. This is an item which this Senator spent a lot of time on, as did Senator HARKIN. There was no funding for this in 1999, and in the year 2000, to start, it was slightly under $40 million, and then when I chaired the subcommittee, with the concurrence of Senator HARKIN, we made an enormous increase to $234 million for fiscal year 2001.

We then added $50 million in 2002 to $284 million, and it was at $290 million in 2003. The administration made a request for slightly under $200 million, and in a tough way we found $90 million more.

When you take them out of administration, there are going to be a lot of people unemployed, and I do not know that we can direct that unemployment solely to Ohio—I wish the Senator from Ohio were here—if it would be possible to target that unemployment to the Senator's State. But if you take out $22 million from administration—that is a nice fat target to say take it out from administration. But there are very substantial impacts when that money is taken out.

I am going to confer with the Secretary of the Department of Education to see exactly what will happen, how many people will be affected, specifying perhaps how many people from Ohio will be affected.

When the Senator from Ohio wants to add $60 million to the mother-to-child transmission, I think that is a very important item, but the fact is we now have a grand total in the Labor-HHS bill directed toward AIDS in excess of $14 billion. When the statement is made we are just going to bring it back up to the President's request, in fiscal year 2003, this was a $40 million item. The President asked for $150 million for this year, and we found $90 million to accommodate.

Bear in mind that we do this in a context where the administration has come in on many items far under what they were last year. For example, graduate medical education, to which the Senator from Ohio wants to add $15 million, we added $90 million over what the President requested. So perhaps the Senator from Ohio would like us to go back to the President's request on graduate medical education, and we would have ample money to put in $60 million more to bring it up to the President's request on the mother-to-child transmission.

I say that only by way of demonstrating that it is just not so easy to come up to the President's request on a given item when many times the President's request was far under what we are at the present time. The idea of level funding is very important in the appropriations process so you do not make drastic changes. People can live with what they got last year without accounting for inflation, but if you want to drop, as the President's budget did on graduate medical education, from $290 million to $199 million, that is going to be very tough to absorb. We took that into account.

The Constitution places the appropriations process in the Congress. That is something which is frequently overlooked.

The President obviously has an important role because he has to sign the bill, or we have to pass them without his signature, if we can do that.

This bill is very carefully crafted. Perhaps it is easy to see that I have to oppose the amendments by the Senator from Ohio. Perhaps there can be some accommodation to some of the smaller amounts but that, too, is difficult. Although the Senator from Wisconsin said a million dollars was not very much money, quoting Everett Dirksen, a million here and million there—maybe Everett Dirksen said a billion here or a billion there, but if for Dirksen it was a billion here and a billion there, then make it ARLEN SPECTER, a million here and a million there, it all adds up.

I yield to my colleague from Iowa.

Mr. HARKIN. I thank my chairman, friend and able leader on this appropriations bill. I think we all wish we had a little bit more 302(b) allocation but that is for another time and place.

Earlier today I spoke about offering an amendment that would basically prohibit the administration from moving ahead on implementing a proposed rule that would basically undermine and do away with the 40-hour workweek that we have had in the Fair Labor Standards Act since 1938. Earlier this spring, the administration proposed some rule changes. Not one hearing was held on it.

As we looked through these proposed rules this summer and dug into them, it would drastically undermine the ability of working families, working men and women in America, to get justly compensated for overtime work in the future.

I was talking to one of my colleagues today about this, and he said to me, I have not really had a big clamor in my

State for these changes. I got to thinking about it. I got to thinking I really have not had anybody in the past year or 2 years ago, or earlier this year—I have seen no real groundswell or anything about the fact that these rules as they exist now need to be changed. I do not know where this comes from. All of a sudden they are proposing this massive change in the way people's work is defined in this country and whether they are exempted from overtime pay or not.

So I have an amendment that I drafted that basically is just very simple. It says:

> None of the funds provided under this Act shall be used to promulgate or implement any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) any employee who is not otherwise exempted pursuant to regulations under section 13 of such act (29 U.S.C. 213) that were in effect as of September 3, 2003.

So this is an amendment that I will be laying down sometime tomorrow. I mention again that this proposed rule change could affect up to 8 million workers, but the first wave of people that will be affected by this rule change will be women who are working in salaried positions that today would be paid overtime if they worked more than 40 hours a week. These would be women who work as bookkeepers, accountants, secretaries, nurses, nurse's aides, a whole host of different occupations. I say women because the way that theworkforce is structured, where the salary level is, they will fall in that lower spectrum of salary level where it will be above the minimum but it will be in the range where they will now be exempted from overtime work. That will be the first wave. That is just the first people who would be affected by it.

After that, there would be many other people affected by it—police officers, firefighters, first responders, and others.

There is no carve-out in the proposed rules and regulations for police, firefighters, and emergency personnel. They are thrown in with everybody else. So somehow I keep hearing this kind of a rumor or statement that keeps floating around that, oh, police officers will not be affected.

Well, would someone show me in the proposed rules where it says that police officers will not be affected? It is nowhere in there. So I do not know what they are talking about. They are thrown in with everybody else.

Again, I do not want to take too much more time. I will lay down the amendment tomorrow morning at the appropriate time. For the life of me, though, I cannot understand why the administration is proposing this drastic change when there has been no big groundswell for the change.

I have heard some people in this room say we have to change it because it has not been changed since 1938. That is nonsense. We have changed the Fair Labor Standards Act several times since 1938. In fact, a number of times this has been changed without taking away overtime for people in our country. So to say it has not been changed since 1938 is simply erroneous. A number of times we have addressed ourselves to new types of work, new definitions, new people in the workforce, by changing some of the definitions. In every case in which these definitions were changed they were changed to make it easier, to include more people in the overtime provisions, not to exclude people.

For example, the Department of Labor revised the overtime regulations in 1940, 1949, 1954, 1958, 1959, 1961, 1963, 1967, 1970, 1973, 1975, and 1981. In not one of those instances was the framework narrowed to exclude more people from overtime protections. These changes were made basically to enlarge, enhance, and to better define who was covered, and that is why it never really invoked much debate or consternation because we recognized that we wanted to protect people for overtime pay.

The minimum salary threshold has been raised seven times since 1938. So to say that somehow we have never touched this since 1938 is absolutely wrong. What is correct is that since 1938 we have not circumscribed, we have not narrowed, the definitional framework to exclude more people from overtime pay.

That is what these proposed regulations would do, and that is why the Senate has to speak strongly, I hope next week sometime, in supporting this amendment that would basically prohibit them from moving ahead with this kind of a regulation.

I would point out that the House of Representatives narrowly defeated this 213 to 210, with a number of Republicans supporting not allowing the administration to proceed with these changes in rules. So, again, I hope next week we can have a further debate. I intend either tomorrow or Monday to again point out the people who are going to be affected, what it means for their families and their income. What it basically means is that we are going to have people working longer hours but they are not going to be compensated for it.

As I said, many of them are women who are now paying for childcare. Well, now they have to pay to keep their children in daycare maybe longer but they do not get any extra pay for that.

So that is why this proposed change in rules and regulations is one that we have to say no to. We have to make sure we continue to protect and enhance the 40-hour workweek and make sure people who work over 40 hours, if they want to work over 40 hours or if they are compelled to work over 40 hours, are justly compensated with it for time and a half over 40 hours.

I yield the floor.

Mrs. FEINSTEIN. Madam President, I plan to offer an amendment to the fiscal year 2004 Labor-HHS appropriations bill that seeks to offer States an alternative Medicaid FMAP formula while allowing States to remain in the current formula structure if they choose. This amendment is vital to providing some relief to States who have been shortchanged by hundreds of millions of dollars under the current FMAP formula for the cost of providing Medicaid services. The amendment will not penalize any State who wishes to remain under the current formula. It simply allows States to opt into a new formula that better reflects States' need. This new FMAP is only for Medicaid expenditures in excess of fiscal year 2003 Medicaid expenditure levels.

For States who opt to go with the new formula, per capita income is replaced with a ratio of the most recent 3-year averages of total taxable resources, TTR, as determined by the U.S. Department of the Treasury, and persons below the poverty level. The multiplier is also lowered from 0.45, used in the current FMAP formula, to 0.40. For the period 2004–2013, the new formula has a maximum increase of one percentage point per fiscal year above the current FMAP formula for the prior year. Once a State opts to go with the new formula, they will not be able to switch back to the current FMAP formula. However, they will be held harmless at the FMAP rate they would have gotten under the current formula, prior to the Jobs and Growth Tax Relief Reconciliation Act of 2003, for the current year. States opting for the new formula will have Medicaid expenditures, up to the fiscal 2003 levels, matched at the current FMAP formula and with expenditures above the fiscal 2003 levels matched at the new formula FMAP.

In a study released in July 2003, GAO found that the formula used to calculate the portion of each State's Medicaid expenditures that the Federal Government will pay—the FMAP—often widens the gap between individual States and the national average. Under the current formula, 21 States move farther from the average State's funding ability after the Federal match is added. In fact, 4 of the 21 States—California, Florida, Hawaii, and New York—have below-average funding ability before Federal matching is added and move farther below the average after Federal matching aid is added.

Since Medicaid was enacted in 1965, the Federal match rate has been determined by a State's per capital income. In its study, GAO found that per capita income is a poor proxy for determining both State resources and the low-income population. The Feinstein amendment will give States the option to choose a formula that is based on a combination of the State's total taxable resources and population below the poverty level.

The PRESIDING OFFICER. The Senator from Alabama.

MIGUEL ESTRADA

Mr. SESSIONS. Madam President, it is a sad day for the Senate today. Miguel Estrada, after having been nominated by the President to the Court of Appeals of the DC Circuit, after having waited 28 months, almost 2½ years, felt it imperative that he get on about his private business, his law practice. He has asked the President to withdraw his name. It is with great sadness that occurred.

For many in this body, Miguel Estrada is one of the finest nominees to come before this Senate. The American Bar Association evaluated him. This is certainly no rightwing group. They evaluated him and unanimously concluded he was well qualified for the Court of Appeals. Indeed, he is.

The sad thing about it was the ground rules of Senate confirmation have been changed. Miguel Estrada was a victim of a sustained filibuster. It was for the first time in history that a sustained filibuster had defeated a circuit or district court judge. He was the first one subjected to a filibuster in this Congress. He is the first one to be forced to withdraw because he has to get on with his life. And he had 55 votes in the Senate for an up-or-down vote and a like number, I am sure, for confirmation.

For the first time, 45 Senators have blocked and defeated a nominee. This is an unprecedented change in our Senate policy. It is something that is not good for this Senate. It has diminished the independence of the judiciary. It has diminished the power of the executive branch to nominate and it has harmed the Senate when we change the historical rule from 50 votes to 60 votes for a confirmation. It is not good public policy.

I ask why it is that this Senate, for all these years since the founding of this Republic, has not had a filibuster for one of these nominees? The reason is pretty clear. The Senators believe the Constitution suggests confirmation should be by majority vote. For example, the Constitution says the Senate shall advise and consent on treaties provided two-thirds agree and shall advise and consent on certain nominees, including judges. From that implication it is clear that two-thirds were required for advice and consent on treaties but only a majority for the judicial nominees. That is what we have done until this year. This plan to block nominees was designed after President Bush was elected and the Democrat Senators had a retreat with a number of liberal law professors, including Lawrence Tribe, Cass Sunstein, Marcia Greenberg. These liberal professors they talked of changing the ground rules for confirmation and Democrat Senators decided to change the historic rules of this Senate and block more nominees.

Of course, President Bush nominated nine judicial candidates when he took office. Two were Democrats. One was a renomination of a Clinton nominee, a Democrat, and the renominated Clinton nominee was promptly confirmed. Nine out of the 11 sat. The Democrats had the majority in the Senate and they refused to bring those candidates up for hearing in the Judiciary Committee.

Finally, when the election occurred and one of the issues in the election was the obstructionism in the Senate by the Democratic majority and a new majority was constituted with the Republicans in the majority, they moved some of these nominees forward. Estrada was moved out of committee, Priscilla Owen and others were moved forward. We then found ourselves facing for the first time in history a filibuster of Miguel Estrada.

Let me mention some things about this extraordinary nominee. He was born in Honduras and came here as a teenager. He struggled with the language. He was able to get himself into Columbia University where he finished and graduated with honors. He then went to Harvard Law School where he was an editor of the Harvard Law Review, one of the highest honors for any graduating law senior. He then clerked for the Court of Appeals, the same level court he was nominated to. He served as a law clerk to a Court of Appeals judge in New York, as I recall, and then clerked for the Supreme Court. Very few lawyers ever get selected to clerk for a Justice of the United States Supreme Court. What a great honor. He was selected by Justice Anthony Kennedy, one of the moderate swing justices in the Supreme Court, as he is viewed.

After that, he took a position with the Department of Justice and he was in the Solicitor General's Office of the Department of Justice. The Solicitor General's Office is where the Department of Justice has the top appellate lawyers arguing the position of the United States of America in circuit courts and in the United States Supreme Court. What a great position. Most lawyers say the Solicitor General of the United States is the greatest lawyer position in the world. Every day you go to court and represent the United States of America in the highest court in the land.

Miguel Estrada was there for 6 years. Every year he was there he got the highest possible rating the Department of Justice evaluators give to an employee. This is particularly important to note. In 5 of the 6 years he was in the Solicitor General's Office, it was in the Clinton Department of Justice. He served by far the great majority of his time in the Clinton Department of Justice and was given each year the highest possible ratings. Since then, he has been highly successful in law practice. He has argued as many as 10 or 15 cases before the Supreme Court. Most lawyers in America will never argue a case before the United States Court of Appeals, much less have 15 cases before the Supreme Court. He was selected for those arguments because he was known to be an extraordinarily skilled appellate lawyer.

I saw his testimony. He was open and candid and brilliant in his answers. I remember one Senator tried to pin him down and said, you are a strict constructionist, aren't you? Mr. Estrada said, I am not sure I would call myself that. And he said, the President wants to nominate strict constructionists and President Bush has nominated you so you must be one. First, he said, the President didn't say anything to me about that, but I would call myself a fair constructionist. I believe we ought to fairly construe the law as it comes before us. I don't use the word strict constructionist. He was open and candid with the people asking questions.

Then there was constructed an event and a circumstance that put Mr. Estrada in a bad light. It was deliberate and premeditated and calculated, in my view. The Democrat said, well, you served on the staff of the Solicitor General and you wrote all kinds of memoranda that were relevant to important issues before America. We demand you produce every memoranda you wrote while you were in the Solicitor General's Office. And he answered this exactly correctly, but I am not sure the American people and the press and those who asked questions paid attention to his answer. His answer was, Senator, those are not my papers. I was a lawyer in a law firm of the Department of Justice. The papers I prepared belong to the Department of Justice. I do not have the power to reveal to the public such private, legal memorandum from my client, the United States of America.

So the question was, then, well, let's have the Department of Justice produce them. And the Department of Justice was absolutely correct in saying unequivocally, no, we are not going to produce those documents. The reason is that those are confidential, internal memoranda of the U.S. Government involving litigation in cases in the United States.

In fact, it outraged former Solicitors General of the United States of both parties. All four former Solicitors General of the United States who had served under Democrat administrations wrote a letter that the Department of Justice should not reveal those memoranda, that it was work product and would chill free debate by young lawyers who were asked to submit written memoranda. And every other Solicitor General I know of, who is alive, Republican and Democrat, agreed that the Department of Justice should not produce them.

So now we have this viewed as Mr. Estrada wasn't open with the committee because he wouldn't produce all these documents. How bogus can that be? That is really unfortunate, that Members of this Senate would actually suggest that Mr. Estrada somehow has the authority and should, even if he did have the authority, produce and turn over to the public documents that remain part of the work product of the Department of Justice. It would be unethical for him to do so. He should not do so.

So that is how we got into this, I suppose. But surely that is not a basis to turn down a nominee of this extraordinary ability. Why would they pick on him? Why would they construct this idea that he is somehow unqualified? It really baffles me. It is a matter I find difficult to fathom.

But I would just share a few things that strike me. Yes, he was a Hispanic. Does that mean Democratic Members of this body are prejudiced against Hispanics? I hope not. I would never accuse them of that and don't believe that is so. What I do believe is that President Bush had made clear that he would like to give Hispanics an opportunity to be judges and he would like to see a Hispanic on the Supreme Court of the United States. He made that clear. Everybody knows he would like to see that occur, if possible.

Here we were, 2½ years ago, nominating one of the most brilliant Hispanic lawyers, one of the most brilliant lawyers in America of any background, Miguel Estrada. He was nominated, and had he been confirmed back then as he should have been according to the American Bar Association, rating him unanimously well qualified, their highest qualifications, well qualified; he would had already had 2½ years of experience writing opinions, proving his skill and ability. At that point, I submit, he would clearly be one of the preeminent nominees under consideration for appointment to the U.S. Supreme Court. This is the quality of this man.

So, he has been denied an opportunity to achieve a prestigious appointment to the court of appeals, and that has in fact denied him the opportunity to again prove his excellent integrity, legal skill, and ability on that bench. And, who knows, maybe that is why some of those thought he would be a perfect nominee for the bench and they would just block him now. If that is so, that is wrong and should not have occurred. I am very frustrated about it.

I would also, just one more time, note that he had a majority of the Members of this Senate prepared to vote to confirm him—55 votes he had. Prior to this year, throughout the history of this country, that would have confirmed him easily to this position. So it was by a filibuster. We voted cloture I think six, seven, eight times to try to get him up for an up-or-down vote, blocked each time by the procedural technique of a filibuster that was never before used on a circuit judge in the history of this country. It is just really sad that that has occurred.

Let me just say this finally. President Bush wants judges on the bench who follow the law. He wants judges on the bench who care about the law, who believe they are not postmodernist relativists. He believes we have judges who can read words and give those words plain meaning and follow those words. That is what a judge should do. A judge is not empowered to make law. A judge is not empowered to impose their political views or to set public policy. That is not what a judge does. A judge rules on the law.

Make no mistake, a Federal judge is a lifetime appointment. They are not able to be voted out of office, as we can if we pass a bad law. We can be voted out of office. We are subject to the will of the public. But a judge is not. So what we want in a judge is one who follows the law and has the history and the discipline to show that he or she will follow the law. Miguel Estrada has that. In fact, that is his guiding legal philosophy, that a judge should show restraint, should follow the law and do the right thing, whether they agree with it or not. That is what we need.

Now we have judges who have declared the California three strikes law unconstitutional. They have been in effect for 20 years and no doubt are a major factor in the plummeting of crime rates in California and other States that had those laws. They are helping to reduce crime there. So we have Federal judges saying that is unconstitutional.

We have a Federal judge in the Ninth Circuit saying the Pledge of Allegiance is unconstitutional.

We have Federal judges just recently overturning 170 death penalty matters after juries and judges and appellate courts have ruled on them. They just blithely come in and say: We don't like the way you do this now, and we are just going to wipe out those death penalty decisions.

We have bizarre verdicts on litigation. Everybody knows about the coffee case and other things.

We are having hearings now on asbestos. The litigation over asbestos has gotten completely out of hand. What is occurring there is one of the saddest eras in legal history, in my view. Only 40 percent of the money paid out by the asbestos companies is getting to the victims. What a horrible stain on the legal system in America. We cannot defend that. These kinds of things impact the American economy. They drive up the cost of insurance. They drive up the cost of doing business. No nation in the world has the legal costs on their economy that this country has.

So we need judges with common sense. We need judges who will follow the law. We need judges who show fidelity to the rule of law. That is what President Bush wants. That is what Miguel Estrada is. That is what he has committed his life to. And that is why they don't like him. It will mess up the game where people want the courts to do for them what they cannot win at the ballot box with elected representatives.

Now we have Priscilla Owen, also under filibuster. She made the highest possible score on the Texas bar exam, was one of the greatest lawyers in Texas, was elected this last time to the Texas Supreme Court with 87 percent of the vote, and is serving her second term, endorsed by every major newspaper in the State of Texas. She was rated unanimously well qualified by the American Bar Association. And they are filibustering her?

I will tell you something else. Priscilla Owen is quite capable of serving on the U.S. Supreme Court. Is that why they are picking on her? And Bill Pryor, the attorney general of Alabama, whom I know and have seen operate, one of the finest, most brilliant people I have known. I have never met a person who has more commitment to the rule of law, doing the right thing, evaluating matters on a legal basis, and doing what the law says regardless of politics, which is why he has, for example, the support of most of the Democrats in leadership in the State.

He has the support of four of the very top African-American leaders in the State, including Joe Reed, a member of the Democratic National Committee and vice president of the Teachers Union, Alvin Holmes, one of the most outspoken African Americans in the State legislature, Congressman ARTUR DAVIS, and Chris McNair, former county commissioner in the State's largest county and whose daughter was killed in that tragic church bombing event many years ago.

Those are the kinds of people who support Bill Pryor. He was editor in chief of the Tulane Law Review—a brilliant lawyer of the highest possible ethics and integrity, a man of deep religious faith, a man who has proven that he will follow the law regardless of what his personal beliefs are and has handled himself again in recent days in a very difficult situation involving the chief justice of the State of Alabama and the Ten Commandants. He has agonized over it. I know.

He has studied the law and he simply has done what Bill Pryor has always done. He has followed the law regardless of what people may say about it. That is his life. That is what he believes in. And that is what he will do if he is put on the bench. You can't find a person in America better qualified.

These filibusters unprecedented in the history of this Senate.

It is a very sad day that we are here today to see the success of the first filibuster of a circuit judge in history—to be successful with the withdrawal of Miguel Estrada. What a sad, sad day.

This Senate needs to think through what we have done. This knife can cut both ways. We do not need to establish this as a policy of this Senate.

I urge my colleagues to reevaluate what they have been doing and not to continue down this road because it is not going to go away lightly. Those on this side will use that same knife and use those same tactics in the future. We are not going to go away quietly on this when we see nominees of this ability and of this character and integrity—with sound judicial philosophies that believe in following the law and not using the bench as a forum for a personal agenda.

I conclude by expressing my appreciation to Miguel Estrada for offering himself in service. I hope he will have an opportunity in the future to serve this country which he has adopted in some other capacity—maybe even in this capacity in the future. He certainly is qualified. He would make a great judge at any number of levels. My respect for him after watching him testify and after seeing how he handled this difficult time has only increased.

I thank the President. I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Madam President, I echo the statement I made earlier today following the statement by Senator ALLEN with simply this caveat: I would say that statement is totally accurate with the exception of the fact that we now have approved an additional judge.

Now the record stands at 146 judges approved during President Bush's Presidency, and 3 have been rejected. One-hundred and forty-six to three is not a bad record.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I would add that during the 8 years President Clinton was President, 377 judges were confirmed. This Senate voted down only one. Most of the time the Republicans were in the majority and we did not vote down his nominees. Forty-one were left pending when President Clinton left office. There were 54 left pending when former President Bush left office.

But anyway, I know we can talk about that off and on. But I did want to make that point.

MORNING BUSINESS

Mr. SESSIONS. Madam President, I ask unanimous consent that there now be a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 6

The PRESIDING OFFICER. Under the order of 5-31-03, the Chair appoints conferees on H.R. 6.

The Presiding Officer appointed Mr. DOMENICI, Mr. NICKLES, Mr. CRAIG, Mr. CAMPBELL, Mr. THOMAS, Mr. GRASSLEY, Mr. LOTT, Mr. BINGAMAN, Mr. DORGAN, Mr. GRAHAM of Florida, Mr. WYDEN, Mr. JOHNSON, and Mr. BAUCUS conferees on the part of the Senate.

HONORING GENERAL RAYMOND G. DAVIS

Mr. MILLER. Madam President, I rise today to reflect on the life of a great American, a legendary marine, and a native Georgian. I refer to GEN Raymond G. Davis, who passed away yesterday in Georgia at the age of 88.

General Davis was one of this country's greatest military heroes. He courageously served his country as a marine in World War II, in Korea, and in Vietnam during his 33 years of military service. General Davis was a noble veteran, tireless advocate, and distinguished recipient of the Medal of Honor.

I know we have a lot of very important things going on in this Chamber today, but I don't think it is too much to take 3 or 4 minutes to remember one of the great battles in military history and the role this man played in it. I refer to the Chosin Reservoir in Korea, known as the Frozen Chosin. In the biggest shock of the war, 300,000 Chinese Communist soldiers crossed the Yalu River from China into North Korea and trapped 8,000 members of the first marine division at the Chosin Reservoir. There was only one way out, an icy road that twisted around steep mountains. If the Chinese gained control of it, all of the marines would be annihilated.

Then LTC Raymond Davis was a 35-year-old Georgia Tech graduate with already two Silver Stars for heroism in Korea, and the Navy Cross, our second highest award, for gallantry at Peleiu.

He commanded a battalion of marines faced with an impossible task: to get the marines on Fox Hill linked up with them or the thousands would be trapped at the reservoir and would be doomed.

That afternoon, at 24-below-zero weather, the battalion began struggling up the side of a steep ridge. Davis's men climbed 1,000 yards before the Chinese opened up. The marines kept clawing their way, inch by inch, up the icy slopes. They battled enemy soldiers who seemed tucked into every crevice. Atop the first ridge, the men's sweat froze on their eyebrows and beards. They put their wounded on stretchers and pushed on. The men rose and trudged toward still another ridge. All along, snipers picked at the slow exposed line, but there was no time for the marines to stop and fire back. They went downhill by sliding on the ice. Davis was so numb that three times he forgot a compass reading taken only moments before.

At 4 a.m. this great Georgian halted his unit. The battalion was close to Fox Company, but it lost radio contact. Trying to reach that unit in the darkness without communication might get them caught in a crossfire. They would rest until daybreak. As Davis started to nap, a sniper's bullet pierced his sleeping bag and grazed his head. He tried again to sleep.

By first light there was still no radio contact with Fox Company and Davis feared the unit had been overrun. Then came word from his radio operator: Colonel, he announced, we have Captain Barber on the radio.

As the two officers talked, still hundreds of yards apart, both fought back tears. Late in the morning, Davis's battalion arrived atop Fox Hill. The Chinese had lost the battle for Toktong Pass.

Within hours, two marine battalions were moving through the pass away from the Frozen Chosin. Many icy miles and more bitter fighting lay ahead before the marines reached the port, but the stand at Toktong Pass had opened the way.

In 5 days, Fox Company had killed 1,000 of the enemy. Only 82 of the 220 marines were able to walk off that hill. In 2 weeks, the first marine division moved over icy roads and ridges through eight Chinese divisions. The Americans brought out all their wounded, their dead, and the equipment. On the way, they killed 25,000 of the enemy. The marines lost 730 of their numbers.

Such is the legacy of GEN Raymond Davis and those brave marines. General Davis received the Medal of Honor, a symbol of unusual human courage above and beyond the call of duty for his valiant efforts during the war. Over 1 million Americans served in Korea, and 131 of those were named recipients of the Medal of Honor. After the general's passing, only 36 of them live to wear it today. That medal is a tribute to perhaps the only thing truly noble in the horror of war.

Although General Davis earned this Nation's highest military honor for valor while on active duty, his service to the country was far from over. Over the last 30 years, in a civilian capacity, General Davis has continued to lead in ways that few other Americans could match. Since his retirement, General Davis became a pillar of the community, working diligently on behalf of all of our Nation's veterans.

Beginning in 1987, first as vice chairman and then later as chairman, General Davis was the one who directed the efforts of the Korean War Veterans Memorial Advisory Board, and it was his determination and personal initiative that led to the approval of the Korean War Veterans Memorial design and its construction and finally its dedication in July of 1995.

The Nation's citizens, and in particular all Korean war veterans and marines and their families, are indebted to Raymond G. Davis for his inspired leadership and service. In war and in peace, as an active duty marine and as a private citizen, GEN Raymond Davis' outstanding courage, unswerving devotion to duty, inspiring leadership, and sound judgment have represented the highest traditions of military service and citizenship. This man was a true American hero.

NOTICE OF PROPOSED PROCEDURAL RULEMAKING REGULATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached document from the Office of Compliance be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE,
Washington, DC, September 4, 2003.

Hon. TED STEVENS,
President Pro Tempore, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)), I am transmitting on behalf of the Board of Directors the enclosed notice of proposed procedural rulemaking regulations under Section 303 of the Act for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,
SUSAN S. ROBFOGEL,
Chair.

OFFICE OF COMPLIANCE

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995—PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE

INTRODUCTORY STATEMENT

Shortly after the creation of the Office of Compliance in 1995, Procedural Rules were adopted to govern the processing of cases and controversies under the administrative procedures established in Title IV of the Congressional Accountability Act of 1995 ("CAA," 2 U.S.C. 1401-1407). Those Rules of Procedure were slightly amended in 1998. The existing Rules of Procedure are available in their entirety on the Office of Compliance's web site: www.compliance.gov. The web site is fully compliant with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

Pursuant to section 303(a) of the CAA (2 U.S.C. 1383(a), the Executive Director of the Office has obtained approval of the Board of Directors of the Office of Compliance regarding certain amendments to the Rules of Procedure. Having obtained the Board's approval, the Executive Director must then "publish a general notice of proposed rulemaking . . . for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal." (Section 303(b) of the CAA, 2 U.S.C. 1383(b).)

NOTICE

Comments regarding the proposed amendments to the Rules of Procedure of the Office of Compliance set forth in this NOTICE are invited for **a period of thirty (30) days** following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on The Office of Compliance's section 508 compliant web site (www.compliance.gov). This NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to Bill Thompson, Executive Director or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202/724-9250 (voice) or 202/426-1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure establish the process by which alleged violations of the 11 laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

Explanation regarding the text of the proposed amendments: The text of the proposed amendments shows *[deletions within italicized brackets]*, ***and added text in italicized bold.*** **Only subsections of the rules which include proposed amendments are reproduced in this NOTICE. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of asterisk (* * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.**

PROPOSED AMENDMENTS

PART I—OFFICE OF COMPLIANCE

OFFICE OF COMPLIANCE RULES OF PROCEDURE

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and as proposed to be amended in 2003.

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§9.07 Payment of Decisions or Awards under Section 415(a) of the Act.
§9.0[6]8 Revocation, Amendment or Waiver of Rules

* * * * *

§1.03 Filing and Computation of Time.

(a) *Method of Filing.* Documents may be filed in person or by mail, including express, overnight and other expedited delivery. ***When specifically authorized by the Executive Director, any document may also be filed by electronic transmittal in a designated format.*** Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

. . . . .

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of delivery to the addressee is provided.

* * * * *

1.05 Designation of Representative.

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney. ***During the period of counseling and mediation, upon the request of a party, if the Executive Director concludes that a representative of an employee, of a charging party, of a labor organization, of an employing office, or of an entity alleged to be responsible for correcting a violation has a conflict of interest, the Executive Director may, after giving the representative an opportunity to respond, disqualify the representative. In that event, the period for counseling or mediation may be extended by the Executive Director for a reasonable time to afford the party an opportunity to obtain another representative.***

* * * * *

2.03 Counseling.

(a) *Initiating a Proceeding; Formal Request for Counseling.* In order to initiate a proceeding under these rules, an employee shall [formally] ***file a written*** request ***for*** counseling [from] ***with*** the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

. . . . .

(c) *When, How, and Where to Request Counseling.* A [formal] request for counseling ***must be in writing, and*** [: (1)] shall be [made] ***filed with the Office of Compliance at Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912,*** not later than 180 days after the alleged violation of the Act.[;] [(2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912.]

. . . . .

(l) *Conclusion of the Counseling Period and Notice.* The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, ***or by personal delivery.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

. . . . .

(m) *Employees of the Office of the Architect of the Capitol and the Capitol Police.*

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within [10] ***60*** days after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

* * * * *

2.04 Mediation.

. . . . .

(e) *Duration and Extension.*

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint ***written*** request of the parties ***to the attention of the Executive Director.*** The request [may be oral or] ***shall be*** written and [shall be noted and] filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

. . . . .

(i) *Conclusion of the Mediation Period and Notice.* If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, ***or will be hand delivered,*** and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court.

(1) The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act should simultaneously provide a copy of the complaint to the Office.

(2) No party to any civil action referenced in paragraph (1) shall request information from the Office regarding the proceedings which took place pursuant to sections 402 or 403 related to said civil action, unless said party notifies the other party(ies) to the civil action of the request to the Office. The Office

will determine whether the release of such information is appropriate under the Act and the Rules of Procedure.

* * * * *

§4.16 Comments on Occupational Safety and Health Reports. The General Counsel will provide to responsible employing office(s) a copy of any report issued for general distribution not less than seven days prior to the date scheduled for its issuance. If a responsible employing office wishes to have its written comments appended to the report, it shall submit such comments to the General Counsel no later than 48 hours prior to the scheduled issuance date. The General Counsel shall either include the written comments without alteration as an appendix to the report, or immediately decline the request for their inclusion. If the General Counsel declines to include the submitted comments, the employing office(s) may submit said denial to the Board of Directors which, in its sole discretion, shall review the matter and issue a final and non-appealable decision solely regarding inclusion of the employing office(s) comments prior to the issuance of the report. Submissions to the Board of Directors in this regard shall be made expeditiously and without regard to the requirements of subpart H of these rules. In no event shall the General Counsel be required by the Board to postpone the issuance of a report for more than five days.

* * * * *

§5.03 Dismissal, *Summary Judgment,* and Withdrawal of Complaints.

. . . . .

(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity to respond, issue summary judgment on some or all of the complaint.

([d]***e***) *Appeal.* A [dismissal] ***final decision*** by the Hearing Officer made under section 5.03(a)–(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01.

([e]***f***) . . . . .

([f]***g***) . . . . .

* * * * *

§7.02 Sanctions

(a) The Hearing Officer may impose sanctions on a party's representative for inappropriate or unprofessional conduct.

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]***1***) *Failure to Comply with an Order.* When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]***a***) . . . . .

([2]***b***) . . . . .

([3]***c***) . . . . .

([4]***d***) . . . . .

* * * * *

§8.01 Appeal to the Board.

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(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a reply brief.

(3) Upon delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any document or submission with the Board. Such delegation shall continue until revoked by the Board.

. . . . .

* * * * *

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) *Filing with the Office; Number.* One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer ***or other determination reviewable by the Board*** files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office. ***The Officer, Hearing Officer, or Board may also require a party to submit an electronic version of any submission on a disk in a designated format.***

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§9.03 Attorney's fees and costs.

(a) *Request.* No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. ***All motions for attorney's fees and costs shall be submitted to the Hearing Officer.*** [The Board or t]***T***he Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

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* * * * *

§9.05 Informal Resolutions and Settlement Agreements

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(b) *Formal Settlement Agreement.* The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. ***If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.***

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise required by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

§9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial proceedings in relation thereto occurs, whichever period ends later.

§9.07 Payment of Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.

§9.0[6]8 Revocation, Amendment or Waiver of Rules.

. . . . .

50TH WEDDING ANNIVERSARY OF CAROLYN AND BLACKIE EVANS

Mr. REID. Madam President, I rise today to tell a happy story. In fact, it almost sounds like a Hollywood love story.

I first met Claude "Blackie" Evans in Henderson, NV, when I was the city attorney. Our first meeting involved a traffic issue that Blackie had before the municipal judge.

Blackie had come to Henderson from his hometown of Galena, KS. In fact, he hitchhiked to Nevada the day after he graduated from high school.

Blackie used to spend time at the Henderson Boys Club. He was a Golden Gloves boxer, and he fought in the ring there.

He also was a fighter out of the ring—he fought for his union brothers, and for all the working men and women of Nevada.

A few months after Blackie came to Henderson, his high school sweetheart followed him. Blackie had played football in high school and Carolyn was a cheerleader, and they made a great couple. On September 7, 1953, they were married in Las Vegas.

Blackie went to work at Titanium Metal Corp., and he and Carolyn started to raise a family. Over the next few years they would have four wonderful children: Steve, Sheree, Seanna, and Lisa.

They raised their kids and worked hard. After Blackie had been at the Timet factory for about 5 years, he was elected vice president of United Steelworkers Local 4856. Three weeks later, at age 23, he became the local's youngest president ever. He held that position for 12 years while also working in the plant.

In 1971, my former high school teacher Mike O'Callaghan, who had become Governor of Nevada, appointed Blackie as the Commissioner representing labor on the old Nevada Industrial Commission. The Evans family moved to Carson City, where Carolyn narrated tours through the Governor's Mansion in her spare time from raising four children.

In 1978, Blackie was elected secretary treasurer of the Nevada AFL–CIO, a position he held until his retirement in July 1999. He also served as a national vice president of the AFL–CIO. During this time, I often crossed paths with Blackie. Together, we worked to help the working families of Nevada.

Today, Blackie and Carolyn still live in Henderson, NV, the town he hitchhiked to some 50 years ago. Carolyn's mother Nadine Qualls, who turns 91 in November, lives with them.

They are blessed to have two grandchildren living in Henderson—Alex Bacon, 12, and Geena German, 7—and two grandchildren in Reno—Brittany Cassingham, 20, a student at UNR, and Cierra Cassingham, 16, a junior in high school.

On September 7, 2003, Blackie and Carolyn will celebrate 50 years of marriage. The celebration will be a tribute to their love of each other, and to the rich, productive life they have enjoyed together.

I congratulate Carolyn and Blackie on their wonderful marriage and family, and I wish them many more years of happiness together.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I speak today about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Newark, CA. On October 3, 2002, several men became enraged after learning that a young woman was actually a 17-year-old boy at their party. The men punched Eddie "Gwen" Araujo, dragged him into the garage and strangled him with a piece of rope. Eddie's body was then wrapped in a sheet and buried in a shallow grave near Placerville, about 150 miles from his family's home in Newark.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

AUNG SAN SUU KYI'S HUNGER STRIKE

Mr. FEINGOLD. Madam President, this weekend we heard extremely troubling news from the State Department. Aung San Suu Kyi, leader of the democratically elected National League for Democracy and Nobel Peace Prize laureate, is on a hunger strike to protest her detention by the military government in Burma.

Aung San Suu Kyi has been held in an unknown location without the ability to communicate with the outside world since May 30, 2003. Many of us in Congress have demanded her release. Sadly, her detention is simply the latest installment in the country's 40-year history of suffering and oppression. I have consistently criticized the government for its political repression and human rights violations. Reports of rape, forced labor, human trafficking, suppression of civil liberties, and torture of political dissidents have caused me and my constituents great concern. I supported the Burmese Freedom and Democracy Act of 2003, which imposes sanctions on the Burmese military junta, strengthens Burma's democratic forces and supports and recognizes the National League for Democracy as the legitimate representative of the Burmese people. I encourage other countries to join the United States in adopting similar measures toward Burma.

The Burmese Government must release Aung San Suu Kyi and all political prisoners from detention. I also urge our administration, the United Nations, the Association of Southeast Asian Nations, ASEAN, and the international community to continue to exert pressure on the Burmese junta to respect human rights and political freedoms. I ask President Bush to make Burma a high priority as he travels to the Asia Pacific Economic Cooperation Summit in Bangkok in early October. As recommended by the Council on Foreign Relations, we should press for a United Nations Security Council resolution condemning Aung San Suu Kyi's detention, the junta's human rights violations and their refusal to engage in dialogue with the democratic opposition. We should also encourage the Security Council to hold an emergency session on Burma to discuss implementing targeted sanctions on the regime.

Aung San Suu Kyi's hunger strike adds urgency to the dire predicament of the Burmese people. The Burmese military junta must realize that their egregious offences against their own population can no longer stand.

ORGANIC AGRICULTURE

Ms. SNOWE. Mr. President, I rise today to talk briefly about organic agriculture and to recognize the many thousands of organic farmers from around the Nation who have helped transform this once nascent industry into a thriving and innovative sector of our economy. Today, in particular, I extend my greetings to the many organic producers and retailers who have gathered in Washington, D.C. this week to participate in the annual organic conference.

Organic agriculture has come a long way over the past 20 years largely because of the determination and hard work of our Nation's many organic producers. To put this issue in perspective, the amount of organic cropland in the United States has more than doubled in the 1990s, and the annual growth rate of the organic industry in the United States has been greater than 20 percent for the past decade. Sales of organic food and beverages accounted for over $9 billion in 2002 and are expected to exceed $20 billion by 2005. The increase in organic production and sales is a reflection of the profitability and high consumer demand for organic food.

While the organic industry would not be where it is today without the efforts of its growers and retailers, Congress has an integral role in ensuring that consumers have confidence in the products they are buying. Many of my colleagues remember that the U.S. Department of Agriculture helped to usher in a new era for the organic industry with the implementation last November of the first ever national organic standards. With these new standards, farmers in my home State of Maine were able to sell their organic products to retailers in other States with confidence that the organic label will be recognized by consumers in those States. Consumers now know that when they buy an organically labeled product, it was produced in a healthy and environmentally friendly manner.

From what I heard from farmers in my State over the August recess, I can say that the organic rule has been a tremendous benefit to growers both small and large. In Maine, organic agriculture accounts for an important part of the State's $673 million agriculture-related sales. Several blueberry growers in Downeast Maine have recognized the profitability of organic agriculture and have begun to add organic production. Consumer interest in organic milk has led many dairy farmers to switch to organic milk. Six years ago, only one dairy farmer in Maine produced organic milk—now, such milk accounts for over 10 percent of the State's entire dairy production. These are but a few examples of the success of organic agriculture from my State, demonstrating the enormous potential for growth in the organic sector.

Here in Congress, we must continue to help the organic agriculture sector grow. The organic community celebrated the implementation of the national organic rule; however, the continuing success of this rule will depend on Congress' commitment to fund the USDA's National Organic Program. The modest increase for the National Organic Program in the Senate Fiscal Year 2004 Agriculture appropriations bill is a step in the right direction. Likewise, investments in organic research and development through the Organic Production and Marketing Data Collection will help the organic industry move forward by leaps and bounds.

With organic producers visiting from nearly all 50 States, I hope many of my colleagues will have an opportunity to hear from an organic farmer, rancher, or retailer in their home State. Again, I extend my welcome to all those involved in the national organic conference.

ADDITIONAL STATEMENTS

65TH ANNIVERSARY OF INTERIOR'S INDIAN CRAFT SHOP

• Mr. CAMPBELL. Madam President, as a Native American, artist and craftsman, it is an honor for me to speak today in recognition of the 65th anniversary of the Indian Arts and Crafts Shop at the U.S. Department of the Interior.

Established with the help of the Indian Arts and Crafts Board, the Crafts Room first opened its doors in 1938 and has served as an outlet for Native American artists to market their excellent products to the world.

With the help of the Indian Crafts Shop, today's market for Indian-made goods is roughly $1 billion, with thousands of Native American artists creating authentic arts and crafts conveying the beauty of the Native culture to the peoples of the world.

Native art and crafts not only employs thousands of Indian country's best and most prolific artists, but educates non-Native people about the ways and culture of the Native American population.

Throughout its history, the Indian Crafts Shop has showcased Native art that represents generations of Native people, their culture and heritage from every region of the United States. The shop assists in efforts to protect Indian cultural heritage and strives to ensure that Native-made goods are recognized for their artistic tradition and fine craftsmanship.

The Indian Craft Shop has 65 successful years behind it, and I look forward to its continuing success in supporting Native artists and people nationwide.•

IN REMEMBRANCE OF JOE GARTON

• Mr. FEINGOLD. Madam President, I rise today to pay tribute to Joe Garton, a champion of the arts in the State of Wisconsin, and a dear friend who passed away August 2.

Joseph Walter Garton was born August 17, 1946, in Sheboygan, WI. After attending Amherst College in Massachusetts, serving as a VISTA volunteer in the Harlem section of New York City, receiving his doctorate from NYU in film studies, and marrying his beloved wife, Dierdre, Joe returned to Wisconsin to teach film history.

In 1996, Joe demonstrated his love for the arts by rescuing and restoring Ten Chimneys, the one-time summer home of Broadway legends Alfred Lunt and Lynn Fontanne. Thanks to Joe's efforts, Ten Chimneys is now a national center for theater studies and a tourist destination for fans and artists from all over the world.

A husband, father, son, and brother—and soon to be grandfather—Joe Garton was an extraordinary man and I am lucky to have called him a good friend. In addition to restoring Ten Chimneys, Joe also transformed an 1856 farmhouse into Quigley Grove, a popular restaurant in Fitchburg, WI. Our community and our State have been greatly enriched by his work.

His love for the arts and architecture was only surpassed by his love for and dedication to his family. Their kindness to me over the past 20 years means a great deal to me personally. Both through his work and through his family, Joe leaves behind a tremendous legacy.

Joe was my friend and someone who was always there for me over the years. I am forever indebted to him. Mary and I will always remember Joe and have a particularly fond recollection of an incredible evening at Ten Chimneys several years ago. At a very challenging time in my career, Joe and Dierdre welcomed us with tremendous hospitality and Mary and I remain extremely grateful.

He was taken from us too soon, and we will always treasure his memory and his dedication to his family and friends. Joe, Dierdre and their entire family are in our thoughts and prayers.•

RECOGNIZING THE LIFELONG SERVICE OF MARTIN BEGIEN

• Mr. BOND. Madam President, I join with friends and family in recognizing the efforts and dedication of Mr. Martin Begien, an outstanding American, and a true patriot to American democracy on what will be his 75th birthday, November 15. Martin, since joining the Republican Party, has helped bring quality candidates to run for political office and in turn continues to participate in the American political process. Martin's successful political participation is indicative of his career as a whole.

Martin Begien's impressive educational career began at the exclusive Andover Academy in Andover, MA, and Yale University in New Haven, CT, and continued with his service in the U.S. Army. Martin went on to maintain an illustrious professional career that ultimately lead to his serving as senior partner at David L. Babson and Company, Inc., one of the oldest investment counseling firms in the United States.

Martin has always combined exceptional professional and organizational skills, untiring initiative, and unlimited compassion to accomplish both major, and simply thoughtful, tasks for the Republican Party. Martin has always generously given of himself a genuine love and concern of others without hesitation or expectation of reward. Martin's endearing attitude and hard work earned him the respect and admiration of Mitt Romney, Governor of the State of Massachusetts.

I stand with Martin's wife Kate, his friends and family, and all those whose lives are richer for having known Martin Begien to commemorate and recognize his 75th birthday on the 15th day of November, 2003.•

HONORING THE IDAHO MINING ASSOCIATION ON ITS 100TH ANNIVERSARY

• Mr. CRAPO. Madam President, I offer congratulations to the Idaho Mining Association on its 100th anniversary. The mining industry has long been an economic force in Idaho, which is nicknamed the Gem State, and the association has been a strong advocate for that industry.

The association held its first meeting in the summer of 1903, and was first known as the Idaho Prospectors and Operators. The occasion of the meeting was an urgent invitation from the Governor of Missouri to Idaho Governor Frank R. Gooding that Idaho furnish a display of mineral products for the 1904 International Exposition in St. Louis. Ten years later, this group changed its name to the Idaho Mining Association and has operated continuously since.

Early records of the group clearly state its original purpose:

> It is imperative that there be a better understanding on the part of the people generally, and of those who enact and administer our laws particularly; that the economy of our nation, the happiness and welfare of our people, the safety of the Republic itself depend upon a healthy mineral industry.

The importance of minerals in our lives and to our economy has not diminished over the past century. The price and availability of raw materials are critically important to our manufacturing industries. The computer, telecommunication and electronic industries that represent an ever-growing share of our economic output, and dominate our daily lives, wouldn't be possible without the vast array of minerals produced in this country. We even rely on minerals to produce the new equipment that enhances the productivity of the nation's workers. It remains essential that we, as "those who enact and administer our laws," continue to recognize the importance of our domestic mining industry.

Once again, my congratulations to the Idaho Mining Association and its members as they mark this important milestone. I send my very best wishes for its continued success in serving the best interests of the State of Idaho and the nation.●

NATIONAL ASSISTED LIVING WEEK

● Mr. WYDEN. Madam President, this year, National Assisted Living Week begins September 7 and continues through September 13. Since 1995, the National Center for Assisted Living has sponsored National Assisted Living Week to emphasize the importance of the options assisted living provides seniors and persons with disabilities.

Assisted living is a long-term care alternative for seniors who need more assistance than is available in general retirement communities but do not require the heavy medical and nursing care provided by nursing homes.

This year's theme for National Assisted Living Week is "Sharing Life's Treasures" which highlights the need for all of us, no matter what our age, to take time to appreciate the treasures we find along life's pathway.

My State, Oregon, helped to pioneer the assisted-living concept because it could help promote security, dignity, and independence for seniors. While assisted living varies from State to State, it remains a consumer-oriented option for long-term care needs, and highlights the need to support options for long-term care as our population ages.●

TRIBUTE TO PAUL WALLACE-BRODEUR

● Mr. JEFFORDS. Madam President, I rise today to pay tribute to Paul Wallace-Brodeur, an outstanding Vermonter and a national leader in the area of health care reform. As he prepares to retire from his position as Director of the Office of Vermont Health Access in Waterbury, VT, it is important to reflect on how much one person can accomplish in serving others.

Paul has been on the forefront of significant and timely health care concerns. As Medicaid director, which is Vermont's second largest insurance program, Paul has ensured service for 130,000 people and helped Vermont obtain the distinction of having one of the lowest uninsured rates in the country. Under Paul's leadership, Vermont broadened its eligibility standards and was one of the first States in the country to expand Medicaid services to children under the Dr. Dynasaur program.

Paul began his career in Vermont as a social worker at the Brandon Training School. He quickly rose to leadership positions as a direct provider and then consultant in the field of mental health, followed by his position as the Chief Social Worker for the Vermont State Hospital. It came as no surprise to those of us who know Paul that he was selected in the mid-'80s to lead the State of Vermont's efforts in creating universal access to health care as the Executive Director of the Vermont Health Policy Council and through his work for the Vermont Health Care Authority. Also during the mid-'80s he spearheaded the creation of the Vermont Ethics Network, an organization dedicated to increasing the understanding of ethical issues, values and choices in health and health care.

Over the course of 40 years, Paul has been involved with virtually every health policy initiative in Vermont, particularly the State's efforts to expand health coverage. He is personally responsible for authoring Vermont's 1115 waiver, which over the years, and with many amendments, has provided more expansive and flexible Medicaid services to Vermonters. In his quiet unassuming way, Paul is an integral part of the health care delivery system in Vermont and has gained recognition for being a national health policy leader and mentor. He has always brought a steadfast commitment and institutional knowledge to solving the problem at hand while maintaining a vision for improving Vermont's health care system.

Paul's unwavering commitment toward improving the health status of Vermont and its citizens serves as a testament to us all. Vermont is truly indebted to him. His deep commitment to the citizens of the Green Mountain State has endeared him to us. He has our best wishes for the future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and two withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1533. An act to amend the securities laws to permit church pension plans to be invested in collective trusts.

H.R. 1572. An act to designate the United States courthouse located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow United States Courthouse".

H.R. 1668. An act to designate the United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, as the "Ed Edmondson United States Courthouse".

H.R. 2309. An act to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the "Stephen Horn Post Office Building".

The message also announced that the House has agreed to the amendment of the Senate to the resolution (H. Con. Res. 259) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message further announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. Wu of Oregon.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated.

H.R. 1533. An act to amend the securities laws to permit church pension plans to be invested in collective trusts; to the Committee on Banking, Housing, and Urban Affairs.

H. R. 1572. An act to designate the historic Federal District Court Building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow Federal Building"; to the Committee on Environment and Public Works.

H.R. 2309. An act to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Signal Hill, California, as the "J. Stephen Horn Post Office Building"; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3740. A communication from the Members of the Independent Commission on Reform of the United States Olympic Committee, transferring, the Commission's report; to the Committee on Commerce, Science, and Transportation.

EC-3751. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program—Revised Final Standards for the Acceleration Simulation Mode Exhaust Emissions Test" (FRL#7544-7) received on August 22, 2003; to the Committee on Environment and Public Works.

EC–3752. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Control of Emissions from Existing Commercial/Industrial Solid Waste Incinerator Units; Arizona; Nevada" (FRL#7534-8) received on August 22, 2003; to the Committee on Environment and Public Works.

EC–3753. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New Mexico: Incorporation by Reference of Approved State Hazardous Waste Management Program" (FRL#7479-5) received on August 22, 2003; to the Committee on Environment and Public Works.

EC–3754. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oklahoma: Incorporation by Reference of Approved State Hazardous Waste Management Program" (FRL#7479-3) received on August 22, 2003; to the Committee on Environment and Public Works.

EC–3755. A communication from the Executive Vice President, River System Operations and Environment, Tennessee Valley Authority, transmitting, pursuant to law, the report of a rule entitled "Approval of Construction in the Tennessee River System; Regulations of Structures; Residential Use on TVA-controlled Residential Access Shoreland and TVA Flowage Easement Shoreland" (RIN3316-AA19) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3756. A communication from the Chairman, Nuclear Regulatory Commission, transferring, a report of an organizational change in the Commission's safeguards and security programs; to the Committee on Environment and Public Works.

EC–3757. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Operating Permits Program" (FRL#7552-9) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3758. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Lime Products Manufacturing Plants" (FRL#7551-7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3759. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Kern County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District" (FRL#7548) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3760. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL#7546-5) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3761. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining" (FRL#7551-4) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3762. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)" (FRL#7551-6) received on September 2 , 2003; to the Committee on Environment and Public Works.

EC–3763. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "South Carolina: Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7550-3) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3764. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing" (FRL#7551-3) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3765. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing" (FRL#7551-2) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3766. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the Follansbee PM10 Nonattainment Area to Attainment and Approval of the Associate Maintenance Plan" (FRL#7549–1) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3767. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of North Carolina" (FRL#7549–6) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3768. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants Surface Coating of Miscellaneous Metal Parts and Products" (FRL#7549–7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3769. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Site Remediation" (FRL#7549–3) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3770. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Forsyth County, North Carolina; Update to Materials Incorporated by Reference" (FRL#7524–4) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3771. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Ohiol Oxides of Nitrogen Regulations" (FRL#7539–4) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3772. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Visible Emissions and Sulfur Dioxide Regulations" (FRL#7523–7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3773. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to Pittsburgh-Beaver Valley Area Ozone Maintenance Plan" (FRL#7524–9) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3774. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Operating Permits Program; State of Kansas" (FRL#7540–7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3775. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Award of Grants and Cooperative Agreement for the Special Projects and Programs Authorized by the Agency's FY 2003 Appropriations Act" received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3776. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Part 71 Federal Operating Permits Program for California Agricultural Sources, Announcement of a New Deadline For Application Submittal" (FRL#7537–1) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3777. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Reconsideration" received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3778. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Regulation to Prevent and Control Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchangers" (FRL#7525–2) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3779. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Revisions to Florida State Implementation Plan: Transportation Conformity Rule" (FRL#7541–9) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3780. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL#7542–3) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3781. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plan for Designated Facilities and Pollutants: Commonwealth of Kentucky and Jefferson County, Kentucky" (FRL#7542–6) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3782. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Exclusion for Identifying and Listing Hazardous Waste and a Determination Equivalent Treatment; Final Exclusion" (FRL#7541–7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3783. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List" (FRL#7542–7) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3784. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District" (FRL#3784) received on September 2, 2003; to the Committee on Environment and Public Works.

EC–3785. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Standardized NUHOMS –24P, –52B, and –61BT Revisions" (RIN3150–AH26) received on August 26, 2003; to the Committee on Environment and Public Works .

EC–3786. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Adjustment of the Maximum Retrospective Deferred Premium" (RIN3150–AH23) received on August 26, 2003; to the Committee on Environment and Public Works.

EC–3787. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report to Congress on the Fiscal Year 2001 Low Income Home Energy Assistance Program; to the Committee on Health, Education, Labor, and Pensions.

EC–3788. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Public Affairs, received on August 11, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3789. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, the report of a rule entitled "Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards" (RIN1219–AA87) received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3790. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transferring, pursuant to law, the Department's revised Commercial Activities Inventory for the Year 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–3791. A communication from the Assistant General Counsel, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Indian Education Discretionary Grant Program" (RIN1810–AA93) received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3792. A communication from the Assistant General Counsel, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Community Technology Centers Program" received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3793. A communication from the Assistant General Counsel, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Community Technology Centers" received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3794. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's revised draft Strategic Plan for Fiscal Years 2004–2009; to the Committee on Health, Education, Labor, and Pensions.

EC–3795. A communication from the Director, Regulations, Policy, and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Obstetrical and Gynecological Devices; Classification of the Breast Lesion Documentation" (Doc. no. 2003P–0301) received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3796. A communication from the Director, Regulations, Policy, and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "New Drug and Biological Drug Products; Evidence Needed to Demonstrate Effectiveness of New Drugs When Human Efficacy Studies Are Not Ethical or Feasible" (RIN0910–AC05) received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3797. A communication from the Director, Regulations, Policy, and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Soluble Dietary Fiber From Certain Foods and Coronary Heart Disease" (Doc. no. 2001Q–0313) received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3798. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to Mild Traumatic Brain Injury in the United States; to the Committee on Health, Education, Labor, and Pensions.

EC–3799. A communication from the Assistant Secretary for Civil Rights, Department of Education, transmitting, pursuant to law, the Office of Civil Rights' Annual Report for Fiscal Years 2001 and 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–3800. A communication from the White House Liaison, Office of Civil Rights, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3801. A communication from the Secretary of Health and Human Services, transmitting, a letter containing the Secretary's recommendation for the applicable percentage increase in Medicare's hospital inpatient prospective payment system rates for fiscal year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3802. A communication from the White House Liaison, Office of Management, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, received on September 2, 2003 ; to the Committee on Health, Education, Labor, and Pensions.

EC–3803. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary of Labor, received on September 2, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3804. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, the Commission's Annual Report on the Federal Work Force for fiscal year 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–3805. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on August 22, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–3806. A communication from the Acting Chairman, Merit Systems Protection Board, transmitting, a report of proposed legislation relative to reauthorization of the Board; to the Committee on Governmental Affairs.

EC–3807. A communication from the Chairman and General Counsel, National Labor

Relations Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–3808. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the 2003 inventories of commercial activities and inherently governmental activities performed by employees of the Endowment; to the Committee on Governmental Affairs.

EC–3809. A communication from the Trade Representative, Executive Office of the President, transmitting, pursuant to law, the Representative's FY 2004 Performance Plan and FY 2002 Annual Performance Report; to the Committee on Governmental Affairs.

EC–3810. A communication from the Secretary of Transportation , transmitting, pursuant to law, the Department of Transportation's Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period ending March 31, 2003; to the Committee on Governmental Affairs.

EC–3811. A communication from the Administrator, General Services Administration, transmitting, a copy of lease prospectuses in support of the General Services Administration's Fiscal Year 2004 Capital Investment and Leasing Program; to the Committee on Governmental Affairs.

EC–3812. A communication from the Chair, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31 , 2003; to the Committee on Governmental Affairs.

EC–3813. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, the Board's Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–3814. A communication from the Vice President of the United States, transmitting, an alternative plan for across-the-board and locality pay increases payable to civilian Federal employees; to the Committee on Governmental Affairs.

EC–3815. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the Advisory Neighborhood Commission; to the Committee on Governmental Affairs .

EC–3816. A communication from the Director, Office of Personnel Management, transmitting, a report relative to the Federal student loan payment program; to the Committee on Governmental Affairs.

EC–3817. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the Board's Office of Inspector General's inventory of inherently governmental and commercial activities; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DEWINE, from the Committee on Appropriations, without amendment:

S. 1583. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes (Rept. No. 108–142).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Glen E. Conrad, of Virginia, to be United States District Judge for the Western District of Virginia.

Kim R. Gibson, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Larry Alan Burns, of California, to be United States District Judge for the Southern District of California.

Dana Makoto Sabraw, of California, to be United States District Judge for the Southern District of California.

Michael W. Mosman, of Oregon, to be United States District Judge for the District of Oregon.

Henry F. Floyd, of South Carolina, to be United States District Judge for the District of South Carolina.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1582. A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DEWINE:

S. 1583. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; from the Committee on Appropriations; placed on the calendar.

ADDITIONAL COSPONSORS

S. 171

At the request of Mr. DAYTON, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 300

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 386

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 386, a bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes.

S. 451

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 460

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 491

At the request of Mr. REID, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 514

At the request of Mr. BUNNING, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 514, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 629

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 629, a bill to amend the Internal Revenue Code of 1986 to assist individuals who have lost their 401(k) savings to make additional retirement savings through individual retirement account contributions, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Virginia (Mr.

WARNER) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1023

At the request of Mr. HATCH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1023, a bill to increase the annual salaries of justices and judges of the United States.

S. 1172

At the request of Mr. FRIST, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services , in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1245

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1252

At the request of Mr. DAYTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1252, a bill to provide benefits to domestic partners of Federal employees.

S. 1344

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1344, a bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions, and for other purposes.

S. 1390

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1390, a bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1485

At the request of Mr. KENNEDY, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1497

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1497, a bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes.

S. 1531

At the request of Mr. LEAHY, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1545

At the request of Mr. HATCH, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from New Jersey (Mr. CORZINE), the Senator from California (Mrs. FEINSTEIN), the Senator from Delaware (Mr. CARPER), the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New York (Mrs. CLINTON) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. RES. 170

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 170, a resolution designating the years 2004 and 2005 as "Years of Foreign Language Study".

S. RES. 210

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Res. 210, a resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month".

S. RES. 212

At the request of Mrs. FEINSTEIN, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. Res. 212, a resolution welcoming His Holiness the Fourteenth Dalai Lama and recognizing his commitment to non-violence, human rights, freedom, and democracy.

AMENDMENT NO. 1552

At the request of Ms. MIKULSKI, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nebraska (Mr. NELSON), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. PRYOR) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 1552 proposed to H.R. 2660, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1556. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1557. Mr. NELSON of Florida proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra.

SA 1558. Mr. KOHL proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra.

SA 1559. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. DODD, Mr. LEAHY, Mr. JEFFORDS, Mr. BINGAMAN, and Mr. JOHNSON) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra.

SA 1560. Mr. DEWINE (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1561. Mr. DeWine (for himself and Mrs. Clinton) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1562. Mr. Dodd (for himself, Mr. DeWine, Mr. Kennedy, Mrs. Lincoln, and Ms. Landrieu) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1563. Mr. Bingaman (for himself, Mr. Reid, and Mrs. Murray) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1564. Mr. Coleman (for himself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1565. Mrs. Clinton submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1566. Mr. Kennedy (for himself, Ms. Collins, Mr. Dodd, Mr. Reed, Mr. Bingaman, Mrs. Murray, Mr. Kerry, Mr. Lieberman, Mr. Edwards, Mr. Pryor, Mr. Corzine, Ms. Stabenow, Mr. Akaka, Mr. Lautenberg, Mr. Schumer, Mr. Jeffords, and Mr. Harkin) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1567. Mr. Conrad (for himself, Mr. Roberts, and Mr. Crapo) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1568. Mr. Daschle (for himself, Ms. Collins, Mr. Conrad, Mr. Dorgan, Mr. Dodd, Mr. Baucus, Mr. Pryor, Mr. Bingaman, Mrs. Lincoln, Mr. Johnson, Mr. Kerry, and Mr. Nelson of Nebraska) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1569. Mrs. Boxer submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1570. Mr. DeWine submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1571. Mr. DeWine submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1572. Mr. Dodd (for himself, Mr. Hagel, Mr. Jeffords, Ms. Collins, Mrs. Murray, Mr. Dorgan, Mr. Bingaman, Mr. Kerry, Ms. Mikulski, Mr. Pryor, Mr. Coleman, and Ms. Stabenow) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1573. Ms. Mikulski submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1574. Ms. Cantwell submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1575. Mr. Harkin (for himself, Mrs. Clinton, Mr. Corzine, Mr. Kerry, Mr. Bingaman, Mrs. Murray, and Ms. Stabenow) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1576. Mr. Edwards submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1577. Mrs. Feinstein submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1578. Mr. DeWine (for himself, Mr. Alexander, Ms. Stabenow, Mr. Grassley, and Mr. Voinovich) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra.

SA 1579. Mrs. Feinstein submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1556. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, line 16, strike "$351,295,000" and insert "$301,197,000".

On page 63, line 2, strike "$1,188,226,000, of which $1,025,292,000" and insert "$1,238,324,000, of which $1,073,000,000".

On page 63, line 7, strike "$59,610,000" and insert "$62,000,000".

SA 1557. Mr. NELSON of Florida proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. ____. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) Concierge care.—In this section, the term "concierge care" means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) Report.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SA 1558. Mr. KOHL proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

Sec. ____. In addition to any amounts otherwise appropriated under this Act under the heading of Administration on Aging, there are appropriated an additional $1,000,000: *Provided*, That in addition to the amounts already made available to carry out the ombudsman program under chapter 2 of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.), there are made available an additional $1,000,000.

SA 1559. Mrs. MURRAY (for herself, Mr. Kennedy, Mr. Dodd, Mr. Leahy, Mr. Jeffords, Mr. Bingaman, and Mr. Johnson) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

In the matter under the heading "Training and Employment Services" under the heading "Employment and Training Administration" in title I, add at the end the following:

Subject to the following sentence, for necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998, $801,000,000, of which—

(1) $100,000,000 is available to carry out activities described in section 132(a)(1) of that Act (relating to adult employment and training activities);

(2) $159,000,000 is available to carry out activities described in subparagraphs (A) and (B) of section 132(a)(2) of that Act (relating to dislocated worker employment and training activities and other activities for dislocated workers);

(3) $99,000,000 is available to carry out chapter 4 of subtitle B of title I of that Act (relating to youth activities);

(4) $250,000,000 is available to carry out section 169 of that Act (relating to youth opportunity grants);

(5) $23,000,000 is available to carry out section 167 of that Act (relating to migrant and seasonal farmworker programs);

(6) $20,000,000 is available to carry out section 166 of that Act (relating to Native American programs); and

(7) $150,000,000 is available for the acquisition and improvement of one-stop center infrastructure, including acquisition of real estate, payment of rent or utilities, improvement of technology, and staff development.

The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,696,199,000 and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,982,301,000: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $370,000,000 shall not be available for obligation until September 30, 2004.

SA 1560. Mr. DEWINE (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . (a) IN GENERAL.—To provide funding for poison control centers under the Poison Control Enhancement and Awareness Act (42 U.S.C. 14801 et seq.), there are appropriated a total of $27,600,000, including amounts otherwise made available in this Act for such centers.

(b) OFFSET.—Amounts appropriated under title III under the heading "Program Administration" for building alterations and related expenses for relocation shall be reduced by $5,300,000.

SA 1561. Mr. DEWINE (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . (a) IN GENERAL.—To carry out programs to support graduate medical education programs in children's hospitals under section 340E of the Public Health Service Act (42 U.S.C. 256e et seq.), there are appropriated a total of $305,000,000, including amounts otherwise made available in this Act for such programs.

(b) OFFSET.—Amounts appropriated under title III under the heading "Program Administration" shall be reduced by $15,000,000.

SA 1562. Mr. DODD (for himself, Mr. DEWINE, Mr. KENNEDY, Mrs. LINCOLN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for the support of the improved newborn and child screening for heritable disorders program authorized under section 1109 of the Public Health Service Act (42 U.S.C. 300b–8), there are appropriated an additional $10,000,000 to carry out such program: *Provided*, That of the funds appropriated under this Act for the National Institutes of Health, $19,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,905,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,773,301,000.

SA 1563. Mr. BINGAMAN (for himself, Mr. REID, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. 306. (a) In addition to any amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, an additional $20,000,000 to carry out part H of title I of the Elementary and Secondary Education Act of 1965 (school dropout prevention).

(b) Of the funds appropriated in this Act for the National Institutes of Health, $4,000,000 shall not be available for obligation until September 30, 2004.

(c) The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,915,199,000 and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,763,301,000.

SA 1564. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 12, strike "$14,174,115,000" and insert "$14,712,115,000".

SA 1565. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 36, line 16, strike the period at the end and insert ": *Provided further*, That the amount $6,252,256,000 under the heading 'Health Resources and Services' shall be deemed to be $6,272,256,000 of which the additional $20,000,000 shall be available for carrying out sections 765 and 767 of the Public Health Service Act: *Provided further*, That the amount $4,588,671,000 under the heading 'Disease Control, Research, and Training' shall be deemed to be $4,631,871,000: *Provided further*, That the amount $1,726,846,000 under the heading 'Public Health and Social Services Emergency Fund' shall be deemed to be $1,756,846,000: *Provided further*, That the amount $1,116,156,000 under the heading 'Public Health and Social Services Emergency Fund' shall be deemed to be $1,146,156,000 *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,988,399,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,690,101,000: *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, $93,200,000 shall not be available for obligation until September 30, 2004.

SA 1566. Mr. KENNEDY (for himself, Ms. COLLINS, Mr. DODD, Mr. REED, Mr. BINGAMAN, Mrs. MURRAY, Mr. KERRY, Mr. LIEBERMAN, Mr. EDWARDS, Mr. PRYOR, Mr. CORZINE, Ms. STABENOW, Mr. AKAKA, Mr. LAUTENBERG, Mr. SCHUMER, Mr. JEFFORDS, and Mr. HARKIN) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On the appropriate page and line, insert before the period the following: ": *Provided further*, That of the funds appropriate in this Act for the National Institutes of Health, $1,470,000,000 shall not be available for obligation until September 30, 1994".

On page 76, between lines 4 and 5, insert the following:

SEC. . (a) INCREASE IN FUNDING.—In addition to any amounts otherwise appropriated under this Act for Federal Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $1,688,000,000 for such grants. In addition to any amounts otherwise appropriated under this Act for Federal Supplemental Education Opportunity Grants under subpart 3 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $115,000,000 for such grants. In addition to any amounts otherwise appropriated under this Act for Federal Work-Study Programs under part C of title IV of the Higher Education Act of 1965, there are appropriated an additional $157,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for the Leveraging Educational Assistance Partnership Program under subpart 4 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $33,445,000 for such program. In addition to any amounts otherwise appropriated under this Act for Federal Trio programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $160,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for Gear Up programs under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, there are appropriated an additional $57,000,000 for such programs. In addition to any amounts otherwise appropriated under this Act for loan cancellations under the Federal Perkins Loans program under part E of title IV of the Higher Education Act of 1965, there are appropriated an additional $33,000,000 for such loan cancellations. In addition to any amounts otherwise appropriated under this Act for the Graduate Assistance in Areas of National Need program under subpart 2 of part A of title VII of the Higher Education Act of 1965, there are appropriated an additional $13,200,000 for such program. In addition to any amounts otherwise appropriated under this Act for the Thurgood Marshall Legal Educational Opportunity Program under subpart 3 of part A of title VII of the Higher Education Act of 1965, there are appropriated an additional $7,000,000 for such program. The amount $4,050 under the heading 'Student Financial Assistance' in this title shall be deemed to be $4,500. The amount $9,935,000 under the heading 'Higher Education' in this title shall be deemed to be $15,000,000.

(b) BUDGETARY AUTHORITY.—The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $9,151,909,000. The amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $4,526,591,000.

SA 1567. Mr. CONRAD (for himself, Mr. ROBERTS, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, line 2, insert before the period the following: ": *Provided further*, That $5,000,000 shall be made available to carry out the rural emergency medical service training and equipment assistance program under section 330J of the Public Health Service Act (42 U.S.C. 254c-15)".

SA 1568. Mr. DASCHLE (for himself, Ms. COLLINS, Mr. CONRAD, Mr. DORGAN, Mr. DODD, Mr. BAUCUS, Mr. PRYOR, Mr. BINGAMAN, Mrs. LINCOLN, Mr. JOHNSON, Mr. KERRY, and Mr. NELSON of Nebraska) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act to carry out part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7341 et seq.), there are appropriated an additional $132,347,000 to carry out such part: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $25,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,027,546,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,650,954,000.

SA 1569. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Not later than May 1, 2004, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report concerning the manner in which the Department of Health and Human Services expends Federal funds for research, patient care, and other activities relating to Hansen's Disease. The report shall include—

(1) the amounts provided for each research project;

(2) the amounts provided to each of the 12 treatment centers for each of research, patient care, and other activities;

(3) the per patient expenditure of patient care funds at each of the 12 treatment centers; and

(4) the mortality rates at each of the 12 treatment centers.

SA 1570. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act to carry out mother-to-child HIV transmission prevention activities, there are appropriated an additional $60,000,000 to carry out such activities.

SA 1571. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act to carry out mother-to-child HIV transmission prevention activities, there are appropriated an additional $60,000,000 to carry out such activities. Amounts appropriated under this section shall be designated as emergency spending pursuant to section 502(c) of House Concurrent Resolution 95 (108th Congress).

SA 1572. Mr. DODD (for himself, Mr. HAGEL, Mr. JEFFORDS, Ms. COLLINS, Mrs. MURRAY, Mr. DORGAN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. PRYOR, Mr. COLEMAN, and Ms. STABENOW) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC. . In addition to any amounts otherwise appropriated under this Act for grants to States under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), there are appropriated an additional $1,200,000,000 for such grants: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $84,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $8,095,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,583,301,000.

SA 1573. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC. . STUDIES CONCERNING MAMMOGRAPHY STANDARDS.

(a) STUDY BY GAO.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the program established under the Mammography Quality Standards Act of 1992 (section 354 of the Public Health Service Act (42 U.S.C. 263b)) (referred to in this section as the "MQSA") to—

(A) evaluate the demonstration program regarding frequency of inspections authorized under section 354(g) of the Public Health Service Act (42 U.S.C. 263b(g)), including the effect of the program on compliance with the MQSA;

(B) evaluate the factors that contributed to the closing of the approximately 700 mammography facilities nationwide since 2001, whether those closings were due to consolidation or were a true reduction in mammography availability, explore the relationship between certified units and facility capacity, and evaluate capacity issues, and determine the effect these and other closings have had on the accessibility of mammography services, including for underserved populations, since the April 2002 General Accounting Office report on access to mammography; and

(C) evaluate the role of States in acting as accreditation bodies or certification bodies, or both, in addition to inspection agents under the MQSA, and in acting as accreditation bodies for facilities in other States and determine whether and how these roles affect the system of checks and balances within the MQSA.

(2) REPORT.—Not later than 16 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate

and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report on the study described in paragraph (1).

(b) STUDY BY THE INSTITUTE OF MEDICINE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences for the conduct of a study and the making of recommendations regarding the following:

(A) Ways to improve physicians' interpretations of mammograms, including approaches that could be taken under the MQSA without negatively impacting access to quality mammography.

(B) What changes could be made in the MQSA to improve mammography quality, including additional regulatory requirements that would improve quality, as well as the reduction or modification of regulatory requirements that do not contribute to quality mammography, or are no longer necessary to ensure quality mammography. Such reduction or modification of regulatory requirements and improvements in the efficiency of the program are important to help eliminate disincentives to enter or remain in the field of mammography.

(C) Ways, including incentives, to ensure that sufficient numbers of adequately trained personnel at all levels are recruited and retained to provide quality mammography services.

(D)(i) How data currently collected under the MQSA could be used to improve the quality, interpretation of, and access to mammography.

(ii) Identification of new data points that could be collected to aid in the monitoring and assessment of mammography quality and access.

(E) Other approaches that would improve the quality of and access to mammography services, including approaches to improving provisions under the MQSA.

(F) Steps that should be taken to help make available safe and effective new screening and diagnostic devices and tests for breast cancer.

(2) REPORT.—Not later than 15 months after the date on which the agreement is entered into under paragraph (1), the Institute of Medicine shall complete the study described under such subsection and submit a report to the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

(3) FUNDING.—Of the amounts appropriated under this title to the Office of the Secretary of Health and Human Services for general departmental management, $500,000 shall be made available to carry out the study under this subsection.

SA 1574. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

In the matter under the heading "TRAINING AND EMPLOYMENT SERVICES" under the heading "EMPLOYMENT AND TRAINING ADMINISTRATION" in title I, add at the end the following:

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998, $50,000,000 to carry out activities described in section 132(a)(2)(B) of that Act (relating to dislocated worker employment and training activities and other activities for dislocated workers). There shall be transferred from the account relating to the Department of Labor's Working Capital Fund, $5,000,000 to the account relating to carrying out activities described in section 132(a)(2)(B) of the Workforce Investment Act of 1998 (relating to dislocated worker employment and training activities and other activities for dislocated workers). There shall be transferred from the account relating to the Department of Labor's management cross cut activities, $5,000,000 to the account relating to carrying out activities described in section 132(a)(2)(B) of the Workforce Investment Act of 1998 (relating to dislocated worker employment and training activities and other activities for dislocated workers).

On page 2, line 23, strike "$276,608,000 shall be for activities" and insert "$226,608,000 shall be used with priority given to carry out the amendments made by section 203 of the Trade Adjustment Assistance Reform Act of 2002 and shall be for activities".

SA 1575. Mr. HARKIN (for himself, Mrs. CLINTON, Mr. CORZINE, Mr. KERRY, Mr. BINGAMAN, Mrs. MURRAY, and Ms. STABENOW) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC.   . (a) ADDITIONAL FUNDS.—

(1) IN GENERAL.—In addition to any amounts otherwise appropriated under this Act for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), there are appropriated an additional $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANTS.—The Secretary shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(b) OFFSET.—Of the funds appropriated in this Act for the National Institutes of Health, $352,000,000 shall not be available for obligation until September 30, 2004: *Provided*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,895,199,000, and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,783,301,000.

SA 1576. Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, between lines 14 and 15, insert the following:

SEC.   . In addition to any amounts otherwise appropriated in this Act for programs and activities under the Health Care Safety Net Amendments (Public Law 107-251) and the amendments made by such Act, and for other telehealth programs under section 330 of the Public Health Service Act (42 U.S.C. 254b et seq), there are appropriated an additional $10,000,000 for such programs and activities, including $2,500,000 for a minimum of 10 telehealth resource centers which provide assistance with respect to technical, legal and regulatory, service delivery or other related barriers to the deployment of telehealth technologies, $5,000,000 for network grants, and $2,500,000 for grants to State professional licensing boards to carry out programs under which such licensing boards of various States cooperate to develop and implement State policies that will reduce statutory and regulatory barriers to telemedicine: *Provided*, That $30,000,000 of the amount appropriated under this Act for the National Institutes of Health shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,905,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,773,301,000.

SA 1577. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, between lines 10 and 11, insert the following:

SEC.   . In addition to any amounts otherwise appropriated under this Act for the Federal Trio programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.), there are appropriated not more than

$16,000,000 that shall be used by the Secretary of Education to award grants to Upward Bound, Upbound Math/Science, and McNair grant applicants that submitted applications for grants under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) for fiscal year 2003 that were eligible to receive grants but did not receive grants because the applications were received after the closing date or exceeded the 100 page limit. If the amount appropriated under this section is insufficient to pay the full amounts that all applicants are eligible to receive under this section, the Secretary shall ratably reduce such amounts: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $1,500,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $6,911,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $6,767,301,000.

SA 1578. Mr. DEWINE (for himself, Mr. ALEXANDER, Ms. STABENOW, Mr. GRASSLEY, and Mr. VOINOVICH) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 74, line 1, strike "$409,863.000, of which $13,644.000" and insert "$406,863,000, of which $10,644,000".

On page 76, between lines 11 and 12, insert the following:

SEC. . For necessary expenses for the Underground Railroad Education and Cultural Program, there are appropriated $3,000,000.

SA 1579. Mrs. FEINSTEIN submitted an amendment intended to be proposed to SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

SEC. . (a) STATE ELECTION.—

(1) IN GENERAL.—In lieu of the Federal medical assistance percentage otherwise determined for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (without regard to the application of section 401 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (42 U.S.C. 1396d note)), a State may elect to have the alternative Federal medical assistance percentage determined under subsection (b) apply to the State for purposes of expenditures under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for fiscal years beginning on or after the date of such an election, but only with respect to expenditures under title XIX of such Act that exceed the total amount of expenditures incurred under that title with respect to the State for fiscal year 2003.

(2) IRREVERSIBLE ELECTION.—A State election under paragraph (1) shall be irreversible.

(3) LIMITATION.—A State may not make an election under paragraph (1) before October 1, 2003.

(b) ALTERNATIVE FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

(1) IN GENERAL.—Subject to paragraph (4), the alternative Federal medical assistance percentage determined under this subsection is, with respect to a State and a fiscal year, 100 percent reduced by the product of 0.40 and the ratio of—

(A) the State's economic resources per person in poverty, as defined in paragraph (2); to

(B) the economic resources per person in poverty for all States, as defined in paragraph (3).

(2) STATE'S ECONOMIC RESOURCES PER PERSON IN POVERTY.—For purposes of paragraph (1)(A), except as provided in paragraph (4)(C)(i), with respect to a State, the State's economic resources per person in poverty is the ratio of—

(A) the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; to

(B) the most recent 3-year average of the number of individuals residing in the State whose income is below the official poverty income threshold (as determined by the Secretary of Commerce).

(3) ECONOMIC RESOURCES PER PERSON IN POVERTY FOR ALL STATES.—For purposes of paragraph (1)(B), the economic resources per person in poverty for all States is the ratio of—

(A) the sum of the most recent 3-year averages determined under paragraph (2)(A) for all States; to

(B) the sum of the most recent 3-year averages determined under paragraph (2)(B) for the 50 States and the District of Columbia.

(4) SPECIAL RULES.—

(A) HOLD HARMLESS; CAP ON INCREASES.—Subject to subparagraph (B), with respect to a State making an election under this section, the alternative Federal medical assistance percentage determined for the State for a fiscal year under this subsection—

(i) shall not be less than the Federal medical assistance percentage determined for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) for the fiscal year; and

(ii) only with respect to each of fiscal years 2004 through 2013, shall not exceed—

(I) the Federal medical assistance percentage determined for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) for the preceding fiscal year by more than 1 percent; and

(II) the alternative Federal medical assistance percentage determined for the State under this subsection for the preceding fiscal year by more than 1 percent.

(B) OVERALL CAP.—In no event may the alternative Federal medical assistance percentage determined for a State for a fiscal year exceed 83 percent.

(C) ALASKA; DISTRICT OF COLUMBIA.—

(i) ALASKA.—In the case of Alaska, the State's economic resources per person in poverty is the ratio of—

(I) the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; to

(II) the most recent 3-year average of the number of individuals residing in the State whose income is below the official poverty income threshold (as determined by the Secretary of Commerce), multiplied by 1.05.

(ii) DISTRICT OF COLUMBIA.—The alternative Federal medical assistance percentage for the District of Columbia for any fiscal year is 70 percent.

(c) SCOPE OF APPLICATION.—An election under this section shall apply only for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq., 1397aa et seq.); or

(3) any payments under XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(d) DEFINITION OF STATE.—In this section, the term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Madam President, I would like to announce for the information of the Senate and the public that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources will hold a hearing on September 11, 2003 at 2:30 p.m.

The hearing was originally scheduled to consider S. 432, S. 849, and S. 511. In addition to these bills, the Committee will now consider S. 1582, which would amend the Valles Caldera Preservation Trust Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, D.C. 20510–6150 prior to the hearing date.

For further information, please contact Frank Gladics, Dick Bouts, or Meghan Beal (202–224–7556).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DEWINE. Madam President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 4, 2003 at 9:30 a.m., in open and closed session to receive testimony on the proposed lease of 100 KC–767 aerial refueling tanker aircraft by the U.S. Air Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DEWINE. Madam President, I ask unanimous consent that the Committee on energy and natural resources be authorized to meet during the session of the Senate on Thursday, September 4th at 10:00 a.m. The purpose of this hearing is to receive testimony on the Department on Energy Polygraph Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DEWINE. Madam President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, September 4, 2003, at 10:00 a.m., to hear testimony regarding U.S.-Cuba Economic Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DEWINE. Madam President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 4, 2003, at 9:30 a.m. in Dirksen Room 226.

Agenda

I. Nominations: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit; Larry Alan Burns to be United States District Judge for the Southern District of California; Glen E. Conrad to be United States District Judge for the Western District of Virginia; Henry F. Floyd to be United States District Judge for the District of South Carolina; Kim R. Gibson to be United States District Judge for the Western District of Pennsylvania; Michael W. Mosman to be United States District Judge for the District of Oregon; Dana Makoto Sabraw to be United States District Judge for the Southern District of California; Mauricio J. Tamargo to be Chairman of the Foreign Claims Settlement Commission of the United States.

II. Bills: S.J. Res. 1, A joint resolution proposing an amendment to the constitution of the United States to protect the rights of crime victims [KYL, CHAMBLISS, CORNYN, CRAIG, DEWINE, FEINSTEIN, GRAHAM, GRASSLEY]; S. 1451, Runaway, Homeless, and Missing Children Protection Act [HATCH, LEAHY].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DEWINE. Madam President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 4 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. DEWINE. Madam President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "What is Needed to Defend the Bipartisan Defense of Marriage Act of 1996," on Thursday, September 4, 2003, at 2:00 p.m. in SD226.

Witness List

Panel I: Rev. Dr. Ray Alexander Hammond II, Pastor, Bethel AME Church, Boston, MA; Mrs. Maggie Gallagher, President, Institute for Marriage and Public Policy, New York, NY; Mr. Gregory S. Coleman, Esq., Weil Gotshal & Manges LLP, Former Solicitor General, State of Texas, Austin, TX; Mr. Michael P. Farris, Esq., Chairman & General Counsel, Home School Legal Defense Association, President and Professor of Government, Patrick Henry College, Purcellville, VA; Prof. Dale Carpenter, Associate Professor of Law, University of Minnesota Law School, Minneapolis, MN; Mr. Keith Bradkowski, San Francisco, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DEWINE. Madam President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on September 4, 2003, at 3:30 pm on a new kind of science.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Madam President, I ask unanimous consent that Dan Crimmins, a fellow on my staff, be granted floor privileges during our consideration of the fiscal year 2004 Labor-HHS-Education appropriations bill.

ORDERS FOR FRIDAY, SEPTEMBER 5, 2003

Mr. SESSIONS. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:15 a.m., Friday, September 5. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired.

I assume we will still be able to have a prayer and pledge in this body and that the courts will not have struck it down sometime in the interim.

I ask unanimous consent that the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill, with the time until 9:30 a.m. equally divided between the two bill managers or their designees; provided that at 9:30 a.m. the Senate proceed to a vote in relation to the Clinton amendment No. 1565, to be immediately followed by a vote in relation to the Harkin amendment No. 1575; provided further that no amendments be in order to either amendment prior to the vote, and there be 5 minutes for debate equally divided in the usual form prior to the second vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, I say through the Chair to the distinguished acting leader that as of this evening we have worked now for 2 days to come up with a finite list of amendments on our side. My friend, the manager of the bill, the Senator from Pennsylvania, Mr. SPECTER, has asked me about this. If he has asked me once, he has asked me 15 times. We came up with a list. And now tonight we can't get approval from the majority that this is a finite list. I really do not understand that. I hope it is just some clerical problem or some Senator who maybe couldn't be contacted. But I hope after all we have been through that we would have an agreement tomorrow on a finite list of amendments on this most important bill.

I say that we are trying to help. We understand. I spoke to the two leaders today. As soon as we complete this bill, we will go to the energy and water appropriations bill, which is an extremely important bill. It is a $25 billion bill which is all nondiscretionary money. It is money to fund the nuclear weapons program in addition to many other very important programs that are important around our country, including the Bureau of Reclamation, the Corps of Engineers, and other multibillion-dollar programs.

I hope we can move forward and conclude this legislation. It seems rather strange, as far as I am concerned, that the minority is talking about moving an appropriations bill, but that is the way it is.

We have said all week that we have one issue that we had to vote on next week for obvious reasons. We have to have four Democratic Senators who are running for President. We want to make sure they are all here. That has been recognized by Senator SPECTER and by the majority leader. We had a tentative time set up to do that.

I hope before we adjourn tomorrow that we can get the agreement that has been prepared by both staffs. I think it would move toward concluding this legislation. But also I think it sets the proper tone for what is going to be a most difficult remaining legislative session this year.

I have no objection to the request by the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I note that Senator SPECTER certainly has been working our side to get that agreement. Without dispute, there will certainly be far fewer amendments pursued to vote on from the Democratic side. But that is all right. I know the Senator is close to having that done. I thank the Senator for working his side.

PROGRAM

Mr. SESSIONS. Madam President, for the information of all Senators, tomorrow the Senate will resume debate on the Labor-HHS-Education appropriations bill. At approximately 9:30 a.m., the Senate will begin two back-to-back rollcall votes. The first vote will be in relation to the Clinton amendment on bioterrorism workforce, which will be immediately followed by a vote in relation to the Harkin amendment on school renovation. Following those votes, Members are encouraged to remain in the Chamber to offer and debate their amendments. The chairman and ranking member will be here to accommodate those Members who are available to offer amendments tomorrow.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. SESSIONS. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:20 p.m., adjourned until Friday, September 5, 2003, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 4, 2003:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

STEPHEN W. HUMPHREY, 0921
DAVID B. ROYAL, 7726
RANDY J. YOVANOVICH, 2888

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

NELSON *ARROYO, 1905
KENNETH R. *BEALE, 7748
DONNETTE A. *BOYD, 8096
BILL *BURRELL, 1787
HENRY E. *CLOSE III, 1136
MARK A. *CRUMPTON, 0206
MICHAEL L. *DANIEL, 8209
SHANE C. *GASTER, 7975
GLENN A. *HAWKINS, 2846
KENNETH M. *JENKINS, 3882
GASTON L. *JONES JR., 6382
DAVID L. *MANSBERGER, 1866
SHON *NEYLAND, 7223
MICHAEL S. *RASH, 6232
WARREN K. *ROBINSON, 0895
SCOTT L. *RUMMAGE, 9744
PAUL D. *SUTTER, 9782

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JAMES J. *BALDOCK IV, 6883
WENDY L. BARNES, 5355
DAVID M. *BERTHE, 7590
JOHN R. *BROOKS, 8724
KENNETH S. *BROWN, 0580
RICHARD T. *BROYER, 0180
SHELLI R. *CANNONDEKREEK, 1400
MELANIE C. *CARINO, 4873
MELISSA L. *CHECOTAH, 4151
JASON D. *EITUTIS, 0516
PATRICIA D. *FOWLER, 4572
SABINA C. *GARRETT, 0478
DOUGLAS A. *GIMLICH, 8010
JOHN F. *GINNITY JR., 3693
JERRY A. *HARVEY, 4694
RICHARD T. *HAWK, 6419
JEFFREY G. HENDERSON, 2937
KEITH A. *HIGLEY, 3779
JOSEPH G. D. *IBANEZ, 6468
RANDALL C. LAMBERT, 3785
GENE A. *LONG, 4025
CAMILLE R. *LOONEY, 0238
PATRICK A. *MARTINEZ, 8185
RICHARD L. *MAY II, 2555
MARK R. *MEERSMAN, 6996
JOSELITO C. *MENESES, 4711
SEAN P. *MURPHY, 3324
MICHAEL A. *NIELSEN, 6219
MICHAEL C. *ORR, 4805
ROBERT M. *PAZ, 5085
KATHY *PFLANZ, 5306
KEVIN S. *SMITH, 8821
RICHARD K. *SMITH, 3658
SCOT S. SPANN, 2770
MARVIN W. *TODD, 3053
KEVIN J. WATSON, 5021
THOMAS E. *WILLIFORD, 3641
BRIAN K. *WYRICK, 5462

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

KIMBERLY L. *ARNAO, 0971
BRIAN L. *BENGS, 1045
SCOTT D. *BOEHNE, 8977
JANE E. *BOOMER, 8454
THERESA A. *BRUNO, 4535
JOSHUA T. *BURGESS, 5324
THOMAS E. *BYRON, 6634
JOHN A. CARR, 7048
OLGA M. *CORNELL, 5481
DOUGLAS F. *CRABTREE, 3536
RICHARD L. *DASHIELL, 0686
JOSEPH F. *DENE, 4575
CHAD L. *DIEDERICH, 0445
PATRICK D. *DYSON, 8961
GINA M. *EAKER, 9486
JAMES S. *FLANDERS, 4290
MICHAEL J. *FREYERMUTH, 3910
GLEN L. *FUNKHOUSER JR., 8879
STEPHEN P. *GANTER, 0362
ROBERT M. *GERLEMAN, 5593
JOHN E. *GILLILAND, 4005
EDWARD D. *GRAY, 1432
MOISETTE INTONYA *GREEN, 0698
TOMMY E. GREGORY, 0524
STEVEN J. *GROCKI, 5783
JAMES J. *GROSS, 4683
ROBERT S. *HALL, 1839
KATHLEEN J. HARTMAN, 8724
MARTIN A. *HOFFMAN, 1606
JULIE J. R. *HUYGEN, 8159
JOSEPH S. IMBURGIA, 1392
KIMBERLY M. *JOHNSON, 9347
STEVEN M. *KELSO, 6474
RICHARD H. LADUE JR., 7877
LUCAS J. *LANDRENEAU, 1632
BRADFORD U. *LARSON, 0841
MICHELLE M. *LINDO, 0530
TERESA G. *LOVE, 2930
DEBRA A. LUKER, 5324
ROBERT E. *LUTTRELL III, 8094
JENNIFER KLEIN *MARTWICK, 3501
RICHARD J. V. *MARTWICK, 0953
CHRISTOPHER *MCMAHON, 4862
CAREY A. *MERRILL, 5838
MARK A. *MICCHIO, 1960
SERGIO C. MUNIZ JR., 1782
THANH LAN BICH *NGUYEN, 5577
CHRISTOPHER J. *NOWICKI, 6647
MYNDA L. G. *OHMAN, 2148
BRUCE D. *PAGE JR., 6152
JOSEPH P. *PIAZZA, 8658
LYNDELL M. *POWELL, 6282
SLOAN M. P. *PYE, 1414
KATHLEEN V. E. *REDER, 1071
ERICA L. *RICHARDSON, 5961
LACHANDRA C. *RICHARDSON, 8629
RICHARD W. *ROCKENBACH II, 7832
ANGELA P. *ROSE, 1637
KENNETH W. *SACHS, 2994
SHELLY W. *SCHOOLS, 4450
STEPHEN E. *SEE, 4257
SHANNON L. *SHERWIN, 8882
KATHRYN E. *STENGELL, 8191
KEVIN P. *STIENS, 8140
BRIAN J. *SUCKMAN, 5411
JOHN G. *TERRA, 5401
JILL M. *THOMAS, 3567
MARK DANIEL *TRUJILLO, 4103
MATTHEW D. *VANDALEN, 8097
SHAWN E. *VANDENBERG, 5497
DANIEL L. *WARNOCK, 1241
DAVID J. *WESTERN, 5424
SANDRA K. *WHITTINGTON, 0187
KEVIN J. *WILKINSON, 6573
JAMES M. WINNER, 6001

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

DAVID H. *ADAMS JR., 1125
TIMOTHY P. *ALLMANN, 1541
MICHELLE D. *AMBROSE, 1910
STEVEN M. ANDERSON, 3878
BARBARA J. *AUSTEN, 7818
VERONA *BOUCHER, 9934
DARRYN N. *BRYANT, 9957
DANE V. *CAMPBELL, 9173
BRETT R. *CARNER, 1953
LISA L. *CAULDER, 4863
CARLOS M. *CEBOLLERO, 0047
JOHN D. CHILDS, 3308
CHRISTOPHER D. *CLINE, 7988
JAMES R. *COKER, 0793
BRIAN L. *COSTELLO, 4710
ANTHONY S. *CUNNINGHAM, 9631
JAMES P. *CZARZASTY, 0588
LORA 8 *DARBOPIETSZAK 625
AMIE W. *DARYANANI, 3472
JAMES A. *DAUBER, 0935
BRYAN TERRI *DAVIS, 5523
DONALD P. *DORENKAMP, 6700
TAM T. *DUONG, 8139
DAVID O. *EDDINGTON, 4115
DAVID R. *ENGLERT, 8769
FRANK M. *FISCHER, 2485
GABRIEL P. *FLORIT, 6068
KRISTINE F. *FUMIA, 3841
CLARENCE D. A. *GAGNI, 8029
OSCAR K. *GIBBS, 8458
ANITA M. *GLENNRELLER, 9066
REVONDA L. *GRAYSON, 8207
DANIEL K. *GULLEKSON, 9599
STEPHEN P. *HAMM, 8532
AMY E. *HAYNES, 1369
GARRETT L. *HEITMANN, 7539
BARRIE J. *HIGHBY, 8432
NEIL A. *HOLDER, 9300
FREEMAN HOLIFIELD JR., 3800
NEIL MICHAEL *HORNER, 5479
TIMOTHY J. *HORNYAK, 7181
TIMOTHY D. *HOWERTON, 2677
RICHARD *HUTCHISON, 0392
ALISA *IRIYE, 6951
MARK W. *ISAJIW, 2239
JAMES R. *KAHLER, 5237
SHELBI J. *KANESHIRO, 9194
PHILIP A. *KEMP, 0750
CLIFFORD P. *LAPP, 0088
DEREK J. *LARBIE, 4179
HUEY *LATHAM III, 2550
DEBRA A. *LEE, 2576
DARIN R. LEREW, 6650
LAURA M. *LOCHNER, 4588
DENISE ANN *LOCKHART, 9151
PAULINE M. *LUCAS, 5512
MARYBETH E. *LUNA, 9327
EILEEN K. *LUTERZO, 7745
GUY R. MAJKOWSKI, 1411
JUDY A. *MANNO, 5209
JUDITH NMI *MARTELL, 4276
DAMIAN G. *MCCABE, 8009
CHARLES S. *MCCALEB, 6676
CRAIG A. *MCCLUER, 1383
SHARISSE D. *MCCOY, 2054
JEFFREY E. *MCLEAN, 2402
LILLIE M. *MELLS, 1648
TRACY L. *MIDDLETON, 2625
TIFFANY J. MORGAN, 3483
ERIN K. *MORRIS, 1346
BRIAN T. MUSSELMAN, 9231
MARIO G. *NICOLAS, 6149
WANDA L. *NORRIS, 0269
KARL S. *OGILVIE, 1507
ERIC V. *OLSEN, 5601
KAREN A. *ORTS, 9304
EDMUND *OSEIWUSU, 5979
DENNIS *OSULLIVAN, 0195
LYNN A. *PADILLA, 9056
BERLINDA A. *PADILLAOTTO, 1001
DANIEL N. *PARK, 8247
VIRGINIA ANNE *PARKER, 8584
SHANNON L. *PHARES, 3008
ROBERT T. *POHLER, 4914
PHILLIP T. *POTTER, 5493
JESSE W. *RICHARDSON, 5433
TODD M. *ROCK, 5002
JAMES P. *RONYAK JR., 1713
JAVIER *RUIZ, 3441
JEFFREY G. *RUTTER, 4800
DAVID A. *SANCHEZ, 6497
DEBORAH K. *SCHUEREN, 1762
JON M. *SEELEY, 8707
THOMAS L. *SHAAK, 0750
JAMES E. *SHIELDS, 4655
JOANNA L. *SHOWEN, 7905
JOSEPH W. SILVERS, 1894
KARI K. *SMITH, 9146
JULIA N. *SUNDSTROM, 0233
SCOTT E. *SWINGLE, 0900
JAMES C. *TANNER, 1692
DAVID A. *TORRES, 6683
BRUCE K. *TOWERS, 6565
BARBARA E. *TUCKER, 7691
JOSEPH A. *VANCE, 3631
DAVID C. *WALMSLEY, 6841
JAMES E. *WARE, 1208
JEFFREY S. *WEST, 2470
MATTHEW C. *WEST, 7108
ROSS K. *WHITMORE, 9933
JACKIE E. *WILKS, 2351
THOMAS L. *WILLIAMS, 5975
RICHARD L. WOODRUFF JR., 5625

WENDYANN R. *WYATT, 3969
CHRISTOPHER P. *WYNENS, 9623
ELIZABETH M. *YOGERST, 9506
BRIAN A. *YOUNG, 0102
JAMES A. *YOUNG, 8215

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

LAURIE A. ABNEY, 4421
REGINA D. *AGEE, 6190
DARRELL T. *AINSWORTH, 3939
KEITH R. *ANDERSON, 2247
NICOLE H. *ARMITAGE, 5118
TONEY L. *BANKS, 2130
LESLIE C. *BARKER, 6365
KEVIN L. *BIZER, 6457
SINETTA A. *BLUNT, 0141
DAWN B. *BROOKS, 5209
SAHVER *BURNHAM, 2163
PERRY A. *CARLSON, 4756
WILLIAM A. *CHANCE, 9322
CATHERINE C. *CLARK, 2849
JONI M. *CLEMENS, 0647
ELIZABETH *COLON, 3181
MICHELIN Y. *CONERLY, 0220
ELIZABETH A. *COOLEY, 8549
ZINA M. *CRUMP, 6853
KAREN E. *DEATON, 6703
SUSAN F. *DUKES, 8234
APRIL L. *ECKERMAN, 2788
STEVEN W. *FLEMING, 9815
KATHLEEN T. *FOULK, 1111
EDMOND V. *GERNER JR., 3427
JERRY R. *GINGRICH, 0939
MICHELLE L. *GONZALES, 3735
ANGELA R. *GONZALEZ, 3030
NEIL J. *GOTHIER, 6322
KIMBERLY A. *GRAHAM, 8477
CHRISTINE R. *GUNDEL, 6103
GERALD W. *HALL JR., 1424
MELODY L. *HEUSDENS, 9644
OVELLA J. *HILLERY, 6194
JOACHIM M. *JERNANDER, 5769
PATRICIA I. *JOHN, 3055
KELLIE A. *JOHNSON, 0595
MICHAEL J. *JOHNSON, 8688
MARINA L. *JOHNSTON, 2431
PHYLLIS F. JONES, 4077
NANCY A. *KEITHLEY, 1330
CYNTHIA *LOCKE, 9390
KATHERINE A. *LONDON, 0229
DAISY *LOPEZ, 4380
LESTER P. *LORETO, 3224
KATHERINE M. *LOWRY, 7680
KIMBERLY L. *MANNING, 7908
KATHLEEN MARTIN, 5955
MARIA DE RIVERA *MELENDEZ, 5691
KIMBERLY B. *MERRITT, 6423
MARY F. *MULLINS, 0004
BRENT D. *MUMPOWER, 8195
GERALDINE G. *NELSON, 1199
BRADLEY D. *NIELSEN, 0440
NICOLE R. *OGBURN, 7721
JULIE R. *OSTRAND, 8241
NANCY L. *PAPPAS, 4779
JOEY P. *PASKEVICIUS, 9015
THOMAS A. *PAXTON, 9222
DEEANN M. *PERKUCHIN, 5591
ANN M. *PERRY, 9285
DONNA M. *QUIST, 9422
DONNA L. *RAU, 3303
RHONDA L. *RICHTER, 4370
JERRY D. *RUMBACH, 2181
TAMARA *RYAN, 6983
MICHELE Y. *SHELTON, 9906
DEBRA A. *SHELWOOD, 7111
WARD J. *SIERT, 1736
RANDALL L. *SIRMANS, 5182
DEBRA A. *SMITH, 0596
JAMES S. *SPEIGHT, 3672
MELISSA M. *STECKLER, 4908
JENNIFER A. *STEILS, 3338
JAMES A. *STRYD, 7266
BARBARA A. *SUSEN, 5998
PATRICIA A. B. *TATE, 2781
BART A. *THOMAS, 7020
LINDA J. *THOMAS, 5554
BEVERLY A. *THORNBERG, 2195
JAMES J. *TORBETT, 4678
TONI L. *TURNIPSEED, 5920
KARIN P. *VANDOREN, 8324
CYNTHIA A. *WARATUKE, 3415
PAUL S. *WARD, 6155
JULIANA *WEEKS, 0154
CANDY S. *WILSON, 8381
KEITH A. *WILSON, 3561
PAULA M. *WINTERS, 2420
KATHERINE S. *WOFFORD, 9365
PAMELA J. *YOUNG, 7261
DEEDRA L. *ZABOKRTSKY, 1498

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOHN T. AALBORG JR., 4899
PAUL H. ABAIR, 9431
JEFFREY M. ABRAHAM, 6280
ARIEL O. *ACEBAL, 7437
TERRENCE A. *ADAMS, 1014
LISA D. ADAMSMCNEME, 2807
THOMAS L. *ADKINS II, 1470
SCOTT A. *AEBI, 6352
CHRISTOPHER M. *AFFUL, 3372
FRANCIS B. *AFINIDAD, 1880
ALLISON L. *AGAR, 6539
INES M. AGOSTO, 5500
MINNA A. AHLMANN, 9257
DAVID KARL *AHRENS, 3729
ROLAND *AKINS III, 2947
HOBART R. ALFORD, 6754
BRENT B. *ALLEN, 8623
CRAIG D. ALLEN, 2590
JACK E. *ALLEN, 2254
JAYSON L. *ALLEN, 3021
RONALD GENE *ALLEN JR., 7513
THOMAS W. ALLEN, 2109
CHRISTOPHER J. *ALLEY, 0645
MATTHEW L. *ALLEY, 2539
AARON T. ALLGEYER, 7826
DONALD S. ALLISON, 9229
EDUARDO E. *ALONSO, 1449
JOSEPH R. *ALTHOFF III, 0780
RYAN C. *AMEELE, 5110
RICHARD P. AMISANO JR., 2962
ANTHONY P. *AMOROSO, 6230
KOREY E. AMUNDSON, 8343
MARK C. ANARUMO, 0675
ALEXANDER B. ANASTASIOU, 8113
VICTOR A. *ANAYA, 4522
BRET D. ANDERSON, 8034
CHRISTOPHER B. *ANDERSON, 4366
HEATHER J. *ANDERSON, 9386
JAMES G. ANDERSON, 3198
JOHN M. *ANDERSON, 8526
RANDALL H. *ANDERSON, 4958
WILLIAM S. *ANDERSON, 5524
JEREMY A. *ANFINSON, 8503
JOHN J. ANTEDOMENICO, 4808
REBECCA LYNN *ANTONAK, 4721
STANLEY B. *ARANT, 5247
GEOFFREY B. *ARING, 8809
MICHAEL M. *ARMIJO, 0845
BRIAN S. ARMSTRONG, 5197
JOSHUA D. *ARMSTRONG, 4416
TIMOTHY J. *ARNOLD, 3312
CHARLES D. *ASHMORE JR., 9495
MICA L. *ASHMORE, 5822
ISREAL L. *ASKEW JR., 8077
BRIAN J. *AULT, 0631
RICHARD M. *AUSEMS, 4732
KEITH D. *AYOTTE, 8151
MARK E. AZUA, 0006
RICHARD A. *BABCOCK, 4824
JEFFREY L. BABINSKI, 6234
BRIAN K. *BAILEY, 9855
JAMES R. *BAILEY JR., 9168
RICHARD W. *BAILEY, 5131
WILLIAM C. BAILEY, 4613
ELAINE S. *BAIN, 9072
CHRISTOPHER H. *BAIRD, 2308
JOY O. *BAITY, 7103
STEVEN L. *BAKER, 9622
GREGORY T. *BALDWIN, 2969
RICHARD J. *BALDWIN, 4186
JEFFREY A. *BALTES, 2324
ROBERT J. *BANDSTRA, 6855
DERRICK M. *BANKS, 4131
RAYMOND M. *BARBEN, 9410
RICHARD T. *BARBER, 9913
DAVID C. BARES, 0054
CODY W. *BARKER, 1948
MARTIN W. BARKER, 9479
PATRICK A. *BARNETT, 4906
STEVEN J. *BAROSKO, 6257
SHANE A. *BARRETT, 5753
ALLAN D. BARTOLOME, 0178
LOYD E. BARTON, 2616
AARON C. *BASS, 2653
GLENN *BASSO, 5576
PATRICK E. *BAUGHAN, 3085
MICHAEL V. BAUTISTA, 2502
DAVID J. *BAWCOM, 8127
LYNNE M. *BAYLEY, 4432
BAKER B. BEARD, 0776
JOHN T. BEATTIE, 3224
BRAD L. *BEATTY, 8713
ELISSA C. BEDDOW, 9607
JOHN D. *BEDINGFIELD, 1281
ROBERT L. *BEHNKEN, 8086
BRADY C. BEIGH, 5532
LAUNA J. BELLUCCI, 0875
JON C. *BENDER, 8399
MICHAEL D. *BENNES, 7088
DANIEL W. *BENNETT, 8696
MARCEL L. BENOIT, 8396
JAMES L. *BENSLAY JR., 1661
J. D. *BENSON JR., 9933
STEVEN A. BENTON JR., 7737
DAVID W. BERG, 3455
LYNN A. *BERG, 9805
BRIAN K. BERGERON, 2064
CHARLES WILSON *BERGERON, 0797
TREVIS D. *BERGERT, 5244
STEPHEN E. *BERGEY, 6819
TODD D. BERGMAN, 0633
ARTHUR J. BERMEL JR., 1952
REBECCA B. BERNARDINI, 1925
RAYMOND BERNIER, 6110
DARREN W. *BERRY, 7537
STANLEY M. *BERRY, 7643
PETER A. BERUBE, 6485
BRIAN J. *BEVERIDGE, 3840
DAVID L. BIBIGHAUS, 8638
JOHN V. *BIELECKI, 8449
RODNEY D. *BIENFANG, 5477
JAMES J. BIERYLA, 7892
ROBERT L. *BILLINGS, 9049
JONATHAN A. *BISHOP, 7981
MICHAEL W. *BISHOP, 2580
MARK W. BJORGEN, 0413
MICHAEL B. BLACK, 7007
CATHY B. *BLACKLOCK, 3619
JEFFREY L. *BLACKMON, 5190
JOHN C. *BLACKWELL, 5913
CONNOR S. BLACKWOOD, 3115
TONI L. *BLAIR, 6694
STEPHEN K. *BLAKE, 8338
JONATHAN N. BLAND, 3712
JAMES F. *BLANKENSHIP, 2825
ROCCO A. *BLASI II, 4035
DANIEL D. *BLEVINS, 3651
STEVE L. BLEVINS, 6627
EDWARD A. *BLITT, 7103
MARK E. BLOMME, 9368
MARGARET I. *BLOOM, 1078
GRAHAM K. BLOXOM, 8261
PAUL A. *BLUE, 8161
SAMUEL N. *BLUNT, 8453
JOSEPH A. *BOBROWSKI, 4801
BRIAN K. *BOGUE, 6024
LELAND B. BOHANNON, 2090
DAVID A. *BOLES, 0745
MICHAEL S. *BOLLING, 6572
CHARLES D. BOLTON, 3225
DARRELL J. *BOLTON, 1609
JOSEPH C. *BONITA, 2282
JAMES A. *BOOKER, 3856
RICHARD E. *BOONE, 8218
LEONARD *BOOTHE, 8652
CHRISTOPHER L. *BORING, 4271
MATTHEW A. *BOSCHERT, 1659
MICHAEL J. BOSILJEVAC, 3196
JOHN W. BOSONE, 9703
RAYMOND A. *BOULTER, 1258
LEE A. *BOUVIER, 8008
ERIK T. *BOVASSO, 3726
ANDREW P. *BOWDER, 4080
JAMES R. BOWEN, 0806
ANISSA M. *BOWERS, 6826
MATTHEW T. *BOWERS, 5418
DANNY K. *BOYD, 7915
MICHELE A. *BOYKO, 2236
PHILIP J. *BOZEMAN, 9641
LORENZO C. BRADLEY, 5169
MARK A. *BRAMMER, 7777
JASON D. *BRANCH, 4937
JOHN M. *BRANDT JR., 6306
RYAN P. *BRANDT, 8904
KRISTOPHER A. *BREAUX, 3884
BRIAN A. BRECH, 0524
MATTHEW J. BRECHWALD, 5389
JACQUELINE D. BREEDEN, 1679
MATTHEW C. *BRENNAN, 8010
LISA M. *BRENNEMAN, 6796
PAUL D. *BRENNER, 8930
JOHN D. BREUKER, 7191
AUGUSTIN P. *BRIGUET, 0421
JOHN R. BRIMMER, 7056
BERNARD C. *BRINING, 3251
MICHAEL L. BRINK II, 6354
ANDREW D. *BRINKMAN, 6660
CHRISTIAN C. *BROCK, 4779
BRENT G. BROCKINTON, 5541
SCOTT W. *BROKAW, 3840
DANIEL T. *BROOKS, 5654
KAREEM C. BROOKS, 7685
KENT W. *BROOME, 2851
CYNTHIA JS *BROTHERS, 0330
MICHAEL D. BROTHERS, 9831
CHARLES E. *BROWN JR., 5358
DARREN J. BROWN, 7135
DIANE L. BROWN, 3624
ELI V. *BROWN, 0991
JASON A. *BROWN, 5114
JASON M. *BROWN, 6862
SCOTT A. *BROWN, 7039
SCOTT C. *BROWN, 4805
JOSEPH W. *BROWNING, 1063
JAMES A. *BROYLES JR., 9669
DANIEL E. *BRUCE, 5826
JAMES A. BRUNER II, 0701
PAUL J. *BRUNER, 2147
COREY A. *BRUNSON, 7122
LOUIS D. BRYAN, 3512
DAVID W. BRYNTESON, 3038
JOHN D. *BUCHANAN, 2928
JOHN E. BUCHANAN, 7489
RICHARD T. *BUCKLEY, 3988
GREG D. BUCKNER, 4255
TRAVIS P. BUFORD, 3675
BRADLEY M. *BUGG, 9579
ERIC S. BULGER, 8049
SUSAN M. *BULLETT, 6437
SCOTT R. *BULLIS, 1652
STEPHEN H. BUNTING, 1760
DANIEL K. BUNTS, 1061
TRAVIS A. BURDINE, 3870
STEPHEN G. *BURGH, 6196
TIMOTHY J. BURKE, 6005

MICHAEL G. *BURKOTT, 4919
JAMES R. *BURLEIGH, 5674
JEFFREY M. *BURNSIDE, 6746
DERREN P. *BURRELL, 2657
WILLIAM C. BUSCHUR, 9436
EDWIN D. *BUTLER, 4404
JOHN D. *BUTLER, 2996
ROBERT B. *BUTLER, 7608
STEVEN BUTTIE, 6055
ROBERT L. BUZZELL JR., 1511
JOBERT F. *CALIMLIM, 6518
DONALD C. CALLAGHAN, 2903
STEVEN M. *CALLIS, 4092
ROD A. *CAMERON, 0313
JASON M. *CAMPBELL, 8730
WINSTON M. *CAMPBELL, 9097
BRYAN H. *CANNADY, 0146
KELLY A. CANTRELL, 5641
MARK L. *CANTRELL, 4244
THOMAS L. *CANTRELL, 9046
HOUSTON R. *CANTWELL, 9253
PAUL S. CAPES, 4744
KELLEY J. *CARDINALE, 2117
MICHAEL K. CARNEY, 0290
SEBASTIAN J. *CARRADO, 5321
CHRISTOPHER M. *CARROLL, 1439
GREGORY T. *CARTER, 0297
JENNINE S. *CARTER, 7335
CHARLES F. CARVER, 5823
JANET E. *CASEY, 5381
TRUDY M. CASSEN, 4993
EDUARDO CASTANEDA JR., 3244
ANTONIO *CASTILLO, 1679
CHARLES F. *CELNIK, 2378
YUN J. *CERANA, 9374
DAVID S. CHACE, 9416
RYAN C. *CHANDLER, 8404
CHRISTOPHER W. *CHANG, 1442
JENNIFER L. CHANGERY, 9267
JAMES W. *CHAPPELEAR, 3334
KATHERINE H. CHARECKY, 4116
ROBERT L. CHARLESWORTH, 1085
JOHN W. CHASTAIN III, 6877
NICHOLAS H. *CHAVASSE III, 9218
JULIAN C. CHEATER, 4588
COREY C. *CHEERS, 6314
CHRISTIAN J. *CHEETHAM, 7633
JERMONT CHEN, 3299
RONALD A. *CHERNAK, 0419
WESLEY R. *CHIDESTER, 0385
TIMOTHY W. *CHILDRESS, 4706
ERIK K. *CHINN, 0011
DAI H. *CHO, 8633
CHRISTOPHER A. CHOCOLAAD, 5948
BRYAN J. *CHOI, 4398
JOHN C. CHONG, 3987
JAMES C. CHRISLEY, 9012
SARAH J. CHRIST, 5766
JENNIFER S. *CHRISTOVICH, 0064
PHILLIP A. *CHRONISTER, 9166
KRISTI K. CHURCH, 4113
RICHARD D. CIMINO, 0105
RAYMOND S. CIRASA, 2357
JEFFERY M. *CLAPP, 5290
JEFFREY D. *CLARK, 0912
JEFFREY M. CLARK, 7987
GEORGE M. *CLARKE, 2433
MICHAEL L. *CLAVENNA, 6848
GLEN A. *CLINCH, 1167
IRA C. *CLINE, 3174
MATTHEW J. *CLIVER, 2558
DAVID N. *CLOUGH JR., 3753
PATRICK CLOWNEY, 2875
KENNETH P. *CLOYS, 1965
JOHN G. *COCHRAN, 8435
MICHELLE G. COGHILL, 3351
WARREN O. *COHN, 6923
CHRISTOPHER L. COLCORD, 4476
BARRY A. *COLE, 6706
JAMES E. COLE, 1216
JENNIFER J. *COLE, 1001
SCOTT S. *COLE, 0896
TIMOTHY C. *COLE, 2310
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RANDALL A. *SECHLER, 2540
ROLAND E. SECODY, 6560
EDWARD C. *SEGURA, 0015
LONES B. SEIBER III, 6272
HARRY L. *SEIBERT JR., 2672
BRETT S. SEILING, 9605
SCOTT C. *SELCHERT, 1110
ATHIE L. *SELF, 8198
KEVIN C. *SELLERS, 4092
MARK A. SENG, 9666
JOHN D. SEUELL, 1807
SUZETTE D. SEUELL, 4987
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BRYAN K. *SHARBER, 9242
RAMSEY F. SHARIF, 1787
ROBERT M. SHARPLES JR., 1807
ANTHONY G. *SHEA JR., 7170
DONALD G. SHEESLEY, 3774
RICHARD C. SHEFFE, 0476
MICHAEL L. *SHETLER, 6511
GLEN R. *SHILLAND, 7944
MARCUS J. *SHIPMAN, 0215
DAVID G. SHOEMAKER, 3028
DOUGLAS L. *SHORT, 6439
JASON E. SHROYER, 9847
THOMAS C. *SHRUM, 0729
SHAWN M. *SHUGARS, 5678
DEANNA M. *SICARD, 6585
MICHAEL J. SIERCO, 3757
JAMES W. SIKRA, 4663
JOHN D. *SILVERMAN, 0547
JEFFREY D. *SIMONS, 0031
DAVID G. *SIMPSON, 8330
STEVEN M. SIMS, 9239
DAVID S. *SINGER, 4582
KERI L. SINGLETON, 4764
MATTHEW A. SINNING, 2467
CHRISTOPHER W. *SIPE, 2595
DAVID M. SIRESS, 1106
TIMOTHY A. *SITES, 6064
KURT D. *SKINNER, 2335
MARK T. SKOSICH, 4628
GORDON K. *SLATON, 3779
STEPHEN M. SLOOP, 1127
ALISON E. SLUCAS, 1015
KENNETH G. *SMEENK, 0220
BRADLEY K. SMITH, 5731
CHAD A. *SMITH, 2499
CRISTIAN S. SMITH, 1150
DOUGLAS D. SMITH, 5546
GARY T. SMITH, 4956
JAMES E. C. *SMITH, 0148
JOHN P. *SMITH, 9522
JOHN T. W. *SMITH, 8558
KATHRYN E. SMITH, 9453
MARCIA C. SMITH, 3873
MATTHEW P. *SMITH, 2137
MICHAEL S. *SMITH, 3023
MICHAEL S. SMITH, 7167
NICHOLAS A. SMITH, 0931
PAUL P. SMITH JR., 2728

SHANE A. *SMITH, 2558
STEPHEN F. SMITH, 8030
SUSAN R. *SMITH, 3878
TREVOR W. SMITH, 3983
WESLEY P. SMITH, 4614
MARK K. *SNOW, 5185
MARK A. SNOWDEN, 7954
CHRISTOPHER J. *SOLO, 5843
REBECCA J. SONKISS, 5851
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NATHANIEL A. *SOUTHWORTH, 1923
CHRISTOPHER J. SOVADA, 9441
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ADRIAN L. *SPAIN, 4451
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BRADLEY L. SPEARS, 3083
DAVID B. *SPENCER, 0680
YVONNE S. SPENCER, 2455
SCOTT A. SPIERS, 8057
JEFFREY P. SPINNANGER, 3497
RICHARD A. *SPOSATO, 0360
DENNIS R. *SPRENKLE, 0867
STANLEY A. *SPRINGER, 1118
RONALD S. *SPROWLS, 8633
RICHARD G. *STACEY, 3870
KIRK N. *STAHLBAUM, 0236
JEFFREY D. *STANDS, 8693
DAVID L. *STANFIELD, 4625
GEORGE A. STANLEY, 4309
MARK L. STANLEY, 0859
WESTLEY D. STARK, 6879
DEVIN *STATHAM, 5439
GREGORY A. *STAVEN, 3791
JONATHAN A. *STECKBECK, 1260
STEVEN G. *STEEL, 6627
RICHARD V. STEELE, 6670
CRAIG S. STEFAN, 5272
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ROBERT W. STEINDL, 6374
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ANTHONY C. *STROUP, 9477
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ERIC H. STUBBS, 6028
MICHAEL C. SUERMANN, 5676
TERESA L. *SUH, 3772
WILLIAM D. SULLIVAN, 2581
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DONALD A. SUPON JR., 2810
RICHARD E. *SUTTER, 9652
CURTIS B. SUTTON, 6682
PHILLIP A. SUYDAM, 3381
SCOTT A. *SVEINSSON, 0447
JOHN F. *SWANAY, 8684
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PHILLIP C. SWENSON, 8461
MARK S. *SWIATEK, 2064
ROBERT A. *SYLVESTER, 6015
PAUL G. *SZWEDA, 7570
JOSEPH L. *TAFFE, 7398
ANDREW J. *TALIERCIO, 5450
JAMES M. TAMURA, 8342
BRYAN C. *TAYLOR, 5692
DANIELLE L. *TAYLOR, 9159
DREW R. *TAYLOR, 4072
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KIM N. *TAYLOR, 5525
PAUL R. TAYLOR JR., 3032
SCOTT T. TAYLOR, 5241
THOMAS A. *TAYLOR, 1922
JOHN D. *TAYMAN, 7670
LAURA L. TEAL, 1069
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ARTURO J. *TECSON, 2356
MARY R. *TEETER, 4556
ERNEST J. *TEICHERT III, 9311
MICHAEL P. TERNUS, 9309
DARRYL L. TERRELL JR., 1000
JOSEPH C. TERRONES, 0796
JONATHAN L. *TERRY, 3540
HANS T. THATCHER, 2486
ALLEN L. *THIBEAUX, 0973
KELLEY A. *THIBODEAU, 3127
JEREMY L. *THIEL, 0704
DOUGLAS G. THIES, 6119
JOSEPH A. THILL, 4917
JOSEPH Y. *THOMAS, 6494
RICKY A. *THOMAS, 4925
CHARLES I. THOMPSON, 9445
JAMES E. THOMPSON, 8208
JONATHAN S. *THOMPSON, 3748
KEVIN V. THOMPSON, 9508
ROBERT S. *THOMPSON, 4762
SHAWN C. *THOMPSON, 9846
KERRY L. *TIDMORE, 9689
DAYMEN L. TIFFANY, 9570
JR. VASAGA *TILO, 2341
GREG E. *TITUS, 1281
GREG E. *TOBIN, 2696
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TONNEE M. TONNESEN, 5009
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JOSEPH P. TORRES, 2373
KYLE E. *TORSTER, 4359
BRIAN E. TOTH, 6272
GARY A. *TOWN, 2607
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THUAN H. *TRAN, 4201
WILLIAM D. TRAUTMANN, 4867
KEITH L. *TRAVIS, 2142
TIMOTHY J. *TREAT, 3109
JAMES P. *TRESEMER, 8247
DAVID A. *TREYBAL, 5971
JENNIFER R. *TRIEFLER, 4423
JACOB TRIGLER, 9488
RONALD P. *TROSCLAIR JR., 7833
CHRISTOPHER *TROTTER, 6820
RAYMOND T. T. TRUONG, 9150
JOHN E. *TRYON, 0773
RICHARD J. *TRZASKOMA, 4174
ERIC J. TUCKER, 1428
KELLY C. *TUCKER, 1569
STEVEN L. TUGGLE, 6950
TODD W. TUMIDANSKI, 5040
TEERA TONY *TUNYAVONGS, 0693
CHARLES W. *TURNER, 1008
JAMES A. *TURNER, 2349
UDUAK I. *UDOAKA, 4988
KENNETH R. *UHLER, 4795
KERRI L. *UHLMEYER, 5101
DANIEL S. ULMER, 9497
RYAN J. *UMSTATTD, 1338
GEORGE T. *UNSINGER, 7890
MICHAEL J. *VACCARO, 9179
DAVID M. *VACLAVIK, 6837
MACEDONIO *VALDOVINOS, 6600
JEFFERY D. *VALENZIA, 2714
WEEZENDONK JENNIFER H. *VAN, 9834
CHRISTOPHER J. VANDERSYS, 3119
BRIAN C. VANMATRE, 5906
MARK W. *VANMETER, 3932
TAD D. VANNAMAN, 0146
JASON A. VANVALIN, 9550
JAMES D. *VARDEN, 2630
SCOTT A. *VAUGHAN, 7774
MICHAEL S. *VAUGHN, 7587
DANIEL J. VEAL III, 4586
DENNIS R. *VEENEMAN, 9310
JOSEPH L. *VEIT, 3691
EDWARD S. *VEITCH, 2702
MICHELLE A. VESTAL, 5883
DONALD D. *VIEIRA, 8567
KRISTINE N. *VIER, 9425
DAVID C. *VILLAUME, 9111
MATTHEW C. VILLELLA, 4067
JOHN C. VINCENT, 3668
TRAVIS S. VIRES, 4744
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DIANE E. VITAS, 5974
JASON A. VITAS, 5023
JODI M. VITTORI, 5553
CHRISTOPHER C. VOGEL, 1901
JOACHIM F. C. *VOGT, 4471
ERIC M. VOLD, 0688
DAVID M. VONDRAK, 7642
JOHN J. *VONOSTERHELDT, 5991
TIMOTHY D. *VOSS, 6772
KEVIN P. WADE, 5218
PATRICK C. *WADE, 2660
RICHARD J. WAGEMAN JR., 4948
SANDRA S. *WAGGLE, 4711
JAY P. *WAHLEITHNER, 8394
DONALD S. *WALKER, 6964
PAUL G. *WALKER, 5179
KARILYNNE *WALLACE, 6705
SR. DAVID J. WALLER, 8629
WILLIAM B. WALPERT, 5051
THOMAS B. *WALSH II, 8786
JENNIFER G. *WALSTON, 1466
JAMES W. WAMHOFF, 5896
DANIEL B. *WARD, 6017
DOUGLAS M. *WARE, 9120
CLINTON F. WARNER, 4096
SHAWN R. *WARNER, 4344
JASON A. *WARNICK, 0039
JENIFER B. E. *WARREN, 5934
WILLIAM B. *WARREN, 6910
JESSE M. *WASHBURN, 7531
BRADLEY DAVID *WATERS, 6726
DARRELL T. *WATKINS, 0950
TRACY R. *WATKINS, 3438
STEVEN G. WATSON, 5996
DANIEL E. WEAK, 6706
CHARLES H. *WEAVER, 7987
MICHAEL T. *WEAVER, 7506
WILLIAM T. *WEBB, 5787
MATTHEW J. *WEHNER, 4894
PETER J. *WEIDNER, 4748
GEOFFREY F. WEISS, 0853
HEWETT S. *WELLS, 8535
DUSTIN C. WELSH, 0895
CHRISTIAN A. WENDLER, 6936
KURT A. WENDT, 8291
TREVOR A. *WENTLANDT, 6726
SHELDON S. *WERNER, 9014
ALAN J. WESENBERG, 6386
TRACY L. WEST, 7507
DEANNA L. *WESTENHAVER, 5097
SCOTT A. WESTON, 8880
MICHAEL R. *WHALEN, 3656
PATRICK J. *WHELAN, 1241
ANTHONY D. *WHITE, 8892
PATRICK J. *WHITE, 3242
ROBERT T. *WHITE, 4731
WILLIAM P. *WHITE III, 4708
RANDY C. A. WHITECOTTON, 7441
MICHAEL F. *WHITEHEAD, 3455
TREVOR J. *WHITEHILL, 8440
JILL L. *WHITESELL, 2779
LANCE D. WHITFILL, 5025
PAUL H. *WHITMORE, 3048
MICHAEL G. WHYTE, 3547
CURTIS J. WICHERS, 5840
JEFFREY C. *WIEMERI, 5976
RICHARD T. *WIGLE, 4911
JOHN B. WILBOURNE, 5680
ROBERT D. *WILFONG, 1958
LANCE A. WILKINS, 3198
CHRISTOPHER J. *WILL, 8712
BRENT D. *WILLIAMS, 8334
CHRISTOPHER S. *WILLIAMS, 7960
DARIN L. WILLIAMS, 1503
DAVID B. WILLIAMS, 6515
SHON P. WILLIAMS, 8916
TIMOTHY P. *WILLIAMS, 3909
BRETT A. WILMORE, 5542
DONALD S. *WILSON, 6687
JAMES S. *WILSON, 4072
REGINA S. *WINCHESTER, 7108
BRIAN K. WINKLEPLECK, 3206
JOHN W. *WINKLER, 1278
WILLIAM R. *WINSTEAD, 8566
JOSEPH R. WIRTHLIN, 4539
WAYNE L. *WISNESKI, 3000
MICHAEL F. WITTROCK, 8268
THOMAS Q. *WOFFORD, 8063
AMY *WOLF, 7152
JASON Z. WOLLARD, 2125
GREGORY R. WOOD, 9945
MARK F. WOOD, 0001
ZACHARY A. WOOD, 5186
WILLIAM A. *WOODALL JR., 0301
KENNETH P. WOODCOCK, 4739
WILLIAM A. *WOOLF, 1668
MARK D. *WORKMAN, 4043
BLAINE J. *WORTHINGTON, 8109
ERIC W. WRIGHT, 7111
JONATHAN L. WRIGHT, 2049
JOSEPH B. WURMSTEIN, 3246
ALBERT J. *WYKOFF III, 2264
ALEXANDER M. WYLIE, 6601
SAXON T. YANDELL, 2247
SARAH H. YANG, 5990
HEATHER H. *YATES, 1843
JEFFREY L. *YEATMAN, 6392
KENNETH E. YEE, 3769
KYON R. *YI, 3181
JOHN A. *YOCUM, 4933
SANG H. YOO, 9805
BANTA M. *YORK III, 3923
BRIAN J. *YOUNG, 9859
MICHAEL B. *YOUNG, 0065
RICARDO D. *YOUNG, 7854
RANDY JOSEPH *YOVANOVICH, 2888
HELEN H. *YU, 9758
YOUNGKUN S. *YU, 2622
JAMES *YURACK, 9437
ROEL ZAMORA, 1648
SCOTTIE L. ZAMZOW, 1155
JOHN P. *ZAPATA, 0554
ZACHARY B. ZEINER, 7848
DEAN E. *ZEZEUS, 0030
JAMES J. ZIRKEL, 0549
STEVEN M. ZUBOWICZ, 6031
WILLIAM A. ZUTT, 9940

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOHN B. MUNOZATKINSON, 8986

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

COLIN D. SMITH, 4400

CONFIRMATION

Executive nomination confirmed by the Senate September 4, 2003:

THE JUDICIARY

STEVEN M. COLLOTON, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

WITHDRAWALS

Executive message transmitted by the President to the Senate on September 04, 2003, withdrawing from further Senate consideration the following nominations:

MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, WHICH WAS SENT TO THE SENATE ON JANUARY 7, 2003.

KERRY N. WEEMS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, WHICH WAS SENT TO THE SENATE ON JULY 22, 2003.

HOUSE OF REPRESENTATIVES—*Thursday, September 4, 2003*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

God of silence, God of peace, in whom we live, move and have our very being, help this day the Members of the House of Representatives and those who assist them in their work. In the midst of their busy day, enable them to find a moment of stillness within and know that You are God and present to guide them.

May all the people of this great Nation be people of faith as well and come to seek Your face, O Lord. At this moment, people across this vast country join us in praying for the leaders in government they have elected. Praying together can unite us in works of justice and securing peace in this world.

With You we can accomplish great and glorious deeds because we pray and act in Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia (Mr. BURNS) come forward and lead the House in the Pledge of Allegiance.

Mr. BURNS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive ten 1-minute speeches on each side.

GOOD NEWS FOR THE ECONOMY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, good morning. I have got some good news. Perhaps a lot of the Members do not know about it. There has been a CBO update. The economy now seems poised for a more sustained recovery with CBO estimating growth of nearly 4 percent in the year 2004.

Because of that growth, moreover, the recent surge in Federal budget deficits will peak in the year 2004. That is right. If growth continues, even at the CBO estimated 3.3 percent a year from the year 2005 to 2008, Federal revenues will begin to rise again and deficits will fall through the rest of the decade just as they always do amid prosperity.

What this tells us, Mr. Speaker, is that President Bush's decision to use fiscal policy, tax cuts, to promote growth has been the right priority, and it seems to be paying off now in accelerating business purchases. This is crucial to restoring vibrant growth because the economy has to survive and has had so much trouble with the burst in the stock market. This is also one of the explicit goals of President Bush's dividend and marginal income tax rate cut proposals.

Mr. Speaker, this is good news. No guarantee but good news for today.

HONORING EAST BOYNTON BEACH LITTLE LEAGUE TEAM

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute.)

Mr. HASTINGS of Florida. Mr. Speaker, I have good news also.

I rise to offer the East Boynton Beach, Florida Little League team, our new American National Little League champion, for the congratulations and admiration of this body. These fine young men spent months practicing and playing hard, while never losing sight of the principles of honesty and fair play.

Their skill and determination paid off when they triumphed over all other American teams to represent our country in the Little League World Series.

Although they did not win the world title, they captured the attention and affection of Americans young and old. People across the country followed them through their games in Williamsport, Pennsylvania and cheered each victory. Their achievements this year will be remembered for a long time.

While I fully expect this team of very talented players to contend for the world title again next year, it is important to laud them now for the heights they attained.

I am sure we all have the greatest respect for these fine young men. They are excellent role models for children and for all of us. As their Representative in Congress, I am proud of the role they have played as ambassadors to other young people across the country and around the world.

SALUTING EAST BOYNTON BEACH LITTLE LEAGUERS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I am proud to join the gentleman from Florida (Mr. HASTINGS) in bringing attention to the House of Representatives the phenomenal achievements of a group of young men from Florida's 22nd Congressional District as well as his district.

I am speaking of the boys from East Boynton Beach Little League team; Michael, Richie, Cody, Jordan, Patrick, R.J., Matt, Ricky, Benny, Devon, and Andrew, who are also known as this year's United States Little League world champions.

People throughout South Florida followed the team's success as they captured the Florida State Championship followed by the Southeastern United States Regional Championship. With these victories in hand, it was on to historic Williamsport, Pennsylvania to compete in the 2003 World Series.

There they captured this year's championship title along with the hearts of baseball fans throughout America and the world. Their victory brought East Boynton great recognition, but it was their teamwork and sportsmanship that brought us all great pride.

We must also recognize their parents and coach, Kenny Emerson, who helped them set a new standard of excellence in play and in life.

Please join me in saluting this fine team, the 2003 United States Little League World Series champions, the East Boynton Little Leaguers.

QUESTIONS FOR THE PRESIDENT

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, I come to the floor with a heavy heart today. The wards are full at Walter Reed Army Hospital and Bethesda Naval Hospital, full of young men and women who were sent by their country to defend their country, whose minds have to have the question today, why was I sent there?

The President of the United States, Mr. Speaker, and the Prime Minister of Great Britain have lost the confidence of their own people. They misled us over and over and over again. They

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

must come clean and tell the American people the truth. This is so reminiscent of what I went through during the Vietnam years that it is eerie. A government that says, well, things are better today, things are better today, and another boy or another girl gets killed or is sent back to Walter Reed or Bethesda maimed.

The President has got to come forward and tell us the truth about what it is going to cost, where we are going to get the people. They will not talk about a draft, but they have kept those reservists and those National Guard people over there for a year. Those people volunteered to support their country when it needed them.

How long are you going to keep them there, Mr. President?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would advise Members that they should address the Chair and not the President.

FIRST PROSECUTION UNDER TRUTH IN DOMAIN NAMES ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, as the author of legislation passed by Congress earlier this year and signed by President Bush known as the Truth in Domain Names Act, one can imagine my sense of satisfaction when yesterday I received a call from a United States Attorney in Manhattan to learn that the first prosecution under the Truth in Domain Names Act had taken place.

Yesterday, Federal prosecutors in Manhattan charged a Florida man with violating this new law that essentially makes it illegal to use a misleading Internet domain name to entice children to view pornography on the Internet. The defendant, John Zuccarini, had actually registered 3,000 domain names that included misspellings and slight variations of popular names like "Disneyland" and "Bob the Builder" and then would lease them to pornographers to expose children to this prurient material.

Thanks to the leadership shown here in Congress, by the President and by the U.S. Attorney James Comey, Mr. Zuccarini is now being brought into the halls of justice. And I am deeply humbled by this and felt the need today to rise and thank my colleagues for their support of the Truth in Domain Names Act and most especially the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, and his capable staff, Phil Kiko and Beth Sokul, without whose effort the Truth in Domain Names law would not be in a position today to terrorize those who would prey upon our children on the information super highway.

THE NATIONAL DEBT

(Mr. DAVIS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Speaker, it has been 846 days since President Bush and the Republican Party embarked on their economic plan for our country. Do the Members realize that during that time the national debt has increased by $1,152,231,363,445 and some few odd cents and according to the Web site for the Bureau of the Public Debt at the U.S. Department of the Treasury, at 4:30 p.m. yesterday, eastern daylight time, the Nation's debt was $6,792,556,749,803 and some few odd cents?

□ 1015

Now, you study that for a moment. Furthermore, in fiscal year 2003, interest on our national debt, a debt tax, is $288,803,184,023 and some few odd cents through July 31 of this year.

ADDRESSING THE TERRIBLE STATE OF AFFAIRS IN BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today out of concern over the continued imprisonment and disappearance of Aung San Suu Kyi, Nobel Peace Prize winner and leader of the National League of Democracy in Burma.

The cruel SPDC military dictatorship ruling Burma today imprisoned her in May of this year after their own government thugs attacked her and her supporters. Ms. Suu Kyi is now on a hunger strike in protest.

Mr. Speaker, no country should be defending this savage dictatorship that has no qualms about engaging in slave labor, systematic rape, destruction of villages and the murder of many innocent civilians.

What more will it take to get the international community to take deliberative, decisive action? Secretary General Kofi Annan and the U.N. Security Council should immediately act to secure the release of Aung San Suu Kyi, help alleviate the suffering of the people and address the terrible state of affairs in Burma.

THE PHILMONT SCOUT RANCH, A TREASURE FOR ALL AMERICANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, a highlight of the August district work period was to accompany my 15-year-old son Hunter on a 70-mile backpacking trek at the Philmont Scout Ranch in Cimarron, New Mexico.

Philmont is correctly identified as a scouting paradise due to the multitude of camps and breathtaking views of mountain ranges and Southwestern mesas. This 137,000-acre area ecological wonder is the result of its benefactor, the late Waite Phillips, who donated the properties now defined as the world's largest camping organization, staffed by 900 employees for over 25,000 hikers who come annually from every State.

I saw firsthand the accomplishments of dedicated adult volunteers, Mike Apfeld and Jeff Geygan of the Milwaukee County Scout Council, who guided our crew of nine scouts, Crew Leader Brendan Apfeld, Daniel Gerlach, J.P. Geygan, Nicholas Haynes, Michael Mastroianni, Christopher Murphy, Danny Brownfield, John McClellan, Jr., and Hunter Wilson. They achieved climbing the ranch's highest peak on Baldy Mountain of 12,441 feet, encouraged by Ranger Michael Ferrin.

Philmont Scout Ranch is a treasure for all Americans to enjoy, and I urge my colleagues to encourage their scout troops to participate in the exhilarating Philmont experience.

TRIBUTE TO GENERAL RAY DAVIS

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to pay tribute to a true patriot. Yesterday America lost a man who will always be remembered as a hero. General Ray Davis lived a life of service and devotion to his country. Graduating from Georgia Tech as a naval officer candidate, General Davis served in World War II, Korea and Vietnam before retiring as a four-star general in 1972.

General Davis earned the Congressional Medal of Honor for his leadership in the Korean War, in which he led a daring battle against an enemy which vastly outnumbered his Marines. General Davis and his men rescued two regiments that had been trapped for 5 days and then fought their way across 14 miles of enemy territory over 3 days to return to safety.

His heroism earned him medals, but it is his devotion to his country, the military, and his fellow veterans that we will remember most. General Davis was instrumental in the establishment of the Korean War Memorial and stayed involved in issues important to veterans and current military personnel.

On behalf of all Georgians in the Twelfth District, I offer my deepest sympathy to General Davis' family. He was indeed a true American hero.

REAUTHORIZING TEA-21

(Mrs. MUSGRAVE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MUSGRAVE. Mr. Speaker, I rise today to address one of the most important issues we will debate during the 108th Congress, the reauthorization of TEA-21.

TEA-21 funding ends on September 30, 2003, less than 30 days from now. So far, this Congress has failed to even introduce a reauthorization bill. As our highways, bridges, and city streets fall apart, this House has failed to act, and time is running out.

Tragically, instead of seeking out creative transportation reforms, it seems that many in this body have decided that raising taxes and indexing them to inflation is the best way to be good stewards of taxpayers' money. This idea is not only counter to our Republican ideals, but it also is irresponsible, regressive, and counterproductive to our efforts to pass meaningful tax cuts earlier this year.

When Coloradans sent me to Congress, they did so knowing that I am a fiscal conservative who wants to make government smaller, not bigger. I will not stand idly by while their taxes are being raised. What Member of this body ran on a promise to increase taxes by almost 50 percent? Not one of us. The majority of my colleagues ran on promises of smaller government and lower taxes.

It is time to see a TEA-21 reauthorization bill with meaningful reforms.

PROVIDING FOR CONSIDERATION OF H.R. 2989, TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 351 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 351

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived except as follows: page 9, line 10, through line 15; page 12, line 1, through page 13, line 2; page 14, line 16, through page 15, line 2; page 17, line 6, through line 11; page 18, line 3, through page 24, line 12; "limited or" on page 26, line 9; page 27, line 14, through page 28, line 7; beginning with "Provided" on page 28, line 19, through page 29, line 3; "Notwithstanding any other provision of law" on page 31, line 5; page 31, line 14, through line 21; page 31, line 24, through page 32, line 17; "Notwithstanding any other provision of law" on page 34, line 24; beginning with "provided further" on page 36, line 17, through page 37, line 5; beginning with "provided further" on page 45, line 16, through line 23; "Notwithstanding any other provision of law" on page 46, line 25; page 50, line 19, through "project" on page 51, line 4; beginning with "Notwithstanding" on page 51, line 12, through "amended" on line 13; page 53, line 3, through page 54, line 12; "Notwithstanding any other provision of law" on page 54, lines 13 and 14; page 72, line 22, through page 76; page 122, line 4, through line 9; "Notwithstanding any other provision of law" on page 126, lines 15 and 16; beginning with "and the prohibition" on page 126, line 20, through "2512(a)(1))" on line 23. Where points of order are waived against part of a paragraph or section, points of order against a provision in another part of such paragraph or section may be made only against such provision and not against the entire paragraph or section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 351 is an open rule that provides for consideration of H.R. 2989, the Department of Transportation, Treasury, and related agencies appropriations for fiscal year ending September 30, 2004. The rule waives all points of order against consideration of the bill.

The rule also provides for one hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule provides that bill shall be considered for amendment by paragraph. In addition, the rule waives clause 2 of rule XXI prohibiting unauthorized or legislative provisions in an appropriations bill against provisions in the bill, except as otherwise specified in the rule. Further, the rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the CONGRESSIONAL RECORD. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, this is the first year that the Congress is considering appropriations for the Department of Transportation and the Department of Treasury along with Postal Service, the Executive Office of the President and general government provisions in a single appropriations bill. This change was necessary to make room for creation of a subcommittee for the new Department of Homeland Security. The Committee on Appropriations has worked diligently to combine these agencies and produce legislation that meets the Nation's priorities in a multitude of areas.

The bill provides $89.3 billion in total budgetary resources, which is an increase of $2.7 billion above the current level. This funding represents the firm commitment of this Congress to fund necessary programs and projects across the Nation.

Total transportation funding in this bill is over $58 billion. This funding, which is so important in my district and others throughout the entire country, is significantly increased over current year spending. From highways and transit programs to airports and Federal Aviation Administration, the underlying legislation meets the needs of our communities in previous years.

Some transportation programs have had guaranteed funding in authorization acts. Even though such guarantees no longer apply to this bill, the committee has provided at least a level of funding which was guaranteed last year; in the case of highways and airports, even more. The absence of these guarantees means new choices in the allocation of funds by providing the flexibility of fund programs that were not protected under the previous guarantees but were equally important.

The underlying legislation also gives significant increases to the Treasury Department, bringing their appropriation to over $11 billion. Of those funds, $2.7 million is available for stronger agency involvement in international affairs, including technical advisers for rebuilding the currency, banking and financial systems in Iraq; $29.3 million is allocated for the new Office of Terrorist Financing and Financial Crimes, and $5.3 million for IRS counterterrorism activities. Additionally, funds are provided for the Office of Foreign Assets Control and Financial Crimes Enforcement Network to help fight money laundering and track down terrorist financing.

All of these are important elements of the war on terrorism, and they are funded at or above the administration's request, demonstrating our pledge to keep America safe from terrorists and showing that national security remains a top priority.

Many other agencies and programs that I have not outlined today are also funded under this bill.

Mr. Speaker, I would like to commend the chairman and ranking member of both the appropriations full committee and subcommittee for their hard work on this difficult measure.

Mr. Speaker, I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my good friend, the gentleman from New York, for yielding me the customary 30 minutes.

Mr. Speaker, let me begin by commending the members of the Subcommittee on Transportation, Treasury and Independent Agencies for their hard work on this difficult bill. This subcommittee faced many challenges, and with the help of the gentleman from Florida (Chairman YOUNG) and the ranking member, the gentleman from Wisconsin (Mr. OBEY), they produced a bill for this House to consider today.

I especially want to thank and recognize my friend and colleague, the gentleman from Massachusetts (Mr. OLVER), the ranking member of the subcommittee, for his leadership and his guidance in crafting this bill.

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While our colleagues deserve praise for their work to improve this bill, it still has serious problems. I am concerned about the removal of the mandatory setaside for transportation enhancements. Funding for Amtrak is half of what is needed to properly maintain and run this system. This bill will make it harder, not easier, for low-income families to receive the earned income tax credit. And despite pledges made to protect the corporate expatriate language adopted by the full committee, this rule allows this important provision to be removed from the bill without a vote by the House.

Beginning with ISTEA in 1991 and continuing with TEA–21 in 1998, we required that the communities receive the maximum benefit from transportation investments. It is precisely because of mandated 10 percent setaside of surface transportation program funds that the enhancement program has successfully leveraged State matching contributions totalling almost $8.4 billion for 15,000 projects spanning every part of this country. These funds have been used for such worthwhile activities as the development of scenic bikeway and pedestrian facilities, the preservation of abandoned railway corridors, and the protection of historically significant transportation assets.

Mr. Speaker, in my home State of Massachusetts, more than $75 million has been invested in a total of 228 community projects since 1992. Sixty percent of that funding has been invested in devising a network of bikeway and pedestrian trails which is rapidly becoming an important part of our infrastructure. But section 114 of this bill would eliminate the mandatory 10 percent setaside for transportation enhancements that has made the program so widely popular and tremendously successful. Furthermore, it undermines the national transportation policy we reaffirmed in TEA–21 in order to allow States to divert funding from small scale, locally selected projects to massive transportation initiatives that do not have the same broad community support.

Mr. Speaker, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Massachusetts (Mr. OLVER) will offer an amendment to strike this section from the bill, preserving the good policy set by ISTEA and TEA–21. I strongly urge my colleagues to join me in supporting this important amendment.

This bill, Mr. Speaker, also badly underfunds our national passenger rail system. Amtrak's management has recently begun to stabilize its finances, improve service, and increase ridership. Their reward for that progress in this bill is to be given one-half, or $900 million, of the $1.8 billion Amtrak needs to simply maintain existing operations. One-half.

Although I am pleased that more than 40 percent of the $900 million provided to Amtrak under this bill is designated by capital expenses along the Northeast Corridor, we all need to take a more national approach to Amtrak's funding. The money provided for Amtrak in this bill is not only grossly insufficient; it is intended to bring Amtrak to the brink of failure. That is wrong.

Once again, the subcommittee has included a provision that gives the Secretary of Transportation the authority to arrange for an alternate service provider for commuter rail service should Amtrak cease operations. Mr. Speaker, that is not foresight. It is foreshadowing of a disastrous transportation crisis for this country. By providing Amtrak half of the funding it needs, this appropriations bill makes such an event a self-fulfilling prophesy. Amtrak's management deserves the opportunity to continue the progress it has made, and it deserves the confidence and support of this institution.

More importantly, the American public deserves a first-rate national intercity rail system to complement our aviation and highway systems. I cannot believe we would walk away from the success of the transportation enhancement program or retreat from the recent progress we have made in setting Amtrak on the right course. This appropriations bill, unfortunately, takes us backwards instead of forwards.

Mr. Speaker, I cannot stress strongly enough that although this is technically an open rule, the opportunity to amend this bill is very limited. The most substantive amendments brought before the Committee on Rules last night required waivers, and as usual the Committee on Rules did not grant any of those waivers.

House rules severely restrict the amendment process on all appropriations bills. Therefore, even though the Committee on Rules granted an open rule, one that technically does not restrict the amendment process, by its nature the amendment process for appropriations bills is still limited. For example, this rule does not make in order a number of important amendments including one offered by the ranking member, the gentleman from Massachusetts (Mr. OLVER). That amendment would have provided an additional $500 million above the $900 million currently in the bill for Amtrak.

This would give Amtrak sufficient funding to ensure solvency and to begin to address the long-term capital needs that have been neglected for so long. The amendment offsets the additional Amtrak funding by reducing the tax cut that those earning $1 million or more would receive in 2004 from $88,000 to $88,500 or by only $2,500.

This rule does not protect language currently in H.R. 2989 that would prohibit the Treasury Department from contracting with expatriate corporations, those companies which operate here in the United States but set up shell corporations overseas for the expressed purpose of avoiding their taxes. Amendments to allow both of these worthwhile initiatives were defeated last night by the Committee on Rules Republicans, I am sad to say.

Finally, Mr. Speaker, let me comment on two amendments regarding U.S. policy towards Cuba. The gentleman from Arizona (Mr. FLAKE) and myself and several of our colleagues from the Cuba Working Group will offer a bipartisan amendment to prohibit funds from being used to enforce restrictions on travel by Americans to Cuba. Another bipartisan amendment will be offered by the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Arizona (Mr. FLAKE) that will eliminate the cap on remittances to Americans from Cuban households.

Each year for the past 3 years these amendments to end the ban on travel have received overwhelming support by the Members of this House. Last year it was approved by a vote of 262 to 167.

The amendment to lift the cap on remittances passed by a similar margin. The crackdown on dissidents carried out earlier this year by the Cuban Government demonstrated how completely ineffective U.S. policy over the past 40 years has been in protecting human rights in Cuba. Because of this, many major human rights groups, including Amnesty International and Human Rights Watch, have called on the United States Government to end the restrictions on Americans wanting to travel to Cuba. Most importantly, the amendment affirms the basic right of all Americans to travel freely.

Former Supreme Court Justice William Douglas said, "Freedom of movement is the very essence of our free society, setting us apart. It often makes all other rights meaningful."

Mr. Speaker, I urge my colleagues to support for the fourth year in a row the Flake-McGovern amendment on ending the travel ban on the right of Americans to travel to Cuba and support the Delahunt-Flake amendment lifting the cap on remittances to Cuban family members living on the island.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, and there will be ample debate throughout the day as we first have the debate on the appropriations bill and then the opportunity for Members to submit amendments for consideration throughout the day.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, we have just been told that this rule is an open rule. That is an absolutely meaningless statement. What the majority has done once again is to waive the rules of the House for the majority product, but then refuse to waive those same rules for amendments that the minority wishes to offer. In my view, that is a gutless way to legislate. It is an unfair way to legislate. It does discredit to this House and discredit to those who impose those kinds of rules.

And to suggest that this is an open rule, implying, somehow implying that this is business as usual, if this is business as usual, I think the American public would hang their heads when they understand it.

I am against this bill. I am against the previous question on the rule. I am against the rule itself. This bill is inadequate in a large number of ways. It is a joke in terms of what it does to Amtrak. It does not provide sufficient funding to keep Amtrak funded. And whether some people like it or not, we need a national Amtrak system.

Secondly, it virtually guarantees that enhancement projects which were a key in moving forward the transportation authorization bill the last time it was on the floor have now been gutted. And that means that municipalities are not going to have the opportunity for many of the enhancements they have had in the past. I think that is a mistake.

You have a weird sense of priorities expressed in the EITC precertification provision in this bill. The majority says, "Oh, we ought to spend $100 million on more IRS enforcement to go after the poorest taxpayers in this society who take advantage of the EITC", when you could use that same $100 million and go after noncompliance by large corporations and bring many times more dollars into the Treasury than you ever will by the EITC provision.

This provision in this bill is not here to save the taxpayers money. It is here for ideological reasons. The Republican majority for years supported the earned income tax credit as an alternative to the minimum wage increase. And now that there is no "threat" from a Republican Congress on raising the minimum wage, now they go after the only tax provision in the law to help the poorest taxpayers who ought to get a minimum wage increase but do not get it.

We also have the issue of Cuba. I am very much in support of the effort that the gentleman from Massachusetts will make because in my view existing U.S. policy toward Cuba is stupid, capital letter stupid. It is mindless, capital letter mindless. It is ineffective. All it does is give that two-bit dictator Castro in Cuba an excuse to point to somebody else for his island's troubles. Now, I do not mind . . . well, I do mind because it is bad enough when we restrict the rights of individual American citizens to travel where they want to travel, if it is being done on behalf of a good policy; but I really do mind when it is being done on behalf of a stupid policy. This policy is out-moded. It has not worked. If it had worked, Castro would be long gone.

Again, what we have here is an ideologically driven policy. It is put together by people who think with their spleen instead of their head. It makes no sense whatsoever. The bill ought to be voted down. The rule ought to be voted down. The previous question ought to be voted down until this committee comes to its senses.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am certainly glad it is an open rule that is going to be considered by an amendment process that goes paragraph by paragraph as is outlined here. And I also know, while I do not sit on appropriations nor authorizing committees and just on the Committee on Rules, that this particular one prohibits unauthorized or legislative provisions in an appropriations bill against provisions in the bill unless as specified before us today; and that as usual we recognize those, the Chair or the speaker, according to the priority of recognition of Members who have preprinted their amendments in the CONGRESSIONAL RECORD to be heard. And it provides one motion to recommit with or without instructions.

Amtrak is going to be a debate that we will continue. As a New Yorker, I certainly watch that debate closely. But the Department of Transportation has testified that Amtrak needs reform more than it needs money. As a matter of fact, I believe that the witnesses, the Chair, and ranking member of the Subcommittee on Transportation, Treasury and Independent Agencies of the Committee on Appropriations indicated that they also believe that money alone was not going to solve Amtrak's problems. So my understanding is there is money there and there may well be amendments later today that ask for consideration of more or less.

When we look at the discussion of how much money and what categories of programs, I suppose if there was unlimited money for transportation, we could then unlimit the categories, whether you need roads or bridges or bike paths. This legislation, while I wish there was more transportation money for my district or my State or my region or the country as a whole, has provided flexibility for the States in order to make that tough decision. Do you need a bike path? Do you need a bridge repair? Do you need roads reconstructed or constructed due to growth? So some of that flexibility with the money we have gives States the ability to make those tough decisions.

I listened carefully on the earned income tax credits as our colleague, the ranking member of the Committee on Appropriations talked about it, but while my colleagues on the other side of the aisle argue that $105 million in IRS for precertification of the EITC applicants should be stricken, I just want to make the record known that every other welfare program has a precertification, except the EITC.

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EITC automatically sends checks, and only after they begin to look at the eligibility. So I am not sure how the system should work, and I will leave that to the administration, but it is not as if this is singled out.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. REYNOLDS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding to me.

I did not say that that provision should be stricken. What I said is that if you want to make money for the taxpayers, you can haul in a lot more money to the Treasury by using that same hundred million dollars to go after people with real bucks in their pockets, the large size corporations in this country. What you will collect on this, if you do indeed have scarce dollars, it seems to me you ought to put them where you get the biggest bang for a buck.

Mr. REYNOLDS. Mr. Speaker, I thank the gentleman for clarifying the record.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I want to respond to the gentleman from New York on the issue of Amtrak. The fact of the matter is that Amtrak's management has recently begun to stabilize its finances and improve its service and increase its ridership, and as I mentioned in my opening statement, their reward for their progress in this bill is to be given one-half of what they need to maintain existing operations.

If the gentleman does not want to support Amtrak, he does not want to give Amtrak the money that they need to support their existing operations, then that is his right and he can vote no on such an amendment; but the Committee on Rules last night specifically denied the right of my colleague from Massachusetts (Mr. OLVER) to offer his amendment which would have corrected this shortfall, and I think that is one of the concerns that we have about this rule.

Why this rule truly is not open is because a lot of meaningful amendments to address some very serious issues were denied last night by the Committee on Rules.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I urge a no vote on this rule. Mr. Speaker, I had an amendment which I had asked the Committee on Rules to allow but was not made in order under the rule. That amendment would have added $500 million to the bill for Amtrak, bringing their total funding for fiscal year 2004 to $1.4 billion, still $400 million less than Amtrak has indicated that they need to begin to make a dent in the severe deferred maintenance and inadequate capital investments that have been plaguing them for years.

The amendment would have allowed them to begin to make an inroad in those deferred maintenance and capital investment deferences that have plagued them, as I have indicated.

My amendment would have done this by reducing the average tax cut for those earning $1 million or more of taxable income from an average of $88,000 to an average of $85,500 or about, on average, $2,500 per person. This amendment should have been made in order if this Congress believes in a national passenger rail system. And I would just point out that for persons who are just reaching that threshold of what sounds like a very large number of $1 million of taxable income, for persons just reaching that threshold, that would have required a reduction of less than $1,000 in their tax cut.

The bill before us provides only $900 million in fiscal 2004 for Amtrak and, if enacted, will strangle passenger rail service in the United States. No large private or public intercity passenger rail system in the world has been profitable or been able to survive without substantial public subsidy. When national governments no longer want to support intercity rail service, the rail service disappears. The lesson is clear. Passenger railways cannot operate without government support.

Over the last 5 years, Amtrak has received an average of $1.1 billion per year, and this reduction in that level of funding has caused Amtrak to defer important capital improvements to the point of danger to the public safety of users.

Amtrak has a $3.8 billion backlog on infrastructure, $1.1 billion backlog for fleet, and $9 million backlog for stations and facilities. Without an adequate capital budget we will be playing Russian roulette with the operability of Amtrak and the safety of its passengers.

We must continue to work to provide Amtrak the money it needs to run a safe and national railway system. So because my amendment to provide that necessary funding for the national rail passenger system has not been made in order, I am urging a no vote on the rule.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today to urge my fellow Members to oppose the previous question.

Mr. Speaker, these are difficult times in our Nation. We are fighting terrorism on numerous fronts. Our economy is in serious trouble, unemployment is at record-high levels, and our future budget deficits are predicted to be the highest in the history of this great Nation.

Now is not the time for Members of Congress to be voting themselves a pay raise. We need to show the American people that we are willing to make sacrifices. We need to budget, live within our means and make careful spending decisions based on our most pressing priorities.

Mr. Speaker, let us send a signal to the American people that we recognize their struggle in today's economy. Vote no on the previous question so we can have an opportunity to block the automatic cost-of-living adjustment to Members of Congress. Regardless of how Members feel about this issue, they should all be willing to make their position public and on the record.

A no vote will allow Members to vote up or down on the COLA. If the previous question is defeated, I will offer an amendment to the rule. My amendment will block the fiscal year 2004 automatic cost-of-living pay raise for Members of Congress. Because this amendment requires a waiver, the only way to get to this issue is to defeat the previous question.

Therefore, I urge Members to vote no on the previous question.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me. I will be very brief and not take 2 minutes, but I want to bring to the attention, particularly of the Members on my side, I will be voting for the previous question. This is a procedure we have followed in the past. It is an honest, in-the-daylight procedure.

The gentleman from Utah (Mr. MATHESON) raises his point. He has raised it in the past. I would urge Members to vote for the previous question.

Then I think on our side we are very concerned about the rule itself, and many of us will not be supporting the rule, but I would urge my Members on this side to vote for the previous question.

Mr. REYNOLDS. Mr. Speaker, I have no additional speakers, but I reserve the balance of my time until my colleague is prepared to close.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just close by urging my colleagues to vote no on this rule. The majority says we have an open rule, but as my colleagues have heard in this debate this morning, a number of very important, substantive amendments have not been made in order.

The amendment that the gentleman from Massachusetts (Mr. OLVER) has offered that would address this shortfall in funding for Amtrak was not allowed by the Committee on Rules last night. This is our only opportunity to fix this very, very serious issue. The Amtrak funding in this bill is half of what is necessary to maintain existing services and operations, and it is simply inadequate.

In addition, this rule does not protect language in this bill that would prohibit the Treasury Department from contracting with expatriate corporations. Again, these are these companies which operate here in the United States but set up shell corporations overseas for the express purpose of avoiding their taxes. We are at war. We have a difficult economy. American citizens are being asked to sacrifice, and yet we are going to protect companies that set up these P.O. boxes in places like Bermuda to avoid paying taxes and to allow them to continue to receive U.S. Government contracts. It is unconscionable that we would try to protect those corporations.

I would urge my colleagues to vote no on this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

I am sure the underlying bill before us today was an arduous undertaking. It represents funding for the Department of Transportation, Department of Treasury, including the IRS, the General Services Administration, the United States Postal Service, the Office of Management and Budget, the White House, Office of Personnel Management, among others. It is a brand new subcommittee that was put together by this House.

It is a fair and balanced bill that seeks to continue programs that are working and reform those that are not. By substantially increasing many areas of the bill and maintaining funding in others, this Congress has once again lived up to its commitment to our communities.

I urge a "yes" vote on the previous question and a "yes" vote on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MATHESON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 240, nays 173, not voting 21, as follows:

[Roll No. 463]

YEAS—240

Abercrombie
Ackerman
Aderholt
Akin
Baca
Baker
Ballance
Ballenger
Barton (TX)
Bass
Bereuter
Berman
Biggert
Bilirakis
Bishop (GA)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boucher
Boyd
Brady (PA)
Brown (SC)
Brown, Corrine
Buyer
Calvert
Camp
Cannon
Cantor
Capuano
Cardin
Castle
Clay
Clyburn
Cole
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Tom
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Dunn
Ehlers
Emerson
Eshoo
Everett
Fattah
Feeney
Ferguson
Filner
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goss
Granger
Green (TX)
Greenwood
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hastings (WA)
Hefley
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Honda
Hoyer
Hunter
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy (RI)
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Lowey
Lucas (OK)
Lynch
Majette
Manzullo
Markey
Matsui
McCarthy (MO)
McCollum
McCotter
McCrery
McDermott
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moran (VA)
Murtha
Myrick
Nadler
Neal (MA)
Nethercutt
Ney
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rehberg
Reyes
Reynolds
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Rothman
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Saxton
Schakowsky
Schrock
Scott (VA)
Serrano
Shadegg
Shaw
Sherman
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Stark
Sweeney
Tancredo
Tauscher
Tauzin
Thomas
Thompson (MS)
Thornberry
Tiberi
Towns
Turner (OH)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

NAYS—173

Alexander
Allen
Bachus
Baird
Baldwin
Barrett (SC)
Bartlett (MD)
Beauprez
Becerra
Bell
Berkley
Berry
Bishop (NY)
Bishop (UT)
Blackburn
Boozman
Boswell
Bradley (NH)
Brady (TX)
Brown (OH)
Brown-Waite, Ginny
Burgess
Burns
Burr
Capito
Capps
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chocola
Coble
Collins
Costello
Davis (AL)
Davis (CA)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
Deutsch
Duncan
Edwards
Emanuel
English
Etheridge
Evans
Farr
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Gerlach
Gibbons
Gingrey
Goode
Gordon
Green (WI)
Grijalva
Hall
Harris
Hart
Hayes
Hayworth
Hensarling
Hill
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hulshof
Inslee
Isakson
Israel
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
Kleczka
LaHood
Lampson
Langevin
Larsen (WA)
Lewis (KY)
LoBiondo
Lofgren
Lucas (KY)
Maloney
Marshall
Matheson
McCarthy (NY)
McGovern
McIntyre
Mica
Michaud
Miller (FL)
Miller (NC)
Moore
Moran (KS)
Murphy
Musgrave
Napolitano
Neugebauer
Northup
Norwood
Obey
Paul
Pearce
Peterson (PA)
Petri
Pitts
Platts
Pomeroy
Porter
Price (NC)
Ramstad
Renzi
Rogers (AL)
Rogers (MI)
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sanders
Sandlin
Schiff
Scott (GA)
Sensenbrenner
Sessions
Shays
Sherwood
Shimkus
Shuster
Simmons
Slaughter
Smith (WA)
Snyder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Tiahrt
Tierney
Toomey
Turner (TX)
Udall (CO)
Udall (NM)
Vitter
Walden (OR)
Weldon (FL)
Whitfield
Wu

NOT VOTING—21

Andrews
Burton (IN)
DeGette
DeMint
Dooley (CA)
Engel
Gephardt
Graves
Hyde
Janklow
John
Kucinich
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). The Clerk advises that the wall display for the electronic voting system is not displaying lights in one column. The Chair would ask Members in the fourth column of names to verify their votes at a voting station before the Chair announces the results of the vote.

Once again, the wall display for the electronic voting system is not displaying lights in one column. The Chair would ask Members in the fourth column of names to verify their votes at a voting station before the Chair announces the results of the vote.

□ 1132

Messrs. ROGERS of Michigan, DEAL of Georgia, BISHOP of Utah, NORWOOD, LaHOOD, FRANKS of Arizona, KELLER, GERLACH, BURNS, DUNCAN, PORTER, ENGLISH, FLAKE, NEUGEBAUER, PLATTS, HOLT, MURPHY, CHABOT, DEUTSCH, ROYCE, FORD, SPRATT, SHAYS, TIAHRT, STEARNS, PEARCE, KLECZKA, HOSTETTLER, MILLER of North Carolina, FOLEY, MICA, HAYES, TERRY, SHUSTER, GIBBONS, COBLE, LEWIS of Kentucky, PETERSON of Pennsylvania, RENZI, WELDON of Florida, BURR, Mrs. JOHNSON of Connecticut, Ms. HARRIS, Ms. KAPTUR and Ms. SLAUGHTER changed their vote from "yea" to "nay."

Messrs. SHERMAN, BALLANCE, DICKS, BILIRAKIS, MEEHAN, MATSUI, JEFFERSON, BERMAN, DAVIS of Illinois, OWENS, BOYD, PASTOR, BOUCHER, Mrs. LOWEY, Mrs. BONO, Ms. MAJETTE and Ms. McCARTHY of Missouri changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. EMERSON. Mr. Speaker, earlier today I inadvertently voted "yea" on rollcall vote 463, ordering the previous question for H. Res. 351, Providing for Consideration of H.R. 2989, Departments of Transportation and Treasury Appropriations Act of 2004.

I ask that, even though the record cannot reflect this statement, you consider me opposed to the automatic pay increases that may result from passage of this provision, by a vote of 240–173, this morning.

In the 106th and 107th Congresses, I was one of a handful of Representatives to cosponsor legislation to eliminate these automatic pay adjustments for Members of Congress. My voting record over the past seven years reflects my strong opposition to automatic cost-of-living adjustments for Members of Congress.

A "nay" vote would have best reflected my opposition to automatic pay adjustments. I apologize for the way in which this inadvertent vote may have misled you to believe I am in favor of such an automatic pay increase.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 178, not voting 21, as follows:

[Roll No. 464]

AYES—235

Aderholt
Akin
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Lynch
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Watson
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

NOES—178

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chabot
Clyburn
Costello
Cramer
Crowley
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Doggett
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Goode
Gordon
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Pomeroy
Price (NC)
Ramstad
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wamp
Waters
Watt
Weiner
Wexler
Wu

NOT VOTING—21

Andrews
Burton (IN)
DeGette
DeMint
Dooley (CA)
Engel
Gephardt
Graves
Hyde
Janklow
John
Kucinich
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would once again remind Members in the fourth column to check their votes on the voting machine. The voting machine is working correctly, but the display is not displaying those names. Members should independently verify their votes on a voting station.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1143

Mr. WAMP changed his vote from "aye" to "no."

Mr. OBEY changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

Mr. OBEY. Mr. Speaker, I move to reconsider the last vote.

MOTION TO TABLE OFFERED BY MR. REYNOLDS

Mr. REYNOLDS. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. REYNOLDS) to table the motion to reconsider offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 205, noes 180, not voting 49, as follows:

[Roll No. 465]

AYES—205

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert

Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Cannon
Cantor
Capito
Castle
Chabot
Chocola
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Lynch
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—180

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Moran (VA)
Murtha
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Pelosi
Pomeroy
Price (NC)
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu
Wynn

NOT VOTING—49

Andrews
Ballenger
Bereuter
Berman
Boehner
Burton (IN)
Camp
Carter
Deal (GA)
DeGette
Delahunt
DeMint
Dooley (CA)
Emerson
Engel
Fattah
Gephardt
Graves
Greenwood
Hinchey
Houghton
Hyde
Janklow
John
Johnson (CT)
Johnson, Sam
Jones (OH)
Kucinich
LaTourette
McCarthy (NY)
Miller, George
Myrick
Nadler
Norwood
Pascrell
Payne
Pickering
Pombo
Rangel
Regula
Rodriguez
Roybal-Allard
Ryun (KS)
Souder
Stark
Van Hollen
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1201

Messrs. COBLE, DICKS, FRANK of Massachusetts, RUSH, SPRATT, Ms. WATERS, and Mr. WYNN changed their vote from "aye" to "no."

Messrs. LEWIS of California, SAXTON, TANCREDO, THOMAS, and WALDEN of Oregon changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BEREUTER. Mr. Speaker, on September 4, 2003, this Member unavoidably missed rollcall vote No. 465. Because this was a 5-minute vote, in contrast to the normal practice of 15 minutes employed on the floor when votes are not predicted, this Member returned to Committee and was unaware that the normal practice was not pursued. Several other Members were in the same position. Had this Member been present, this Member would have voted "aye" on this procedural vote to table the motion to reconsider the previous vote.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Pursuant to House Resolution 351 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2989.

The Chair designates the gentleman from California (Mr. DREIER) as Chairman of the Committee of the Whole, and requests the gentleman from Virginia (Mr. GOODLATTE) to assume the chair temporarily.

☐ 1202

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, with Mr. GOODLATTE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Massachusetts (Mr. OLVER) each will control 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present the Departments of Transportation, Treasury, and independent agencies appropriations bill for fiscal year 2004. Because of the reorganization of the Committee on Appropriations, this is an entirely new arrangement for the form in which these agencies are presented to the House. In this bill, many of the historical programs that were part of the Transportation Department and the Treasury Department were merged with the new Department of Homeland Security, and then the remaining programs have now been combined in this legislative package with the appropriations for agencies such as the General Services Administration, the Office of Personnel Management, the White House, the Executive Office of the President, the Office of Management and Budget and other critical agencies which are, at times, dissimilar in their functions, however.

As a result, in putting together this bill we have made budget trade-offs that previously were not made by this particular subcommittee. We have merged Members of Congress and committee staff from two former subcommittees, and accomplishing the production of a $90 billion bill only a few months into that task has been a Herculean task. Fortunately, we have been blessed with good people, good Members, such as the ranking member, the gentleman from Massachusetts (Mr. OLVER), Mr. ETHERIDGE and other staff that I will recognize later for their role in this bill.

But I believe we have produced a good product for the House. We have had a lot of learning, many hearings, and the members of the subcommittee have shown enormous dedication to produce this bill. I believe this is a very good and solid bill. In most respects, it matches the budget request and the priorities of the President, and makes some significant improvements along the way.

In particular, I am pleased that by exercising great discipline in a number of areas, we are able to do more than the President anticipated for investing in the Nation's highways. The budget, unfortunately, due to downward movement in the Highway Trust Fund revenue, proposed an 8 percent reduction in funding for Federal aid to highways. Thanks to the discipline we have exercised in other areas, this bill instead provides a 7 percent increase. So it is $4.5 billion more than the President's request expected we would be able to do, and some $2.2 billion more than Federal aid to highways during the current fiscal year.

That money is excellent and significant news for America's economy, because each $1 billion of highway investment creates some 40,000 jobs. So compared to the current year's funding, this bill will add another 88,000 jobs across the country in highway construction alone. Compared to what we expected we would be able to produce this year, this bill will add some 200,000 jobs across the country.

That is good news also for the millions of motorists that are stuck in traffic congestion. According to the U.S. Department of Transportation, America has unprecedented and worsening levels of highway congestion. In urban areas, the largest urban areas that have 3 million people or more, 40 percent of the travel every day is under congested conditions. It costs the economy billions of dollars with lost productivity because of workers that are stuck in traffic. The backlog of highway and bridge deficiencies continues to rise. There is now over $325 billion, according to the Federal Highway Administration, and some $400 billion, according to other Department of Transportation sources, in unaddressed highway construction needs in the United States of America.

We have to get America to work and move goods to market, and this bill seeks to do that. No other form of transportation offers the flexibility and the ability to move large numbers that our road network offers. Well over 90 percent of the vehicle miles traveled in the United States today take place on the highway. That is the way we move, that is the way that goods get to market, it is the way emergency vehicles and public safety vehicles are able to move.

We have to address the critical problem of highway infrastructure to get America moving again. This bill seeks to do that in a very significant way, but without any increases in taxes or in revenue.

While the needs go up, Mr. Chairman, our ability to respond to them has been threatened by the tightness of the budget. There has been a dramatic decline in highway gasoline tax revenues. Gas tax receipts put into the highway account of the trust funds went down almost $6 billion between 1999 and 2002. We do not expect them to return to the 1999 level until the year 2008. That is why the tough decisions that we have made and the priorities we have set in this bill are so important to work on that backlog in a time of limited resources.

At the same time, there are increasing pressures on the general fund due to Homeland Security and national defense priorities. We are trying to be fiscally responsible and use this money more wisely and set tough priorities among many competing demands. We will hear many Members talk about things that they wish we had the money to do. It would be nice, but we do not have the luxury of doing things that we could in times of rising revenues.

While increasing funds for highway investment, we had to hold down other increases. For the Department of the Treasury, the FAA, the Federal Aviation Administration, the Office of Personnel Management, we, by necessity, have provided cost-of-living increases and other mandatory expenses that are about 4 to 5 percent increases for those agencies, but the Executive Office of the President and others have only a 1 percent increase. We are exercising the fiscal restraint which is necessary.

I do want to express special appreciation, of course, to everyone that has made it possible in making these tough decisions. The gentleman from Massachusetts (Mr. OLVER) I have singled out previously. He has been tough, but fair, in presenting his priorities. His input and advice have been invaluable, and our work is the better for his contribution.

I want to thank the chairman of the full committee, the gentleman from Florida (Mr. YOUNG), for his fair and generous allotment to our subcommittee.

Let me make sure that I also address a couple of areas that I know will be part of the debate on this bill. Let us look at Amtrak.

The bill includes $900 million for Amtrak. Some will say that is not enough. Well, that is because Amtrak says they wanted twice as much. But, keep in mind, Amtrak is not a Federal agency. They are in a special status, a special private situation. They can ask for whatever they want, but their requests have not gone through the same budget and vetting process as has been the case with the other agencies that have requested money.

Amtrak's request did not go through the Office of Management and Budget. It was not balanced against other transportation priorities. It was a request of what they said they want. Their desires are transmitted directly to the Congress. But the administration does not support the large request that came from Amtrak, and neither do I.

As the Secretary of Transportation, Mr. Mineta, stated in a letter that he wrote to me recently, and I quote the Secretary, "The problems at Amtrak simply will not go away with a more liberal application of dollars."

We are at a defining moment in the Amtrak history, where we can go down the road of binding them to reform and making tough decisions on where it makes sense for Amtrak to operate and where it does not, or we can just throw money at the problem, money that we do not have and that will move millions more people if that money is applied elsewhere.

We should understand that of all the rail passengers in the country, only 5 percent or less are moved by Amtrak. Most of them are moved by commuter rail systems, not by Amtrak. Amtrak is not synonymous with the railroads of America. Amtrak is not synonymous with rail passenger service.

Reform legislation is pending before the Congress with Amtrak, but it has not been acted on by the authorizing committees. Until that happens, I believe it would be folly to provide huge increases for this railroad that has not kept up its commitments, that has not been honest with the American people.

We should not be swayed by their claims that they would go out of business unless they receive another $1.8 billion. They have tried to make that case by adopting poison-pill policies saying, oh, we have all these hundreds of millions of dollars in severance pay that we have agreed to to make it a poison pill, to keep people from making the serious decisions that need to be made for Amtrak.

Even they admit that most of their request is not needed for next year's operating bills. They want taxpayer money for their long-term capital investments because they have handled their system so poorly they find it difficult to attract private dollars. We should not accept their "sky is falling, Chicken Little" arguments. This bill is more than fair to Amtrak and would be sufficient, more than sufficient, to meet the really important parts of their operating needs.

Let me also address what will be another part of the debate on this bill, Mr. Chairman, the Federal Highway Transportation Enhancements Program. Several Members expressed concern about the program and, because of that, the approach that was taken by the full Committee on Appropriations is to say that transportation enhancements are a program that States are permitted to spend money on with their allocation of Federal highway dollars, but we will no longer force them to spend money on bike paths or pedestrian paths if they have higher priorities for their bridges that are unsafe, as thousands of bridges are, or their roads that are unsafe, as thousands of miles of roads are, or their congestion problems.

□ 1215

This is a decision affecting some $600 million a year, Mr. Chairman. I trust the States to make their decision. Is it of greater importance to the people in their State and in their community to move a small number of people, to make a pedestrian path available or to move a large number of people and enhance their workforce and economic development and productivity by relieving congestion where they find it? I trust States to make that decision.

The bill permits them to offer an amendment I know will be offered to try to say no, they must spend 10 percent of their surface transportation dollars which comes from highway users, which comes from gasoline taxes; but they must spend it on things that do not help move the traffic and do not help do the work and the business of America. The Transportation Enhancement Program funds transportation museums, for example, at the expense of the thousands of unsafe bridges that each of us have a portion of in our district.

So I look forward to what I hope will be a fair and honest and elucidating debate on that particular topic. And it will be of interest, Mr. Chairman, to know how many Members who tell me sometimes, oh, I need money for a highway project in my district, but if they vote today to say no it is more important to me to take money out of my highways and put into things that do not relieve the congestion and meet the transportation needs of the countries, then I will understand what their true priorities are. We need to make those important decisions.

There is one final area of the bill that I want to make clear because I have talked mostly about transportation. The Department of Treasury is in this bill. It provides critical contributions to the war on terrorism. It is more than just the agency that houses the Internal Revenue Service. For example, the bill provides several million dollars above the President's request for stronger involvement on the Treasury Department and international affairs, including technical advisors for rebuilding the currency bank and financial systems in Iraq. The Treasury Department has a crucial role, which we fund under this bill, to stop the money trafficking that is funding terrorist activity around the globe. It includes $2.3 million more for the new office of terrorist financing and financial crimes, another $5.3 million for the IRS for counterterrorism activities, and 21, almost 22, million dollars for the Office of Foreign Assets Control, which is responsible for freezing the assets of terrorist organizations, and some $57 million for the financial crimes enforcement network.

All of these are important elements of the war on terrorism. We fund each of them at or above the administration's request in our bill.

In conclusion, Mr. Chairman, I believe this bill is fair and it is balanced. It provides for the major needs for the Departments of Transportation and Treasury and the other independent agencies, such as the GSA, all within the tight constraints of our budget. We have developed the bill in consultation with the minority and with each of the staffs involved. I support the bill wholeheartedly, and I ask for the support of each Member.

Mr. Chairman, I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I yield 10 seconds to the gentleman from Wisconsin (Mr. OBEY).

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I move the Committee do now rise.

The CHAIRMAN pro tempore (Mr. GOODLATTE). Does the gentleman from Massachusetts (Mr. OLVER) yield for that purpose?

Mr. OLVER. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The question is on the motion to rise offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 100, noes 298, not voting 36, as follows:

[Roll No. 466]

AYES—100

Ackerman
Alexander
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Brown (OH)
Capuano
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
DeLauro
Deutsch
Doggett
Evans
Farr
Filner
Frank (MA)
Frost
Grijalva
Hall
Hastings (FL)
Hill
Hinchey
Hinojosa
Holt
Hooley (OR)
Hoyer
Jefferson
Johnson, E. B.
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lipinski
Majette
Maloney
Markey
McGovern
McIntyre
Meehan
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Pallone
Pelosi
Pomeroy
Ross
Rothman
Ryan (OH)
Sabo
Sánchez, Linda T.
Sandlin
Schakowsky
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Thompson (MS)
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Waters
Watson
Watt
Wynn

NOES—298

Abercrombie
Aderholt
Akin
Allen
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berman
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hostettler
Houghton
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McInnis
McKeon
McNulty
Meek (FL)
Menendez
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn

Radanovich
Rahall
Ramstad
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu

NOT VOTING—36

Brown, Corrine
Cannon
Deal (GA)
DeGette
Delahunt
DeLay
DeMint
Dooley (CA)
Engel
Fattah
Gephardt
Gonzalez
Graves
Hyde
Janklow
John
Jones (OH)
Kucinich
LaTourette
McHugh
Mica
Ortiz
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Sanders
Slaughter
Smith (WA)
Waxman
Wexler
Woolsey
Young (AK)
Young (FL)

□ 1240

Messrs. FLAKE, GALLEGLY, THOMPSON of California and GINGREY changed their vote from "aye" to "no."

Mr. HOYER changed his vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from Oklahoma (Chairman ISTOOK) for working so hard to get this bill to the floor. I think it has been a more difficult task than many of us believe, but I also want to take a moment to thank the staff on both sides of the aisle for their hard work on this bill.

On the majority side, I want to recognize our clerk, Rich Efford, and Cheryle Tucker, Leigha Shaw, Kurt Dodd, Walter Hearne and Bill Nicholson.

On the minority side, I particularly want to thank Mike Malone and Beverly Pheto from the committee staff and Bob Letteney and Rob Gatehouse from my personal staff.

I want to pay a special recognition and thanks to my legislative director, Bob Letteney, who has been a member of my staff since 1997. He has handled transportation appropriations issues on my personal staff for the last several years, but Bob is one of a handful of Federal employees selected this year as a Mike Mansfield fellow, and that unique program named for the former Senate majority leader and Ambassador to Japan places Federal workers in targeted Japanese Government agencies where an exchange of knowledge would be beneficial to both countries. It is an honor to be chosen for a Mansfield fellowship, and the program directors could not have selected a better candidate than Bob Letteney. So I thank Bob for his years of hard work in my office, and I wish him the best of luck in Japan and beyond.

Mr. Chairman, as I said, this has been a long road to get this bill to the floor, and I appreciate the chairman working with us to make substantial changes to the original subcommittee mark. Among other things, during full committee, money was added back for rural communities that rely on essential air service programs.

In full committee we also increased funding for new starts transit projects and added some money, though not nearly enough, to the Amtrak program.

The bill also obligates over $33 billion, of course this is a major nut of funding in this appropriations bill, for the Nation's highway program, and that is the largest, obviously, piece in this whole legislation. Each billion will create some 45,000 new jobs. Yet we still have a long way to go to get what I would consider a balanced Transportation Treasury bill.

The bill cripples the enhancement program by eliminating the minimum authorized guarantee for enhancements that has been in effect for the 12 years of the ISTEA and TEA-21 authorizations that were established by overwhelming votes of this Congress.

□ 1245

Enhancements include bike trails, pedestrian walkways, and money for historic preservation. They are vital components of the transportation system and enhance the fabric of our local communities. The chairman of the Subcommittee on Highways and Transit and Pipelines of the Committee on Transportation and Infrastructure, the gentleman from Wisconsin (Mr. PETRI), along with me and a large bipartisan group of Members, will have an amendment to preserve that enhancement program.

The bill only provides $900 million for Amtrak, pushing them to the brink of a shutdown, despite the fact that 220 Members of this body sent a letter to the Committee on Appropriations supporting Amtrak's request for $1.8 billion. I also will offer an amendment to restore funding for Amtrak.

Transit programs are still woefully underfunded. The New Starts transit account is still $300 million below the President's request for the New Starts program.

Job access and reverse commute grants are cut by $64 million from last year's enacted bill. These funds help low-income families in rural and urban areas get rides to work, school and health care appointments.

For the FAA, funds are not provided as requested by the President to begin hiring additional air traffic controllers in advance of an imminent wave of retirements.

And on the Treasury side of the bill, $100 million is included to implement an earned income tax credit precertification program that would subject four million working poor to additional burdens each year and drive many of them away from the program which former President Ronald Reagan called our most effective program to reduce poverty.

This bill also contains no funding for Federal courthouse construction at a time when we already face a significant backlog of construction and renovation needs, and this will certainly make the situation worse.

On the floor today and in conference, I hope we will be able to rectify some of these problems and have strong bipartisan support for the end product of those deliberations.

I want to pay special recognition and thanks to my Legislative Director, Bob Letteney, who has been a member of my Washington staff since 1997.

Bob started with me as a Staff Assistant and worked his way all the way up to Legislative Director. He has handled transportation appropriations issues on my personal staff for the last several years.

Bob is one of a handful of federal employees selected this year as a Mike Mansfield fellow.

This unique program, named for the former Senate Majority Leader and Ambassador to Japan, places federal workers in targeted Japanese government agencies where an exchange of knowledge would be beneficial to both countries. The federal workers selected as fellows study Japanese language and cultural intensively for the first year of a two-year program, and after that are placed in a Tokyo agency appropriate for their background and professional interests.

It's an honor to be chosen for a Mansfield fellowship, and the program directors couldn't have selected a better candidate than Bob Letteney. I understand Bob wants to be placed in a rail transportation agency, and this is clearly a critical area for the U.S. over the next decade.

So it will be with mixed emotions that I say "goodbye" to Bob on his last day in my office next week. A Pittsfield, Massachusetts native and a proud graduate of Pittsfield High School and then the University of Massachusetts at Amherst, Bob has been real home-grown success story and an invaluable staffer in my organization. The opportunity presented by the Mansfield fellowship, however, is a great one, and I know Bob will represent our Nation in outstanding fashion.

Bob, thank you for your years of hard work in my office, and I wish you the best of luck in Japan and beyond.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume to engage in a colloquy with the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Virginia.

Mr. CANTOR. Mr. Chairman, I rise to engage in a colloquy with Chairman ISTOOK regarding the Transportation/Treasury appropriation bill about the importance of funding the Richmond Federal courthouse. This courthouse project is very important to my constituents and will be critical to the economic revitalization of downtown Richmond.

The Richmond courthouse project has received a very high ranking from the Administrative Office of the Courts and is number two on its list of courthouse construction projects.

Mr. ISTOOK. Mr. Chairman, reclaiming my time, I appreciate the opportunity to share my thoughts on the matter with the gentleman from Virginia (Mr. CANTOR). I am very much aware of the need to fund the Richmond Federal courthouse. I am concerned, of course, about the funding needs for all of the Nation's courthouses.

As the gentleman is aware, due to budget limitations, we have not provided funding for any new courthouse construction in this bill, but I would like to be helpful to him and to his constituents, and I am looking for the necessary funds to finance courthouse construction projects, including the Richmond Federal courthouse. I understand the importance of it to the Federal Judiciary and that it is a critical element of the revitalization of downtown Richmond.

Mr. CANTOR. Mr. Chairman, if the gentleman will continue to yield, I want to thank him for his continued commitment to addressing the funding of the Federal courthouse in Richmond. The Federal courthouse will revitalize downtown Richmond and provide a critical link between the convention center area and Capital Square.

I have heard from many leaders in the City of Richmond about the necessity for funding this project, and I agree construction of the Federal courthouse is long overdue.

Again, I want to thank the chairman for his leadership and look forward to working with him on this program.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Oklahoma for yielding to me, and I want to say that I agree with the gentleman's comments with respect to the Richmond courthouse.

I might add, however, and I think the chairman hopefully shares this view, that the Los Angeles courthouse and others are on the priority list. As the gentleman knows, this committee has followed not a political agenda with respect to the funding of courthouses, but the court's determination of the most-needed facilities, of which Richmond, as the gentleman pointed out, comes very high.

I would hope the gentleman would join in urging the administration and urging the Congress to again start funding courthouses. If we do not, we are going to see the administration of justice put at risk in many of the highest demand areas in the country. So I appreciate the gentleman's comments about Richmond, but it applies as well to many other jurisdictions.

Mr. ISTOOK. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I yield 10 seconds to the gentleman from Wisconsin (Mr. OBEY).

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. Does the gentleman from Massachusetts (Mr. OLVER) yield to the gentleman from Wisconsin for that purpose?

Mr. OLVER. I do.

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin (Mr. OBEY) that the Committee do now rise.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 302, answered "present" 1, not voting 42, as follows:

[Roll No. 467]

AYES—89

Ackerman
Alexander
Baird
Baldwin
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Brown (OH)
Capuano
Carson (IN)
Clyburn
Cooper
Crowley
Davis (TN)
Delahunt
DeLauro
Deutsch
Doggett
Emanuel
Evans
Farr
Filner
Frank (MA)
Frost
Grijalva
Hastings (FL)
Hinojosa
Holt
Hoyer
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lofgren
Markey
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Pallone
Pascrell
Pelosi
Pomeroy
Rothman
Rush
Ryan (OH)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Scott (GA)
Slaughter
Snyder
Solis
Stark
Stenholm
Stupak
Tanner
Thompson (MS)
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Waters
Watson

NOES—302

Abercrombie
Aderholt
Akin
Allen
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berman
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Etheridge
Everett
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lantos
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McInnis
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Ose
Otter
Owens
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rehberg
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Saxton
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weiner

Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—42

Andrews
Boucher
Brown, Corrine
Camp
Carson (OK)
Clay
Conyers
DeGette
DeMint
Dingell
Dooley (CA)
Doyle
Engel
Gephardt
Gonzalez
Graves
Gutierrez
Honda
Hunter
Hyde
Janklow
John
Johnson, Sam
Kucinich
LaTourette
Matsui
McHugh
Meeks (NY)
Nussle
Ortiz
Oxley
Payne
Pickering
Rangel
Regula
Reynolds
Rodriguez
Roybal-Allard
Waxman
Wexler
Woolsey
Young (AK)

□ 1312

Messrs. GALLEGLY, SWEENEY, KINGSTON and Mrs. EMERSON changed their vote from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume for the purpose of a colloquy with the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I thank the gentleman for an opportunity to speak on behalf of a project very important to motorists, to commerce, and to the well-being of millions of residents and visitors to southwest Florida.

As a great number of my colleagues and their families know, there has been a steady and dramatic increase in the population in the southwest Florida area.

□ 1315

This growth is indeed welcome. It is reflective of a robust economy and a wonderful quality of life, but it has contributed to the serious congestion of our only interstate, I–75.

We have requested funds that would widen the forgotten section of I–75, as we refer to it. It is a section that serves our State university and our international airport, to say nothing of the daily traffic of commuters and visitors.

The current level of project funding contained in this act is very helpful and we are grateful, but it does not allow for the full solution to our congestion problem.

It is for this reason that I respectfully ask the chairman that this issue be revisited during the conference committee for this legislation.

Mr. ISTOOK. Mr. Chairman, I appreciate the gentleman's comments and his support for his State and its needs, but financial resources, as the gentleman knows, are indeed tight.

The committee, hopefully, may consider additional appropriations for this project in the conference committee should additional funds be made available to us at this time because I know of the great growth in his State and the significance of this project. I appreciate the gentleman bringing this to my attention and will continue to work with him on it.

Mr. GOSS. Mr. Chairman, if the gentleman will continue to yield, I would like to thank him for that, for the opportunity to speak today and for the extraordinary good work he is doing to get this bill moving.

Mr. ISTOOK. I thank the gentleman from Florida.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time, and I commend him for producing what I think is a fair and balanced bill.

I know every area of the Nation is experiencing significant problems with its transportation needs and that we would all like to see more funds for transportation purposes. Wrestling with the realities that we have with this recession and the war on terror, I think the chairman needs to be very seriously commended.

I want to particularly single out and thank him for including some funding for the Pineda Extension. This project is very, very important for the proper evacuation in the event of hurricanes for many of our coastal communities in the congressional district that I represent.

As we all can remember, Hurricane Floyd when it threatened the coast of Florida, the east coast of Florida, precipitated one of the largest, if not the largest, human evacuations in history where literally millions of people had to migrate off the coast of Florida and move inland. And one of the things that was recognized in that challenge was that the State did not have enough east-west access corridors.

This important addition to the bill will help us in the State of Florida address that need in a very, very critical area. I again want to thank the chairman.

Mr. ISTOOK. Mr. Chairman, I would inquire how much time remains on either side.

The CHAIRMAN. The gentleman from Oklahoma has 9 minutes remaining, and the gentleman from Massachusetts has 24½ minutes remaining.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), who is a member of the subcommittee.

Ms. KILPATRICK. Mr. Chairman, I thank the gentleman from Oklahoma for his chairmanship in having gone through our budget for the first time, as well as our ranking member, the gentleman from Massachusetts (Mr. OLVER), for his first time.

I do believe that we have a balanced budget before us. It is a good budget with some modification as we go through the amendments today.

I first want to bring to the Members' attention the earned income tax credit which in this bill allows $100 million for 45,000 people to be looked at to see if they are in compliance in order to receive the EITC.

We believe, and we will be offering an amendment later today to reduce that to 25,000 people and to use 50 million of those tax dollars to look at corporations and other high-wagers to see if they are in compliance.

The earned income tax credit assists moderate and low-income families. It provides for them revenues and monies they need for college educations and other things that this budget does not apply. So we hope that that $50 million will be adequate for the pilot program, and we will hear more on that as we go on throughout the day.

Another is the Buy American provision that I have offered in this bill. In my home State of Michigan over 400,000 people are out of work. Many of the manufacturing jobs have gone offshore. I am told now that many of the service jobs are going offshore and we have to do something about that. This budget can do that and it can do better. We need the Buy American language, and I hope that we can retain it in this budget.

Lastly, I think it is very important that we talk about Amtrak and save its funding. Amtrak does a wonderful service in our country, the eastern corridor, and across this country. I do not personally have the Amtrak service I want in my district. I would like to see it expanded. The number here for Amtrak is sorely underfunded. With those provisions as we address our amendments, we hope that we can make it a better bill.

Mr. OLVER. Mr. Chairman, I yield 10 seconds to the gentleman from Wisconsin (Mr. OBEY).

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Wisconsin for that purpose?

Mr. OLVER. I do.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 87, noes 305, answered "present" 1, not voting 41, as follows:

[Roll No. 468]

AYES—87

Alexander
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berry
Bishop (GA)
Bishop (NY)
Brown (OH)
Brown, Corrine
Capuano
Carson (IN)
Carson (OK)
Clyburn
Conyers
Cooper
Crowley
Cummings
DeLauro
Doggett
Emanuel
Evans
Farr
Filner
Frank (MA)
Frost
Gonzalez
Grijalva
Hastings (FL)
Holt
Hooley (OR)
Hoyer
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Markey
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Pallone
Pelosi
Pomeroy
Rothman
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Sandlin
Schakowsky
Scott (GA)
Snyder
Stenholm
Stupak
Tanner
Thompson (MS)
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt

NOES—305

Abercrombie
Ackerman
Aderholt
Akin
Allen
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Sanchez, Loretta
Saxton
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (NM)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—41

Clay
Davis, Jo Ann
DeGette
Delahunt
DeMint
Dooley (CA)
Doolittle
Doyle
English
Fattah
Gephardt
Graves
Hinojosa
Honda
Janklow
John
Kleczka
Kucinich
Majette
Matsui
McCotter
Nadler
Owens
Oxley
Payne
Pickering
Radanovich
Rangel
Regula
Rodriguez
Roybal-Allard
Ryun (KS)
Slaughter
Smith (WA)
Stark
Thornberry
Turner (TX)
Waxman
Weldon (PA)
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are informed that there are 2 minutes remaining on this vote.

☐ 1341

Mr. TAUZIN changed his vote from "aye" to "no."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ROTHMAN), who is a member of the subcommittee.

Mr. ROTHMAN. Mr. Chairman, I thank my distinguished gentleman from Massachusetts (Mr. OLVER) the very kind and distinguished ranking member, for yielding me this time. I also want to thank my chairman for all of his cooperation and friendship and going out of his way to help me and the people of my district on a number of different issues, along with, of course, my ranking member, the staffs of my chairman and the ranking member. By the way, I have so many things to talk about, but I am only using 2 minutes in the interest of the group; so I will cut to the chase.

There was an issue involved in a one-size-fits-all FAA regulation that would have had a devastating effect on the people of northern New Jersey. The Port Authority of New York and New Jersey, a bipartisan agency, the bipartisan elected officials in New Jersey and all the people of my region were adamant that Washington should not force a solution that was wrong for us on them, and the chairman and his staff bent over backwards along with the ranking member to accommodate a reasonable commonsense solution to that problem, and I am extremely grateful to the chairman and the ranking member for accommodating the interests of the hundreds of thousands of people who would otherwise have been negatively affected.

I intend to support this bill. It is not perfect. I hope Amtrak gets plussed-up in the conference, but by and large this is a bill that we can all be proud of, and I thank my chairman again and my ranking member for all their kindness and courtesies.

☐ 1345

Mr. OLVER. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip and a member of the subcommittee.

Mr. HOYER. Mr. Chairman, Mr. Chairman of the subcommittee and the gentleman from Massachusetts (Mr. OLVER), first of all let me congratulate the gentleman from Massachusetts (Mr. OLVER) on his taking the responsibilities of ranking member. He is doing an outstanding job in that capacity.

Mr. Chairman, I want to make a few general comments. I will have some possible amendments, which may be withdrawn, some of which may be pressed. But I want to thank the committee and I want to thank the chairman for pursuing what the Republican majority budget provided for with respect to pay parity. I think that was appropriate and consistent with our past policies. We have a lot of folks who are on the front lines who we will recognize.

However, I want to raise some concerns. As the chairman knows, the Reagan administration, the Bush administration, the Clinton administration, and now the present Bush administration, as I understand it, is for the project, although has not funded it. We have been pursuing the creation of a campus for the Food and Drug Administration which, of course, now has even more challenges dealing with the integrity of the food and drug supply in light of terrorist threats. But we have been trying to construct this campus, which will save the Federal Government money.

The reason it will save the Federal Government money is now the FDA is located around the Washington metropolitan area in 19 different leased facilities, and, of course, they are for the most part very old facilities and they are expensive facilities. GSA tells us it would be cheaper to build at the site that has been agreed to, not in my district, but in the State of Maryland. We have done some of those. There is currently in the plan a project for $48 million. I have reason to believe the Senate might include that.

Mr. Chairman, I am very hopeful that we will be able to include that in the conference report. I am not going to offer an amendment on that in the committee, but I really do believe that it is a very cost-conscious effort to continue this project to completion, because, as I say, it is not a partisan difference. As a matter of fact, the proposal was made, as the gentleman knows, by the Reagan administration and a Republican director of the FDA. But it is one that I think is very important.

In addition, I am concerned, Mr. Chairman, that we have not included in this legislation not only some of the money that has been talked about in terms of Amtrak and transportation, but in particular the election reform legislation that we passed. It was one of the few pieces of legislation that we passed in an overwhelmingly bipartisan fashion. The Speaker was very proud of that. On our side of the aisle we were proud of it. The President in signing the bill indicated it was a bipartisan success.

We pledged to fund that effort, and we imposed deadlines on the States to accomplish certain things that were required to ensure access and accuracy of voting in elections. The deadline for the accomplishment of those objectives is 2006.

The gentleman from Florida (Chairman YOUNG) has been extraordinarily helpful and was a critical player in our initial funding. As the chairman knows, the bill would authorize $1.5 billion additional. We are $1 billion behind. There is $500 million in this bill. I appreciate the chairman's including that. I know he has been supportive of this effort.

But I will be working with the administration again. There is going to be an amendment offered by the gentleman from Florida (Mr. HASTINGS). I will speak on that. I am not sure that the gentleman from Florida (Mr. HASTINGS) will press that. The problem, of course, is where you take money from to get money for this objective. I think the chairman has a very real problem in that regard.

I am pressing the administration, and I have talked to the gentleman from Florida (Chairman YOUNG) about this, to seek emergency funds from the administration so that this project can be accomplished by the 2006 deadline. I would hope we could work on that.

Mr. ISTOOK. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the full committee, for the purpose of a colloquy with the gentleman from New York (Mr. SWEENEY).

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman very much for yielding me time.

Mr. SWEENEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. SWEENEY. Mr. Chairman, I thank the chairman for yielding, and I want to thank him for participating in this colloquy with me today to address a significant issue which was raised during the committee consideration of this bill.

As the gentleman knows, when the committee marked up the Treasury-Transportation bill in July, we directed the General Services Administration to complete its review of MCI WorldCom's fitness to serve as a Federal contractor. This directive resulted from revelations that the company had overstated its profits by $11 billion and lacked adequate internal controls.

Mr. Chairman, as you are aware, the GSA announced the proposed debarment of MCI WorldCom on July 31. Although the process took longer than hoped and the committee was forced to take action to get GSA to do its job, the GSA has now prohibited MCI WorldCom from receiving any new Federal contracts. GSA has reached the only responsible conclusion possible.

Mr. Chairman, it is my strong belief that the Federal Government must condemn corporate malfeasance and provide strict oversight of Federal contracting. GSA's proposed action to debar MCI from Federal contracting is a step in the right direction, and I applaud their efforts.

With the leadership of the gentleman from Florida (Chairman YOUNG), this committee has ensured GSA performs its due diligence and has protected the American taxpayers from a fraudulent company. I would like to personally thank the gentleman for his support and assistance.

Mr. YOUNG of Florida. Mr. Chairman, reclaiming my time, I want to thank the gentleman from New York (Mr. SWEENEY) for bringing this important matter to the committee's attention. As overseers of GSA's budget, I believe the committee acted in a responsible way and responded to this issue appropriately.

Mr. SWEENEY. Mr. Chairman, if the gentleman will yield further, I thank the gentleman. As this process continues, GSA must remain responsive and should provide regular detailed reports to the committee on the status of the case.

Would the gentleman agree to work with me during the conference to clarify the report language, if necessary, so that the committee can continue its oversight of GSA actions on the MCI WorldCom debarment proceedings and further Federal contracting actions?

Mr. YOUNG of Florida. Mr. Chairman, I look forward to working with the gentleman from New York (Mr. SWEENEY) as we move towards a final resolution of this issue, and will certainly work to clarify the report language during conference as events dictate.

Mr. SWEENEY. Mr. Chairman, I thank the gentleman. I will continue to monitor the GSA's actions in this area as the Treasury-Transportation measure moves to conference. If there is any backsliding by the agency, I am confident the committee will be able to respond.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I hope the chairman recognizes the authorizers' role in overseeing GSA in this and the appropriators' role in this and will keep us in the loop, and will not try to authorize without consultation with the authorizers.

Am I correct on this, or am I being rolled on this?

Mr. YOUNG of Florida. Mr. Chairman, I did not really hear the question.

Mr. TOM DAVIS of Virginia. Mr. Chairman, my question is although the Committee on Appropriations has appropriations oversight, I would hope we would work with the authorizing committee on GSA, which is the Committee on Government Reform, which I chair, as we work towards language on this.

We have spent a lot of time on these issues as well. The language of the gentleman from New York was worked out and shared with us. I hope this is not an attempt on the part of the appropriators to once again override authorizing committees and try to accomplish what they could not accomplish on the floor.

Mr. YOUNG of Florida. Mr. Chairman, reclaiming my time, I would say to my friend, the gentleman from Virginia (Mr. TOM DAVIS), that he is absolutely right. It is essential that the Committee on Appropriations and the authorizing committees work together as we deal with issues of this type. The gentleman is exactly right.

Mr. OLVER. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this debate.

Mr. Chairman, I find a certain amount of irony as we return to unnecessary controversy on one of the most important bills that this Congress will consider this year. The chairman of the subcommittee is concerned about congestion around the Nation, and well he should be. Yet the bill would cut back on people's alternatives to reduce congestion by further squeezing Amtrak and gutting the popular important bipartisan support for the enhancements program.

People need choices. I am going to speak later in the debate on the enhancements program in support of the amendment offered by the gentleman from Massachusetts (Mr. OLVER) and the gentleman from Wisconsin (Mr. PETRI), a bipartisan amendment to try to fix it. Unfortunately, we are not going to be able to talk about the problems with Amtrak which are going to be ruled out of order when offered.

I find it sad. There are some who dispute the notion that we should be the only industrialized Nation in the world without a backbone of a national rail transportation system. We have lavish subsidies for the airline industry, which in its history of passenger transport has produced a net profit of zero, zero; yet somehow, providing a little support for Amtrak is deemed theologically unacceptable.

Well, Mr. Chairman, much of the blame for the problems of Amtrak is that this Congress has refused to appropriate the money that Congress itself has authorized. Yet Congress has interfered with the management decisions of Amtrak, and, much like the mythical educational performance in Houston, where they sort of in schools "will" children to stay in school so they are not dropped out, that they somehow are all going on to college, people have tried to will Amtrak to a different type of performance than they are willing to pay for.

Luckily, there is broad bipartisan support in this country and in this Congress to overrule this ill-conceived cutback in Amtrak. I am convinced that ultimately through the process we will succeed. I hope we can fix what we can on the floor to preserve the critical enhancements program, and fight for a bill that the country deserves to preserve the potential for a comprehensive rail transportation system.

Mr. OLVER. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Chairman, once again the Committee on Appropriations, in the light of day, has voted to prohibit corporate expatriates from enjoying more than $1 billion a year in Federal Government contracts, and, once again, Mr. Chairman, in the dark of night, the Committee on Rules, has cobbled together a rule which rewards those corporations who run off to Bermuda to avoid paying United States income taxes.

The American taxpayer has said tax fairness and tax equity matter, but apparently not in this Congress. Corporate expatriates will drain $5 billion from our Federal Treasury, and yet, in return, corporate expatriates will win, time and again, lucrative Federal contracts to build our nuclear facilities, guard our government buildings, provide health care to our veterans, landscape the national parks, and even money appropriated in this bill today, believe it or not, a multimillion-dollar contract to help the IRS collect taxes.

We stay here and we pay our taxes while these corporations run off to Bermuda to avoid them. They then turn around and get paid to help collect money from us. If it was not September, most of us would come to believe based upon this issue it was April Fool's Day.

Try, as an individual taxpayer announcing that your address is in Bermuda and avoiding your share of personal income taxes, to find what the result will be. I am astounded that after months and months of discussing this issue, when we were promised a vote on the floor, we are no closer to doing that now than we were before. Instead, the Committee on Appropriations does what they are supposed to do, and the Committee on Rules decides not to let the issue come to the floor.

If they are confident in their position, let the matter come to the floor for an up-or-down vote. I guarantee you if it came to the floor, there would be 300 votes to affirm what I have said in the last couple of minutes.

□ 1400

I hope that during this debate there will be others who continue to bring this matter before us, and I hope that all of you on the other side will stop protecting many of these financial traitors.

Mr. ISTOOK. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I certainly appreciate the passion of the gentleman who just spoke and everyone else, but, of course, we have followed the normal protocol. This is what is considered in this House an open rule to give people the opportunity to bring up issues. But as the Chairman and everyone else in this body knows, just because a bill is on the floor, it does not mean that every topic can be offered on that bill. We have to break our work into pieces. And some of the issues the gentleman is talking about should properly be raised on other pieces of legislation, not this one.

The Committee on Rules and its leadership has provided a very good, very solid, open rule that provides Members the opportunity to make fair comments and make fair amendments upon the proper topics of this bill. And I would certainly hope that the gentleman would work with the committees of proper jurisdiction for the changes that he wants to make. But I do very much appreciate, Mr. Chairman, the efforts of the Committee on Rules in helping us to make the progress and helping to make sure that we have a controlled and proper debate on the issues that are the proper subject of this bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair appreciates the gentleman's very thoughtful statement.

Mr. OLVER. Mr. Chairman, I have no additional speakers on general debate, and I yield back the balance my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just by way of brief closing, I indicated that I wanted to express appreciation for the members of our staff that have worked so diligently to bring this legislation to the floor: the chief clerk of our subcommittee, Rich Efford, and the other clerks on the committee, Cheryle Tucker, Kurt Dodd, Leigha Shaw, Walter Hearne, Ben Nicholson, and from my office Kurt Conrad.

I do not want their efforts to go unnoted and unappreciated, and I wanted to make sure that they appear in the RECORD next to the work product that they have worked so diligently on. We could not accomplish these things without them.

This is a good bill. I ask every Member of the House to support it.

Mr. WELLER. Mr. Chairman, I rise today in strong opposition to the language weakening the United States' Cuban embargo policy by allowing travel to Cuba and urge my colleagues also to oppose allowing travel to Cuba.

The regime of Fidel Castro continues to prove to have no respect for dissidents, for human rights, and cannot be trusted. This past March, Castro carried out a sweeping crackdown on dissident leaders, rounding up 75 and providing harsh prison sentences after charades of trials. Further, Castro resumed executions with the execution of three men by official firing squad. For those dissidents merely attempting to exercise basic freedoms, punishments include forced exile, interrogations, house arrest and searches, intimidation and aggression, telephone bugging, eviction and loss of employment.

The fact remains: Cuba under the dictatorship of Fidel Castro is a terrorist state, ruled by fear, and grossly violating the human rights of dissidents. The Cuban regime remains on the Department of State list of seven terrorist-sponsoring nations. United States policy should never bend against the tide of oppression in Cuba or any country—we must maintain a firm line. Our victory in the Cold War was due to holding firmly to our core democratic values and principles and being strong, not bending to communist ideology, torture, and oppression.

The House of Representatives should not vote to reward a terrorist state with unrestricted travel—providing resources needed to sustain the Castro regime. I urge my colleagues to vote no on this amendment to weaken the embargo against Cuba by allowing travel to Cuba.

Mr. CRAMER. Mr. Chairman, as we debate the FY04 Transportation, Treasury Appropriations bill, I rise to express my concern for recent actions undertaken by the Internal Revenue Service.

It is a fundamental tenet of fair tax administration that taxpayers can rely on guidance and rules issued by the Internal Revenue Service. Unfortunately, in its administration of the tax credit for coal-based synthetic fuels, the IRS has breached this fundamental rule.

Congress enacted section 29 of the Internal Revenue Code to provide a tax credit for the production of synthetic fuel. This tax credit was created to encourage domestic energy production and it works. In my home state, and coal producing states throughout the Southeast, the credit has increased domestic coal production and kept open thin seam mines. The coal-based synthetic fuels increases combustion efficiency and reduce fuel costs for electricity consumers throughout the United States.

Since 1995, the IRS has issued revenue rulings, revenue procedures and over 80 private letter rulings that detail the processes that qualify for producing synthetic fuel and the tests taxpayers should utilize to demonstrate that the synthetic fuel they produced qualify for the tax credit.

Taxpayers and recognized scientific experts met repeatedly with the IRS as it developed the revenue rulings, revenue procedures and private letter rulings. Taxpayers explained the processes they intended to use to produce synthetic fuel and the tests that they would use to demonstrate that synthetic fuel qualified for the tax credit. After full opportunity to review the processes and the tests, the IRS issued private letter rulings telling taxpayers that these processes and these tests qualified.

Since 1995, taxpayers have been investing in synthetic fuel production facilities designed to meet the tests that the IRS agreed demonstrated that the synthetic fuel produced qualified for the tax credit. In June of this year, the IRS decided that it was not sure that the tests it had approved over the years were acceptable. The IRS told taxpayers that it questioned the test results it had previously approved because a single scientist the IRS hired attempted to perform the tests using different methodologies. However, the IRS refuses to tell taxpayers what test it is using and how it is different from the tests it has approved in 80 private letter rulings.

In short, the IRS changed the test it told taxpayers to use and refuses to tell taxpayers how it changed the test. Taxpayers no longer know whether their synthetic fuel, including fuels produced in prior years, qualifies for the tax credit. As a result, hundreds of millions of dollars of investments are at risk. Many public and private companies in all sectors of the economy are facing huge potential economic losses. Some companies are facing bankruptcy because the IRS is changing the rules after they made their investments.

Taxpayers worked in good faith with the IRS to design tests that demonstrated that their facilities produced a qualified synthetic fuel. Taxpayers invested in reliance on the rulings the IRS provided approving those tests. The IRS should publish an announcement that it will honor the rules under which taxpayers invested in synthetic fuels facilities and that it will follow the rules the IRS published in Revenue Procedures 2001–30 and 2001–34. The IRS must abide by the rules it laid down for taxpayers.

Mr. CUMMINGS. Mr. Chairman, today I rise in strong support of the amendment offered by my colleague Chairman QUINN. From its inception, Amtrak was expected to pursue conflicting goals. It was to provide a national rail passenger service while simultaneously operating as a commercial enterprise. Although, at this point I think that it is a foregone conclusion that no one expects Amtrak will be profitable.

As mandated in the Amtrak Reform and Accountability Act of 1997, which required Amtrak to achieve self-sufficiency by December 2002, the rail system has received reduced appropriations funding each year. However, due to inflation and a poor economy, operating costs continue to rise. Many important infrastructure and equipment improvements have been delayed or postponed due to the lack of funding. Rising operating costs—declining revenue—this is a formula for failure.

We are now faced with the challenge of salvaging a vital link in our national transportation system. To quote the Secretary of Transportation Norm Mineta: "Intercity passenger rail service is an important part of the nation's transportation system." Some critics of Amtrak insist that reforming Amtrak will save it. I disagree. Until necessary improvements are made on the infrastructure and equipment, the system cannot function efficiently.

We need to provide Amtrak with adequate funding.

In some areas the rail infrastructure is over 100 years old. Repairing existing infrastructure to good condition and upgrading equipment will ultimately lead to reduced operational costs. But, as with most endeavors of this magnitude we cannot expect overnight results. The process will take time.

Looking to the states that rely on rail service to stabilize Amtrak is not the answer. My state of Maryland has been a strong supporter of Amtrak as it is a critical part of the overall transportation solution—especially in the congested Northeast corridor. The MARC trains in Baltimore are operated under a contract with Amtrak. Many Maryland communters depend on MARC service. But, we are not asking for a free ride. Since 1990, Maryland has invested over $124 million in state and federal funds to improve Amtrak owned facilities. I'm sure that Maryland does not stand alone when we say that we cannot afford to pay for the substantial needs of Amtrak.

Maintaining a sound, efficient rail system is a national concern. We are ever vigilant in our efforts to get people to leave their cars at home and use mass transit in order to ease congestion and lower emissions. Since 1971, Amtrak has sought to balance competing public service and commercial objectives without the benefit of adequate resources to fully deliver either. The government must provide the necessary funding and oversight that is essential for a national passenger rail system.

We've come a long way in transportation technology since Amtrak began its service in 1971. However, because of the condition of current rail infrastructure and stock this progress is far from evident. I think that it is time for Congress to "step up to the plate." We need and deserve a national passenger rail system.

We must provide adequate funding for Amtrak.

Mr. GREEN of Texas. Mr. Chairman, I rise today in support of H.R. 2989, the Transportation-Treasury-Independent Agencies Appropriations Act for FY 2004.

First, I would like to thank the Chairman and the Ranking Member for including $20 million for the Terminal Radar Approach Control (TRACON) facility in Houston, Texas.

Houston's four million residents are served by Bush Intercontinental Airport, Houston Hobby Airport, and Ellington Field. Together they form one of North America's largest public airport systems and position Houston as the international gateway to the south central United States.

Unfortunately, the current TRACON facility was constructed in the late 1960's and is inadequate to meet the needs at these three airports.

The facility is in a low lying area which floods often, disrupting air traffic, and cannot be expanded to provide the airspace capacity needed to achieve the full benefits of the additional runway capacity expected to be online at Bush Intercontinental in spring 2004.

Expedited construction of the new TRACON is necessary to realize the 36 percent capacity increase identified in the FAA Operational Evolution Plan (OEP). The current state of the Houston TRACON does not fit its place as a major hub in a modern air traffic control system.

The $20 million included in this legislation is an important first step that will help create a new facility in a timely manner. This funding will help resolve an urgent air traffic control facility problem for the greater Houston, Texas area.

I am also happy to see that, on top of the East End Rail Task Force study on rail and mobility conditions completed in February 2003 and the Harris County/Port of Houston's $600,000 ongoing county-wide study, there is $1 million in the House Transportation Appropriations bill for a Freight Rail Transportation Corridor and Urban Mobility Program for Harris County.

I worked with my Texas colleague TOM DELAY on this issue, and am glad that the appropriators saw fit to include this important project.

The goal is to expand the work of the East End study to the entire rail network of Harris County in order to initiate a comprehensive approach to rail system rationalization, addressing the regional issues associated with train routing, rail traffic levels, yard operations, and through-traffic versus local service to quantify the safety and mobility impact they have on residents. Researchers on this project will work with a public-private partnership to oversee the direction and scope of work. The partnership will include public officials, the Port of Houston, residents, and representatives of Union Pacific and Burlington Northern Santa Fe Railroads.

A consensus approach is needed because a major freight rail and mobility plan will take significant amounts of federal, local, and private sources of investment to complete. Such freight rail reorganization plans have been successfully done for LA-Long Beach, CA, Reno, NV, and one was recently announced for Chicago, IL.

Again, Mr. Chairman, these are important projects for my area, and I am glad to see that they were included in this important bill. I'd like to thank the Chairman and the Ranking Member of this committee for their hard work.

Mr. FRELINGHUYSEN. Mr. Chairman, today, I rise in strong support of H.R. 2989, Chairman ISTOOK's Fiscal Year 2004 Transportation and Treasury Appropriations bill. Chairman ISTOOK has worked within the framework he was provided to put forward a fair and balanced approach to fund the Departments of Transportation and Treasury and other Independent Agencies.

The Chairman's bill makes a strong commitment to our nation's highway improvements by providing $33.8 billion, which is $6.1 billion above last year's level.

Equally as important to New Jersey is Federal support for transit operations. As such, I commend the Chairman for including $7.23 billion for transit program spending, which is $52 million above last year's level. I am especially thankful that this bill provides full funding for New Jersey's top two transit priorities, the Newark Elizabeth Rail Link and the Hudson Bergen Light Rail projects.

Notably, every year in New Jersey, nearly 4 million passengers ride Amtrak trains. Each day, 109 Amtrak trains operate in New Jersey. In addition, Amtrak provides all of the maintenance and locomotive power for the 250 daily commuter trains that are operated by New Jersey Transit for hundreds of thousands of daily rail commuters in my home state, which is so densely populated and depends so much on trains and buses to minimize traffic congestion and air pollution.

By sharing the same tracks and tunnels within the Northeast Corridor with Amtrak, New Jersey has a strong interest in seeing a stable and continuing Amtrak operation, with increased funding! That said, the Chairman and the Congress have every right to demand necessary reforms of Amtrak management, strict accountability, and reasonable labor agreements.

To be clear, I feel it is absolutely essential that we do more to support Amtrak while making sure that it follows the committee's direction to carry out much needed reforms.

I want to again thank the Chairman for increasing Amtrak's funding from its original mark.

In the transportation world, the issue of safety and its importance can never be over emphasized. Thus, the more than $77 million included for the National Safety Transportation Board, is well directed dollars.

On the Treasury side, this bill takes important steps in our nation's continued war on terrorism. H.R. 2989 includes critical dollars ($57.5 million) for the Financial Crimes Enforcement Network. Included in this funding are dollars for the establishment of the Office of Terrorist Financing and Financial Crimes, which will help root out the financial infrastructures that support terrorist organizations and their murderous ways.

H.R. 2989 also includes more than $228 million for the Financial Management Service, which is responsible for the management of Federal finances.

For all these reasons and more, I support the Chairman ISTOOK's Fiscal Year 2004 Transportation and Treasury Appropriations bill, and urge my colleagues to do the same.

Mr. KING. Mr. Chairman, I would have amended H.R. 2989, the Transportation, Treasury and Independent Agencies Appropriations Act of 2004, to address concerns about an unfunded mandate and ensure integrity in our voting system. However, this amendment was not in order. My amendment would have given States a waiver from compliance with the Help America Vote Act until it is fully funded at the authorized level. States should not have to comply with an unfunded mandate in 2006. Many of our states are facing serious budget crises, and worry that if they are not first in line to receive the federal matching funds the money will run out. If this happens, the local taxpayers will be left holding the bill for compliance with the unfunded HAVA mandate in 2006. My amendment would not require states to comply with the HAVA mandate until it is fully funded at the level authorized.

The Help America Vote Act of 2002 requires, among other things, that each precinct have at least one Direct Recording Electronic voting system, or DRE. However, currently these machines do not have a permanent, auditable and individually verifiable trail. Questions remain about whether electronic voting system software could be hacked into and election results tampered with. Until DRE machines have a verifiable audit trail, we should not spend federal tax dollars on unreliable machines. The Help America Vote Act was motivated by electoral integrity—we must insure that the DRE machines meet that goal before spending millions of dollars on them and requiring states to use them in every precinct. At a cost of $4,000 to 5,000 per DRE, we can't afford to be wrong.

In fact, at a cost of thousands of dollars per machine, many rural precincts will have only one voting machine available for voters, and it will have to be a DRE according to the requirements of the Help America Vote Act. If sparsely populated rural voters are forced to vote on DRE machines that are susceptible to fraud, we risk mass disenfranchisement of rural voters in small precincts. This disenfranchisement will extend to disabled voters who use a DRE to vote, which was hardly the intent behind the voting reform legislation.

Ensuring electoral integrity and preventing vote fraud is a high priority for me. Although I was not able to offer my amendment today, I intend to continue to work towards solutions to these problems.

Mr. ISTOOK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will read.

The Clerk read as follows:

H.R. 2989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Transportation and Treasury and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $93,577,000, of which not to exceed $2,212,000 shall be available for the immediate Office of the Secretary; not to exceed $841,000 shall be available for the immediate Office of the Deputy Secretary; not to exceed $15,560,000 shall be available for the Office of the General Counsel; not to exceed $12,717,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed $8,630,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed $2,518,000 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed $28,882,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed $1,982,000 shall be available for the Office of Public Affairs; not to exceed $1,447,000 shall be available for the Office of the Executive Secretariat; not to exceed $730,000 shall be available for the Board of Contract Appeals; not to exceed $1,268,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed $16,565,000 shall be available for the Office of the Chief Information Officer; and not to exceed $225,000 shall be available for the Office of Intelligence and Security: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to $2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,569,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $8,336,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed $116,715,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

Minority Business Resource Center Program

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

Minority Business Outreach

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, to remain available until September 30, 2005: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

New Headquarters Building

For necessary expenses of the Department of Transportation's new headquarters building and related services, $45,000,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

Operations

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $7,532,000,000, of which $6,000,000,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed $6,076,724,000 shall be available for air traffic services program activities; not to exceed $870,505,000 shall be available for aviation regulation and certification program activities; not to exceed $218,481,000 shall be available for research and acquisition program activities; not to exceed $11,776,000 shall be available for commercial space transportation program activities; not to exceed $49,783,000 shall be available for financial services program activities; not to exceed $75,367,000 shall be available for human resources program activities; not to exceed $87,749,000 shall be available for regional coordination program activities; not to exceed $140,429,000 shall be available for staff offices; and not to exceed $29,681,000 shall be available for information services: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than $7,500,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund: *Provided further*, That of the amount appropriated under this heading, not to exceed $50,000 may be transferred to the Aircraft Loan Purchase Guarantee Program: *Provided further*, That not later than March 1, 2004, the Secretary of Transportation, in consultation with the Administrator of the Federal Aviation Administration, shall issue final regulations, pursuant to 5 U.S.C. 8335, establishing an exemption process allowing individual air traffic controllers to delay mandatory retirement until the employee reaches no later than 61 years of age: *Provided further*, That of the funds provided under this heading, $4,000,000 is available only for recruitment, personnel compensation and benefits, and related costs to raise the level of operational air traffic control supervisors to the level of 1,726: *Provided further*, That none of the funds in this Act may be obligated or expended to execute or continue to implement a memorandum of understanding or memorandum of agreement (or any revisions thereto) with representatives of any FAA bargaining unit unless such document is filed in a central registry and catalogued in an automated, searchable database under the executive direction of appropriate management representatives at FAA headquarters: *Provided further*, That none of the funds in this Act may be obligated or expended for an employee of the Federal Aviation Administration to purchase a store gift card or gift certificate through use of a government-issued credit card.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses to carry out the essential air service program pursuant to 49 U.S.C. 41742(a), $63,000,000, to be derived from the airport and airway trust fund and to be available until expended.

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,900,000,000, of which $2,479,158,800 shall remain available until September 30, 2006, and of which $420,841,200 shall remain available until September 30, 2004: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That upon initial submission to the Congress of the fiscal year 2005 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2005 through 2009, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: *Provided further*, That of the funds provided for "In-plant NAS contract support services", $7,000,000 is only for contract audit services provided by the Defense Contract Audit Agency: *Provided further*, That of the funds provided under this heading, $20,000,000 is available only for the Houston Area Air Traffic System: *Provided further*, That none of the funds in this Act may be obligated or expended to implement section 106 of H.R. 2115, as passed the House of Representatives on June 12, 2003.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $108,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2006: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

Grants-in-Aid for Airports

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for implementation of section 203 of Public Law 106–181; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under 49 U.S.C. 44706, $3,425,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,425,000,000 in fiscal year 2004, notwithstanding 49 U.S.C. 47117(g): *Provided further*, That notwithstanding any other provision of law, not more than $64,904,000 of funds limited under this heading shall be obligated for administration and not less than $20,000,000 shall be for the Small Community Air Service Development Pilot Program.

GENERAL PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 101. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: *Provided*, That, the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 102. None of the funds in this Act may be used to compensate in excess of 350 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2004.

SEC. 103. None of the funds made available in this Act may be used for engineering work related to an additional runway at Louis Armstrong New Orleans International Airport.

SEC. 104. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on "below-market" rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 105. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the "Grants-in-Aid for Airports" program, for the FAA to hire additional staff or obtain the services of consultants: *Provided*, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 106. None of the funds appropriated or limited by this Act may be used to change weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey.

SEC. 107. Notwithstanding any other provision of law, funds appropriated for official travel by Federal departments and agencies may be used by such departments and agencies, if consistent with Office of Management and Budget circular A–126 regarding official travel for Government personnel, to participate in the fractional aircraft ownership pilot program.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $359,458,000, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $33,385,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2004: *Provided*, That within the $33,385,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $462,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2004: *Provided further*, That this limitation on transportation research programs shall not apply to any authority previously made available for obligation.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $34,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

(RESCISSION)

Of the unobligated balances of funds apportioned to each state under the program authorized under sections 1101(a)(1), 1101(a)(2), and 1101(a)(3), 1101(a)(4), and 1101(a)(5) of Public Law 105–178, as amended, $137,000,000 are rescinded.

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For an additional amount for Federal-aid highways and highway safety construction programs pursuant to title 23, United States Code, $400,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That amounts under this heading shall be distributed in the same manner as if made available under 23 U.S.C. 110: *Provided further*, That the amounts under this heading shall not be subject to, or computed against, any obligation limitation or contract authority set forth in this Act or any other Act: *Provided further*, That, before such allocation and distribution are made, $133,450,000 shall be retained for surface transportation projects.

GENERAL PROVISIONS—FEDERAL HIGHWAY ADMINISTRATION

SEC. 110. (a) For fiscal year 2004, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) for section 201 of the Appalachian Regional Development Act of 1965, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed

$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943–1945).

(d) The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 111. Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall deduct a sum in such amount not to exceed 1.35 percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the programs authorized under chapters 1 and 2 of title 23, United States Code, and to make transfers in accordance with section 104(a)(1)(A)(ii) of title 23, United States Code: *Provided*, That any deduction by the Secretary of Transportation in accordance with this subsection shall be deemed to be a deduction under section 104(a)(1)(A) of title 23, United States Code, and the sum so deducted shall remain available until expended.

SEC. 112. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 113. Notwithstanding any other provision of law:

(1) Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 112 Stat. 191; 115 Stat. 871) is amended—

(A) in paragraph (42), by striking "Fulton, Mississippi," the first time that it appears and all that follows to the end of the paragraph and inserting "Fulton, Mississippi."; and

(B) by adding at the end the following:

"(45) The United States Route 78 Corridor from Memphis, Tennessee, to Corridor X of the Appalachian development highway system near Fulton, Mississippi, and Corridor X of the Appalachian development highway system extending from near Fulton, Mississippi, to near Birmingham, Alabama.".

(2) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 115 Stat. 872) is amended—

(A) in subparagraph (A) by striking "(A) IN GENERAL.—The portions" and all that follows through the end of the first sentence and inserting:

"(A) IN GENERAL.—The portions of the routes referred to in subsection (c)(1), subsection (c)(3) (relating solely to the Kentucky Corridor), clauses (i), (ii), and (except with respect to Georgetown County) (iii) of subsection (c)(5)(B), subsection (c)(9), subsections (c)(18) and (c)(20), subsection (c)(36), subsection (c)(37), subsection (c)(40), subsection (c)(42), and subsection (c)(45) that are not a part of the Interstate System are designated as future parts of the Interstate System."; and

(B) by adding the following at the end of subparagraph (B)(i): "The route referred to in subsection (c)(45) is designated as Interstate Route I–22.".

SEC. 114. None of the funds limited or made available in this Act shall be available to carry out 23 U.S.C. 133(d)(2).

SEC. 115. Notwithstanding any other provision of law, in section 1602 of the Transportation Equity Act for the 21st Century—

(1) item number 230 is amended by striking "Monroe County transportation improvements on Long Pond Road, Pattonwood Road, and Lyell road" and inserting "Route 531/Brockport-Rochester Corridor in Monroe County, New York".

(2) Item number 1149 is amended by striking "Traffic Mitigation Project on William Street and Losson Road in Cheektowaga" and inserting "Study and implement mitigation and diversion options for William Street and Broadway Street in Cheektowaga, I–90 Corridor Study; Interchange 53 to Interchange 49, PIN 552830 and Cheektowaga Rails to Trails, PIN 575508".

(3) Item number 476 is amended by striking "Expand Perkins Road in Baton Rouge" and inserting "Feasibility study, design, and construction of a connector between Louisiana Highway 1026 and I–12 in Livingston Parish".

(4) Item 4 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century, relating to construction of a bike path in Michigan, is amended by striking "between Mount Clemens and New Baltimore" and inserting "for the Macomb Orchard Trail in Macomb County".

SEC. 116. Intelligent Transportation Systems appropriations made to the State of Wisconsin in Public Law 105–277, Public Law 106–69, and Public Law 107–87 shall not be subject to the limitations of Public Law 105–178, sec. 5208(d), 23 U.S.C. sec. 502 (Notes).

SEC. 117. Notwithstanding Public Law 105–178, sec. 5208(d), Intelligent Transportation Systems appropriations for—

(1) Wausau-Stevens Point-Wisconsin Rapids, Wisconsin, in Public Law 105–277 and Public Law 106–69 shall be available for use in the counties of Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Iron, Lincoln, Marathon, Polk, Portage, Price, Rusk, Sawyer, Taylor, Washburn, Wood, Clark, Langlade, and Oneida; and

(2) the City of Superior and Douglas County, Wisconsin, in Public Law 106–69 shall be available for use in the City of Superior and northern Wisconsin.

SEC. 118. Notwithstanding any other provision of law, for the purpose of assisting in the development, construction and financing of additional improvements to the Alameda Corridor, including construction of a truck expressway or other enhancements, the Secretary of Transportation shall modify the loan agreement entered into with the Alameda Corridor Transportation Authority pursuant to Public Law 104–208 to revise the interest rate to equal the average yield, as of the date of modification of the loan agreement, on marketable Treasury securities of similar maturity to the expected remaining average life of the loan: *Provided*, That notwithstanding any other provision of law, such modification shall be deemed to be eligible under section 184 of title 23, United States Code, and shall be funded under section 188 of title 23, United States Code: *Provided further*, That the Secretary may revise the interest rate or modify other terms of the existing loan agreement to the extent that the marginal budgetary costs, if any, of such modifications do not exceed $80,000,000 and are funded under section 188 of title 23, United States Code.

SEC. 119. (a) IN GENERAL.—As soon as practicable after the date of enactment of this

Act, the Secretary of Transportation shall enter into an agreement with the State of Nevada, the State of Arizona, or both, to provide a method of funding for construction of a Hoover Dam Bypass Bridge from funds allocated for the Federal Lands Highway Program under section 202(b) of title 23, United States Code.

(b) METHODS OF FUNDING.—

(1) The agreement entered into under subsection (a) shall provide for funding in a manner consistent with the advance construction and debt instrument financing procedures for Federal-aid highways set forth in section 115 and 122 of title 23, except that the funding source may include funds made available under the Federal Lands Highway Program.

(2) Eligibility for funding under this subsection shall not be construed as a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest of an eligible debt financing instrument as so defined in section 122, nor create a right of a third party against the United States for payment under an eligible debt financing instrument. The agreement entered into pursuant to subsection (a) shall make specific reference to this provision of law.

(3) The provisions of this section do not limit the use of other available funds for which the project referenced in subsection (a) is eligible.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

(LIMITATION ON ADMINISTRATIVE EXPENSES)

(HIGHWAY TRUST FUND)

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $236,753,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration: *Provided*, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106 and 31309, $190,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $190,000,000 for "Motor Carrier Safety Grants" and "Information Systems".

BORDER ENFORCEMENT PROGRAM

(HIGHWAY TRUST FUND)

For necessary expenses to continue the Border Enforcement Program authorized under section 350 of the Department of Transportation and Related Agencies Appropriations Act, 2002, $47,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended.

GENERAL PROVISIONS—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SEC. 130. Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall deduct a sum in such amount not to exceed .90 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research: *Provided*, That any deduction by the Secretary of Transportation in accordance with this subsection shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code, and the sum so deducted shall remain available until expended.

SEC. 131. None of the funds appropriated, limited, or made available in this Act shall be used to implement or enforce any provision of the Final Rule issued on April 16, 2003 (Docket No. FMCSA-97-2350) as it applies to operators of utility service vehicles as defined in 49 CFR section 395.2.

SEC. 132. Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107-87, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $206,178,000, of which $171,110,000 shall remain available until September 30, 2006: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2004, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $3,600,000, to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, and 410, to remain available until expended, $225,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2004, are in excess of $225,000,000 for programs authorized under 23 U.S.C. 402, 405, and 410, of which $165,000,000 shall be for "Highway Safety Programs" under 23 U.S.C. 402, $20,000,000 shall be for "Occupant Protection Incentive Grants" under 23 U.S.C. 405, and $40,000,000 shall be for "Alcohol-Impaired Driving Countermeasures Grants" under 23 U.S.C. 410: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $8,150,000 of the funds made available for section 402, not to exceed $1,000,000 of the funds made available for section 405, and not to exceed $2,000,000 of the funds made available for section 410 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: *Provided further*, That not to exceed $2,600,000 of the funds made available for section 157, and $2,600,000 of the funds made available for section 163, shall be available to NHTSA for administering highway safety grants under chapter 1 of title 23, United States Code: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-Impaired Driving Countermeasures Grants" shall be available for technical assistance to the States.

GENERAL PROVISIONS—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SEC. 140. Notwithstanding any other provision of law, States may use funds provided in this Act under section 402 of title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema, and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: *Provided*, That any state that uses funds for such public service messages shall submit to the Secretary and the House and Senate Committees on Appropriations a report describing and assessing the effectiveness of the messages: *Provided further*, That $10,000,000 of the funds allocated for innovative seat belt projects under section 157 of title 23, United States Code, and $12,000,000 of funds allocated under section 163 of title 23, United States Code, shall be used as directed by the National Highway Traffic Safety Administrator, to purchase advertising in broadcast media to support the national mobilizations conducted in all fifty states, aimed at increasing seat belt use and reducing impaired driving: *Provided further*, That up to $2,000,000 of the funds allocated under section 163 of title 23, United States Code, shall be used by the Administrator to evaluate the effectiveness of alcohol-impaired driving programs that purchase advertising as provided by this section.

SEC. 141. None of the funds made available by this Act may be used for the purpose of enforcing compliance with 49 CFR section 579.24, promulgated by the National Highway Traffic Safety Administration in accordance with section 30166(m) of title 49, United States Code, with respect to trailers rated at 26,000 pounds or less gross vehicle weight.

FEDERAL RAILROAD ADMINISTRATION

Safety and Operations

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $130,922,000, of which $11,712,000 shall remain available until expended.

Railroad Research and Development

For necessary expenses for railroad research and development, $28,225,000, to remain available until expended.

Railroad Rehabilitation and Improvement Program

(LIMITATION ON DIRECT LOANS AND LOAN GUARANTEES)

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2004.

Next Generation High-Speed Rail

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. ' 26101 and 26102, $28,250,000, to remain available until expended.

Grants to the National Railroad Passenger Corporation

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $900,000,000, to remain available until September 30, 2004, including $400,000,000 for quarterly grants for operating expenses, $373,000,000 for quarterly grants for capital expenses along the Northeast Corridor Mainline, and $127,000,000 for quarterly grants for general capital improvements: *Provided*, That the Secretary of Transportation shall approve funding to cover operating losses and a long-distance train of the National Railroad Passenger Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis and revenue projection justifying the federal support to the Secretary's satisfaction: *Provided further*, That the Secretary of Transportation and the Amtrak Board of Directors shall ensure that, of the amount made available under this heading, sufficient sums are reserved to satisfy the contractual obligations of the National Railroad Passenger Corporation for commuter and intercity passenger rail service: *Provided further*, That within 60 days of enactment of this Act but not later than October 1, 2003, Amtrak shall transmit to the Secretary of Transportation and the House and Senate Committees on Appropriations a business plan for operating and capital improvements to be funded in fiscal year 2004 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by this business plan: *Provided further*, That not later than October 1, 2003 and each month thereafter, Amtrak shall submit to the Secretary of Transportation and the House and Senate Committees on Appropriations a supplemental report regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes: *Provided further*, That none of the funds in this Act may be used for operating expenses and capital projects not approved by the Secretary of Transportation nor on the National Railroad Passenger Corporation's fiscal year 2004 business plan: *Provided further*, That none of the funds under this heading may be obligated or expended until the National Railroad Passenger Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 3, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act.

General Provisions—Federal Railroad Administration

SEC. 150. To authorize the Surface Transportation Board to direct the continued operation of certain commuter rail passenger transportation operations in emergency situations, and for other purposes:

(a) Section 11123 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation," after "cessation of operations,";

(B) by striking "or" at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4)(C) and inserting "; or"; and

(D) by adding at the end the following new paragraph:

"(5) in the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, direct the continuation of the operations and dispatching, maintenance, and other necessary infrastructure functions related to the operations.";

(2) in subsection (b)(3)—

(A) by striking "When" and inserting "(A) Except as provided in subparagraph (B), when"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, the Board shall provide funding to fully reimburse the directed service provider for its costs associated with the activities directed under subsection (a), including the payment of increased insurance premiums. The Board shall order complete indemnification against any and all claims associated with the provision of service to which the directed rail carrier may be exposed.";

(3) by adding the following new paragraph at the end of subsection (c):

"(4) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by cessation of service by the National Railroad Passenger Corporation, the Board may not direct a rail carrier to undertake activities under subsection (a) to continue such operations unless—

"(A) the Board first affirmatively finds that the rail carrier is operationally capable of conducting the directed service in a safe and efficient manner; and

"(B) the funding for such directed service required by subparagraph (B) of subsection (b)(3) is provided in advance in appropriations Acts."; and

(4) by adding at the end the following new subsections:

"(e) For purposes of this section, the National Railroad Passenger Corporation and any entity providing commuter rail passenger transportation shall be considered rail carriers subject to the Board's jurisdiction.

"(f) For purposes of this section, the term 'commuter rail passenger transportation' has the meaning given that term in section 24102(4).".

(b) Section 24301(c) of title 49, United States Code, is amended by inserting "11123," after "except for sections".

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs, $14,500,000: *Provided*, That no more than $72,500,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds available not to exceed $948,000 shall be available for the Office of the Administrator; not to exceed $6,126,000 shall be available for the Office of Administration; not to exceed $3,848,000 shall be available for the Office of the Chief Counsel; not to exceed $1,067,000 shall be available for the Office of Communication and Congressional Affairs; not to exceed $7,303,000 shall be available for the Office of Program Management; not to exceed $6,027,000 shall be available for the Office of Budget and Policy; not to exceed $4,328,000 shall be available for the Office of Demonstration and Innovation; not to exceed $2,657,000 shall be available for the Office of Civil Rights; not to exceed $3,732,000 shall be available for the Office of Planning; not to exceed $17,697,000 shall be available for regional offices; and not to exceed $16,567,000 shall be available for the central account: *Provided further*, That the Administrator is authorized to transfer funds appropriated for an office of the Federal Transit Administration: *Provided further*, That no appropriation for an office shall be increased or decreased by more than 3 percent by all such transfers: *Provided further*, That any change in funding greater than 3 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed $1,000,000 shall be available for travel expenses: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That not to exceed $2,200,000 for the National transit database shall remain available until expended.

Formula Grants

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $767,800,000, to remain available until expended: *Provided*, That no more than $3,839,000,000 of budget authority shall be available for these purposes: *Provided further*, That notwithstanding section 3008 of Public Law 105–178, $50,000,000 of the funds to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under "Federal Transit Administration, Capital investment grants".

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $24,200,000, to remain available until expended: *Provided*, That no more than $122,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $60,385,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $12,614,400 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,807,020,000 to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $3,071,200,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $97,800,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $58,000,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $64,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That $2,507,220,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $599,280,000, to remain available until expended: *Provided*, That no more than $3,106,500,000 of budget authority shall be available for these purposes: *Provided further*, That there shall be available for fixed guideway modernization, $1,214,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $677,700,000; and there shall be available for new fixed guideway systems $1,214,400,000, to be available as follows:

Baltimore, MD, Central Light Rail Double Track Project, $40,000,000;

BART San Francisco Airport (SFO), CA, Extension Project, $100,000,000;

Boston, MA. Silver Line Phase III, $3,000,000;

Charlotte, NC, South Corridor Light Rail Project, $4,000,000;

Chicago Transit Authority, IL, Douglas Branch Reconstruction, $85,000,000;

Chicago, IL, Metra Commuter Rail Expansions and Extensions, $52,000,000;

Chicago, IL, Ravenswood Reconstruction, $45,000,000;

Dallas, TX, North Central Light Rail Extension, $30,161,283;

Denver, CO, Southeast Corridor LRT (T-REX), $80,000,000;

East Side Access Project, NY, Phase I, $70,000,000;

Ft. Lauderdale, FL, Tri-Rail Commuter Project, $18,410,000;

Las Vegas, NV, Resort Corridor Fixed Guideway, $15,000,000;

Los Angeles, CA, Eastside Light Rail Transit System, $10,000,000;

Memphis, TN, Medical Center Rail Extension, $9,247,588;

Minneapolis, MN, Hiawatha Corridor Light Rail Transit (LRT), $74,980,000;

New Orleans, LA, Canal Street Streetcar Project, $23,921,373;

New York, Second Avenue Subway, $3,000,000;

Newark, NJ, Rail Link (NERL) MOS1, $22,566,022;

Northern, NJ, Hudson-Bergen Light Rail (MOS2), $100,000,000;

Phoenix, AZ, Central Phoenix/East Valley Light Rail Transit Project, $13,000,000;

Pittsburgh, PA, Stage II Light Rail Transit Reconstruction, $32,243,422;

Portland, OR, Interstate MAX Light Rail Extension, $77,500,000;

Raleigh, NC, Triangle Transit Authority Regional Rail Project, $3,000,000;

Salt Lake City, UT, Medical Center LRT Extension, $30,663,361;

San Diego, CA, Mission Valley East Light Rail Transit Extension, $65,000,000;

San Diego, CA, Oceanside-Escondido Rail Project, $48,000,000;

San Juan, PR, Tren Urbano Rapid Transit System, $43,540,000;

Seattle, WA, Sound Transit Central Link Initial Segment, $15,000,000;

Washington, DC/MD, Largo Extension, $65,000,000;

Washington, DC/VA, Dulles Corridor Rapid Transit Project, $25,000,000;

Hawaii and Alaska Ferry Boats, $10,296,000;

Oversight set-aside, $12,144,000; and

San Francisco, CA, Muni Third Street Light Rail Project, $10,000,000;

Provided further, That notwithstanding any other provision of law, for the purpose of calculating the non-New Starts share of the total project cost of both phases of San Francisco Muni's Third Street Light Rail Transit project for fiscal year 2004, the Secretary of Transportation shall include all non-New Starts contributions made towards Phase 1 of the two-phase project for engineering, final design and construction, and also shall allow non-New Starts funds expended on one element or phase of the project to be used to meet the non-New Starts share requirement of any element or phase of the project: *Provided further*, That none of the funds provided in this Act for the San Francisco Muni's Third Street Light Rail Transit Project shall be obligated if the Federal Transit Administration determines that the project is found to be "not recommended" after evaluation and computation of revised transportation system user benefit data.

Mr. ISTOOK (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 51, line 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Are there points of order?

POINTS OF ORDER

Mr. MICA. Mr. Chairman, I have three points of order, and I would like to take them one at a time.

The CHAIRMAN. The gentleman will state his points of order.

Mr. MICA. Mr. Chairman, I make a point of order against the provision found on page 9 beginning on line 14 and ending on line 15. The phrase "to be derived from the Airport and Airway Trust Fund and." This is an unauthorized appropriations from the Airport and Airway Trust Fund in violation of clause 2 of rule XXI.

Mr. YOUNG of Florida. Mr. Chairman, I am disappointed that my colleague from Florida made this point of order, but in the event that he did, I must insist that the point of order be applied to the entire paragraph and not only to provisions within the paragraph to which the gentleman from the authorizing committee objects.

The CHAIRMAN. The point of order is extended to the entire paragraph.

Does any other Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede the point of order as extended as the Chair has stated to the entire paragraph.

The CHAIRMAN. The point of order is conceded and sustained. That paragraph is stricken from the bill.

Mr. MICA. Mr. Chairman, I have a second point of order.

Mr. Chairman, I make a point of order against the provision found on page 12 beginning with the word "for" on line 12 through "49 USC 44706" on line 16 and again on page 12, line 22 beginning with the words "provided further" through page 13, line 2. This would fund administrative expenses of the Airport Improvement Program, AIP, and the cost of the Small Community Air Service Development Pilot Program from contract authority that is authorized only for airport grants, not administrative expenses or other programs. It would also waive existing law. Both the proviso and this related language are legislative in nature and, therefore, in violation of clause 2 of rule XXI.

Mr. YOUNG of Florida. Mr. Chairman, again, I must insist that the point of order be applied to the entire paragraph and not only to provisions within the paragraph to which the gentleman from the authorizing committee objects.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, to the extent that it applies to the entire paragraph, namely, from line 1 on page 12 through line 2 on page 13, to that extent, applying to that entirety, we would concede the point of order, but only to that extent.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

If not, the point of order is conceded and sustained and the paragraph is stricken from the bill.

Mr. MICA. Mr. Chairman, I have a third and final point of order I would like to offer on behalf of myself and the Committee on Transportation and Infrastructure.

Mr. Chairman, I make a point of order against all of section 105 which begins on page 14, line 16 through page 15, line 2. That section authorizes the Federal Aviation Administration to accept funds from an airport sponsor to expedite the environmental review process for airport projects that would add critical airport capacity to the National Air Transportation System. The conference report on H.R. 15 contains a provision that is similar but, in fact, broader in scope. The language in H.R. 15 will allow the FAA to accept funds from an airport sponsor in order to facilitate the timely processing, review and completion of environmental activities associated with any airport development project.

To avoid the confusion that could arise from the enactment of two inconsistent provisions, I object to section 105 on the grounds that it is legislative in nature and in violation of clause 2, rule XXI.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and section 105 is stricken from the bill.

Mr. PETRI. Mr. Chairman, I have 15 points of order to the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PETRI. Mr. Chairman, on behalf of the Committee on Transportation and Infrastructure, I make a point of order against the provision found on page 17, lines 6 through 11. This provision would rescind $137 million in unobligated balances of Highway Contract Authority.

Under this provision, each State Department of Transportation would lose funds from the Surface Transportation Program, the Congestion Mitigation Air Quality Program, the National Highway System Program, the Interstate Maintenance Program, and the Bridge Program. This will reduce each State's ability to move funds from one category to another within its obligation limitation and will be particularly harmful given that States may soon need to use their unobligated balances to continue their programs pending enactment of a long term reauthorization of surface transportation programs. The creation and recision of contract authority is the exclusive jurisdiction of the Committee on Transportation and Infrastructure. This decision is legislative in nature and in violation of clause 2 of rule XXI.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, although the effect of the amendment, unfortunately, is to add $137 million which we do not have in the budget authority to the underlying bill, thereby complicating the efforts to ultimately achieve a successful conference with the Senate, nevertheless, we must concede that the point of order is correct.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, the point of order is conceded and sustained, and that paragraph is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against section 110 which begins on page 18 and ends on page 23, line 15. Section 110 specifies the distribution of funds for the Federal-aid Highways Program. I expect that this Congress will extend the existing highway program for a period of time. If we do so, this provision will create confusion and conflict and is unnecessary. This entire section is legislative in nature, in violation of clause 2 of rule XXI.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, although the effect of this point of order would be to remove the distribution formula and leave us in limbo, which we hope to ultimately correct, nevertheless, we must concede the point of order.

The CHAIRMAN. Anyone wishing to be heard?

If not, the point of order is conceded and sustained, and section 110 is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against section 111 which begins on page 23, line 16 and ends on page 24, line 12. Section 111 increases the Federal Highway administrative takedown authorized in 23 USC 104(a) from one and one-sixth percent to 1.35 percent. It would also waive existing law. This is legislative in nature, in violation of clause 2 of rule XXI.

Mr. ISTOOK. Mr. Chairman, we unfortunately must concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and section 111 is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the last two provisos of section 118 on page 28, line 19 beginning with "provided" and through page 29, line 3.

Section 118 directs the Secretary of Transportation to modify a specific loan agreement and to have the proposed loan modification funded under the Transportation and Infrastructure Finance and Innovation Act Program. By statute, eligibility for federally guaranteed loans under the TIFIA program is determined by the Secretary of Transportation in accordance with rigorous and selective criteria. It also waives existing law. Waiving existing law is legislative in nature and violates clause 2 of House rule XXI.

The CHAIRMAN. Does any Member wish to be heard?

Mr. ISTOOK. Mr. Chairman, I feel the need to speak a little bit in greater length because of the consequences of this point of order.

This point of order would strike the final two provisos in section 218 but leave intact the remainder of that section. Those provisos that would be stricken would ensure that the loan refinancing of the Alameda Corridor Transportation Authority are subsumed, that is, contained within the Transportation Infrastructure Finance Innovation Act and thereby would limit the overall expense of this refinancing to $80 million.

The effect of the amendment is to increase, again, the cost of our bill by upwards of $160 to $170 million in budget authority and a similar number in outlays.

The reason the committee included section 118 as written is to ensure that the refinancing of the Alameda Corridor Transportation Authority can be funded through the Transportation Infrastructure Finance and Innovation Act Program and that the cost of that refinancing to the Federal Government will not exceed $80 million.

If the point of order is sustained, the refinancing costs will no longer be limited and it cannot be paid for from the TIFIA program. The effect of the elimination of these provisos may cause the Congressional Budget Office to increase their scoring of the bill by the $160 to $170 million. That would put the bill well over our 302(b) allocation.

□ 1415

We have already had another point of order that pushed us above that allocation. We cannot afford this change. The effect of sustaining the point of order could be to make it impossible to do this refinancing that is crucial in the Alameda corridor. So I would ask the gentleman to consider the serious financial effect of his point of order and consider withdrawing the point of order.

The CHAIRMAN. Do any other Members wish to be heard on the point of order? If not, the Chair finds that this provision explicitly supersedes existing law. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained, and section 118 is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the phrase "Notwithstanding any other provision of law'' found on page 31, line 5. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does any Member wish to be heard on the gentleman's point of order?

Mr. ISTOOK. Mr. Chairman, we concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and that language is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the phrase ''to be derived from the Highway Trust Fund (other than the Mass Transit Account)'' on page 31, lines 19 through the word ''account'' on line 21. This section appropriates $47 million from the Highway Trust Fund for the border enforcement program. There is no current authorization of a border enforcement program. This language clearly constitutes an unauthorized appropriation in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Is there any Member wishing to be heard on the point of order?

Mr. YOUNG of Florida. Mr. Chairman, again, I must insist that the point of order be applied to the entire paragraph and not just to the provision within the paragraph to which the gentleman from the authorizing committee objects.

The CHAIRMAN. Is there any other Member wishing to be heard?

Mr. ISTOOK. Mr. Chairman, to the extent that the point of order is correctly applied against the entire paragraph, namely, the text from page 31, lines 14 through lines 21 to its entirety and not just to a portion thereof, to that extent and only that extent we would concede the point of order.

The CHAIRMAN. Are there any other Members wishing to be heard on the point of order? The point of order is conceded and sustained, and the paragraph is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against all of section 130 which begins on page 31, line 24. This section authorizes an administrative takedown that exceeds the one-third of 1 percent administrative takedown authorized by section 104(a)(1)(B) of Title 23. It also violates existing law. This increase is legislative in nature in violation of rule XXI.

The CHAIRMAN. Is there any Member wishing to be heard?

Mr. ISTOOK. Mr. Chairman, we concede this point of order against this section.

The CHAIRMAN. The point of order is conceded and sustained, and section 130 is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the phrase ''Notwithstanding any other provision of law'' found on page 34, line 24. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Is there any Member wishing to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and that language is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the two provisos which begin on page 36, line 17 starting with the words ''provided further'' through page 37, line 5. These provisos of section 104 earmark the manner in which certain safety-related grants are to be used by the States. These unauthorized earmarks reduce both the amount of funding available to the States and the States' discretion in the use of these funds. I object to these earmarks on the grounds that they are unauthorized, in violation of rule XXI.

The CHAIRMAN. Is there any Member wishing to be heard on this point of order?

Mr. ISTOOK. Mr. Chairman, despite the negative consequences, we believe we must concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and those two provisos are stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the proviso that begins at the end of line 16 on page 45 through line 23. This proviso purports to transfer $50 million provided by TEA for the clean fuels bus formula grant program to the transit bus discretionary grant program, where it is distributed not by the statutory formula envisioned in TEA but rather by earmarks in report language. It also waives existing law. This proviso is legislative in nature in violation of rule XXI.

The CHAIRMAN. Is there any Member wishing to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and that proviso is stricken from the bill.

Mr. PETRI. Mr. Chairman, I make a point of order against the phrase ''Notwithstanding any other provision of law'' found on page 46, line 25. This language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House of Representatives.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we concede this point of order.

The CHAIRMAN. The point of order is conceded and sustained, and that language is stricken from the bill.

Mr. PETRI. I have additional points of order, but they are starting on page 51 which would that be in order at this point?

The CHAIRMAN. Does the gentleman seek to raise a point of order on page 50?

Mr. PETRI. No. Page 51, line 12 is my next point of order.

The CHAIRMAN. The bill is read only through line 10 on page 51. Are there any other points of order against provisions in his portion of the bill? If not, are there any amendments?

AMENDMENT OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ISTOOK:

On page 6, line 9 of the bill, delete ''$6,000,000,000'' and insert in lieu thereof ''$4,043,000,000''.

Mr. ISTOOK. Mr. Chairman, this is a very simple and straightforward amendment. It lowers the amount for the Federal Aviation Administration's operating budget that would be coming from the Aviation Trust Fund, changing the amount that comes from the Aviation Trust Fund from $6 billion to $4.043 billion. The remainder, however, would remain appropriated, but from general revenue.

The amended figure is the amount that would be allowed under the current aviation authorization if it were to be extended until fiscal year 2004. The amount originally under the bill, the $6 billion, was the amount proposed by the administration in the President's budget.

The effect is that the funding in the bill for this purpose will remain the same. It will remain $6 billion of overall funding. It is just that the source will be slightly over $4 billion from the Aviation Trust Fund and slightly under $2 billion in general revenue fund.

The Committee on Transportation and Infrastructure had raised an objection to the higher Aviation Trust Fund figure. They had suggested a potential point of order might lie against it as an unauthorized appropriation. So we worked this out with the authorizers, and I know of no objection to it.

This does not add funding to the bill. This does not take funding from the bill. It only changes the mix of general fund and trust fund dollars used to finance the FAA.

I ask for adoption of the amendment.

The CHAIRMAN. Is there any Member seeking time in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Oklahoma (Mr. ISTOOK).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT NO. 10 OFFERED BY MR. HOYER

Mr. HOYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. HOYER:

Page 2, line 8, after the first dollar amount insert the following: "(increased by $8,268,000)".

Page 5, line 21, after the dollar amount insert the following: "(reduced by $8,268,000)".

Mr. HOYER. Mr. Chairman, the effect of this amendment will be to transfer $8.2 million from the construction fund for the transportation building which we have cleared cannot be spent this year in 2004. It will be spent in 2006, and we did not want to damage that building because we are very strong supporters of that building, and put $8.26 million for the general aviation airports into the Washington metropolitan area. I would like to speak about it and then have a little discussion with the chairman and then perhaps take some action and we can work on this later.

In the aftermath, Mr. Chairman, of the September 11 terrorist attacks, the Federal Aviation Administration issued temporary flight restrictions on the small aircraft of general aviation as part of its efforts to make commercial air travel safer. Unfortunately, while those restrictions were lifted for general aviation in the entire rest of the country, small airports in the Washington metropolitan area have continued to languish under binding restrictions of their operations.

These are private sector. This is not public. These are private sector entrepreneurs, businessmen and -women who have invested their dollars in the operations of these general aviation airports. In fact, the only airports in the country that are closed or severely restricted to incoming and outgoing general aviation are Reagan National Airport and the three D.C. general aviation airports.

I might say that I offer this amendment on behalf of the gentleman from Virginia (Mr. TOM DAVIS) and others and the gentleman from Virginia (Mr. TOM DAVIS) is here. He can speak for himself. As a result, these small airports, specifically College Park Airport, Potomac Airfield, Washington Executive, and National. National is not on the brink of financial collapse, obviously, because it is associated with a large public airport. The other three airports, however, are not in that situation. They survive or fail solely on the revenues from their general aviation, and they are in dire straits. These airports have been forced to nearly cease their operations, effectively endangering the livelihood of their employees who have lost income and jobs and airport owners who have lost longtime customers and almost all of their revenue.

There is no doubt that we must stem the tide of economic decline for general aviation. This industry is a proven integral part of the Nation's economy, providing vital service and economic stability to individual families, churches, hospitals, colleges, industry, small businesses and communities.

Aviation transportation in Maryland is a $1.3 billion industry. My amendment is, therefore, very simple. It will reimburse these general aviation airports for the security costs incurred and revenue foregone because of government restriction.

Let me say, I have had discussions with Sean O'Keefe, who is now the administrator of NASA, but who was the deputy administrator of OMB. He believes this is fair. Secretary Mineta testified before our subcommittee that this was their proposal that this be done, and there is legislation pending to accomplish that, but obviously it needs an appropriation.

Mr. Chairman, I want to yield to the gentlewoman from the District of Columbia (Ms. NORTON) who represents the District of Columbia and National Airport.

Ms. NORTON. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Chairman, I simply want to thank the gentleman for the leadership he has given to this issue to mitigate some of the almost total losses of the airports in this district which handle charter flights and commercial flights. This is the Nation's capital. One can imagine a major business destination without any charter flights for almost 2 years.

What we are asking for is a pittance compared to what the losses have been. Originally I think the amendment was $15 million. It is now $8.2 million.

I do want to indicate that these airports I think are three small ones, in Maryland, perhaps Virginia, and there is, of course, the larger one here in the District. They said whatever regulations, in fact, that we come forward with they will meet. Instead they have been closed. At the very least what we have got here is close to a taking. We ought to compensate them somewhat for what they have done. We compensated all the other airlines. There is no other commercial aviation in the United States, indeed in the world, that is closed today except in this region.

We ask for forbearance and for some compensation. That is all it would be, some compensation.

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for her work and her cosponsorship of this amendment and her comments.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I appreciate my friend from Maryland for taking leadership on this, and my colleague from the District. I have asked the chairman of the subcommittee, I know he is interested in this as well.

This is something that 9/11 shut these airports down. They are actually very, very important to the Nation's security here in terms of ingress and egress, and we have. I think, a national interest in preserving these. As was stated before, it is just a pittance, but it is important to keep them economically viable.

Let me ask the chairman of the committee can he work with us to make sure that in conference this money is included if he is not comfortable with where this money is coming from at this point.

□ 1430

Mr. ISTOOK. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I very much appreciate the comments of each of the gentlemen. As I believe everyone is aware, originally my mark as chairman included funds for this purpose when it came out of the subcommittee. Unfortunately, when other extremely large demands were imposed upon the bill, including demand for Amtrak and other things, this and many other worthwhile things had to be dropped out of the bill in full committee in that process. Nevertheless, the underlying equities, I think, are very much as the gentleman has stated.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. HOYER) has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 3 additional minutes.)

Mr. HOYER. Mr. Chairman, I continue to yield to the chairman of the subcommittee

Mr. ISTOOK. I thank the gentleman, Mr. Chairman.

As I was mentioning, this and many other meritorious things, unfortunately, had to be dropped out in full committee not because they lacked merit but simply because of the funding restrictions.

As I have certainly told the gentleman from Maryland, the gentleman from Virginia, and the gentlewoman from the District of Columbia, I remain committed to addressing this. I believe the equities are there. Frankly, I believe the government is open to an inverse condemnation litigation that would cost us even more. So it is something I do hope we can accomplish in the conference process with the Senate.

I stated that previously, and originally had that intent and put that in my original chairman's mark. So while I remain committed to that objective, it is just that we had to balance this with the overall figures in the ultimate House-Senate conference. But I most definitely am committed to working with my colleagues towards the same goal.

Mr. HOYER. Reclaiming my time, Mr. Chairman, I thank the chairman for his comments and would remind my colleagues that we have given billions of dollars to the airlines, these are billion dollar corporations, as a result of 9–11. These three little airports, plus National Airport, are the only private business people so situated in the airline industry who have not received compensation. And they, unlike the airlines per se, are losing their entire investments because of their inability to operate these airlines.

I appreciate the chairman's observations with respect to the equities of the claim here. I also appreciate the observation of the chairman and the gentlewoman from the District of Columbia that we may be subject to a lawsuit which we would lose because this is in fact an effective taking of their property without due process. None of these folks want to damage the security of this region or the White House or the Capitol. They understand our concern. But we certainly need to compensate them.

In light of the fact the chairman has indicated his willingness to work with us to try to ensure the funding, I believe $8.2 million which we have in here is the approximate amount for National, a larger sum, and then a much smaller sum for the other three; and I believe that the sum from which we have taken it will not in any way adversely affect the Transportation Department's building going forward because of the scheduling of those expenditures; but because the chairman has made that representation, I will withdraw the amendment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment offered by my good friend, the gentleman from Maryland, as well as the gentleman from Virginia (Mr. TOM DAVIS), the gentleman from Virginia (Mr. WOLF); and I know several of the Senators in this area are supporting this as well. This is terribly important to our economy in the Washington region, but also to the Nation's economy.

We have pretty much recovered on the surface of things from 9–11; at least we have rebuilt the Pentagon, we are now functioning as well as we can at National Airport in terms of commercial jets and we are responding to national and international challenges. But general aviation is in the same situation it was when it was closed as a result of the tragedy of September 11, 2001. This is unfair. It is wrong. We have to do something about it.

Outside the infrequent use of official government planes, general aviation operations at National Airport are prohibited. There were more than 60,000 business aviation flights a year at National Airport. It was not the kind of mom and pop Cessnas and Piper Cubs that were bringing visitors to Washington to tour the Capitol and the museums; it was business executives, top government officials, and CEOs who need their own aircraft and need the efficiency of an airport close to the city to do their business.

This is hurting Washington's economy, and it is devastating a company like Signature Flight Support, which is the sole provider of general aviation services at National Airport. They were generating revenues of $20 million a year. They had hundreds of employees. Those people are out of a job. Signature Flight Support has lost about $3 million, $1 million a year, and it is hemorrhaging money every single day.

Under the terms of its lease, it is required to staff and operate National Airport 24 hours a day, 7 days a week regardless of whether there is any demand for its services. For 8 months, the Department of Transportation worked with them. They said that they were going to be able to open the airport, and it encouraged Signature to stay in business. But then on July 19 of 2002, Secretary Mineta informed airport officials that general aviation would remain closed indefinitely for security reasons. They have lost too much money. They have had to lay off too many people, and it is not fair to expect them to maintain Federal Government planes when that is not their job. Their job is to service all of general aviation, and we shouldn't be preventing them from doing their job.

This has not gone unnoticed by the House, and I want to thank those on the authorizing committee. There is a provision in the Aviation Reauthorization Act that authorizes funds to help general aviation activities that have been hurt by these security restrictions. With the adoption of the Hoyer amendment, we would be able to fulfill the legislation's intent and actually provide some very needed relief to those businesses that are suffering through no fault of their own.

This is a Federal responsibility. We really ought to fund the Hoyer amendment. We ought to get these businesses back on their feet. They have a right to recover from 9–11 too.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I just want to thank the gentleman for his leadership in this effort as well. He and I have worked very closely on this issue and he has been very focused on National and the other three airports.

It is certainly ironic that we are making efforts, I think appropriate efforts, to fund infrastructure in Iraq; but we cannot compensate business people who were damaged by 9–11 and who are almost driven out of business at a very, as the chairman said, at a relatively nominal sum. So I hope with the chairman's leadership we will be able to do this in conference.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman very much and would add one last word. This is not a security threat. We know everybody that is on these planes, and they are the last people that would engage in any kind of terrorism. It is a much safer passenger list, I have to say, than the normal population that gets on a commercial airline flight. We don't really know much about them except what they might be carrying in their shoes or something.

This is not a security issue; it is an economic issue and an issue of fairness. General aviation needs to be opened.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PETRI:

Strike section 114 of the bill and redesignate subsequent sections of the bill accordingly.

Mr. PETRI. Mr. Chairman, I am joined by the gentleman from Massachusetts (Mr. OLVER) and several other Members in offering an amendment that would strike section 114 of the bill.

This provision, as described in the committee report, "discontinues the mandatory 10 percent set-aside from the surface transportation program for the transportation enhancement program."

Mr. Chairman, this is wrong on many levels, and the provision should be stricken from the bill. Over the last 12 years, enhancements have become an appreciated and important part of our transportation program. Though individual projects are not costly, enhancements nevertheless pack a big punch in terms of promoting economic growth and tourism. They fund bike paths that are enjoyed by families on a Saturday morning. They complete street-scape projects that revitalize the neighborhood. They improve our quality of life and have become important to communities across our country. All of them have a transportation-related purpose.

It has been said that we need to give State transportation departments the flexibility to decide how to spend their money. Well, the American Association of State Highway and Transportation Officials, which is known by the phrase AASHTO, support the amendment. They have come to value the contributions of this program.

In reference to diversions, I would like to point out that nonhighway recreational users contribute, according to the estimate of the Treasury Department and the Transportation Department, up to $268 million a year in gas taxes to the highway trust fund. I trust that in the last several decades recreational users still have contributed more than they have received since we created this program.

It has been said that we need to eliminate the enhancements program because we are billions short for covering our basic highway and bridge needs. I am glad there is recognition of the need to invest in our transportation systems, but I daresay that eliminating this $600 million program is not the answer to our funding needs. Finally, Members should be aware that the President's reauthorization proposal, which was just recently submitted, continues to dedicate funding for 10 enhancement programs.

While this amendment should pass on the merits of the program alone, I must also say that it is wrong to use the appropriations process to, in essence, rewrite the transportation program and allow funds now dedicated for enhancements to be used for other purposes. This is more appropriately the function of the authorizing committee.

In short, Mr. Chairman, State Departments of Transportation through their organizations support this amendment; counties support the amendment; cities support this amendment; environmental groups support the amendment; AARP supports it; bike, architects, conservation and historic conservation groups support it. Recreation and travel groups support it. Even various health groups and the Paralyzed Veterans of America have expressed support. And the list goes on. It is not a State's rights issue. The States have spoken. They want to retain dedicated funding for transportation enhancements.

Mr. Chairman, let us follow the lead of our President and continue dedicated funding for transportation enhancements by passing this amendment.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is important that we understand more correctly what we are talking about here. We are talking about money that comes from the fuel taxes. When we drive a car or we drive a truck, we pay a fuel tax. Where does that money go? Right now, for every $6 in fuel taxes paid, $1 never even goes back to highways because it goes to mass transit funding.

That is one of the reasons that we have a $400 billion backlog in road needs in this country. That is one of the reasons we have tens of thousands of unsafe bridges. It is one of the reasons we have tens of thousands of miles of roads that need improvement, that need to be safer, that need wider shoulders or better dividing. It is one of the reasons we lose billions of dollars each year in productivity because we do not necessarily pick our priorities right.

It is not a question of whether it is nice and whether people say, yes, we would like to have a program to build more bike trails and pedestrian ways, and what has not been mentioned is that this money also goes for things like transportation museums and so forth. Of course people want that money. But if we ask them what is more important to them, is it more important to have the enhancements or to take care of the basics, this bill says that rather than having to take 10 percent, as the current standard requires, 10 percent of the surface transportation dollars and put them into the transportation enhancements, the pedestrian ways, the bike ways, the museums, they must, they must do it right now, we say let them have a choice. Let them work on improving safety first, if they say that is the highest priority. For goodness sake, put the money where the priority is the highest. Not just because people say, sure, I like this program, but is it the most important thing in a Nation with a $400 billion backlog because the highway trust fund has been decreasing.

Every year this program is taking $600 million paid for by drivers and putting it into everything but roads through this transportation enhancement program.

□ 1445

Let the States have a choice. Let them decide for themselves where their priorities are highest. I ask Members, they come to me and they say they need funding for a road. If Members vote that they do not think roads are their highest priority, do not ask for money for roads if Members want to divert that money.

This provision is about options, letting people make priority decisions. We should not try to dictate to the States from Washington, D.C. that they cannot spend the money that drivers pay to relieve the congestion drivers are experiencing, and they have to spend it on other things. We should not be doing that.

We have spent billions of dollars already that our roads needed that were mandated for these things. It is time to give communities a choice, not a commandment. That is what the amendment is about. The bill gives them a choice. The amendment says States do not have a say, they must take the money paid by drivers and put it into things that do not move as many people and do not move the goods and do not relieve the congestion and do not improve safety. They are definitely nice things to have, but when we have limited money, we have to make tough decisions. We are tying to make the tough decisions.

I hope that every Member that thinks they have roads that are important in their community will remember whether they voted to say our communities should be able to address those needs, or Washington is dictating and saying they have no say in the matter. States are compelled to take 10 percent of their surface transportation dollars and take them away from the people who paid at the pump for roads.

And do not tell me we need to adjust fuel taxes upward if we are not using the money rightly that we get right now. If we are not using the money for the intended purpose, if we are not honoring a trust fund principle and using user fees properly, for goodness sake, do not be asking to raise the fuel tax. There is some money paid by recreational people. We have $50 million in an off-road fund already to pay for trails. We have millions more in other provisions in this bill to pay for rails-to-trails, to pay for pedestrian ways, to pay for bikeways. We have some of those projects in this bill. There are some with merit; but we should not be dictating to the States what they do with the money their taxpayers pay, and it is coming back to them with a mandate to divert it. I ask for the defeat of the amendment.

Mr. BOEHLERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Committee on Transportation and Infrastructure and the conference committee for both ISTEA and TEA–21, I was totally immersed in developing the transportation enhancements program and ensuring its long-term viability. As authorizers, we were very specific about the 10 percent mandatory set-aside and feel that section 114 of the fiscal year 2004 Transportation, Treasury and Independent Agencies Appropriations Act changes the laws that this House created. This constitutes a major legislative change in the highway bill and is without question the wrong way to go.

The transportation enhancement program accounts for a mere 2 percent of the overall funding of the highway program. Many people do not realize this because while the funding amount may be small, the benefits local communities receive make a tremendous impact on the character and vitality of towns and villages across America.

Transportation enhancements have improved the health and environment as well as the economic well-being of our communities by funding more than 17,000 projects. These projects have ranged from restoring streetscapes on local main streets to preserving landmark roads and bridges to revitalizing old transportation facilities.

Transportation enhancements create an environment where cyclists and pedestrians can safely coexist with motorists while also improving the landscape of a community. Nationwide communities have enhancement projects that they are very proud of. Whether a trail or a bike lane or a streetscape enhancement or a pedestrian bridge, these small projects are oftentimes how a community identifies itself and takes great pride in these projects with tourists and visitors, and that produces economic vitality. These projects also help to decrease congestion and improve the quality of the air we breathe, further adding to the quality of our life.

I could go on and on listing various groups that support transportation enhancements and benefit from them. They range from mayors and Governors and park directors to hikers and bikers and farmers. My own State Department of Transportation has requested us to make the set aside mandatory because of the tremendous benefits derived from the program. To appreciate the value of the transportation enhancements program, one needs only to imagine the pathways teaming with strollers and rollerbladers and people biking to work. Picture the historic transportation structures that have breathed life and vitality into declining downtown areas.

Mr. Chairman, I included for the RECORD the remainder of my statement, and urge strong support of the Petri-Olver enhancement amendment.

The enhancement program has encouraged communities to come together and craft a vision for revitalizing their downtown areas, for constructing networks of pathways along creeks and rivers, and for preserving the transportation history of this country.

This process builds support from a broad swath of interests, including elected officials, business owners, walkers, bicyclists, fans of historic preservation and neighbors. The Enhancement program serves as a catalyst, leveraging more local investment, as one project builds support for the next. Our investment in the Transportation Enhancement program is modest, but the rewards are immeasurable. I urge strong support of the Petri/Olver amendment.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me start by commending the gentleman from Wisconsin (Mr. PETRI) for his leadership in presenting this amendment. I want to point out and remind Members that this amendment has been cosponsored by a bipartisan group from both sides of the aisle, including myself on the Committee on Appropriations, several members from the Committee on Transportation and Infrastructure, and several Members who have no connection with the Committee on Transportation and Infrastructure or the Committee on Appropriations. This is truly a bipartisan amendment.

I urge my colleagues to support this amendment to strike section 114 to preserve the enhancement program as it has been authorized and in law for the last 12 years.

Make no mistake, a vote against this amendment would cripple the extremely popular enhancement program. The transportation enhancement program created in 1991 in the ISTEA bill was designed to help communities expand transportation choices. Enhancement funds are used to create alternative means of transportation such as bicycle trails and pedestrian walkways which are directly associated with roadways. Enhancements also include the renovation of streetscapes, scenic roads, beautifications, and preservation and investment in the reuse of historic transportation infrastructure that creates both jobs and community amenities.

Congress in both ISTEA and the TEA–21 bill, and now the administration in its transportation reauthorization proposal, determined that a small portion, about 2 percent of our $30-plus billion every year that goes into the highway program, should be used for these kinds of projects. From 1998 to 2003, a total of $4 billion was provided to the States for these enhancements, of which almost $3 billion had been obligated by the middle of this year.

But there is a more telling statistic: From 1971 to 1991, the 20 years before there was an authorized and overwhelmingly voted and agreed to set-aside for enhancements, only $40 million was spent nationwide on bike and pedestrian paths, by far the largest component of the enhancement program. Yet under the authorized ISTEA and TEA–21 legislation, in those 12 years from 1991 until now, over $2.2 billion out of a total of almost $300 billion for highway programs, only that small amount has actually been allocated and directed in this manner for such bike and pedestrian paths. This occurred largely because of the guaranteed funding designated for enhancements over those two authorization bills which, as I point out again, have been voted for, established by the Congress and voted for by overwhelming numbers.

Without the guaranteed authorized set-aside, the program will perish. The fact is Congress has set-asides for many transportation activities. We have them for safety, for interstate maintenance, for bridges and many other areas. These enhancements should be no different.

Enhancements are popular and a needed component of a balanced transportation policy. Hundreds of Members in this body requested money for enhancements, and a good many of those projects are included in this very bill. In fact, the list includes such things as a Hot Springs Bike Trail in Arkansas, Independence Biking Road Access in Kansas, Mountain Bay Trail in Wisconsin, Riverfront Trail in Georgia, the Salk Trail in Illinois, the Toledo Waterfront Redevelopment in Ohio, the Anacostia Riverwalk in the District of Columbia, and the list goes on and on. They include projects that have major social and economic benefits and provide jobs, like the Union Station rehabilitation project in Meridian, Mississippi, funded by enhancements that spurred $10 million of private investment in the Depot District, and the Kentucky Cabinet for Economic Development has estimated that the River Heritage Museum, funded by enhancements, will bring in $20 million to the Paducah area over 5 years.

We should continue more than a decade of success and bipartisan support for this very popular enhancement program. If Members support the enhancement program and believe in a balanced transportation bill, they will vote for the Petri amendment that so many other names have been associated with, including my own, and I urge an aye vote on the amendment.

Mr. LEWIS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to voice my support for the Petri-Olver amendment. I support this amendment because nearly every community in the Second Congressional District of Kentucky has benefited from enhancement program funding.

During the August recess, I spoke with people who know the importance of this funding. Everything from streetscaping to structural rehabilitation to historic preservation has been helped due to the availability of these funds. By keeping the mandatory 10 percent set-aside, Kentuckians will see an enhanced quality of life and our Nation's heritage will stay alive for this and future generations.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. The issue at hand is relatively simple. The transportation enhancement program is about our communities and the enhancement and the empowerment of localities.

As a Member who has served on the Committee on Transportation and Infrastructure for going on 27 years now, and a former chairman as well as ranking member of the Subcommittee on Highways, I can recall that this was somewhat of a radical proposal when we adopted it back in 1991.

Prior to that, Federal highway legislation was largely viewed as the bastion of the States, highway contractors, asphalt, cement and steel manufacturers. The enhancement program transcended those interests and brought a relatively small portion of a State's annual Federal highway apportionment directly to local communities for local community projects. As I have said, a somewhat radical proposal perhaps in 1991, but certainly not today, which is why after this program has worked so well over these past 12 years, it is odd that it is suddenly under attack.

Every Member of this body has a community where the lifestyle of its people have been enhanced by this program, where people have been drawn closer together and the old-fashioned American values are again flourishing as a result of enhancement projects.

In Princeton, West Virginia, for example, the community is being revitalized, partly as a result of a railroad museum partially funded under this program. In Milton, West Virginia, a historic covered bridge, cherished by the community, was rehabilitated under this program. And throughout the State, rails-to-trails, bike and pedestrian facilities, safety projects, and scenic beautification initiatives are enhancing the quality of life.

□ 1500

I am sure as we have already heard that all Members of this body have similar projects in their districts, projects that serve local communities, provide for families and children and which deliver so much in the way of benefits for relatively small cost.

I say let us stay the course. Vote for the Petri-Olver amendment. If changes are really needed to be made in this program, let us consider them in the normal legislative process as part of the TEA-21 reauthorization rather than going through the back door approach taken by the pending legislation.

So I urge support of the pending amendment.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find no small amount of irony. Yesterday, we were celebrating the accomplishments of that great American Lance Armstrong for his prodigious bicycle accomplishments, and today we are moving to gut the enhancements program that extends the benefits of cycling to millions of Americans.

I heard the distinguished chairman of the subcommittee speak to a couple of points. One, he talked about choice in transportation. Well, the fact is today, under the enhancement programs, there is choice that is available. States have the opportunity of flexing money in and out of the enhancements program if that is their priority.

The fact is that this is a priority for people if they have the focus of an enhancement program. The gentleman talked about safety. There is less than 1 percent of the money spent on 7 percent of the trips that are cycling and pedestrian, and they account for 13 percent of the fatalities.

If the gentleman was concerned about safety, I would suggest that maybe we would increase the funding in these enhancement programs. These are programs where people have indicated they want choices.

There are national surveys that indicate, in fact, over half the American public would put more money into bike and pedestrian activities even if it meant less money for roads. The fact is, under the bill that has been offered up, we do not have this either/or situation. All we have to do in striking section 114 is maintain the status quo and the integrity of the enhancements program. This is the single most popular Federal aid highway program for the Federal Government.

As chair of the Bikes Caucus, I can tell my colleagues that the bicycle interests are a vital part of each and every one of your communities. There are over 50 million American bicycle customers that have 100 million bikes. These have 80 million people employed in this industry in every one of our districts. They epitomize small town, small business ownership.

But it speaks also to pedestrians, to handicapped. I am not at all dismissive of issues of parks and museums and historic preservation. Each Member has received an outstanding memorandum from the National Trust for Historic Preservation that points out that this is the single largest area for funding historic preservation-related activities. It has been invaluable in mitigating the damage that transportation projects can do to historic places.

Since I have been in Congress, I have been privileged to visit over 100 communities dealing with issues of things that make those communities more livable. Every place we go, people focus in on the programs that deal with the enhancements program.

It would be a tragedy at a time when the media is filled with reports of the obesity epidemic among our children, when we have an energy crisis, when we found just last week medical studies that talked about communities that have the facilities that the enhancement program gives are six pounds on average lighter and have lower blood pressure, that this Congress in its first full day back after Labor Day would vote to cut it.

This last few days there has been a marvelous coalition quietly moving on Capitol Hill. Sadly, I think they have been almost too quiet because they represent millions of Americans who care about historic preservation, who care about fitness, who care about the revitalization of central cities, retrofitting sprawling suburbs, helping our children get to school safely, fighting the obesity epidemic.

They have visited every office, provided critical information about how the enhancements funding has made a difference in every State of the Union.

This enhancements program was born under a Republican administration and a Democratic caucus. It has enjoyed broad bipartisan support ever since.

I strongly urge my colleagues to support the Petri-Olver amendment to retain the integrity of the enhancements program and make sure that our communities are more livable and make our families safe, healthy, and more economically secure.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in very strong support of this amendment. The interstate highway system was established in the 1950s, and it has served this country very well. The Congress is very proud of what it has done. But transportation has evolved. We have other responsibilities. We need to be concerned about the traffic congestion that we are generating, the deteriorating air quality, the loss of open space, and, as some other of our colleagues have said, an obesity epidemic among our youth. This Enhancement Program is one of the most popular aspects of our entire transportation program, because it encourages communities and individuals to be creative, to take initiative, to convert old, abandoned rail lines to trails.

Rails to Trails is exciting. It has given people other opportunities when they might spend much of their weekend in an automobile to go bicycling, jogging, walking along trails. It has done so much across the country. And it is transportation oriented. But most importantly, it is community oriented. That is key. That is really what this is about. Communities have an opportunity to have some input into how the billions of dollars in road projects are used, to enhance their quality of life.

At one point, 90 percent of our Nation's schoolchildren walked to school. Today, less than 10 percent do. Many have to take buses or rely on their families or friends to drive, primarily because there are no sidewalks or safe ways to get to school. Building sidewalks is one of the many eligible activities for this Transportation Enhancement Program. If we take away this component, we are going to weaken the ability of local communities and neighborhoods to address their priorities. I also think that we are going to lose an awful lot of important opportunities to beautify our transportation corridors, rehabilitate train stations and other transportation assets, provide safe wildlife crossings, and protect our historic, our scenic, our natural resources. We can do this all for about 1½ cents per surface transportation dollar. It is important. It is a critical element of a transportation program that is also concerned about congestion, air quality, loss of open space.

Just one last thing. Many Members live in northern Virginia, Alexandria and Arlington, for example. If we provided highways to accommodate everybody that wants to drive from outside the Beltway to the inner city of D.C., it would be all asphalt. There would not be any neighborhoods. There would be no grass. What we have to do is to find ways for public transportation to relieve our highways to give people an incentive to ride a bicycle, to find whatever way they can get to work in a way that is healthy, that reduces the amount of congestion, and that enhances our quality of life and the strength of our communities. This program does all that. That is why the Petri-Olver amendment should pass. It has many other sponsors, the gentleman from Oregon (Mr. BLUMENAUER) has done a great job on this. It is bipartisan. It is important. Let us make sure it continues as part of our transportation program.

Mr. LaHOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a member of the Committee on Appropriations, and I think I am one of two members on our side who voted to support this effort to restore this program the way that it has existed for several years. I know it is probably not fashionable for me to be up here talking in favor of this amendment, but I feel strongly about it. I am a jogger. I have been a jogger for almost 30 years. I have taken full advantage of the Rails to Trails Program that exists in my congressional district and other parts of Illinois. I think it is a marvelous program. We have promoted around here a new caucus that has been formed by the Members to get Members to exercise more, to get Members to stay in shape. Part of the way that some of us do it is disembark from the Rayburn Building and jog down the Mall. It is not really a Rails to Trails, but it is a marvelous place to jog.

You see people jogging all over this part of the country. You see people jogging along the parkway from Old Town all the way down to where George Washington once lived. These are Rails to Trails. These are opportunities for people that would not have existed without this program. The last thing I want to do is to turn this program over to the Governor of my State. Every State in the country has a deficit. I guarantee you what these Governors will do is not turn this money into Rails to Trails or other amenities or other enhancements. They will use it to fund other things.

We have got a $5 billion debt in Illinois. We have got a Governor who has been in office now 6 months, a new Governor, who has not been able to figure out how to do that. But I guarantee you that if you hand him a bag of money from the enhancements, from the Rails to Trails, he will find other uses for it. As we are encouraging people all over the country to exercise, to be fit, to eat right, to exercise and to do things that will continue to make people healthy, there is no better way to do it than to have this program. I am encouraging Members to support this amendment. This is a good program. It is a program that works. It is not broke.

I want to, too, mention what the gentleman from Oregon talked about, the whole issue of obesity. There has been more written about obesity in the last 6 months or so or last year. If we really want Americans to be fit and healthy and get in good shape, the way to do it is to allow for the enhancement program that has worked so well, that allows people to get outdoors, to ride their bikes, to jog, to walk. What better way to bring people in a community together. This program has been a marvelous program. We should not change it. It is a program that works. It is not broke. I encourage Members to support the amendment and continue the fine program we have had.

Mr. PETRI. Mr. Chairman, I submit for the RECORD letters in support of the amendment from the American Association of State Highway and Transportation Officials; the American Association of Retired People; the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors; and the Transportation Enhancements Coalition.

AMERICAN ASSOCIATION OF STATE
HIGHWAY AND TRANSPORTATION
OFFICIALS,
Washington, DC, September 3, 2003.

DEAR CONGRESSMAN: I am writing on behalf of the American Association of State Highway and Transportation Officials (AASHTO) to urge your support for an amendment sponsored by Congressmen Thomas Petri and John Olver to strike language in H.R. 2989, the FY 2004 Transportation, Treasury, and Independent Agencies Appropriations bill, that eliminates funding specifically dedicated for transportation enhancements. The Petri-Olver amendment would strike Section 114 from the bill, restoring the Transportation Enhancements (TE) Program set-aside first established in 1991 in the Intermodal Surface Transportation Efficiency Act (ISTEA).

The TE Program is one of the most popular of the federal transportation programs with over 17,000 projects in communities located in almost every congressional district across the country. Projects ranging from pedestrian, bike and trail facilities to historic bridges and rehabilitated train stations have significantly contributed to the quality of life in these communities. AASHTO, which represents transportation agencies in the fifty States, the District of Columbia and Puerto Rico, supports continuation of this popular and worthy program.

Sincerely yours,

JAMES C. CODELL, III,
President

AARP,
Washington, DC, September 2, 2003.

Hon. ERNEST ISTOOK, Jr.,
Chairman, Subcommittee on Transportation, Treasury and Independent Agencies, Committee on Appropriations, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We urge you to restore the 10 percent set aside from the Surface Transportation Program to fund Transportation Enhancements. Transportation enhancement projects help meet the mobility, health, and recreational needs of mid-life and older persons.

AARP supports the development of pedestrian and bicycle infrastructure as part of a balanced transportation system. Walking is the most common mode of travel for older persons after the private vehicle. Community design that promotes walking and bicycling is highly valued by mid-life and older persons. In a recent AARP survey, 58 percent of persons age 45 and older rated having walking or bike trails nearby to be an important community characteristic. Sidewalks and paths designed for safe walking can help address the disproportionate safety risk experienced by older pedestrians. In 2001, persons age 70 and older were nine percent of the population, but accounted for 18 percent of all pedestrian fatalities.

AARP also seeks to encourage older Americans to be physically active because of the many health benefits exercise promotes, including helping to maintain independence in later years. Research has shown that persons living in communities with sidewalks are 28 percent more likely to be engaged in regular physical activity than those in communities without sidewalks.

We appreciate that the Subcommittee on Transportation, Treasury and Independent Agencies allocation for FY 2004 will require many difficult funding decisions. Nonetheless, we respectfully urge you to restore the 10 percent set aside from the Surface Transportation Program to fund Transportation Enhancements.

If you have any questions, please feel free to contact me or have your staff call Tim Gearan of our Federal Affairs staff at 202–434–3800.

Sincerely,

MICHAEL W. NAYLOR,
Director of Advocacy.

NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
September 3, 2003.

DEAR REPRESENTATIVE: On behalf of the nation's local elected officials, we urge you to support Representative Petri's amendment to fully restore dedicated funding for the Transportation Enhancements (TE) program, during consideration of the FY2004 Transportation and Treasury appropriations bill.

The Transportation Enhancements program has been very important to local governments by allowing them to undertake alternatives beyond the traditional highway construction projects. Over 17,000 local transportation projects have been initiated as part of the TE program, and the results have been significant, both in terms of increased mobility and the economic development generated by the construction of these facilities. TE projects have contributed to decreased congestion and improvements in air quality in our nation's cities and counties. Both ISTEA and TEA–21 were very specific concerning the Transportation Enhancements program set aside and local governments have been pleased to carry out the intent of Congress concerning this program over the past 12 years.

Thank you for your consideration in this matter.

Sincerely,

LARRY NAAKE,
Executive Director.
DONALD J. BORUT,
Executive Director.
TOM COCHRAN,
Executive Director.

TRANSPORTATION
ENHANCEMENTS COALITION,
Washington, DC, September 2, 2003.
Re Thursday, September 4 Vote—H.R. 2989.

DEAR MEMBER OF CONGRESS: On behalf of a broad partnership of national organizations, we are writing to urge your support for the restoration of dedicated funding for Transportation Enhancements (TE) during House action on H.R. 2989, the FY04 transportation and treasury appropriations bill. Specifically, Section 114 of the committee-passed bill eliminates the funding set-aside for TE—a modest and very successful program established in the 1991 Federal surface transportation law. We respectfully ask you to support the bipartisan effort, led by Reps. Tom Petri, John Olver and others, that would strike Section 114 and restore the Enhancements program when H.R. 2989 is considered by the full House of Representatives.

Established in "ISTEA" and reauthorized with minor adjustments in "TEA-21," TE ensures that a small percentage of our Federal gas tax dollars are reserved for small-scale, community-initiated, locally selected transportation projects. TE is the largest source of Federal funding for pedestrian, bicycle and trail facilities. The program also beautifies our transportation corridors, rehabilitates train stations and other transportation assets, provides safe wildlife crossings, and protects our historic, scenic, and natural resources. We achieve all this for about one and a half cents per surface transportation dollar.

TE projects are essential—they have been shown to promote health, safety, economic development, tourism, energy conservation, and community pride, all within the context of our surface transportation system. Our Nation has benefited from over 17,000 local transportation projects, in every congressional district in the country. For countless communities, TE remains the most popular program of the Nation's surface transportation law.

The attached materials provide additional details on how TE has benefited your state and district: a pie chart summarizing how your State has divided its TE funds across the program's 12 eligible activities; a similar pie chart for the entire country; and a list of every TE project in your State, sorted by county.

In places large and small, Americans are working to address challenges such as growing traffic congestion, deteriorating air quality, loss of open space and an obesity epidemic among our youth. TE provides some of the solutions, and allows local communities the opportunity to make transportation investment decisions that will greatly enhance their quality of life.

The record of success in this program is clear and substantial—a small investment that produces considerable results. Please support the bipartisan effort to preserve the Transportation Enhancements program when H.R. 2989 is considered on the House floor.

Sincerely,

Marianne Fowler, Sr. Vice President of Programs, Rails-to-Trails Conservancy, *Co-chair;* Dan Costello, Senior Program Associate, National Trust for Historic Preservation, *Co-chair;* Bill Sawyer, Executive Director, Adventure Cycling Association; Martha Roskowski, Campaign Manager, America Bikes; Edward H. Able, Jr., President and CEO, American Association of Museums; Tobey Williamson, Federal Policy Program Manager, American Farmland Trust; Celina Montorfano, Director of Conservation Programs, American Hiking Society; Paul Farmer, Executive Director, American Planning Association; William W. Millar, President, American Public Transportation Association;

Cara Woodson Welch, Director, Government Affairs, American Society of Landscape Architects; Pam Gluck, Executive Director, American Trails; Robert L. Lynch, President and CEO, Americans for the Arts; Richard Olken, Executive Director, Bikes Belong Coalition; Rich Stolz, Coordinator, Transportation Equity Network, Center for Community Change; Jacky Grimshaw, Vice President for Policy, Center for Neighborhood Technology; Dr. Margo Wootan, Director, Nutrition Policy, Center for Science in the Public Interest; Daniel Swartz, Executive Director, Children's Environmental Health Network; Jim Campi, Policy and Communications Director, Civil War Preservation Trust;

Robert Dewey, Vice President for Government Relations, Defenders of Wildlife; John Balbus, Director, Environmental Health, Environmental Defense; David Hirsch, Director, Economics for the Earth Program, Friends of the Earth; David M. Feehan, President, International Downtown Association; Kalinda Mathis, Executive Director, International Inline Skating Association; Tim Blumenthal, Executive Director, International Mountain Bicycling Association; Mele Williams, Director of Government Relations, League of American Bicyclists; Judy Corbett, Executive Director, Local Government Commission; Jonathan Katz, President, National Assembly of State Arts Agencies;

Patrick M. Libbey, Executive Director, National Association of County and City Health Officials; Ross Capon, Executive Director, National Association of Railroad Passengers; Michael W. Duplechain, Director, Government Relations, National Association of Service and Conservation Corps; Bill Wilkinson, Executive Director, National Center for Bicycling and Walking; Karen Silberman, Executive Director, National Coalition for Promoting Physical Activity; Nancy Schamu, Executive Director, National Conference of State Historic Preservation Officers; Laura Loomis, Director, Visitor Experience Program, National Parks Conservation Association; Barry Tindall, Director of Public Policy, National Recreation and Park Association; John Kostyack, Senior Legislative Counsel, National Wildlife Federation;

Deron Lovaas, Deputy Director of Smart Growth and Transportation, Natural Resources Defense Council; Susan West Montgomery, President, Preservation Action; Meg Maguire, President, Scenic America; Don Chen, Executive Director, Smart Growth America; Lynne Sebastian, President, Society for American Archaeology; Kevin McCarty, Senior Director of Federal Policy, Surface Transportation Policy Project; Randy Neufeld, Chair, Thunderhead Alliance; William S. Norman, President and CEO, Travel Industry Association of America; Allen Front, Sr. Vice President for Federal Affairs, Trust for Public Land.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise also in support of this bipartisan initiative and commend the gentleman from Wisconsin (Mr. PETRI) for offering it. He came personally, at the invitation of the gentleman from Texas (Mr. SMITH), to central Texas last December and saw firsthand a variety of our pressing transportation needs with highways and public transportation, but also had a chance to see the important role that enhancement projects play in our community.

Unfortunately, there are some in this Congress, in the State transportation bureaucracies, and some of the trade associations and lobby groups who think if it is not asphalt or buying something to put asphalt on it is merely a transportation frill. In central Texas, we certainly know that this is not true. Transportation enhancement projects are, as the very name suggests, designed to enhance economic development and to enhance the quality of our lives. In our community, they have done both of those despite significant intransigence and disinterest by the Texas Department of Transportation, which has put one roadblock after another in front of our local enhancement proposals.

In Austin, Texas, for example, we have Plaza Saltillo, which would not exist were it not for enhancement funding.

□ 1515

Many of us will gather there soon for the Diez y Seis celebration. This has been an economic development magnet. It has had a multiplier effect for small Hispanic businesses in the area, and now we are seeing a number of developers, Hispanic and non-Hispanic, develop a wide range of residential housing in this transportation corridor. This enhancement project not only improves the quality of life for all in the neighborhoods who celebrate this important Hispanic holiday, but it has proven to be a key factor in the economic development of the East Austin community.

It is certainly true in terms of the quality of our cycling and pedestrian trails throughout central Texas. These trails enhance the quality of life. They have also become, thanks originally to the work of Lady Bird Johnson and now supplemented around Town Lake, the center of Austin where people are coming to host conferences, conventions, and business meetings. A real factor for many of our tech companies moving downtown is the fact that we have trails people can enjoy jogging and cycling on, and can bring their families to. Some of these trails, frankly, have become on the weekends, and at key times in the early morning and late afternoon, almost as congested as some of our highways.

We do not have enough of these projects to meet the needs of a growing community in terms of enhancing the quality of life or enhancing economic development, and we need more. We have had resistance at the State level already. If we turn it over entirely to the States, there will not be a dime coming to provide this key enhancement factor.

Looking at the data about transportation, there has been a significant amount of work on the revision of TEA–21 focusing on fairness and parity. The data suggests that about 7 percent of the trips made in this country are not by car or public transportation, but by people on two wheels, on a bicycle, or walking. Yet, less than 1 percent of our transportation dollars are being committed to trail-type projects for cyclists and pedestrians. Now, that 1 percent will not be assured unless this Petri amendment is adopted. We know employers can provide parking spaces, and that many progressive employers are providing public transportation or metro passes. However, for cyclists these days the only incentive is strong legs and maybe a pat on the back. For a clean form of transportation, we need to maintain this bare minimum amount of funding under the enhancement program for cyclists to have a safe lane or trail to travel.

Our colleague from Oregon mentioned my constituent Lance Armstrong, and we were so pleased to honor him yesterday with a resolution. In his book he writes: “I've spent my life racing my bike, from the back roads of Austin, Texas to the Champs-Elysees, and I always figured if I died an untimely death, it would be because some rancher in his Dodge 4x4 rammed me head first into a ditch . . . Cyclists fight an ongoing war with guys in big trucks, and so many vehicles have hit me so many times, I've lost count . . . One minute you're pedaling along a highway, and the next minute you're face down in the dirt.”

For Lance Armstrong, for the leadership of the Downtown Austin Alliance and many people who have communicated from central Texas, let us adopt the Petri amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of this amendment to strike section 114 from the fiscal year 2004 transportation appropriations bill, and I want to thank the gentleman from Wisconsin (Mr. PETRI), my committee leader, for offering it, along with the gentleman from Massachusetts (Mr. OLVER).

This is obesity USA right now. And in Texas along with obesity, we have air pollution; and I believe that the enhancements funding, although small compared to the highway funding, contributes in a major way to building a healthy, active and community-based society. In the Dallas-Fort Worth region, we see families and kids out riding, walking, skating on the Katy Trail every weekend and often during the week. We see people riding bicycles to the park and ride areas to get on the DART area transportation system. The types of trails build a sense of community. They promote physical fitness and increase property values.

Enhancements also promote safe ways for kids to get to school. Studies show many more kids want to ride or walk to school, but there is insufficient money to promote safe routes to school. And we see overwhelming obesity in our young people now which leads us to have to spend a great deal more money for health care later. If transportation enhancement funds are cut, there will be virtually no incentives for States and communities to continue to create balanced integrated transportation systems. For more than 20 years through the transportation enhancement program, communities across the Nation have developed and implemented alternative forms of transportation that promote livability, connectivity, and a better quality of life. The vast majority of these projects are locally selected and are of tremendous value to the communities. We need substantial highway funding; but more importantly, we need a balanced transportation system.

I encourage my colleagues to support this amendment and restore funding for enhancements that contribute to a higher quality of life, personal health and livability in all of our communities.

Mr. CULBERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in favor of the language in the bill and against the amendment. I point out to the Members that the Inspector General for the Department of Transportation, Kenneth Mead, testified to our Subcommittee on Transportation, Treasury and Independent Agencies appropriations that the highway trust fund has shown a decline in revenues of about $18 billion less this year than projections that were made originally in April of 2001, and as a result of the declining revenue coming into the highway trust fund that highway and transit programs will see continuing constraints on their ability to improve mobility, safety, and economic growth unless taxes are raised, a greater portion of the financing burden is shared by State and local governments, or greater reliance is placed upon the general fund to supplement highway trust fund receipts.

I strongly support the gentleman from Oklahoma's (Chairman ISTOOK) language in this bill because this simply allows Texans to run Texas. Governor George W. Bush, when he ran for Governor originally, I had the privilege of serving longer under Governor Bush than any other Governor I served under in the 14 years I served in the Texas legislature, and Governor Bush was elected Governor of Texas to let Texans run Texas. The language in the bill simply allows each State to choose on their own how to spend that revenue. The Nation today faces an ever-growing national debt that has now exceeded $7 trillion, which is absolutely inexcusable. We must pay it off. We face a growing national Federal deficit that we must balance. We simply must balance our Federal budget. I strongly support the gentleman from Oklahoma's (Chairman ISTOOK) constitutional amendment to require a balanced budget.

In light of our deficits at the State and local level, in light of deficits at the Federal level, in light of a declining highway trust fund, I think it is only prudent to give the States the option to choose how they will spend this 10 percent of these highway trust funds on hike and bike trails, as they may choose to do in the State of Oregon; or some other State may choose to decide to take some of that 10 percent and invest more of it into any other type of transportation project that they believe will help move people and reduce travel time and reduce congestion.

The bottom line is, I think, Mr. Chairman, this language that is in the bill will allow every State to make those decisions on their own through their State legislatures, through their State highway commissions. I think that the genius of our system of government is that it is built around the concept of letting each State make local decisions on their own, and this language in the bill does that. I strongly urge Members to vote against the amendment and support the gentleman from Oklahoma (Chairman ISTOOK) in voting “no” on the amendment and allowing Texans to run Texas and each State to make these decisions on their own.

Ms. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I rise in strong support of the amendment offered by the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Massachusetts (Mr. OLVER) to restore guaranteed funding for the transportation enhancements program. With over 15,000 projects receiving funding nationwide, it is very clear that the benefits of this program have not been confined to any one district, State, or region. These projects are very critical in establishing and in maintaining livable communities.

In my district alone the transportation enhancements program has funded nearly 30 projects over the last 12 years at a cost of about $22.5 million, and these projects have provided a very big improvement to the quality of life for many of my constituents and the residents of the Bay Area as a whole, not to mention the thousands of tourists who come through our region every month. The program has funded projects ranging for something as simple as a bike locker at local BART stations to pedestrian and streetscape improvements throughout Berkeley, Oakland, San Leandro, and Fruitvale, to construction of the Oakland section of the very ambitious 400-mile San Francisco Bay Trail project that links 47 cities and nine Bay Area counties together.

Other projects include the acquisition of scenic shoreline in Oakland for beautification and recreational purposes, the berthing and preservation of several historic ships, the construction and upgrade of the Berkeley train stop, the construction of bicycle underpasses along the very busy I–80 freeway, as well as a number of other landscaping and beautification projects throughout my district.

Mr. Chairman, our constituents really value each and every one of these projects, not only in my district but throughout our country, as I mentioned earlier, which the transportation enhancement program has really helped to pay for. And let me tell the Members that ever since word got out that this House was considering removing the dedicated funding for this program, I do not think that a day has gone by where I have not received a phone call, e-mail, fax, or letter from constituents which criticize this move. So we must make this bill right. We must pass this amendment so that we can continue to fund the construction of pedestrian and bicycle facilities, Rail to Trail conversions, the acquisition and preservation of historic land, and a host of other projects that have all contributed to the quality of life in our neighborhoods and really for the increased safety which people so deserve.

Once again, as I said earlier, these projects are so critical in establishing livable communities.

Mr. RADANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Petri-Olver amendment which would strike language in this bill that eliminates dedicated funding for transportation enhancements. Transportation enhancement funds may be used for fundamental economic development in tourist-dependent communities, to ensure preservation of vital historic resources. These resources then become a draw to the visiting public. While many enhancement projects are small in size, they achieve enormous benefits in terms of promoting economic growth and development and developing historic tourism. The President has initiated a program called Preserve America to encourage historic tourism. This program is dependent on transportation enhancement funds.

The Advisory Council on Historic Preservation, headed by my good friend John Nau from Texas, has advised that we restore these funds in order to ensure the goals of Preserve America. A "yes" vote on the Petri-Olver amendment would help us do just that. So we are looking to preserve America.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Petri-Olver amendment. We are here today to discuss one of the cornerstones of ISTEA and TEA–21 of our current transportation program, a cornerstone that our current Secretary of Transportation not only supports, the administration supports it, the bill to extend the life of TEA–21, but our current Secretary of Transportation was chair of the Surface Transportation Subcommittee in 1991 when we fashioned the enhancements provisions of ISTEA. And what we did in 1991 was landmark legislation. We had come to the end of the interstate era, and now the debate focused on the future of transportation in America.

□ 1530

What would be the face of transportation in the post-interstate era? How would we best invest our dollars?

We assessed the quality of transportation and the quality of life in America in a long series of hearings, some of which I conducted as Chair of the Oversight Investigations Committee, as Chairman Mineta did in the surface subcommittee, as the gentleman from Wisconsin participated in, now the Chair of that subcommittee. And what we found was that Americans wanted more out of their transportation experience than simply getting from point A to point B. They wanted to use the interstate system to get to their destination, but then to enjoy a quality of life, to enjoy more of America's historic, archeological, cultural and scenic treasures, and the way to do that was to open a new vista within our transportation program, to use some of their dollars that those very travelers and visitors have invested in the Highway Trust Fund to improve and enhance the quality of life, projects that would initiate from the community, from the grassroots up, projects that had been proposed and undertaken, but frustrated because the dollars were not there to do them over a period of the previous series of transportation programs.

But those are highway programs. What we fashioned was a transportation concept; not only highways and not only bridges, but transportation. Part of that transportation experience is scenic America, the quality of life, the issues the gentleman from Illinois spoke about, of jogging and hiking, and bicycling, as the gentleman from Oregon spoke to, and things that I enjoy as a cyclist.

But those issues come from the people. The choice of how to invest those transportation dollars come from the people themselves, from all throughout America. And you can see the upwelling of spirit that has followed the issuance of this transportation appropriations bill, when the enhancements community, a wide spectrum of Americans, rose up and said, please, do not make this change.

There is a compact here between the citizens of America, between the people who use our highways, our transit ways, our enhancement ways, and our Federal Government and the States. State governments now have opted into this program. They have become partners. Citizens have taken control of their destiny and the quality of life that they want to see in America. Enhancement programs makes that possible.

We can cite the thousands of projects, but what really counts is those decisions that were made in each and every community to take a piece of that Highway Trust Fund and invest it in the future of America, in the quality of life in America, to enhance the life of those who come after us. And that is what enhancements does. That is what this program does. It is a citizens' bottoms-up investment in the quality of life of our transportation program.

It is not enough just to roll over the highways and roll over the bridges. It is more important to enhance the life of every community in America, and that is what the enhancements program has given us the opportunity to do.

Without the set-aside, it would not have happened. In the 20 years before ISTEA we invested only $40 million in building bicycle facilities across America. Since then we have invested $3.8 billion and enhanced the quality of life in America. Pass the Petri amendment.

Mr. Chairman, I rise in support of the Petri/Olver amendment to strike Section 114 from the bill.

Section 114 is nothing more than a backdoor attempt to kill the Transportation Enhancements Program initiated in 1991 under ISTEA and continued in 1998 under TEA 21. This boldfaced attempt to kill one of the most popular Department of Transportation programs ever enacted is reckless and misguided, and should be soundly defeated.

Section 114 would eliminate the mandatory requirement that each State use up to 10 percent of its Surface Transportation Program funding for the Transportation Enhancement program. Under existing law, States must use that 10 percent of STP funds for alternative transportation projects such as bike and pedestrian trails, streetscape renovations, rail-to-rail conversions, and other surface transportation-related activities that contribute to the revitalization of communities and local and regional economies.

Continuation of the existing Transportation Enhancements Program, as enacted in ISTEA and continued in TEA 21, is supported by more than 70 national organizations that make up the Transportation Enhancements Coalition. These include: The American Association of State Highway and Transportation Officials; National League of Cities; U.S. Conference of Mayors, Institute of Transportation Engineers; League of American Bicyclists; Rails to Trails Conservancy; and a wide variety of other environmental, preservation and recreational organizations.

Transportation, like all human activity, affects our communities and the environment. The Transportation Enhancements Program enables us to balance transportation improvements with the need to protect the environment and the character of our communities.

Although Section 114 does not make enhancements ineligible for funding, it removes the requirement that 10 percent of STP funds must be used for these purposes. It is clear that without the set-aside, many State Highway Departments would shift money now going to enhancements to larger traditional projects.

Before a set-aside was established in ISTEA in 1991, enhancements were eligible for funding, but States did not fund them. In the 20 years before 1991, only $40 million was spent on bicycle and pedestrian projects. From 1991 through 2002, however, with the set-aside in place, over $2.2 billion was spent on bicycle and pedestrian projects, with 75 percent of the funds coming from the Transportation Enhancements Program. The total amount of funds for bicycle and pedestrian projects jumps to $3.8 billion for 8,526 projects nationwide when projects in the pipeline, as well as completed projects, are included in the totals. For all types of transportation enhancement projects nationwide, the grand total programmed since 1991 is an impressive $8.4 billion for 17,920 projects, less than $500,000 per project nationwide. Clearly, these kinds of results could not have been achieved in the absence of a dedicated Transportation Enhancements Program.

The enhancement program requires less than 2 percent of the entire program for surface transportation. This is a modest amount to spend on these projects, which bring substantial transportation benefits and are supported by a wide constituency.

Any Member who doubts the importance of the Transportation Enhancements Program need only look at the projects completed in his or her congressional district. If Section 114 is enacted, future enhancement projects in your congressional district will clearly be placed at risk. None of us should take that risk. I urge Members to vote for the Petri/Olver amendment to strike Section 114.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Petri-Olver amendment, which would restore the set-aside for the transportation enhancements program.

Passed over a decade ago, when Congress recognized a serious shortcoming in the Nation's transportation system, the Transportation Enhancements program has ensured consistent funding for pedestrian- and bicycle-friendly transportation projects. Large Federal highway budgets over the past several decades were instrumental in creating an integrated transportation network. The absence of serious intercity transportation alternatives, however, increased reliance on cars, resulting in gridlock, longer travel times, additional pollution, and reduced quality of life. Federal transportation planners' preoccupation with interstate highway construction and seeming neglect of local challenges frustrated many mayors, especially in my area.

This is why the Transportation Enhancements program, which guaranteed a portion of Federal highway aid would go to multi-use paths, sidewalks, and bicycle lanes, is so important, and why the decision to eliminate the guaranteed funding component of this program in this year's transportation appropriations bill disappointed transportation analysts, environmental and public health advocates, and state and local leaders.

New York needs this funding. Although the State has spent $300 million on transportation enhancements since 1991, many of its needs remain unmet. Indeed, New York could afford to fund less than 30 percent of proposals received in the past 3 years, ultimately opting to use other Surface Transportation Program funds to pay for projects.

My own constituents are especially worried. Since the creation of the Transportation Enhancements program, over $13 million has flowed to municipalities in my district to construct river paths, renovate town parks, refurbish scenic promenades, preserve historic sites, and improve pedestrian safety. Between 2001 and 2003, only 16 percent of the 74 eligible mid-Hudson projects received funding, a testament to both the program's popularity and current funding constraints.

The benefits of the program are many and well known, but I would like to mention a few:

(1) Quality-of-life. Over the past several decades, the car has become the preferred method of movement, even for short distances. The resulting congestion has made everything from commuting to work to picking up groceries, genuine headaches. Multi-lane arterials now zig-zag through formerly quiet neighborhoods, exposing residents to noise pollution and threatening our children's safety. By financing construction of bicycle and pedestrian paths, the Transportation Enhancements program has provided individuals with serious transportation alternatives that can cut traffic, reduce accidents with cyclists and pedestrians, protect green spaces an create truly livable communities.

(2) Environment. Our reliance on cars, which produce acid rain and smog-forming chemicals, has harmed our environment and needlessly compromised public health. Transportation is responsible for 50 percent of all the air emissions that cause smog, which decreases lung capacity and triggers asthma attacks. Over one million New Yorkers have asthma and over 14 million State residents live in areas where smog levels exceed the Federal Government's health standard. Full funding of the Transportation Enhancements program would help to bring into compliance the many New York metro areas that fail to meet ozone standards.

(3) Obesity. Finally, the Centers for Disease Control recently identified obesity, particularly among children, as a top national health risk. The absence of walking and bicycling opportunities has played a major role in sky-rocketing obesity rates, which, according to the CDC, equal or exceed 20 percent in 30 states. Obesity, which can lead to heart disease, high blood pressure, and stroke, not only carries a tremendous health toll but also steep economic consequences. In 2001, indirect and direct economic costs were estimated at $117 billion. So, it is vital that opportunities to walk and bicycle grow rather than diminish. Restoring the funding guarantee for the Transportation Enhancements program is critical to making this happen.

Once again, I appreciate Congressman OLVER and Congressman PETRI's leadership on this issue and encourage my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Wisconsin (Mr. PETRI).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. ISTOOK. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. PETRI) will be postponed.

AMENDMENT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of California:

Under the heading "Office of the Secretary, Salaries and Expenses," strike "not to exceed $225,000 shall be available for the Office of Intelligence and Security" and insert "not to exceed $2,000,000 shall be available for the Office of Intelligence and Security" and under the heading "Office of the Chief Information Officer," strike "$16,565,000" and insert, "14,565,000".

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, the amendment at the desk is an amendment that comes from the Secretary, Mr. Mineta. He essentially is urging the House to move a $2 million amount from the administrative funds to that piece of the work done in the Department of Transportation that involves intelligence and security matters.

There is willingness to accept this amendment on the part of the majority, as I understand it, and the minority. I will take no more of our time if that is the case.

Mr. ISTOOK. Mr. Chairman, if the gentleman will yield, I am willing to accept the amendment.

Mr. OLVER. Mr. Chairman, if the gentleman will yield, I am happy to accept the amendment as well.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. LEWIS).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. LOBIONDO

Mr. LoBIONDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. LoBIONDO:

Page 10, line 8, after the first dollar amount, insert the following: "(reduced by $2,000,000) (increased by $2,000,000)".

Mr. LoBIONDO. Mr. Chairman, I rise today to offer this amendment to increase funding for the Federal Aviation Administration William J. Hughes Technical Center located in Pomona, New Jersey. I understand that the committee chairman, the gentleman from Oklahoma (Mr. ISTOOK) is prepared to accept the amendment. I would like to see if that is still the case.

Mr. ISTOOK. Mr. Chairman will the gentleman yield?

Mr. LoBIONDO. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I am willing to accept the amendment.

Mr. LoBIONDO. Mr. Chairman, reclaiming my time, I would like to thank the chairman very much. The Tech Center engages in matters of aviation safety and security that impact the entire system.

Mr. Chairman, I had a second amendment that I had planned to offer today which I will not be offering. This second amendment would have restored funding for research and development. I have had conversations with the chairman about this. I know that there are tremendous pressures from the Aviation Trust Fund downturn as far as how these dollars would be distributed, but I would like to ask the chairman to please do everything he can in conference. This affects the Oklahoma Technical Center as well as the one in Pomona, New Jersey. These are dollars which would go to aviation safety and security.

Mr. Chairman, I hope the gentleman will work to help restore those dollars in conference.

Mr. ISTOOK. Mr. Chairman, if the gentleman will yield further, we will certainly work together in conference to do everything that it is possible to do within the funds available.

Mr. LoBIONDO. Mr. Chairman, reclaiming my time, I thank the chairman very much.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. LoBIONDO).

The amendment was agreed to.

AMENDMENT NO. 26 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. WATERS:

Page 15, after line 13, insert the following:

SEC. 108. (a) REVIEW.—The Secretary of Homeland Security shall conduct a review of the proposed project for construction of a remote passenger check-in facility at Los Angeles International Airport to determine whether the project as designed will protect the safety and security of air passengers and the general public.

(b) REPORT.—Upon completion of the review, the Secretary shall transmit to Congress and the Administrator of the Federal Aviation Administration a report containing the results of the review.

(c) PROHIBITION.—The Administrator shall not allow construction of the proposed project until such time, if any, as the Secretary has completed the review and determined that the proposed project as designed will protect the safety and security of air passengers and the general public and will offer greater protection than is currently available at the exiting facilities of Los Angeles International Airport.

Mr. ISTOOK. Mr. Chairman, I reserve a point of order against the amendment.

Ms. WATERS. Mr. Chairman, Los Angeles International Airport, which is located in my congressional district, is the third largest airport in the United States, with capacity to serve 78 million air passengers per year. The operator of LAX has proposed a rather controversial airport modernization project that would include the construction of a remote passenger check-in facility. The details of this proposal and the environmental impact report were released on July 9, 2003, and are now open for public comment. There is a strong coalition in the district opposed to this plan.

Supporters of the proposed project to construct a remote passenger check-in facility claim that the facility is necessary to improve the safety and security of LAX, and, they claim, to prevent terrorist attacks at LAX. However, it is even more likely that the concentration of passengers in a remote passenger check-in facility could actually reduce the safety and security of LAX.

The Rand Corporation conducted a security study of the proposed remote passenger check-in facility which was released May 14, 2003. The study concluded that the proposed project would not significantly improve the security of LAX. The study also suggested that concentrating passengers in the remote passenger check-in facility would make this facility the likely target of a terrorist attack. The study even suggested that concentrating passengers in a remote passenger check-in facility would exacerbate the effects of such an attack.

Mr. Chairman, this idea is not only opposed by many of the homeowner groups in the area, it is basically opposed by the coalition throughout southern California who is trying to get LAX to move to a regional response to passenger increase. The Rand study did conclude that limiting the capacity of the airport would reduce the overall vulnerability of LAX to terrorist attacks. However, this could be accomplished by maintaining LAX at its existing capacity with no additional airport construction projects.

My amendment would require the Secretary of Homeland Security to review the proposed project to construct a remote passenger check-in facility at LAX to determine whether the project, as designed, will protect the safety and security of air passengers and the general public. The amendment would also prohibit the construction of this project until such time as the Secretary of Homeland Security has completed the review and determined that the project will improve protection of the safety and security of air passengers and the general public.

We cannot afford to experiment with the safety and security of the American people.

Mr. Chairman, we have gone through 9/11 and we have created Homeland Security, and it seems to me that Homeland Security cannot be excluded from the review of these so-called expansion projects or reconfiguration projects, whatever name they come under, in the many airports in this country, if in fact we are concerned about the security of airports, and I know that we are, and I am certainly concerned about LAX. It has been said more than once that LAX is a target and that it is at risk.

We should not allow politicians to expand airports, to create construction projects. We should not allow politicians to do this without the benefit of the kind of review that will go even beyond what FAA has been doing in the past and would include the considerations of Homeland Security. Why did we develop a whole Department on Homeland Security if we cannot include in it the review of these proposed projects for reconfiguration and expansion by elected officials and politicians in all of these local areas?

I know that my colleague on the other side of the aisle has reserved a point of order, and I respect that; but I would just ask my colleagues to find some way to work with me, to take a look at these kinds of expansion or reconfiguration projects. Mine may be the one that is being brought to you today, but this is going to happen all over the country. What are these local city councils, what are the mayors, what are the Governors, what are they doing? Are they expanding construction in the name of politics, looking towards the next election, or do we have really security factors built in to these kinds of projects? I would ask you to find a way to work with me on this.

POINT OF ORDER

Mr. ISTOOK. Mr. Chairman, I make a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. ISTOOK. Mr. Chairman, first, of course, the amendment is not germane to the bill. It relates to the Secretary of Homeland Security, which is not within the jurisdiction of this legislation.

Further, the amendment proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2 of rule XXI, which states in pertinent part that an amendment to a general appropriation bill shall not be in order if changing existing law. This amendment gives affirmative direction, in effect, and I ask for a ruling from the Chair accordingly.

□ 1545

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this amendment directly amends existing law. The amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained, and the amendment is not in order.

AMENDMENT NO. 25 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. TANCREDO:

Page 17, line 16, after the dollar amount, insert the following: "(increased by $320,000,000)".

Page 39, line 1, after the dollar amount, insert the following: "(reduced by $320,000,000)".

Page 39, line 2, after the dollar amount, insert the following: "(reduced by $120,000,000)".

Page 39, line 3, after the dollar amount, insert the following: "(reduced by $100,000,000)".

Page 39, line 5, after the dollar amount, insert the following: "(reduced by $100,000,000)".

Mr. TANCREDO. Mr. Chairman, my amendment would transfer $320 million from Amtrak to the Federal Aid Highway Program, reducing Amtrak's total appropriation to $580 million for this year. This amount, by the way, is the original amount that the Transportation Appropriations bill called for prior to the adoption of an amendment in full committee.

Mr. Chairman, Amtrak has posted staggering losses in recent years, despite their continued promises to become self-sufficient. Time and time again, however, those promises have been broken as Amtrak continues to hemorrhage money and continues to come back to this body with outstretched hands.

Ironically, Mr. Chairman, Amtrak was originally established in 1971 as a, believe it or not, for-profit corporation by Congress. Over the last 30 years though, Amtrak has never once turned a profit. It has, however, racked up nearly $30 billion in operating losses and even managed to receive a $2 billion tax credit in 1997. That is despite the fact that the rail provider has never paid a penny in income tax.

Now, some of my friends who oppose this amendment will tell you that the service provided by this inefficient monopoly is invaluable to the traveling public, but the statistics do not bear that out. According to the American Association of State Highway and Transportation Officials, for example, the percentage of Americans who walk to work every day is roughly equal to the number that ride the train, about 5 percent.

In light of these statistics, one wonders as one political commentator noted, if it makes as much sense for Congress to subsidize Nike sneakers as it does for them to subsidize rail service.

Subsidies on some of the longest routes are so high, reaching about $250 per passenger in some cases, that many times it would actually be cheaper for the Federal Government to purchase plane tickets for passengers than to subsidize the purchase of their train ticket.

Not surprisingly, Amtrak is back again asking Congress to bail them out with yet one more $1 billion appropriation. And this is after the beleaguered rail carrier promised Congress financial solvency just a short time ago.

Mr. Chairman, the unhealthy relationship between Amtrak and the Congress has become a seemingly endless cycle of empty promises and bottomless government subsidies. This has to come to an end sometime. We must shut off the spigot of Federal funds and require the States, communities and organizations that purport to need Amtrak services, to foot a larger share of the bill.

Remember also that during the chairman's opening remarks and then subsequently through several responses, he has had two amendments that have been offered, he has reiterated the need for more funding for our highways. In fact, I think the figure he last used was a $400 billion deficit. We are $400 billion shy of what we need to maintain our highway systems and our bridges, $400 billion dollars. Now, I suggest that this is a relatively easy decision for Members to make. What is more important to their constituents?

Now, I recognize fully well that many Members here have worked for a long time to bring home a chunk of money to their constituents to keep this rail service subsidized, and I can say to them they have done a wonderful job, $30 billion over 20 years. They have brought home plenty of pork. It is not a matter that we should be worried about whether or not more is necessary. I think they can be proud of the fact that they have been able to do as well as they have done over the last 20 years, but really this has to come to a stop. And when we have such pressing needs as the chairman has laid out for us in the area of highways and road construction and bridge repair, it seems to me to be a fairly easy decision for us to make, to transfer the amount of money, the $320 million from Amtrak to Federal aid for highways.

Again, I want to reiterate the fact that what we are doing here is simply taking the appropriation down to the same level that the Committee on Appropriations, that the Transportation Appropriations bill called for originally, and then it got plussed up when it got to the full committee. But I think that the original amount was being very generous to this entity, to Amtrak, a private corporation, after all, that has simply had never had the ability to live up to the promises that have been made.

We are in tight financial times. There are not dollars flowing into the coffers of the government that can be distributed so liberally. So I ask when that time occurs to make a decision about what is more needy, vote for your highways and bridges and not for the Amtrak subsidy. I ask for an "aye" vote on the amendment.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I want to speak against that amendment, and I want to begin by thanking the gentleman from New York (Mr. QUINN) and the other 220 Members of the House of Representatives that sent a letter to the Committee on Appropriations seeking full funding for Amtrak. But the Republican leadership and this Bush administration do not care what we, the people, think. Just like the reauthorization of TEA–21, which would improve our crumbling transportation infrastructure and put millions of people back to work, the issue concerning Amtrak brings up a fundamental question as to where this Nation stands on public transportation.

We have an opportunity to improve a system that serves our need for passenger rail service, or we can let it fall apart and leave this country's travellers and business with absolutely no alternative forms of public transportation.

We could fund this Nation's entire passenger rail system for a year with the money that we spend in just one week in Iraq. Let me repeat that. We could fund this Nation's entire passenger rail system for a year with the money we spend in just one week in

Iraq. But I guess the House leadership and the Republican administration have decided it is more important to fund the needs of the Iraqi people than the citizens right here in America. We continue to subsidize highways and aviation, but when it comes to our passenger rail system, we refuse to provide the money Amtrak needs to survive.

Last year alone, we provided $18 billion in direct funding to the airline industry. Let me repeat that. Last year alone, we provided $18 billion in direct funding to the airline industry.

On November 12, 2001, I was in New York when American Airlines flight 587 crashed shortly after taking off from JFK Airport, creating a national panic and shutting down the entire city. Fortunately for me and many Members of Congress who ended up at Penn Station that day, Amtrak was still running and returned us safely to Washington to deal with this latest tragedy. I realized, once again, just how important Amtrak is to the American people and how important it is for this Nation to have alternative modes of transportation.

This issue is bigger than just transportation. This is about safety and national security. Not only should we be giving Amtrak the money it needs to continue to provide services, we should be providing security money to upgrade their tracks and improve safety and security measures in the entire rail system.

Some people think the solution to the problem is to privatize the system. If we privatize, we would see the same thing we saw when we deregulated the airlines. Only the lucrative routes will be maintained, and routes in rural locations will be expensive and few.

Once again, we see the Bush administration's "too little too late policy." I am surprised they have not suggested a tax cut to solve this problem. Instead, they are trying to take the money from the hard working Amtrak employees, who day and night work to provide top quality service to their passengers. These folks are trying to make a living for their families, and they do not deserve the shabby treatment from the President. It is time for the Bush administration to step up to the plate and make a decision about Amtrak based on what is best for the traveling public and not what is best for the right wing of the Republican party and the bean counters at OMB.

This is not about fiscal policy. This is about providing a safe and reliable public transportation system that the citizens of this Nation need and deserve. Let us stop this crisis now before it is too late.

Mr. QUINN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to belabor the point here or take extended amounts of time, but I feel compelled to rise and respond to my friend from Colorado in this amendment because in just two speakers, after the gentleman from Florida (Mr. HASTINGS), I will be offering an amendment to increase the aid for Amtrak.

While we have an opportunity to discuss this, I would like to point out that when we talk about money for rail passenger systems in this country, many of us do not consider that to be pork, no matter what kind of money we have brought back, to what kind of district, for what kind of rail transportation, we do not consider that pork. When people depend on that to get to work, to get to where they need to be, how much money over any number of years is not considered pork to many of us? So I need to disagree with the gentleman from Colorado (Mr. TANCREDO) a little bit.

I think we have given Amtrak, I have said this so many times, just enough money each year to make certain it fails, so that friends like the gentleman and others want to know why it does not work, because we have not funded it properly. The new president, David Gunn, has made significant changes at Amtrak. He has talked with us on the Subcommittee on Railroads. He has talked with the chairman of the subcommittee for Appropriations, and I think it would be in our best interest not to take money away but to give Mr. Gunn and others the tools they need to get the job done correctly.

So I respectfully will oppose the gentleman's amendment, and in a few short minutes offer an amendment to increase the funding.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that has been offered because this is ground that we have already been over. The bill that is before us provides $900 million for fiscal 2004 for Amtrak, and that, it turns out, is exactly what the President had recommended for Amtrak for fiscal year 2004.

In fact, we are covering old ground because this was settled at an earlier point. The Transportation Subcommittee had in fact made a recommendation to full committee for the number which the gentleman from Colorado (Mr. TANCREDO) has asked for. And it was one of those provisions that was changed in order to bring it to the full Committee on Appropriations in order to have enough votes to get that bill out of the full Committee on Appropriations to bring it back to the $900 million level that the President had asked for. In fact, I should remind Members that 220 Members of the House of Representatives had petitioned the Committee on Appropriations asking that the full funding requested by Amtrak should be provided for Amtrak and that was double what is already here.

So this is replowing the old ground that we in the Committee on Appropriations had to go through to bring this bill to the floor in the first place and would be reversing that movement. I think that is distinctly a wrong thing to do. Let me also point out that in regard to the $900 million appropriation which is included in the bill before us, and I am interested in the comment that my good friend, the gentleman from New York (Mr. QUINN) stated, the chairman of the Subcommittee on Railroads of the Committee on Transportation and Infrastructure has made about providing Amtrak just enough so that it would fail, when Ken Mead, the Department of Transportation's Inspector General was asked by me as to what would be the result of the appropriations of $900 million, and I intend to support the idea of increasing that appropriation farther down the road, but he sent a letter back to me, and I will quote from that letter. He sent a letter on July 10 in response to those questions about the impact of various funding levels. In regard to the $900 million level which the gentleman from Colorado's (Mr. TANCREDO) amendment would reduce substantially, he said, "Because there would not be any funds remaining for other capital investments, operational reliability likely would suffer. None of the backlog of capital needs could be addressed at that funding level."

□ 1600

So that puts us a step backward on the process of funding Amtrak at a level that would allow it to continue and continue safely as a provider of passenger rail service for this Nation. So I would urge Members to oppose this amendment by the gentleman from Colorado (Mr. TANCREDO).

Mr. CASTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too oppose this amendment, and I concur with those speakers who have spoken to that, and I will certainly support the amendment of the distinguished gentleman from New York State (Mr. QUINN).

We have really in this country the time has come to start looking at our transportation systems. If we look at our airlines, if we look at our airports and the entire air systems, if we look at our roads, if we look at our ports, we are going to find that America is at least competitive, if not ahead, of every other single country in the world. If we look at our rail systems in the United States of America, we will find we are behind almost every highly civilized country in the world, the European countries, Japan and a lot of others.

We have for years and years and years not funded rail to the extent that it is needed, and it is true that we fund it and it is true that it is so-called subsidized, but the bottom line is that we are dealing with tunnels going into

Baltimore, built right after the Civil War, into New York City, or most close to that, and we are simply not making the improvements we have to make to get the speeds up to attract the ridership.

In spite of that, we have more people riding the rails now from New York City to Washington than are taking airlines from New York City to Washington. We pour tremendous money into our other infrastructure and into the upkeep costs of other forms of transportation.

Look at the air industry, for example. We pay, often locally and by States, we pay for the airports, a huge expense which is out there, and the FAA, we pay for the comptrollers. The Transportation Security Agency primarily is aimed at that. It cost billions of dollars to do all these things, much more than we are trying to put into rail, far more than we have ever put into rail before.

The infrastructure is absolutely needed. Obviously we put a lot of money into the concrete of our roads. We do get a return as far as gas money is concerned. I drive from Wilmington, Delaware to here from time to time. It is incredible how crowded those roads are, but it is also incredible to see how crowded the trains are and how we could use more trains.

So I will be the first to agree there need to be more efficiencies.

I would just say this to my good friend, the gentleman from Colorado. I hope he will talk to David Gunn. I do not know if he talked to him or not. He is the new CEO, relatively new, in the last couple of years at Amtrak. He really has some good ideas. He really has some good strategies in terms of how to make Amtrak, and I am not going to call it profitable because I am not sure that is right, but to reduce the subsidies which are necessary to provide this very important form of transportation for at least portions of the United States of America, obviously the eastern seaboard, the region around Los Angeles and around Chicago and various other areas. I am not suggesting we need to go across the country and go for 4 days, whatever it may be, but the bottom line is this is an extraordinarily important mode of transportation, and I think we need to sit down and recognize that and do all that we can.

I implore the White House, this committee, the Senate and everybody to try to do this. The Senate has spoken to this, at least to a degree. They have raised their amount in subcommittee which is looking at it to $1.34 billion; 218 Members, that is a majority of this House, have signed a letter requesting the $1.8 billion. There are many people who recognize what we have to do.

I am, like everybody else, if there is fat there, sure, we want to squeeze that out and we want an efficient system, but we need a good rail system in America, and we cannot continue to underfund it so badly that we cannot make the capital improvements and do the other things which are necessary to keep it up. So I implore all of us to do this.

I do not know where these amendments are going, but obviously at some point this is going to be in conference, and very important decisions are going to be made about the future of rail in America, and I hope when that happens that we put together a good plan that really works, we listen to Mr. QUINN and others who are vitally interested in that.

I would encourage the defeat of the amendment. I would encourage support of the Quinn amendment, and hopefully when we get to conference we will really get the job done on rail in the United States of America.

Mr. SWEENEY. Mr. Chairman, I move to strike the requisite number of words.

I thank the chairman for recognizing me and want to rise in opposition to my good friend and classmate the gentleman from Colorado's (Mr. TANCREDO) amendment and preemptively rise in support of my other good friend and State mate the gentleman from New York's (Mr. QUINN) amendment that he will offer later on restoring full funding to the Amtrak system.

In doing so, I want to point out that we have had this debate in Congress for a decade at least, that it is almost unreasonable to expect that this transportation appropriation bill is going to be the bill, the vehicle in which we are going to be able to solve the many problems that we have in Amtrak; but in doing so, I want to recognize the diligence of my chairman, the gentleman from Oklahoma (Mr. ISTOOK) who worked and strove diligently throughout this process. As we marked up the bill in the subcommittee, the ranking member, the gentleman from Massachusetts (Mr. OLVER), pointed out that a number of us voted to support this bill so we could push it along the process and get it into the full committee and now on to the floor to talk about the intricacies and the many problems facing Amtrak today.

I support the notion that we restored to $900 million a portion of the White House's recommended portion of the funding but recognize that we are woefully short and recognize that this is a vital national interest with which we must soon address its needs, and in failing to do so, we further put at risk the viability of a system that, as was pointed out by a speaker before, served us ably and importantly and critically at a time when the airline industry could not. It has served us in the past when other means of transportation could not.

I want to go to the core of the Amtrak question, and that is the northeast corridor, and say simply that it faces imminent threat in terms of its reliability and utility, because as the gentleman from New York (Mr. QUINN) points out, I believe this Congress has undertaken a methodology in which we simply ensure its failure rather than its success if we continue to defer investment, and we risk losing service between Boston and Washington, which is at the hub of that core of service, if any service disruptions in Amtrak are experienced.

The northeast corridor is critical to our Nation and it is the heaviest traveled railroad in North America. It is not a simple luxury for many people. In fact, 1,700 trains operate over some portion of the Washington-to-Boston route each day in this Nation, providing people the opportunity to work, providing people the opportunity to carry on the business of this Nation and go to the places they need to go.

As the gentleman from Delaware (Mr. CASTLE) pointed out, the northeast corridor carries more from New York to Washington each day than both airlines in providing their shuttle service, combined, do. Pretty critical service that it provides. It carries more than 35,000 people a day, the entire corridor, and the Northeast is the only area in which Amtrak runs trains and owns tracks and I think provides us the greatest opportunity to build from within that railroad's experience.

As it relates to the notion that this is somehow pork, I want to point out to my good friend and others that this Congress has not been hesitant to subsidize private entities like airlines, has not been hesitant, as the gentleman from Delaware (Mr. CASTLE) pointed out, to provide other infrastructure subsidies throughout the system, and that to decide arbitrarily or subjectively that while Amtrak may not serve portions of the Nation, it is therefore not in the national interest, is simply wrong.

I want to again thank my friend, the gentleman from New York (Mr. QUINN), and involve my support for his amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. TANCREDO. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. HASTINGS of Florida:

Page 5, line 21, after "$45,000,000" insert "(decreased by $45,000,000)".

Page 68, line 11, after "$1,628,739,000" insert "(decreased by $165,000,000)".

Page 91, line 1, after "$495,000,000" insert "(increased by $232,000,000)".

Page 108, line 23, after "$35,914,000" insert "(decreased by $22,000,000)".

Mr. HASTINGS of Florida. Mr. Chairman, I rise today to offer an amendment to H.R. 2989. This amendment increases the amount of funding provided in this bill for election reform.

When the 107th Congress overwhelmingly passed the Help America Vote Act, it made a commitment to the American public that we would restore reliability to America's elections system. Last year, Congress grossly underfunded its authorized commitment. Again, today, we are considering a bill that provides less than 50 percent of the amount authorized. The Help America Vote Act authorized more than $1 billion in funding for fiscal year 2004. Yet this bill appropriates only $500 million.

In less than 6 months, Mr. Chairman, Americans will begin traveling to the polls to vote in the Presidential primaries. The unfortunate reality is that they will be returning, in many respects, to the same system that failed them in many respects 3 years ago, simply because Congress has not followed through with its financial commitment to States, counties, and local governments.

The amendment I am offering today increases funding in the bill for the implementation of the Help America Vote Act by $232 million. This extra money for election reform funding today will improve local election systems while offsetting the increase with funds that might not be used for well over 2 years. This body has an opportunity to say to Americans across the country that we are committed to election reform. My amendment makes this commitment clear and takes us one step closer to a day when Americans will walk away from the polls knowing that their vote will not only be counted but will actually count. I would urge my colleagues to vote yes on this amendment.

I would also like to take a point of personal privilege to thank the gentleman from Maryland (Mr. HOYER), the gentleman from Ohio (Mr. NEY) and the many Members who have supported the Help America Vote Act in its present form, and assuredly all of us should bring ourselves to want to do what is right by all of our constituents as it pertains to voting.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the gentleman from Florida's (Mr. HASTINGS) amendment. I understand his concern with having more Federal funds for voter reform and voting systems reform in the country. We have the money of course in the bill, which frankly we have treated as inviolate. We have not sought to diminish the amount or invade the election reform dollars for the purpose of transportation or any other function. However, if we open up that Pandora's box, I think we would find a great many Members who would be interested in saying we need transportation more than we need to be subsidizing some States that have not reformed their system on their own.

The gentleman's amendment opens up that box. I am not trying to take the money we have in the bill for election reform and move it out elsewhere, but I think the money we have in the bill for the modernization of the IRS, for Department of Transportation, and for the National Archives should not be invaded to put money into the election reform pot to be sent around to States.

With the funding provided in the bill already, Congress will have appropriated $2 billion to date for reforming the election system in this country. I am well aware it is not the same as the authorized level, but $2 billion is still an enormous amount of money. Nearly 99 percent of that money has gone or will be going directly to the States for the improvement of voting systems, including the purchase of up-to-date, reliable ballot equipment; $650 million of that money has already been obligated.

The gentleman, though, wants to accelerate that process. In doing so, it eliminates the $45 million for the Department of Transportation headquarters, reduces by $165 million the critical and already long-overdue reform of the IRS information systems accounts so taxpayers can get honest, accurate, timely, reliable information about their tax status in this country, and the $22 million that he wants to pull out of the National Archives with their important preservation of the heritage of the country.

The Committee on Appropriations has decided to fund these programs at the levels which we have after very careful consideration and working closely with the authorizers.

□ 1615

We have funded at the level that was mutually agreed upon. I have not sought to invade that for transportation needs. Similarly, I would not want to invade the other portions of this bill for the election reform. I do not want that carefully crafted compromise to fall apart, as I believe the gentleman's amendment would cause it to do.

I know that the gentleman offers the amendment in good faith in an honest desire to improve more rapidly the election reform systems in the country, but we should not be hampering the modernization efforts of the other parts of government which are equally critical to every taxpayer in the country.

So I appreciate the gentleman's effort, but I do oppose his amendment.

Mr. CUMMINGS. Mr. Chairman, I rise today to ask my colleagues to support the Hastings amendment that will provide much needed money for election reform grants to states, which are to be used to update state election systems and replace obsolete voting equipment.

After the 2000 presidential election cycle, many Americans felt disenfranchised or even worse that their vote was not counted. These lingering problems mostly affected minority and poor neighborhoods. In response to the national outcry for reform, Congress overwhelmingly passed the Help America Vote Act (HAVA) establishing minimum federal standards for federal elections that include upgrading voting machines and registration processes. Passage of the bill provided an opportunity to reform outdated systems and show the American people and the world that fair and just elections are important and possible.

The HAVA authorized more than $3 billion over five years to improve our election systems, which includes improving voting technology. However, the bill before us today only appropriates $500 million, leaving states without resources to make critical systems updates for the upcoming elections this year and in 2004. States deserve the resources to make a real change. The amendment offered by the gentleman from Florida, Mr. HASTINGS goes a long way to make true election reform a reality.

The Hastings amendment increase funding for the implementation of HAVA by $232 million, which will be offset in accounts that do not need the money, this fiscal year. This money will help restore confidence in this country's election system.

Mr. Chairman, one of the reasons given for going to war in Iraq was to bring democracy to Iraq. We also must do all we can in this country to preserve the right to vote and provide the necessary funds to update voting procedures in the United States. Voting is not just a right but also a privilege. We must ensure that the voting mechanisms in America are fair and just.

The Hastings amendment will help put us on the correct path. The world will closely watch the next election to make sure our actions speak louder than our words. Let this body act with integrity and support the Hastings amendment and renew our commitment to establishing federal standards for federal elections and voting an outlined in HAVA.

As such, I urge all of my colleagues to support this worthwhile amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. HASTINGS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. HASTINGS) will be postponed.

AMENDMENT NO. 16 OFFERED BY MR. QUINN

Mr. QUINN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. QUINN:

Page 39, line 1, strike "$900,000,000" and insert "$1,712,000,000".

Page 39, line 2, strike "$400,000,000" and insert "$668,000,000".

Page 39, lines 3 through 6, strike "$373,000,000 for quarterly grants for capital expenses along the Northeast Corridor Mainline, and $127,000,000 for quarterly grants for general capital improvements: *Provided*" and insert "$1,044,000,000 for quarterly grants for capital improvements: *Provided*, That the Secretary shall not obligate more than $544,000,000 for quarterly grants for general capital improvements before October 1, 2004: *Provided further*, That no payments of principal or interest shall be collected during fiscal year 2004 for the direct loan made to the National Railroad Passenger Corporation under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822): *Provided further*".

Page 157, after line 2, insert the following new section:

SEC. 742. Each amount appropriated or otherwise made available by this Act for the Department of the Treasury that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 4 percent.

Mr. ISTOOK. Mr. Chairman, I wish to reserve a point of order.

The CHAIRMAN pro tempore. The gentleman from Oklahoma reserves a point of order.

Mr. QUINN. Mr. Chairman, I want to begin this discussion by commending subcommittee Chairman ISTOOK for his diligence for bringing this bill to the floor today. He and his committee have done their level best with obviously limited resources that he was given to meet tremendous transportation needs and infrastructure needs throughout the country.

We need to build roads; there is no question about that. We need to repair bridges. We need to expand the capacity of our airports, but I do not believe that we can forget about our other major mode of transportation and that is passenger rail service.

Unfortunately, Mr. Chairman, there is not enough money to go around. In order to provide safe, efficient, and reliable passenger rail service, Amtrak president David Gunn has said the company needs $1.8 billion next fiscal year. This bill appropriates only half of that.

In my opinion, this will simply continue to do what we have done before, and I said it earlier this afternoon, we will provide Amtrak with just enough money to make sure that it fails. In this case, Mr. Chairman, I think with even worse results.

Our railroad subcommittee and the full Committee on Transportation and Infrastructure earlier this year passed an authorization of $2 billion. Following that, I organized and sent a letter with over 220 signatures to the appropriators asking for this same amount of money.

That bill coupled with our bonding proposal to develop high-speed rail corridors would create the type of passenger rail network that this country needs and has to have.

My amendment this afternoon would raise the level of funding for Amtrak to $1.7 billion and forgive them the $100 million loan that they received from the Department of Transportation 2 years ago. It would provide Amtrak with the necessary capital and funding to make those improvements along this popular northeast corridor that we have talked about today as well as track and bridge repairs throughout its entire system, not just the northeast corridor.

The Senate Transportation Appropriations Subcommittee just yesterday passed their version of this bill and included $1.3 billion for Amtrak. While this is a step in the right direction, I believe even more needs to be done.

Mr. Chairman, I am a firm believer that a national passenger rail system has to be in place. I intend to work with the gentleman from Oklahoma (Chairman ISTOOK) and the full committee chairman, the gentleman from Florida (Chairman YOUNG), to increase the funding for Amtrak in the conference negotiations with the Senate.

Mr. Chairman, if these numbers hold that we see today, I will predict disastrous consequences for passenger rail service next year as we know it.

Mr. Chairman, I would just like to ask a hypothetical question of Members on my side of the aisle that next August when the meeting is held in New York City I want to know who is going to answer the questions when there is no Amtrak service provided to get to the city and from the city and around the city.

POINT OF ORDER

Mr. ISTOOK. Mr. Chairman, I do make my point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill, therefore violating clause 2 of rule XXI.

That rule states in pertinent part, "An amendment to a general appropriation bill shall not be in order if changing existing law." The amendment gives affirmative direction in effect, and I ask for a ruling from the Chair.

Mr. CASTLE. Mr. Chairman, if he would yield to let me speak to this for a couple of minutes.

The CHAIRMAN pro tempore. The gentleman from Oklahoma may continue to reserve his point of order.

Mr. ISTOOK. As long as my point of order is reserved, I have no objection if the gentleman from Delaware (Mr. CASTLE) would like to strike the last word.

The CHAIRMAN pro tempore. Point of order is reserved.

Mr. CASTLE. Mr. Chairman, I move to strike the last word. I do not want to wear out my welcome.

I did speak to this just a few minutes ago, but there are a couple of additional points. Obviously I agree with the amendment of the gentleman from New York (Mr. QUINN). We are not going to win this point. I understood the point of order of the gentleman from Oklahoma (Mr. ISTOOK) and notice he is a good friend and a good chairman and is doing the best job he can with this particular bill, which is difficult.

I just have to go back to what we are doing in transportation and just ask everybody in leadership and everybody that is going to be involved in the ultimate conference on this to really pay attention to what is happening to rail service in the United States of America and to other services in general.

I have already indicated in our airports, for example, that we have the comptrollers, we have the TSA, and we have billions of dollars of expenses; we put $15 billion, $15 billion, after 9-11 into stabilization for our airline industry in this country. The request here is $1.8 billion for a significant industry to allow them to do the infrastructure which they would have to do in order to be able to carry out a proper transportation system.

Let us look at what we have: not a single passenger rail system in the world which operates in a profitable way. Countries with well-developed rail systems with much smaller populations, such as Germany and Japan, invest $3 billion to $4 billion, while we are asking for $1.8 billion, $3 billion to $4 billion annually on passenger rail, which is over 20 percent of their total transportation spending.

What happens to the roads there? The roads free up and people go with the rail systems. That is what we want to do here in the United States of America. I honestly believe if we give this a long-term approach, with the capital improvements, with the maintenance which is necessary running the systems where it should, and with the decisions for efficiency where it is needed, that we will have a system of rail in this country for which we can always be proud. But frankly, if we continue to try to keep nickel and diming this operation by giving them, say, $900 million when indeed they need twice that amount of money to run this, unfortunately we will never get to that point.

We are not going to rescue this today. Unfortunately, we do not have a large enough body of votes here to be able to do that necessarily. But the bottom line is that at some point this Congress and this administration need to sit down and make that decision, and hopefully it will be a firm decision to make sure that rail is elevated so that it is at the point where it is absolutely competitive with other countries and other transportation systems in the United States of America. I do hope that we will be able to do that, and I would suggest that we would be best served if we did it, and the sooner the better.

So I am in support of the amendment, but also I am in support of making sure we resolve this problem.

Mr. QUINN. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York is recognized.

There was no objection.

Mr. QUINN. Mr. Chairman, I want to thank the gentleman from Delaware (Mr. CASTLE) for his remarks, and I deeply appreciate the position of the gentleman from Oklahoma (Mr. ISTOOK). I realize that this is not the place for this discussion, not only where the discussion should take place but the decision made.

Mr. BACA. Mr. Chairman, I rise in support of the Quinn Amendment to the Transportation Appropriations bill for fiscal year 2004.

If we do not pass this amendment, Amtrak is guaranteed to close because of lack of funding. Amtrak is a valuable resource to this nation and to my home state of California. It carries millions of passengers every year and employs thousands of workers. This nation is not in the position to lose such a valuable resource. We must continue to fund Amtrak and fund it 100 percent.

Last year Amtrak shut down because of lack of funding. This bill is certain to close Amtrak's doors once again this year because it simply provides $900 million in funding. That is not enough to keep Amtrak operating. Amtrak needs $1.8 billion in survive.

Amtrak is a company that has not been fully funded since its creation in 1970. We have never given this company the full resources that it needs to survive and it is time to change this.

Amtrak provides a valuable resource to commuters and travelers all over this nation, and yet it only absorbs 1 percent of the federal transportation budget. 1 percent!

Amtrak last year covered nearly 65 percent of its own operating costs. No rail system in the world is that self funded! It is a good program and it must continue to keep its doors open.

We need more job creation right now, not job elimination. Amtrak employs over 20,000 workers. If we allow it to close, what will happen to these families? How will these families replace the loss of income and the loss of benefits? Our economy simply isn't in the position to keep closing doors on workers.

In California, 3.5 million people used Amtrak last year. That is 16 percent of its total ridership!

Amtrak employs over 4000 people in my state and represents over $100 million dollars in salaries. My state simply cannot afford to see anymore job loss and it cannot afford to see any more families lose their benefits.

We must think about the consequences of our actions today. We must think about what the abandonment of our national rail system will do to commuters, workers, and families in this nation. At a time when other nations are expanding their intercity passengers rail systems, we should not guarantee the shutdown of ours. At a time when Americans are traveling more than ever, we cannot turnour backs on affordable transportation. I urge my colleagues to support this amendment.

Mr. QUINN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT NO. 9 OFFERED BY MS. HOOLEY OF OREGON

Ms. HOOLEY of Oregon. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. HOOLEY:

Page 2, line 8, after the first dollar amount insert the following: "(increased by $500,000)".

Page 83, line 7, after the first dollar amount insert the following: "(reduced by $500,000)".

Ms. HOOLEY of Oregon. Mr. Chairman, this amendment is simple and could go a long ways towards increasing the security of our States' drivers licenses, which are the primary means of photo identification in this country. These documents are too easily forged, counterfeited, stolen, or improperly distributed. In fact, the Inspector General for the Department of Transportation recently stated that a Maryland DMV employee had pleaded guilty to falsifying driver licenses for 10 people. How many of these could have ended up in the hands of terrorists or criminals seeking to steal the identity of law-abiding citizens?

Drivers licenses are literally the keys to the country's security. With a driver's license, when you show your identity, you can write a check. When you show your driver's license, you can get on a plane; when you show your driver's license, you can take a tour of the White House. In Oregon, a local woman is serving an 11-year sentence in prison because she was finally caught producing counterfeit drivers licenses right out of her home.

State DMVs must do a better job of securing our primary piece of identity, and this $500,000 in funding will allow the Secretary to direct the Department of Transportation to study and present recommendations on how we can better secure these crucial documents. I believe this study should have three major goals.

Number one, the study should determine the best practices that States can use to secure their drivers licenses from fraud and theft. Our government has already conducted a great deal of research on security measures such as biometrics and digital watermarks and other technology that could increase the security of state-issued photo identification. In fact, we think the technology is already there.

Second, the study should determine how best to encourage the States to put these measures into place. I understand the issuance of license and photo identification is the responsibility of the State, and I do not want to infringe on that right. However, given the increasing reliance on all levels of government and businesses on these documents, I believe we must act to ensure that false documents are not used by terrorists, criminals, or others who would normally be unable to obtain these credentials.

Finally, the study should determine the approximate cost for States to initiate these security features so we can determine the impact this would have on State budgets and the feasibility of various approaches from a cost perspective.

As a matter of national security, we must take steps to protect our primary source of identification both to protect our homeland from terrorist threats and to stem the growing tide of identity theft. This amendment would provide the necessary knowledge to accomplish this mission. The additional funding for the study is offset by a reduction of $500,000 out of the administrative account of the Office of Management and Budget. The CPO has scored this amendment as revenue neutral.

Again, this bill deals with drivers licenses. It looks at the best practices States can use to secure those drivers licenses, it looks at how we encourage States to put this in place, and it determines a cost. This is an antiterrorist amendment. This is an anti-identity theft amendment. I urge my colleagues to protect our citizens and our national security by supporting this important amendment.

Mr. ISTOOK. Mr. Chairman, I rise in opposition to the amendment. I certainly appreciate the good intentions of the gentlewoman from Oregon; however, I cannot support the amendment.

We already have, through the National Highway Safety program, a great number of efforts with States regarding their drivers license programs. There is funding already there. We do not need another $500,000 study. In fact, a number of States have already adopted provisions. For example, my State of Oklahoma has moved to biometric identifiers, fingerprints, on that. Other States have acted through their legislatures.

I think we would be behind the curve if we spent $500,000 of Federal money on another study at this point. States are already doing this. We already have money working with the States through appropriations in this bill on their drivers license improvement programs. And furthermore, we should not take money from the Office of Management and Budget, which has already been cut by $14 million in this bill from the fiscal year 2003 level.

So I think, frankly, that the amendment is behind what is already going on in the country. It is good, but a study is not going to make things happen any faster than they are already happening in the States, and it will cost $500,000 of Federal money we do not need to be spending. So I appreciate the efforts of the gentlewoman but rise in opposition to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. HOOLEY of Oregon. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) will be postponed.

AMENDMENT OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KENNEDY of Minnesota:

Page 39, line 1, after the dollar amount, insert the following: "(reduced by $320,000,000)".

Page 39, line 2, after the dollar amount, insert the following: "(reduced by $40,000,000)".

Page 39, line 3, after the dollar amount, insert the following: "(reduced by $273,000,000)".

Page 39, line 5, after the dollar amount, insert the following: "(reduced by $7,000,000)".

Page 61, line 9, after the first dollar amount, insert the following: "(increased by $2,285,000)".

Page 67, line 3, after the dollar amount, insert the following: "(increased by $12,250,000)".

Page 67, line 4, after the dollar amount, insert the following: "(increased by $4,250,000)".

Page 67, line 5, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 84, line 20, after the dollar amount, insert the following: "(increased by $28,790,000)".

Page 85, line 21, after the dollar amount, insert the following: "(increased by $276,675,000)".

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Mr. KENNEDY of Minnesota. Mr. Chairman, my amendment is simple. It increases funding for some incredibly important programs within this bill. The amendment doubles funding for the Office of Terrorist Financing and Financial Crimes, the tax counseling for the elderly programs, low-income tax clinics, and the Office of National Drug Control Policy. It also increases funding for the high-intensity drug trafficking areas program. These increases are offset by restoring funding for Amtrak to the level originally approved by the committee.

We have heard a lot about Amtrak today, and I support intercity rail transit where it can be viable. The gentleman from New York (Mr. SWEENEY) said that the core of Amtrak was in the northeast corridor, and I am confident with regional support that northeast corridor can continue to thrive and be successful whatever we do at the national level. And where we have even close to the population density of Europe that makes sense, but there are too many lines where we are pouring money in as fast as we can in areas that will never be viable. Given the scarcity of our dollars, we should be focusing on things like high-speed rail or roads or other forms of transportation which make more sense.

The simple fact is that Federal subsidies to Amtrak are a poor investment that offer little return. Having done some research, if we look at the Sunset Limited line from Orlando to Los Angeles, that costs $347; and I found 11 different flights that cost less than the average per passenger loss that the Federal Government subsidizes for that route. One of those flights was $232, so this means that the Federal Government would save $115 per passenger if it bought every Sunset passenger a round-trip plane ticket as opposed to subsidizing the long-haul route one way.

We can say the same about the Pennsylvanian which has a $292 loss per passenger to go from Philadelphia to Chicago; a plane ticket would cost $135. We would save $157 per passenger. The list goes on and on.

Members do not need to be a CPA to understand that when Amtrak's rate of return is twice that to pay for Amtrak as competing services, which would get people there quicker, this is not where we ought to be prioritizing Federal dollars.

If we look at the areas I am spending it in under my proposal, as indicated during debate on the rule and general debates, the Office of Terrorist Financing and Financial Crimes is a new entity within the Department of Treasury. Its purpose is to provide support to our efforts to combat the funding of terrorism and other crimes committed within the U.S. and abroad. We know that terrorism does not work unless the terrorists have money, and so it is important that we do more to deny those who wish to do us harm the means to carry out their intentions.

My amendment would also double funding for two programs which provide critical assistance to low-income and elderly Americans when they pay their taxes. The Federal Tax Code is made up of four huge volumes that are each thicker than the Bible. In fact, the Tax Code is over 7 million words long. These programs help people with a task that is far too burdensome and they need more resources.

My amendment also increases funding for the Office of National Drug Control Policy and the high-intensity drug trafficking program, two vital elements in our Nation's war on drugs. The principal purpose of the Office of National Drug Control Policy is to establish policies, priorities, and objectives to reduce the illicit drug trade, drug-related crime and drug-related health consequences. From enforcement of our drug laws to treatment of individuals by the tragic effects of substance abuse, this program plays a critical role in helping our country fight this terrible problem. As a father of four, I believe the importance of this work cannot be understated.

Finally, we need to do more to help States fight and win their local war on drugs. In Minnesota, police have been battling the devastating problem of methamphetamine production and use. They are in desperate need of assistance.

The high-intensity drug trafficking program is a Federal program that many of my colleagues know and respect. From Houston to Los Angeles to the Appalachian region, from Hawaii to New England and throughout the Midwest, this program has helped State and local official tailor highly specialized solutions to unique areas of need. Drug use is a national problem, and we need to fund national programs like the high-intensity drug trafficking program to fight it. My amendment will deliver those resources.

Mr. Chairman, the programs funded by my amendment will help the poor and the elderly with the confusing task of filling out their taxes, will help States battle illegal drug use, and help law enforcement officials cut off the financial resources terrorists need before they can act. These are broad, bipartisan programs and ones that every Member should support. I urge my colleagues to vote for my amendment and fund these vital national priorities at the highest level possible.

Mr. OLVER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the whipping boy today seems to be Amtrak on the part of one group; and there is another group that feels that the number that is there for Amtrak is totally inadequate. I am more a part of that group.

The amendment which has been offered by the gentleman from Minnesota (Mr. KENNEDY) again reverses the action taken by the Committee on Appropriations in full committee to provide the level of funding that the President had asked for for Amtrak. I happen to believe that is quite inadequate. The number that has been proposed now will strangle, and, by the way, is specifically intended to strangle the very idea of a national passenger rail system for America. I hope that will not be the direction that we take here today.

The proposals for increases of funding where $320 million are used, there are 6 of them, I guess, and each one has arguments that can be made in favor of it, but the cost of doing that is to reduce the funding for Amtrak to the point where it absolutely goes belly up. It is the very end, and is intended to strangle the passenger rail system.

As I have pointed out before, the level of $900 million is what the President requested. And even at that level, it is clear that it is not possible to make any inroads in the years of deferred maintenance and inadequate capital investment at Amtrak. The Inspector General for Transportation had pointed that at that $900 million level, none of the backlog of capital needs could be addressed at that funding level.

We have already heard that 220 Members of this House of Representatives had written the Committee on Appropriations asking for a higher number than the $900 million level. In fact, the number was $1.8 billion which Amtrak asked for, which the new president of Amtrak had asked for.

I just have to point out and remind Members that over the last 5 years Amtrak has received an average of $1.1 billion each year, and at that level of funding they have not been able to keep up with capital needs. They have had to defer important capital investments. They have a backlog of $3.8 billion on infrastructure, $1.1 billion for fleet, and $900 million for stations and facilities, so such a level would make it impossible to do anything of significance in capital needs. Again, the inspector general has estimated that Amtrak would need $1.5 billion annually for capital needs alone throughout the system.

The president of Amtrak, David Gunn, the new President and CEO, has cut waste, reduced expenses, increased revenues, improved Amtrak's operations, and he has said that he would need $1.4 billion to $1.8 billion each year to stabilize the system over the next 5 years. That includes the funding for upgrading track and bridges and tunnels in the northeast corridor, which is one piece of it which carries a huge number of passengers, and runs somewhere fairly close to break even, except for capital expenditures.

The fact here is the amendment is intended to terminate the idea of a passenger rail system in this country. I hope we would not adopt this amendment. I urge a no vote on this amendment.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I came to join the Amtrak debate. We have a great amendment before us, proposed by the gentleman from Minnesota (Mr. KENNEDY). I think he is well-intended. It shows the depth we have sort of sunk into when the debate on our national rail passenger service has a Member come forward and say we are subsidizing $350 a ticket on a losing route, which serves my area, and it would be better to put the money on a drug rehabilitation program, for which I probably concur.

I did not come to speak in favor of the amendment, but I think there is a lot of logic if we are going to throw money away on a losing proposition on Amtrak the way it is currently constituted, it would be better to put it on the proposal the gentleman from Minnesota (Mr. KENNEDY) has brought forth.

First, let me say I am not an opponent to national passenger rail service and increasing actually good service. What we have now is a Soviet-style partial government operation of our national passenger rail service. We have had reports for as long as I have served on the Committee on Transportation and Infrastructure and the Subcommittee on Railroads, for some 11 years, we have got to reform Amtrak.

The problem is not Amtrak. The problem is right here: Congress. Congress has failed to authorize a program under which we can provide good national passenger long-distance service, a program under which we can provide and catch up with the rest of the world in high-speed service.

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Yes, we need to put the money into it. But do we want to put the money into a losing proposition that we would be better off putting it into a drug program? I heard the gentleman from New York (Mr. QUINN). He is very well intended, and he wants to up the amount to $1.8 billion. We just heard from the ranking member of the subcommittee that they have been losing $1.1 billion. The facts are that Amtrak has lost, as we heard, $1.1 billion in need of that subsidy in addition, but below that their debt now exceeds $5 billion each year for the past 4 or 5 years. They have gone into debt, they have hocked the whole system and even their real estate assets. So that the debt and the depth of problems with Amtrak is far greater than what is brought here today.

Mr. Gunn is a great administrator, but he has to administrate the law that Congress passed some 30 years ago to do everything as far as passenger service and high-speed service and other activities that Amtrak is involved in and nothing gets done well. So you can have the best manager and if Congress does not make the changes necessary, it will not run. He came to us at our subcommittee and said he needed $2 billion, first for 5 years, a total of $10 billion. Then he came back and he said he needed $2 billion for 3 years, a total of $6 billion. The maintenance backlog of Amtrak alone exceeds $6 billion. So if you think you are fixing Amtrak by throwing more money at the problem, you are wrong. It will not solve it because they are losing more than $2 billion a year if you add in the debt. Just their debt payment is a quarter of a billion dollars a year. Plus, they have a retirement fund obligation which exceeds $7 billion.

What we need to do is reorganize Amtrak, and Congress needs to organize it so we have high-speed service and long-distance service. And we do it right, we just do not throw money at the problem. I would favor $60 billion towards national passenger rail service and high-speed, or $100 billion, because we need that alternative. And in the end, it is cost effective to concrete and cement and roads and other alternatives that we are faced with. So it is cost effective, but who wants to give Amtrak more responsibility for high-speed service?

The Acela program, we gave them billions, billions of dollars, and they blew it. The contract is in litigation. They bought equipment that does not fit the chassis, and it runs 82 to 83 miles per hour. Is that high-speed service? Even under our national definition of high-speed rail, it does not meet that criteria. Let us reform Amtrak and let us solve the problem. Let us not throw money at the problem.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Kennedy of Minnesota amendment. I have listened to this debate now for more than an hour. I have certainly come to the conclusion that the fact of the matter is that the Transportation, Treasury and Independent Agencies Appropriations Act for fiscal year 2004 does not adequately fund the National Railroad Passenger Corporation that we call Amtrak. As a matter of fact, this bill provides $900 billion for continued assistance to Amtrak.

Last year, Congress provided just over $1 billion to keep Amtrak running through fiscal year 2003. Amtrak now estimates that it will need $1.8 billion to maintain existing operations in fiscal year 2004. The present bill before us is not sufficient to meet Amtrak's contractual obligations for commuter and intercity passenger rail service. If Amtrak is unable to continue its existing operations, many commuter railroads that are dependent upon Amtrak operations would be unable to continue to provide quality and reliable services to their customers.

Amtrak is a major part of the economy of the city where I live. I live in the city of Chicago, which we call the transportation capital of the Nation. Amtrak operates more than 50 trains into and out of the city of Chicago each and every day. These include an extensive network of long-distance trains that provide service to the east and west coasts, the Gulf of Mexico and Canada. Amtrak also operates dozens of regional corridor trains to most major cities in the Midwest. Last year, Amtrak carried two million passengers to or from Chicago. Nearly 600,000 more boarded Amtrak trains at other stations within Illinois.

Amtrak employs 2,075 individuals in Chicago. And of those employees, 897 were actually Chicago residents. In calendar year 2002, the total wages of Amtrak employees living in the city of Chicago were approximately $37.7 million. Should Amtrak not be able to continue its operations, imagine the negative impact this would have on the people of Chicago and the people who live in that region, the people who work for Amtrak, and the thousands of people all over the country who look to, expect and need Amtrak as their primary mode of transportation, even to and from work every day.

I oppose this amendment because I think it goes in the wrong direction, and I would certainly support the Olver amendment to increase Amtrak funding by $500 million rather than cut it in any way, shape, form or fashion.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. OLVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. HOLT

Mr. HOLT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLT:

Page 43, line 22, after the dollar amount, insert the following: "(reduced by $2,000,000)".

Page 43, line 23, after the dollar amount, insert the following: "(reduced by $2,000,000)".

Page 46, line 9, after the dollar amount, insert the following: "(increased by $2,000,000)".

Page 46, line 10, after the dollar amount, insert the following: "(increased by $2,000,000)".

Mr. HOLT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOLT. Mr. Chairman, today I am offering an amendment that would help ensure adequate winter access to Yellowstone and Grand Teton National Parks.

Yellowstone, America's premier park, is being loved to death, and there are many Members here who are concerned about the effect of vehicular pollution, traffic, on Yellowstone Park. In fact, precisely half of the Members here recently voted to ban snow machines. This amendment, that I have before the body at the moment, would do nothing with the number or type of snowmobiles allowed in the park. It is not unrelated. As I point out, half of the House voted to ban snowmobiles, and all of those Members should support this amendment. Some, who voted otherwise because there was insufficient alternative transportation available, should also support this.

Since that discussion a few weeks ago, there is new information. The Environmental Protection Agency, having done tests shows that the new generation of snowmobiles approved for use in Yellowstone Park after being promoted as cleaner and quieter, in fact, emit more pollution. Said a spokesman for Yellowstone Park, "We started all this in good faith. We based our decision on the fact that the machines would continue to be cleaner and quieter and the industry would work toward that end." In fact, none of the new machines tested by the EPA meet the park's standards. They are dirtier than before.

What I am trying to do is to see that we have adequate access to Yellowstone Park whether my colleagues support snowmobiles or not. There exists now some multipassenger vehicles for access in the snow, over the snow, into the park. They range from the old-fashioned, and I would say classy, red Bombardier vehicles to the newer models adapted from Ford Econoline vans.

Just this year, the new prototype of snow coaches has been unveiled. These new vehicles are environmentally friendly and can run on diesel, gas, compressed natural gas or ethanol. And they include big windows and a fabric top that folds back so passengers can get a good look around. What is more, the vehicles can be lowered to accommodate disabled individuals. This means that people who could not enjoy Yellowstone Park's winter beauty before can now fully experience these national treasures.

The Federal Transit Administration, in a private-public partnership along with the Heart Corporation of Michigan, Idaho National Engineering and Environmental Laboratory, the U.S. Department of Energy and the National Park Service have designed and developed this new prototype. My amendment is intended to provide $2 million for the Park Service to use 12 new coaches of this type.

As I said, this amendment, I believe, should be acceptable to everyone. Anyone here in this body who voted to ban snowmobiles from Yellowstone should support this. Anyone here who voted against the ban on snowmobiles should also support this because it provides alternative means of travel.

Mr. Chairman, I would ask that the committee consider approving this transfer of funds within the Federal Transit Administration for this important purpose in our major, premier national park.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I certainly appreciate the efforts of the gentleman from New Jersey and his focus on this issue. I regret that I cannot agree to the amendment, because I know he has devoted a lot of time to it, but for a couple of reasons. One, of course, is that the National Park Service customarily has its appropriations through the Interior Department Appropriation bill. As much as some people may consider it mass transit in Yellowstone, I do not think that fits the normal definition of the work of the Federal Transit Administration. But I look forward to working with the gentleman to learn more about the issue and see what we might be able to improve on it and consider his request in whatever is the appropriate committee.

I also feel compelled to point out, it has come to my attention, an article reported today through the Los Angeles Times News Service, and I will just read the first sentence of that particular article, which says, "A new generation of snowmobiles approved for use in Yellowstone National Park after being promoted as cleaner and quieter, emit more pollution than models produced 2 years ago, according to test data from the Environmental Protection Agency." I do not know on the particular vehicles that the gentleman is promoting whether they are actually covered by this particular study or not, maybe they are, maybe they are not. But I do not know the ramifications of it all, and I certainly would not want to be shifting around within a bill that has such tight funding as we have, $2 million to go out of the general transportation purposes and into a specialty use in Yellowstone National Park, although I think that is a good question for the Interior Committee.

But I am interested in learning more, working with the gentleman, and I think the whole House needs to consider his interest. But I cannot agree to support the amendment, unfortunately.

Mr. HOLT. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from New Jersey.

Mr. HOLT. It is precisely because those single-passenger and dual-passenger vehicles to which the chairman refers do not meet the environmental guidelines of the National Park Service that the Transit Administration and others have developed these multipassenger vehicles which do emit less pollution per passenger, per recreation enthusiast. So, in fact, they would be a substitute.

With regard to the point that this would be used in Yellowstone Park, yes, indeed they would. In fact, all mass transit is used somewhere, where people are, where people want to travel, and that is an appropriate use of, I think, the Transit funds. But with the chairman's assurance that we can continue this discussion, I would be pleased to withdraw my amendment at this time.

Mr. ISTOOK. I thank the gentleman.

The CHAIRMAN pro tempore. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OLVER:

Page 39, line 10, insert before the colon the following:

: *Provided further*, That, in addition to the amounts otherwise provided under this heading, for grants to the National Railroad Passenger Corporation, $500,000,000: *Provided further*, That, in the case of taxpayers with adjusted gross income in excess of $1,000,000 for the tax year beginning in 2003, the amount of tax reduction resulting from enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 2.8 percent.

□ 1700

Mr. OLVER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. ISTOOK. Mr. Chairman, I wish to reserve a point of order against the amendment.

Mr. OLVER. Mr. Chairman, my amendment is one of those that proposes to add $500 million or nearly that sum of money, in my case exactly $500 million, to this legislation for Amtrak and would bring their total funding to $1.4 billion. The amendment does this by reducing the size of the tax cut for those earning more than $1 million of taxable income by less than 3 percent, from an average of $88,000 to an average of $85,500 or about $2,500 on average, which represents less than 3 percent of the size of that tax reduction.

The chairman has already reserved a point of order, and I would like to just point out that I would have supported the amendment being offered by the gentleman from New York, who is the chairman of the Railroads Subcommittee of the Committee on Transportation and Infrastructure, had it not been for the way the offsets come.

So here we are with a substantial number of people, and it probably comes to all of those 220 Members, both Republicans and Democrats, a good smattering of both parties, who sent a letter to appropriators asking for support for requests of $1.8 billion for Amtrak; and the gentleman from New York (Mr. QUINN) and I in two different ways have offsets that neither he could support mine nor could I support his, but it goes to show that there is a substantial number of people who really do believe in the concept of a national passenger rail system, and that is not what we are going to have in the direction that we are going.

I just want to comment also that the gentleman from Florida (Chairman MICA) of the Subcommittee on Aviation has indicated, and I think this is what I heard, that he thinks it would be appropriate to do perhaps as much as a $90 billion program on high-speed rail, and I am a supporter of high-speed rail as well and will probably if we get the opportunity vote for that because high-speed rail in appropriate places is something that might well be done. But high-speed rail is never going to be a substitute for a national passenger rail system. That is not possible under high-speed rail, and I would point out that if we are talking about doing $90 billion in capital funding for a high-speed rail system, which under circumstances I certainly will support, we are now talking about instead being unable to provide merely the $1.5 billion per year which the transportation IG, Ken Mead, says is necessary to make our present effort at a national passenger rail system function.

So we have to keep in mind that we are talking about a huge sum of money for doing some high-speed rail when we cannot even figure out how to do a national passenger rail system which would on a per-year basis cost no more than 10 percent of what is being proposed for a high-speed rail program, a set of initiatives that will not come anywhere close to providing for such a national passenger rail system.

My amendment, with the increase to $1.4 billion a year, would provide money so that Amtrak can begin to tackle the years of deferred maintenance and inadequate capital investment that has been the history of Amtrak for quite a number of years, and I would just point out that no large private or public intercity passenger rail system in the world has been profitable or been able to survive without substantial public subsidy. When national governors no longer want to support such intercity rail service, the rail service disappears; and Amtrak was created because private companies were unable to make a profit on passenger rail. And if we believe in a national passenger rail system, then we are going to have to start by dealing with a national passenger rail system.

Mr. MICA. Mr. Chairman, I move to strike the last word.

I had not planned to talk, but since my name was brought up in the debate in some comments about my comments, I thought it was important to respond.

First, again, I view myself as a strong advocate of national passenger rail system; but we need a system that makes sense, a system that serves areas that need to be served and require the service, and if we want to have losing routes across the country, there is no problem. We subsidize aviation. We subsidize roads. We subsidize every form of transportation. Let us have a transparent subsidization. Let us subsidize the transportation at the lowest possible cost to the taxpayer, and let us also bring in partners from those areas who want the service. If they want service and they want to subsidize it $350 a ticket, God bless them. They should have that service, and if they are willing to pay for part of that, maybe we will pay part of it too.

But we have to look at, for one thing, the taxpayers' pocketbook here. The fact is, again, I do not know how to make this any clearer to my colleagues, Amtrak was given by Congress the mandate to run national passenger service. They have had that mandate. They have gotten into high-speed service. Can we tell the finances of Amtrak? I would venture to say if we looked at the Enron report and Enron loss-of-investor money, we are talking about losses of taxpayers' billions of dollars, five point X billion dollars in the last 5, 6 years that they have lost, we cannot tell the finances. This committee cannot tell us the finances. I just asked the staff for information about the finances of Amtrak.

So I have identified the problem. The problem is Congress, because we have failed to put together a plan to provide national passenger service that makes sense. We have failed to put together corridors for high-speed service.

The question comes to us should we give Amtrak more money, and if we give them $1.4 billion, can they do the job? If we give them $1.8 billion, can they do the job? Two billion dollars, can they do the job? It is "no," by any stretch of financial accounting. Just add it up. Their deferred maintenance is over $5 billion. What are we going to do in this, a couple hundred million dollars at most? Their debt is a quarter of a billion, plus they have been hocking the family jewels to keep this thing operating. So the problem is us.

I do not mind a high-speed corridor that makes sense. Honest to goodness, and I know a lot of people here are lawyers and we have got politicians and they cannot figure it out, but a route from Washington to New York that truly went high speed, 125 miles an hour as defined by law or whatever we have, that got people there in less than 2 hours, my goodness, even the people from Wall Street have said that is a winner. That will make money. They cannot figure that out in Washington. They want subsidization of a Soviet-style passenger service and impose it in a high-speed corridor. Does that make sense?

Yes, these projects can make sense if we look at them from a business standpoint or a taxpayer standpoint as to how we are spending the money. So let us take a deep breath. We are not going to solve Amtrak's problem with $1.1 billion, with $1.4 billion, or with $2.4 billion; and I guarantee the Members, and I have got all the reports from the last several years, we will be back here again with the same debate no matter how much money we give them today if we do not solve the basic fundamental organizational, administrative problems and service problems that Amtrak is facing. So that is the story, the long and the short of it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the gentleman's amendment, and it follows the discussion and my support for preserving dedicated funding for transportation enhancements with goals to ensuring that community-based projects are supported at the local level. And the reason why I tie the two together in our support for Amtrak is that all these projects point to the public responsibility for transportation. We know that on the floor of the House today we are not debating the involvement of the public sector. We want to be efficient. We want to be responsible as it relates to Federal dollars; but when we discuss matters on the floor of the House, we are suggesting what the public and Federal roles should be.

It is well known that transportation itself is a public entity and responsibility, whether it goes to fixing our freeways and highways and bypasses and bridges, which we all realize is an important component of now the Committee on Homeland Security, a committee on which I serve. Then we cannot doubt the fact that all aspects of transportation, whether it is trucking or when it is utilization of our highways and freeways by cars, of individuals who travel over Federal roadways, whether or not it is the airlines or whether or not it is the train system, if it is localized, it is controlled by local entities. But Amtrak happens to be a system that travels interstate. I cannot imagine, on the basis of jobs, on the basis of transportation, and on the basis of security that we would not want to be responsible in funding Amtrak.

I realize that these are difficult questions. I will be on the floor shortly with a very difficult question. But the question should be answered in favor of the people. I believe my amendment should be answered in favor of the people who have voiced their opinions. Amtrak has a constituency that in many instances cannot do without it.

I happen to be some distance away from the eastern corridor, but I can assure the Members that in Texas, the Texas 21 organization that has any number of Texas transit organizations involved happens to have a very favorable position on Amtrak and the need for passenger travel. In fact, in Texas, where we are very far away in our different cities and hamlets and counties because we are a very big State, sometimes rail travel may be the only vehicle. It does not mean in any way that we intend to diminish our very able intra, which is now interstate, airlines or locally based airlines.

I happen to think the world of Southwest Airlines that was based initially on travel within our State, but I believe they could be complementary to the extent that we can find an effective and efficient way to ensure that Amtrak uses Federal dollars correctly but that we do not sacrifice the needs of the public because we are not willing to participate in our responsibility.

I think this is a reasonable approach. This is where we should be debating this question. The resources are resources that we can find, Mr. Chairman, simply by repealing the President's tax cut and investing in the infrastructure of this country. We already realize that infrastructure is crumbling, as evidenced by the very serious blackout that we had just a couple of weeks ago. That is infrastructure. Public transit is infrastructure. And it would make a lot of sense to reinvest in infrastructure.

I support this amendment, and I would hope my colleagues would find a way to err on the side of supporting passenger travel by rail.

□ 1715

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Olver amendment. Let me talk about my home State of Connecticut, where Amtrak service is a vital component of daily life, as it is to thousands of cities and towns. The same is true all along the East Coast.

Over 1 million Connecticut citizens rely on Amtrak annually; 411,000 in my hometown of New Haven. People rely on Amtrak to commute to work to New York City. They rely on Amtrak to bring commerce and tourism into cities without a commuter airline service.

In the Northeast, people travel Amtrak because it quite simply is the most convenient and time-efficient method of traveling from city to city, alleviating heavy rush-hour traffic which is faced by so many commuters today. In doing so, it is a major contributor in reducing emissions that contribute to respiratory illnesses like asthma, and it helps to keep the air clean and our children healthy.

If you have ever been on the I-95 corridor, you will know that it does not make any difference what time of day you are traveling that road by car, it is always jammed. For us, being able to alleviate some of that problem by putting people on trains would be well worth an investment.

Amtrak means jobs as well. Nearly 700 employees are in Connecticut. Amtrak owns and operates a rail yard in New Haven, Connecticut where maintenance and equipment repair take place. Given the continual underfunding of Amtrak, over 100 cars in the fleet remain sidelined waiting for repair due to inadequate capital.

Deferred maintenance on all Amtrak locomotives and passenger cars has reduced reliability, revenue, and raised costs, further hindering overall financial performance.

I speak from experience as a dedicated Amtrak traveler. For 13 years I have frequently commuted between Connecticut and Washington, D.C. Amtrak represents the best of what public transportation has to offer: convenience, comfort and efficiency.

Sadly, though, for over 3 decades, funding for America's passenger railroad has barely been enough to keep the system operating on a year-to-year basis, which prevents it from meeting its longer-term public service mission, not to mention its capital obligations.

Mr. Chairman, this country and its transportation system was created and its vision was a bold and daring vision, where people invested in infrastructure and made it possible for people to go from coast to coast, from city to city, by rail, to transmit goods by rail, and it was visionary on the part of those who invested in that effort.

That needs to happen with this institution. It needs to be visionary in understanding what the infrastructure needs are with regard to rail travel. Pruning or eliminating the long-distance network will not make Amtrak profitable. Failure to provide the necessary funds will not only mean the suspension of Amtrak service in the busy northeast corridor, but the likely permanent loss of its long-distance trains. It will not only strand thousands of commuters around the Nation, it will also mean the loss of production, the loss of millions of dollars for communities and companies in the areas it services. That simply is unacceptable. It should be unacceptable. We need to embark on that bold vision that those folks of yesteryear had in putting in the dollars needed for rail travel and its maintenance.

Support Amtrak and vote for the Olver amendment.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the distinguished ranking member's amendment for a critical part of the Nation's transportation infrastructure. There are so many ways in which one could look at the preservation of Amtrak in terms of national interests. I would like to talk first about one of those, and that is on security.

After September 11, we learned very clearly on that fateful day, and my district sits right across from midtown Manhattan, that it was the redundancy of different transportation modes when everything else was shut down that ultimately allowed people to escape from that tragedy, because we had a redundancy of transportation modes.

We saw that again very recently again in the blackout; that but for the redundancy of transportation modes, people would not have been able to get home and to be safe.

So, at a time in which corporate America looks to have redundancy in their corporate headquarters and operations, we as a government should be looking at how do we have a redundancy of transportation modes in order to ensure the vitality of our country and the safety of its citizens. Amtrak is one of those elements of that vitality and of that redundancy, and we need to ensure that it is preserved.

Now, under the appropriations bill that is before the House, if it were to become law, in essence that would result in the immediate shutdown of Amtrak, which would be catastrophic for rail passengers that rely on Amtrak's operation in the northeast corridor, as well as those passengers who use Amtrak for long-distance intercity travel. The Nation faced that prospect during the summer of 2002, and it was narrowly averted by a Federal loan and supplemental appropriation. We do not need to suffer such a needless transportation crisis again.

The long-term effects of Amtrak's demise would be just as severe. The States and municipalities who benefit, for example, the northeast corridor service, would have to scramble to replace it at a time when those States are in fiscal distress. The communities only served by Amtrak's long-distance trains would lose service altogether, with no realistic chance of that service's restoration.

Put simply, the shutdown of Amtrak is something that cannot be allowed to happen, and the way that this bill funds Amtrak clearly would lead to that reality if it became law with this appropriation.

Now, in addition to security and having different modes of transportation to get people to their destinations in a time of heightened security concerns, we also look at, as we are trying to languish with coming up with a highway bill, a major transportation bill, the toll that the lack of such rail passenger service would have on our highways, on our bridges, on our roads. The consequences would be enormous. That is not factored into the value that Amtrak provides us; the commerce that takes place by those who travel through passenger rail, to be able to conduct commerce and research and development as those companies along the northeast corridor participate throughout the corridor and visit and do business; for those in the financial services community; and the consequence on the environment as well from adding all of those other forms of transportation that would have to take the place of passenger rail, the more cars, and that which is produced through Amtrak that may in fact have to be carried by trucking.

So, ultimately, this has a series of effects on the Nation's economy, on the Nation's security, on the environment and the quality of life for people who are served by Amtrak.

Mr. Chairman, we have those Members who just simply do not understand that this is as crucial as subsidies are to agricultural parts of the country, as dams may be to some parts of the country. This is crucial to significant elements of the country for its security, for its transportation needs, for its commerce, for its environment.

That is why the gentleman's amendment makes eminent sense. He moves an amount just sufficient to keep Amtrak alive in doing so, and he does so by taking from those who already have so much and who were given so much more, taking a small amount to ensure that the many who need this transportation service can achieve it.

I urge a "yes" vote on the amendment.

Mr. CULBERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. CULBERSON. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I just want to put into the RECORD, since we are having this Amtrak debate, a couple of facts relating to the service of Amtrak, and I will be very brief.

Amtrak's long-distance service record, just one example: From Boston to Albany, in 1936 the B&M Minuteman, it took 4 hours 50 minutes to go from Boston to Albany. That is before Amtrak. In 2003, Amtrak Lakeshore Limited goes from Boston to Albany in 5 hours.

Then I just wanted to also make certain that we have in this debate, we talked about subsidizing the losses. This is the Amtrak Reform Council, which we put in place in 1997 I believe it was, to look at reforming Amtrak, coming up with a proposal, which has so far been ignored, for restructuring the five routes with the most losses and the amount estimated per rider loss: From Los Angeles to Chicago is a $236.76 subsidy, a loss; from Chicago to New York we lose $244.69 per passenger; from San Antonio to Chicago, we lose $258.25; from Chicago to Philadelphia, we only lost $292.34 cents; and from Los Angeles to Orlando, to serve my area, we only lose $347.45.

I thought that would be appropriate to read into the RECORD at this time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Oklahoma insist on his point of order?

Mr. ISTOOK. Mr. Chairman, I do insist upon my point of order, because the amendment proposes to change existing law and constitutes legislation in an appropriation bill, therefore violating clause 2 of rule XXI. The amendment modifies existing powers and duties.

I ask for a ruling from the Chair.

The CHAIRMAN. Does any other Member wish to speak on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this amendment indirectly amends existing law. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by Mr. PETRI of Wisconsin; Amendment No. 25 offered by Mr. TANCREDO of Colorado; Amendment No. 4 offered by Mr. HASTINGS of Florida; Amendment No. 9 offered by Ms. HOOLEY of Oregon; and the amendment offered by Mr. KENNEDY of Minnesota.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. PETRI

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. PETRI) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 90, not voting 17, as follows:

[Roll No. 469]

AYES—327

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Buyer
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chocola
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Deal (GA)
DeFazio
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah

Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hayes
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)

Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (MI)
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman

Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland

Stupak
Sullivan
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez

Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wolf
Wu
Wynn
Young (FL)

NOES—90

Aderholt
Akin
Ballenger
Barrett (SC)
Barton (TX)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Brady (TX)
Brown-Waite, Ginny
Burton (IN)
Cannon
Cantor
Chabot
Coble
Cole
Collins
Cox
Crenshaw
Culberson
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Doolittle
Dreier
Dunn
Emerson

Everett
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Goss
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Hobson
Istook
Johnson, Sam
Jones (NC)
King (IA)
Kingston
Kline
Kolbe
Lewis (CA)
Manzullo
McKeon
Miller (FL)
Murphy
Musgrave
Neugebauer
Northup
Nunes
Nussle
Ose
Otter

Oxley
Paul
Pearce
Pombo
Putnam
Rehberg
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Smith (TX)
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Weldon (FL)
Wicker
Wilson (SC)

NOT VOTING—17

DeGette
Gephardt
Janklow
John
Kucinich
Linder

Mollohan
Myrick
Payne
Pickering
Rangel
Regula

Rodriguez
Roybal-Allard
Waxman
Woolsey
Young (AK)

□ 1749

Mr. BONILLA, Mrs. EMERSON, and Messrs. MURPHY, COX, and BURTON of Indiana changed their vote from "aye" to "no."

Messrs. GIBBONS, FORBES, ALEXANDER, BURR, and BALLANCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 25 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 25 offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 90, noes 322, not voting 22, as follows:

[Roll No. 470]

AYES—90

Aderholt
Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Brady (TX)
Burgess
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Collins
Cox
Crane
Cubin
Culberson
Cunningham
DeLay
DeMint
Diaz-Balart, M.
Duncan
Everett

Flake
Franks (AZ)
Gingrey
Goss
Graves
Green (WI)
Gutknecht
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hostettler
Hunter
Isakson
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Lewis (KY)
Linder
McCotter
McCrery
McInnis
Miller (FL)

Miller, Gary
Musgrave
Neugebauer
Northup
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pombo
Radanovich
Ramstad
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Shadegg
Smith (MI)
Smith (TX)
Sullivan
Tancredo
Terry
Thornberry
Toomey
Vitter
Wamp
Wicker
Wilson (SC)

NOES—322

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballance
Ballenger
Bass
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza

Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley

Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)

Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—22

DeGette
Eshoo
Feeney
Gephardt
Janklow
John
Kucinich
Lipinski
Lynch
Mollohan
Myrick
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Sessions
Tiahrt
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1757

Mr. GINGREY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LYNCH. Mr. Chairman, on rollcall No. 470 had I been present, I would have voted "no."

AMENDMENT NO. 4 OFFERED BY MR. HASTINGS OF FLORIDA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. HASTINGS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 228, not voting 20, as follows:

[Roll No. 471]

AYES—186

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Beauprez
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
Deutsch
Diaz-Balart, L.
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Foley
Frank (MA)
Frost
Gillmor
Gonzalez
Goodlatte
Gordon
Green (TX)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kline
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Murtha
Nadler
Napolitano
Neal (MA)
Owens
Pallone
Pascrell
Paul
Pelosi
Peterson (MN)
Rahall
Ramstad
Ros-Lehtinen
Ross
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Shaw
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watt
Weiner
Wexler
Wu
Wynn

NOES—228

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capuano
Cardin
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Farr
Feeney
Ferguson
Flake
Fletcher
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goss
Granger
Graves
Green (WI)
Greenwood
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—20

Berman
Cannon
DeGette
Ford
Gephardt
Janklow
John
Kucinich
Mollohan
Myrick
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Watson
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). There are 2 minutes remaining on this vote.

□ 1805

Mr. LARSON of Connecticut changed his vote from "aye" to "no."

Mr. DOGGETT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MS. HOOLEY OF OREGON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 213, noes 203, not voting 18, as follows:

[Roll No. 472]

AYES—213

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cox
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Green (WI)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hulshof
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Porter
Price (NC)
Rahall
Renzi
Reyes
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Toomey
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Weiner
Weldon (PA)
Wexler
Wu
Wynn

NOES—203

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—18

Berman
Cannon
DeGette
Gephardt
Janklow
John
Kucinich
Mollohan
Myrick
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Waxman
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). There are 2 minutes remaining in this vote.

☐ 1813

Mr. DUNCAN changed his vote from "aye" to "no."

Mr. TANCREDO and Mr. ROYCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KENNEDY OF MINNESOTA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded. A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 89, noes 325, not voting 20, as follows:

[Roll No. 473]

AYES—89

Akin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Blackburn
Brady (TX)
Burgess
Burr
Cantor
Carter
Chabot
Chocola
Coble
Collins
Cox
Crane
Cubin
Culberson
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Everett
Flake
Fletcher
Franks (AZ)
Gingrey
Graves
Green (WI)
Gutknecht
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hostettler
Hunter
Isakson
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kline
Lewis (KY)
Linder
McCotter
McCrery
McIntyre
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Musgrave
Neugebauer
Northup
Osborne
Ose
Otter
Pence
Peterson (PA)
Petri
Pombo
Ramstad
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Taylor (MS)
Terry
Thornberry
Tiahrt
Wamp
Weldon (FL)
Wicker
Wilson (SC)

NOES—325

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burton (IN)
Buyer
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cramer

Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Goss
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.

Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Peterson (MN)
Pitts
Platts
Pomeroy
Porter

Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—20

Berman
Cannon
DeGette
Gephardt

Gordon
Granger
Janklow
John

Kucinich
Mollohan
Myrick
Payne

Pickering
Rangel
Regula

Rodriguez
Roybal-Allard
Waxman

Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1821

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments to this portion of the bill, the Clerk will read.

The Clerk read as follows:

JOB ACCESS AND REVERSE COMMUTE GRANTS

Notwithstanding section 3037(1)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $17,000,000, to remain available until expended: *Provided*, That no more than $85,000,000 of budget authority shall be available for these purposes: *Provided further*, That up to $200,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

POINT OF ORDER

The CHAIRMAN. For what purpose does the gentleman from Florida (Mr. MICA) rise?

Mr. MICA. Mr. Chairman, I wish to raise a point of order on this section.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I make a point of order against the phrase, in quotes, Notwithstanding section 3037(1)(3) of Public Law 105–178, as amended, end quotes, beginning on page 51, line 12. This phrase waives the statutory distribution of funds specified in TEA–21 for the job access and reverse commute grants program. In doing so it makes possible report language earmarking of projects that under section 3037(g) of TEA–21 must be selected on a competitive basis.

In addition, it negates the formula allocation of the program based on community size as is required by section 3037(1)(3) of TEA–21. This blanket waiver is legislative in nature and in violation of rule XXI.

The CHAIRMAN. Do any Members wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The cited language is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—FEDERAL TRANSIT AUTHORITY

SEC. 160. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 161. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Capital investment grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2006, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 162. Notwithstanding any other provision of law, any funds appropriated before October 1, 2003, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 163. None of the funds in this Act shall be made available for the design, construction, or maintenance of any segment of a light rail system in Houston that has not been specifically approved by a majority of the participating voters in the Houston Metropolitan Transit Authority service area in a referendum.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas.

Beginning on page 52, strike line 22 and all that follows through page 53, line 2.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank my colleagues for indulging us on what I believe is a point that can be embraced by all of my friends and colleagues and Members of this body on both sides of the aisle. It is a simple point, Mr. Chairman, that we are asking for, and I might in this very costly bill which I happen to support, let me suggest to my colleagues that I am not asking for any money nor am I asking for any Member to intrude in local matters.

In fact, this has to do with the Houston rail system that many Members who have been here for a period of years have had the pleasure of hearing debated over a long, extended time frame.

I could have come to the floor of the House of Representatives and offered an amendment to change the framework which has been established in the local community. Right now we have a plan that will be put on a November 4, 2003 ballot, an election plan, that indicates that the first stage of building a rail in Houston would be 22 miles.

I could have offered an amendment to suggest to instruct my local authority to have it be 39 miles. But I prefer, Mr. Chairman, to go to my local authority and engage in debate and discourse and work it through the community. Why is that? Because the local Metro Board has proceeded through the community and engaged all of the voters on a very simple question, the question of whether or not we will have rail in Houston, Texas, and whether or not we will secure or attempt to secure Federal funding.

□ 1830

All of what has occurred over the last year should be a compliment and a tribute to local involvement. The Houston Metro Board, chaired by Arthur Schecter, has held a number of hearings throughout the community. They have held a number of board meetings of which they have voted on a 72-mile program for the Houston/Harris County area.

Again, let me emphasize to my colleagues, I ask you for nothing but to remove the language that is a limitation that suggests that no action can be taken unless Houston/Harris County has a referendum. Mr. Chairman, we have already agreed to have a referendum. There is a time certain and a date certain upon which that referendum will be held, November 4, 2003.

The chairman of the committee, Mr. Chairman, Chairman Schecter, said the entire community must address this issue now, that is transit. The community can no longer afford to be divided. Chairman Schecter stated that other areas in the Nation are making significant strides in transit development and we must do the same. He noted that by the way of a resolution, 99–105, the Metro Board adopted a 21st century, high-capacity transit vision which provided a conceptual framework of development of high-capacity transit in our major travel corridors.

In addition, we will have a specific and direct ballot issue on the November election. I would also like to say that the Houston Partnership, our chamber has just yesterday agreed to be supportive of this effort and reiterated that we will have a referendum. All I am asking my colleagues to do is to eliminate the redundant language in this legislation, section 163, that has no basis in purpose. It is not instructive because we have already agreed by board authority, by ordinance, the requirement to have a referendum. All this does is confuse both Members of Congress and agencies that will ultimately have to interpret this language and try to understand what they were saying in Houston, Texas. Are we divided, are we confused, and that is not the case. The voters of Houston/Harris County in the State of Texas will have the authority of going forward at that time.

There was a point made at one of the board meetings, Mr. Chairman, where there was an issue regarding when the referendum would be held, whether there was a rush to have a referendum. It was responded to by the very proponent that there is no Federal requirement causing Metro to rush toward a referendum. By the very same token, there is no Federal requirement for language to be in this appropriations bill dealing with a local issue such as the Houston Metro plan. There is no Federal requirement to have language instructing us to have a referendum when we have already decided to do so. Again, my colleagues, I have come not to ask for more money. I hope that we will get in a posture to do so. I have come not to implode the decisions of the local community because I will choose, as many of my colleagues will choose to do, to work locally with the mayor, the county government, the Metro Board and the business community on that issue as well as the citizens of that area.

I would simply say that I would ask my amendment to be accepted by my colleagues because of the necessity of this legislation.

Mr. ISTOOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the gentlewoman from Houston and her arguments. However, I rise in opposition to the amendment. If a referendum is scheduled in Harris County, then if the voters in Harris County approve it, they have satisfied the requirements of the language in the bill. However, if we remove the language in the bill and the voters say no, then they are not protected from anyone seeking to do an end run. The language in the bill merely assures that the will of the voters will prevail. If the voters have a referendum and the referendum says yes, they have satisfied the conditions in the bill, and there is no limitation. However, if the voters have a referendum and they say no, then all that the language in the bill does is to give meaning to what the voters said and to give assurance that the will of the people will prevail.

I oppose the amendment by the gentlewoman from Texas and ask that it be defeated.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I understand why the proponent of the amendment has offered it. Most of the proposed rail in Houston would be built in her district to the exclusion of most of the suburbs and the rest of the region participating in the rail system. So this is a very controversial issue, and this bill tries to make sure that the people on the local level will have a voice in what will be proposed and ultimately will ask for Federal funds.

Section 163 of this bill actually prohibits Houston Metro from using funds to build a light rail system until a specific plan is approved in a local referendum. After all, the city's people will bear the brunt of the multi-billion-dollar price tag, so they should have a say in whether the project moves forward.

This is a huge financial burden for the people of the Houston area, many of whom I represent. The project's ultimate usefulness is still uncertain. That is why the Transportation Appropriations bills for each of the last 4 years, which this amendment's author voted for, have included similar provisions to guarantee affected residents the right to have their voice heard in this matter. It is also why the gentleman from Texas (Mr. CULBERSON) and I worked closely with officials at Houston Metro when we were writing this provision to give Metro flexibility should the voters approve the light rail project.

The referendum that we are talking about is scheduled for this November, and the current proposal on the ballot begs many questions. For instance, if, as studies conclude, new jobs and people are moving in droves to the Houston suburbs, why would we spend billions of dollars on a centralized, downtown rail system? Is a multi-billion-dollar light rail system the best use of our resources when studies conclude that new roads, highway lanes and busing systems have been less costly and more effective than light rail around the country? With an ever-sprawling population, will light rail be convenient enough to attract commuters?

And finally, an important question Metro has not answered yet, how does a massively expensive light rail system, accounting for a small fraction of area trips, fit into Houston's long-term 100 percent mobility plan?

I do not have all the answers, but neither does the author of the amendment. Patience has been our policy for 4 years, and I think it makes sense for another 2 months.

Vote "no" on the amendment and make sure that the people of Houston have their voices heard.

Mr. BELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to ask what I think is a very fair question. Why is the Federal Government telling the city of Houston that it has to have yet another referendum on rail in order to get Federal rail funding that has been offered without any type of election to every other major American city? We have already had one referendum in Houston on rail, and we are going to have another in November as mandated by Texas State law. There is simply no need whatsoever to have similar language included in this Transportation Appropriations bill we are considering here today. So I am rising in support of this amendment which strikes that language.

Why is it necessary to continue to single out the city of Houston on rail funding issues in Federal legislation? It makes absolutely no sense. I think it is a travesty that anyone would go out of his way to add language to the Appropriations bill that specifically targets Houston and try once again to deny our community the Federal funding it desperately needs to break the gridlock. What happened to the concept of local control that we hear the Republicans so often trumpet as their greatest cause in life?

In the end, this amendment is not about whether or not you support rail. It is about local control. Let us give the city of Houston the local control it deserves to determine its own course just as we give every other city in the United States that right. The language in this bill is unnecessary and solely designed to impede the enormous efforts made by Houston community leaders to get light rail working for the city of Houston. Enough is enough. The referendum is on the November ballot, and I believe it will pass. It is time to stop playing games with the very real problems of one of our country's largest cities and let Houston get on with business, unencumbered by Federal interference.

Mr. Chairman, as we pass this Transportation Appropriations bill, let us be serious about local control. Let us be serious about allowing American cities like Houston to find real transportation solutions. Stand up for local control of our cities and vote for this important amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the gentleman's comment. I might share with his point of view on local control to reemphasize that this is not a plan that is district-based. It is a plan that crosses a multitude of congressional districts, though we are not the prime arbiter of how the plan is to be designed. This goes into counties beyond Harris County. It includes Fort Bend. The small city representatives on the board were enthusiastic about the 72.8-mile plan and as well the Greater Houston Partnership, which is our chamber, voted on September 3, 2003, to acknowledge that the plan that will be on the ballot includes local and express bus service, buses, new transit centers, additional park and rides and other bus-related facilities and 72.8 miles of rail projects as delineated on a map attached to the resolution, a very expansive, if you will, effort by our community.

I think this impacts all of us and the decision should be left to those of whom will be impacted.

Mr. BELL. Mr. Chairman, the gentlewoman is absolutely correct. It is all about local control. If we are going to be serious about being in favor of local control, then this amendment definitely deserves a "yes" vote.

Mr. CULBERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to join the chairman and our majority leader in opposition to this amendment because the language in the Appropriations bill, which this amendment would strike, simply guarantees the people of Houston the opportunity not only to vote and approve any rail system in Houston, but this language also assures the people of Houston that they will be told on the ballot where specifically the rail lines would be built.

I worked this language, developed and wrote this language in careful cooperation with the Metro authorities. Metro's representative here in Washington signed off and approved of this language. They were comfortable with it. I did it in careful consultation with them. Indeed, State law in Texas does require an election for bonding authority, but State law in Texas has no requirements, there are no guidelines in Texas law on what the ballot should look like. So this Federal language is an essential part of the equation in Houston for voters in Houston to have a good, clear understanding of not only how much this rail line is going to cost us as taxpayers, but, more importantly, where it is going to be built.

The language in the bill is very reasonable, and as the gentleman from Oklahoma (Mr. ISTOOK) has said, it is an essential, we think, first step for, frankly, any transit system anywhere in the country to be able to move forward with a plan that would cost billions of dollars. In fact, this rail system in Houston will ultimately cost, if the voters approve it this November, $5.8 billion. That would make this rail system in Houston the Nation's second most expensive transportation project, second only to the Big Dig, the tunnel project in Boston.

The amendment would seek to strike language which would give the taxpayers of Houston the right to approve by majority vote this rail project. The amendment would strike the right of the people of Houston to see where, specifically, the rail lines are going to be built. I would urge, as the majority leader and the chairman have done, the Members to vote against the amendment. This is not the place to debate the merits of this rail line.

I note that the author of the amendment, the gentlewoman from Texas, has expressed her support for this rail line. I would welcome an opportunity and, in fact, invite her to debate me in Houston on the merits of this rail plan.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CULBERSON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, the gentleman made a point of cost and made a point that this amendment would strike the referendum. Let me correct the record. The community board, Metro Board, has voted to have a duly authorized election and referendum on November 4, 2003. This is redundant and unnecessary, and we have collaborated in Houston, as my good colleague and friend knows, where we have even generated the support of the Partnership, we have given the voters a chance to make their own decision, and I invite my friends on the other side of the aisle to vote for local emphasis and local impact and local decision.

Mr. CULBERSON. If I could, reclaiming my time, this is not the place to debate the merits of this plan. Would the gentlewoman debate me in Houston on the merits of this plan?

Ms. JACKSON-LEE of Texas. I think that we will have that opportunity as the election proceeds.

Mr. CULBERSON. I look forward to that opportunity.

Ms. JACKSON-LEE of Texas. I will be happy to debate in the course of the election, in the forums of my choosing.

Mr. CULBERSON. Reclaiming my time, this language was worked out with the assistance and cooperation of Metro. I urge my colleagues to vote "no" against the amendment to guarantee Houston voters the right to approve this plan.

□ 1845

Mr. LAMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too rise in support of this amendment that has been put forth by the gentlewoman from Texas (Ms. JACKSON-LEE). This amendment would provide the citizens of Houston the opportunity to decide their fate regarding the construction of light rail. This is something that is local. It is something that makes a difference to Houston. We ought to be making those decisions for ourselves. For far too long this Congress has arbitrarily revoked the rights of Houstonians to make significant infrastructure decisions. Quite frequently I have heard many of my colleagues on both sides of the aisle rise in support of allowing significant decisions which affect localities to be made at the local level. Communities should have the opportunity to determine what is in their best interests.

Houston is a city which is rapidly growing. It is spliting at the seams because of lack of necessary infrastructure. The citizens of Houston have attempted for years to build light rail, but they have been stymied at almost every attempt. And as a member of the Committee on Transportation and Infrastructure, I certainly recognize the importance of having multiple modes of transportation available to metropolitan areas.

Houston now suffers some of the worst highway congestion in the Nation. The average commute for Houstonians is over an hour. Mr. Chairman, Congress should not and must not be in the business of micromanaging the politics of localities. The city of Houston has asked for and they should receive the same treatment as any other metropolitan areas that have been granted access to Federal funds for light rail. Let us do what is right for Houston. Interestingly enough, they have reached across party lines; they have reached out across ideological lines. They came together in a compromise that is putting this issue on the ballot on November 4. They have done an extraordinary effort to do what is right for themselves, and all we are asking for is that we leave them alone and let them make the decisions for Houston. Let us do what is right for Houston. And I do urge a "yes" vote for this amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. LAMPSON. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, I understand Houston is a very special place, but is there some reason why it is so special that it is apparently the only city in the entire 50 States, in the entire United States, that has been singled out for this special treatment?

Mr. LAMPSON. Mr. Chairman, that is what we understand. We also understand it is the single largest city that does not have this kind of infrastructure that the citizens themselves have chosen to put into place and definitely want to have.

Mr. DOGGETT. Mr. Chairman, there is a group down, I think, in San Antonio but they are just against all public transportation. They have an ideological commitment that they do not believe in public anything, I think; but they certainly do not believe in public transportation or public rail transportation. They are just against it as a matter of principle. If we had one of these extremist groups come in, could they use this as a precedent to apply to Beaumont and to Austin and to other cities across Texas and across the United States?

Mr. LAMPSON. Mr. Chairman, I imagine when a precedent is set, it could be used in other places. It would be the wrong direction for us to go in for this.

Mr. DOGGETT. Mr. Chairman, we have had a referendum in the city of Austin; and by about a percentage point, a 1 percent point, the idea of a light rail system was defeated, and I am actually interested in seeing what the citizens of Austin think if this issue comes up again; but we do not have any Federal law requirement telling us if we do not approve it again that we will never be eligible for Federal funds, and in fact, we have some Federal planning funds that are in the transportation authorization this last time, and I expect there is a good chance they will be in there again. But this would be the kind of precedent that could restrict people who want public transportation who do not agree with these right wing ideologues and extremists that are against all public transportation. This would be a precedent where they could come in and interfere with the people in my district.

Mr. LAMPSON. Mr. Chairman, we truly do not want to restrict the rights or interests of a community to be able to choose for themselves what they want, and in this case Houston has said let us bring it to the people on November 4. They have the referendum set. They are going to speak. They want to do for themselves what they can do and then reach out to the Federal Government for the assistance that is there for other communities. We do not want the kind of precedent that the gentleman is speaking about set.

Mr. DOGGETT. Mr. Chairman, if I understand the history of this, this would not be the first time that a Federal-elected official had interfered in the desire of the people of Houston, the support of the business community in Houston to get public transportation; but it would be the first time that instead of just one individual going down and interfering in it, it was written into Federal law where the full force and effect of Federal law would interfere with the will of the people of Houston.

Mr. LAMPSON. Mr. Chairman, we do not want any Federal officials impacting. We want to reach out and make sure the people of Houston have their own say in this matter.

Mr. BRADY of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand my colleague from Houston's strong advocacy for light rail, but I am afraid that at this late date this amendment is at best immaterial and perhaps, I think, undermines the voices of the voters in our Houston region. Today on the House floor we are rehashing a delegation disagreement about the need for a referendum that has been really rendered moot. As we speak, a referendum on light rail is being held, scheduled for just a few weeks from now. For more than a year, the community has undergone and continues a detailed and highly public debate about the scope and the merits of light rail for the Houston region. Seemingly every corner in every neighborhood and every party interested in this issue has offered input, and soon an informed electorate will head to the polls to make their voices known about this issue.

Who in our region would dispute that this has been a healthy debate on an important issue that will impact the region for decades to come? It has been a welcomed debate based solely because of existing language in Federal law. But under this amendment today, what we will tell Houston voters is, if they approve light rail, it can go forward. If they reject light rail, it can go forward as well. We have made this referendum meaningless. On the eve of this election to attempt to nullify or dismiss this very healthy public referendum it will have the effect of disenfranchising tens of thousands of Houston area voters who simply wish to have their voices heard. Let us trust the voters. We certainly have the choice of who should represent them in Congress. We need to let the referendum go forward and let it matter. The voters deserve no less.

Mr. GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

First of all, let me say to all of our colleagues, we are almost going to hear from every Member who represents a section of Harris County and the city of Houston. As we can tell, there is difference of opinion, but there is also some misinformation. Let me correct what has been said. There is a referendum on the ballot for November. No matter what we do today, there will be a referendum on the ballot. The ballot language may be changed in a couple of weeks, but the issue of bonds under State law is what our local Metro board has to do. They have to have a referendum. And that referendum will be about a plan, at least the first installment, we hope, of a plan that will really bring more light rail to Houston.

It will serve more than what is already planned. We already have a 7.5 mile segment that is built with local money because of the original amendment in this bill that serves from downtown out to our football stadium and the Astrodome and serves the medical center and Rice University and lots of areas in between; but to serve areas in my district, we have to have a referendum. To serve northside and east end of Houston, we have to have a referendum, and that is why we do not need this language in the bill.

It is important that Houston is the only city in the country that has been held to this higher standard. Granted, the amendment that is in the bill by the gentleman from Texas (Mr. CULBERSON) is better than the original language, but we are still spelling out that they have to put the projects in the referendum. We do not do that for any other city, in fact, cities that are much smaller than the fourth largest city in the country. That is why it is unfair to do this. I was an opponent of heavy rail because I think in Houston we are so geographically diverse, and for years as a legislator I opposed it; but I watched how other cities in the country have used light rail, and it hurts me as a Houstonian to say that even the city of Dallas is successfully using light rail and Federal dollars to expand without jumping through the hoops that we would require them to do if the original language in this bill is done.

That is why I rise in support of the gentlewoman from Texas's (Ms. JACKSON-LEE) amendment. Again, two of those lines that are on the ballot that will be approved come to my area. They are not all in district 18. They serve an area near east end.

I represent a district that is very urban and also suburban; so I realize we need light rail along with lots of highway construction; and for years it have been known that I love to build highways, but I also know we cannot build them fast enough in Houston to solve the problems of transit any more than Dallas could, any more than any other part of the country, any other urban area in the country can do it. That is why we need to take all the language out of the bill and let the Houstonians and the people who are in that metro area pass this bond election in November and expand the light rail with Federal funding like many cities that are much smaller than us.

Unfortunately, this legislation prohibits the use of Federal funds for planning, designing and building this light rail unless it is itemized in there. And as much as I would like to see my two projects in my area itemized, the city of Houston or any city does not list in their bond what water projects they are going to do. They are going to do as many as they can because they need to have that local flexibility. But I will tell the Members what, if Metro does not do the plan that they have, I would be the first one back up here to say wait a minute, they fooled the voters of Houston and they will be punished for that. They should not do that.

Do not hold the city of Houston and my constituents to a higher standard than we hold Dallas, than we hold any other city in the country, including many that are much smaller. We have a referendum plan. The voters will make that decision this November, and let us let the voters make that decision with their Federal tax dollars to help with light rail, and that is why I support the Jackson-Lee amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Texas. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman, having been a former State senator, for the clarification of State law. I think that is extremely important. And I want to just hold up for my colleagues the minutes of Metro board over the last 30 days which affirm the very points that the gentleman from Texas (Mr. GREEN) has made. They voted an overall plan that is 72.8 miles. Ultimately, the segments will have to be bonded. That requires an election. Those miles will be designed to go into urban and suburban and even somewhat rural areas because that is the configuration and the geography of the Houston/Harris County metroplex area. My good friends that are here will have the opportunity to have light rail in their respective communities. In fact, the small city representatives on the board that represent the Fort Bend area, for example, are enthusiastic about a rail system that would come to a city like Sugarland. But the point is that the board did vote to have a referendum, and it is not necessary to be in this bill.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the gentlewoman's amendment. Mr. Chairman, I think this Congress really should leave local decisions with local communities. We really should not try to run Houston as if we were the City Council for Houston or the Houston Metro Authority. That would put Houston in the same unenviable position that our own capital city where this body sits is in, and that would be inappropriate.

The Texas Metro Board has already held the public hearings that are necessary under the law. Furthermore, the referendum required by the language of section 163 has already been scheduled for November 4. So section 163 is clearly unnecessary. The referendum is already scheduled for the entire Houston area. I would urge an "aye" vote on the Jackson-Lee amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all, I want to thank the ranking member very much for his ability to dissect the language. And I want to make the point that this is not, though it may seem, likely a discussion of those who are for or against rail.

□ 1900

That is not the debate here. I would not draw my colleagues into that kind of personalized debate.

The test is simply, as the gentleman from Massachusetts (Mr. OLVER) has indicated: The local governing authorities, including Harris County, the City of Houston, led by Mayor Lee P. Brown, our civic community, the partnership, the actual Metro board that has representatives of county government, city government, and small surrounding cities, have already acted, and their act is that we will have a referendum on November 4, 2003, and subsequently will have other referendums as the light rail would be expanded, if approved by the voters.

What we are suggesting, as my good friend from Austin said, we are the only city in this Nation where this intrusive language, this really restrictive language that has no basis in fact or substance, it is redundant, repetitious and unnecessary, what we are suggesting to my friends and colleagues, I cannot imagine why both ends of the spectrum could not support eliminating this language, particularly when we all have some respect for the 10th amendment, which really suggests that there are certain items that should be left to the States and local communities. That is all we are asking to do, is simply strike this language.

Ms. MILLENDER-McDONALD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a former elected official at the local level and knowing the importance of joint powers of authority, I rise to support the Jackson-Lee amendment.

I cannot understand why Houston should be held to a higher standard than any other city in this Nation. As a senior member on the Committee on Transportation and Infrastructure, I am cognizant of the fact that light rail is the driving force in cities across this country. It is important that light rail becomes part of the Houston intermodal transportation because of the rapid increase in population in Houston.

So we should not leave the fate of the Houston light rail system to the Houstonians and the stakeholders of Harris County? The people of Houston have been fighting for years to develop a light rail system that will help to reduce traffic congestion. We know the importance of reducing congestion now, and this is one of the reasons in the Committee on Transportation and Infrastructure we are fighting to try to bring about light rail, because of the congestion and to maximize regional mobility and ensure adequate funding for transportation improvements to maintain Houston's status as an attractive place to live.

It is important that we look at cities like Houston in trying to move the congestion by bringing on light rail. This is why the Texas Metro Board has held public hearings to obtain the input of the voting public of Harris County in Houston, Texas. A referendum will be held on November 4, 2004, to cover the entire Houston Metropolitan Transit Authority service area.

Mr. Chairman, it is just absolutely unconscionable that one would try to circumvent Houston local authorities from having the authority to control their own fate in terms of light rail. I am adamant about this particular amendment, trying to be hijacked. I support the Jackson-Lee amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-McDONALD. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, may I inquire of the gentlewoman, and I appreciate very much, having come from local government, her leadership in local government; as a local elected official, has she had the experience of having the long arm of the Federal Government intrude upon decisions made by either her local boards, if these decisions, of course, were with the input and the impact of a local community? Is that the way that local government chooses to operate, by having the long arm of the Federal Government instruct how to be constructive and positive in maybe transit issues or water issues or whatever issues might be relevant at that time?

Ms. MILLENDER-McDONALD. Mr. Chairman, reclaiming my time, to the contrary, local governments have tried to ensure and to maintain their local control, thereby not asking the Federal Government to intrude at all. In my experience as a mayor of a city, I know firsthand how joint powers of authority work independent of Federal Government, and this is the way it should be in Houston, as it is in other cities around the country.

Ms. JACKSON-LEE of Texas. Mr. Chairman, if the gentlewoman would yield further, I hope this amendment will be supported by my colleagues on both sides of the aisle, because I restate the fact that I have come to do nothing more than to strike language. I am not asking for money, I am not asking to add any language.

I could have come here with an amendment responding to neighborhoods crying for light rail. Why is not Acres Home not more expanded with the light rail? Why is it not more in our rural areas or suburban areas at this point, because it is geared to going there? Why is Northeast not included at this time? What is the status of Harrisburg?

All of those issues we are going to work on locally. I do not intend to give up on them, but I believe we will do that locally with Members of Congress, county governments, city government, the business community and, of course, the voters.

My point here, listening to the gentlewoman, appears to be reinforced, that what we are doing with this language, the only city in the Nation, is undermining what the local officials have done. And as I understand what the gentlewoman has just suggested, that is clearly an intrusion that is not welcomed by local government that works so very hard.

I thank the gentlewoman for yielding. I hope that out of her, if you will, solicitation, that we will be able to have our colleagues supporting us on both sides of the aisle. The Committee on Transportation and Infrastructure has been very, very receptive and warm to our needs in Houston, and the Committee on Appropriations. The gentleman from Massachusetts (Mr. OLVER) and, of course, the chairman, have been very welcoming to the mobility needs we have had.

I would simply say, being supportive of local needs, I have supported roads and toll roads, as have my other colleagues. But yet when it comes to light rail, we allow this to be so divisive. This language should be stricken, we should never see it again, and we should stop this decisive debate on the floor of the House when the community has actually come together.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HAYES) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 6. An Act to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6) "An Act to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes" and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints under authority of the order of July 31, 2003, Mr. DOMENICI, Mr. NICKLES, Mr. CRAIG, Mr. CAMPBELL, Mr. THOMAS, Mr. GRASSLEY, Mr. LOTT, Mr. BINGAMAN, Mr. DORGAN, Mr. GRAHAM of Florida, Mr. WYDEN, Mr. JOHNSON, and Mr. BAUCUS, to be the conferees on the part of the Senate.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2989, TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2989 in the Committee of the Whole, pursuant to House Resolution 351, no amendment to the bill may be offered except pro forma amendments by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate; the amendments printed in the CONGRESSIONAL RECORD and numbered 1, 6, 11, 14 and 24; the amendment printed in the CONGRESSIONAL RECORD and numbered 2, which shall be debatable for 15 minutes; the amendment printed in the CONGRESSIONAL RECORD and numbered 15, which shall be debatable for 20 minutes; an amendment by Mr. HASTINGS of Florida regarding OMB Circular A-76, which shall be debatable for 30 minutes; one proper amendment by Mr. SANDERS regarding a district court memorandum and order addressing IBM's pension plan, which shall be debatable for 1 hour; an amendment by Ms. KAPTUR regarding the Help America Vote Act; an amendment by Mr. VAN HOLLEN regarding OMB Circular A-76, which shall be debatable for 30 minutes; one proper amendment by Mr. FLAKE regarding Cuba travel, which shall be debatable for 1 hour; an amendment by Mr. HONDA regarding San Jose light rail; an amendment by Mr. COOPER, Ms. DELAURO, or Ms. KILPATRICK regarding tax law enforcement, which shall be debatable for 1 hour; an amendment by Mr. DAVIS of Florida regarding educational exchanges with Cuba; an amendment by Mr. MICA regarding the National Railroad Passenger Corporation; an amendment by Mr. FARR regarding locality pay; an amendment by Mr. MORAN of Kansas regarding essential air service program.

Each amendment may be offered only by the Member designated or a designee, or the Member who caused it to be printed, or a designee; shall be considered as read; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. Except as specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. OBEY. Mr. Speaker, reserving the right to object, under my reservation I would ask the gentleman if this agreement is entered into, what would be the schedule for the remainder of the day and tomorrow?

Mr. ISTOOK. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Speaker, as I understand the intent, we will proceed tonight for approximately 1 hour further, after which time any votes that have been rolled will be held. After that time consideration of this bill would cease until next Tuesday, when we would complete consideration of the bill under the unanimous consent agreement.

Mr. OBEY. And tomorrow?

Mr. ISTOOK. Tomorrow, not being in charge of the schedule, I can only tell you my understanding. It is my understanding that tomorrow we would proceed to the District of Columbia appropriations bill.

Mr. OBEY. So, to repeat, we would be finished with consideration of this bill until Tuesday after the votes on amendments are taken in approximately 1 hour?

Mr. ISTOOK. That is correct.

Mr. OBEY. And then tomorrow it is the gentleman's understanding that the District of Columbia appropriation bill would be considered?

Mr. ISTOOK. Yes. Of course, there might be other further business before the House in addition to that. I do not know the exact schedule.

Mr. OBEY. I had thought that there would be one additional matter which would be before the House. My understanding is that we were going to have the naming of energy conferees tomorrow, as well as a motion to instruct.

Mr. ISTOOK. I was just so advised that the gentleman is correct.

Mr. OBEY. I am corrected. I am told the energy conference debate would occur tonight.

Mr. ISTOOK. I am told there is the possibility that the chairman and ranking member are discussing the timing of that right now. That is what I am told.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2989, and that I may include tabular and extraneous material.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Pursuant to House Resolution 351 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2989.

□ 1915

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

□ 1915

The CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on the amendment by the gentlewoman from Texas (Ms. JACKSON-LEE) had been postponed.

Pursuant to the order of the House of today, no amendment to the bill may be offered except:

Pro forma amendments by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

The amendments printed in the CONGRESSIONAL RECORD and numbered 1, 6, 11, 14 and 24;

The amendment printed in the CONGRESSIONAL RECORD and numbered 2, which shall be debatable for 15 minutes;

The amendment printed in the CONGRESSIONAL RECORD and numbered 15, which shall be debatable for 20 minutes;

An amendment by the gentleman from Florida (Mr. HASTINGS) regarding OMB Circular A–76, which shall be debatable for 30 minutes;

One proper amendment by the gentleman from Vermont (Mr. SANDERS) regarding a district court memorandum and order addressing IBM's pension plan, which shall be debatable for 1 hour;

An amendment by the gentlewoman from Ohio (Ms. KAPTUR) regarding the Help America Vote Act;

An amendment by the gentleman from Maryland (Mr. VAN HOLLEN) regarding OMB Circular A–76, which shall be debatable for 30 minutes;

One proper amendment by the gentleman from Arizona (Mr. FLAKE) regarding Cuba travel, which shall be debatable for 1 hour;

An amendment by the gentleman from California (Mr. HONDA) regarding San Jose light rail;

An amendment by the gentleman from Tennessee (Mr. COOPER), the gentlewoman from Connecticut (Ms. DELAURO) or the gentlewoman from Michigan (Ms. KILPATRICK) regarding tax law enforcement, which shall be debatable for 1 hour;

An amendment by the gentleman from Florida (Mr. DAVIS) regarding educational exchanges with Cuba;

An amendment by the gentleman from Florida (Mr. MICA) regarding the National Railroad Passenger Corporation;

An amendment by the gentleman from California (Mr. FARR) regarding locality pay;

And an amendment by the gentleman from Kansas (Mr. MORAN) regarding essential air service program.

Each amendment may be offered only by the Member designated, or a designee, or the Member who caused it to be printed, or a designee; shall be considered as read; shall not be subject to amendment; and shall not be subject to a demand for a division of the question. Except as specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

Mr. ISTOOK. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 157, line 2 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the bill from page 53, line 3, through page 157, line 2 is as follows:

SEC. 164. Section 5323(j) of title 49, United States Code, is amended—

(1) by adding at the end of paragraph (1) the following: "The term 'manufactured goods' as used in this paragraph means each individual item specified in each line item of a procurement. If the individual items to be procured are listed in the bill of materials and specifications rather than a line item, the term 'manufactured goods' shall apply to each such item. The definition of 'manufactured goods' shall not be applicable to the procurement of rolling stock as set forth in paragraph (2)(C).";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

"(3) When issuing a waiver based upon a public interest determination under paragraph (2)(A), the Secretary shall produce a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish this justification in the Federal Register and provide the public a reasonable period for notice and comment."; and

(4) by adding at the end the following:

"(9) APPLICATION OF WAIVERS.—The Secretary may grant a waiver under paragraph (2) for a microprocessor, but not for microcomputer equipment. For purposes of this paragraph 'microprocessor' means a computer processor on a microchip.

"(10) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of the Administrative Procedure Act, title 5, United States Code.".

SEC. 165. Notwithstanding any other provision of law, funds made available for the Roaring Fork Transportation Authority, Colorado, under Public Laws 106–69 and 106–346 shall be made available for the Roaring Fork Valley Bus Rapid Transit project.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

Operations and Maintenance

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $14,700,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

MARITIME ADMINISTRATION

Maritime Security Program

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $98,700,000, to remain available until expended.

Operations and Training

For necessary expenses of operations and training activities authorized by law, $105,897,000, of which $22,000,000 shall remain available until September 30, 2004, for salaries and benefits of employees of the United States Merchant Marine Academy; of which $13,000,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy; of which $9,063,000 shall remain available until expended for the State Maritime Schools Schoolship Maintenance and Repair; of which $500,000 shall remain available until expended for the evaluation and provision of the fourteen commercially strategic ports; and of which $1,000,000 shall remain available until September 30, 2005, for Maritime Security Professional Training in support of Section 109 of the Maritime Transportation Security Act of 2002.

Ship Disposal

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, $14,000,000, to remain available until expended.

General Provisions—Maritime Administration

SEC. 170. Notwithstanding any other provision of this or any other Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be deposited into the Treasury as miscellaneous receipts. No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior Appropriations Act.

SEC. 171. Chapter 10 of title I of the Emergency Wartime Supplemental Appropriations Act (Public Law 108–11) is amended by striking "For the cost of guaranteed loans, as authorized, $25,000,000, to remain available until September 30, 2005:" and inserting "For the cost of guaranteed loans and associated administrative expenses, as authorized, $25,000,000, to remain available until September 30, 2005, of which up to $4,498,000 may be used for associated administrative expenses:".

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $47,018,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $2,437,000 shall remain available until September 30, 2006: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

Pipeline Safety

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $64,054,000, of which $9,000,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2006; of which $55,054,000 shall be derived from the Pipeline Safety Fund, of which $21,786,000 shall remain available until September 30, 2006.

Emergency Preparedness Grants

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2006: *Provided*, That not more than $14,300,000 shall be made available for obligation in fiscal year 2004 from amounts made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $55,000,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

Salaries and Expenses

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $19,521,000: *Provided*, That notwithstanding any other provision of law, not to exceed $1,050,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2004, to result in a final appropriation from the general fund estimated at no more than $18,471,000.

TITLE II—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $3,000,000, to remain available until September 30, 2005 for information technology modernization requirements; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $175,809,000: *Provided*, That no less than $21,855,000 is for the Office of Foreign Assets Control: *Provided further*, That of these amounts $2,900,000 is available for grants to State and local law enforcement groups to help fight money laundering: *Provided further*, That of these amounts, $3,393,000, to remain available until September 30, 2005, shall be for the Treasury-wide Financial Statement Audit Program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further*, That this transfer authority shall be in addition to any other provided in this Act.

Department-Wide Systems and Capital Investments Programs

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $36,653,000, to remain available until September 30, 2006: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

Office of Inspector General

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses, including hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $12,792,000.

Treasury Inspector General for Tax Administration

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed $6,000,000 for official travel expenses; and not to exceed $500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, $128,034,000.

Air Transportation Stabilization Program

For necessary expenses to administer the Air Transportation Stabilization Board established by section 102 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42), $2,538,000, to remain available until expended.

Treasury Building and Annex Repair and Restoration

For the repair, alteration, and improvement of the Treasury Building and Annex, $25,000,000, to remain available until September 30, 2006.

FINANCIAL CRIMES ENFORCEMENT NETWORK

Salaries and Expenses

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $57,571,000, of which not to exceed $4,500,000 shall remain available until September 30, 2006; and of which $8,152,000 shall remain available until September 30, 2005: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

FINANCIAL MANAGEMENT SERVICE

Salaries and Expenses

For necessary expenses of the Financial Management Service, $228,558,000, of which not to exceed $9,220,000 shall remain available until September 30, 2006, for information systems modernization initiatives; and of which not to exceed $2,500 shall be available for official reception and representation expenses.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Salaries and Expenses

For necessary expenses of carrying out section 1111 of the Homeland Security Act of 2002, including hire of passenger motor vehicles, $80,000,000; of which not to exceed $6,000 for official reception and representation expenses; not to exceed $50,000 for cooperative research and development programs for Laboratory Services; and provision of laboratory assistance to State and local agencies with or without reimbursement.

UNITED STATES MINT

United States Mint Public Enterprise Fund

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2004 under such section 5136 for circulating coinage and protective service capital investments of the United States Mint shall not exceed $40,652,000. From amounts in the United States Mint Public Enterprise Fund, the Secretary of the Treasury shall pay to the Comptroller General an amount not to exceed $375,000 to reimburse the Comptroller General for the cost of a study to be contracted for by the Comptroller General on the potential and cost-effectiveness of expanded use of pre-made "blanks" by the U.S. Mint in the production of circulating coins. The amounts reimbursed to the Comptroller General pursuant to this paragraph shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended.

BUREAU OF THE PUBLIC DEBT

Administering the Public Debt

For necessary expenses connected with any public-debt issues of the United States, $178,052,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 2004 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2004 appropriation from the General Fund estimated at $173,652,000. In addition, $40,000 to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

INTERNAL REVENUE SERVICE

Processing, Assistance, and Management

For necessary expenses of the Internal Revenue Service for pre-filing taxpayer assistance and education, filing and account services, shared services support, general management and administration; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $4,037,834,000, of which $4,250,000 shall be for the Tax Counseling for the Elderly Program, of which $8,000,000 shall be available for low-income taxpayer clinic grants, and of which not to exceed $25,000 shall be for official reception and representation expenses.

Tax Law Enforcement

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt identification, referral and settlement; compiling statistics of income and conducting compliance research; funding essential earned income tax credit compliance and error reduction initiatives; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $4,221,408,000, of which not to exceed $1,000,000 shall remain available until September 30, 2006, for research, and of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997 (Public Law 105–33).

Information Systems

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,628,739,000, of which $165,000,000 shall remain available until September 30, 2005.

Business Systems Modernization

For necessary expenses of the Internal Revenue Service, $429,000,000, to remain available until September 30, 2006, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That none of these funds may be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11 part 3; (2) complies with the Internal Revenue Service's enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service's enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the General Accounting Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

Health Insurance Tax Credit Administration

For expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002 (Public Law 107–210), $35,000,000, to remain available until September 30, 2005.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 201. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 202. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 203. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 204. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

SEC. 205. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 206. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices—Salaries and Expenses, Office of Inspector General, Financial Management Service, Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 207. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 208. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the $1 Federal Reserve note.

SEC. 209. The Secretary of the Treasury may transfer funds from "Salaries and Expenses", Financial Management Service, to the Debt Services Account as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such Salaries and Expenses account from debt collections received in the Debt Services Account.

SEC. 210. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 211. For fiscal year 2004 and each fiscal year thereafter, there are appropriated to the Secretary of the Treasury such sums as may be necessary to reimburse financial institutions in their capacity as depositaries and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or the Secretary's designee, to be performed by such financial institutions on behalf of the Department of the Treasury or other Federal agencies, including services rendered prior to fiscal year 2004.

PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES

SEC. 212. (a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect one day after the date of this bill's enactment.

TITLE III—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $65.521,000, of which $36,521,000 shall not be available for obligation until October 1, 2004: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2004.

TITLE IV—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $450,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $66,057,000: *Provided*, That $8,650,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $12,501,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $4,225,000, to remain available until expended, for required maintenance, safety and health issues, and continued preventative maintenance.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisors in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $4,000,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $4,109,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $9,000,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $82,826,000, of which $17,470,000 shall remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the Executive Office of the President.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109 and to carry out the provisions of chapter 35 of title 44, United States Code, $62,772,000, of which not to exceed $1,500 shall be available for official representation expenses: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs: *Provided further*, That none of the funds appropriated in this Act may be available to pay the salary or expenses of any employee of the Office of Management and Budget who, after February 15, 2003, calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.) as amended; not to exceed $10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, $28,790,000; of which $2,850,000 shall remain available until expended, consisting of $1,350,000 for policy research and evaluation, and $1,500,000 for the National Alliance for Model State Drug Laws: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.) as amended, $40,000,000, which shall remain available until expended, consisting of $18,000,000 for counternarcotics research and development projects, and $22,000,000 for the continued operation of the technology transfer program: *Provided*, That the $18,000,000 for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $226,350,000, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: *Provided*, That up to 49 percent, to remain available until September 30, 2005, may be transferred to Federal agencies and departments at a rate to be determined by the Director, of which not less than $2,100,000 shall be used for auditing services and associated activities, and at least $500,000 of the $2,100,000 shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program: *Provided further*, That High Intensity Drug Trafficking Areas Programs designated as of September 30, 2003, shall be funded at no less than the fiscal year 2003 initial allocation levels unless the Director submits to the Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas Programs, as well as published Office of National Drug Control Policy performance measures of effectiveness: *Provided further*, That no funds of an amount in excess of the fiscal year 2004 budget request shall be obligated prior to the approval of the Committee on Appropriations.

OTHER FEDERAL DRUG CONTROL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by (21 U.S.C. 1701 et seq.) as amended, $230,000,000, to remain available until expended, of which the following amounts are available as follows: $150,000,000 to support a national media campaign; $70,000,000 for a program of assistance and matching grants to local coalitions and other activities, as authorized in chapter 2 of the National Narcotics Leadership Act of 1988, as amended; $4,500,000 for the Counterdrug Intelligence Executive Secretariat; $2,000,000 for evaluations and research related to National Drug Control Program performance measures; $1,000,000 for the National Drug Court Institute; $1,500,000 for the United States Anti-Doping Agency for anti-doping activities; and $1,000,000 for the United States membership dues to the World Anti-Doping Agency: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the amounts appropriated for a national media campaign, no less than 77 percent shall be used for the purchase of advertising time and space for the national media campaign.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, $1,000,000.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, $4,461,000.

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, and to the extent not otherwise provided for, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $331,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

TITLE V—INDEPENDENT AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended $5,401,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses, to be available for the purpose of this account.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $76,679,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, $600,000, to remain available until expended: *Provided*, That these funds shall be available only to the extent necessary to restore the balance of the emergency fund to $2,000,000 (29 U.S.C. 1118 (b)).

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,725,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $50,440,000, of which no less than $6,389,900 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses.

ELECTION ASSISTANCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the Help America Vote Act of 2002, $5,000,000.

ELECTION REFORM PROGRAMS

For necessary expenses to carry out a program of requirements payments to States as authorized by Section 257 of the Help America Vote Act of 2002, $495,000,000: *Provided*, That no more that ⅒ of 1 percent of funds available for requirements payments under Section 257 of the Help America Vote Act of 2002 shall be allocated to any territory.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $29,611,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. 5901–5902, $18,471,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

(FEDERAL BUILDINGS FUND)

(LIMITATIONS ON AVAILABILITY OF REVENUE)

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in, and to be used for the purposes of, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), $247,350,000. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $6,557,518,000, of which: (1) $406,168,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:
California:
San Diego, Border Station, $34,211,000
Georgia:
Atlanta, Tuttle Building Annex, $10,600,000
Maine:
Jackman, Border Station, $7,712,000
Maryland:
Suitland, United States Census Bureau, $146,451,000
Michigan:
Detroit, Ambassador Bridge Border Station, $25,387,000
New York:
Champlain, Border Station, $31,031,000
Texas:
Del Rio, Border Station, $23,966,000
Eagle Pass, Border Station, $31,980,000
Houston, Federal Bureau of Investigation, $58,080,000
McAllen, Border Station, $17,938,000
Washington:
Blaine, Border Station, $9,812,000

Nonprospectus Construction, $9,000,000:

Provided, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2005, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) $1,010,454,000 shall remain available until expended for repairs and alterations, which includes associated design and construction services:

Colorado:
Denver, Byron G. Rogers Federal Building—Courthouse, $39,436,000
District of Columbia:
320 First Street, $7,485,000
Eisenhower Executive Office Building, $65,757,000
Federal Office Building 8, $134,872,000
Main Interior Building, $15,603,000
Fire & Life Safety, $68,188,000
Georgia:
Atlanta, Richard B. Russell Federal Building, $32,173,000
Illinois:
Chicago, Dirksen Courthouse & Kluczynski Federal Building, $24,056,000
Springfield, Paul H. Findley Federal Building—Courthouse, $6,183,000
Massachusetts:
Boston, John W. McCormack Post Office and Courthouse, $73,037,000
New York:
Brooklyn, Emanuel Celler Courthouse, $65,511,000
North Dakota:
Fargo, Federal Building—Post Office, $5,801,000
Ohio:
Columbus, John W. Bricker Federal Building, $10,707,000
Washington:
Auburn, Building 7, Auburn Federal Building, $18,315,000
Seattle, Henry M. Jackson Federal Building, $6,868,000
Special Emphasis Programs:
Chlorofluorocarbons Program, $5,000,000
Energy Program, $5,000,000
Glass Fragmentation Program, $20,000,000
Design Program, $41,462,000
Basic Repairs and Alterations, $365,000,000:

Provided further, That of the funds provided in this Act for the repair of the Eisenhower Executive Office Building, $30,757,000 is not available for obligation until 15 days after the Executive Office of the President submits a report to the Committees on Appropriations regarding the use of non-Federal funding in renovation and furnishing efforts for the Eisenhower Executive Office Building: *Provided further*, That funds made available in any previous Act in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project in any previous Act may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for "Repairs and Alterations" may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2005 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) $169,745,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $3,308,187,000 for rental of space which shall remain available until expended; and (5) $1,608,708,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592(b)(2)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2004, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) in excess of $6,557,518,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

General Activities

GOVERNMENTWIDE POLICY

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology management, and related technology activities; and services as authorized by 5 U.S.C. 3109, $56,383,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; telecommunications, information technology management, and related technology activities; providing Internet access to Federal information and services; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $7,500 for official reception and representation expenses, $79,110,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $39,169,000: *Provided*, That not to exceed $15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ELECTRONIC GOVERNMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods, $1,000,000, to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not be made until 10 days after a proposed spending plan and justification for each project to be undertaken has been submitted to the Committees on Appropriations.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $3,393,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

General Provisions—General Services Administration

SEC. 501. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 502. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 503. Funds in the Federal Buildings Fund made available for fiscal year 2004 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 504. No funds made available by this Act shall be used to transmit a fiscal year 2005 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2005 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 505. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 506. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) and sections 5124(b) and 5128 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1424(b) and 1428), for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 507. From funds made available under the heading "Federal Buildings Fund, Limitations on Availability of Revenue", claims against the Government of less than $250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 508. None of the funds in this Act may be used by the General Services Administration to develop or implement a mandatory system without exceptions that requires agencies government-wide to use a specific electronic travel solution or the eTravel Service: *Provided*, That this section shall also apply to the Department of Transportation in any development of electronic travel solutions for its modal administrations.

SEC. 509. (a) The Administrator of General Services shall carry out the authority of the Election Assistance Commission to make election assistance payments under subtitle D of title II of the Help America Vote Act of 2002, including the authority under such subtitle to receive statements and applications from entities seeking such payments and reports from entities receiving such payments.

(b) The authority of the Administrator of General Services under subsection (a) shall apply with respect to amounts appropriated for fiscal year 2004 and amounts appropriated for fiscal year 2003 which remain unobligated and unexpended at the end of fiscal year 2003, except that this authority shall expire upon the earlier of—

(1) the expiration of the 3-month period which begins on the date on which all members of the Election Assistance Commission are appointed; or

(2) June 30, 2004.

(c) Upon the appointment of all members of the Election Assistance Commission, the Administrator of General Services shall transmit to the Commission all statements, applications, and reports received by the Administrator in carrying out this section.

SEC. 510. None of the funds made available in this Act may be used by the General Services Administration to establish a quick response team processing center on East Brainerd Road in Chattanooga, Tennessee.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $32,877,000, together with not to exceed $2,626,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund, pursuant to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), $1,300,000, to remain available until expended of which $100,000 shall be used to conduct financial audits pursuant to the Accountability of Tax Dollars Act of 2002 (Public Law 107–289) notwithstanding sections 8 and 9 of Public Law 102–259: *Provided*, That up to 70 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, $1,300,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives and Records Administration (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $255,191,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings: *Provided further*, That, of the funds provided in this paragraph, $600,000 shall be for the preservation of the records of the Freedmen's Bureau.

ELECTRONIC RECORDS ARCHIVE

For necessary expenses in connection with the development of an electronic records archive, to include all direct project costs associated with research, analysis, design, development, and program management, $35,914,000, of which $22,000,000 shall remain available until September 30, 2006.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $6,458,000, to remain available until expended, of which $500,000 is for the Military Personnel Records Center requirements study.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $10,000,000, to remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $10,738,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $119,498,000, of which $2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, $2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery, and $2,500,000 shall remain available through September 30, 2005 to coordinate and conduct program evaluation and performance measurement; and in addition $126,854,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which $27,640,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), 8909(g), and 9004(f)(1)(A) and (2)(A) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining

Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2004, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $1,498,000, and in addition, not to exceed $14,427,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

HUMAN CAPITAL PERFORMANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For a human capital performance fund, $2,500,000: *Provided*, That such amount shall not be available for obligation or transfer until enactment of legislation that establishes a human capital performance fund within the Office of Personnel Management: *Provided further*, That such amounts as determined by the Director of the Office of Personnel Management may be transferred to federal agencies to carry out the purposes of this fund as authorized: *Provided further*, That no funds shall be available for obligation or transfer to any federal agency until the Director has notified the relevant subcommittees of jurisdiction of the Committees on Appropriations of the approval of a performance pay plan for that agency, and the prior approval of such subcommittees has been attained.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), as amended, the Whistleblower Protection Act of 1989 (Public Law 101–12), as amended, Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $13,504,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $40,187,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

For necessary expenses of the White House Commission on the National Moment of Remembrance, $250,000.

TITLE VI—GENERAL PROVISIONS

THIS ACT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 601. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 602. Such sums as may be necessary for fiscal year 2004 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 603. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 604. None of the funds in this Act shall be available for salaries and expenses of more than 110 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 605. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 606. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 607. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 608. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 609. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), no department or agency shall withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 610. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 611. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 612. None of the funds in title I of this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than 3 full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 613. For the purpose of any applicable law, for fiscal year 2004, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City Transportation Management Area.

SEC. 614. None of the funds in this Act may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 615. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 616. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 617. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*, That for purposes of this section, the term "improper payments," has the same meaning as that provided in section 2(d)(2) of Public Law 107–300.

SEC. 618. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from "Office of the Secretary, Salaries and expenses" to "Minority Business Outreach".

SEC. 619. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 620. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 621. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 622. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2004 from appropriations made available for salaries and expenses for fiscal year 2004 in this Act, shall remain available through September 30, 2005, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 623. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 624. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 625. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 626. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions.

SEC. 627. The provision of section 626 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 628. For the purpose of assisting State-supported intercity rail service, in order to demonstrate whether competition will provide higher quality rail passenger service at reasonable prices, the Secretary of Transportation, working with affected States, shall develop and implement a procedure for fair competitive bidding by Amtrak and non-Amtrak operators for State-supported routes: *Provided*, That in the event a State desires to select or selects a non-Amtrak operator for the route, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the non-Amtrak operator to provide the State-supported service: *Provided further*, That if the parties cannot agree on terms, the Secretary shall, as a condition of receipt of Federal grant funds, order that the facilities and equipment be made available and the services be provided by Amtrak under reasonable terms and compensation: *Provided further*, That when prescribing reasonable compensation to Amtrak, the Secretary shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services: *Provided further*, That the Secretary may reprogram up to $5,000,000 from the Amtrak operating grant funds for costs associated with the implementation of the fair bid procedure and demonstration of competition under this section.

SEC. 629. None of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates a new program;

(2) eliminates a program, project, or activity;

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress;

(4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose;

(5) augments existing programs, projects, or activities in excess of $5,000,000 or 10 percent, whichever is less; or

(6) reduces existing programs, projects, or activities by 10 percent—

unless the House and Senate Committees on Appropriations are notified at least 15 days in advance of such reprogramming.

SEC. 630. None of the funds made available in this Act may be used to require a State or local government to post a traffic control device or variable message sign, or any other type of traffic warning sign, in a language other than English, except with respect to the names of cities, streets, places, events, or signs related to an international border.

SEC. 631. EXEMPTION FROM LIMITATIONS ON PROCUREMENT OF FOREIGN INFORMATION TECHNOLOGY THAT IS A COMMERCIAL ITEM.—(a) EXEMPTION.—Notwithstanding any other provision of law, in order to promote Government access to commercial information technology, the restriction on purchasing nondomestic articles, materials, and supplies set forth in the Buy American Act (41 U.S.C. 10a et seq.), and the prohibition on acquiring foreign products under section 302(a)(1) of the Trade Agreements Act of 1979 (Public Law 96–39; 19 U.S.C. 2512(a)(1)), shall not apply to the acquisition by the Federal Government of information technology (as defined in section 11101 of title 40, United States Code, that is a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(b) DEFINITION.—Section 11101(6) of title 40, United States Code, is amended—

(1) in subparagraph (A), by inserting after "storage," the following: "analysis, evaluation,"; and

(2) in subparagraph (B), by striking "ancillary equipment," and inserting "ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer,".

SEC. 632. It is the sense of the House of Representatives that empowerment zones within cities should have the necessary flexibility to expand to include relevant communities so that empowerment zone benefits are equitably distributed.

SEC. 633. It is the sense of the House of Representatives that all census tracts contained in an empowerment zone, either fully or partially, should be equitably accorded the same benefits.

SEC. 634. None of the funds made available in this Act may be used to finalize, implement, administer, or enforce—

(1) the proposed rule relating to the determination that real estate brokerage is an activity that is financial in nature or incidental to a financial activity published in

the Federal Register on January 3, 2001 (66 Fed. Reg. 307 et seq.); or

(2) the revision proposed in such rule to section 1501.2 of title 12 of the Code of Federal Regulations.

SEC. 635. It is the sense of Congress that, after proper documentation, justification, and review, the Department of Transportation should consider programs to reimburse general aviation ground support services at Ronald Reagan Washington National Airport, and airports located within fifteen miles of Ronald Reagan Washington National Airport, for their financial losses due to Government actions after the terrorist attacks of September 11, 2001.

SEC. 636. It is the sense of the House of Representatives that public private partnerships (PPPs) could help eliminate some of the cost drivers behind complex, capital-intensive highway and transit projects. The House of Representatives encourages the Secretary of Transportation to apply available funds to select projects that are in the development phase, eligible under title 23 and title 49, United States Code, except 23 U.S.C. 133(b)(8), and that employ a PPP strategy.

TITLE VII—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 701. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 702. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2004 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 703. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 704. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 705. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 706. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 707. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 708. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 709. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 710. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 711. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 712. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 713. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2004, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by the comparable section for the previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2004, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

(2) during the period consisting of the remainder of fiscal year 2004, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2004 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2004 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2003, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2003, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2003.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 714. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 715. Notwithstanding section 1346 of title 31, United States Code, or section 710 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 716. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 717. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 718. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 719. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 720. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.": *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 721. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 722. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 723. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 724. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 725. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties: *Provided*, That in this section the term "agency"—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

SEC. 726. Notwithstanding 31 U.S.C. 1346 and section 710 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of $800,000 including the salary of the Executive Director and staff support.

SEC. 727. Notwithstanding 31 U.S.C. 1346 and section 710 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse the "Governmentwide Policy" account, General Services Administration, with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts. These funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, and the Procurement Executives Council for procurement initiatives). The total funds transferred or reimbursed shall not exceed $17,000,000. Such transfers or reimbursements may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

SEC. 728. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 729. Nothwithstanding section 1346 of title 31, United States Code, or section 710 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 730. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided. This provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 731. Subsection (f) of section 403 of Public Law 103-356 (31 U.S.C. 501 note) is amended by striking "October 1, 2001" and inserting "October 1, 2004".

SEC. 732. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF PERSONAL INFORMATION ON USE OF INTERNET.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to the rendition of the Internet site services or to the protection of the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "regulatory" means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term "supervisory" means examinations of the agency's supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 733. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO; and

(B) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 734. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.

SEC. 735. Not later than 6 months after the date of enactment of this Act, the Inspector General of each applicable department or agency shall submit to the Committee on Appropriations a report detailing what policies and procedures are in place for each department or agency to give first priority to the location of new offices and other facilities in rural areas, as directed by the Rural Development Act of 1972.

SEC. 736. Each Executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government travel charge card. The department or agency may not issue a government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to (a) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card, or (b) an individual who lacks a credit history. Each Executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct.

SEC. 737. Notwithstanding section 1346 of title 31, United States Code, or section 710 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of the National Oceanographic Partnership Program Office, authorized by 10 U.S.C. 7902, and the Coastal America program, which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Department of Commerce shall provide a report describing the budget of and resources connected with the National Oceanographic Partnership Program Office and the Coastal America program to the House and Senate Committees on Appropriations, the House Committee on Science, and the Senate Committee on Commerce, Science, and Transportation, 90 days after the enactment of this Act.

SEC. 738. Section 640(c) of the Treasury and General Government Appropriations Act, 2000 (Public Law 106–58; 2 U.S.C. 437g note 1), as amended by section 642 of the Treasury and General Government Appropriations Act, 2002 (Public Law 107–67), is amended by striking "December 31, 2003" and inserting "December 31, 2005".

SEC. 739. Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended as follows:

(1) in clauses (a)(2)(A)(i) and (a)(4)(A)(ii) by striking the parenthetical "(or posted by registered or certified mail no later than the 15th day before)" and inserting in its place, "(or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before)"; and

(2) by striking paragraph (a)(5) and inserting in its place,

"(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii) or subsection (g)(1)) is sent by registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, the United States postmark shall be considered the date of filing the designation, report or statement. If a designation, report or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1)) is sent by an overnight delivery service with an on-line tracking system, the date on the proof of delivery to the delivery service shall be considered the date of filing of the designation, report, or statement.".

SEC. 740. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2004 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 4.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2004.

(b) Notwithstanding section 713 of this Act, the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2004 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as "Rest of US" pursuant to section 5304 of title 5 for purposes of this paragraph.

(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2004.

SEC. 741. Not later than December 31 of each year, the head of each agency shall submit to Congress a report on the competitive sourcing activities performed during the previous fiscal year by Federal Government sources that are on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note). The report shall include—

(1) the number of full time equivalent Federal employees studied for competitive sourcing;

(2) the total agency cost required to carry out its competitive sourcing program;

(3) the costs attributable to paying outside consultants and contractors to carry out the agency's competitive sourcing program;

(4) the costs attributable to paying agency personnel to carry out its competitive sourcing program; and

(5) an estimate of the savings attributed as a result of the agency competitive sourcing program.

POINTS OF ORDER

Mr. MICA. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I make a point of order against section 164 which begins on page 53, line 3 and ends on page 54, line 12. This section amends the Buy America requirements for transit capital purchases of steel, iron, manufactured goods, and rolling stock. The amendments made by section 164 are meant to strengthen Buy America, but the Department of Transportation analysis has determined that there will be serious unintended consequences that will significantly slow the purchase and construction of transit system components and systems and also will result in more foreign-made products being purchased by transit agencies. This provision is legislative in nature and also in violation of rule XXI.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and this section is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 212 on the grounds that the section changes existing law in violation of clause 2(b) of House rule XXI and is therefore legislation included in a general appropriations bill.

The CHAIRMAN. Do any Members wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and this section is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 621. This section changes existing law in violation of clause 2(b) of House rule XXI and is therefore legislation included in a general appropriations bill.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede that point of order.

The CHAIRMAN. The point of order is conceded and sustained, and that section is stricken from the bill.

Mr. BRADY of Texas. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BRADY of Texas. Mr. Chairman, I raise a point of order against the words "notwithstanding any other provision of law" on page 126, lines 15 and 16, and beginning with the words "the prohibition" on page 126, line 20 through "2512(a)(1)" on line 23 on the grounds that this provision violates clause 2(b) of House rule XXI because it is legislation included in a general appropriations bill.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. ISTOOK. Mr. Chairman, we would concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained and the language is stricken from the bill.

AMENDMENT OFFERED BY MR. COOPER

Mr. COOPER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COOPER:

Page 67, line 23, after the first dollar amount insert "(reduced by $75,000,000) (increased by $75,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Tennessee (Mr. COOPER) and a Member opposed will each control 30 minutes.

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Oklahoma (Mr. ISTOOK) will control the time in opposition.

The proponent of the amendment, the gentleman from Tennessee (Mr. COOPER), is recognized for 30 minutes in support of his amendment.

Mr. COOPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of the amendment that I am offering tonight along with the distinguished gentlewoman from Michigan (Ms. KILPATRICK) and the gentlewoman from Connecticut (Ms. DELAURO) is to decrease funding for very ill-considered and heavy-handed IRS enforcement effort that tries to precertify working poor families for the earned income tax credit or the EITC.

The amendment we are proposing will reduce funding by $75 million for the IRS's precertification proposal and it would in turn increase funding by $75 million for investigation and audit of large and mid-size corporations. The amendment would continue to allow $25 million for implementation of the precertification program.

I certainly understand the Treasury's concerns about high error rates associated with the EITC. And as a proponent of good government, I am eager to reduce any waste, fraud or abuse in government. But the Treasury's proposal will create, probably, an even more burdensome bureaucracy than they realize, and it is a clumsy and heavy-handed attack on the poor.

Even the IRS realizes this because in a recent announcement they decided to delay and decrease their precertification program. EITC compliance accounts for about 3 percent of the estimated total taxes that go uncollected, about 3 percent. But in contrast, according to the General Accounting Office, individuals who under report business income on their taxes are defrauding the government by about $40 billion a year or about 12 percent of uncollected taxes, more than the cost of the entire EITC program. Yet, guess what? There is no major effort to target these taxpayers even though it is a much larger amount.

I suggest we follow the Willie Sutton rule, the famous bank robber, who when asked why he robbed banks, he said, "That's where the money is."

Instead, the IRS has requested a 68.5 percent increase in EITC enforcement while barely increasing their other enforcement efforts. In my mind, this represents a gross misallocation of resources, especially in view of declining overall tax enforcement by the IRS.

I am willing to bet that the administrative costs of precertification will far outstrip any potential savings, especially if the IRS goes forward with the plans to eventually expand the precertification process to as many as two million taxpayers. That is why our amendment would direct $75 million toward much more sensible and cost-effective compliance efforts, where the money is, toward auditing and investigating mid-size and large corporations. Because according to the IRS, 7,000 corporations that should be audited every year are not. This translates into a direct loss to the Treasury of $6.5 billion a year in tax revenues.

Moreover, according to a recent report by former IRS Commissioner Rossotti, the IRS lacks the resources to carry out nearly a third of the corporate audits it should be accomplishing each year.

So why is the administration focusing on the few dollars of poor working families under the EITC and not on the big dollars of these companies? Why is the U.S. Government trying to make this vital tax credit so hard to claim? I am afraid the real IRS motive may not be just a desire to curb waste, fraud and abuse. It may be gross insensitivity to the needs of working poor families, simple hard-heartedness and lack of compassion for these hard-pressed American families.

In the national metropolitan area which makes up the heart of my congressional district, approximately 14 percent of my constituents rely on the EITC every year, receiving a credit of about $1,500. In total, this credit puts about $87 million a year into these families and into the national economy. Nationally, the EITC is directly responsible for lifting some four million people every year above the poverty line, including two million children. Precertification programs, as proposed by the IRS, will discourage many of these families from even applying for the EITC.

Under the precertification proposal, the IRS now says it will now want to prove that children claimed under the credit have been living with the claiming taxpayer for the required six months. The practical obstacles posed by this requirement are mind boggling. Although the IRS would allow a landlord or property manager to submit an affidavit, what landlords would testify on penalty of perjury to the intimate living arrangements of their tenants? Neighbors and relatives who are, in fact, in the best position to know these arrangements, are forbidden under the IRS approach from providing supporting documentation.

I also object to the discriminatory treatment of lower income tax payers that would result from precertification. For those subject to the process of precertification, this effectively means a 100 percent chance of audit in advance of even filing your tax return. No other taxpayers in America face a comparable burden. Why is the IRS not also demanding precertification for taxpayers claiming credits for dependent care expenses, educational expenses, or charitable contributions? There is significant evidence that these credits are a widespread source of exaggeration and noncompliance and abuse, yet no one is requiring these other taxpayers to file receipts in advance for day care expenses or donations of such things as used automobiles or clothing.

I fear that rather than reducing errors, the IRS proposal would, in fact, intimidate people into not using the EITC at all, and that would be a severe injustice to these people.

Mr. Chairman, I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, people are easily confused about what we are talking about here. And it is a very strange amendment that is being offered because, frankly, the amendment does not really do anything. It is an opportunity for people to get up and speak, but I will read, Mr. Chairman, what the text of the amendment says. It says: Take the dollar amount on page 67, line 23 and first reduce it by $75 million and then increase it by $75 million.

□ 1930

Well, the net effect of that is zero. The amendment makes no change in the amount of the money in the bill for the IRS to enforce the tax laws. No change whatsoever. It is simply an opportunity for people to get up and talk about it.

It deserves to be opposed as something that is senseless and, for that matter, that blocks reform. Because although it is labeled as a, quote, tax credit, the EITC, earned income tax credit, is not a tax credit program. It is an assistance program designed for people with low income that says you tell us how much you made, and if it is not enough we are going to send you a check. It is a public assistance program.

Now, any other public assistance program, you have to go through a process of showing that you are eligible. If you want food stamps, you go through a process to be certified that you are eligible for it. If you want housing subsidies, you go through a process to be certified that before you get this money from taxpayers that you are actually eligible for it, you qualify. If you want temporary assistance to needy families, you are certified in advance as being eligible.

The big problem with the EITC is it is a public assistance program where there is no oversight. There are 19 million, let me repeat that figure, 19 million Americans each year that file an income tax return and say send me a check, I claim this. It is not a tax refund. It is a check over and beyond whatever you may have paid in in your income taxes.

And it has been proven over the years that a fourth to a third of all those claims are for people who do not qualify. It is costing taxpayers $10 billion a year. That is not small change.

That is not harassing people as the gentleman from Tennessee (Mr. COOPER) I believe represented. That is saying if we are going to have $35 billion and $10 billion of it goes to people who do not qualify under the program going out of the Treasury, not a refund, not getting a refund for taxes you paid in, but a form of public assistance, maybe we ought to pay attention to whether people are actually eligible before we spend this much money.

The program that the IRS is putting into place will not affect 80 percent of these 19 million people, but it is targeted to those that the IRS has reason to believe are the ones that are most likely to be part of that $10 billion a year that we are paying out that should not be paid out.

We are saying we need you to do some verification to show to us that you are entitled to this taxpayer money just the same as you would do if you are asking for a government check for anything else. That is not burdensome. That is not too much.

It really bothers me to hear the way that some of this rhetoric is being tossed about as though we are picking on people. No. People want the government to give them the check. If they qualify under the government program, then they have it coming. But they would not say I am just going to walk in off the street and say I ought to get food stamps, and that is it, and nobody ever checks to see if you are eligible.

That is why we have this error rate, because we do not have anybody checking up on it. The IRS is trying to establish a system for the first time of doing some checking on this.

Some people are more concerned about shoveling money out of the Federal Treasury faster, rather than saying we ought to be good stewards and prudent watchdogs of the taxpayers' money. That is all the IRS has tried to put into place.

It really is rather silly to say that somehow we are even talking about or addressing this situation with an amendment that says add $75 million to this tax enforcement program and then take $75 million of it away. It is a wash. It does nothing.

The IRS is trying to do something. It is trying to be good stewards of our money. And it is not only going after the people in the EITC that are not eligible for it, it is going after the corporate scofflaws. It is going after the big businesses or small businesses or whatever they may be that are not being honest in how they file with the IRS and treat their taxes.

The provision of the bill that we are talking about on page 67 makes it clear that this overall figure is for necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns, collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt identification, referral and settlement; compiling statistics of income and conducting compliance research; funding essential earned income tax credit compliance and error reduction initiatives and services as authorized by law. All of these, one big catch-all figure.

The gentleman has not singled out in his amendment the earned income tax initiative or compliance of it. He has taken all of the enforcement activities of the IRS, a $4.2 billion account, and said from that $4.2 billion, subtract $75 million and then add $75 million. Total net change, zero.

The amendment does not do what the gentleman has represented that it would do because it is not specific to EITC, but furthermore, the IRS needs to be going forward with this enforcement program. Those that say the government should send me a check above and beyond what may be a refund on my income taxes, they should have a little bit of burden of proof when the IRS says they ought to substantiate this; they ought to show something so that we can separate the honest people from the dishonest people that are costing taxpayers $10 billion a year.

Mr. Chairman, I reserve the balance of my time.

Mr. COOPER. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from Oklahoma has been quite unfair in his characterization, first in the nature of the amendment. We drafted this with the advice of the Parliamentarian as the only way to affect this important area in the bill without being subject to a point of order. I think the gentleman really thinks a more explicit amendment would have been subject to a point of order, which is exactly what the gentleman from Oklahoma would have preferred.

Second point, picking on poor people. If my colleague is going to do it, at least be fair about it. Remember, under this bill we would still allow $25 million to be spent to implement the IRS precertification. Remember, again, that even the IRS has admitted that their prior efforts have gone too far because they, IRS, on their own initiative has delayed and canceled their program because even they have realized they were insensitive to the needs of these families.

Another mischaracterization, the program was put into place, as I recall, years ago before my time by a Republican President, and I think it was Richard Nixon, because he and many Americans realized the detrimental effect of a high marginal rate of taxation. As a person works and moves out of poverty, they are subject to an extraordinarily high and punitive tax rate. The EITC is designed to bring that back to a decent, bearable level for these hardworking families.

So it is basically a Republican program we are talking about here. No one wants it to be abused. But I would suggest to the gentleman that there are other, fairer ways to police this program, and guess what, this and prior Congresses have already thought up several of them because, guess what, the study that the gentleman cited about waste or abuse in the program is from a 1999 study, and this Congress has already implemented several reforms to improve administration of this program. No study has been conducted since 1999. So let us at least find out the true facts before we jump to conclusions, especially when at the same time we are jumping on the backs of the poor.

This is an important opportunity to balance IRS enforcement, to allow the IRS to go where the money really is. As I mentioned, the average recipient in my district, at least of this money, gets $1,500. There are many other places the IRS could go to really retrieve big dollars for the taxpayer. The IRS has listed them. We are allowing $75 million to go help the IRS in these efforts while we still preserve $25 million for this precertification program.

So if the gentleman were more careful with his facts and more sensitive to the needs of the working poor, he would not simply dismiss this as a public assistance program. This is an example, if my colleague wants to use it, of compassionate conservatism, but unfortunately in this Congress we are seeing very little compassion.

Let us have some compassion for the working poor, and this amendment is an opportunity to show it.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I thank my colleague very much for bringing forth this very well-thought-out amendment in the time that we have, and I do know that he worked with the Parliamentarian to make it germane.

Let me back up just a moment here before I get started. In the early seventies when the earned income tax credit was started, it was a Republican initiative, and the reason they put it forth and it was adopted is because they said if we give people who earn income, low income, I might tell my colleagues, with children, $34,600 and less, with children, if they will remain working, we will give them an earned income tax credit so that they can keep working and not go onto the welfare rolls. That was the reason for the earned income tax credit as it passed this Congress in the early seventies by Republican initiatives, and I think it was good then and it is certainly good now.

As the gentleman from Tennessee (Mr. COOPER) states, this is a hit at those who can least afford it. Statistics show that this may recoup some $9 billion, and we need to go back for that. We need to go and look for the $9 billion for those people who have used the earned income tax credit and are not to get it, that they do not take that from the Treasury. We do need to go back on that, and I think we all feel that.

We also ought to go after the $132 billion that individual taxpayers cheat on their tax forms with. We also need to go for the $70 billion that offshore corporations steal from our Federal Government, and we also need to go for the $46 billion that corporations cheat our Federal Government for.

Our point is that in this budget, where I am proud to serve as a member of the Subcommittee on Transportation, Treasury and Independent Agencies with my esteemed chairman and ranking member, $100 million is allowed to go after 45,000 low-income people who work every day and earn less than $34,000 with children, one or more children. Why not go back where the money is?

We have got the biggest deficit our country has ever seen. We need to go back and recoup some of that money. I am standing here in the well of the House tonight to tell my colleagues that money, yes, go get it from those people from the earned income tax credit who are cheating our government; but, more importantly, go after the big corporations, those offshore corporations and other high income and other individuals who cheat our country. This is not the time to again put a black eye and to go after those families who are working every day trying to raise their children. The earned income tax credit is a great program, and we ought not go after it to decimate it.

So what our amendment says is of the $100 million that has been appropriated in this budget, leave $25 million there and go after them, try to find those low-income people who are using the system to cheat our government. We hope that we find them. But with the $75 million that is left of the $100 million, go after the offshore corporations who cheat our country, over $170 billion worth. Go after those corporations who cheat our citizens out of $46 billion. So we want to make it even. Go after those in the earned income tax credit who may be making those claims, and not justifiably, appropriately, for them.

This line in our budget, enforcement compliance in the EITC has increased 68 percent over last year's budget. Do we need to increase it that much or should we go after where the big money is? That is all the Congressman is doing, and I surely support the Congressman and commend him for bringing the amendment forward. I am happy to be a cosponsor with it.

The working poor deserve our support during these difficult times. Many of the working poor have sons and daughters who are fighting offshore. I have some of those in my district. I want to try to help them keep their families together, keep their children safe. And the EITC is just one small thing that this government gives them so that they continue to work, yes, many times with no health insurance, earning less than $35,000 a year, raising their families so that they do not go on welfare.

□ 1945

Of course we can do this, and we offer this amendment to say work with the low-income families. They are not asking for a handout. They just need a hand. And we are the Congress that can do that for them. So I support the gentleman from Tennessee (Mr. COOPER). I think he has done an outstanding job here. I am proud to be a cosponsor. Let us go after the big cheats. That is what that $75 million is there for.

All of us want to encourage policies that encourage tax compliance among tax filers, but we know 100 percent compliance is impossible to obtain. Part of the problem is that the IRS does not have the resources to perform the investigations and audits in just about all filing categories.

However, over the years Congress has concentrated its emphasis on tax compliance efforts at the working poor. None of us wants to encourage tax scofflaws, but focusing greater tax compliance solely on the working poor who qualify for the earned income tax credit demonstrates the mistaken tax priorities of this administration.

Former IRS Commissioner Charles Rossotti has offered the estimate that the IRS assesses almost $30 billion of taxes that is cannot collect because of tax fraud. That is a big problem, especially when our government is going to generate a budget deficit of $480 billion and possibly even more by the end of the fiscal year.

This bill provides more money for increase tax compliance efforts. But where does it focus its efforts at greater tax compliance: fraud and mistakes in the Earned Income Tax Credit Program. The administration is shocked by that the EITC has an error rate that is estimated between 27 and 32 percent. According to the IRS, the avoidance costs amount to $7.8 billion or 2.8 percent of the tax compliance problem. Now that's going after the big bucks.

If you looked at the tax compliance mandate contained in this, you would come away with the impression that the working poor are the number one tax scofflaw problem facing the nation. This bill increases provides $100 million in the EITC enforcement budget, over a 68.percent increase. Never mind the fact that 56 percent of the non-compliant taxpayers have incomes in excess of $100,000, and yet they are in the income category that is less likely to be audited.

Simply put, the tax compliance priorities contained in this bill is a misallocation of funds.

The Cooper, DeLauro, Kilpatrick amendment scales back the EITC precertification pilot program to $25 million and intends to restore greater balance in our tax compliance efforts by making more money available for investigating and auditing large and medium sized businesses. That's where the money is. That's where the greater incidence of tax cheating occurs.

The amendment allows the IRS to move forward with the precertification program, but it also encourages the IRS to go after the big tax dodgers like major tax shelters such as corporate trusts, offshore accounts, other abusive corporate tax shelters.

This amendment says let's go after tax cheats poor and rich, and represents a departure from the administration's policy of increasing the tax burden on the poor.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume.

The error rate we are discussing regarding the EITC is not an old number. This was something that a special task force was formed within the IRS and the Treasury Department, and their most recent comprehensive survey was January of last year, January of 2002, where they established the EITC error rate is between 27 and 32 percent. If we compare that with other major social benefit programs, such as temporary assistance to needy families, food stamps, Social Security, disability, and Medicaid, they have the error rates below 10 percent, whereas the EITC error rate is 27 to 32 percent. Three times as many mistakes. Why? Because we do not have any checking up on people.

And we are not just checking up on this program. We have, in the IRS budget, an increase of $160 million going after upper-income taxpayers, people that may be scofflaws and trying to bend or twist or distort our tax laws. We are trying to go after this across the board, but we need to have verification and documentation for people that expect the taxpayers to be doing this for them.

Under the EITC, a person can receive a check from the Federal Treasury for as much as $4,204. That is above and beyond whatever they might or might not have paid in income taxes. On average, for these 19 million people, on average they receive $1,705 above and beyond what they paid in income taxes. Is it asking too much for someone that expects the taxpayers to write them a check for an average of $1,700 to do a little bit of documentation in 20 percent of the cases to show that they actually qualify? That is not asking much.

In fact, it is not picking on the poor either, because more than a third, about 35 percent, more than a third of the EITC recipients exceed the poverty guidelines in their income. This is a program that goes beyond just helping the poor because it has become so easy for people to falsely or fraudulently, and, yes, sometimes mistakenly get this money from the Federal Treasury. We should not close the door on efforts to try to stop a wrongful outflow of $10 billion a year out of the Federal Treasury. We should oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. COOPER. Mr. Chairman, I yield myself such time as I may consume to note once again that my friend, the gentleman from Oklahoma, is being unfair. We are not trying to stop enforcement of EITC. We are trying to do it in a fair and balanced way so that the IRS can go after where the big money is as well as where the small money is.

And the gentleman is unfair as well because it is not just a little bit of paperwork. They have to find folks who will certify that their own children have been living with them for 6 months, and they disqualify relatives and neighbors and building managers. So who else can they turn to, people who do not know them? And under penalty of perjury, they want an absentee landlord to sign a piece of paper saying someone's kids have been living with them? Why not a simpler approach? Why not say, in the situation of a divorce or legal separation, why not go to the court and find out who has custody of the children and get a certificate there and make that work? That would be a simple, fair way to do it. But, no, the IRS has not chosen that path.

There are other simpler ways of solving this problem, and that is all that we ask. Even the IRS acknowledges that. That is why they have, on their own initiative, delayed and downsized their proposed program.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO), my good friend and colleague and cosponsor of this key amendment.

Ms. DELAURO. Mr. Chairman, I cannot tell you how proud I am to stand tonight with the gentleman from Tennessee (Mr. COOPER) and the gentlewoman from Michigan (Ms. KILPATRICK) to offer this amendment, which in essence just says let us redirect. It does not close any doors. Let us redirect some of the funds intended for the IRS's EITC precertification program to increase tax compliance for mid- and large corporations. In fact, what this new IRS rule is all about is creating a two-tiered tax enforcement system, one for high-income Americans and one for low-wage workers that is far more burdensome.

My colleague from Tennessee pointed out child care records, school records, medical records, leases, religious records, a letter on letterhead from a member of the clergy, child care providers, employers, health care providers, landlords, utility managers, third-party affidavits. That is what they are asking of low-wage workers. No other group of taxpayers has got to go through those kinds of gyrations.

But it is what we could anticipate. This is the same crowd that says no to a child tax credit for people who make $10,500 a year to $26,000 a year. They are workers, hard workers; they just happen to make low wages, so let us go after them. That is what this new rule is about. We know their problems with the EITC.

No one here is defending overclaims, but let us not forget a 2001 GAO report found that about 4.3 million eligible households did not claim the EITC in 1999. Overall, we know that every year we lose about $30 billion through underpayment of taxes. Only a very small proportion of this comes from the EITC. The vast majority is high-income earners and corporations. And it is worth repeating what my colleagues have said tonight. The estimate of taxes that the IRS says are avoided, evaded or not paid by individuals, $132 billion, offshore accounts $70 billion.

Let us remember offshore accounts. Only a few minutes ago on this floor the gentleman from Virginia got up and said we should not take up the issue of expatriates. These are companies that go offshore to avoid paying taxes then come back to the Federal Government to get contracts to further their own business interests. They do not want to discuss that. Seventy billion dollars is lost on taxes by those corporations who go offshore just specifically for the purpose of not paying taxes to the U.S. Government. Where is the task force, where is the task force that is going after that $70 billion? They do not want to go down that route.

Partnership investors. Thirty billion dollars is lost. The fact of the matter is that the number that my colleague uses of $10 billion is a 1999 number as well. There have been subsequent changes to the tax law that would reduce that. We are talking about $6.5 billion, yes, that undeserved EITC tax credits paid, nowhere near what individuals or offshore accounts do. The government loses $6.5 billion in direct tax revenue annually from mid- and large corporations not audited due to the fact that the IRS does not have enforcement dollars to go after them.

According to an end-of-term report by former IRS Commissioner Rossotti, the IRS lacks the resources to address 28 percent of the mid- and large corporation workload that should be accomplished each year. This amendment would begin to address that problem. It redirects $75 million of funding from the EITC precertification initiative towards the investigation of high-yielding tax compliance activities. It does not stop the EITC initiative from moving forward. It will provide $25 million for that program in addition to the $150 million that is already there to take a look at this issue.

It simply ensures, quite frankly, that we will focus our interests on the area that gives us more bang for the buck. None of us wants to see fraud go unpunished; but let us be fair, my friends. Let us not require the lowest-income Americans to meet precertification standards that no one else is required to meet while at the same time failing to crack down at all on fraud in businesses and higher-income taxpayers.

Support the Cooper-DeLauro-Kilpatrick amendment.

Mr. COOPER. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing this amendment forward.

I want to say something about this issue that has to do with the broader impact that it has on the people of my State of South Carolina. If you were to look at the fact that according to GAO about 3 percent of the estimated total taxes that go uncollected for noncompliance compares with the fact that the underreporting of business income for taxes in fraud are over $40 billion a year, which is around $10 billion a year more than the EITC program is all together. I think the program is around $31 billion. Now, if we were to look at this and take into account what kind of fraud is taking place, one of the things we are going to see is what was just talked about, and that is about $70 billion a year going to offshore companies.

I have a real problem with that because in my State one of the industries that the people who are eligible for the earned income tax credits, one of the categories of work that they have relied on for years, working in the textile and apparel industry, has gone offshore to the tune of 50 percent in South Carolina. Ten years ago we had 126,000 textile jobs in our State. Today, 63,000 textile jobs are going offshore. So not only do we see the money going offshore, we also see the jobs that these people have to rely upon going offshore.

So I think this is a very good amendment because it will work to help us focus protection.

Mr. COOPER. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER), the ranking member of the subcommittee.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of his amendment.

The IRS has started, has already started an earned income tax credit pilot program that will require 45,000 EITC recipients in the 2003 taxable year to precertify their eligibility before they can claim the tax credit. Without examining the results of that pilot and whatever impacts that precertification program would have on the participation in the program, and in fact the IRS has now slowed down their pilot project because of controversies it has raised, the IRS has included $100 million, and this budget includes that in their budget, so they can precertify not 45,000, but 2 million, households, and later increase that, ramp it up to 4 or 5 million households thereafter.

Under the IRS proposal, 25 to 30 percent of all low-income working families that receive the EITC would be subject to the precertification. Well, that sounds like being guilty until you can prove yourself innocent to me. Clearly, this money would be better spent investigating high-yielding audits of midsize and large corporations.

Let me remind my colleagues that the EITC is a tax credit program for the working poor, a program which former President Ronald Reagan called our most effective program to fight poverty. It is not a welfare program. No other group of tax filers is required to precertify 6 months before filing their taxes for tax credits and deductions.

□ 2000

We do not require precertification for families and individuals that claim the child tax credit, home mortgage deductions, student loan deductions, lifetime learning credits, or any other tax program. Why target the working poor? Well, there is no question we should reduce illegitimate payments in the EITC. The highest estimates peg EITC overpayments at between $8 and $10 billion. Those estimates do not even take into account the tax changes in 2001 which are expected to reduce the overpayments by at least $2 billion.

Finally, the alleged overpayments are a pittance compared to $132 billion in lost tax revenue for individuals, the $70 billion in lost tax revenue for offshore accounts, and the $46 billion in lost tax revenues for corporations. Again I ask, why target the working poor? Let us put our enforcement resources where we get the highest return. I urge an aye vote for the Cooper amendment.

Mr. COOPER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I remain concerned that the proposed funding for the EITC compliance activities will create an undue burden on our most vulnerable citizens. The bill includes $100 billion to make it more difficult for hard-working families with low incomes to apply for the credit. That does not sound to me like the opportunity of society which the majority party talks so long and often about.

If we must spend that much on EITC compliance, and all of us want to ensure that there is not fraud in the system, we agree on that. However, it would be better spent on hiring more customer service and assistant personnel to make sure that those who President Reagan thought ought to be helped were helped in a positive way by giving them a tax credit as opposed to a handout.

Statistics illustrate that the focus on low-income filers rather than higher-income filers may be unwarranted. Audit rates are not consistent for different income levels. On 4–27 the New York Times said 1 of every 175 individual tax returns was audited in 2002; 1 of every 64 EITC claimants was audited; but 1 of every 120 taxpayers with annual incomes over $100,000 was audited. In other words, we are doing one sixty-fourth in terms of poorer people, and we are doing half of that for wealthier people.

One in about every 400 partnerships were audited. Under the EITC precertification proposal, which is essentially a preaudit, between 1 out of every 4 to 8 EITC claimants would be audited.

That is a big expenditure for very small returns. Approximately 70 percent of all EITC claimants receive tax return assistance from commercial tax preparers. Among taxpayers with incomes above $100,000, the chance of being audited fell 26 percent last year to an all-time low, yet this group is most likely to have income that is easiest to hide.

The overwhelming majority of Americans, whether rich or poor, cooperate and are honest in filing their taxes; but clearly the people with the most income have the most incentive not to disclose income because they have the much greater savings, and in fact they have ways and means to hide it better.

Since 1996, the number of revenue agents has dropped by 14,949 to 11,752 in 2002. The number of collection revenue officers has dropped from 5,537 in 1996 to approximately 3,500 today.

What is the point of all this? The point is if we are going to put resources in, as the chairman has suggested, and I might say the chairman has had a focus on EITC since becoming the chairman, but it is ironic in my opinion that a party that talked about opportunity for hardworking Americans is being so hard on those hard-working Americans.

If there is fraud, we need to ferret it out; but we need to ferret it out whether you are making $10,000 or $100,000 or $1 million. And we ought to do it fairly, across the board, and not target the least among us.

Mr. COOPER. Mr. Chairman, I yield myself the balance of my time to close.

Mr. Chairman, if it is just a little bit of paperwork, if it is not much hassle, if it is easy to comply with precertification, then I would suggest that the gentleman from Oklahoma in the next Congress apply the same rulings and regulations to all of the other taxpayers in this country.

I think the gentleman will find that these paperwork requirements are indeed burdensome, unfair, and are indeed insensitive to the working poor, the folks we should be trying to help in this Congress, as they lift themselves out of poverty, using a Republican-borne program which has helped millions of Americans and their families escape the poverty trap, and it does so by allowing them to avoid the punitive marginal tax rates that the working poor face.

Mr. ISTOOK. Mr. Chairman, I yield myself such time as I may consume in closing.

Mr. Chairman, if someone wants taxpayer money to assist them with temporary assistance to needy families, they would fill out the paperwork and show they are eligible before they received it; 100 percent would go through that process.

If someone wants Social Security disability, for taxpayers to write a check for your disability, you would go through a precertification process 100 percent.

If someone wanted Medicaid, if they wanted food stamps, they would, 100 percent of the citizens that want that assistance, would go through a process in advance.

Here we have a program that on average writes a check of $1,700 beyond whatever they paid on their income taxes, writes a check on average for $1,700, and it goes out to 19 million Americans. And we are talking about saying maybe we ought to have at least a few thousand of them, of the people that are in the most questionable circumstances, go through a process of certification before they receive this taxpayers' money. And the $1,700 is an average. It goes up to $4,200.

Only a fraction of the people under this program will be put through a certification, but maybe if we had more people going through the process, we would not have this error rate of a fourth to a third of the applicants, $10 billion a year, getting money to which they are not entitled. That is 3 times the error rate of these programs where they put 100 percent of the applicants through a certification process.

We do not pick on people when we say they ought to show they are eligible before they ask for a check to be written out of the Treasury. We are not picking on anybody, and we are putting a lot more resources into going after the upper-income taxpayers. There is $4 billion for tax compliance efforts in this bill, and the other side of the aisle is complaining because we are spending a couple of hundred million on trying to keep $10 billion from walking out the door.

We are not talking about people who are failing to send income to the Treasury, we are talking about people who are getting a check from the United States Government. It is common sense. It is just common sense to say that we ought to be doing a better job of making sure that people are eligible. It is not imposing on people that have to go through a lot more onerous requirements for other social assistance programs than this is asking a small fraction of those 19 million of those people to go through. This is common sense.

And the amendment is saying well, we are going to reduce $75 million in this account and then add $75 million back in, and then claim they are accomplishing something. Talk about cosmetics, we do not need a cosmetic approach to this problem. We need a realistic approach to the problem. That is what the IRS is trying to do and that is why we are trying to help them do it.

Mr. Chairman, hardworking people do not want people who are not qualified taking some of their hard-earned money, $10 billion a year, out of the U.S. Treasury. I ask that this amendment be defeated.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SESSIONS). The question is on the amendment offered by the gentleman from Tennessee (Mr. COOPER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COOPER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Tennessee (Mr. COOPER) will be postponed.

Mr. OLVER. Mr. Chairman, I move to strike the last word.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I thank my colleague for giving me the opportunity to talk for a moment about the issue of corporate expatriates.

I would like to express a serious opposition to the point of order that was offered by the gentleman from Virginia earlier tonight which removed the corporate expatriates contracting ban from this bill. I would like to point out the hypocrisy of what my friends on the other side of the aisle are doing here this evening.

This is like deja vu for me. The same thing happened in June when we debated the homeland security appropriations bill. The Committee on Appropriations accepted my amendment by voice vote, only to turn around and use a legislative technicality to justify stripping it from the bill.

In fact, the gentleman from Florida (Chairman YOUNG), for whom I have the utmost respect, promised during the committee consideration that he would support protecting this amendment when it went to the Committee on Rules.

This amendment, let me just be honest, is a simple one; very, very simple. Quite frankly, some of what we are talking about here tonight would simply prohibit the Treasury Department from contracting with corporate expatriates. These are companies that operate here in the United States but they set up a shell corporation overseas for the express purpose of avoiding paying their taxes. They do not want to pay their taxes; and once again, we have not set up any kind of special task force within the IRS or anywhere else to investigate these folks. No one is doing that. It is the height of irony.

Even the IRS, the agency that we have been talking about here tonight, which is looking at low-income wage earners and enforcement of low-income wage earners and what they ought to be doing to pay their taxes and not take any taxpayer dollars without precertifying, the IRS, the agency charged with collecting taxes, has willingly contracted with a company that has moved overseas in an effort to avoid paying their taxes.

□ 2015

I think we have an obligation to address this issue. American companies, particularly those contracting with our government, ought to pay American taxes just like every citizen in this country. By this action, the Republican majority is once again demonstrating that they do not hold these same values.

Recent data show that corporate expatriates have actually increased the amount of Federal contracts they receive. Despite abandoning our country and costing our government $5 billion in lost tax revenue, corporate expatriates reaped $1.4 billion in Federal contracts last year alone. They do not pay their taxes; they go overseas and they get the largesse of the Federal Government to the tune of $1.4 billion, funds sorely needed particularly in the current fiscal climate. One example: While the committee has provided $900 million in funding for Amtrak, that funding level is far below the $1.8 billion requested by Amtrak and which is sorely needed to address a backlog of capital repairs. It is long past time that we stopped hiding behind procedural sleight-of-hand to disguise the fact that some in this body want to condone this practice.

I will not call for a vote at this time, but I want to make clear that this issue is not going to go away. It is time that we draw a line in the sand and tell these corporate expatriates that they will no longer be rewarded with government contracts for taking and putting their business overseas, expressly for the purpose of not paying taxes in the United States. Let us be honest about what we do in this body and who ought to be paying their taxes if they expect to reap the benefits of Federal contracts. Let us not go after low-wage workers and have this two-tiered enforcement practice and allow these folks to get away without paying their taxes and come back and get billions in taxpayers' dollars that we so earnestly do not want to allow to low-income wage workers but are willing to squander billions to those who care not to pay their taxes to the United States Government while they make their profits here.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. OLVER. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding. The gentlewoman from Connecticut is exactly correct. The chairman did state that he would ask the rule to protect the amendment. The chairman did just that in a written request to the Committee on Rules to protect all of the amendments adopted during the full committee markup.

So the gentlewoman is correct. The Committee on Rules chose not to agree with my request.

Ms. DELAURO. I thank the chairman for his efforts.

The CHAIRMAN pro tempore (Mr. SESSIONS). The time of the gentleman from Massachusetts (Mr. OLVER) has expired.

(By unanimous consent, Mr. OLVER was allowed to proceed for 30 additional seconds.)

Mr. OLVER. Mr. Chairman, I would just like to reiterate what had been said earlier today by my colleague from Massachusetts on this same point of the expatriate taxation, that what was won within the Committee on Appropriations and what the chairman of the Committee on Appropriations attempted to protect was in fact lost by the actions of the Committee on Rules at a later point. I think that is unfortunate.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. KAPTUR:

Page 106, insert after line 4 the following:

SEC. 511. Section 257(a) of the Help America Vote Act of 2002 (42 U.S.C. 15407(a)) is amended by striking "the following amounts" and all that follows and inserting "an aggregate amount of $3,000,000,000 for fiscal years 2003 through 2005".

Mr. ISTOOK. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. The point of order is reserved.

Pursuant to the order of the House of today, the gentlewoman from Ohio (Ms. KAPTUR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

I begin by saying nothing is more sacred than our citizens' right to vote.

The amendment that I seek to offer this evening would preserve the $3.65 billion in Federal funds that this Congress authorized over the next 3 years under the Help America Vote Act for upgrading election systems across our country. We originally passed this over 2 years ago, and I make this effort to preserve these funds because the Bush administration has not provided the necessary funds as authorized, and it is also 320 days late in appointing the election commission that was supposed to establish the Federal standards and guidelines to prevent fraud and abuse in these new electronic election technologies.

The national election debacle that we witnessed as a country in the year of 2000 simply cannot ever happen again. That is why we passed the Help America Vote Act. Already, $650 million has gone out to the States, but only for the hardware. $3 billion that should be out there in the hands of the States is not there in order to buy the proper equipment, provide the training, register the voters, and really provide a revolution in new technology at the polls.

Importantly, the election commission authorized by the Help America Vote Act has not been appointed. Indeed, the President is 320 days late in sending the nominees to the Senate, to the other body, for approval. That means there are no Federal standards and guidelines to prevent fraud and abuse. And so the States are floundering around out there being besieged by various companies trying to offer machines that they say are the greatest in the world when in fact they really are not.

What this amendment seeks to do is to preserve the funds that we said were necessary and to preserve them over the 3-year period. Unless this amendment is adopted, the funding will expire, which means the States will even be in a worse position than they are today. The President should have had his nominees to the Federal Election Commission appointed February 26 of this year. That has not been done. That means there are no Federal standards or guidelines for election technologies.

In my own State of Ohio, for example, we assembled a computer security team and sent them down to our State House to review the various election technologies. There was not one set of technologies that came back as either excellent or very good in the two most important categories of judgment, first, security of the system, the ability to prevent fraud and abuse in the software; and, secondly, ease of use by the voter. No system qualified. We have to get the money down there to these States and localities. There have to be Federal standards. Right now, less than half of the money that we should have appropriated has been provided in the 2004 bill; and in this year of 2003, the money has not arrived. Less than half the money is there. What are we doing? We are setting ourselves up for another failure. So at least my amendment attempts to preserve the funds that were originally authorized.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. HOYER) who understands this issue so well.

Mr. HOYER. I thank the gentlewoman for yielding, and I thank her for her amendment. I believe the amendment is not at all harmful to the objective of putting in place an election system that works for every American and is accurate and accessible and trustworthy. Her suggestion that the money not lapse, that it moves forward, I think is an excellent suggestion. I strongly support her amendment and thank her for her work in this effort.

Ms. KAPTUR. I thank the gentleman for his leadership in this in trying to provide an election system across this country that has integrity, dependability and sufficient funds to assure those qualities. What we are being given are half measures, empty promises and what is becoming more and more confusing at the local county level. No State standards, no Federal standards, and not enough money. America really deserves better. If we can afford to spend $4 billion a month in Iraq to secure democracy, can we not afford to spend $3 billion over 3 years in our own country to help secure our democratic voting systems here in this Republic? I think it is really an important question for the Congress. In hopes of resolving this issue amicably, I will withdraw my amendment at this point in hopes that we might be able to deal with it in the upcoming supplemental.

Mr. Chairman, I include the following material for the RECORD:

[From the Cleveland Plain Dealer, Aug. 28, 2003]

VOTING MACHINE CONTROVERSY

(By Julie Carr Smyth)

COLUMBUS.—The head of a company vying to sell voting machines in Ohio told Republicans in a recent fund-raising letter that he is "committed to helping Ohio deliver its electoral votes to the president next year."

The Aug. 14 letter from Walden O'Dell, chief executive of Diebold Inc.—who has become active in the re-election effort of President Bush—prompted Democrats this week to question the propriety of allowing O'Dell's company to calculate votes in the 2004 presidential election.

O'Dell attended a strategy pow-wow with wealthy Bush benefactors—known as Rangers and Pioneers—at the president's Crawford, Texas, ranch earlier this month. The next week, he penned invitations to a $1,000-a-plate fund-raiser to benefit the Ohio Republican Party's federal campaign fund—partially benefiting Bush—at his mansion in the Columbus suburb of Upper Arlington.

The letter went out the day before Ohio Secretary of State Ken Blackwell, also a Republic, was set to qualify Diebold as one of three firms eligible to sell upgraded electronic voting machines to Ohio counties in time for the 2004 election.

Blackwell's announcement is still in limbo because of a court challenge over the fairness of the selection process by a disqualified bidder, Sequoia Voting Systems.

In his invitation letter, O'Dell asked guests to consider donating or raising up to $10,000 each for the federal account that the state GOP will use to help Bush and other federal candidates—money that legislative Democratic leaders charged could come back to benefit Blackwell.

They urged Blackwell to remove Diebold from the field of voting-machine companies eligible to sell to Ohio counties.

This is the second such request in as many months. State Sen. Jeff Jacobson, a Dayton-area Republic an, asked Blackwell in July to disqualify Diebold after security concerns arose over its equipment.

"Ordinary Ohioans may infer that Blackwell's office is looking past Diebold's security issues because it CEO is seeking $10,000 donations for Blackwell's party—donations that could be made with statewide elected officials right here in the same room," said Senate Democratic Leader Greg DiDonato.

Diebold spokeswoman Michelle Griggy said O'Dell—who was unavailable to comment personally—has held fund-raisers in his home for many causes, including the Columbus Zoo, Opera Columbus, Catholic Social Services and Ohio State University.

Ohio GOP spokesman Jason Mauk said the party approached O'Dell about hosting the event at his home, the historic Cotswold Manor, and not the other way around. Mauk said that under federal campaign finance rules, the party cannot use any money from its federal account for state-level candidates.

"To think that Diebold is somehow tainted because they have a couple folks on their board who support the president is just unfair," Mauk said.

Griggly said in an e-mail statement that Diebold could not comment on the political contributions of individual company employees.

Blackwell said Diebold is not the only company with political connections—nothing that lobbyists for voting-machine makers read like a who's who of Columbus' powerful and politically connected.

"Let me put it to you this way: If there was one person uniquely involved in the political process, that might be troubling," he said. "But there's no one that hasn't used every legitimate avenue and bit of leverage that they could legally use to get their product looked at. Believe me, if there is a political lever to be pulled, all of them have pulled it."

Blackwell said he stands by the process used for selecting voting machine vendors as fair, thorough and impartial.

As of yesterday, however, that determination lay with Ohio Court of Claims Judge Fred Shoemaker.

He heard closing arguments yesterday over whether Sequoia was unfairly eliminated by Blackwell midway through the final phase of negotiations.

Shoemaker extended a temporary restraining order in the case for 14 days, but said he hopes to issue his opinion sooner than that.

[From the Toledo Blade, Sept. 3, 2003]

THE DIEBOLD DILEMMA

Did the head of an Ohio company hoping to land a big job with the state to supply upgraded electronic voting machines for the 2004 elections simply commit a faux pax? Or did the high-level fund-raising activity Diebold's CEO has undertaken for the Bush re-election campaign give his company a calculated edge in securing a lucrative state contract?

Either way the actions of chief executive Walden O'Dell and the response of Ohio's Republican Secretary of State Ken Blackwell raise inevitable and troubling questions about the influence of money and politics on government decisions—especially ones as sensitive as the operation of election systems.

Mr. O'Dell is not just a contributor to GOP campaigns; he's at the top of the fund-raising food chain. Recently, according to published reports, he attended a strategy session at the president's Crawford, Texas, ranch with other top Bush benefactors known as "Rangers" or "Pioneers," depending on the impressive amount of campaign money raised for the Bush war chest.

No doubt inspired by his inclusion in the elite circle of wealthy Bush backers, Diebold's CEO sent an impassioned fund-raising letter to Ohio Republicans declaring that he is "committed to helping Ohio deliver its electoral votes to the President next year." The bad judgment from the head of a firm trying to sell voting machines to the state is obvious.

Moreover, in his note to party members pledging to deliver Ohio to the President, Mr. O'Dell invited partisans to a $1,000-a-plate fund-raiser at his Columbus area mansion and nudged them to also consider donating or raising an additional $10,000 each for the state of GOP's use on federal campaigns.

Interestingly the missive was mailed the day before Secretary of State Blackwell was due to name Diebold as one of three firms eligible to sell voting machines to Ohio counties. The Blackwell announcement was delayed by a court challenge over the fairness of the state's bidding process by one of the disqualified contenders.

Mr. Blackwell, who insists that state voting machine vendors were selected fairly and impartially, downplayed the political connections of Diebold's chief executive as par for the course in legitimate Columbus lobbying for influence and attention.

That may be so, but the appearance of conflict is clear when a company that is spending money to influence the outcome of an election also wants to help count the votes.

Democratic lawmakers in Ohio say that's disturbing enough to warrant disqualifying Diebold from selling voting machines in this state. Two months ago Republican state Sen. Jeff Jacobson from Dayton asked Mr. Blackwell to do the same thing when security concerns were raised about some of Diebold's equipment.

Now critics are wondering if Mr. Blackwell's office overlooked problems with Diebold because its CEO had prominent GOP connections. It is premature to urge Diebold's disqualification from the field of eligible vendors, but the issue warrants the state's careful attention.

[From the Cleveland Plain Dealer, Sept. 1, 2003]

TAKING SIDES AT DIEBOLD

In a perfect world, companies that make voting equipment would be apolitical. But it's not a perfect world.

Still, you would think that the CEO of a company that wants to make a lot of money selling voting machines to Ohio would see the value of at least pretending impartiality. Instead, Diebold Chief Executive Walden O'Dell committed himself in a recent fund-raising letter to work to "deliver [Ohio's] electoral votes" to President George W. Bush.

The letter accompanied invitations to a $1,000-a-plate fund-raiser at O'Dell's Upper Arlington mansion—an invitation issued days after he attended a strategy session with major contributors at Bush's ranch in Crawford, Texas.

O'Dell's firm public commitment to work for a particular candidate—while Diebold is engaged in a vigorous competition to provide voting machines to Ohio—gives Democrats powerful ammunition to use against his company.

Ohio, like many other states, decided it was time to retire its punch-card machines after the Florida voting debacle during the 2000 presidential election. And allegations have been rampant recently that Ohio Secretary of State Ken Blackwell would like to see the contract go to Canton-based Diebold. That's going to be harder sell now.

Makers of voting equipment routinely give to political parties and candidates even as they are seeking lucrative public contracts. That's bad enough. But O'Dell is setting himself up as an integral part of Bush's reelection apparatus. That's too close for comfort.

If Diebold just made ATM's and industrial safes, his actions would not be an issue. But Diebold wants Ohioans to trust it to be fair and accurate in recording and tabulating their choices at the polls. That requires impartiality. And in the wake of O'Dell's letter, impartiality is not a trait anyone can associate with Diebold at the moment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman's amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. FARR

Mr. FARR. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. FARR:
>
> Page 157, after line 2, insert the following:
>
> SEC. 742. It is the sense of the Congress that none of the funds made available in this Act should be used to disestablish any pay locality (as defined by section 5302 of title 5, United States Code).

The CHAIRMAN pro tempore. Pursuant to the order of the House of today, the gentleman from California (Mr. FARR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I yield myself such time as I may consume. I would like to thank Chairman ISTOOK and Ranking Member OLVER for accepting my sense of Congress amendment. Let me just quickly explain what it does. Every 10 years after the national census is taken, the Office of Management and Budget redefines and redesignates metropolitan statistical areas, known as MSAs. Then the Office of Personnel Management uses those MSA definitions to overlay their own geographic boundaries for so-called locality pay areas.

This year the Office of Management and Budget came out with new definitions in June, but they radically changed their methodology to a point where the Office of Personnel Management said that the Office of Management and Budget definitions no longer were usable for purposes of determining locality pay boundaries. The Office of Personnel Management has begun the process of determining how to draw locality pay boundaries. The agency is more or less under the gun to do so by this October 7 so as to have this decided by the 2005 budget cycle. But the Office of Personnel Management held its first hearing on the issue only yesterday, September 3. The issue is too complex and too sensitive to figure out in a month. Thousands of Federal employee paychecks and consequently Federal agency missions hang in the balance.

My amendment essentially states that Congress believes current locality pay areas should be held harmless over the next year. We ask that OPM not eliminate any current locality pay area, but we do not object to OPM adding any new areas. In the interim, the Office of Personnel Management has time to do the research right and to draw up a fair and defensible plan for locality pay boundary designations.

I commend the chairman of the subcommittee for his leadership on this issue and thank him for accepting the amendment.

Mr. ISTOOK. Mr. Chairman, as the gentleman has represented, I am agreeable to accepting the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. FARR).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: an amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) and an amendment offered by the gentleman from Tennessee (Mr. COOPER).

The first electronic vote will be conducted as a 15-minute vote. The second will be a 5-minute vote.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 222, not voting 24, as follows:

[Roll No. 474]

AYES—188

Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gillmor
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Rahall
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu
Wynn

NOES—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—24

Abercrombie
Ackerman
Clay
DeGette
Gephardt
Janklow
John
Keller
Kucinich
McCrery
Meehan
Mollohan
Myrick
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Ryan (WI)
Thomas
Waxman
Woolsey
Young (AK)

□ 2048

Messrs. GUTKNECHT, NEY, GILCHREST and EHLERS changed their vote from "aye" to "no."

Messrs. SPRATT, MURTHA, KANJORSKI, LUCAS of Kentucky and SKELTON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

Pursuant to clause 6 of rule XVI, any record vote on this next question will be a 5-minute vote.

AMENDMENT OFFERED BY MR. COOPER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. COOPER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 192, noes 219, not voting 23, as follows:

[Roll No. 475]

AYES—192

Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu
Wynn

NOES—219

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble

Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—23

Abercrombie
Ackerman
Clay
Davis, Tom
DeGette
Gephardt
Janklow
John
Keller
Kucinich
Meehan
Mollohan
Myrick
Payne
Pickering
Rangel
Regula
Rodriguez
Roybal-Allard
Sherman
Waxman
Woolsey
Young (AK)

□ 2057

Mr. LIPINSKI changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2877

Mr. CRANE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2877.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. RUPPERSBERGER. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, the child tax credit bill. The form of the motion is as follows:

Mr. Speaker, I move that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

Number one, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

□ 2100

Two, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child tax credit based on earnings of the individual serving in the combat zone.

Three, the House conferees shall be instructed to include in the conference report all of the other provisions from the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provision.

Four, to the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of astronauts who died in the Columbia disaster.

Five, the House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

APPOINTMENT OF CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, with a Senate amendment thereto, disagree to the amendment, and agree to a conference asked by the Senate.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Dingell moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to resolve by September 12, 2003, the differences between the House and Senate regarding the electric reliability provisions contained in the House bill (section 16031 of the House bill) and the corresponding provisions contained in the Senate amendment (section 206 of the Senate amendment).

The SPEAKER pro tempore. Pursuant to clause 7(b) of rule XXII, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Louisiana (Mr. TAUZIN) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself 5½ minutes.

Mr. Speaker, the motion is quite simple, and I would hope that my colleagues on both sides of the aisle will support it. It simply states that the conferees should be instructed to resolve their difference on the electric reliability provisions of the legislation in the next week.

This is not a difficult task. In fact, it is very simple. The language in both the Senate and the House bills are very similar, and we have reached tentative agreement on the outlines of the provision in the last Congress. If we can reach agreement quickly on this matter at this time as I expect, we can bring a bill to the floor in a matter of days that contains these provisions and have those provisions on the desk of the President for signature immediately. Then the conferees can turn to the more contentious matters in the legislation.

The people of my district, as well as 50 million other Americans, were affected by the August blackout, and they are looking to us for action to see that this does not occur again. They do not want common sense answers to be delayed or held hostage as we debate unrelated controversial provisions that have had the practical effect of killing this legislation for the last 8 or 9 years.

As I have said on other occasions, what we need to do today, and in this conference, is to kill the snake closest to us, and that is the question of the failure of our electric reliability system. I do not contend that the reliability provision alone would have prevented the August blackout. We are still looking into the cause of the blackout, and just as it would be wrong to suggest that the more controversial provisions in this bill would have prevented the blackout, I can make no such claims about these provisions. But the reliability provisions of this bill will certainly do much good. And in the hearings of the last two days before the conference committee, they have proven to be the kind of provisions that would do much to prevent the kind of situation we saw last August 14. They are not in contention, nor are they contentious.

Both President Clinton and President Bush have endorsed the proposals. And Democrats like my colleague, the gentleman from Maryland (Mr. WYNN) and Republicans have introduced these proposals. Unfortunately, each year they have been caught up in larger electricity matters such as deregulation and the repeal of the Public Utilities Holding Company Act, matters of intense controversy. We can get to these more controversial provisions later. But they are the same provisions as I have noted that prevented us from passing a comprehensive energy bill for 8 long years.

Let me explain briefly why these reliability provisions are important. Following the blackouts of 1965, the electric industry established the North American Electric Reliability Council, NERC, to establish reliability standards for the operation of the electricity grid. These are voluntary standards and, unfortunately, they are not always followed as we have found out in the hearings yesterday and today.

According to NERC, last year there were over 500 violations of the rules that could have been subject to some $9 million in fines had they been authorized. The practical effect of the reliability provisions would be to codify the NERC as the electric reliability organization charged with setting reliability standards and enforcing them through appropriate penalties and other actions. Since we are all in basic agreement over the reliability provisions, all we need to do is to finalize the agreement and to bring them to the floor under suspension and then continue the conference on more controversial matters.

As a conferee, I am prepared to do my part to work on all of these matters. I note that our chairman of last year did an excellent job in developing the conference agreements in many areas, and I expect similar progress this year.

There is no need to take the reliability of our electric grid hostage to other controversial provisions. Many of the controversies are not of a partisan nature. For example, recently Republican Senators and the administration announced an agreement on language to stall regulations establishing standard market design for utilities.

While many of our colleagues in the House disagree, we will find that some of the provisions could make problems worse. Last year, when we failed to reach agreement on the entire bill, we decided to pass the pipeline safety provisions separately from the rest of the legislation, a good and a sensible approach to a difficult problem. That bipartisan, bicameral agreement was supported by both the industry and public interest groups.

The reliability provisions also have broad appeal amongst the utility industry regulators and consumer advocates.

I urge my colleagues to vote for this motion, and let the American people know that we will, we have, and we do take important steps to prevent blackouts while debating other issues. I urge my colleagues to support the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in the strongest opposition possible to this motion to instruct. It is rather cleverly worded. It is cleverly worded because as we would expect from someone as talented as my friend, the gentleman from Michigan (Mr. DINGELL), in parliamentary terms it says separate this issue from the rest of the energy bill and pass this issue, leaving to limbo, perhaps, the rest of the comprehensive energy bill.

It does precisely what we should never do and that is to ignore the fact that the blackout is just part of an awful energy situation that exists in this country. Oh, yeah, we just had a big blackout in the Northeast, but do not forget that just recently Alan Greenspan made four or five trips to this Hill to warn us of a natural gas crisis facing this country this winter.

We are paying twice as much for natural gas as we did this time last year. Petrochemical plants in my district are beginning to lay off workers and threatening to move their production to offshore facilities in other countries because we pay twice as much for natural gas in America as we do anywhere else in the world.

Has anybody noticed the price at the pump lately? Have my colleagues noticed the awful situation with gasoline prices? Do you think for a second that the problem in the Northeast is just a single, isolated problem in the whole energy situation our country faces?

On the contrary, the situation in the Northeast is just one of many enormous problems in our energy marketplace. Also, as my colleagues might recall exhibited was the awful situation of the California energy crisis just a few years ago.

In this country we face the possibility of huge natural gas price cost increases to consumers as winter approaches. We face the situation where low-income beneficiaries whom we are trying to help with LIHEAP funds may not be able to pay their energy costs this winter. We saw the price spikes in gasoline.

To strip off one piece of this bill for political expediency would not only be foolish, it would be disastrous.

The House and Senate have both finally passed comprehensive energy bills after a great deal of deliberation. The Senate passed the bill they passed last year. We improved our product. The conferees have just been named, and we have agreed to go to conference.

But my colleagues should know on the day the Senate passed that bill by unanimous consent, our staffs and the Senate committee and the House committee began work immediately, conforming the two bills.

And now that the conferees are appointed, we are going to bring in a conference report before the end of this month and vote on it on this House floor. We are going to pass the comprehensive energy title.

It will include, by the way, all the improvements that have been recommended in the transmission grids following the New York and Northeast blackouts. Those improvements were passed last April on this House floor and are contained in the comprehensive bill.

They include transmission incentives to build new transmission systems. They include new provisions on siting to make sure the Federal Government is involved in interstate siting of transmission lines so States cannot block interstate improvements to transmission facilities. It will eliminate the artificial barriers to the new investment grid called the Public Utility Holding Company Act. It will change the transmission tax treatment to create more favorable tax treatments to encourage people to invest in improvements in transmission grids so we do not have the problems we saw in California and now in the Northeast.

We passed, in this comprehensive energy bill, massive improvements in energy efficiency and conservation all designed to help reliability of our systems. Do my colleagues want to throw those away tonight?

Of course, H.R. 6 addresses all the urgent needs of the energy sector by increasing the production of oil and gas and other energy resources, particularly renewables, by dramatically increasing LIHEAP funding, by making significant investments in energy research and development including the President's Freedom Car Initiative.

Mr. Speaker, my committee has just conducted two very full days of hearings on the August blackouts. With the testimony from nearly 30 witnesses working with our Secretary of Energy, Mr. Abraham, and others, we will get to the bottom of what happened just a few weeks ago. But the overwhelming message I got from those hearings is that abundant, reliable energy sources are the lifeline of our economy.

If we walk away from all the policy improvements that this bill provides, we will be turning our backs on the people of this country, our economy, and a reliable and secure energy future for this country.

So I urge my colleagues to defeat this motion to instruct. While it is not binding, it is a wrong signal. It needs to be defeated tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Michigan for yielding time.

Mr. Speaker, I rise in support of the motion to instruct conferees offered by my friend and colleague the gentleman from Michigan (Mr. DINGELL).

As the distinguished chairman of the Committee on Energy and Commerce has stated, for the past two days, we sat in hearings on the full Committee on Energy and Commerce on the reasons for the blackout that paralyzed a huge portion of the Northeast and the upper Midwest including my home State of Michigan.

□ 2115

One thing that witnesses in those hearings agree on is that there must be mandatory reliability standards for the transmission grid in this country with some real enforcement authority.

The distinguished chairman talked about this may be a political expedient bill or motion. The gentleman from Michigan (Mr. DINGELL) has had this bill for close to 8 years. For 8 years we have been trying to get reliability, mandatory reliability standards with real enforcement.

Every witness we heard, every witness we heard agreed with the Dingell motion, that we have to have mandatory reliability standards, there has to be accountability and who is responsible. What we have seen for the last 2 days is everybody pointing their fingers at everybody else and everyone saying it is not my fault. These are not my words. Witnesses, including Secretary of Energy Spencer Abraham, Governors Granholm of Michigan and Taft of Ohio, to State public service commissioners and operators of the regional transmission organizations and electric power generators and transmission companies all agreed. We need some mandatory reliability standards, what we have in this motion to instruct.

The present system of voluntary standards does not provide enough assurance of reliability.

The House bill, H.R. 6, allows the North American Electric Reliability Council, NERC as we call it, to set and enforce mandatory standards for cooperation among utilities. No enforcement, no fines, no penalties if they violate these standards. NERC is a voluntary compliance, not mandatory.

NERC was created after the massive 1965 blackout when Congress, and I was not here then, but Congress back then said this should never happen again. So they created NERC. Measures taken then have not been enough to prevent the disastrous consequences that affected more than 50 million people on August 14th with the August blackout.

In Michigan alone there were more than $20 million in losses to public entities, 70 manufacturing plants that had to shut down and more than $1 billion in expected losses to business when it is all totaled up.

There are genuine and serious differences about other provisions in the House and Senate energy bills that have to be worked out in the conference. There is little dispute about the need for mandatory reliability standards for the aging electricity transmission grid in our country.

The motion to instruct, this motion by the gentleman from Michigan (Mr. DINGELL), joined by many of us on this side of the aisle, will ensure that electricity reliability is not held hostage to what may be a long, drawn-out process on the energy bill as a whole.

In the last 2 years, this House has passed comprehensive energy legislation. It has never made it to the conference. It has never been passed by the Senate. We do not want a situation where once again this goes to a conference and it dies as we adjourn for the year. We have this aged electrical transmission power grid out there. Everyone talks about a way we can improve it. Right now we have to talk about how can we get some reliability into it right now.

All the incentives in H.R. 6, all the things that are put forth in H.R. 6 will not take place for years. Let us put some reliability into the system now.

This motion to instruct will do that. Let us not hold reliable energy hostage in the conference report. Vote yes on the motion to instruct.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

That was a wonderful speech, but what was not very clear and should be made clear is that enforceable reliability standards are in the House bill that was passed in this House 254 to 175, with 40 Democrat votes joining us and we passed it. It is in the Senate bill. It is already in the conference. We passed it last April.

Secondly, I want to remind my friend this is not the end of the conference. This is the first year of a 2-year Congress. We are going to get this bill done in the next few weeks.

Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire (Mr. BASS), my friend, a great gentleman from the Northeast, who knows a lot about energy because he is on the Committee on Energy and Commerce.

Mr. BASS. Mr. Speaker, I rise in opposition to the motion to instruct. Clearly the Northeast is deeply affected by this blackout, and there are provisions in the energy bill that is currently in conference that need to be included and will be included. We have had 2 days of hearings and there has been one clear message, and that is, if there is any message, that we need mandatory reliability standards, and as the Chairman just said, they are in the energy bill.

What is going on now is an effort to totally eviscerate the energy bill in the name of this one particular provision.

I voted against the energy bill on the floor of the House, but there have been changes worked on and made in conference that may make this bill considerably more attractive to Members like me, and I think it is mistaken, premature, and misguided to vote for a motion that entirely eviscerates this effort to develop a national energy strategy in the name of preserving a provision that is already in the bill. This is not the time for this motion. Vote it down.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, let me begin by thanking my colleague, the distinguished ranking member from Michigan, for allowing me this time.

I rise in strong support of the motion to instruct conferees on the energy bill. This motion instructs the conferees to promptly agree on a measure to provide mandatory electricity reliability standards that would help avert the type of widespread blackout we just saw in August.

Very interesting, my colleague just used the term eviscerate the energy bill. We are not trying to eviscerate the energy bill. What we are saying is simply this: There are provisions that we agree on, Democrats and Republicans, and that is that we need mandatory reliability standards. If we agree on both of these on this issue, why not pass it? Why not do what is doable?

That is not to say that we should not discuss a comprehensive bill. It is not to say we should not try to reach a comprehensive bill on drilling in Alaska, on natural gas, on alternative energy sources, but the issue is that the blackout in the Northeast had nothing to do with ANWR, nothing to do with Alaska. It had nothing to do with natural gas prices. It has nothing to do with solar energy and alternative energy. It had to do with problems with our electricity grid.

If there are measures that we can take, and this is not the final measure, but if there are measures we can take now to address this problem, I think we ought to do it.

Currently, we do not have an electricity grid that meets the requirements of a 21st century economy. In fact, our electricity grid is overburdened, outdated and underfunded.

It is critical that Congress focus on reliability standards for the national electricity grid. In fact, today we had a panel testify, an industry panel testify before the Committee on Energy and Commerce, and that panel said unanimously we need mandatory reliability standards to avoid the kinds of problems we have experienced.

Yesterday, my colleague, the gentleman from Michigan (Mr. DINGELL) introduced legislation to provide for mandatory reliability standards, but I would note and emphasize that this approach has bipartisan appeal.

Earlier this year, several months prior to the blackout, the gentleman from North Carolina (Mr. BURR) from the Republican side and myself introduced H.R. 1370, an interstate transmission act, which also requires mandatory electricity reliability standards.

We need an electric reliability organization with Federal Energy Regulatory Commission oversight. This would facilitate the development and enforcement of mandatory reliability rules and standards that are binding on all electric companies and market participants.

These standards would include, first of all, technical standards relating to the maintenance and operation of electrical systems; performance standards for electrical systems; and preparedness standards related to the ability of those managing the electrical system to respond to anomalies or unexpected events on the grid.

For example, we must require working and compatible hardware that monitors our transmission systems for faults and disturbances in order to contain problems and keep electrical systems up and running. These monitoring systems should, at selected switch yards and substations, include the installation of dynamic disturbance recording equipment and fault recorders to provide data that would enable the verification of power flow and provide warnings of a disturbance in the bulk power system.

Importantly, these monitoring systems must be compatible so that we can report and analyze disturbances in the system quickly and concisely. A compatible transmission monitoring system over interconnected regions can help contain the problems we have experienced recently.

Finally, mandatory reliability standards would provide the Federal Government with the tools to sanction companies that do not comply with reliability standards. This language in the Burr-Wynn bill and the Dingell reliability bill would accomplish these goals.

As we are moving toward a conference, if we can agree on a comprehensive bill, I certainly will be supportive of that; but if we cannot, I submit that we should do that which is within our grasp immediately to address a problem that is confronting this country, and that is, we need mandatory reliability standards now. There is agreement. We ought to act on it. I urge the adoption of the instructions to the conferees.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Illinois (Mr. SHIMKUS), a distinguished member of our Committee on Energy and Commerce, who is also a lieutenant colonel.

Mr. SHIMKUS. Mr. Speaker, I thank the chairman for this time.

I sat in 2 days of hearings, too, and I would agree that most all of the panels said we need mandatory reliability standards, but 99 percent of them said we also need an empowered FERC. They also said we needed the ability to site. Even the Governors from Ohio and Michigan said if the States cannot get engaged in the siting of transmission after a date certain, we need a Federal authority to site transmission power, and they all said that. They also said there has to be a return on the investment so that capital will flow to the grid. Yes, they said mandatory reliability standards, but they said much, much more, and that is why I oppose this motion.

What has been the biggest concern on electricity in the last couple of years? It is an issue that is because of a constrained grid, because we need to expand the grid. Whether it is market manipulation, because of supply and demand issues in California, if they had an expanded grid that would not have been a problem. If it bottlenecks in the Northeast, they call it a cascade, and a power outage. If we would have had an expanded grid, that probably would not have been a problem.

Illinois needs a national energy plan. We need an expanded grid. We need to have our coal mines reopened and electricity generation. We need to keep our marginal oil wells open. We need to make sure that we decrease our reliance on foreign oil by enacting an ethanol standard, 5 billion renewable fuel standard for ethanol.

The Speaker and the chairman enacted a natural gas task force. Why? We are doubling demand for natural gas, and we are not doing anything on the supply end. So producers are stopping to produce fertilizer for our farmers. The price to dry corn has doubled, and it is disastrous for the agriculture community.

Do we want to continue to be reliant on foreign imported fossil fuel? The answer is no. I spoke in the hearings. I said this reliability issue is a Band-Aid. We need more than a Band-Aid. We need a healing. We need structural reform and a national energy plan. That is why any attempt to do anything other than this is really an attempt to kill a national energy bill. That is what it is. That is what we have identified, and Illinois cannot afford not to move on coal generation, transmission, ethanol, nuclear power, a transmission grid, and any other attempt to split this bill apart and not move now is an attempt to kill the bill.

I thank the Chairman for the time.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. POMBO), the distinguished chairman of the Committee on Resources of the House of Representatives.

Mr. POMBO. Mr. Speaker, I thank the chairman for yielding me the time.

It is interesting to listen to this debate here tonight, and some of what my colleague was saying earlier I agree with; that in terms of the blackout that they had in the Northeast, it had very little to do, if anything, to do with the other parts of the bill, and I agree with him on that. But when we got into this process several years ago, the reason that we did was because we had so many challenges in terms of delivering a reliable source of energy for the people in this country that we had so many different things that we had to take on.

We had a problem with reliability and ability to deliver natural gas at an affordable price to our constituents, and that is one part of the bill. We had problems with gaining access for power lines and gas lines across public lands, and that is one part of the bill. We have a problem with an overdependence on foreign sources for our energy in this country, and that is a part of the bill. All of the different parts of the energy bill, as they moved through the Committee on Resources and the Committee on Energy and Commerce, were all about trying to deal with all of these definite challenges and all of these problems and trying to come up with a way in a balanced approach to deal with those problems.

Electricity is one problem and that is part of the bigger balanced energy package that passed this House for the second time this last April, and hopefully when going into conference it is something that we can gain bipartisan support on, as we had in the House, and move it quickly through and begin to address all of these different problems.

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It appears to me that because of the blackout we are now using that as an excuse not to do all of the other things. How else are we going to deal with the natural gas crisis that has developed in this country? The lack of an affordable, reliable supply of natural gas is a very real problem. And in a couple of months, when we hit the wintertime and everybody is using natural gas, the constituents are going to be screaming about that, and we have to address that.

Now, this bill does not solve all the problems, but it does go a long way in terms of dealing with all of these challenges that have built up because this country has not had an energy policy for so many years. It is hard to do. It is difficult to put all this together in a package, but it is something that this country desperately needs. Electricity is part of it, natural gas is part of it, access and right-of-way issues are part of it, and production is part of it. Production has to be part of supplying for our future.

So I do believe that this is an extremely important bill. Unfortunately, I will have to oppose the Dingell motion to instruct conferees.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong support of the motion to instruct conferees offered by the distinguished gentleman from Michigan. The gentleman is not only well suited to offer this motion because of his position as the ranking Democrat on the Committee on Energy and Commerce; but in addition, his district was one of those most affected by the August 14 blackout.

On August 14 I was in Israel watching CNN International very late at night when the first blackout was announced. And as one city after another was mentioned as being affected and thousands and thousands more people were being affected, my first thought, and I am sure that is true of many Americans, was, oh no, this feels like it was another terrorist attack. And while I was relieved, as many people were, of course, to find out that that was not the case, I was not really comforted then or now.

Life as we know it virtually stops when we have this kind of catastrophic event. Life stops as we know it when the power goes out. Commerce and industry stop, elevators stop, subways stop, home respirators stop, water from the tap stopped in many places. And though Americans rose to the occasion, the vulnerability of our entire economy, our health and our safety was made devastatingly clear to each and every one of us. It became clear that our very national security is now depending on an unreliable electricity grid.

Now, that is the bad news. The good news is that even before we know exactly every detail on how it happened, there are steps that we can take to make our system more reliable and our people more secure. And the further good news is that this is not bad news, this is good news; that there is a broad consensus around what to do. So let us do it.

I do not find compelling at all that this is not the total answer to everything; that we have to worry about gas prices; that we have to worry about gasoline prices. Yes, we do. But we are facing a crisis that could cripple us right now. So let us do it. This is a simple, noncontroversial, constructive solution. And it does not mean that we have to deal with what we know to be controversial issues. Drilling in the Alaska wilderness is not going to prevent the kind of blackouts that can cripple our country. So why not deal with something clear and simple and constructive right now?

So I would urge my colleagues to put aside what may be very partisan differences on things that we cannot agree on. We will deal with those. I am convinced that we can come to an agreement on those, and, yes, separate out now that which we can deal with that may avert a catastrophe that could cripple our Nation, jeopardize our security, and the health of our people. I urge a "yes" vote on the motion to instruct that the gentleman from Michigan (Mr. DINGELL) has offered.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Oregon (Mr. WALDEN), a distinguished member of the Committee on Energy and Commerce from the Northwest.

Mr. WALDEN of Oregon. Mr. Speaker, I thank the gentleman for yielding me this time. I find the gentlewoman's comments disturbing for this reason. What we really heard her say, and what we are hearing on this motion is, we are only going to deal with something when it is a crisis. And that is all we are going to deal with is what is the crisis of the moment. That is a poor way to do public policy.

In fact, when the other side of the aisle had the opportunity to offer an alternative to the energy bill, they did not include these reliability standards in the opportunity that was offered in the committee, nor the second time when it was offered on the floor, nor the third time when they offered an alternative on the motion to recommit. So three chances, and then their lights went out. Now we have a crisis, and now this is all we are going to deal with, when it was not something they wanted to deal with in the bill to begin with from their side.

Why would we jettison additional funding for LIHEAP when we know that natural gas prices are going through the roof and the poorest among us are going to have trouble paying their heating bills this winter? Are we going to wait for a crisis then deal with LIHEAP then, when we can deal with it here in this bill? If this motion to instruct were held, we would not be dealing with it.

Why would we get rid of the provisions in this bill that deal with market transparency requirements that require increased FERC enforcement authority to prevent anticompetitive practices in electricity markets? Why would we not deal with that? Is there controversy over that? No, but there is no crisis at the moment. There was in 2001 in the West, when we had rolling brownouts and blackouts in California and prices through the roof. Why do we not solve that here? Why would we walk away? Because the crisis is behind us? I do not think that makes sense.

What we found after our blackouts in 1996 and after 2001 is that the grid needed investment and improvement. We came to the Congress, those from the Northwest, and we came to the President, and the President agreed and the Congress agreed to give Bonneville additional borrowing authority so we could begin constructing the additions that were needed in our grid. We needed to invest. That has been done.

That is what is needed around the country; and this legislation, H.R. 6, has provisions in it both to encourage research and development of new technology to make the wires more capable of transmitting more power as well as incentives to help expand the grid so it has the capacity to carry the power where it is needed when it is needed. Those provisions, if this motion were to prevail and be followed by the committee, would all be stricken. All we would deal with is the reliability standards, and that does not make sense to me.

There are many other provisions in this bill to help in natural gas, to help with domestic production of oil that we should deal with. They are separate, yes. They are getting domestic oil production up and domestic gas production up and gas and oil where we need it and when we need it to keep prices in check. Those are important. And, no, they are not related to the blackout. Of course not. But they are related when you pull up to the pump and pay $2.10 per gallon, or when you turn on your heater or your hot water tank and you are paying $3, $4, $6, and $7 for natural gas.

We need to deal with energy policy for this country in a comprehensive and thorough manner. This legislation does that. I ask my colleagues to vote against the motion to instruct.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Louisiana (Mr. TAUZIN) has 15½ minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 13 minutes remaining.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana (Mr. BUYER), a member of our committee.

Mr. BUYER. Mr. Speaker, I cannot support the motion to instruct offered by the gentleman from Michigan (Mr. DINGELL) because I am not going to permit politics to override substance. The gentleman from Oregon (Mr. WALDEN) was correct that when the gentleman had an opportunity during the committee when he offered a substitute that he did not bring up this issue. When it came to the House floor on the motion to recommit, the gentleman's recommittal motion addressed hydropower, not mandatory reliability standards. And as a matter of fact, many of the Democrats did not support this bill in committee and did not support the bill on the floor. But now, when we go through a blackout, all of a sudden we need to pull this out of the national energy bill and pass this? No, I do not believe we can permit politics to override substance.

H.R. 6 is an extremely important bill that the gentleman from Louisiana (Mr. TAUZIN) has spent a lot of time on. The national energy bill is about a national energy policy. And the United States, as the sole remaining superpower, needs a broad-based and diversified portfolio with regard to our energy sources. So it is about coal, and we need to make an investments in clean coal technology. It is about oil. Yes, we have our imports, but we have to also do domestic drilling, exploration and drilling. It is about natural gas. Boy, have we messed this one up.

The Democrats controlled Congress in 1990 when they passed the Clean Air Act. They want us to move from coal-powered generation to natural gas, and at the same time they passed these laws to lock up the lands. We cannot gain access to natural gas, whether it is off the Eastern Shore, whether it is out of the gulf, whether it is off the Pacific or in the western States or in Alaska. So we move to a demand for the increased utilization of natural gas and at the same time cut off access to natural gas. And people wonder why there is a natural gas shortage. Congress created it.

This bill addresses that. There are also issues on nuclear power. The Federal Government has not even authorized a permit to build a nuclear facility in over 20 years. There is more computing power in our automobiles than what was in the Apollo mission to the Moon. We can do much better today.

The issues also deal with renewables, whether it is in wind or solar or hydrogen or fuel cell technologies. This bill is comprehensive. We should not go and try to pick and choose, pull something out of the bill and then turn to the American people as if we have done something. There is an electrification portion of this bill. My Democrat colleagues on the committee did not like that this was part of the bill. I think it was pretty smart that the gentleman from Louisiana (Mr. TAUZIN) made this part of that bill. Very telling.

We said the power grid was frail and outdated, and guess what happened? Congress was not the Nostradamus, because we knew this grid was outdated. There are utility companies that are undercapitalized. This bill gives those incentives to do things smartly with regard to our infrastructure, not only by trying to bring transparency to the grid but on how we move and distribute that power. Very important.

So I hope that Chairman TAUZIN, as he goes to that conference, that he is able to address the issues on natural gas and the other issue dealing with the discussion today at his hearing on the need for interconnection standards on distributed energy.

So, Mr. Speaker, I have to oppose the motion of the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, the fact is that if the efforts of the gentleman from Michigan (Mr. DINGELL) had been successful in years past, it is very possible that August 16 would not have happened. It is a simple fact, and I want my colleagues to listen to this, the American people are watching, that if we reject this amendment, they have a right to know who is responsible if a blackout occurs next year and we have not yet taken action on this measure.

Now, I listened to my colleague from Illinois, and he is a good friend of mine, I respect him a lot, and he talked about a lot of things. He talked about ethanol. He talked about coal and natural gas. And he talked about nuclear energy and about renewables. And I support all of these things. We all do. But the fact is that some of the provisions regarding these aspects of the energy bill are controversial.

Now, our chairman says that this reliability provision is in the energy bill. It is. But does he actually believe that that bill is going to get through the Senate and be sent to the President and be signed into law? I think that is very questionable. It has not happened in the recent past. We have a responsibility to do what we can do, and what we can do is agree on reliability standards.

Now, others of my Republican colleagues implied that somehow this effort was an attempt to dismantle the energy bill, to jettison, that word was used, to jettison provisions or to dismantle provisions. Quite to the contrary. All we are trying to do is to separate from the larger energy bill this portion that we can agree on and that we can actually pass and have signed into law and give the American people some confidence that this Chamber has the ability to do something that they need to have done.

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Mr. Speaker, that is all we are asking for. Now I believe that they are attempting to take this provision that is popular, that is well established as a need, and use it to try to accomplish something in the energy bill that they cannot accomplish without it. I think that is what is happening. I hope the American people are paying attention. We ought to accept this amendment. We ought to get on with separating this issue out, passing it here in the House, encouraging the conference to proceed with their work.

We are not encouraging the conference to jettison any part of the energy bill at this point. We are simply asking for a reasonable action on the part of this House. I support this bill. We need a stand-alone piece of legislation that deals with reliability. August 14 happened. Lives were in jeopardy, economies were injured, and we can fix this problem.

Mr. Speaker, I ask the gentleman from Louisiana (Mr. TAUZIN) to reconsider his position and accept this amendment for the merit it deserves, and let us move forward.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG), a distinguished member of our committee.

Mr. SHADEGG. Mr. Speaker, I rise in opposition to the motion to instruct. The reality is that the motion to instruct will in fact stop all of the other reforms in this bill, in H.R. 6, that we have worked on so hard through the years to get to this point and focus the entire issue on reliability. That might be important if we had reached a point where the conference was not resolving the issues. If this conference had met for months and had not been able to resolve the other provisions in the bill, perhaps we would have to say we have to focus on one issue that we can pass. But the conference committee has not even met yet.

I want to comment on another issue of this debate. The point here is what we are being urged to do is to focus only on reliability because that is the crisis of the moment. Again as the gentleman from Oregon (Mr. WALDEN) pointed out, if we only legislate on the emergency of the moment, that is a poor way to construct public policy, and it is the way to create the precise kind of circumstance that led to the blackout we just experienced. The reality is it requires forethought, and the reality is reliability is a problem, but it is not the only problem.

If this legislation did not include reliability provisions, perhaps it would make some sense to focus on that issue; but no one here, no one is arguing that we should not deal with reliability. Indeed, the bill does deal with reliability. What is being argued is if we adopt this motion to instruct, we drop everything else.

Well, I have a flash for my colleagues on the other side: In Arizona the crisis is not a blackout. That blackout did not strike my State. The crisis in my State of Arizona is gasoline. We had gasoline prices spike 2 weeks ago in Arizona to over $3.99 a gallon. We had people sitting in lines to buy gasoline because they could not get gasoline because a pipeline broke.

There are other issues involved in the energy issue than simply reliability, and my constituents in Arizona absolutely do not want us at this early stage in the process to throw out all of the important reforms in the legislation. They are concerned about the natural gas shortage, and they are happy that H.R. 6 will encourage natural gas supplies. They recognize that we are more and more reliant upon natural gas. Indeed, many more new natural gas plants have been built in Arizona, and more and more of our energy is coming from natural gas. We had better do something about the production of natural gas. That would be thrown out with this motion to instruct.

My colleagues are deeply concerned about renewable fuels and improving energy conservation. They want to promote renewable energy and alternative energy. They do not want that thrown out.

One of the interesting things in this debate is that it was hydropower that enabled the blackout to end in less time than it otherwise would have. If we focus solely on reliability issues, we will throw out the important provisions in this legislation that deal with hydropower. It simply is pennywise and pound foolish not to deal with a comprehensive energy bill. I urge my colleagues to reject the motion to instruct.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the motion to instruct.

The gentleman from Michigan and I agree on having reliability standards. We both represent districts affected by the blackout; but the need for reliability standards is why we already included language in both the House and Senate versions of the bill passed earlier this year. A reliability provision is not a substitute for a robust energy package that we urgently need to address fundamental infrastructure production and conservation issues that are critical to our Nation's energy security.

I think it is interesting as we go through this process, after the blackout many of the same people who are saying the only thing we ought to focus on are reliability standards are exactly the same people that before the blackout, when it was important, voted against legislation that had reliability standards in it. But just passing reliability standards would not have prevented the blackout of August 14. There was a lot more to it than that.

We have to look at what has been happening in energy, in electricity in the last few decades. Electrical use has been growing significantly and steadily, and it has been growing at a faster rate than transmission capacity. We are putting more and more power into an older grid that is less and less able to handle it. Why? Because we have not had a good energy policy. The problem is going to get worse if all projections are correct, and simply passing reliability standards will not correct it.

We need to solve the problem. We need the things that are in H.R. 6. We need conservation to take some of the load off the grid. We need to encourage as a country renewable fuels. That is also part of H.R. 6. We need to increase our energy supply. If we do not increase the supply to keep our economy growing, to keep jobs, we can post reliability standards on every wall in America and people will have a lot of time to read them because they are not going to have any energy to have jobs. We need the provisions in H.R. 6, reliability standards, conservation, renewable fuels and increased supply. For that reason we ought to vote no on the motion to instruct.

Mr. TAUZIN. Mr. Speaker, I am delighted and honored to yield 5 minutes to the gentleman from Texas (Mr. BARTON), a subcommittee chairman, and one of the principal architects of this comprehensive energy plan we are trying to save tonight.

Mr. BARTON of Texas. Mr. Speaker, natural gas prices at the wellhead are over $5 or approaching $5 a thousand cubic feet. The motion to instruct by the gentleman from Michigan (Mr. DINGELL) does absolutely nothing about that problem. Gasoline prices are averaging $1.50 a gallon all over the country, and in some parts they are over $2 a gallon. The motion to instruct does nothing about that.

The President's hydrogen fuel cell initiative, which we all applauded when the President was before us during the State of the Union and which I know the gentleman from Michigan (Mr. DINGELL) supports, there is nothing in the motion to instruct that does anything about that.

Many of my friends on the minority side of the aisle very strongly support an R&D clean coal technology program in the bill which passed the House last April. There is nothing to instruct conferees on that particular issue.

Everybody I know of is for hydropower and hydro reforms in the House-passed bill awaiting conference with the Senate. There is nothing in the gentleman's motion to instruct about hydro licensing reform.

If we only want to focus on electricity, the gentleman's motion on reliability standards does not say anything at all about the need for a regional transmission organizational policy, does not do anything at all for siting authority which is desperately needed, does not do anything at all to create any new incentives to build and operate transmission.

In fact, if all we did was pass the reliability provisions the gentleman from Michigan (Mr. DINGELL) has put before the body this evening, if that is all we did, we would not even solve the problem of the blackout that happened on August 14 in the Northeast, because if we only do reliability standards and we do nothing else structurally in electricity, you can have all of the mandatory standards that you want and if you flip that switch and there is no electricity to go through that switch, the lights are not going to come on.

The only way, even if we have mandatory enforceable reliability standards, that we are really going to prevent the kind of problem that happened on August 14 is if we do a comprehensive energy bill, which we did on this floor I believe on April 9 of this year, where we did address the natural gas issue. We did address the oil issue and the gasoline issue. We did address the hydrogen fuel initiative and clean coal technology. We did address hydro licensing reform, and we did address a comprehensive electricity title that does include mandatory standards for reliability, that does include an RTO policy, that does include a Federal backstop for siting and does include incentives to build and operate new transmission. I could on and on.

There is nothing wrong with the gentleman from Michigan's motion to instruct conferees to do reliability. We have done it. We did it on April 9, but we need to do more than that. We need a comprehensive energy bill that is integrated and interconnected. The House has passed it on a bipartisan basis. We are going to nominate conferees to go to conference with the Senate.

As the chairman of the full committee has so aptly pointed out, we can have a comprehensive energy bill conference report back before this body and the other body by the end of this month if we work together in a good-faith, bipartisan fashion. I invite the gentleman from Michigan (Mr. DINGELL) to do that. I am sure he will be a conferee. And let us be sure that we do not just do a little bit that does not really solve the problem. Let us do a comprehensive bill that solves the problem. To quote a famous sports shoemaker, let us just do it. Let us just do it. Do it right, do it now, do it together.

Mr. TAUZIN. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, it was February 2001 that I was honored to assume the role of chairman of the Committee on Energy and Commerce of this great House. It was in August of that same year that our Committee on Energy and Commerce, together with the Committee on Ways and Means, Committee on Resources, Committee on Science, numerous committees of this body, helped to report to the floor a comprehensive energy bill for our country following the disaster in California, recognizing the disasters to come in the Northeast. It took the Senate almost 2 years to finally pass their version at the end of the conference when it was too late to finish the conference report.

This year in this Congress, this House had the wisdom to pass this bill as early as April of the first year of the Congress, and the Senate in just 7 short months has passed their version and now joins us tonight in a conference to finish the work.

□ 2200

Many, many votes have gone by since August of 2001. In fact, prior to that in committee, many votes were taken. I find it strange that on the night we finally appoint the conferees to finish this awesome task, on this night, my friend, the gentleman from Michigan, who was the main opponent of the comprehensive energy bill on the floor when we brought it here in April of this year, brings this motion to take one small piece of that bill and to leave, in fact, the rest behind. That is the game.

Is it a coincidence that every person who spoke on the other side voted against the comprehensive energy bill when we brought it to the floor? I do not think so. I think this is an effort to help derail the final passage of that great bill. We are not going to let them get away with that because this country cannot do without this comprehensive energy bill. It is critical for this country.

We had 13 recorded votes on the floor tonight. Thirteen times we came to this floor and we put our card into the electronic voting machine and we made a decision for this country. We are two votes away on the floor of this House and in the other body, one in this House, one in the other body, we are two votes away from finishing the most comprehensive energy package to help this country on its way again than we have ever been. When this conference brings its conference report before the end of the month to this floor and to the Senate, we are two votes away from putting it on the President's desk for final signature.

I know those of you who voted against it, those of you who were in the 175-Member minority who voted against the passage, would probably not like to see us finish, but this country wants us to finish. People in the Northeast who went through that blackout want us to do a comprehensive bill. The people in the Northwest, in California who had their problems a few years ago want us to do this bill. Americans who suffer with high energy prices want us to do this bill.

Let us reject this motion to do away with this bill and to simply pick it to death. I urge my colleagues to reject this motion to instruct.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I love my colleagues on the other side. I know they are sincere and I understand and I sympathize with them because they have difficulty in understanding the parliamentary situation.

We have been grappling around with the business of passing a comprehensive energy bill now for about 8 years. I have listened to my colleagues on the other side promise us that we would have a bill on the floor in 2 weeks, or we would have a bill passed by the end of the session. None of those promises have been good. We are still grappling around with a piece of legislation. The Senate, it could not pass a bill, so they took the bill that they had passed last year and they passed it and they went to conference. The Member of the Senate who says he will be the senior Member of the Senate body considering this legislation says they are going to write the bill in conference.

What bill are they going to write? I do not know. But I have written several large energy bills, and I would note to my colleagues that the time of the writing of these, including the time in conference, was somewhere between 18 months and 2 years, the full period of a session in the Congress and the second session besides.

I would remind my colleagues that what happened in this country on August 14 was we had the biggest blackout that we have had, one of three which have affected major areas of the country, but a number of others which have affected smaller regions such as parts of the Midwest and the Far West and the Northwest, areas which supposedly were rich in electric power.

We are not trying to foreclose the consideration of all of the items in this overall comprehensive energy bill that my Republican colleagues want, but we want to pass a bill which will address the most immediate and serious energy problem which this country confronts and that is the problem of blackouts and shutdowns of electrical utility service to the consumers of this country. Such an event occurred on August 14. Elevators stopped between floors; subway cars stopped in subways; factories shut down; explosions occurred in refineries; steel mills shut down; huge losses occurred to business; huge losses occurred to manufacturing; thousands of businesses shut down; millions of Americans were without electric service. Fortunately, the one good thing that can be said is no one died. But everybody was put at risk in the Northeast.

One of the problems about the situation is that we do not exactly know what all caused this, but we know that one of the major problems was the fact that there are no enforceable standards to enforce reliability upon the system. This is something upon which there is broad agreement in this body and in the Senate. It goes across the lines of partisanship. It is something on which everybody agrees, and it is something which can be quickly and easily done.

What I say is not to kill the whole bill, but to pass expeditiously those portions which will address the immediate and serious problem which this country confronts. Let us move towards breaking those portions out, putting them speedily on the floor, putting them speedily on the floor in the Senate, and sending them to the President so that he may sign them and Americans may understand that we will have a decent program for the protection of the American consuming public and American industry with regard to reliability of electrical service.

There is no difference in view between me and my good friend, the chairman of the committee, about whether or not we ought to go forward with a comprehensive energy bill. This can be done at the same time. But we can speedily move forward the question of reliability and afford Americans the comfort, the safety and the security of that step by providing assured safety for them in their electric utility service.

What all is involved in this comprehensive energy bill? Clean air and clear skies are now going to be put in in the conference, we hear, a matter which is neither germane nor is it within the new matter rule. They are going to talk about drilling in the Arctic Wildlife Refuge, a matter which has triggered filibusters in the Senate; tax credits for oil and gas and matters of that kind; repeal of the Public Utility Holding Company Act; renewable fuels; royalty relief for people in the energy production business; funding for ethanol; MTBE liability relief, an extremely controversial question; global warming on which the Senate voted 95 to nothing against, fuel efficiency in automobiles; and scores of other questions.

Those are matters which will take much time in conference. These are not matters which can be addressed easily and which can be on the floor in 2 weeks as my good friend the chairman of the committee tells us. Much though he might want that and much though I might want it, it is not something which is easily done. We agree that the country needs an electric reliability bill. This motion to instruct the conferees makes that possible.

Mr. Speaker, the chairman of the committee and I both agree the country needs a comprehensive energy bill to diversify our supplies, to create energy independence as much as we can, and to increase the energy security of this country. All that this motion advocates is that we do promptly what we can do to prevent another blackout. It avoids long, tedious discussions which will delay the probability of legislation being enacted quickly and before we might confront this same problem which could occur again even as we speak.

I would point out to my Republican colleagues that I do not seek the perfect solution to energy problems. We have been working on energy problems since I came to this place many years ago. We have consumed enormous amounts of time of the Congress in working on energy supply, energy sufficiency, and other questions of that sort. We can roll up our sleeves and work on those matters while we are moving this other legislation forward quickly and put reliability legislation on the floors of the Congress and on the desk of the President to assure safety and security for the American people.

I would remind my Republican colleagues of the old legislative axiom that the perfect good is the enemy of the good. It may be a perfect good to wrestle around and wrangle around about a piece of legislation which will deal with every imaginable energy problem, which will evoke the support and the enthusiasm of every special interest in this town and in this country, but it is not the way to assure that we do the things which we can do quickly and well while we work upon the other more difficult and controversial questions.

I would point out we have not yet appointed conferees. The Senate does not yet have even the vaguest idea of what it is upon which they may agree. They had to send to conference a curious concoction of last year's energy bill with the simple statement that the chairman of the Senate conferees is going to write the bill as the matter is considered in conference, hardly an open and transparent and intelligent way in which we might legislate.

I would urge my colleagues, let us do that which we can do quickly and let us do that which will take us longer with more deliberate and careful and thoughtful effort which will lead us to a quicker and better solution to the problems we confront.

I urge the adoption of the motion to instruct conferees. It is consistent with our responsibilities. It is consistent with the public interest. It gives protection to the American people in a fashion on matters that greatly concern them about their safety, about the well-being of themselves and their families and about the well-being and the efficiency and the capability of the American economy to provide the things that are necessary for us all.

Let us deal with those things which can quickly be addressed, and let us then work more slowly in the conference on other matters. And if they can be moved as fast as my good friend, the chairman of the committee, says, then we will have something on the floor in the next couple of weeks. If not, then there is nothing lost because we will be able to wrangle around interminably on these matters as we have for so long.

Mr. MARKEY. Mr. Speaker, I rise in support of the motion to instruct that is being offered by the gentleman from Michigan (Mr. DINGELL).

Our constituents want to know what caused the August 14th blackout, and what we are going to do to prevent it from happening again.

Unfortunately, the testimony the Energy and Commerce Committee received from the Department of Energy and the Federal Energy Regulatory Commission yesterday, indicates that the Bush Administration remains pretty much in the dark about the causes of the blackout.

At the same time, the Bush Administration continues to press for the immediate adoption of an energy bill that contains language that would make sweeping deregulatory changes in electricity law and launch a wide-ranging assault on our environment in the name of increasing oil and gas production. The Administration is essentially saying that these radical proposals are needed to prevent the recurrence of an event whose causes they say remain unknown. But if we don't know what caused the blackout in the first place, how can we know whether the proposed cure is worse than the disease? That's like a doctor telling you he has no idea what caused you to black out, but he'd like to see you in the morning for brain surgery. When you hear that, you know it's time to get a second opinion.

And the gentleman from Michigan has very helpfully offered a second opinion. Instead of a full frontal electricity lobotomy, he proposes a more modest initial course of treatment. His motion essentially says that we should quickly reach agreement on the consensus reliability language, and put the rest of the electricity title on hold for a later day. This solution, if adopted by the conferees would allow this Congress to solve a very real problem that we already know exists—the fact that existing electric utility reliability standards are purely voluntary and unenforceable. We know this is a problem. It very well may have contributed to the August 14th blackout. We should deal with it quickly, and not hold its ultimate resolution hostage to a resolution of the very complex and contentious issues of PUHCA-repeal, Regional Transmission Organizations, Native Load protection, incentive ratemaking, renewable portfolio standards, and a whole host of other entirely unrelated energy issues that are in the House and Senate bills.

We should set aside all of these issues now, at the very least until we've heard back from the U.S.-Canada Task Force on the causes of the blackout. Instead, we should just pass a clean, stand alone reliability bill, and do it now. If we get further recommendations from the Task Force after it completes its work, we can decide if more legislation is needed.

But right now, we should, reject once and for all this ridiculous notion that drilling in the Arctic Wildlife Refuge is somehow needed to prevent future blackouts. Oil is for cars and trucks, not for air conditioners, refrigerators, ovens or light bulbs. Only about 3 percent of the oil our nation consumes is used for electricity.

What stopped working during the blackout? Our lights, our cooling, our refrigerators, our ovens.

Our cars and SUVs ran just fine.

It is ridiculous to use the blackout as an argument for drilling in the Arctic Refuge and other pristine public lands, and it exposes those who make the argument desperate for an outcome, driven by ideology, not facts.

The only relationship between the electricity blackout and gasoline is that several refineries shut down temporarily, which the oil industry used as an excuse to raise the price of gasoline to record-breaking levels nationwide over the Labor Day weekend.

I don't think that was justified, but at least the relationship is clear—electricity doesn't depend on reliable oil—oil depends on reliable electricity.

That is why we should stop searching in Alaska for solutions to the blackout. The problem is not in Alaska, it is in Ohio. The solutions won't be found above the Arctic Circle, but below Lake Erie.

Yesterday, Energy Secretary Abraham and FERC Chairman Pat Wood essentially told our Committee "we'll get back to you later" with some answers about what caused the blackout. So right now, we really don't have all the answers. We do know, however, that this $7–10 billion dollar hit to the economy could happen again tomorrow. Before we enact comprehensive energy legislation, we should know what caused the blackout.

We can, as a first step, pass by consensus reliability language that is in both the House and Senate bills, and defer action on the broader issues of FERC oversight, PUHCA and other issues that are just too contentious to resolve quickly. After we've gotten some answers, we can then come back and consider whether we should do other things. But if we legislate right now, we are just firing a shot in the dark—a shot that could hit our constituents and our economy with very severe consequences.

I urge adoption of the Dingell motion to instruct.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. COOPER. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. COOPER moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the Columbia disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

Mr. COOPER (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7(b) of rule XXII, the gentleman from Tennessee (Mr. COOPER) and the gentleman from Pennsylvania (Mr. ENGLISH) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume. Tonight we are about to have an hour of debate on whether, in fact, Republicans in the U.S. House of Representatives are the compassionate conservatives that they claim to be. Is there any compassion in their bones?

We are not debating whether the U.S. Senate is compassionate, because they have already voted by a bipartisan vote of 94 to 2 to do the right thing. We are not debating whether President Bush and the Republican White House is compassionate because they have already urged House Republicans to do the right thing and do it quickly. But it has been 93 days that House Democrats have been waiting, that the President has been waiting, and that Senate Republicans have been waiting; and still there is no action from the other side of the aisle.

What is the issue? The issue is the child tax credit. If you are going to be a compassionate conservative, if you are going to be compassionate at all, surely you will take care of the children in our society. Surely you will take care of the children whose parents are relatively poor, parents who earn between about 10 and $20,000 a year. That is the issue at stake. That is what the American people have been waiting for for 93 days. The other side could take action. In fact, we could probably pass it tomorrow if they would finally act. But the Republican leader has been quoted as saying, it ain't going to happen. Other Republican leaders have been saying things to indicate what has in fact happened, that the conference on this has not even bothered to meet. They have not even bothered to pretend that they care.

So that is what is at stake in this debate, and that is why we are bringing it to the attention of the American people.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

□ 2215

Mr. HOYER. Mr. Speaker, I thank the gentleman for his leadership on this important issue. I just came in a little bit late, but I heard his comments. Eighty-four days since the President of the United States, through his press secretary, said we ought to pass this legislation, 84 days that we have been fiddling while, figuratively speaking, those who would be entitled to this child tax credit, 6½ million families, 12 million children, have been burned while we fiddle around here in Washington. The majority is proud of the fact that it can move legislation when it wants to. They have demonstrated that ability. There is therefore no doubt, that the words of the President's press secretary 84 days ago saying that we ought to take care of these families, we ought to take care of these children, we ought to give this tax credit to those families who are the neediest families in America. This is not unique.

The gentleman from Tennessee (Mr. COOPER) brought an amendment to the floor dealing with the earned income tax credit, some of the lowest wage earners in America. And guess what? We are going to get them. That is what happened in the ITC amendment. Now, here with the child tax credit in the dead of night, the conferees, indeed the chairman of the Committee on Ways and Means, to be more specific, removed this provision from the conference report included by the Senate, which, Mr. Speaker, then resulted in the President's press secretary saying the President wants us to pass this legislation just as soon as possible. That was 11 or 12 weeks ago.

Mr. Speaker, it is unconscionable that we have not acted because in the interim we have talked about giving very large tax breaks to wealthy corporations and wealthy individuals.

Mr. Speaker, I am hopeful that this instruction will pass, but much more importantly than that, I am hopeful, as the gentleman from Tennessee (Mr. COOPER) has indicated, that the conference will meet, the conference will act.

I talked about 200,000 military families that are affected by this failure of the Republican majority to act. But let me say the military is being disadvantaged on many tax measures whether it deals with their $6,000 that they get for a death benefit, $3,000 of which is now taxable which we all want to exempt, 100 percent of us want to exempt that. It lies languishing, it lies languishing, I tell my friend from Pennsylvania, for failure of the Committee on Ways and Means and the Committee on Finance to act. Moving costs for our military personnel, our National Guard, our Reserves when we have asked them to move, when they have to sell their home, moving expenses, capital gains consequences, it languishes, I tell my friend from Pennsylvania, distinguished member of the Committee on Ways and Means. It languishes because the majority has failed to act. How sad it is that 12 million children did not get the assistance that others got just so recently.

I thank the gentleman from Tennessee (Mr. COOPER) for his leadership in this effort. I thank him for yielding me this time. And I am hopeful that the House and the majority will finally act to give the relief that the President of the United States was so adamantly urging us to pass 84 days ago.

Mr. ENGLISH. Mr. Speaker, I reserve the balance of my time.

Mr. COOPER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the great State of Georgia (Ms. MAJETTE) who has been a real leader on these issues, in fact, on all issues having to do with protecting our Nation's children.

Ms. MAJETTE. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I rise today to speak in support of the gentleman from Tennessee's (Mr. COOPER) motion to instruct conferees on the child tax credit. Quite frankly, I cannot believe this continues to be an issue. We need to just do the right thing.

Back in May this House passed a tax cut bill, but those refunds were not for everyone. Americans who work for a living were denied refunds. The people who have the very least influence on this body did not get a tax cut. That is cold hearted. That is unfair, and that is just plain wrong. That bill gave no relief to those who need it the most right now, 6.5 million working families, families whose entire household income is between $10,000 and $26,000. Approximately 40,000 families in my district, Georgia's fourth district, did not get a refund check like millions of other Americans did. Some people received checks in July like Christmas in July, but there were 40,000 families in Georgia who got zapped by the Grinch factor. A couple of hundred bucks may not seem like a lot to some, but to a family living in poverty, it is much needed relief. That is money to buy winter coats for children. That is money to buy school supplies. That is money to pay for dentist bills.

Just yesterday the census released new figures showing that the number of families and children living below the poverty line rose by 1.3 million last year, 1.3 million more families than last year. In my home State of Georgia, those same poor families are preparing for the brunt of some harsh budget cuts, some harsh State budget cuts and Federal proposals, cuts in Medicaid, cuts in child care services, cuts in education. And yet this House still refuses to include the people who are hurting the most. And let me tell the Members, these are hard-working folks, and they will be the ones who will bring our economy back. It is their sweat and their determination that fuels America's economic engine. It is their labor that makes our lives more comfortable and safer.

I do not rise to speak out on every single issue. It is my nature, as a former judge, to listen and to gather information and to try to make wise decisions. But I have heard and listened to enough, and my faith and my convictions have pulled me to my feet tonight because this issue is far too important to far too many people to let me rest. So I urge my colleagues who talk about compassionate conservatism to walk the walk and put their money where their mouth is. I urge the conferees to do the right thing, to extend the child tax credit to America's working families and our poorest children, for they are the ones who are struggling and hurting and getting hit from every direction right now. We cannot afford to play politics at their expense because they literally cannot afford it. We need to show the Nation and the world that we take care of our own, and we need to treat them the way we would want to be treated, with malice toward none and with charity for all.

So I support the Cooper motion to instruct the conferees on the child tax credit. I urge my colleagues to do the same.

Mr. COOPER. Mr. Speaker, I thank the gentlewoman from Georgia for her remarks. I appreciate her contribution to this debate.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. RYAN) for his remarks.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman as well for his leadership on this issue.

This is a very tired issue for us. It has been 80 some days, and we have been talking for quite some time, and many of us who are new to this Chamber, as the previous speaker said, who have not been in politics all that long cannot figure out why we are just not doing the right thing. Because this is not a Democratic issue, and this is not a Republican issue. This is not a partisan issue. This is about helping 12 million kids.

And Labor Day, last Monday, I was fortunate enough to have the President of the United States in the State of Ohio. And as he took his motorcade through the gated communities of the suburbs of Richfield, Ohio and had the audacity to talk about compassion, the audacity to talk about working poor, the audacity to talk about helping kids, 500,000 children in the State of Ohio will not be eligible for this tax credit because this body has refused to take it up.

But I can guarantee that if this group of people, this 6½ million working families, 12 million children, if they had millions of dollars to donate to the Republican party, they would make it on the agenda like that. It is pay to play in Washington, D.C., and we have young children in this country, the wealthiest country in the world, who are not eligible for this, and the big excuse is they do not pay income tax. These families pay sales tax. These families pay property tax. And just because they are poor, we are not going to take care of them. And these are not poor people asking for a handout, as the gentleman from Tennessee makes that point very often. These are not people who are looking for a handout. These are people who go to work every day. And what happened to those values that if they work hard, they play by the rules, we are going to take care of them, we are going to make sure that this Government works on their behalf? Not under this administration. If they do not live in a gated community, if they do not make big money, if they do not donate to the Republican party, their agenda is not brought before this Congress.

The Republicans control the House. The Republicans control the Senate. There is a Republican family that lives in a house right up the street, and if they wanted to take care of this issue, they could. It is a matter of priority. And we are going to sit here, and we are going to stand at this until the wee hours of the morning until this happens, and there will be an election that comes up, and there will be families who should be eligible for this tax credit, who are not, that will be going to the polls very soon.

I think it is crazy when we live in a country where the IRS has a better chance at auditing someone who gets the earned income tax credit than they do for someone who makes $1 million a year. I think that illustrates where we are today in our governmental process. This system is broke. It is a money game. And if they do not have the money that they are dipping into the campaign coffers, their agenda is not brought before this body.

I want to thank the gentleman again for yielding me this time. I also want to thank the gentleman from Texas for all his leadership on this issue. We are going to stand here, and we are going to keep talking until we are blue in the face because these people deserve it. And when our voices are not being heard, it is the voices of millions and millions of children who need our help.

Mr. COOPER. Mr. Speaker, I thank the gentleman from Ohio for his comments. The gentleman is the youngest Member of Congress, an honor I held about 20 years ago this day. We appreciate his eloquence on this important issue.

Mr. ENGLISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been painful for me to sit here and listen to some of the partisan rhetoric, which I think has trivialized a very serious issue. If this is about compassion, the House has already gone on record in a very compassionate way. The issue here, I would suggest to the gentleman from Tennessee, is really one of a more immediate nature, whether his party is going to continue to stand for maintaining a high level of taxation on working families. I am sad to say with this instruction to conferees, they are clearly going on record in favor of more taxes.

Mr. Speaker, accordingly, I rise in opposition to the motion to instruct the conferees. First, I want to set the record straight and commend the chairman of the Committee on Ways and Means and the Republican leadership for already taking swift and meaningful action on the expansion of the child tax credit in June.

My freshman colleague from Ohio may have overlooked the fact that we have already voted on this issue. Contrary to what the minority has been arguing here tonight, the House took clear action on this issue and moved specific legislation forward in order to maximize the number of families that benefit from the jobs and growth plan.

□ 2230

The motion to instruct before us actually takes several steps back from the policy that we already adopted in June. It reduces the tax benefits and it reduces the number of working families that would benefit accordingly.

The motion, for example, calls for the child credit to drop, to be reduced from $1,000 to $700 after the 2004 election. Now, I have to think that is a coincidence. But under their motion, millions of low- and middle-income families will receive a smaller child tax credit right after the elections.

The House-passed bill ensures that the child credit remains at the $1,000 level throughout the decade. That is not only compassionate, it is good tax policy. This is a necessary and, in my view, reasonable element of the House-passed bill because it locks in the Federal commitment to this policy for future years.

If we truly support compassionately helping families with the costs of raising their children, then let us extend this policy beyond next year.

When debating the jobs and growth plan, I listened with interest to my colleagues on the other side howl that the child tax credit was set to expire in 2004. I was pleased to hear that they expressed such strong support for long-term tax relief. Now I am sorry to see the truth becomes clear. They are singing a very different tune.

Furthermore, Mr. Speaker, the motion to instruct does not eliminate the marriage penalty and the child credit until 2010. Even then it only does so for 1 year. Now you see the tax relief, now you do not.

Under the motion, millions of children will be denied the child credit simply because their parents are married. The House-passed bill benefits middle-income families by eliminating the child credit immediately. That is compassion, Mr. Speaker.

I want to make one more thing very clear because this has been raised previously. The House-passed bill does not deny the child credit to military families. That is a matter clearly in the record. Military families, including those who are deployed abroad today, are already receiving a refundable child credit and will continue to receive a refundable child credit under the House-passed bill.

The motion to instruct would only increase the refundable child credit for some military families by allowing them to take into account tax-free income when they compute their refundable credit. The House-passed bill provides more tax relief to military families because it includes $806 million of military tax benefits. And that, in my view, is something we need to remain committed to in the House of Representatives.

These provisions have passed the House on numerous occasions and are awaiting action in the Senate. I believe our tax system imposes too high a burden, not only on our military families, but also working families in places like Erie, Pennsylvania. This imposes a real and substantial social cost. And at a time when we are in an economic slowdown, I think it clearly applies a very substantial economic cost.

The House-passed All American Tax Relief Act, which the other side has conveniently forgotten about, proposes a direct solution to the needs of families struggling with the burden of dependence by offering a comprehensive expansion of the child tax credit.

The motion to instruct wrecks the House-passed bill. It guts it and it should be defeated convincingly to show that we are still on record in support of relief for working families.

Mr. Speaker, I reserve the balance of my time.

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

I would hope that the listeners could see through the rather emphatic rhetoric of my good friend from Pennsylvania, because may I remind him that the conference committee has not even bothered to meet on this issue. The Senate is controlled by Republicans, the House is controlled by Republicans, and they have not found time in the last 93 days to meet on this issue.

Let me read the quote from the White House Press Secretary: "The President wants to sign the Senate legislation," not the House legislation, the Senate legislation, "and hopes that Congress will get it to him quickly." This was on June 9 of this year. "The President believes that what the Senate has done is the right thing to do, a good thing to do, and he wants to sign it."

So cut through all the rhetoric, cut through all the b.s. I have not seen a Committee on Ways and Means majority member carrying this much heavy water since they tried to defend the police action taken by a member of that committee a month or so ago, only to have the chairman of the committee come to this floor to apologize for his action.

Do the right thing. Do what the White House has asked you to do. Do what the Senate has passed 94 to 2.

Are Republicans compassionate? Can they govern this country? Can they be decent to our own children? That is the issue we are debating tonight.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. BELL), a genuine leader on this issue.

Mr. BELL. Mr. Speaker, I thank the gentleman very much for yielding and for his leadership on this issue and again bringing the child tax credit before the American people.

I listened to the distinguished gentleman from Pennsylvania talk about how it pains him to listen to the debate. I certainly understand that, because oftentimes the truth does hurt. As I stand here it becomes so apparent, and all I can think about is that old saying that the more things change, the more things stay the same.

As many will recall, we were here night after night leading up to the recess period asking for a motion to instruct on the child tax credit. Some people may have forgotten during the recess period. Certainly our colleagues on the other side of the aisle would like for the American people to forget.

But we are not going to forget. We are not going to forget about those we represent. We are not going to forget about those who are in the greatest need of a tax credit.

All the Republicans would have to do, if they are sincere, is join with the other body and pass the bill that was passed out of the other body calling for an $11 billion child tax credit.

But I would like to take people back to June, because that is how you really can identify the insincerity of the arguments on the other side, when we had the debate regarding the child tax credit and we really saw the hollowness of "compassionate conservatism" on display, on open display, as they talked about wanting so greatly a child tax credit, but knowing that the bill that they were putting forward calling for an $80 billion child tax credit would have absolutely no chance, no chance, of being agreed to by the other body. They knew precisely what they were doing.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. BELL. No, the gentleman has his own time, and I am not going to yield.

That is precisely what has taken place. And now 93 days have gone by, just as we predicted they would, and the conference committee has not met a single time to try to work out a child tax credit, despite, despite the contentions made by the other side of the aisle that they so greatly wanted this child tax credit.

But, see, some of the real feelings from the other side of the aisle began to slip out after that day back in June, and the majority leader let forth his true feelings when he said, "It ain't going to happen," and he made it clear that he believes the working poor in this country do not deserve a tax credit because they do not pay income tax.

Well, they do pay sales tax, and they wake up every day and they go to work and they have needs, sometimes greater needs, than those long-suffering millionaires who the Republicans seem to always be able to find tax relief for, and we need to do something to take care of these families, and that is what this child tax credit is all about.

At no time was that more clear than during this district work period when I had a chance to go back home and sponsor a back-to-school fair for one of the low-income neighborhoods in my district. The greatest excitement that came during the course of that evening was when a local merchant had offered to give away backpacks, a backpack, something that has become a basic school supply for almost every school child in America. But the excitement was because many of these kids had not been able to afford them.

All I can think is how much that $400 child tax credit would have meant to those families when they were preparing to send their kids back to school, how much it would have meant to them.

That is why it is important, and that is why we challenge the other side of the aisle, that is why we challenge the Republicans in this body night after night to stand behind your words that you stated back in June, stand behind what you claimed was a sincere, compassionate need to help working families in this country.

Go to the conference committee, agree with the other body, and let us bring forth a child tax credit that will put money in the hands of those who need it most in this country. Let us pass this motion to instruct and let us pass a child tax credit.

Mr. ENGLISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to engage the last speaker. Since he refused to yield for a question, perhaps if he could briefly answer a question on my time. I would yield myself such time as necessary, if he will answer that question.

The gentleman made in his statement the claim that he knew that the House bill, or we should have known that the House bill, which was far more generous than the instruction provides for as a policy, that provides far more tax relief to working families, that provides much more well-rounded tax policy than is contained in their motion to instruct or in the Senate version, he said that we were in some way culpable because in passing this bill already and acting on this issue already, we should know that the Senate is not going to act accordingly.

May I ask the gentleman, how does he know that as a freshman?

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Texas.

Mr. BELL. Mr. Speaker, this has absolutely nothing to do with being a freshman. Things become rather apparent around here quite quickly, and when the other body has engaged in a lengthy debate and has offered a child tax credit which has been paid for and has identified funding for that, it will not go above that mark, and has made it very clear they will not go above that mark, certainly if you come back and pass a child tax credit that calls for some $69 billion and does not identify any funding for that bill, you know that the other body, common sense would tell you that the other body is not going to agree to it.

We stated that at the time, and what has played out is exactly what we said would play out. The conference committee has not met.

Mr. ENGLISH. Mr. Speaker, reclaiming my time, the gentleman is really not being responsive.

May I say, I believe the House has adopted the correct policy. What this motion would do is gut that policy and remove some of the tax relief that I believe is essential for working families, particularly those who are the object supposedly of compassion on the other side.

Mr. Speaker, I think the important thing to understand here is that the House has already acted. We have already laid out and I have laid out in my remarks exactly what the House position is. The gentlemen are advocating a policy that would roll back that tax policy, and all of the remarks so far have not been responsive to my arguments.

Mr. Speaker, I reserve the balance of my time.

Mr. COOPER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. PALLONE), who has been not only a leader on this issue, but on so many issues in this House of Representatives. Where the gentleman gets his energy, I do not know, but I am proud of him.

Mr. PALLONE. Mr. Speaker, I thank the gentleman for those comments. I appreciate it.

But I have to respond to the Republican gentleman from Pennsylvania, because as much as I respect him, and I do, he is clearly trying to rewrite history in terms of what happened here with this issue.

The bottom line is, and I think he has forgotten, the Republicans passed this huge tax cut that essentially ballooned the deficit. We are up to like a $500 or $600 billion deficit right now. And, lo and behold, all the checks were going to go out. The President got up and said we are going to send the checks out to all these people, a lot of them wealthy, some middle class. But all of a sudden everybody realized that the working poor, those families that were making between $10,500 and $26,000 a year, that their children, their 12 million children, were not getting the increased child tax credit.

So, what happens? The President is embarrassed. The Senate is embarrassed. The other body immediately says, "Well, let's do something real fast. We will give these kids and their families the extra child credit, but we do not want to balloon the deficit because we know the deficit is way out of control because of the Republican tax cut policies. So we will just lengthen a customs excise tax to pay for it," I think it was.

□ 2245

They said, Look, we will do this but we will not increase the deficit and we are certainly not going to go for even more taxes to make the deficit even worse. Well, they passed it.

Now, we figure, okay, the House will take it up and pass it too because the President of the United States said, This is a good thing. I agree with what the Senate did. It will not cause more problems for the deficit. It will just help these poor families. But what does the House do? The House passes this other big bill that will balloon the deficit even more, give more money primarily to wealthy people, and now my colleague from Pennsylvania says, well, the House bill is better.

The bottom line is the House bill is never going to pass. We know that. Why will it not pass? Because it will increase the deficit. The Senate rightly will not pass the House bill because they know it is not just addressing the problem at hand which is the real problem that needs to be addressed to these poor children and these poor families, these working families, but rather just give more tax credits, more tax cuts to other people who do not need it and balloon the deficit even more.

Mr. Speaker, I like the gentleman. I respect my Republican colleague from Pennsylvania, but he knows darn well this House bill is going nowhere. That is why there is no conference. I do not know if they have appointed the conferees, but the conferees never met. Why? Because the House Republican leadership has no intention of passing this bill. If they had any intention of passing it, they would have had the conference.

I respect the gentleman a great deal, and I know he really believes that this House bill is the right way to go, and I respect him for that. But the gentleman knows it is never going to pass. The gentleman knows it will never go to conference. The gentleman knows it will never go to the President's desk. The President has said he wants to send a bill because he knows it is the only bill that will pass. So do not kid around here.

I understand the gentleman really earnestly believes in it, but procedurally it will not happen. If it was going to happen, then the majority leader, the Speaker, would say, let us have a conference and let us try to work out the differences, try to persuade the Senate to pass something if they want. But they are not doing that. They are just ignoring it.

What we are saying as Democrats is we are not going to let you ignore it. A promise was made by the President. A promise was made by the Republican leadership that they will address this issue, and they are not doing it. And it is irresponsible because these poor families need the money. If they got the money, they would go out immediately and spend it on basic necessities: food, clothing, whatever. It would be an economic stimulus. But that is not even the issue. It is an issue of equity.

Why in the world should those poor families who are paying taxes, whether it is payroll, sales, property tax or whatever, why should they not get the money? They were getting the original tax credit. Why should they not get the increase like everybody else? Why should they not get the check in the mail? I got the check in the mail. I think it was $1,200 because I have three kids.

Now, I do not really need it. I would rather see that it was going to poor families, to working families that have low income. It is just not right. It shows dramatically that the Republicans do not care. They are not compassionate conservatives. They may be conservatives, but they are not compassionate at all.

I respect the gentleman a great deal, my colleague from Pennsylvania, but do not kid us and say this House bill is going anywhere. It is going nowhere. That is why we are not having the conference. The leadership is not taking it up. They told us it was dead, but we are not going to let them get away with it.

Mr. ENGLISH. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. CARTER). The gentleman from Pennsylvania (Mr. ENGLISH) has 21 minutes remaining. The gentleman from Tennessee (Mr. COOPER) has 4 minutes remaining.

Mr. ENGLISH. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. SMITH), one of my most distinguished colleagues.

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman for yielding me time.

I will do a Special Order tonight on Social Security, that we need to deal with Social Security. And maybe it should be made clear to everybody what the motion to instruct does is in effect saying that those individuals that do not pay income tax should still have the child tax credit. I wonder if there might not be another solution.

In my Social Security bill that I am introducing next week, I say for those private investment accounts that are safe investments, and we will not get into the debate on whether that is advisable or not, but what I do is for those individuals making less than $34,000, I add money to their personal retirement fund that they own to help give them a chance to accrue increased benefits that is going to give them maybe even a better income and retirement than they had in their working years.

So maybe instead of suggesting we should have a child tax credit relief for those individuals that do not pay any income tax, maybe we should be talking about some relief for those low-income individuals paying into Social Security. Because after all, 75 percent of Americans working now pay more in the Social Security tax, the FICA tax, the withholding tax than they do in the income tax. So I think rather than confusing the issue saying let us give an additional, you might call it, some people would dislike having it called a welfare payment, but if it is for individuals as an income tax rebate for individuals that do not pay any income tax, then it could be conceived that way. So I wonder if maybe it is not a more fair and reasonable debate for those 75 percent of Americans who pay more in the FICA tax than they do in the income tax to talk about reducing their FICA tax and still giving them some kind of credit for retirement.

So I oppose the motion to recommit because I think it confuses the issue.

Mr. COOPER. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DAVIS), an eloquent speaker, a colleague and friend of mine who, in fact, represents the congressional district I used to represent.

Mr. DAVIS of Tennessee. Mr. Speaker, child tax credit. What is it? It is not a refund because you paid income tax. That is a misnomer we are talking about.

This bill passed in the House and was excluded, there were certain numbers of people excluded as a result of tax cuts that were passed. And this body, Members of this Chamber, the majority side decided that we ought to cut folks out who make between 12 and $25,000 a year. We are not talking about something new. This has already passed for everyone else except for those who earn between 12 and $25,000 a year. You excluded those individuals. You said if you have children and you are working, it does not matter.

I walked this past Monday in a Labor Day parade; and as I was walking down in Whitwell, Tennessee, the gentleman knows what I am talking about, as I walked down that Labor Day parade route, probably 5 or 6,000 people on the sides of the road, somebody came out and hollered at me, Tell the President, and I will not repeat what she said, what he can do with his tax cut.

I think we can redeem ourselves. Mr. President, what I am calling on you tonight to do is just what you did to the Senate. I talked to the Republican-controlled Senate and said pass a child tax credit that includes those folks who earn between 12 and $25,000 a year. They did. He said we have left them out when we passed the income tax proposal. He called the House. I am sure he called the majority leader or maybe the Speaker and said, Pass the bill because those folks deserve it. He said he was a compassionate conservative. I believe him.

Let us redeem ourselves to this lady who is saying, you left me out. I work every day. I am a single mom and you left me out, Mr. President. Do not do that to us, Mr. President. We are not talking about whether they pay income tax or not. We are not talking about giving a tax refund because they paid in. We are talking about stimulating the economy and giving someone $400 per child who works every day and pays the gasoline tax when they drive to that factory where they work or the shopping center where they work selling hamburgers.

So do not tell me they have not earned this. They have. And it is a shame that this House has not done what the President asked them to do. Mr. President, let us redeem ourselves with those folks who work every day harder than any of us and earn between $12,000 and $25,000 a year. It is time that America stood up for what is right, Republicans and Democrats. I am tired of it.

Mr. ENGLISH. Mr. Speaker, I have one speaker remaining, and I believe the gentleman has the right to close.

Mr. COOPER. Mr. Speaker, I have one speaker remaining in addition to myself. How much time remains on my side?

The SPEAKER pro tempore. The gentleman from Tennessee (Mr. COOPER) has 1½ minutes remaining.

Mr. COOPER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much for yielding me time.

There is only one point that I want to make and to suggest that what we are doing here, our inertia and inaction is a crime. It is a crime on families that clearly deserve the equity of a child tax credit just like any other working family.

I leave this floor with this thought I hope will be lasting, and I thank the distinguished gentleman from Tennessee (Mr. COOPER). Our military hospitals across the Nation and around the world are teeming with the wounded from Iraq and Afghanistan, teeming. And because of that, they leave or they have families back home who today cannot receive a tax credit because this body will not act. The question for the Republicans is whether or not they will pay the appropriate tribute to their sacrifice and pass the earned income tax credit now, the one passed by the Senate, now.

Mr. COOPER. Mr. Speaker, I have the right to close, and I reserve the balance of my time.

Mr. ENGLISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I have listened to the debate I am afraid that the speakers on the other side from over and over again overlooked some basic points.

First, they talk as if the House had not acted, but the House in timely fashion has acted and has passed a bill to extend the child tax credit to these families. Second of all, we have done what the President asked for and more. And we are now in a position to move forward I think and make a compelling argument to the Senate at a time when the economy is slow that they should be considering, in fact, more relief. And what is more, one of things that I pointed out in my remarks and none of the speakers chose to address on the other side, was the fact that after all, this motion to recommit would effectively cut back on the tax benefits that the House has already chosen to extend. And to put that into context and allow people to judge the relative compassion, to use the other side's rhetoric, let me just suggest the following examples:

Under our bill we would extend the $1,000 child credit immediately and for good. But under their proposal in the year 2005, that $1,000 child tax credit would drop down to $700. That is a tax increase on working families after the election. And that is a fact that the other side has not chosen to engage on. That is a very significant tax increase for working families. When you consider that in Erie, Pennsylvania, a cop with three dependents would see his taxes go up or her taxes go up $900 dollars in the year 2005 under their proposal relative to ours. Two young teachers with two very young dependent children would see their taxes go up $600 in the year 2005.

I know people in these circumstances. I know people in my neighborhood who have had to face this tax burden and are facing exactly those circumstances trying to raise their kids with limited resources. What this motion to recommit does is force a tax increase on them after the 2004 election. I think that is bad social policy and it is bad economic policy. And I am immensely proud that this House has already gone on record in favor of addressing this issue, has done so eloquently. And I hope tomorrow when we have an opportunity to vote finally on this recommittal motion that the House will clearly go on record opposing this motion to recommit.

I thank the gentleman for his eloquence tonight. It has been a great debate.

Mr. Speaker, I yield back the balance of my time.

□ 2300

Mr. COOPER. Mr. Speaker, I yield myself the remainder of my time.

As I began the debate, are House Republicans compassionate? Unwittingly they have proven for the 93rd day they are not, because they will not even agree with their President or with the Republican majority in the Senate to govern, to do the right thing for our Nation's children.

I would urge this House to vote yes on the motion to instruct. It is a vote on compassion. It is a vote on whether we care, and this is the chance to prove it.

For the second time tonight, the Republican majority in the House has proved they do not have any compassion. First we debated the earned income tax credit, now this one. Vote yes on this motion to instruct.

The SPEAKER pro tempore (Mr. CARTER). The gentleman's time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Tennessee (Mr. COOPER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. COOPER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

COMMUNICATION FROM CONGRESSIONAL AIDE OF HON. ELTON GALLEGLY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from NiCole Dolski, Congressional Aide of the Honorable ELTON GALLEGLY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 2003.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a criminal trial subpoena for testimony issued by the Superior Court for Ventura County, California.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena would be consistent with the privileges and rights of the House.

Sincerely,

NICOLE DOLSKI,
Congressional Aide.

COMMUNICATION FROM DISTRICT DIRECTOR OF HON. ELTON GALLEGLY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Paula Sheil, District Director of the Honorable ELTON GALLEGLY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 2003.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a criminal trial subpoena for testimony issued by the Superior Court for Ventura County, California.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena would be consistent with the privileges and rights of the House.

Sincerely,

PAULA SHEIL,
District Director.

COMMUNICATION FROM CONGRESSIONAL AIDE OF HON. ELTON GALLEGLY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Tina Cobb, Congressional Aide of the Honorable ELTON GALLEGLY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 2003.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a criminal subpoena for testimony issued by the Superior Court of Ventura County, California.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena would be consistent with the privileges and rights of the House.

Sincerely,

TINA COBB,
Congressional Aide.

COMMUNICATION FROM CONGRESSIONAL AIDE OF HON. ELTON GALLEGLY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Terry Hiser, Congressional Aide of the Honorable ELTON GALLEGLY, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 2003.
Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a criminal trial subpoena for testimony issued by the Superior Court for Ventura County, California.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena would be consistent with the privileges and rights of the House.

Sincerely,
TERRY HISER,
Congressional Aide.

COMMUNICATION FROM CHIEF OF STAFF OF HON. PAUL E. KANJORSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Karen M. Feather, Chief of Staff of the Honorable PAUL E. KANJORSKI, Member of Congress:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 31, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The purpose of this letter is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and documents issued by the Court of Common Pleas of Northampton County, Pennsylvania.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,
KAREN M. FEATHER,
Chief of Staff.

COMMUNICATION FROM THE HON. PAUL E. KANJORSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable PAUL E. KANJORSKI, Member of Congress:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 31, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The purpose of this letter is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and documents in a civil action in which I am not a party, issued by the Court of Common Pleas of Northampton County, Pennsylvania.

I will make the determinations required by Rule VIII.

Sincerely,
PAUL E. KANJORSKI,
Member of Congress.

COMMUNICATION FROM ASSOCIATE ADMINISTRATOR, OFFICE OF HUMAN RESOURCES, OFFICE OF CHIEF ADMINISTRATIVE OFFICER

The SPEAKER pro tempore laid before the House the following communication from Kathy A. Wyszynski, Associate Administrator, Office of Human Resources, Office of the Chief Administrative Officer of the House of Representatives:

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, HOUSE OF REPRESENTATIVES,
Washington, DC, August 15, 2003.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for documents issued by the Superior Court of the State of California.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
KATHY A. WYSZYNSKI,
Associate Administrator,
Office of Human Resources.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PUBLICATION OF THE GMPs

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise on the House floor this evening to express my appreciation for the publication of the proposed rule for dietary supplement current good manufacturing practices, or GMPs. After many years of delay and inquiry, I am pleased that the Food and Drug Administration finally put forth this proposed rule earlier this year as required by the Dietary Supplement Health and Education Act, also know as DSHEA. This is truly a step forward in health care and will help to ensure that the public has access to high-quality, safe dietary supplements.

Overall, Mr. Speaker, I have found that the FDA's proposed rule works in favor of both consumers and the industry. The public should expect nothing less than safe and effective supplements, and it is encouraging to witness the government and industry joining together to provide consumers great confidence that supplements are free from contamination, accurately labeled and effective in improving personal health.

The GMPs also provide guidelines that assist the dietary supplement industry in manufacturing safe, effective, unadulterated products. The industry fully appreciates the economic consequences of these proposed regulations and is prepared to invest in the future of the natural products that they sell.

However, there are some concerns that will be expressed by both the public and the industry during the comment period, and I am hopeful that the FDA will be responsive, given the FDA's shared commitment to deliver products with only optimum health benefits. For example, Mr. Speaker, although the GMPs steer dietary supplement manufacturers down the right path, there are several outstanding issues that must be raised.

Mr. Speaker, I am concerned about finished product testing and the scientifically validated measures to be used. It is crucial that the FDA and the dietary supplement industry agree on the methods and scientific criteria required of product testing in order for consumers to compare products based upon the same standards.

I recognize that the best standards are those developed from scientific and clinical research, and I have always supported efforts to promote research and development of dietary supplement products. It is imperative that the GMPs include incentives for stimulating clinical and scientific research. This research is important for establishing scientifically validated methods for dietary supplement testing and for providing uniform standards that can be accessed and utilized by consumers when comparing the health benefits of supplements.

In addition, Mr. Speaker, the economic pressure that the GMPs will place on small companies, manufacturers and raw material suppliers with less than 500 employees, troubles me. Analysis shows that the cost of compliance for small companies is estimated at $100,000 the year of implementation and $61,000 the following years. The intent of this financial burden is to rid the market of unscrupulous players. However, small companies and mom-and-pop shops comprise approximately 90 percent of the dietary supplement industry, and I fear that many operations will be forced to go out of business due to the high cost of compliance.

As currently proposed, it is estimated that up to 50 percent of the very small companies could go out of business and that product prices could increase by 35 percent. Retailers, small business manufacturers and consumers will ultimately have to absorb these costs, which will most likely result in fewer consumers being able to purchase dietary supplements.

Mr. Speaker, I would also like to note that GMPs also place a fair amount of pressure, economic or otherwise, on the FDA once they are finalized. Enforcement of the rules will be costly. One way for the U.S. Government to minimize these costs will be to allow independent, third-party organizations to conduct inspections and certify establishments as if they were government inspectors.

This is not a unique concept. For instance, the Joint Commission on Accreditation of Health Care Organizations accredits nearly all the hospitals in the United States.

Another good example of industry and government cooperation is the memorandum of understanding that was established between the American Council for Food Safety and Quality, formerly the Dried Food Association of California, and the FDA. The MOU allows the association to inspect member facilities as if they were government inspectors. The program has paid benefits for all involved. The agency would realize reduced administrative cost burdens as inspection costs could be borne by the manufacturer, while also providing expertise and guidance, thereby allowing manufacturers to come into compliance with the new GMP regulations.

Again, Mr. Speaker, I am pleased with the FDA for finally coming forth with this proposed rule, and I remain hopeful that the benefits will include improved health as a result of better access to quality dietary supplements. It is imperative that the FDA use the instructive recommendations it receives during the comment period and that the public and the industry play a significant role in ensuring improved access to safe and effective dietary supplement products.

☐ 2310

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2004 AND THE 5-YEAR PERIOD FY 2004 THROUGH FY 2008

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2004 and for the 5-year period of fiscal years 2004 through 2008. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 501 of the conference report on the concurrent resolution on the budget for fiscal year 2004 (H. Con. Res. 95). This status report is current through September 3, 2003.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 95. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for fiscal years 2004 through 2008, because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 95 for fiscal year 2004 and fiscal years 2004 through 2008. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. A separate allocation for the Medicare program, as established under section 401(a)(3) of the budget resolution, is shown for fiscal year 2004 and fiscal years 2004 through 2013. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2004 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The last table gives the current level for 2005 of accounts identified for advance appropriations under section 501 of H. Con. Res. 95. This list is needed to enforce section 501 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2004 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 95

[Reflecting action completed as of September 3, 2003—on-budget amounts, in millions of dollars]

	Fiscal year 2004	Fiscal years 2004–2008
Appropriate Level:		
Budget Authority	1,880,555	(1)
Outlays	1,903,502	(1)
Revenues	1,325,452	8,168,933
Current Level:		
Budget Authority	1,101,447	(1)
Outlays	1,424,936	(1)
Revenues	1,331,075	8,377,042
Current Level or (+)/under/ (−) Appropriate Level:		
Budget Authority	−779,108	(1)
Outlays	−478,566	(1)
Revenues	5,623	208,109

[1] Not applicable because annual appropriations Acts for fiscal years 2005 through 2008 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2004 in excess of $779,108,000,000 (if not already included in the current level estimate) would cause FY 2004 budget authority to exceed the appropriate level set by H. Con. Res. 95.

OUTLAYS

Enactment of measures providing new outlays for FY 2004 in excess of $478,566,000,000 (if not already included in the current level estimate) would cause FY 2004 outlays to exceed the appropriate level set by H. Con. Res. 95.

REVENUES

Enactment of measures that would result in revenue reduction for FY 2004 in excess of $5,623,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period FY 2004 through 2008 in excess of $208,109,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 95.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTING ACTION COMPLETED AS OF SEPTEMBER 3, 2003

[Fiscal years, in million of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	0	0	0	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	0	0	0	0	(1)	(1)
Armed Services:						
Allocation	70	34	70	70	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	−70	−34	−70	−70	(1)	(1)
Education and the Workforce:						
Allocation	39	47	201	245	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	−39	−47	−201	−245	(1)	(1)
Energy and Commerce:						
Allocation	−170	−170	439	439	(1)	(1)
Current Level	1,325	100	685	795	(1)	(1)
Difference	1,495	270	246	356	(1)	(1)
Financial Services:						
Allocation	0	375	0	1,250	(1)	(1)
Current Level	−1	−1	−2	−2	(1)	(1)
Difference	−1	−376	−2	−1,252	(1)	(1)

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION, REFLECTING ACTION COMPLETED AS OF SEPTEMBER 3, 2003—Continued

[Fiscal years, in million of dollars]

House Committee	2004		2004–2008 total		2004–2013 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Government Reform:						
Allocation	−1	0	−3	−1	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	1	0	3	1	(1)	(1)
House Administration:						
Allocation	0	0	0	0	(1)	(1)
Current Level	1	1	3	3	(1)	(1)
Difference	1	1	3	3	(1)	(1)
International Relations:						
Allocation	0	0	0	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	0	0	0	0	(1)	(1)
Judiciary –						
Allocation	19	19	95	95	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	−19	−19	−95	−95	(1)	(1)
Resources:						
Allocation	24	24	522	342	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	−24	−24	−522	−342	(1)	(1)
Science:						
Allocation	0	0	0	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	0	0	0	0	(1)	(1)
Small Business:						
Allocation	0	0	0	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	0	0	0	0	(1)	(1)
Transportation and Infrastructure:						
Allocation	9,256	0	41,134	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	−9,256	0	−41,134	0	(1)	(1)
Veterans' Affairs:						
Allocation	0	0	0	0	(1)	(1)
Current Level	0	0	0	0	(1)	(1)
Difference	0	0	0	0	(1)	(1)
Ways and Means:						
Allocation	20,626	20,054	24,079	23,876	(1)	(1)
Current Level	18,141	18,150	22,972	23,007	(1)	(1)
Difference	−2,485	−1,904	−1,107	−869	(1)	(1)
Medicare:						
Allocation	0	0	(1)	(1)	0	0
Current Level	0	0	(1)	(1)	0	0
Difference	0	0	(1)	(1)	0	0

(1) Not applicable.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2004—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations as of July 22, 2003 (H. Rpt. 108–228)		Current level reflecting action completed as of September 3, 2003		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	17,005	17,686	14	5,036	−16,991	−12,650
Commerce, Justice, State	37,914	41,009	0	14,197	−37,914	−26,812
National Defense	368,662	389,221	17	137,684	−368,645	−251,537
District of Columbia	466	464	0	51	−466	−413
Energy & Water Development	27,080	27,211	0	9,198	−27,080	−18,013
Foreign Operations	17,120	20,185	0	13,804	−17,120	−6,381
Homeland Security	29,411	30,506	215	12,678	−29,196	−17,828
Interior	19,627	19,400	36	6,244	−19,591	−13,156
Labor, HHS & Education	138,036	134,766	21,378	91,973	−116,658	−42,793
Legislative Branch	3,512	3,662	0	671	−3,512	−2,991
Military Construction	9,196	10,282	0	7,680	−9,196	−2,602
Transportation-Treasury	27,502	71,360	31	41,247	−27,471	−30,113
VA-HUD-Independent Agencies	90,034	95,590	2,698	51,610	−87,336	−43,980
Grand total	785,565	861,342	24,389	392,073	−761,176	−469,269

Statement of FY2005 advance appropriations under section 501 of H. Con. Res. 95 reflecting action completed as of September 3, 2003

[In millions of dollars]

	Budget authority
Appropriate Level	23,158
Current Level:	
Interior Subcommittee: Elk Hills	0
Labor, Health and Human Services, Education Subcommittee:	
Employment and Training Administration	0
Education for the Disadvantaged	0
School Improvement	0
Children and Family Services (head start)	0
Special Education	0
Vocational and Adult Education	0
Treasury, General Government Subcommittee: Payment to Postal Service	0
Veterans, Housing and Urban Development Subcommittee: Section 8 Renewals	0
Total	0
Current Level over (+)/ under (-) Appropriate Level	−23,158

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 2003.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2004 budget and is current through September 3, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for the fiscal year 2003 supplemental appropriations act and the tax relief act of 2003. These revisions are authorized by sections 421 and 507 of H. Con. Res. 95, respectively. In addition, per section 502 of H. Con. Res. 95, amounts designated as an emergency are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (Public Law 108-69).

Since my last letter, dated June 16, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2004:

The Welfare Reform Extension Act of 2003 (Public Law 108-40);

The Burmese Freedom and Democracy Act of 2003 (Public Law 108-61);

The Smithsonian Facilities Authorization Act (Public Law 108-72); and

An Act to Amend Title XXI of the Social Security Act (Public Law 108-74).

In addition, the Congress has cleared the following legislation for the President's signature: the Chile Free Trade Agreement Implementation Act (H.R. 2738) and the Singapore Free Trade Agreement Implementation Act (H.R. 2739).

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

FISCAL YEAR 2004 HOUSE CURRENT LEVEL REPORT AS OF SEPTEMBER 3, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	0	0	1,466,370
Permanents and other spending legislation	1,089,029	1,061,356	0
Appropriation legislation	0	345,754	0
Offsetting receipts	−366,436	−366,436	0
Total, previously enacted	722,593	1,040,674	1,466,370
Enacted this session: (excluding emergencies [1])			
Emergency Wartime Supplemental Appropriations Act of 2003 (P.L. 108-11)	215	27,349	0
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108-15)	−1	−1	0
Unemployment Compensation Amendments of 2003 (P.L. 108-26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27)	13,312	13,312	−135,370
Welfare Reform Extension Act of 2003 (P.L. 108-40)	99	108	0
Burmese Freedom and Democracy Act of 2003 (P.L. 108-61)	0	0	−10
Smithsonian Facilities Authorization Act (P.L. 108-72)	1	1	0
An Act to Amend Title XXI of the Social Security Act (P.L. 108-74)	1,325	100	0
Total, enacted this session	19,681	45,599	−135,235
Cleared, pending signature:			
Chile Free Trade Agreement Implementation Act (H.R. 2738)	0	0	−5
Singapore Free Trade Agreement Implementation Act (H.R. 2739)	0	0	−55
Total, cleared, pending signature	0	0	−60
Entitlements and Mandatories: Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	359,173	338,663	0
Total Current Level [1, 2]	1,101,447	1,424,936	1,331,075
Total Budget Resolution:	1,880,555	1,903,502	1,325,452
Current Level Over Budget Resolution	0	0	5,623
Current Level Under Budget Resolution	−779,108	−478,566	0
Memorandum:			
Revenues, 2004-2008:			
House Current Level	0	0	8,377,042
House Budget Resolution	0	0	8,168,933
Current Level Over Budget Resolution	0	0	208,109

[1] Per section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, amounts designated as an emergency are exempt from enforcement of the budget resolution. As a result, the current level excludes outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108-69).

[2] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the budget resolution does not include outlays of $508 million from prior appropriations for Social Security administrative expenses. As a result, the current level excludes these items.

Notes.—P.L.=Public Law.

Source: Congressional Budget Office.

SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for half the time until midnight.

Mr. SMITH of Michigan. Mr. Speaker, tonight, while we discuss issues, there are two global forces proceeding on a collision course. The first is the aging of society. This does not mean that each one of us is getting older, which is true, but rather that the elderly population is increasing more rapidly than the population as a whole. The second is that Social Security systems which provide most elderly people financial support are not sustainable as they are recently structured because as people are getting older the birthrate is also decreasing.

The paths of these forces ultimately will affect most countries of the world, both developed and lesser developed. The wages of employees and workers will be going down and the security of the elderly and the people's very economic well-being will be disrupted.

I would suggest, Mr. Speaker, that much is at stake and the challenges are real, but the opportunities are also unprecedented. As few as 6 years ago it was very unpopular to discuss Social Security and the problems of the solvency of Social Security and the fact that Social Security was going broke because it was so, for lack of a better word, demagogued in political campaigns.

When I introduced my first Social Security bill, 9 years ago now, my opponents in the next election said, well, the gentleman from Michigan (Mr. SMITH) is trying to harm Social Security and your Social Security is in danger. And of course seniors, better than half of whom depend on Social Security for over 90 percent of their retirement income, were concerned. And so it took a lot of speeches on my part, I gave 200 speeches in my district in my first 4 years in Congress, explaining what the problems of Social Security are. So the people in the 7th Congressional District of Michigan understand the charts that I am going to go through tonight and the predicament that Social Security faces and the fact that it is going to be insolvent very shortly.

Social Security is a pay-as-you-go system. And unlike privately invested savings accounts, where contributions are invested in wealth-producing assets for retirement, Social Security benefits, the taxes that come in to pay your Social Security, are immediately sent out as benefits. So it is a generation transfer of wealth. Younger workers today are paying in their FICA tax, their Social Security tax, and almost immediately by the time it gets to the Social Security Administration that money is sent out in benefits for existing retirees.

And of course it is sort of like a chain letter. If you can imagine, government is saying, well, look, you pay to the names at the top of this list, you add your name to the bottom of the list, and then in later years, all of the people under you on that list will be sending you money. Well, the success of a pay-as-you-go system like Social Security is predicated on the fact that there is going to be a growing worker population, or at least the worker population as a percentage of the number of retirees is not going to dwindle. And of course right now the number of workers per senior in many countries of the world is going down.

We can talk about the extreme problems that are now facing Japan and Italy and France and Germany. In France, for example, Mr. Speaker, their payroll tax in France is 51 percent of the paycheck that they earn. Now that means that the company is deducting that 51 cents from their pay, and what they cannot deduct from the pay because they cannot hire employees, then they have to increase in the price of their product. So two things happen: the worker earns less than they might otherwise earn and the price of the product goes up. So that particular company is less competitive than other countries that do not have that kind of huge burden of accommodating their senior population.

Germany is approaching a 40 percent payroll tax deduction. In the United States we have a 15 percent payroll deduction. We have 12.4 for Social Security and the remainder is for Medicare and Medicaid, the Medicare part A and Medicare part B.

I put this first chart up to sort of review the history of the United States and how Social Security first got started. We went through the very severe depression of the late 1920s and early 1930s, and Franklin Delano Roosevelt said, look, there needs to be some kind of a forced savings program so that old people do not have to go over the hill to the poor house and live in poverty. There should be some kind of security for these people. So he suggested a forced savings plan while people were working, to take some of those earnings and, in effect, put it aside so we had that social security, those benefits that could be paid out in retirement.

When Franklin Roosevelt created the Social Security program over 6 decades ago, he wanted it to feature a private sector component to build retirement income. Social Security was supposed to be one leg of a three-legged stool to support retirees. It was supposed to go hand in hand with personal savings and private pension plans.

Researching the archives of some of the debate in the House and the Senate was very interesting. Back in 1934 and 1935, as it turned out, the Senate proposal, and of course what we do here is the Senate passes one bill, the House passes another, then it goes to conference committee for the final compromise before we send it to the President. The Senate said, look, it should be privately owned accounts. We are going to force people to take a portion of their earnings and put it in a savings account, an investment account, for their future retirement, but it is going to be owned by the workers. The House, on the other hand, passed legislation that suggested that, look, government would handle all of this money coming in and then government would keep that money and pay it out when the time came for these retirees to retire.

In the conference committee, the argument from the House was very strong. They said, look, we just went through this terrible depression; we need government to control this money instead of having individuals maybe investing in something they should not invest in. So let us have the government control it. So it ended up with a compromise of what we have today as Social Security with workers paying into the Social Security System, the government taking all this money, and then paying it out when somebody would retire.

□ 2320

Now, since 1983 when we had the huge tax increase on Social Security, the Greenspan commission said well, Social Security is going broke, we are going to cut benefits and increase taxes, so we had a huge tax increase. Since 1983, there has been extra surplus money coming in from the FICA tax, and part of the problem is instead of that extra surplus money being invested and gaining returns, this Chamber, the Senate, the President, has spent that money every year for some other purpose. In the pretense of having a lockbox in a couple of the good years, we borrowed that money from Social Security and we paid down some of the public debt, the Wall Street debt, but we still used it. It was gone instead of being invested.

I wanted to show a pie chart of how we spend the revenues coming into the Federal Government to demonstrate just how big Social Security is as a total part of total government expenditures that are now approaching $2.2 trillion. And I am not sure Members can read the numbers, but Social Security is 22 percent of the total Federal budget compared to defense. Even with Iraq and Afghanistan at 18 percent, other domestic discretionary spending, all of the 13 appropriations bills which go through this Chamber that we spend half the year arguing about, those 13 appropriations bills for discretionary spending only amount to 19 percent. The point I am trying to make is Social Security is the largest part of the total budget and the problem is that if we have seniors living longer, that part of the pie is getting bigger and bigger.

If we add prescription drugs to Medicare, then the green-eyeshade predictors are predicting that within 50 years Medicare will be a larger expense than Social Security, but essentially taking up to over half of all Federal revenues spent for Social Security and Medicare.

Because Social Security solutions are complicated by other spending, I want to demonstrate with this chart what is happening to Federal spending. It was President Reagan that said we are spending worse than drunken sailors and the sailors were offended, but government has been growing at 2 and 3 times the rate of inflation, so government is getting bigger and bigger. And we are doing that not with tax revenues coming in, because it is unpopular to raise taxes, so it is sort of a tricky system which has been devised which will simply borrow the money so people back home cannot really see that that extra borrowing affects their lives, nothing like what they see when they pay their tax bill, so we have continued borrowing. So the debt of this country is now growing very rapidly. We now have a debt of $6.8 trillion, and the total debt is approaching $10 trillion in the next 10 years.

This middle green line is the debt held by the public. That has been going up. We had a little downside during the good years of 1999 and 2000 and 2001, but even that is going to continue to increase. But the dramatic increase is the bottom purple line, and that is the amount that we are borrowing from Social Security. So we continue to borrow from Social Security, and that means that the total debt, what we are borrowing from Wall Street, and now so much of that borrowing is from other countries. Because of our trade deficit, they invest their money in this country and now they own more of this country than I think we should be comfortable with, but that is another debate. But the total debt of this country is the sum of what we are borrowing on Wall Street plus what we have borrowed from Social Security, and it is approaching $10 trillion.

The Congressional Budget Office just made their predictions last Friday which is that for this year, 2003, the deficit spending, how much more we are spending than what we are taking in, if we include what we are borrowing from Social Security, is $560 billion in 2003, $640 billion in 2004.

Is that bad? Is that a lot of money? Maybe putting it in perspective, what are we, 227 years old as a country. In the first 200 years of this country, we amassed a debt of $500 billion, and now we are going over $500 billion deeper in debt every year. I think it is important to remember that those current taxpayers and citizens do not feel the pain of this extra borrowing and extra debt. The deficit is how much we overspend in 1 year over and above the revenues that are coming in, and debt is the accumulation of those annual deficits. But debt and deficit is the promise of future taxes. Who is going to pay these future taxes? It is our kids and grandkids that we are imposing this burden on, saying we think our problems are so great today that we are going to borrow this money that you have to pay back somehow in future years because we think our problems are so important today that we are going to make you pay back the cost of this overspending that this Congress, this House, this Senate, this President, the last President, the President before him, have decided it is reasonable to put you deeper in debt.

Right now every man, woman, and child in this country owe over $26,000. A baby is born, that baby has a debt of $26,000 burden for the rest of his life that sometime is going to have to be accommodated.

Here is my one-glance chart. The red means how deep we are going to be in trouble with Social Security in future years. The short purple-blue here is the surplus, the extra money, the money that is greater than the benefits being paid out that is coming in in FICA taxes and Social Security taxes right now. And the only reason again that we have this extra amount coming in, as it turns out it was a mistake in 1983. They calculated the increased tax on Social Security that was needed. They calculated higher than they actually needed, so we have had huge surpluses coming in because those surpluses are going to run out simply because the baby boomers are going to start retiring in the next few years, and those baby boomers that are at the top of their earning, paying in maximum Social Security taxes, are going to go into the receiving side of Social Security and taking out maximum benefits.

It is a tremendous challenge. The unfunded liability is estimated between $9 trillion and $10 trillion today. If we are going to keep Social Security solvent for the next 75 years, it would take between $9–10 trillion today to put into an investment fund to accommodate the shortage of revenues as opposed to promised benefits.

□ 2330

This chart represents the problems of fewer workers being responsible to pay the retirement benefits of our retirees in this country. In 1940 there were 38 workers working for every person over age 65. By the year 2000, it was three workers. The projection by the actuaries at the Social Security Administration is that by 2025, there will only be two workers working and paying in their Social Security tax for every retiree. If we are to give those retirees the same amount, you can see that taxes have to be increased. And so I have another chart that is coming up pretty soon on how every time we have been in trouble in this country since we started Social Security, every time we started running low on funds, we increased the tax rate or the tax base, how much the tax rate is on so many dollars that you might earn.

This is not a new situation in terms of knowing it was a problem. Let me read you a few quotes, starting with 1991 from the former commissioner of Social Security, Dorcus Hardy, at that time. He said, and I quote:

"The crisis is coming fast in the lifetime of a few already retired and of almost all those now under age 55. The stakes are high, trillions of dollars." That is 1991.

The next quote is from 1994: "Failing to take prompt action on Social Security will burden our children and our grandchildren with benefit cuts and crippling taxes." That was Representative NICK SMITH. When I came to Congress in 1993, I already had my first Social Security bill. So every 2-year session I have introduced another Social Security bill. Since 1994, they have all been scored by the Social Security Administration to keep Social Security solvent. I came to Congress and went on the Budget Committee, in my first year, freshman year in Congress, I introduced a budget that balanced the budget for this country because I felt so strongly as a farm kid from Michigan that government should act like we ask families to act, that they cannot just go deeper and deeper into debt and never pay it back. Somehow there has to be some kind of a plan where eventually you start paying back all the debt you earn. Right now we have the interest on the debt, if we were to go back to that pie chart, is approaching $300 billion, but this is at record low interest rates. If interest goes back to normal, then the servicing of that debt, the interest payment on that debt, is going to almost be a much more dramatic part of the whole Federal Government spending.

And what do we do to pay the interest on that debt? Do we just simply borrow more money, pretending that sometime in future years our kids and our grandkids will magically come up with the productivity and the competitiveness internationally to pay off this debt that we are accumulating today? I think we should be ashamed of ourselves.

I get off the track here, but let me go through a few more of these quotes which I am trying to simply demonstrate that we have known for a long time that it has been a problem. This is in 1996 and it is the former Secretary of Commerce and the Concord Coalition President, Peter Peterson: "Will America grow up before it grows old? Will we make the needed Social Security transformation early, intelligently and humanely or procrastinate until delay exacts a huge price from those least able to afford it?"

1998: "We face a crisis in the Social Security system and we can no longer wait to put it on a sound footing. We need to move from the unreliable pay-as-you-go system to one based on benefitting from real investment." That was representative Tim Penny, Democrat from Minnesota, 1998.

In 1999: "Time is the enemy of Social Security reform and we should move without delay." Actually that came from a bipartisan Social Security task force that I chaired where Democrats and Republicans agreed that we cannot delay and put off any longer a solution to make Social Security solvent because we knew and Americans know that Social Security is an important program to so many Americans, current and future retirees, that we simply should not overlook it.

I just am so discouraged that there has been little reaction from the House or the Senate in developing solutions to Social Security. By my count, there have only been 26 Members since I came to Congress in 1993, only 26 Members that have signed on to the Social Security solution bill that would keep Social Security solvent.

Let me move ahead with the charts. Insolvency is certain. We know how many people there are and we know when they are going to retire. We know that people will live longer in retirement. We know how much they will pay in and how much they will take out. Payroll taxes will not cover benefits starting in 2017 and the shortfalls will add up to $120 trillion between 2017 and 2075. $120 trillion over those years is the same as putting that nine to $10 billion in a savings account today.

If we are to increase taxes to cover these deficits, again that means that the taxes come out of the hide of those workers for less income or it means higher prices that that company charges when they sell their products. So somehow people are paying that tax. Doing nothing means tax increases of some kind in the future.

I thought this was a fun chart, Mr. Speaker. This is how many years it takes over the past 60 years that you have to live after retirement to break even on the Social Security taxes that you have sent to government. If you were lucky, in 1940 since that was just the beginning, you could get back all you and your employer put in in 2 months. By 1980, you had to live 4 years after retirement. In 1995, you had to live 16 years after retirement. It keeps going up because we keep over these years increasing the taxes that you pay in, so you are paying in more money, benefits are not increasing proportionally that much so you end up having to live longer to break even on Social Security. The purpose of this chart is to try to start sending the message that Social Security is not a good investment for retirement. By 2015, it goes to 26 years that you have to live after you reach 65 to break even on the money you have sent in to Social Security.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for the remainder of the time before midnight.

Mr. SMITH of Michigan. Mr. Speaker, I will not take all the time. I will cut my speechmaking down a little bit, but allow me to go quickly through these charts. If you know everything that is on these charts, then I would suggest, Mr. Speaker, the people that might be watching would be more informed on the problems of Social Security than probably many Members of the House and the Senate.

The Social Security trust fund, when I started making my 200 speeches in my district to explain Social Security, people thought if government would just keep its fingers off the Social Security trust fund, not taking that surplus money, that Social Security would be okay. This chart represents how much is in the trust fund, how much government has borrowed and owes to the trust fund, government does not know how it is going to pay it back, but on the books government owes $1.3 trillion to the Social Security trust fund. The shortfall that we talked about earlier between nine and $10 trillion is the shortfall that we need today in an investment account receiving interest rate returns to accommodate the shortfalls in Social Security. By shortfalls, I mean how much is needed over and above the dollars coming in from the FICA tax.

A system stretched to its limits. Seventy-eight million baby boomers begin retiring in 2008. Social Security spending exceeds tax revenues in 2017. And Social Security trust funds go broke in 2037. What that means, Social Security trust funds go broke, that is assuming, and I think it is a fair assumption, that somehow government is going to borrow more money or reduce benefits to pay back, but eventually it is going to pay back what it has borrowed.

□ 2340

The challenge is where does that money come from? Do we lower benefits to save some of the money? Do we lower spending on other programs, or do we increase the income tax? Do we increase user fees, or do we increase the payroll tax?

This is an interesting chart, Mr. Speaker. The real return of Social Security is less than 2 percent for most workers, and it shows a negative return for some compared to over 7 percent of the market. If they are very low income and they do not have good food and they do not have the kind of health care they should, then often they are going to die before age 65. So they pay in money, and then they do not get that money back because they do not reach 65. The average return is just under 2 percent, about 1.7 percent, but the Wilshire 5000 index, an index fund of 5,000 of the leading stocks in this country over the last 10 years, and that includes the last 3 bad years of the Dow in the stock market, the average for the Wilshire fund over and above inflation is 7 percent. So is there some way that we can decide that here is some kind of a safe investment, it is going to be in the worker's name so that government in these cases, in the cases of individuals that might die before they reach 65, that money still goes into their estate to go to whoever they choose that it might go to rather than government saying they died too early and they do not get anything.

Social Security is a challenge. We have got to face up to it. I went over to the White House a few weeks ago. I talked to the President about it. I talked to Karl Rove about it. They agreed that it has got to be one of the main issues that we talk about in next year's campaign. And so, Mr. Speaker, I would hope that everybody that is interviewing candidates that are running for the U.S. House of Representatives or running for the United States Senate or running for President to say, look, what are your plans to save Social Security? And do not go along with this hogwash rhetoric of saying, boy, Social Security is important and we are going to save it. Ask a follow-up question: How are you going to do that? Do you know that Social Security has a liability right now of $10 trillion? Where are you going to come up with the money? How are you going to do that?

So I think it is important that we pin every candidate down to make them develop and come up with a plan that is going to save Social Security instead of simply glossing over with rhetoric that it is an important program and, by gosh, we are going to save it.

The U.S. trails other countries in saving its retirement system. In the 18 years since Chile offered PRAs, personal retirement accounts, 95 percent of Chileans have created accounts. Their average rate of return has been 11.3 percent a year. Among others, Australia, Britain, Switzerland offer personal retirement accounts.

There is no Social Security account with their name on it. I like this quote from the Office of Management and Budget: "These (trust fund) balances are available to finance future benefit of payments and other trust fund expenditures but only in a bookkeeping sense. They are claims on the Treasury that, when redeemed, will have to be financed by raising taxes, borrowing from the public, or reducing benefits or other expenditures."

There have been two cases that have gone before the Supreme Court of the United States with people that did not receive Social Security benefits but they said, Look, we paid into Social Security, we deserve those benefits. In two different decisions, the Supreme Court of the United States said there is no entitlement to Social Security benefits just because they paid into the Social Security system. So there should be an acknowledged, a realized danger that if worse comes to worst, government can say we are not going to pay all those benefits because we do not have the money and after all we are doing all these other important things; so they need to sacrifice with the rest of the Nation. But if they are in their own personal accounts and if we go to a fixed contribution with guaranteed returns, the bill I am going to introduce next week, and my press conference is in room 2200 over in the Rayburn building announcing the bill that I am going to introduce on Social Security, it has been scored by the Social Security Administration and it is keeping Social Security solvent forever, and takes the kind of actions of making it optional if one wants to have a private savings account earned by them as the worker; but it also guarantees that they will get as much back as they would out of Social Security for people who choose not to invest in personal savings accounts.

Economic growth will not fix Social Security. We hear quite often when the economy gets back on its feet, then there is no problem. The problem is Social Security benefits are indexed to wage growth; and when the economy grows, workers pay more in taxes but also will earn more in benefits when they retire. So temporarily we have more taxes coming in, but because there is a direct relation between the earnings that they have and the taxes they pay in to the benefits that they eventually get out, we dig a deeper hole later. Growth makes the numbers look better now, but leaves a larger hole to fill later.

I think the important point, Mr. Speaker, is that we have got to do something. It is just unconscionable, and I feel embarrassed that I have not been able to excite more of our Members. I mean, there are important things going on from Iraq to Afghanistan to how do we deal with prescription drugs and Medicare. But to put off and not face up to the largest financial crisis that we see down the road that is going to affect such an important program for Americans is not fair. It is not fair to our kids. It is not fair to retirees. It is not fair to our workers. The biggest risk is doing nothing at all.

Social Security has a total unfunded liability of over $9 trillion. It looks like about $9.6 trillion. The Social Security trust fund contains nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent. Probably politically we will not cut benefits. That means that the other option is to increase taxes on somebody; but here again our businesses, we are losing our manufacturing base. What bothers me even more as chairman of the Subcommittee on Research of the Committee on Science is we have lost 500,000 jobs in the last 3 years, the high-tech jobs; and if we start putting an extra 50 percent price on the products that we are selling trying to compete in the world or if we cut the pay of workers, either way it has a tremendous effect on our ability to compete.

Increasing payroll taxes, I suggest, is not the answer. In 1940 the rate was 2 percent on a base of $3,000; so one could pay $60 a year. By 1960 we were running out of money again; so we tripled the rate to 6 percent on the first $4,800 base for $288 a year. In 1980 we upped it to 10.16 percent of the first $25,900 for a $2,600 possible tax per year. In 2000 we upped it to 12.4 percent on $76,000, but the $76,000 was indexed for inflation; so now it is 12.4 percent on the first $84,000. So here again just to demonstrate that what we can expect in the future if we continue to put off Social Security, the longer we put off the solution, the more drastic the solution has to be; and I know that because this is my fifth Social Security bill that I am introducing next week.

I thank our pages this late at night. Let me just wrap this up. Our two pages working this late in the evening, one from New Jersey and one from Arizona. So I thank the pages, and I am about to conclude.

☐ 2350

Seventy-eight percent of families pay more in payroll taxes than in the income tax. The percentage of families that pay less in payroll taxes than income taxes is 22 percent, so the reciprocal is 78 percent. We have raised Social Security taxes so much on the workers that 78 percent pay more in the Social Security tax than they do in the income tax.

Personal retirement accounts, they do not come out of Social Security. They become part of your Social Security retirement benefits. A worker will own his or her own retirement account and is limited to safe investments that will earn more than the 1.9 percent paid by the Social Security. Actually it is 1.7 percent.

The findings of the House Committee on the Budget Task Force on Social Security that I chaired several years ago, 4 years ago, after we heard all of the testimony over a period of a year, we all agreed, Republicans and Democrats, that we have got to do something, that Social Security is going broke, that we need to have some guidelines to guide us in how we revise Social Security, and the guidelines essentially boiled down to three statements. Number one was that we should not affect existing retirees; number two, that workers should be able to be even better off with retirement benefits than they are today; and the third proposition is that somehow the changes should not damage our economy in America, but actually improve the economy. That is why savings and investment is so important.

Mr. Speaker, I urge all my colleagues to be prepared when their constituents ask them what are they going to do about solving the Social Security problem.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ACKERMAN (at the request of Ms. PELOSI) for today after 7:00 p.m. and the balance of the week on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. JEFFERSON, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. SHUSTER, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, September 9 and 10.

Mr. NUSSLE, for 5 minutes, today.

ADJOURNMENT

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Friday, September 5, 2003, at 9 a.m.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, September 4, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)), I am transmitting on behalf of the Board of Directors the enclosed notice of proposed procedural rulemaking regulations under Section 303 of the Act for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

OFFICE OF COMPLIANCE

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995—PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE

INTRODUCTORY STATEMENT:

Shortly after the creation of the Office of Compliance in 1995, Procedural Rules were adopted to govern the processing of cases and controversies under the administrative procedures established in Title IV of the Congressional Accountability Act of 1995 ("CAA," 2 U.S.C. 1401–1407). Those Rules of Procedure were slightly amended in 1998. The existing Rules of Procedure are available in their entirety on the Office of Compliance's web site: www.compliance.gov. The web site is fully compliant with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

Pursuant to section 303(a) of the CAA (2 U.S.C. 1383(a), the Executive Director of the Office has obtained approval of the Board of Directors of the Office of Compliance regarding certain amendments to the Rules of Procedure. Having obtained the Board's approval, the Executive Director must then "publish a general notice of proposed rulemaking . . . for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal." (Section 303(b) of the CAA, 2 U.S.C. 1383(b).)

NOTICE

Comments regarding the proposed amendments to the Rules of Procedure of the Office of Compliance set forth in this NOTICE are invited for **a period of thirty (30) days** following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on The Office of Compliance's section 508 compliant web site (www.compliance.gov). This NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to Bill Thompson, Executive Director or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202/724-9250 (voice) or 202/426-1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL

104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure establish the process by which alleged violations of the 11 laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

Explanation regarding the text of the proposed amendments: The text of the proposed amendments shows *[deletions within italicized brackets]*, ***and added text in italicized bold.*** **Only subsections of the rules which include proposed amendments are reproduced in this NOTICE. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of asterisk (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.**

PROPOSED AMENDMENTS

PART I—OFFICE OF COMPLIANCE

OFFICE OF COMPLIANCE RULES OF PROCEDURE

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and as proposed to be amended in 2003.

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* * * * *

§1.03 Filing and Computation of Time.

(a) *Method of Filing.* Documents may be filed in person or by mail, including express, overnight and other expedited delivery. ***When specifically authorized by the Executive Director, any document may also be filed by electronic transmittal in a designated format.*** Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

. . . . .

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of delivery to the addressee is provided.

* * * * *

1.05 Designation of Representative.

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney. ***During the period of counseling and mediation, upon the request of a party, if the Executive Director concludes that a representative of an employee, of a charging party, of a labor organization, of an employing office, or of an entity alleged to be responsible for correcting a violation has a conflict of interest, the Executive Director may, after giving the representative an opportunity to respond, disqualify the representative. In that event, the period for counseling or mediation may be extended by the Executive Director for a reasonable time to afford the party an opportunity to obtain another representative.***

* * * * *

2.03 Counseling.

(a) *Initiating a Proceeding; Formal Request for Counseling.* In order to initiate a proceeding under these rules, an employee shall *[*formally*]* ***file a written*** request ***for*** counseling *[*from*]* ***with*** the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All *[*formal*]* requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

. . . . .

(c) *When, How, and Where to Request Counseling.* A *[*formal*]* request for counseling ***must***

be in writing, and [: (1)] shall be [made] ***filed with the Office of Compliance at Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912,*** not later than 180 days after the alleged violation of the Act.[;] [(2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912.]

. . . . .

(l) *Conclusion of the Counseling Period and Notice.* The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, ***or by personal delivery.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

. . . . .

(m) *Employees of the Office of the Architect of the Capitol and the Capitol Police.*

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within [10] ***60*** days after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

* * * * *

2.04 Mediation.

. . . . .

(e) *Duration and Extension.*

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint ***written*** request of the parties ***to the attention of the Executive Director.*** The request [may be oral or] ***shall be*** written and [shall be noted and] filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

. . . . .

(i) *Conclusion of the Mediation Period and Notice.* If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, ***or will be hand delivered,*** and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court.

(1) The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act should simultaneously provide a copy of the complaint to the Office.

(2) No party to any civil action referenced in paragraph (1) shall request information from the Office regarding the proceedings which took place pursuant to sections 402 or 403 related to said civil action, unless said party notifies the other party(ies) to the civil action of the request to the Office. The Office will determine whether the release of such information is appropriate under the Act and the Rules of Procedure.

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§4.16 Comments on Occupational Safety and Health Reports. The General Counsel will provide to responsible employing office(s) a copy of any report issued for general distribution not less than seven days prior to the date scheduled for its issuance. If a responsible employing office wishes to have its written comments appended to the report, it shall submit such comments to the General Counsel no later than 48 hours prior to the scheduled issuance date. The General Counsel shall either include the written comments without alteration as an appendix to the report, or immediately decline the request for their inclusion. If the General Counsel declines to include the submitted comments, the employing office(s) may submit said denial to the Board of Directors which, in its sole discretion, shall review the matter and issue a final and nonappealable decision solely regarding inclusion of the employing office(s) comments prior to the issuance of the report. Submissions to the Board of Directors in this regard shall be made expeditiously and without regard to the requirements of subpart H of these rules. In no event shall the General Counsel be required by the Board to postpone the issuance of a report for more than five days.

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§5.03 Dismissal, *Summary Judgment*, and Withdrawal of Complaints.

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(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity to respond, issue summary judgment on some or all of the complaint.

([d]***e***) *Appeal.* A [dismissal] ***final decision*** by the Hearing Officer made under section 5.03(a)–(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01.

([e]***f***) . . . . .

([f]***g***) . . . . .

* * * * *

§7.02 Sanctions

(a) The Hearing Officer may impose sanctions on a party's representative for inappropriate or unprofessional conduct.

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]***1***) *Failure to Comply with an Order.* When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]***a***) . . . . .

([2]***b***) . . . . .

([3]***c***) . . . . .

([4]***d***) . . . . .

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§8.01 Appeal to the Board.

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(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a reply brief.

(3) Upon delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any document or submission with the Board. Such delegation shall continue until revoked by the Board.

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§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) *Filing with the Office; Number.* One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer ***or other determination reviewable by the Board*** files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office. ***The Officer, Hearing Officer, or Board may also require a party to submit an electronic version of any submission on a disk in a designated format.***

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§9.03 Attorney's fees and costs.

(a) *Request.* No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. ***All motions for attorney's fees and costs shall be submitted to the Hearing Officer.*** [The Board or t] ***T***he Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

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§9.05 Informal Resolutions and Settlement Agreements

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(b) *Formal Settlement Agreement.* The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. ***If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.***

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise required by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

§9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial proceedings in relation thereto occurs, whichever period ends later.

§9.07 Payment of Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.

§ 9.0/6/8 Revocation, Amendment or Waiver of Rules.

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EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3951. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Change in Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States [Docket No. FV03-996-2 IFR] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3952. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV03-916-2 IFR-A] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3953. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Increased Assessment Rate and Defined Fiscal Period [Docket No. FV03-958-01 FR] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3954. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Increased Assessment Rates [Docket No. FV03-916-4 IFR] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3955. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Milk in the Central Marketing Area [Docket # DA-03-09; AO-313-A45] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3956. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Milk in the Upper Midwest Marketing Area: Order Amending the Order [Docket No. DA-01-03; AO-361-A35] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3957. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—United States Standards for Grades of Pistachio Nuts in the Shell, and United States Standards for Grades of Shelled Pistachio Nuts [Docket Number FV-98-304] received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3958. A letter from the Director, Office of Standards, Regulations, and Variances, Department of Labor, transmitting the Department's final rule— Improving and Eliminating Regulations, Phase 5, Miscellaneous Technology Improvements (Methane Testing) (RIN: 1219-AA98) received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3959. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services (Transmittal No. 03-32), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3960. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Cañada for defense articles and services (Transmittal No. 03-29), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3961. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-108, "Bowling Alley and Billiard Parlor Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3962. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-110, "Closing of a Public Alley in Square 2287, S.O. 01-4263, Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3963. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-112, "District of Columbia Jail Improvement Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3964. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-114, "Presidential Elector Deadline Waiver Temporary Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3965. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-142, "Lincoln Square Theater Sales and Use Tax Exemption Temporary Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3966. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-113, " Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicle Reform Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3967. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-146, "Streamlining Regulation Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3968. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-109, "Closing of a Public Alley in Square 625, S.O. 01-187, Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

3969. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Substituted Federal Enforcement of Portions of Missouri's Permanent Regulatory Program and Findings on the Status of Missouri's Permanent Regulatory Program—received August 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3970. A letter from the FMCSA Regulatory Officer, Department of Transportation, transmitting the Department's final rule—Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce [Docket No. FMCSA-2000-7017] (RIN: 2126-AA52) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3971. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Martin Models L-1011 Airplanes and Rolls-Royce plc RB211 Series Turbofan Engines [Docket No. 2000-NM-369-AD; Amendment 39-13240; AD 2003-14-21] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3972. A letter from the transmitting the Department's final rule —, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3973. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group [TD 9089] (RIN: 1545-BC39) received September 2, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3974. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—User Fees for Processing Offers to Compromise [TD 9086] (RIN: 1545-BA54) received August 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3975. A letter from the Chair of the Board, Office of Compliance, transmitting notice of proposed procedural rulemaking regulations under Section 303 of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1384(b); jointly to the Committees on House Administration and Education and the Workforce.

3976. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Modifications to Managed Care Rules [CMS-4041-F] (RIN: 0938-AK71) received August 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

3977. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Electronic Submission of Medicare Claims [CMS-0008-IFC] (RIN: 0938-AM22) received August 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 2040. A bill to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska (Rept. 108–259). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2655. A bill to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998 (Rept. 108–260, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 1813. A bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes (Rept. 108–261 Pt. 1). Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 2622. A bill to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes; with an amendment (Rept. 108–263). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on International Relations discharged from further consideration. H.R. 2655 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. HYDE: Committee on International Relations. House Joint Resolution 63. Resolution to approve the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia," and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands," and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes, with an amendment; (Rept. 108–262, Pt. I); referred to the Committee on the Judiciary for a period ending not later than September 15, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1813. Referral to the Committee on Energy and Commerce extended for a period ending not later than October 3, 2003.

H.R. 2655. Referral to the Committee on International Relations extended for a period ending not later than September 4, 2003.

House Joint Resolution 63. Referral to the Committee on Resources extended for a period ending not later than September 15, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JONES of North Carolina (for himself and Mr. Wilson of South Carolina):

H.R. 2999. A bill to ensure by law the ability of the military service academies to include the offering of a voluntary, nondenominational prayer as an element of their activities; to the Committee on Armed Services.

By Ms. LEE (for herself, Mrs. Christensen, Mr. Kucinich, Mr. Cummings, Mr. Davis of Illinois, Mr. Owens, Mr. Jackson of Illinois, Ms. Woolsey, Mr. Payne, Mr. Conyers, and Ms. Carson of Indiana):

H.R. 3000. A bill to establish a United States Health Service to provide high quality comprehensive health care for all Americans and to overcome the deficiencies in the present system of health care delivery; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3001. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies; to the Committee on Ways and Means.

By Mr. BEAUPREZ:

H.R. 3002. A bill to amend the Internal Revenue Code of 1986 to suspend the tax exempt status of designated foreign terrorist groups, and for other purposes; to the Committee on Ways and Means.

By Mr. BROWN of South Carolina (for himself, Mr. Kingston, Mr. Spratt, and Mr. Wilson of South Carolina):

H.R. 3003. A bill to amend title 11, United States Code, to establish a priority for the payment of claims for duties paid to the United States by licensed customs brokers and sureties on behalf of a debtor; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. Waxman, Mr. Markey, Mr. Boucher, Mr. Towns, Mr. Pallone, Mr. Brown of Ohio, Mr. Gordon, Mr. Deutsch, Mr. Rush, Ms. Eshoo, Mr. Stupak, Mr. Engel, Mr. Wynn, Ms. McCarthy of Missouri, Mr. Strickland, Ms. DeGette, Mrs. Capps, Mr. Doyle, Mr. Allen, Mr. Davis of Florida, Ms. Schakowsky, and Ms. Solis):

H.R. 3004. A bill to improve the reliability of the Nation's electric transmission system; to the Committee on Energy and Commerce.

By Mr. DOGGETT (for himself, Mr. George Miller of California, Mr. McDermott, Mr. Sandlin, Mr. Stark, Mr. Jefferson, Mr. Becerra, Mr. Matsui, Mr. Kildee, Mr. Tierney, Mr. Davis of Illinois, Mr. Hastings of Florida, Ms. Jackson-Lee of Texas, Mr. Rush, Mr. Wu, Ms. Kilpatrick, Mr. Ryan of Ohio, Ms. Lee, Mr. Lampson, Ms. Solis, Ms. Millender-McDonald, Ms. Kaptur, Mr. Baird, Mr. Brown of Ohio, Mr. Van Hollen, Mr. Farr, Ms. McCarthy of Missouri, and Mr. Strickland):

H.R. 3005. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to improve disclosure of the funding status of single-employer pension plans; to the Committee on Education and the Workforce.

By Mr. HAYWORTH:

H.R. 3006. A bill to improve the safety of houseboat generator exhaust systems; to the Committee on Transportation and Infrastructure.

By Mr. KUCINICH (for himself, Mr. Conyers, Mr. Owens, Mr. Serrano, Ms. Lee, Mr. Nadler, Ms. Norton, Mr. Grijalva, Ms. Schakowsky, Mr. Pallone, Mr. Michaud, Mr. Deutsch, Ms. Carson of Indiana, Mr. Hinchey, Mr. Wexler, Ms. DeLauro, Mr. Payne, Ms. Lofgren, Mr. McGovern, Mr. Rangel, Mr. Olver, Mrs. Jones of Ohio, Mr. Gutierrez, Mr. Faleomavaega, Mr. Andrews, Ms. Kaptur, Mr. Rush, Mr. Davis of Illinois, Mr. Sanders, Mr. Davis of Tennessee, Ms. Jackson-Lee of Texas, and Ms. Woolsey):

H.R. 3007. A bill to assist States in establishing a universal prekindergarten program to ensure that all children 3, 4, and 5 years old have access to a high-quality full-day, full-calendar-year prekindergarten education; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself, Mr. Towns, Mr. Nadler, Mr. Hinojosa, Mr. Acevedo-Vilá, Mr. Etheridge, Ms. DeLauro, Ms. Millender-McDonald, Ms. Linda T. Sánchez of California, Mr. McNulty, Mr. Frost, and Mr. Skelton):

H.R. 3008. A bill to direct the Secretary of Education to establish a competitive demonstration grant program to provide funds for local educational agencies to experiment with ways to alleviate the substitute teacher shortage, and for other purposes; to the Committee on Education and the Workforce.

By Mr. MENENDEZ (for himself, Ms. Ros-Lehtinen, Mr. Rodriguez, Mr. Baca, Mr. Foley, Mr. Towns, Mr. Acevedo-Vilá, Ms. Harman, Ms. Linda T. Sánchez of California, Mr. Rothman, Ms. Jackson-Lee of Texas, Mrs. Christensen, Mr. Honda, Mr. Hinojosa, Mr. Conyers, Mr. Ortiz, Mrs. Napolitano, Mr. Gutierrez, Mr. Reyes, Ms. Norton, Ms. Corrine Brown of Florida, Ms. Solis, Mr. Gonzalez, Mr. Weller, Ms. Millender-McDonald, Ms. Bordallo, Mr. Grijalva, Ms. McCollum, Mr. Rangel, Mr. English, Mr. Mario Diaz-Balart of Florida, Mr. Pascrell, Mr. Pastor, Mr. Payne, Mr. Frost, and Mr. Lincoln Diaz-Balart of Florida):

H.R. 3009. A bill to posthumously award a Congressional gold medal to Celia Cruz; to the Committee on Financial Services.

By Mr. MICHAUD (for himself and Ms. Linda T. Sánchez of California):

H.R. 3010. A bill to provide for the payment or reimbursement by the Federal Government of special unemployment assistance paid by States to individuals participating in qualified worker training programs, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself and Mr. Berman):

H.R. 3011. A bill to designate the facility of the United States Postal Service located at 135 East Olive Avenue in Burbank, California, as the "Bob Hope Post Office Building"; to the Committee on Government Reform.

By Mr. TOWNS (for himself and Mr. Owens):

H.R. 3012. A bill to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the "James E. Davis Post Office Building"; to the Committee on Government Reform.

By Mr. WAMP:

H.R. 3013. A bill to require the Secretary of Homeland Security to conduct a public hearing before establishing or relocating any Quick Response Team that works with State and local law enforcement officers to take illegal and criminal aliens into custody and remove them from the United States; to the Committee on the Judiciary.

By Mr. WEINER (for himself, Mr. Thompson of Mississippi, Ms. Berkley, and Mrs. Maloney):

H.R. 3014. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, chapter 89 of title 5, United States Code, and title 10, United States Code, to require coverage for the treatment of infertility; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself and Mr. Pallone):

H.R. 3015. A bill to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BARTLETT of Maryland:

H. Con. Res. 271. Concurrent resolution congratulating Fort Detrick on 60 years of service to the United States; to the Committee on Armed Services.

By Mr. MORAN of Virginia:

H. Con. Res. 272. Concurrent resolution expressing the sense of the Congress regarding the 75th anniversary of the Water Environment Federation; to the Committee on Transportation and Infrastructure.

By Mr. SHAW (for himself, Mr. Wexler, Mr. Foley, and Mr. Hastings of Florida):

H. Con. Res. 273. Concurrent resolution recognizing and congratulating the East Boynton Beach, Florida, Little League team as the 2003 United States Little League Champions; to the Committee on Government Reform.

By Mr. WILSON of South Carolina (for himself, Mr. Bereuter, and Mrs. Tauscher):

H. Res. 355. A resolution commemorating the 100th anniversary of diplomatic relations between the United States and Bulgaria; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Case, Mr. Davis of Illinois, and Mr. Hyde.

H.R. 63: Mr. Kind.

H.R. 110: Mr. Herger, Mr. Kingston, and Mr. Beauprez.

H.R. 135: Mr. Ballenger.

H.R. 195: Mr. Rogers of Michigan and Mr. Walsh.

H.R. 218: Mr. Bishop of Utah, Mr. Everett, and Mr. Gary G. Miller of California.

H.R. 277: Mr. Sessions and Mr. Ramstad.

H.R. 288: Mr. Holt.

H.R. 290: Mr. Lipinski, Mr. Wicker, Mr. Ackerman, Mr. Bishop of New York, Mr. Bradley of New Hampshire, Mr. Bachus, Mr. McIntyre, Mr. Baird, Mr. Gallegly, Mr. Gingrey, Mr. DeFazio, and Ms. Kilpatrick.

H.R. 296: Ms. Ros-Lehtinen, Mr. Wamp, Mr. Leach, and Mrs. McCarthy of New York.

H.R. 306: Mr. Shays and Mr. Gordon.

H.R. 331: Mr. Frank of Massachusetts.

H.R. 333: Mr. Davis of Illinois, Mr. Ruppersberger, and Ms. Lee.

H.R. 338: Mr. Bartlett of Maryland.

H.R. 339: Mr. Ballenger.

H.R. 369: Mr. Portman and Mr. Smith or Michigan.

H.R. 391: Mr. Neugebauer, Mr. Gilchrest, and Mr. Gallegly.

H.R. 394: Mr. Stark.

H.R. 442: Mr. Udall of New Mexico.

H.R. 463: Mr. Young of Florida and Mr. Weldon of Pennsylvania.

H.R. 489: Mr. Mica.

H.R. 584: Mr. Ramstad and Ms. Ros-Lehtinen.

H.R. 594: Mr. Wynn, Mr. Rogers of Alabama, Mr. Miller of Florida, Mr. Lucas of Oklahoma, Ms. Majette, Mr. Oberstar, and Mrs. Kelly.

H.R. 648: Mr. Crane.

H.R. 668: Mr. Ehlers.

H.R. 721: Ms. Baldwin.

H.R. 742: Mr. Moore.

H.R. 745: Mrs. McCarthy of New York.

H.R. 765: Mr. Turner of Ohio.

H.R. 785: Mr. Hyde, Mr. Rothman, and Mr. Kingston.

H.R. 792: Mrs. Jo Ann Davis of Virginia.

H.R. 802: Mr. Brown of Ohio.

H.R. 817: Mr. Crowley.

H.R. 819: Mr. Rodriguez.

H.R. 857: Mr. Acevedo-Vilá, Mr. Van Hollen, Mr. Delahunt, Mr. Towns, Mr. Weiner, Mrs. Maloney, Mr. Crowley, Mr. Ackerman, and Mrs. Jo Ann Davis of Virginia.

H.R. 869: Mr. Price of North Carolina.

H.R. 873: Mr. Miller of North Carolina, Mr. DeFazio, Mr. McIntyre, Mr. Grijalva, and Mr. Michaud.

H.R. 876: Mr. Norwood.

H.R. 890: Mr. Case.

H.R. 898: Mr. Bradley of New Hampshire and Mr. Walsh.

H.R. 947: Mr. Filner.

H.R. 973: Mr. Nadler, Mr. Crowley, and Mrs. Jones of Ohio.

H.R. 1005: Mr. Acevedo-Vilá.

H.R. 1006: Mr. Grijalva and Mr. Kind.

H.R. 1043: Mr. McCotter, Mr. Rothman, Mr. King of New York, and Mr. Ruppersberger.

H.R. 1077: Mr. Blumenauer.

H.R. 1093: Mr. Kind.

H.R. 1105: Mr. Tanner.

H.R. 1225: Mr. Oberstar.

H.R. 1236: Mr. Shays.

H.R. 1250: Mr. Garrett of New Jersey.

H.R. 1260: Mr. Chocola.

H.R. 1294: Ms. Woolsey and Mr. Michaud.

H.R. 1301: Mr. Michaud.

H.R. 1336: Mr. Nunes, Mr. Dooley of California, Mr. Crowley, Mr. Ford, Mr. Holden, Mrs. Tauscher, Ms. Millender-McDonald, Mr. Brown of Ohio, Mr. Neugebauer, Mr. Lucas of Kentucky, Mrs. Myrick, and Mr. Boyd.

H.R. 1345: Mr. Andrews and Mr. Rangel.

H.R. 1421: Ms. Lee and Mr. Baird.

H.R. 1479: Mr. Shaw.

H.R. 1498: Mr. Terry.

H.R. 1523: Mr. Akin, Mr. Doyle, Mr. Bonner, Ms. Lofgren, Mrs. Capito, Mr. Price of North Carolina, Mr. Cox, and Mr. Gordon.

H.R. 1532: Ms. Solis, Mrs. Tauscher, Mr. Payne, Mr. McGovern, Ms. Roybal-Allard, Mrs. Capps, and Mr. Weiner.

H.R. 1552: Mr. Frost and Mr. Price of North Carolina.

H.R. 1563: Mr. Grijalva, Ms. Eshoo, and Ms. Baldwin.

H.R. 1582: Mr. Udall of New Mexico, Mr. Thornberry, and Mr. Ryan of Wisconsin.

H.R. 1605: Ms. McCollum, Mr. Van Hollen, and Mr. Wynn.

H.R. 1606: Mr. Forbes.

H.R. 1615: Mr. Kildee and Mr. Knollenberg.

H.R. 1626: Mr. Lucas of Oklahoma.

H.R. 1676: Mr. Wu, Ms. Hooley of Oregon, Mr. Boozman, Mr. Cummings, Mr. Gilchrest, and Mr. Gerlach.

H.R. 1684: Ms. Berkley, Mr. Etheridge, Mr. Reyes, Ms. Velázquez, Mr. Ryan of Wisconsin, and Mr. Waxman.

H.R. 1698: Mr. Turner of Texas.

H.R. 1742: Mr. McKeon, Mr. Carter, Mr. Hall, and Mr. Kind.

H.R. 1769: Mr. Cummings, Mr. Ford, and Mr. DeFazio.

H.R. 1783: Mr. DeMint.

H.R. 1784: Mr. Lincoln Diaz-Balart of Florida, Mr. Peterson of Minnesota, Mrs.

NAPOLITANO, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1813: Mr. HINCHEY and Ms. LORETTA SANCHEZ of California.

H.R. 1819: Mr. MICHAUD and Mr. BURR.

H.R. 1859: Mr. KING of New York and Mr. SMITH of Michigan.

H.R. 1873: Mr. GREEN of Wisconsin and Mr. OTTER.

H.R. 1894: Mr. FILNER and Mr. WAXMAN.

H.R. 1902: Mr. BROWN of South Carolina and Ms. ESHOO.

H.R. 1912: Mr. TANNER.

H.R. 1943: Mr. SHIMKUS.

H.R. 1961: Mr. EHLERS.

H.R. 1988: Mr. BOUCHER.

H.R. 1998: Ms. LINDA T. SÁNCHEZ of California, Mr. OLVER, Mr. BRADLEY of New Hampshire, Mr. SMITH of Washington, Mr. LYNCH, Mr. ALLEN, and Mrs. KELLY.

H.R. 2028: Mr. TURNER of Texas.

H.R. 2128: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2133: Mr. LEWIS of Georgia, Mr. SHADEGG, and Mr. RAHALL.

H.R. 2154: Mr. BARTLETT of Maryland and Mr. TERRY.

H.R. 2176: Mr. GILLMOR, Mr. DAVIS of Tennessee, Mr. ROGERS of Alabama, Mr. ANDREWS, Mr. WICKER, and Mr. COOPER.

H.R. 2181: Mr. WILSON of South Carolina.

H.R. 2217: Mr. CASE.

H.R. 2218: Mr. GORDON and Mr. STARK.

H.R. 2220: Mr. NEUGEBAUER.

H.R. 2223: Mr. GOODLATTE.

H.R. 2224: Mr. MCGOVERN.

H.R. 2228: Mr. HAYWORTH.

H.R. 2232: Ms. BALDWIN.

H.R. 2233: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2239: Mr. BERMAN, Ms. KILPATRICK, Mr. GEORGE MILLER of California, Mr. DEFAZIO, Mr. KILDEE, Mr. NADLER, Mr. MCDERMOTT, Mr. GRIJALVA, Mr. TOWNS, Mr. GREEN of Texas, and Mrs. MALONEY.

H.R. 2246: Mr. LUCAS of Kentucky, Ms. BERKLEY, Mr. BROWN of Ohio, Mr. RYAN of Ohio, Mrs. JO ANN DAVIS of Virginia, and Mr. PASTOR.

H.R. 2256: Mr. SHAYS and Ms. LOFGREN.

H.R. 2301: Mr. NADLER.

H.R. 2303: Mr. NEUGEBAUER.

H.R. 2323: Mr. RUPPERSBERGER and Mr. FOLEY.

H.R. 2327: Mr. LEWIS of Kentucky.

H.R. 2347: Mr. KINGSTON and Mr. CALVERT.

H.R. 2364: Mr. OWENS.

H.R. 2379: Mr. MORAN of Kansas.

H.R. 2388: Mr. COOPER.

H.R. 2394: Mr. NADLER.

H.R. 2404: Mr. STARK.

H.R. 2426: Ms. SOLIS.

H.R. 2452: Mr. BISHOP of New York, Ms. VELÁZQUEZ, Mr. REYNOLDS, Mr. RANGEL, and Mrs. LOWEY.

H.R. 2456: Mr. PASCRELL.

H.R. 2469: Mr. HENSARLING.

H.R. 2519: Ms. SOLIS.

H.R. 2521: Mr. PAUL.

H.R. 2527: Mr. FRANK of Massachusetts.

H.R. 2567: Ms. LEE and Mr. RAMSTAD.

H.R. 2568: Mr. COOPER.

H.R. 2579: Mr. SOUDER, Mr. THORNBERRY, Mr. RAHALL, and Mr. JOHNSON of Illinois.

H.R. 2583: Mr. RYAN of Ohio, Mr. GONZALEZ, Mr. LAMPSON, Mr. ACEVEDO-VILÁ, Mr. DAVIS of Florida, and Mr. BOEHLERT.

H.R. 2584: Mr. DOOLITTLE and Mr. ACEVEDO-VILÁ.

H.R. 2585: Ms. JACKSON-LEE of Texas.

H.R. 2622: Mr. BOEHLERT.

H.R. 2626: Ms. MILLENDER-MCDONALD.

H.R. 2632: Mr. BEAUPREZ and Mr. CAPUANO.

H.R. 2654: Mr. TAYLOR of Mississippi.

H.R. 2668: Mr. DINGELL.

H.R. 2671: Mr. LAHOOD, Mr. GARY G. MILLER of California, and Mr. COX.

H.R. 2705: Ms. WOOLSEY.

H.R. 2722: Mr. FORBES.

H.R. 2743: Mr. SAM JOHNSON of Texas.

H.R. 2759: Mr. FROST and Mr. NUNES.

H.R. 2797: Mr. GORDON.

H.R. 2801: Ms. ROS-LEHTINEN.

H.R. 2808: Mr. CASE, Mr. DAVIS of Tennessee, Mr. DEUTSCH, Mr. HASTINGS of Washington, Mr. HOLDEN, Mr. JOHN, Mrs. KELLY, Ms. KAPTUR, Mr. LATOURETTE, Mr. NEUGEBAUER, Mr. RYAN of Ohio, Mr. OLVER, and Mr. VAN HOLLEN.

H:R. 2825: Mr. GORDON.

H.R. 2837: Mr. MARSHALL.

H.R. 2839: Mr. PALLONE and Mr. BASS.

H.R. 2849: Mr. WAMP.

H.R. 2852: Mr. PITTS, Mr. HOEKSTRA, Mrs. JO ANN DAVIS of Virginia, Mr. RYUN of Kansas, Ms. ESHOO, Mr. BARTLETT of Maryland, Mr. ANDREWS, Mr. NORWOOD, Mrs. MUSGRAVE, Mr. LAHOOD, and Mr. LEWIS of Kentucky.

H.R. 2853: Mr. FRANK of Massachusetts.

H.R. 2864: Mr. NEUGEBAUER.

H.R. 2870: Ms. LEE.

H.R. 2881: Ms. KILPATRICK.

H.R. 2882: Ms. NORTON.

H.R. 2885: Mr. FRANKS of Arizona and Mr. NORWOOD.

H.R. 2899: Mr. DREIER.

H.R. 2906: Mr. FLAKE, Mr. GINGREY, Mr. BRADLEY of New Hampshire, Mr. DEMINT, Mr. SOUDER, Mr. SHIMKUS, and Mr. BURGESS.

H.R. 2924: Mr. COBLE and Mr. ANDREWS.

H.R. 2932: Ms. DELAURO.

H.R. 2955: Mr. BEAUPREZ.

H.R. 2967: Mr. HOLDEN.

H.R. 2971: Mr. CARDIN, Mr. FORBES, Mr. KOLBE, and Ms. DUNN.

H.R. 2986: Mr. DELAHUNT, Mr. NETHERCUTT, Mrs. EMERSON, Mr. HINCHEY, Mr. SERRANO, Mr. MEEHAN, Mr. CRAMER, Mr. PICKERING, Mr. TOWNS, Ms. KAPTUR, Mrs. JO ANN DAVIS of Virginia, Mr. MCINTYRE, Mr. LOBIONDO, Ms. MCCARTHY of Missouri, and Mr. FROST.

H.J. Res. 50: Mr. COX and Mr. SIMPSON.

H.J. Res. 59: Mr. CONYERS.

H.J. Res. 62: Mr. ISRAEL, Mr. PAYNE, and Mrs. KELLY.

H. Con. Res. 87: Ms. MCCARTHY of Missouri, Mr. TIERNEY, and Mr. STARK.

H. Con. Res. 183: Mr. MCCOTTER.

H. Con. Res. 213: Mr. BERMAN.

H. Con. Res. 226: Mr. MCGOVERN.

H. Con. Res. 247: Mr. FROST.

H. Con. Res. 252: Mr. ABERCROMBIE, Mr. TOWNS, Ms. KAPTUR, Mr. BISHOP of New York, Mr. RANGEL, Ms. WOOLSEY, Mr. DICKS, Mr. BACA, Mr. EMANUEL, Mr. UDALL of New Mexico, Ms. GINNY BROWN-WAITE of Florida, Mr. MCNULTY, and Mrs. MCCARTHY of New York.

H. Con. Res. 254: Mr. SMITH of New Jersey, Mr. MCGOVERN, Mr. ADERHOLT, Mr. LANTOS, Mr. TOWNS, Mr. LEWIS of Georgia, and Mr. MCNULTY.

H. Con. Res. 266: Mr. EVANS and Mr. RYAN of Ohio.

H. Res. 42: Mr. WALDEN of Oregon, Mr. UPTON, Mr. GRIJALVA, and Mr. JOHNSON of Illinois.

H. Res. 103: Mr. HUNTER, Mr. PETERSON of Minnesota, and Mr. MILLER of North Carolina.

H. Res. 136: Mr. YOUNG of Florida.

H. Res. 233: Mr. SMITH of New Jersey and Mr. LEWIS of Kentucky.

H. Res. 261: Ms. MILLENDER-MCDONALD.

H. Res. 280: Mr. KING of New York.

H. Res. 320: Ms. MCCARTHY of Missouri, Mr. FRANK of Massachusetts, and Mr. STARK.

H. Res. 322: Mr. HOLDEN, Mr. ROSS, Mr. SMITH of Washington, Mr. DELAHUNT, Mr. SANDLIN, Mr. SCOTT of Georgia, Mrs. MALONEY, Mr. LANTOS, Mr. CARDOZA, Mr. MORAN of Virginia, Mr. DINGELL, Mr. MATHESON, Mr. TOWNS, Mr. MCNULTY, Mr. HOEFFEL, Mr. ETHERIDGE, Mr. BAKER, Mr. ANDREWS, Mr. WU, Mr. KNOLLENBERG, Mr. FERGUSON, Mr. COSTELLO, Mr. TERRY, Mr. CAPUANO, and Mr. TIERNEY.

H. Res. 349: Mr. LANTOS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2877: Mr. CRANE.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2989

OFFERED BY: MR. KENNEDY OF MINNESOTA

AMENDMENT NO. 27: Page 39, line 1, after the dollar amount, insert the following: "(reduced by $320,000,000)".

Page 39, line 2, after the dollar amount, insert the following: "(reduced by $40,000,000)".

Page 39, line 3, after the dollar amount, insert the following: "(reduced by $273,000,000)".

Page 39, line 5, after the dollar amount, insert the following: "(reduced by $7,000,000)".

Page 61, line 9, after the first dollar amount, insert the following: "(increased by $2,285,000)".

Page 67, line 3, after the dollar amount, insert the following: "(increased by $12,250,000)".

Page 67, line 4, after the dollar amount, insert the following: "(increased by $4,250,000)".

Page 67, line 5, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 84, line 20, after the dollar amount, insert the following: "(increased by $28,790,000)".

Page 85, line 21, after the dollar amount, insert the following: "(increased by $276,675,000)".

H.R. 2989

OFFERED BY: MR. KENNEDY OF MINNESOTA

AMENDMENT NO. 28: Page 39, line 1, after the dollar amount, insert the following: "(reduced by $320,000,000)".

Page 39, line 2, after the dollar amount, insert the following: "(reduced by $40,000,000)".

Page 39, line 3, after the dollar amount, insert the following: "(reduced by $273,000,000)".

Page 39, line 5, after the dollar amount, insert the following: "(reduced by $7,000,000)".

H.R. 2989

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 29: Beginning on page 52, strike line 22 and all that follows through page 53, line 2.

H.R. 2989

OFFERED BY: MR. HONDA OF CALIFORNIA

AMENDMENT NO. 30: At the end of the bill (before the short title), insert the following:

SEC.   . For an additional amount for new fixed guideway systems under the heading "Federal Transit Administration—Capital Investment Grants" for the Silicon Valley, CA, Rapid Transit Corridor, and the amount otherwise provided under such heading for the San Francisco, CA, Muni Third Street Light Rail Project is hereby reduced by, $1,000,000.

H.R. 2989

OFFERED BY: MR. MCHUGH

AMENDMENT NO. 31: At the end of the bill before the short title, insert the following:

SEC. . None of the funds in this Act may be used to carry out the EAS local participation program under section 41747 of title 49, United States Code.

H.R. 2989

OFFERED BY: MR. MORAN OF KANSAS

AMENDMENT NO. 32: At the end of the bill (before the short title), insert the following:

SEC. . For necessary expenses to carry out the essential air service program pursuant to section 41742(a) of title 49, United States Code, and the amount otherwise provided under “Department of Transportation Office of the Secretary—New Headquarters Building” is hereby reduced by, the amount otherwise provided under “Federal Aviation Administration—Operations” is hereby reduced by, and the amount otherwise provided under “Department of the Treasury Departmental Offices, Treasury Building and Annex Repair and Restoration is hereby reduced by, $63,000,000, $35,000,000, $3,000,000, and $25,000,000, respectively”.

EXTENSIONS OF REMARKS

CORRECTING AN INJUSTICE TO INJURED SERVICE MEMBERS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. YOUNG of Florida. Mr. Speaker, my wife Beverly and I spend considerable time visiting with injured soldiers, sailors, marines, airmen, and coasties at the Walter Reed Army Medical Center and the National Naval Medical Center in Bethesda. Our goal is to provide comfort and support to the service members and their families.

This is a project Beverly has led for many years, long before the inception of Operations Enduring Freedom and Iraqi Freedom. Throughout the years, we have helped solve many problems large and small that involved patient care, benefits, and tangled bureaucracy.

Recently, though, we learned of a problem that I consider a serious affront to those injured in battle and training. Upon being discharged from the hospital, our enlisted personnel and officers are served with a bill to pay for their "subsistence" while in the hospital. The current daily rate for these charges is $8.10.

We learned about this from our visits with Staff Sergeant William L. Murwin, who spent 26 days in the hospital recovering from injuries incurred in Iraq. Sergeant Murwin is a reservist in the Marine Corps who was injured when a 10-year-old Iraqi dropped a grenade in the HUMVEE he was driving. As a result of the explosion, Sergeant Murwin is a partial amputee, having lost a large part of his foot.

Upon his discharge July 18th to return home to Nevada and his job as a sheriff's deputy, Sergeant Murwin was handed a bill from the hospital for $210.60 to pay for his food and subsistence. Beverly and I paid this bill for Sergeant Murwin because we consider it an injustice to ask those who have served us so courageously in Afghanistan and Iraq to pay for their food while hospitalized.

Legislation I am introducing today would amend current law to prohibit service members injured in combat or training from being billed for the food while hospitalized. Congress initially initiated the system of charging for subsistence costs for officers who were hospitalized in 1958 under Public Law 85–861. The 97th Congress amended this law in 1981 with Public Law 97–22 to include enlisted service members.

Mr. Speaker, this is a long overdue correction to our statutes. No one wants to see these men and women have to write a check for their hospital stay, least of all the staff of our nation's military hospitals. We should be honoring and thanking those in uniform for their service to the cause of peace and freedom, not billing them for their food. And we should be doing all we can to help them recover from their injuries, not ask them to write a check to the U.S. Government.

It is my hope that my colleagues in the House will join me in sponsoring this legislation and in urging the Committees with jurisdiction to expedite its enactment as a fitting tribute to all those who serve so valiantly and unfortunately have returned home injured, missing limbs, and in many cases being permanently disabled. It is the least we can do for our nation's keepers of peace and defenders of freedom.

TRIBUTE TO MR. WILLIAM "BILLY" ROLLE

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Mr. William "Billy" Rolle, Former Head Coach of the Miami Northwestern Senior High School Football Team. He has become the winningest varsity coach in the recent history of Miami-Dade Public Schools, the nation's fourth largest school system. This Friday, September 5, 2003, Coach Rolle will be inducted into the Sports Hall of Fame of Florida A&M University in Tallahassee, Florida.

Coach Rolle will join members of his family in this elite circle of achievement to be so honored by this great university, my Alma Mater. Honorees include his late father William Rolle, his mother Frankie Shannon Rolle, his aunt Sophia and his uncle Walter White, his late cousin FAMU Coach Bob Mungen and his late godbrother, the legendary Robert "Bob" Hayes.

Indeed, this is a milestone in the annals of FAMU's athletic glory, and has distinctly elicited so much following from the constituents of the 17th Congressional District. As I join them in extolling the hard work and sacrifices of his parents, the faculty and staff of Miami Northwestern Senior High School located in the heart of Liberty City, I want to likewise commend the exemplary role of this honoree. Due to his utmost commitment to his students, particularly his student-athletes, Coach "Billy" Rolle has become the cornerstone of excellent programs that buttress academic scholarship on one hand, and athletic achievement on the other.

I would like to congratulate him for fast becoming the legendary coach that he is now known among his colleagues and in high school football circles not only across Florida, but across the nation as well. I am also to privy to his work ethic and dogged discipline throughout his coaching years, paving the way for excellence both in the classroom and on the gridiron. Known for his no-nonsense approach to forthright guidance and counseling among his student-athletes, Coach "Billy" Rolle has certainly surrounded himself with excellent coaching staffs whose knowledge and sensitivity to sporting activities befitting the school ambiance superbly complements and supplements the learning needs of his students.

His sterling approach to educating, motivating and mentoring the members of his football teams has led to two District Championships in the year 2000, and culminating in four District Championships at Miami Northwestern Senior High with a hard-to-beat record of 60 wins against only 9 losses. As Assistant Coach, he contributed to the winning of the 1995 6–A Florida Football State Championship, and as Head Coach, he likewise won the 1998 6–A Florida Football State Championship. These enviable achievements were made possible by his emphasis on utmost personal responsibility and his ability to converge same into a zealous dedication to the demands of teamwork above any and all individual accomplishments.

As a whole, our community is genuinely honored by the leadership of Coach "Billy" Rolle. Accordingly, his being enshrined into the Sports Hall of Fame at Florida A&M University this Friday is an unerring testament to his honoring the family of students and parents, the faculty and staffs of various senior high schools to which he has been assigned all through these years since 1983. The dedication of his sterling efforts toward molding the minds and hearts of countless young student-athletes gives honor and respect to a community that is fully cognizant of his many sacrifices and unselfish contributions.

This is the magnificent legacy Coach William "Billy" Rolle genuinely bequeaths to all of us as he enters the Sports Hall of Fame. Suffice it to say that his pursuit of athletic excellence amidst scholastic achievement is not beyond the reach of those willing to dare the impossible through hard work, discipline and resilience. Indeed, I am privileged but deeply humbled to represent him, his wife Loretta and his two children, B.J. and Sheree, along with his noble forbears, in the United States Congress, knowing full well that together they have done so much to dignify the pride of a grateful community.

IN HONOR OF THE FRIENDS OF JEFFERSON PATTERSON PARK AND MUSEUM'S RECEIPT OF A 2003 CHESAPEAKE BAY GATEWAYS NETWORK GRANT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize the Friends of Jefferson Patterson

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Park and Museum. This organization received a 2003 Chesapeake Bay Gateways Network Grant for a project designed to enhance opportunities for visitors to explore the lands and stories of Jefferson Patterson Park and Museum.

The Chesapeake Bay Gateways Network, which includes more than 120 museums, state parks, wildlife refugees and other sites in five states and the District of Columbia, was created to enhance the experience of visitors to the Chesapeake Bay and its many roads, rivers and trails. Authorized by the Chesapeake Bay Initiative Act of 1998, the Gateways Network is coordinated by the National Park Service in partnership with the Chesapeake Bay Program.

During the past four years, Gateways Network Grants have funded new maps, improved signs, and expanded trails that have made visits to parks, wildlife refuges and water trails even more exciting and enjoyable than they had previously been. These grants help enhance the public's ability to learn and enjoy the Chesapeake's stories and significance, explore its natural and cultural resources, and become involved in helping conserve and restore the Bay and its watershed. Through these projects and other Gateways Network efforts more and more people recognize the Chesapeake as a true national treasure.

In 2003, the National Park Service is awarding $1,387,309 in grant funding, matched by over $2 million in partner contributions. Thirty-two grants are being made to Gateways throughout the Bay watershed in Maryland, New York, Pennsylvania and Virginia. The Friends of Jefferson Patterson Park and Museum is receiving a grant of $41,400 and $62,563 in partner contributions.

The project proposed by the Friends of Jefferson Patterson Park and Museum will extend the Shoreline Loop Trail to 3.75 miles, adding to 50 percent to its length, and resulting in the longest publicly accessible shoreline in Calvert County, Maryland. Greater public access to the Patuxent River will help people enjoy this scenic Chesapeake Bay tributary. A trail map and guide will be prepared and a series of wayside exhibit panels will also be added along the trail to interpret the environment and the diverse cultures that have influenced this site over time. The park will also develop an overall interpretive plan for the park to guide both this project and all future interpretive efforts.

Mr. Speaker, it is with the assistance and vision of organizations such as the Friends of Jefferson Patterson Park and Museum that the Chesapeake Bay and the entire region has become the treasure that we know it to be today. Mr. Speaker, please join me in congratulating the Friends of Jefferson Patterson Park and Museum on receiving this grant and wishing them the best of luck in completing their project.

ADDRESS OF MOTHER THERESA TO THE NATIONAL PRAYER BREAKFAST, FEBRUARY 5, 1994

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PITTS. Mr. Speaker, I submit the following for the RECORD.

On the last day, Jesus will say to those on His right hand, "Come, enter the Kingdom. For I was hungry and you gave me food, I was thirsty and you gave me drink, I was sick and you visited me." Then Jesus will turn to those on His left hand and say, "Depart from me because I was hungry and you did not feed me, I was thirsty and you did not give me to drink, I was sick and you did not visit me." These will ask Him, "When did we see You hungry, or thirsty or sick and did not come to Your help?" And Jesus will answer them, "Whatever you neglected to do unto one of these least of these, you neglected to do unto Me!"

As we have gathered here to pray together, I think it will be beautiful if we begin with a prayer that expresses very well what Jesus wants us to do for the least. St. Francis of Assisi understood very well these words of Jesus and His life is very well expressed by a prayer. And this prayer, which we say every day after Holy Communion, always surprises me very much, because it is very fitting for each one of us. And I always wonder whether 800 years ago when St. Francis lived, they had the same difficulties that we have today. I think that some of you already have this prayer of peace—so we will pray it together.

Let us thank God for the opportunity He has given us today to have come here to pray together. We have come here especially to pray for peace, joy and love. We are reminded that Jesus came to bring the good news to the poor. He had told us what is that good news when He said: "My peace I leave with you, My peace I give unto you." He came not to give the peace of the world which is only that we don't bother each other. He came to give the peace of heart which comes from loving—from doing good to others.

And God loved the world so much that He gave His son—it was a giving. God gave His son to the Virgin Mary, and what did she do with Him? As soon as Jesus came into Mary's life, immediately she went in haste to give that good news. And as she came into the house of her cousin, Elizabeth, Scripture tells us that the unborn child—the child in the womb of Elizabeth—leapt with joy. While still in the womb of Mary—Jesus brought peace to John the Baptist who leapt for joy in the womb of Elizabeth.

And as if that were not enough, as if it were not enough that God the Son should become one of us and bring peace and joy while still in the womb of Mary, Jesus also died on the Cross to show that greater love. He died for you and for me, and for the leper and for that man dying of hunger and that naked person lying in the street, not only of Calcutta, but of Africa, and everywhere. Our Sisters serve these poor people in 105 countries throughout the world. Jesus insisted that we love one another as He loves each one of us. Jesus gave His life to love us and He tells us that we also have to give whatever it takes to do good to one another. And in the Gospel Jesus says very clearly: "Love as I have loved you."

Jesus died on the Cross because that is what it took for Him to do good to us—to save us from our selfishness in sin. He gave up everything to do the Father's will—to show us that we too must be willing to give up everything to do God's will—to love one another as He loves each of us. If we are not willing to give whatever it takes to do good to one another, sin is still in us. That is why we too must give to each other until it hurts.

It is not enough for us to say: "I love God," but I also have to love my neighbor. St. John says that you are a liar if you say you love God and you don't love your neighbor. How can you love God whom you do not see, if you do not love your neighbor whom you see, whom you touch, with whom you live? And so it is very important for us to realize that love, to be true, has to hurt. I must be willing to give whatever it takes not to harm other people and, in fact, to do good to them. This requires that I be willing to give until it hurts. Otherwise, there is not true love in me and I bring injustice, not peace, to those around me.

It hurt Jesus to love us. We have been created in His image for greater things, to love and to be loved. We must "put on Christ" as Scripture tells us. And so, we have been created to love as He loves us. Jesus makes Himself the hungry one, the naked one, the homeless one, the unwanted one, and He says, "You did it to Me." On the last day He will say to those on His right, "whatever you did to the least of these, you did to Me, and He will also say to those on His left, whatever you neglected to do for the least of these, you neglected to do it for Me."

When He was dying on the Cross, Jesus said, "I thirst." Jesus is thirsting for our love, and this is the thirst of everyone, poor and rich alike. We all thirst for the love of others, that they go out of their way to avoid harming us and to do good to us. This is the meaning of true love, to give until it hurts.

I can never forget the experience I had in visiting a home where they kept all these old parents of sons and daughters who had just put them into an institution and forgotten them—maybe. I saw that in that home these old people had everything—good food, comfortable place, television, everything, but everyone was looking toward the door. And I did not see a single one with a smile on the face. I turned to Sister and I asked: "Why do these people who have every comfort here, why are they all looking toward the door? Why are they not smiling?"

I am so used to seeing the smiles on our people, even the dying ones smile. And Sister said: "This is the way it is nearly everyday. They are expecting, they are hoping that a son or daughter will come to visit them. They are hurt because they are forgotten." And see, this neglect to love brings spiritual poverty. Maybe in our own family we have somebody who is feeling lonely, who is feeling sick, who is feeling worried. Are we there? Are we willing to give until it hurts in order to be with our families, or do we put our own interests first? These are the questions we must ask ourselves, especially as we begin this year of the family. We must remember that love begins at home and we must also remember that "the future of humanity passes through the family."

I was surprised in the West to see so many young boys and girls given to drugs. And I tried to find out why. Why is it like that, when those in the West have so many more things than those in the East? And the answer was: "Because there is no one in the family to receive them." Our children depend on us for everything—their health, their nutrition, their security, their coming to know and love God. For all of this, they look to us with trust, hope and expectation. But often father and mother are so busy they have no time for their children, or perhaps they are not even married or have given up on their marriage. So their children go to the streets and get involved in drugs or other things. We are talking of love of the child, which is where love and peace must begin. These are the things that break peace.

But I feel that the greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of the innocent child, murder by the mother herself. And if we accept that a mother can kill even her own child, how can we tell other people not to kill one another? How do we persuade a woman not to have an abortion? As always, we must persuade her with love and we remind ourselves that love means to be willing to give until it hurts. Jesus gave even His life to love us. So, the mother who is thinking of abortion, should be helped to love, that is, to give until it hurts her plans, or her free time, to respect the life of her child. The father of that child, whoever he is, must also give until it hurts.

By abortion, the mother does not learn to love, but kills even her own child to solve her problems. And, by abortion, that father is told that he does not have to take any responsibility at all for the child he has brought into the world. The father is likely to put other women into the same trouble. So abortion just leads to more abortion. Any country that accepts abortion is not teaching its people to love, but to use any violence to get what they want. This is why the greatest destroyer of love and peace is abortion.

Many people are very, very concerned with the children of India, with the children of Africa where quite a few die of hunger, and so on. Many people are also concerned about all the violence in this great country of the United States. These concerns are very good. But often these same people are not concerned with the millions who are being killed by the deliberate decision of their own mothers. And this is what is the greatest destroyer of peace today—abortion which brings people to such blindness.

And for this I appeal in India and I appeal everywhere—"Let us bring the child back." The child is God's gift to the family. Each child is created in the special image and likeness of God for greater things—to love and to be loved. In this year of the family we must bring the child back to the center of our care and concern. This is the only way that our world can survive because our children are the only hope for the future. As older people are called to God, only their children can take their places.

But what does God say to us? He says: "Even if a mother could forget her child, I will not forget you. I have carved you in the palm of my hand." We are carved in the palm of His hand: that unborn child has been carved in the hand of God from conception and is called by God to love and to be loved, not only now in this life, but forever. God can never forget us.

I will tell you something beautiful. We are fighting abortion by adoption—by care of the mother and adoption for her baby. We have saved thousands of lives. We have sent word to the clinics, to the hospitals and police stations: "Please don't destroy the child; we will take the child." So we always have someone tell the mothers in trouble: "Come, we will take care of you, we will get a home for your child." And we have a tremendous demand from couples who cannot have a child—but I never give a child to a couple who have done something not to have a child. Jesus said, "Anyone who receives a child in my name, receives me." By adopting a child, these couples receive Jesus but, by aborting a child, a couple refuses to receive Jesus.

Please don't kill the child. I want the child. Please give me the child. I am willing to accept any child who would be aborted and to give that child to a married couple who will love the child and be loved by the child. From our children's home in Calcutta alone, we have saved over 3000 children from abortion. These children have brought such love and joy to their adopting parents and have grown up so full of love and joy.

I know that couples have to plan their family and for that there is natural family planning. The way to plan the family is natural family planning, not contraception. In destroying the power of giving life, through contraception, a husband or wife is doing something to self. This turns the attention to self and so it destroys the gifts of love in him or her. In loving, the husband and wife must turn the attention to each other as happens in natural family planning, and not to self, as happens in contraception. Once that living love is destroyed by contraception, abortion follows very easily.

I also know that there are great problems in the world—that many spouses do not love each other enough to practice natural family planning. We cannot solve all the problems in the world, but let us never bring in the worst problem of all, and that is to destroy love. And this is what happens when we tell people to practice contraception and abortion. The poor are very great people. They can teach us so many beautiful things. Once one of them came to thank us for teaching her natural family planning and said: "You people who have practiced chastity, you are the best people to teach us natural family planning because it is nothing more than self-control out of love for each other." And what this poor person said is very true. These poor people maybe have nothing to eat, maybe they have not a home to live in, but they can still be great people when they are spiritually rich.

When I pick up a person from the street, hungry, I give him a plate of rice, a piece of bread. But a person who is shut out, who feels unwanted, unloved, terrified, the person who has been thrown out of society—that spiritual poverty is much harder to overcome. And abortion, which often follows from contraception, brings a people to be spiritually poor, and that is the worst poverty and the most difficult to overcome.

Those who are materially poor can be very wonderful people. One evening we went out and we picked up four people from the street. And one of them was in a most terrible condition. I told the Sisters: "You take care of the other three; I will take care of the one who looks worse." So I did for her all that my love can do. I put her in bed, and there was such a beautiful smile on her face. She took hold of my hand, as she said one word only: "thank you"—and she died.

I could not help but examine my conscience before her. And I asked: "What would I say if I were in her place?" And my answer was very simple. I would have tried to draw a little attention to myself. I would have said: "I am hungry, I am dying, I am cold, I am in pain," or something. But she gave me much more—she gave me her grateful love. And she died with a smile on her face. Then there was the man we picked up from the drain, half eaten by worms and, after we had brought him to the home, he only said, "I have lived like an animal in the street, but I am going to die as an angel, loved and cared for." Then, after we had removed all the worms from his body, all he said, with a big smile, was: "Sister, I am going home to God"—and he died. It was so wonderful to see the greatness of that man who could speak like that without blaming anybody, without comparing anything. Like an angel—this is the greatness of people who are spiritually rich even when they are materially poor.

We are not social workers. We may be doing social work in the eyes of some people, but we must be contemplatives in the heart of the world. For we must bring that presence of God into your family, for the family that prays together, stays together. There is so much hatred, so much misery, and we with our prayer, with our sacrifice, are beginning at home. Love begins at home, and it is not how much we do, but how much love we put into what we do.

If we are contemplatives in the heart of the world with all its problems, these problems can never discourage us. We must always remember what God tells us in Scripture: "Even if a mother could forget the child in her womb"—something impossible, but even if she could forget—"I will never forget you."

And so here I am talking with you. I want you to find the poor here, right in your own home first. And begin love there. Be that good news to your own people first. And find out about your next-door neighbors. Do you know who they are?

I had the most extraordinary experience of love of neighbor with a Hindu family. A gentleman came to our house and said: "Mother Teresa, there is a family who have not eaten for so long. Do something." So I took some rice and went there immediately. And I saw the children—their eyes shining with hunger. I don't know if you have ever seen hunger. But I have seen it very often. And the mother of the family took the rice I gave her and went out. When she came back, I asked her: "Where did you go? What did you do?" And she gave me a very simple answer: "They are hungry also." What struck me was that she knew—and who are they? A Muslim family—and she knew. I didn't bring any more rice that evening because I wanted them, Hindus and Muslims, to enjoy the joy of sharing.

But there were those children, radiating joy, sharing the joy and peace with their mother because she had the love to give until it hurts. And you see this is where love begins—at home in the family.

So, as the example of this family shows, God will never forget us and there is something you and I can always do. We can keep the joy of loving Jesus in our hearts, and share that joy with all we come in contact with. Let us make that one point—that no child will be unwanted, unloved, uncared for, or killed and thrown away. And give until it hurts with a smile.

Because I talk so much of giving with a smile, once a professor from the United States asked me: "Are you married?" And I said: "Yes, and I find it sometimes very difficult to smile at my spouse, Jesus, because He can be very demanding—sometimes." This is really something true. And this is where love comes in when it is demanding, and yet we can give it with joy.

One of the most demanding things for me is travelling everywhere—and with publicity. I have said to Jesus that if I don't go to heaven for anything else, I will be going to heaven for all the travelling with all the publicity, because it has purified me and sacrificed me and made me really ready to go to heaven.

If we remember that God loves us, and that we can love others as He loves us, then America can become a sign of peace for the world. From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you become a burning light of justice and peace in the world, then really you will be true to what the founders of this country stood for. God bless you!

H. CON. RES. 249 EXPRESSING THE SENSE OF CONGRESS ON CONTINUED ENGAGEMENT IN IRAQ

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HASTINGS of Florida. Mr. Speaker, this is the second resolution concerning post-war Iraq that I have introduced this month. My Resolution is similar to an amendment that passed unanimously in the Senate on July 16, 2003. It calls on the President to reach out to our allies in NATO, the United Nations, and the Organization for the Prohibition of Chemical Weapons (OPCW) for help in postwar Iraq.

First, it calls on the President to request assistance from NATO to raise a force for postwar Iraq similar to Afghanistan, Bosnia, and Kosovo. Even though some NATO members, Great Britain, Spain, Italy and Poland, are already contributing troops to our effort in Iraq, American troops make up 90% of coalition forces.

And second, it calls on the President to seek military and civilian police assistance from members of the United Nations to aid in promoting stability and security in post-war Iraq.

The U.S. and coalition forces currently occupying Iraq are being met with constant resistance and are being attacked on an average of twelve times a day. Increasing the number of troops and police from other countries will reduce the risks to U.S. and coalition forces currently in Iraq. International armed forces and police must assume some of the responsibilities for maintaining law and order in Iraq while a domestic police force and reformed military is trained and established. Pentagon officials estimate that it will take a year to train one division of 12,000 Iraqi troops.

My Resolution also calls on the Organization for the Prohibition of Chemical Weapons, along with other international and nongovernmental organizations, to provide assistance to the coalition partnership in Iraq.

Mr. Speaker, it's time to move past any negative feelings concerning countries that opposed our attempts to secure a U.N. endorsement for the war. A report published by the Center for Strategic and International Studies, funded by the Department of Defense, reported that "the window of opportunity for achieving postwar success is closing and requires immediate and dramatic action."

Our ultimate goal for the Iraqi people is a multi-ethnic, multi-religious Arab state that is capable of self-rule. This goal can only be achieved with the help and support of the vast global community.

Mr. Speaker, United States and coalition forces managed to liberate Iraq in a mere three weeks, and I would certainly be remiss if I did not take the opportunity to commend those brave men and women for their efforts to date. However, the goals we have set, from restoring critical infrastructure, to establishing an interim government, to maintaining law and order in Iraq, simply cannot be achieved alone. We've won the war, now we have to win the peace.

REMEMBERING THE JEWS OF ARAB NATIONS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mrs. LOWEY. Mr. Speaker, I rise to call attention to an article entitled, "Justice for Jews from Arab Nations," which was printed in the International Herald tribune on July 1, 2003. I respectfully request that this article be entered into the CONGRESSIONAL RECORD.

The article was written by Ms. Giulia Boukhobza, a Jew who was born in Libya in 1951. The story she tells is one of anti-Jewish legislation, seizure of assets, and, ultimately, ethnic cleansing. Beginning in 1948, over 800,000 Jews were expelled from their homes in Arab countries, as those countries sought revenge for the creation of a Jewish state. Ms. Boukhobza was forced to flee from Libya in 1967.

This article is her testimonial, bringing to light an important part of the history of Israel and the Middle East. Thank you.

[From International Herald Tribune, July 1, 2003]

JUSTICE FOR JEWS FROM ARAB NATIONS

(By Giulia Boukhobza (IHT))

NEW YORK: This is the first time I have ever written about my experience as a Jew from Libya, It's not easy for me. The memories are still painful.

Jews had a continual presence in Libya for over two thousand years, predating the Arab conquest and occupation by centuries, My own family had lived on Libyan soil for hundreds of years, if not longer.

I was born in Libya in 1951, the year of the country's independence.

Most of the nearly 40,000 Jews left Libya between 1948 and 1951 because of a wave of anti-Jewish rioting, beginning in 1945, that left hundreds dead and injured and thousands homeless. My family, however, decided to stay and see if things would improve. After all, it was our home, it was our language, and it was the land of our ancestors. And the new Libyan constitution offered guarantees that gave us hope.

We were wrong, The hope was misplaced. The guarantees were absolutely worthless. By 1961, Jews could not vote, hold public office, obtain Libyan passports, buy new property, or supervise our own communal affairs. In other words, at best we were second-class residents—I can't even say citizens—though this was our birthplace and home.

Our fate was sealed six years later. In June 1967, the anti-Jewish atmosphere in the streets became terrifying, so much so that my family could not leave our house in Tripoli. My parents and I, along with my seven brothers and sisters, sat frightened at home for days,

And then the mob came for us.

I can't even begin to describe the scene. It seemed there were a thousand men chanting "Death to the Jews." Some had jars of gasoline which they began to empty on our house. They were about to strike a match. We were near hysteria. But then one man from the mob courageously spoke up. He said he knew us and we should be left alone. Amazingly, the mob complied and moved elsewhere.

Other Jews, however, were not as lucky. Some, including close friends of ours, were killed, and property damage was estimated in the millions of dollars.

Our family went into hiding for several weeks before we were finally able to leave the country and reach Italy. We arrived with barely a suitcase each.

Today, to the best of my knowledge, there is not a single Jew left in Libya, not one. An ancient community has come to a complete end.

My family had to start from scratch in Italy. We had nothing and no one. But we persevered. We knew that we weren't the world's first Jewish refugees, or the last, and that we would just have to make the best of a difficult situation. And that's exactly what we did.

We did not wallow in self-pity. We did not seek to make ourselves wards of the international community. And we didn't plot revenge against Libya. We simply picked up the pieces of our lives and moved on.

The more I think about what befell us, though, the angrier I become. In effect, we were triple victims.

First, we were uprooted and compelled to leave our home forever solely because we were Jews.

Second, our plight was largely ignored by the international community, the UN and the media. Do a search and you'll be shocked at how little was written or said about this tragedy.

And third, Libya erased any trace of our existence in the country. Even the Jewish cemeteries were destroyed and the headstones used in the building of roads.

In other words, first our homeland was taken away from us, then our history as well.

I can no longer be a Jew of silence, nor can I allow myself to become a forgotten Jew. It is time to reclaim my history. It is time to demand accountability for the massive human rights violations that occurred to us in Libya.

That's why, after 36 years, I've chosen to speak out today.

CBO'S NEW PROJECTIONS ON THE BUDGET AND THE ECONOMY

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. SMITH of Michigan. Mr. Speaker, last week the Congressional Budget Office released their new projections on the budget and the economy. I commend the reading to my colleagues. Projected deficits, overspending, for 2003 is $401 billion and if you include what Congress is borrowing from the Social Security Trust Fund it amounts to $562 billion. For next year (2004) the on-budget deficit is $644 billion. Deficit spending means future tax increases.

I submit for the RECORD, Mr. Speaker, an article, in the Investor's Business Daily, by Stephen Moore, President of the Club for Growth.

WASHINGTON'S BIGGEST DEFICIT IS THE SHORTFALL OF COURAGE

(By Stephen Moore)

The new estimates by the federal budget office that the budget deficit this year will reach $400 billion and next year will reach $500 billion should be a major source of embarrassment to the Republicans in Washington—assuming they have any fiscal conscience left to embarrass.

President Bush and Congress have simply refused to make fiscal choices—they have cut taxes, increased the military budget, the foreign aid budget and increased social spending all at the same time. Now we are swimming in red ink.

Next month they are set to enact a $460 billion Medicare bill to provide drug benefits to the wealthiest age group in America. This will be the biggest new entitlement program in 25 years.

The tide of red ink will rise even higher, with economists at the National Center for Policy Analysis suggesting that the debt from this program could exceed $3 trillion over the next 50 years.

SHOULD BE ASHAMED

The new Congressional Budget Office numbers gloomily inform us that in Bush's four years in office, the budget will be up by $500 billion. That's a bigger increase than the amount the budget grew in Bill Clinton's eight years in office. It's hard to imagine that the budget would grow that fast even if Carol Moseley Braun had been elected to the White House.

There's also no hint that the GOP has been chastened by the enormous deficits it is responsible for or the meteoric rise in spending.

Example: Rep. Mark Kennedy of Minnesota is now fighting a lonely battle to try to trim the cost of the upcoming highway bill that is slated to have a cost of about 50% more than the last bloated highway bill.

I have said it before and will say it again: This is fiscal child abuse. Passing on costs to future generations for today's wasteful government spending is an assault on the financial well-being of our children. Conservatives can no longer apologize for the Republicans' miserable financial mismanagement. They should be infuriated by it.

I believe that Bush has been a star when it comes to enacting pro-growth tax changes. The tax code has taken a pro-investment, pro-worker direction through cuts in the death tax, the capital gains tax, the dividend tax and the income tax rates.

Bravo. Bush is absolutely right that the first step to getting the deficit under control is to get back on high economic growth trajectory. And tax rate cuts will certainly help achieve that faster growth.

Don't believe a word of the Democratic whine from presidential wannabes like Dick Gephardt and Howard Dean that if only we hadn't cut taxes, the budget would be under control. That's a fantasy.

Without the tax cuts, the budget would still be in huge deficit and the budget would have probably grown even more recklessly.

IGNORED DEAL

A fascinating new study was just released by the House Republican Study Committee under the able leadership of Rep. Sue Myrick of North Carolina. The RSC shows that if Congress had simply lived under the spending limits set forth in the 1997 budget deal agreed to by Clinton and the Republicans in Congress, the budget would be balanced today—even with Bush's tax cuts.

Meanwhile, my own budget analysis shows that every Congress since 1994 has accelerated expenditures at a faster pace. Conclusion: It's the spending, stupid!

There's a spirited debate in Washington about how the budget deficit impacts our economy. Some say deficits cause inflation and higher interest rates. Maybe so, but there's little evidence of that effect.

Some say interest payments on debt crowd out other spending—which may be true, but if it is, that's a good thing, because it constrains the congressional spending appetite.

My belief is that budget deficits are primarily harmful because they make it too easy for politicians to spend money now and then pass the bill to taxpayers later. And many of those future taxpayers are too young to vote now, so we have an unrivaled case of taxation without representation.

NO FREE LUNCH

The ultimate blame for the enormous mushrooming of deficit spending ultimately rests with the White House. The buck simply doesn't stop at this president's desk. Bush wants more guns and more butter, and wants to pretend that no one will ever have to pay for the profligacy.

But Milton Friedman taught us years ago that "there ain't no such thing as a free lunch." Government spending comes out of somebody's hide—eventually.

What' reprehensible is that the Republicans now say in unison: Let the 2-year-olds pay for it. And someday they will. This is the coward's solution. A balanced budget requirement with an expenditure limitation is probably necessary because the biggest deficit in Washington these days is the deficit of courage.

IN MEMORY OF JAMES MARSHALL STANLEY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to an extraordinary citizen of the Santa Barbara community, Mr. James Marshall Stanley. On August 1, 2003, Jim Stanley passed away in Santa Barbara, California. His years of service and dedication leave a great legacy among many individuals and organizations in this community and beyond.

James Marshall Stanley was born on April 2, 1907 in Oregon, graduated from high school in Portland, Oregon and went on to graduate from Portland Engineering School in 1927. Jim married in 1930 and moved with his wife's family to Santa Barbara in 1931.

During World War II, Mr. Stanley worked at a San Pedro shipbuilding yard and in 1943 joined the Merchant Marines as a Chief Radio Operator. He took part in numerous convoys during the War, supplying cargo, ammunitions and oil on board US Liberty and Victory ships. On August 15, 1945, James M. Stanley was honorably discharged from the Armed Forces of the United States and in 1949 was discharged from the US Merchant Marines. As a WWII hero, James M. Stanley was honored by the American, British, Russian and Finnish Governments for his participation in the fight against Nazism.

Following the War, James returned to his family in Santa Barbara where he owned and operated many small businesses before his retirement in 1972. Jim Stanley was a member of SCORE and worked as a Regional Director for Region IX of the U.S. Small Business Administration as well as worked as an advocate for the Los Angeles District of the Veterans Administration.

In addition to service to his country, service to his local community through volunteerism was an important part of Jim Stanley's life. Mr. Stanley was very active in the International Lions Club, which he joined in 1957. Not only was James Stanley the permanent President of the Tri-Counties Lions Sight and Hearing Center at St. Francis Medical Center for over 30 years, but also served as the International President of Lions Sight and Hearing Centers. Following his passion of providing sight to those less fortunate, Mr. Stanley helped found the non-profit S.E.E International, which organizes surgical eye expeditions and provides free services to the people of developing countries suffering from curable eye diseases. For his service in these areas, James Stanley was awarded a "Golden Apple" award in 1991 and a "Golden Oak Leaf' award in 1998 by the Santa Barbara County School District.

In addition to his strong dedication to the Lions organization and S.E.E. International, Jim Stanley was a member of the US Navy League and the North Russia Club (which unites the veterans from the North Atlantic convoys from various countries). Mr. Stanley also supported such organizations as UNICEF, the International Red Cross, Paralyzed Veterans of America, SS Lane Victory Project, the Wilcox-Douglas Family Preservation Project and the SBCC Choir.

James Marshall Stanley was a person of great honor, serving his local community, his country, and truly touching the whole world. Through the years that I have known Jim Stanley I not only consider him a community hero, but a friend. His service and dedication has been appreciated by many throughout the world over the years and we will honor his memory for many years into the future.

TRIBUTE TO COMMITTEE STAFF DIRECTORS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. OBEY. Mr. Speaker, I commend to the members of the House the following remarks by our former colleague Lee Hamilton:

REMARKS HONORING COMMITTEE STAFF DIRECTORS, JULY 17, 2003

It is my pleasure to say a few words in honor of the vital role that you play as committee majority and minority staff directors in the House.

Let me thank Ron Sarasin for that kind introduction, and Ron and Susie Dicks for their work in helping preserve and enhance our understanding of this magnificent Capitol. I often thought how fortunate I was to be able to work in this magnificent Capitol complex.

Let me also thank them and many of you here tonight for making this dinner possible with your support.

The contributions of staff directors to the work of the Congress are immeasurable. I am reasonably confident that every committee Chairman and Ranking Member would say they simply could not do their work without your leadership. I hope that gives each of you a full measure of satisfaction.

I want to talk for a few minutes about the role of the Congress in this country, the importance of politicians, and why your efforts are so important and worthwhile.

PUBLIC ATTITUDES TOWARDS CONGRESS

You are, of course, familiar with those who are cynical about your work and the work of Congress. The brightest wits in American life have had their fun at the expense of the Congress.

H.L. Mencken said that, "with the right pressure, Congressmen would cheerfully be in favor of polygamy, astrology or cannibalism."

Mark Twain said, "suppose you were an idiot, and suppose you were a member of Congress. But I repeat myself."

Will Rogers said that, "Congress was a never-ending source of amusement, amazement, and discouragement." Even so, we honor him with that magnificent statue just off the House floor.

We have all seen surveys like those showing that 66 percent of Americans can name the hosts of various game shows, while only 6 percent can name the Speaker of the House.

When I was a Member, I was never particularly disturbed by such survey results. After all, Americans are busy people with many demands on their time, and it is not easy to put in a full day's work and then read an article about Congress or turn on C-Span to watch the House or Senate in session.

Nor was I bothered by the barbs—after all, we have to appreciate that the bashing of Congress is one of America's all time favorite indoor sports.

What did bother me, though, was the extent to which people do not understand or appreciate some of the basic concepts that underlie the workings of the Congress, and the role that Congress plays in the life of our representative democracy.

Even if Americans don't know the name of their senators or representative, they should know something about the importance of what they do to make the country work. Even if they don't know the players or the details of the legislative process, they should know something about how they relate to our system of government. If too many Americans get those concepts wrong, it does matter to the health of our democracy.

ROLE OF THE CONGRESS AND COMMITTEES

In my experience, far too few Americans really understand the most important function of the Congress. It is not, in my view, to pass any particular piece of legislation, or even a budget—but its historic mission is to maintain freedom.

The great phrases ring through our history—"We the people," "consent of the governed," "a more perfect union." These aren't just technical terms of political science. They are words that embody America's civic faith. You and I, above all others, are expected to know them in our bones, and to apply these grand concepts.

We rely on elected representatives to identify, sort out, and solve the difficult issues of state. It did not have to be this way. Our country would be vastly different if the Founders had placed power in the hands of a single ruler, or given much less voice to the American people.

In the Congress, Americans have a forum for debate and deliberation in which they can feel a stake. Traditional lawmaking is not just a nicety—it's a necessity if we're to remain a democracy. The lawmaking process allows us to resolve differences, and to live together peacefully, productively and successfully.

Most Americans may be familiar with the diagram of how a bill becomes a law. Whenever I see those charts I think to myself how sterile they are. They do not convey the dynamics—the frustration, the excitement, the complexity and the necessity of the process.

Very few Americans understand that the details of this process of deliberation guarantee that their voices are heard, and freedom is protected.

I worry that astute legislators often bypass steps in the lawmaking process, arguing—in effect—that the ends justify the means. This "unconventional lawmaking" is increasingly applied to important legislation. But in doing this we bypass and put at risk the very democratic process that defines our system.

My view is that important proposals should not bypass the traditional process, including the committee review, because that is one important place where deliberation takes place. That's where Members and staff can ask the hard questions. Committees provide expertise, and an opportunity to consider the merits and smooth out the problems in proposals. This is where we build consensus.

Some Americans feel that the legislative procedure is too slow and deliberative—they are annoyed by what they perceive as inside-the-Beltway scuffling, and wonder why Congress can't get things done faster.

But do we really want a speedy system in which laws are pushed through before alternatives are considered and consensus developed? We misunderstand Congress' role if we demand it be a model of efficiency and quick action.

Our Founders designed a system in which all new proposals get careful scrutiny by going through many layers of review. They were far less interested in moving good ideas efficiently, than they were in preventing bad ideas from becoming the law of the land in the heat of the moment.

People may sometimes complain about the process, but they benefit from its legislative speed bumps when they want their views heard, their interests protected, and their rights safeguarded.

As former Speaker Sam Rayburn used to say: "One of the wisest things ever said was, 'Wait a minute.'" That—in a phrase—is the essential role played by Congressional committees.

IMPORTANCE OF POLITICIANS

Democracy—after all—is a process, not a product. And what our democracy really needs is more politicians.

That was one line I used to say that was sure to get a reaction. Very few of my constituents agreed.

Showing skill as a politician has come to mean demonstrating the ability to raise campaign funds, engaging in the tit-for-tat of negative advertising, jockeying for public support based on polls and focus groups, or skewering an opponent with a one-liner during a televised debate.

People have come to view the word politician—particularly with regard to the Congress—with disdain. Plenty of voters feel that politicians sell-out their beliefs and promises. "Stick to your guns," they urge.

But controversy and conflict are unavoidable in a nation as large and diverse as ours—a diversity that is rightly represented in the peoples' House. To avoid ripping apart at the seams, our country needs people who know how to accommodate different points of view and work for common solutions—it needs politicians.

You are an essential part of this effort. By working behind the scenes, knowing what Members want, proposing compromises, addressing all the difficult details of legislation, and dealing with all the worthy groups wanting contradictory things, you—as well as your bosses—have to be politicians in order to keep our democracy running.

BEING A GOOD POLITICIAN

For the most part, people don't pay attention to how their hopes, dreams and ambitions are turned into public policy through the lawmaking process. Most citizens and journalists take that very political process for granted. They shouldn't.

Constituents often asked my position on a substantive issue. I don't think anyone inquired about my political skills—and, in this world, political skills are essential to get things done.

The key to being an effective legislator or staffer is respecting that system and figuring out how to make it work. So what political skills do you need? Does a Member need?

First, you know how to consult, particularly with your colleagues—talking to them, listening to them, making sure they feel they are in the loop. Support for ideas is largely built one-on-one, but also in larger forums. Key individuals—inside and outside of the Congress—have their own ideas and valid concerns, and they expect to be able to share them.

Lyndon Johnson had his own way of putting this with a sign he had in his Senate office: "You ain't learning nothing when you're talking."

Second, you calm—rather than inflame—discussions of controversial issues. Things can get pretty heated in the Congress, and disagreement is inevitable in a House as large and diverse as ours. It is relatively easy to make a bad situation worse. One thing that I'm certain of is that you cannot produce good legislation in a bad atmosphere—you can produce heat in such an environment, but not light.

Third, you know how to persuade. It takes an enormous amount of persuasion to build a majority in support of an idea. You all know how much persuasion is involved in getting approval of even a modest piece of legislation. You have to line up support and be in touch with sometimes hundreds of individuals from both parties, in the Congress and outside the Congress.

Fourth, you must be willing to share credit. I remember former Speaker Tip O'Neill putting his arm around me and giving me some advice as we walked down the hall. "Neil," he said—he called me Neil for my first decade in Congress because I reminded him of a Boston baseball player named Neil Hamilton. "Neil, you can accomplish anything in this town if you're willing to let someone else take the credit."

Finally, you know how to compromise. Compromise is essential to producing law in our system. Good politicians—legislators and staff—are able to find points of agreement that will allow a consensus to emerge. They will look for solutions that allow both sides to claim—if not victory—at least some gains.

Your skills are crucial in finding acceptable solutions. Compromise might involve altering some key words; phasing in a change; inserting a new provision; requiring a study; splitting differences in funding; delaying or postponing implementation of a section. You have to seek these accommodations among rival interests because you know that it is necessary to make the Congress—and country—work.

From my perspective, the ability to build consensus is probably the most important single skill needed in the Congress—by Members and staff. Any fool can blow a meeting or discussion apart—it takes real political skill to bring people together. That is why we need more politicians of your skill these days—not fewer.

WHY IS IT WORTHWHILE

Well, is this demanding, tedious process of passing legislation worthwhile? You and I know well the frustrations:

As a Member, I always felt it was hard to keep on the right side of the voter. When I was in my District, I heard complaints that I wasn't spending enough time in Washington; when I was in Washington, people said I was ignoring the home folks and only paid attention to them during elections.

When I drove an old car in my District, people said it looked like something a farmer would use for hauling trash; when I got a new car, they said the lobbyists had gotten to me.

When I wore an old suit, people said I had no class; when I wore a new one, I was accused of going high-hat.

When I missed church, people said I was an atheist; when I attended church, I was a pious fraud, trolling for votes in church.

When Congress passed a lot of laws, we were a meddlesome Congress; when we weren't passing laws, we were an incompetent, do-nothing Congress ignoring the needs of the country.

When we supported the president, people said we were a rubber-stamp; when we opposed the president, we were disloyal and obstructionist.

You can never please everyone when you are working in Congress, no matter how many hours you put in, no matter how skillful you are.

You all know too well what I'm talking about as staff directors when I talk about the frustrations, among them: committee meetings go on without end; the work is tedious, requiring that you go over legislation comma by comma; you are constantly running from one meeting or appointment to another; your daily schedule is always being interrupted, revised, or simply scrapped; if you have a family, you're going to miss many important family events; and you cannot plan ahead, whether for an evening off or for a vacation, because some event or emergency always demands that Congress stay in session longer than planned.

All the political posturing, sniping and scrambles to claim credit for good things—or avoid blame for bad—sometimes becomes disheartening, as does the constant maneuvering for partisan advantage. And for putting up with all of this, you get paid less than you could make in the private sector, while facing harsh and frequent criticism.

Yet despite it all, most members run for reelection and remain in Congress as long as they can. Most of you worked long and hard to become a committee staff director.

Is it all worthwhile? Yes, of course it is.

Why? Let's be frank—some of it satisfies the ego. Some like the power and the trappings of power—when you speak, people listen, and that is very satisfying. But most of you, I think, are truly motivated by the belief that, as hard as it is, you can make a difference and enhance the lives of ordinary Americans.

Then, too, it is all pretty exciting—and interesting. The sheer challenge of public policy issues attracts us. There is a pervasive sense on Capitol Hill that it is where the issues of greatest importance to the nation are being sorted out. This is where the action is. Sometimes this is misplaced, but often it is not.

You struggle over the issues that aroused the passions of this country's founding generation. How much power should the federal government be given? How should powers be separated among the branches? How do we resolve the tension between encouraging individual liberty and security? What role should our country play in the world?

These great issues are subject to debate every time a new federal budget comes to a vote, or a major presidential initiative gets introduced on Capitol Hill. When you start working in Congress, you get a chance to take part in this ongoing debate—our great experiment with democracy.

Your public service gives you a stimulating, proud and lively career.

CONCLUSION

So I salute each of you for the vital role that you play within this institution, and in your service to your fellow Americans.

You are contributing to the success and direction of this country. I hope you feel that by working in the Congress you are given the unique opportunity to make a difference in the lives of people and the great affairs of this Nation.

I would wager that no matter where your career takes you from Capitol Hill, that you will look back on your public service as the most rewarding of your career.

The work is hard, the recognition rare, the monetary reward modest. But your reward is a deeply fulfilling life in public service and a key role in American democracy. What more could you want?

TEXTILE SHORT SUPPLY PROCEDURES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CRANE. Mr. Speaker, I would like to submit for the RECORD and the benefit of my colleagues, a letter from Mr. David M. Spooner, Textile Negotiator for the United States Trade Representative, to Senator CHARLES E. GRASSLEY, Chairman of the Committee on Finance, clarifying the textile commercial availability provisions in the Singapore and Chile Free Trade Agreements.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE,
WASHINGTON, DC, JULY 25, 2003.

Hon. CHARLES E. GRASSLEY,
Chairman, U.S. Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: I understand that the Committee has received inquiries regarding the textile commercial availability provisions in the Singapore and Chile Free Trade Agreements and am therefore writing to clarify the agreements' commercial availability sections.

The Singapore FTA would deem as not commercially available all products designated as such prior to November 2002 (prior to the completion of the SFTA negotiations) for the AGOA and CBTPA preference programs. The Chile FTA does not contain such a provision. In the future, for both the Singapore and Chile FTAs, to designate additional items as not commercially available, either the United States or our trading partners would have to utilize the consultation provisions of the agreement's "Revision of Rules of Origin" section. This section requires the Parties to consult, upon request, to consider whether particular goods should be subject to different rules of origin to address issues of availability of supply of fibers, yarns or fabrics in the free trade area and requires the Parties to endeavor to conclude their consultations within 60 days of the request.

I hope the above explanation is helpful. Please feel free to have Committee staff contact my office at 202-395-3026 if the Committee has any comments or questions.

Sincerely,

DAVID M. SPOONER,
Textile Negotiator.

TRIBUTE TO CHIEF TRAYNOR HALFTOWN—BROADCAST PIONEER OF PHILADELPHIA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to honor the memory of the legendary Chief Traynor Halftown, the children's entertainer who passed away on July 5, 2003. His passing was broadly covered in the media and accepted as a personal loss for millions in the Philadelphia region who felt they knew him as a friend.

Chief Halftown was a true original and an entertainer at heart. Chief Halftown delighted the children of Delaware Valley for 49 years with his stories, cartoons and live talent acts. He offered a different view of Native Americans than was seen in most TV westerns. The Chief Halftown Show was one of Philadelphia's most popular programs. It was the longest running children's TV show in history, from 1951 to 1999—48 years on WFIL–TV Channel 6—Philadelphia. He had a live audience with selected children visiting his set each week. Some little known facts about the "Chief" include the fact that he had a fabulous voice. Prior to his children's TV career, he was a successful nightclub singer and had a much in demand lounge act. He was also quite a sportsman, including the fact that he was an "Ace" bowler.

Beginning from the early 1950's, Chief Halftown was an outstanding presence at community activities, business openings, sports events and holiday parades in countless towns. His scheduled appearances filled the calendar and drew adoring crowds at personal appearances until just recently.

A veteran of World War II, he served his country honorably and after discharge from the Army moved into Springfield, PA with his wife, Margaret. Unable to have children, this remarkable couple opened their home to three children from reservation families who then attended Delaware County, PA schools. Two boys and one girl, all now enjoy success in business and have families of their own.

Because of early exposure to substance abuse on his Seneca reservation, upper New York State, and due to a short period of personal dependency, he became known as a "sponsor helper" for others having such problems. He aided thousands of Pennsylvanians through his example and guidance for nearly 60 years. His passing is a tragic loss to many professionals who dedicated their own lives to this specific health care field.

In his eighties, he continued to produce children's "amateur contests" and made visits to nursing homes and assisted living facilities. For those elder citizens he wrote and presented a series of programs on the culture of Native Americans. The visits became popular events for confined and ailing seniors.

Mr. Speaker, our region has lost not only a legend in the broadcast industry, but a dear friend. I wish Margaret Halftown, his widow, my heartfelt condolences and may she find comfort in knowing that the many children and adults the Chief impacted deeply value his dedication and generosity of spirit and the example of his life and work. Chief Traynor Halftown exemplified the spirit of service that has made this country great. It is proper to remember and honor a man of such worth and character with great respect for what he accomplished and stood for.

HONORING 25TH ANNIVERSARY OF EMPLOYEE BENEFITS RESEARCH INSTITUTE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, the past few decades have posed some difficult challenges for America's workers and some hard choices for those who seek to guarantee them a brighter future. I can think of no area that is simultaneously as broadly important and increasingly complex as pension and health benefit issues. As Congress struggles with the challenge of ensuring the health and pension benefit promises made to tens of millions of workers and retirees, I want to thank the Employee Benefits Research Institute for its considerable contribution to providing education and information to members of Congress and the Nation. As EBRI marks its 25th anniversary, I want to thank them for helping us understand the issues and say that we all look forward to their counsel in the future.

EBRI is one of the only organizations dedicated to gathering employee benefit information and presenting it to the public in a timely fashion. Regrettably, on a subject that affects almost every individual in the country, there is no government agency that collects and distributes information about workplace benefits. EBRI deserves our deepest commendation for consistently stepping into the gap and attempting to provide information that is critical to the decision-making ability of public policymakers. EBRI's strength is that it is a non-advocacy organization so that legislators on both sides of the aisle can use its resources.

America's pension system has changed a lot since ERISA was enacted and EBRI was created. Often workers don't fully understand the changes that can have a big impact on their retirement. Sometimes legislators fail to fully grasp the magnitude of the adjustments we're called onto make. Educating both groups is both a full-time job and a worthy goal.

Because of EBRI's work, we know more than we otherwise would have. I hope they continue shedding light on workplace benefits in the decades ahead because I think that will improve the odds that legislators like us will be able to make enlightened important decisions that benefit working men and women.

THE HOUSE PAYS TRIBUTE TO DANA M. STEIN, EXECUTIVE DIRECTOR OF THE CIVIC WORKS, INC.

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Dana M. Stein, executive director and cofounder of Civic Works, Inc., a non-profit youth corps that has provided critically needed services to the Baltimore area since 1993. Mr. Stein's leadership of Civic Works has transformed the organization into an outstanding AmeriCorps program—helping the community and teaching new skills to young adults.

Mr. Stein has dedicated his career to helping improve our community. He has a B.A. degree from Harvard University and a law degree from Columbia University. In 1985, he received a Masters in Public Affairs from Princeton University. He has used his knowledge and skills to reach out to others and to make a difference.

Under his direction, approximately 200 Civic Works' participants help rehabilitate low-income housing, build urban parks and gardens, clean and restore urban vacant lots and tutor and mentor school-age children. While providing important services that would otherwise go undone, Civic Works' participants also receive help in their education and citizenship skills.

Civic Works has been recognized for its successes. In 1999, it was awarded the PEPNet Award from the National Youth Education Coalition (NYEC). It also is a four-time YouthBuild sub-grantee and has been recognized through the 2003 National Association of Services and Conservation Corps Excellence in Corps Operations.

I hope my colleagues in the U.S. House of Representatives will join me in saluting Dana M. Stein on the 10th Anniversary of Civic Works. He is a committed American who understands how to build a better community.

TRIBUTE TO KOREAN WAR VETERANS

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor the Korean War Veterans Citrus Chapter 192 and all the brave men and women that answered the call to duty during the Korean War.

Sunday, July 27 commemorates the 50th Anniversary of the Armistice signing that officially ended hostilities in the war torn nation.

This conflict enlisted the services of 6.8 million American men and women between 1950 and 1955. Despite the enormity of this effort, many who served regrettably feel that their sacrifice has been forgotten by a nation in the murky fog of time.

I commend the Veterans of Citrus County 192 for their efforts to memorialize their comrades in arms who paid the ultimate sacrifice. On Saturday, July 26 the Korean War memorial will be dedicated at the Citrus County Court House. This eloquent marker will serve as a reminder to our nation of the surviving Korean War Veterans, as well as the POWs and MIAs that never returned.

IN MEMORY OF BOBBY BONDS

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to a man that is considered one of the greatest athletes ever to come out of the Inland Empire. Bobby Bonds, a 14-year major league baseball player from Riverside, California, passed away on Sunday, August 24, 2003. His legacy, however, lives on.

Bobby Bonds was born with the talent and followed a dream. He began his baseball career in the Patterson Park Little League in Riverside's eastside neighborhood. Even then, crowds would gather to watch him play.

In high school, Bobby excelled in more than one sport. He could be spotted being shuttled from the baseball field to the track field in order to compete; his love of sports was unparalleled. He also played basketball and football. Bobby was the 1964 state long jump champion and later graduated high school in 1965. He was immediately signed by the San Francisco Giants and worked his way up through the minor leagues. He was leading the Pacific Coast League in hitting when he joined the major leagues in 1968.

In his first season, Bobby hit 32 home runs and stole 45 bases, becoming the fourth and, at 23 years old, youngest member of baseball's 30-30 club.

In 1971, Bonds was selected to the All-Star team, and later played in three All Star games. He won three Gold Gloves for fielding excellence as an outfielder. In 1973 he hit a career-high 39 home runs, was named Most Valuable Player. Four years later he would have another career-high of 115 runs.

After retiring from baseball in 1982, Bobby became a first-base coach for the Cleveland Indians and joined the Giants coaching staff in 1993 when his son joined the team. After his role as the first-base coach, he became a special assistant for the Giants.

Bobby is survived by his wife, Pat; a daughter, Cheryl Dugan; three sons, Barry, Ricky, and Bobby Jr., his mother, Elizabeth; a brother, Robert; and a sister, Rosie.

Although Bobby moved away from Riverside many years ago his influence remains. A park in Riverside was renamed the Bobby Bonds Park and the Bobby Bonds Head Start/State Preschool opened last November.

Bobby's tireless passion for the game of baseball and his love of his hometown of Riverside, California will long be remembered by the residents of Riverside that grew up next door to him and the kids everywhere who grew up inspired by his life.

TRIBUTE TO VA VOLUNTEER DOROTHY PATRICK

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Dorothy Patrick, a constituent of mine who has selflessly given her time to the veterans of my Fifth Congressional District for more than 15 years.

My district is home to thousands of our Nation's veterans and has the fourth-largest concentration of American heroes in the Nation. So it is only natural that at our veterans' clinics and hospitals there's never a shortage of things to do and never a time when additional helping hands are not desperately needed.

It was once said that, aside from love, the most precious thing a person can give another person is labor. Dorothy has given over 11,000 hours of her labor to help the veterans of Florida's Fifth Congressional District—and that is truly something to be honored.

Volunteering at both the Gainesville VA Medical Center and at the Inverness VA Clinic for 15 years, she has given her time to veterans for longer than many people stay at a single job!

David Gilmer, Administrative Officer for the VA's Inverness Community Base Outpatient Clinic, has said of Dorothy "She not only provides valuable assistance to the veterans who receive care at the Inverness Clinic, but leadership to the other volunteers who help support the VA's mission here in Inverness."

She's given to the veterans of the Fifth Congressional District as nobly and as altruistically as they've given to all of us. Her service is a testament to the value and virtue of helping others.

Mr. Speaker, I ask that you join me in commending Dorothy for her efforts. I am honored to be her representative in Congress. She is one of the reasons that I am so very proud to represent the Fifth Congressional District of Florida in the House of Representatives.

IN RECOGNITION OF FERNANDO "FRED" C. MACHADO

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. NUNES. Mr. Speaker, I rise today to recognize the contributions of Fred Machado to the community and agricultural industry of the great Central Valley of California.

Mr. Machado emigrated from the island of Flores in the Azores, Portugal in 1949 with his family at the age of 16. He worked as an agricultural laborer for a couple of years before joining the U.S. Navy and proudly served in the Korean War.

After fulfilling his duty to his country, Mr. Machado returned home and married Maxine Finney. They purchased a farm and started a family. He was successful in both.

Mr. Machado now operates a 1,500-cow dairy, along with 730 acres of diversified crops, including almonds, grapes, prunes and other field crops.

Over the years, Mr. Machado has served on numerous agricultural industry boards. He was appointed to the USDA Agricultural Trade Advisory Committee during the Reagan Administration, served on the board of the California Farm Bureau Federation, as well as the Fresno County Farm Bureau.

He has also served on the Fresno District Fair Board, the Fresno County Republican Central Committee, the Fresno County Cabrillo Club, the St. Jude Church in Easton and Ag One, among others.

On Aug. 23, the Ag One Foundation will bestow the Community Salute honor on Mr. Machado. Proceeds from the event will establish the Ag One—Fernando 'Fred' C. Machado Scholarship Endowment fund, which will benefit students pursuing a degree in the College of Agricultural Sciences and Technology at the California State University, Fresno.

Please join me in extending congratulations to Mr. Machado.

TRIBUTE TO TONY DEMARZO

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Tony DeMarzo, of the Hernando County 10–13 Club, an organization of retired New York police officers in my Fifth Congressional District of Florida.

Serving as President, Vice President and Director of this organization throughout his 10-year involvement with the 10–13 Club, Tony has shown exemplary leadership.

Recently, Tony, a personal friend of mine, was honored by his fellow members with a plaque commemorating his service to the organization.

Mr. Speaker, I'd like to read the inscription from that plaque as I believe it outlines a few of the many reasons Tony's friends have chosen to honor him:

It reads: "In recognition of his distinguished leadership and strong stewardship this plaque is awarded to Antonio "Tony" DeMarzo by his many friends and fellow members of the Hernando County 10–13 whereas during the last ten years as President, Vice President, and Director, Tony has overseen and guided the organization to the fruition of many goals. During his most recent tenure Tony established an honor guard, a booster Club and has dramatically increased both the membership and the treasury. Further, he organized the 9–11 disaster fund which raised many thousands of dollars. He also hosted the very successful 2002 national convention. He has been instrumental in creating and maintaining the professional rapport that exists today between the Hernando County 10–13 and the Hernando County Sheriff's Department."

Mr. Speaker, as we all since 9–11 have been reminded of the importance that our law enforcement officials play in securing our streets and communities, I believe it is also important to honor those who have retired from the profession. Their many years of noble service are not to be overlooked.

Mr. Speaker, I ask you and my colleagues to join me in congratulating Tony DeMarzo for his service while in uniform and his undying commitment to community, which has endured long after he stopped wearing the uniform.

IN RECOGNITION OF MR. JULIAN BATLAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PALLONE. Mr. Speaker, I rise today to laud the accomplishments of Mr. Julian Batlan. Mr. Batlan is a truly remarkable individual. He is someone who has unconditionally volunteered his service time and time again to New Jersey's sixth Congressional District, the State of New Jersey, and to the United States of America.

Mr. Batlan comes from a family steeped in rich and noble history. He descends from the first Jewish man to settle on the eastern shores of America in 1655, Mr. Jacob Barsimon. He is also related to Mr. Simon M. Levy who in 1802 was a member of the first graduating class of cadets at the U.S. Military Academy at West Point.

Mr. Batlan, himself, has held his own and has reached the ranks of many of his highly esteemed relatives. His military record is stellar. Mr. Batlan is a decorated combat soldier, serving in World War II in the U.S. 1st Army, 1st Infantry Division in both the 7th and 9th Corps in the European Theater of Operations. He also fought on the fields during the Battle of the Bulge in Rhineland. For his bravery and wounds on the battlefield, Mr. Batlan has received the Silver Star, the Bronze Star, and the Purple Heart. After the war, Mr. Batlan did not stop serving his country. He was able to successfully move from the stage of war to the realm of domestic service through his membership in the Jewish War Veterans.

Mr. Batlan joined the Jewish War Veterans Elin-Unger Post 273 in June 1946. As the charter commander, he was instrumental in founding and organizing the Manalapan-Marlboro, NJ Post 972. Mr. Batlan was the first commander of the Jewish War Veterans Monmouth-Ocean County Council to ever be elected to two terms of office. Mr. Batlan pioneered the highly publicized, annual J.W.V public relations breakfast programs to encourage friendship and understanding between the Jewish and the Italian community. Mr. Batlan continued to unite different cultural groups when he established the Martin Luther King Jr. Brotherhood Breakfast to build bridges between the Jewish community and African-American Community.

Mr. Batlan's strong belief in community building, has led him to serve as President of the Kiwanis International of Eatontown, NJ. He also served as the Scoutmaster of Troop 230, Boy Scouts of America, Linden, NJ. These different activities are just a handful of the many organizations that Mr. Batlan has helped to strengthen.

Once again, Mr. Speaker, I would like to congratulate Mr. Batlan for his energy and vigor in serving the American people, through fighting for democracy in World War II to building bridges of equality today. I ask that my colleagues join me in honoring the distinguished Mr. Julian Batlan.

TRIBUTE TO RAY TREMBLAY

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Ray Tremblay, a constitutent of mine, residing in Levy County in my Fifth Congressional District. Mr. Tremblay, an honorable officer of the law in the city of Chiefland, was recently named the department's 2003 Officer of the Year by his colleagues and superiors and I want to take this opportunity before this body to honor him and to say a few words about why he is deserving of this noble distinction.

Ray Tremblay has served the Chiefland community for nearly a decade. Beginning his service in 1994, he has been a highly visible member of the Chiefland Police Department, attending many school functions and stressing the importance of staying off drugs, wearing seatbelts, and the importance of public service and safety.

Additionally, he has been active in the "Buckle Up" program and with the "Click-It or Ticket" program, ensuring safety on our highways by issuing numerous warnings and citations to motorists failing to comply with Florida's seatbelt laws.

Ray Tremblay has been described by Chiefland's Chief of Police as someone who always shows the utmost respect and consideration for his fellow officers and supervisors. Always willing to lend a hand, always help cover a shift, and work extra hours without complaint, Mr. Tremblay is a true example of what public servants should be.

Having law enforcement officers like him is what makes our streets and communities safe and what inspires youngsters to continue in the profession of noble, honorable service to their neighbors.

Mr. Speaker, I ask you and my colleagues to join me in saluting Mr. Tremblay and all officers of the law, for the work they do is invaluable and of immeasurable importance to our society and to our safety.

MEDIC RESCUE'S 25 YEARS OF SERVICE

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. HART. Mr. Speaker, on September 12th, I will have the honor of paying tribute to some of my district's most vital heroes in a ceremony commemorating Medic Rescue's 25 years of service. The professionals of Medic Rescue, based in Bridgewater, PA provided life-sustaining medical services and emergency transport to more than 40,000 citizens in my district last year.

In addition to commending their commitment to service, the staff of Medic Rescue should also be praised for their efforts, through various community service programs, to reach out to children, seniors, and the disabled.

The times we live in pose never-before-conceived-of threats to our citizens. It is reassuring to know that my constituents can benefit from this enduring team of first-responders who have a commitment to their patients and their community.

I ask all of my colleagues in the House of Representatives to join me in thanking these brave men and women for their professionalism, their ability to work under pressure, and their effectiveness in carrying out their critical mission.

A TRIBUTE TO GARY CARTER: A NATIONAL BASEBALL GREAT

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. FOLEY. Mr. Speaker, I rise today to honor and congratulate Gary Carter on his induction into the National Baseball Hall of Fame. On Sunday, July 27, 2003 Gary became the 14th catcher to be enshrined into the 256-member club.

Mr. Speaker, Gary brings with his induction a phenomenal record of talent and service.

After being selected in the third round of the 1972 free agent draft by the Montreal Expos, Gary made the Major League Baseball (MLB) club in 1974. A year later, he was selected as an All-Star and named the Sporting News National League Rookie of the Year. From there, "The Kid"—the nickname he acquired because of his ever-present smile and youthful passion for the game—led the Expos to their first, and so far only, playoff appearance in 1981.

In 1985, he was traded to the New York Mets. That year, he proved a steady hand in leading a young Mets team to a second-place finish. However, it was the following year—1986—that proved to be the crowning achievement in Gary Carter's illustrious career. That was the year the Mets rocketed to the top of the National League East, capturing the division title and eventually the World Series Championship over the Boston Red Sox.

Gary remained the Mets' catcher through 1989. After single-seasons with the San Francisco Giants and then the Los Angeles Dodgers, he returned in 1992 to the team that gave him his first shot in the majors—the Expos—where he finished his star-studded, 19-year career.

After retirement, Gary continued to work in the game as a broadcaster for the Florida Marlins and the Montreal Expos. In 2002, he was named a minor league catching instructor for the New York Mets.

What has always impressed me the most about Gary is not only his on-field accomplishments, but his steadfast commitment to his community in Florida. Gary has been a key player in helping to raise more than $6 million for the Leukemia and Lymphoma Society by hosting golf tournaments at various Palm Beach County courses. The Gary Carter Foundation based in West Palm Beach has been instrumental in having thousands of dollars in computers, software and books donated to Palm Beach County schools as well as gifts to local children who make strides in the "Reading Counts" program.

For all of his wonderful contributions both to baseball and to our community, I want to offer this tribute in the CONGRESSIONAL RECORD to our friend, a community leader and Hall of Famer—Gary Carter.

TRIBUTE TO JACK WILKINSON ON HIS 90TH BIRTHDAY

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Jack Wilkinson, retired teacher in Leavy County.

On Sunday, August 24, Mr. Wilkinson celebrated his 90th birthday. As the son of a pioneering family who moved to the area in the 1840s, Mr. Wilkinson spent most of his years in Leavy County. As a child, he helped his parents on their farm. The neighborhood school he attended, Union School, was one room with grades 1–6 and was used as a church on the weekends. He went on to earn his teaching certificate from the University of Florida, which only enrolled 4,000 students at the time, and is proud to say he saw the very first football game played in "the swamp." Mr. Wilkinson then returned to his hometown of Chiefland, where he lives today. After dedicating half of his life to teaching math and helping students at the very high school he attended, Chiefland High School, Mr. Wilkinson quietly retired to his farm.

I commend Mr. Wilkinson for the teaching services he provided and the 90 years he has given his community.

HEALTHCARE BILL OF RIGHTS FOR ALL AMERICANS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, during the recess, I was pleased to meet with a group of representatives of The United Steel Workers in my district. They presented me with a petition with which I am in strong agreement—calling on those of us who serve in Congress "to pledge their support for the Healthcare Bill of Rights in its entirety." In particular, this petition cited the importance of three key principles, which are: First, everyone has a right to quality healthcare, regardless of financial standing. The government must insure that no American is denied needed healthcare services because of inability to pay; second, healthcare should be affordable for all who need it. The government must see that healthcare costs are brought under control; and third, everyone has a right to affordable prescription drugs. The government must insure that every American has prescription drug coverage. No one should be forced to choose whether or not to buy needed prescribed medicine based on how much money they have.

Mr Speaker, I will not enter here the long list of names of signers of this petition. But I believe that Members should be aware of the strong sentiment that exists on behalf of such an important public policy. And I salute the Steel Workers of America and those who have taken the lead in organizing this petition in my own district and elsewhere, for their commitment to a better America.

TRIBUTE TO THE 98TH BOMBARDMENT VETERANS ASSOCIATION

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to a group whose sacrifices, patriotism, and contributions to our country are immeasurable. I am honored that the 98th Bombardment Veterans Association will be having their annual reunion in my congressional district this year. Their distinguished history is one of duty, honor, courage and sacrifice.

The 98th Bombardment Group was constituted on January 28, 1942, at Barksdale Field, Louisiana. They were activated on February 3, 1942, at McDill Field, Florida with B–24 Liberator Bombers and continued their training at Ft. Myers and Drane Field, Florida.

On July 15, 1942, the 98th was alerted and departed for the Middle East, arriving in Palestine in late July. The 98th was initially assigned to the United States Middle East Air Force. They flew their first mission to Mersa Metruh on August 1, 1942.

One of their most famous missions was on August 1, 1943 when 47 B–24s launched for a low-level raid to Ploesti and only 21 returned safely. The Group Commander, Colonel John R. Kane was awarded the Medal of Honor for his leadership. On another raid on Ploesti on July 9, 1944, Lieutenant Donald Pucket sacrificed his life trying to save three of his crewmembers who could not or would not bail out of their aircraft. He was awarded the Medal of Honor posthumously for his sacrifice.

The 98th continued the campaign against Nazi forces during the rest of World War II, flying a total of 417 missions and earning a total of 15 battle streamers as well as two Presidential Citations. The 98th returned to the U.S. in April of 1945 and was re-designated the 98th Bombardment Group.

In 1950, with the beginning of the Korean Conflict, the 98th arrived at Yokota Air Base, Japan and flew their first mission to Korea on August 7, 1950. The 98th repeatedly flew against the North Korean Communist forces until the cease fire in 1953. From August 1950 to July 1953, the 98th flew more that 5,000 sorties and dropped more than 40,000 tons of bombs. They earned 10 battle streamers and two Outstanding Unit Awards. They also received the South Korean Presidential Citation. Over the next several years the 98th would be re-designated, inactivated and reactivated until it found its current home as the 98th Range Wing at Nellis Air Force Base in Nevada.

In 1949, Colonel Salvator Manzo, a former commander of the 98th Bombardment Group during World War II, began the idea of forming a veterans association for the 98th. In 1976 his idea became a reality when the 98th Bombardment Group Memorial Veterans Association was formed. B–29 and B–47 veterans were invited to join the group and spouses of deceased 98th veterans are given an honorary membership.

The week of September 2–6, 2003, the group will hold its annual reunion and ceremonies at the March Air Field Museum where commemorative tiles will be laid in honor of the 98th for their service and, in addition, their association name will be added to the prestigious "Flyers Wall" at the Historic Mission Inn. Our country is forever indebted to those individuals willing to make the ultimate sacrifice so that the rest of us may live freely and without fear. I consider it an honor and privilege to welcome the 98th Bombardment Veterans Association to my district to celebrate and remember their distinguished history; they are truly living legends.

MAJOR THOMAS HARDIN, JR.

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Major Thomas Hardin, Jr., a World War II veteran from Spring Hill, Florida in my Fifth Congressional District.

Over the August recess, Mr. Speaker, I will have the honor of recognizing, Major Hardin for his heroism and bravery as a B–17 pilot, an American soldier flying—because there was no U.S. Air Force—with the British Royal Air Force on January 22, 1945.

On that date, the then-Lieutenant Hardin and his crew lead their formation through extremely intense and accurate anti-aircraft fire over Europe. During the mission, one of their plane's engines was knocked out and the propeller would not feather while oil and fuel were leaking from two other engines.

Despite the terrible odds for survival, Lieutenant Hardin's first concern was for the safety of his crew. He issued an order for his crew to prepare to bail out, but reconsidered, not wanting to risk the crew's capture by hostile forces.

Lieutenant Hardin succeeded in controlling his seriously damaged aircraft across the English Channel to the plane's home base, returning his crew safely to the ground. For his bravery, he was awarded the Distinguished Flying Cross by the Secretary of the Air Force.

Lieutenant Hardin continued his service to this nation as an officer in the army, flying a total of 35 missions over Europe and engaged in combat during the Korean War. He retired as a major and this weekend, I will present Major Hardin's Distinguished Flying Cross to him, more than 50 years overdue.

Though he earned this honor, be never received it from the Defense Department and I am honored to have the opportunity to present to him next month the Distinguished Flying Cross for his selfless devotion to duty and service to the United States.

TRIBUTE TO THE 864TH HAM COMPANY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me to pay tribute to the members of the Third Army veterans 864th Heavy Automotive Maintenance Company on the occasion of their 48th annual reunion. They gathered together in Lapeer, Michigan on August 31st.

During World War II the 864th HAM Company was instrumental to the success of D-Day and the allied victory. These veterans of the Third Army were originally stationed at Fort Ord in California. During their stint at that post they worked with local authorities to defend the California coastline against a possible invasion by Japanese forces. The mobilization of troops during the first days of World War II was very rapid and troops were often barracked in makeshift quarters. The 864th HAM Company was no exception. When the Company was detailed to the community of Pomona California they were provided temporary barracks at the Sears and Roebuck store.

In 1943 the Company was transported from the United States to the South Hampton Naval Yard outside Portsmouth, England. For the next eight months the 864th HAM Company prepared the vehicles that were going to be a part of the D-Day invasion. In addition to this work they also trained as part of the invasion force.

The Company landed at St. Mere-Eglise France and immediately began the awesome task of supplying rations, ammunition, and medical supplies to the front lines. Under the leadership of General George S. Patton, the statistics for the Third Army during this time are staggering. 2,186,792 tons of supplies were transported. The Third Army had over 99,000 general purpose vehicles and over 21,000 combat vehicles. The veterans of the 864th HAM Company risked their lives to retrieve and repair damaged vehicles. Never shying away from the danger involved, the members of the 864th HAM Company were an integral part of General Patton's march to Berlin. Their versatility was demonstrated during the Battle of the Bulge as they quickly moved from Verderonne to help repel the German counter-attack.

Once the war in Europe ended, the 864th came home and were mustered out of the military in November 1945. As the members of the company scattered throughout the United States and began their civilian lives, they maintained contact with each other. In 1957 they gathered together for the first reunion and the tradition of getting together to remember their fallen fellow soldiers, to reminisce, and share the civilian experiences was born. We as a nation are better for the sacrifices these veterans made so we could all be free. I ask the House of Representatives to rise with me today and honor the members of the 864th HAM Company. Again and again they have earned our respect and admiration and I am deeply grateful for their service to our country.

IN RECOGNITION OF MICHAEL McKEAND

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. NUNES. Mr. Speaker, I rise today to recognize the heroic sacrifice of a young man from my district, who risked and then lost his own life while saving, a friend.

Michael McKeand was an avid outdoorsman and vineyard manager in Santa Cruz. On July 7, he was returning from a music festival with friends when they stopped along Highway 70 near the Feather River in Plumas County.

Although the river appeared peaceful, there apparently was a strong undercurrent that swept one of McKeand's friends downstream. The 24-year-old man jumped in the water to help and eventually rescued the struggling friend. But in the process, the strong current slammed McKeand against a rock and he drowned.

No one who knew Michael McKeand was surprised to hear of his selfless deed. They were, however, shocked and saddened that the swollen waters of Feather River took his life.

His parents, David and Linda McKeand of Clovis, brother Steven and sister Candace, all mourn his loss, as do many other family and friends.

I invite my colleagues to join me in extending sympathies to McKeand's family, and in honoring their loved one.

TRIBUTE TO VA VOLUNTEER JOAN SHEEHAN

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Joan Sheenan, a constituent of mine who has selflessly given her time to the Veterans of my Fifth Congressional District for more than 8 years.

My district is home to thousands of our Nation's veterans and has the fourth-largest concentration of American heroes in the Nation. So it is only natural, that at our veterans' clinics and hospitals there's never a shortage of things to do and never a time when additional helping hands are not desperately needed.

It was once said that, aside from love, the most precious thing a person can give another person is labor. Joan has given over 2200 hours of her labor to help the veterans of Florida's Fifth Congressional District—and that is truly something to be honored.

Volunteering at both the Gainesville VA Medical Center and at the Inverness VA Clinic for 8 years, she has given her time to veterans for longer than many people stay at a single job!

David Glimer, Administrative Officer for the VA's Inverness Community Based Outpatient Clinic has said of Joan, "She not only provides valuable assistance to the veterans who receive care at the Inverness Clinic, but leadership to the other volunteers who help support the VA's mission here in Inverness."

She's given to the veterans of the Fifth Congressional District as nobly and as altruistically as they've given to all of us. Her service is a testament to the value and virtue of helping others.

Mr. Speaker, I ask that you join me in commending Joan for her efforts. I am honored to be her representative in Congress. She is one of the reasons that I am so very proud to represent the Fifth Congressional District of Florida in the House of Representatives.

IN HONOR OF THE NAAMANS LITTLE LEAGUE ALL-STARS

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to some new Delaware heroes—The Naamans Little League All-Stars. The team impressed, inspired and awed Delaware through their dedication, hard work and immense talent. All these qualities impress but more importantly they helped the team succeed in reaching the Little League World Series in Williamsport, Pennsylvania, a feat unmatched by any other team in Delaware history.

Jarad Carney, Kevin Czachorowski, Scott Dougherty, Cory Firmani, Danny Frate, Constantine Fournaris, Michael Julian, Zachary Lopes, Tim Marcin, David Mastro, Vince Russomagno, Kip Skibicki along with Manager Joe Mascelli, Coach Bob Waters and Coach H.J. Lopes all deserve our congratulations. There are so many great players, coaches and great teams in the Little League World Series and we are all so proud of our team for playing so well, playing so hard and making it so far. Each deserves recognition for his achievements.

For those friends and family who couldn't travel with the team, it was certainly a great joy to watch them play on national television. It was an even greater joy to watch them win on national television. But winning is not the only pillar of success. Effort, sacrifice, enjoyment, and friendship are just as important. Even through our television sets we could see these crucial pieces of a great team.

Mr. Speaker, Along with their friends and families, I wish to congratulate the Naamans Little League All-Stars for becoming the Mid-Atlantic Regional Champions. The past few weeks have been exciting, they have made us proud, they have taken a place in Delaware history and they have set a great standard not only for Little League baseball in Delaware, but for Little League Baseball throughout the country.

IN RECOGNITION OF MR. WAYNE B. SALTER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PALLONE. Mr. Speaker, I rise today to laud the accomplishments of Mr. Wayne B. Salter, and his 30 years of service as a member of the Benevolent and Protective Order of Elks. Mr. Salter has held various positions within the order, actively living by the Benevolent and Protective Order of Elks' principles of "Charity, Justice, Brotherly Love, and Fidelity."

Since Mr. Salter's initiation into Long Branch, New Jersey's Elks Lodge #742 he has served as Esquire, Esteemed Lecturing Knight, Esteemed Loyal Knight, and Esteemed Leading Knight. He has also held the position of Exalted Ruler for three terms, member of the Board of Trustees two times, Chairman of the Board, and Chairman of the P.E.R. Association.

Mr. Salter is a stellar member of the Benevolent and Protective Order of Elks, an organization that has been helping, and volunteering for communities all over the world since it's founding in 1868. This society is rooted in tradition with the goal to improve life for all. Mr. Salter has done just this, time and time again going above the call of duty. During his term as Leading Knight, Mr. Salter was secretary for the Leading Knights' Clinic as well as chairing most Lodge Committees. Mr. Salter's concern for the greater good of his community led him to take the position of District Chairman for Drug Awareness at which time the State Elks Peer Leadership Program was started.

Mr. Salter has been an invaluable member to the Long Branch Elks Lodge having served on many different committees as well as chairing, the Elks House Committee and Public Relations Committee. For his devoted service, The Long Branch Elks honored him in

1993 by electing him to be Honorary Life Member.

Today, Mr. Salter holds the office of Vice President of the South Central District of the New Jersey State Elks Association. The tireless amount of time and energy that Mr. Salter has given to the Benevolent and Protective order of Elks should be applauded. Once again, Mr. Speaker, I would like to congratulate Mr. Salter for the thoughtful, community-building work that he has been involved with for the past 30 years as a member of the Benevolent and Protective Order of Elks.

TRIBUTE TO LANCE CORPORAL JEREMY P. HOGAN, LANCE CORPORAL JAMES DILEO, PETTY OFFICER NICHOLAS SNIPES AND INFANTRYMAN PATRICK BARKER FOR SERVICE IN IRAQ

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor United States Marine Corps Lance Corporal Jeremy P. Hogan, Marine Reserve Lance Corporal James Dileo, United States Navy Petty Officer Nicholas Snipes and United States Army Infantryman Patrick Barker from my Fifth Congressional District of Florida for their military service in the Middle East. They and their families reside in Crystal River, Citrus County, Florida. In The wake of September 11, 2001, the need to respond to the dangers of terrorism remains vital to our survival. Now that we know of these dangers, we as a nation led by individuals such as these three brave men, continue to respond successfully. Undoubtedly, their, efforts overseas helped liberate an oppressed people from a terrorist regime and made the world a safer place for generations to come.

Please allow me to welcome these troops and troops from all over the world as they return home. The courage they displayed during their stints in the Middle East are exemplary of the America spirit. Their heroism and dedication is what makes our country the most gracious and noble nation on earth. Their bravery will not be forgotten as Americans and freedom loving people all over the world are indebted to their service.

H.R. 2861, THE FISCAL YEAR 2004 VA/HUD AND INDEPENDENT AGENCIES APPROPRIATIONS BILL

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. DEFAZIO. Mr. Speaker, I regret that I was forced to vote against the fiscal year 2004 VA-HUD spending bill today.

However, I could not, in good conscience, vote in favor of a bill that so clearly fails to meet the needs of our nation's veterans.

A vote in favor of this bill is a vote to maintain the status quo, a status quo that has resulted in six month waiting lists, increased out-of-pocket expenses, and limited coverage for many veterans. My vote against this bill is a signal that the status quo is totally unacceptable.

I am not alone in condemning the VA-HUD appropriations bill for its failure to meet the needs of those who selflessly served our country in the armed forces. As top officials of national veterans organizations, including AMVETS, PVA, DAV, and VFW, wrote to Congress regarding H.R. 2861, the legislation is "wholly inadequate" and "represents a flagrant disregard to promises made to veterans by this Congress."

H.R. 2861 is $2.1 billion below the level set for veterans programs in the House Republican budget resolution. While I thought the House budget resolution was itself inadequate, a lower funding level is a slap in the face to veterans. H.R. 2861 is also $3.3 billion below the levels requested by national veterans organizations. The bill includes shortfalls for medical care, medical research and construction, among other areas.

Mr. Speaker, the federal budget is about priorities. The lack of support for veterans programs in H.R. 2861 shows what happens when the President and his allies in Congress prioritize tax cuts for millionaires over adequately meeting our commitment to veterans.

I reject that prioritization, which is why I voted against this bill. My vote was in favor of fully funding the benefits our veterans were promised, have earned and deserve.

CONGRATULATIONS TO EAST BOYNTON BEACH LITTLE LEAGUE

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. FOLEY. Mr. Speaker, I rise today with great enthusiasm to honor and congratulate the East Boynton Beach Little League team and their tremendous accomplishment of competing in the Little League World Series. Their 9-to-2 victory over New England on August 23, 2003 earned them the eighth National Title for the State of Florida and the first for Palm Beach County. This amazing feat earned them a spot in the World Series Title Game against Japan.

In 1939 Carl Stotz founded Little League Baseball in Williamsport, Pennsylvania. Since the inception of the Little League World Series in 1947, the tournament has grown to encompass not only national teams, but teams from all around the globe. It has become the culmination of the world's largest tournament in any sport. East Boynton and Japan were the remaining two teams that survived from 7,000 Little League all-star teams that began play in July.

The East Boynton Beach Little League team was extremely impressive in the way they displayed their extraordinary skills on the field. Their ever-present smiles and the joy they expressed reminded every baseball fan of what the game is all about. Their skills and attitudes both on and off the field are a direct correlation to the teaching and dedication showed by their coaches and parents. My hat is off to coaches Ken Emerson, Joe Irene and Tony Travis; and players Patrick Mullen, Matt Overton, Devon Travis, Richie DeJesus, Jordan Irene, Andrew Weaver, Ricky Sabatino, R.J. Neal, Michael Broad, Cody Emerson and Benny Townend.

Again, Mr. Speaker, I offer my heartfelt congratulations to the East Boynton Beach Little League team. They made Palm Beach County, the State of Florida, and our nation very proud.

TRIBUTE TO KIWANIS INTERNATIONAL

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor the Kiwanis Clubs of America, which are outstanding organizations with strong memberships across this country and worldwide of active, service-minded individuals committed to their communities and their surroundings.

Kiwanis Clubs make their marks by responding to the needs of their communities, pooling their resources to address worldwide issues, and setting an example of service and stewardship that is to be honored and commended.

From humble beginnings in Detroit, Michigan in 1915, the Kiwanis organization has grown to include more than 500,000 members in 80 countries around the globe—making it one of the world's premier service organizations and giving it global notoriety. That, Mr. Speaker is a true testament to all the good work the organization does.

With a motto like, "We build," one cannot help but view Kiwanis as an active group of individuals, solidly committed to positive goals. And the Kiwanis clubs live up to their motto—In one year Kiwanis clubs sponsored 147,000 service projects and raised and spent almost $70 million while contributing 6.2 million hours of volunteer time.

Kiwanis Clubs have a long tradition of excellence and an upstanding reputation as amazing organizations and for that, I commend them. They are truly individuals whose service to their communities is something we should all emulate.

TRIBUTE TO LIEUTENANT COLONEL HOWARD PIERCE MAREE III, UNITED STATES AIR FORCE RETIRED

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. MCINTYRE. Mr. Speaker, it is with great pleasure that I rise today and honor Lieutenant Colonel Howard Pierce Maree of the United States Air Force (Retired). On August

15, 2003, Lieutenant Colonel Maree passed away after serving the people of this great Nation for nearly twenty-seven years.

Howard Maree was a decorated officer, who spent his career ensuring that the freedoms the United States holds dear are protected and preserved. Throughout his illustrious career, Lieutenant Colonel Maree was honored with the Distinguished Flying Cross with one Cluster, two Silver Star Medals, the Air Medal with five Clusters, World War II Victory Medal, National Defense Medal, European and American Theater of Operations Medals, Korean Service Medal, and Vietnam Service Medal.

As a fighter pilot in three major conflicts, Lieutenant Colonel Maree served his country with dignity and integrity and contributed to many victorious campaigns throughout his career. As an Air Force reservist for over ten years, Lieutenant Colonel Maree continued to serve the people of the United States unselfishly.

We owe Lieutenant Colonel Howard Pierce Maree III our sincere appreciation for his twenty-seven years of committed service to our Nation. His devotion to the people of the United States should serve as an example to us all.

May God bless his family, and may God bless this great Nation.

COMMEMORATING THE 30TH ANNIVERSARY OF THE TOWN OF ROCHESTER

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HINCHEY. Mr. Speaker, I rise today to honor the Town of Rochester in Ulster County, New York, which is part of the 22nd Congressional District that I proudly serve. This year marks the 300th Anniversary of the founding of Rochester on June 25, 1703. I am pleased to recognize the Town of Rochester and the important contributions it has made to Ulster County and to the State of New York.

The Town of Rochester is located in the Mid-Hudson Valley, and is bordered on the east by the Shawangunk Mountains, and on the west by the Catskill Mountains. It also includes part of the rich land of the Rondout Valley, and consists of approximately 48,000 acres.

Prior to European settlement, the Rondout Valley was inhabited by the Lenni-Lenape, or Esopus Indians. After the defeat of the Esopus Indians, Captain Martin Cregier led a group from the original Dutch settlement of Wildwyck, on the Hudson River, to what is now Rochester. This group first explored Rochester in 1663, and it was originally called the Town of Mumbakkus. Captain Joachim Schoonmaker led the first group of settlers to Rochester in 1685 from Kingston, NY. A small number of land grants were given out in Rochester by the Kingston trustees, which made up the closest governing body to Rochester at the time. By the time Rochester officially received its patent in 1703, there was already a solid contingent of 334 residents in the town.

Through the eighteenth century, Rochester was mainly a commercial agrarian community. The fertile soil of the Rondout Valley provided ample opportunity for the successful farming industry that Rochester was known for. In order to support the agricultural advances of the region, paper, grist, saw, and other mills were built along the major streams in the Town. Rochester was linked to Kingston and the Hudson River port by what was known as King's Highway. The original historic stone houses of Rochester, many of which remain standing today, were built during this period.

Agriculture remained the dominant economic force in Rochester throughout the nineteenth century as well, with the establishment of the Delaware and Hudson Canal. With the introduction of the Ontario and Western Railroad at the start of the twentieth century, Rochester's economic focus turned to tourism. Resorts, summer homes, and guesthouses were built, which provided Rochester's many New York City visitors with relief from the confinement of city life. Tourism contributed greatly to Rochester's economy during the first half of the twentieth century, and brought new prosperity to the region.

Evidence of Rochester's colonial history remains today, as the Town has one of the highest concentrations of inhabited 18th century homes in the nation. Rochester and the Hudson Valley continue to provide breathtaking scenery and views of the Catskill and Shawangunk Mountains to all their visitors. Small towns like Rochester are an essential component of our nation's past, present, and future, and deserve to be honored and recognized for their numerous contributions to our states and country. Mr. Speaker, it gives me great pleasure to recognize the Town of Rochester, New York as it celebrates the 300th Anniversary of its founding.

INTRODUCTION OF AN AMENDMENT TO THE CONSTITUTION PROVIDING THAT FOREIGN-BORN CITIZENS OF 20 YEARS ARE ELIGIBLE FOR THE OFFICE OF PRESIDENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. CONYERS. Mr. Speaker, today I am introducing a proposed amendment to the Constitution of the United States that will enable all citizens of this country to be eligible to hold the Office of President. No citizen should be denied the opportunity to seek the nation's highest office. The proposal that I am introducing will allow foreign-born individuals who have been citizens of this country for at least 20 years to be eligible for this office.

As you know, Article II of the Constitution of the United States provides that only natural-born citizens are entitled to hold the Office of President. I believe that this limitation contradicts the principles for which this country stands. This nation prides itself on its diversity of culture, experience, and opinion. This quality is achieved only by welcoming immigrants to this country, allowing them to become citizens, and enabling them to make full contributions to society.

For the most part, the United States treats its citizens, those natural-born and foreign-born, the same. However, when determining who is eligible for the Office of President, this country unfairly distinguishes between the two. Allowing the United States to be a better country because of the contributions that foreign-born citizens make, and then not allowing them to fully participate in all aspects of society, is un-American.

As you may also know, some of our country's foreign-born citizens are our country's greatest public servants. There are also 700 foreign-born citizens who have received the Medal of Honor. It is unjust to deny citizens that have risked their lives for this country the chance to become President of the United States as well. A 2002 Pentagon study reports that more than 30,000 foreign-born citizens are currently serving in the U.S. military.

I realize that constitutional amendments are rare and that those proposed should be subject to great scrutiny. I truly respect one of the documents on which our country was founded, the Constitution of the United States. Therefore, it is after great consideration and with the utmost gravity, that I introduce this proposal today. I am hopeful that my fellow colleagues in Congress will properly consider the proposed amendment and realize that every citizen of the United States should be entitled to dream of becoming President.

TRIBUTE TO HON. BOB STUMP

HON. TRENT FRANKS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. FRANKS of Arizona. Mr. Speaker, George Washington said, "It should be the highest ambition of every American to extend his views beyond himself, and to bear in mind that his conduct will not only affect himself, his country, and his immediate posterity; but that its influence may be coextensive with the world."

Bob Stump, a beloved Arizonan and a champion of liberty, extended his gallant views beyond himself and furthered the cause of American freedom in this country and throughout the world.

As a courageous soldier in our Nation's armed forces, Bob exemplified the kind of impassioned and steadfast patriotism that every true American dreams to be.

Serving 26 years as a Member of Congress, Bob Stump left us all a policy legacy of a stronger and more secure America. He also left us a rich personal legacy. Bob was a servant-leader and a man of great personal decency. He was a man who desperately loved and cherished his family. He was also a man of deep abiding faith in Jesus Christ. And now he has walked hand-in-hand with his Savior across the threshold of eternity and stepped into the light of everlasting victory.

Mr. Speaker, Congressman Bob Stump's conduct indeed affected his country in a profound way. I am so very honored today to pause with Arizonans, and Americans everywhere, to pay tribute to this true American hero.

And to Bob Stump, from all of us, I would simply say, "Rest easy, gentle warrior. Thank you for passing this way and walking so kindly and so nobly among us. We shall never forget you."

POW BACK PAY BILL

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Ms. HOOLEY of Oregon. Mr. Speaker, in times of war our veterans and their families make sacrifices. The prisoners of war during WWII made great sacrifices, and were not always shown the gratitude they deserve. These American heroes, lost through the passage of time, have been denied the pay that their rank entitled them to for more than 50 years. It is time to stamp "paid in full" on this forgotten debt.

I would especially like to honor Dr. David Kliewer, a veteran from Corvallis, OR, who brought this issue to my attention. Dr. Kliewer is a remarkable man who voluntarily joined the Marines in 1939 as a Marine Corps Aviator. He was a POW in the South Pacific, and was promoted to the rank of Major while held in a Japanese POW camp. While imprisoned, he applied and was accepted to Harvard Medical School.

This bill would allow certain forgotten Navy and Marine Corps veterans who were POWs during World War II to collect back pay related to their promotions. These veterans were selected for advancement during their internment, but were unable to receive their promotion or the increase in pay that they were due. This bill corrects this oversight, and ensures that these brave soldiers, sailors, and airmen receive the full amount of back pay they deserve, in dollars adjusted for inflation.

This bill is of considerable importance not just to the surviving veterans, but to the widows who survived their husbands as well. These women, many of whom may not be in a position to meet their needs, have earned and deserve the benefit of this legislation. We must make up this inequity and keep our promise to our Nation's veterans.

I am proud to have introduced this bill in the House of Representatives, and urge my colleagues to join me in correcting this injustice in full. To do otherwise not only devalues the service of these veterans of so long ago, but shows a callous disregard for the men and women of our Armed Forces currently in harm's way in Iraq. I hope that both houses can quickly pass this legislation, and look forward to watching President Bush sign this bill.

A TRIBUTE TO CORPORAL MARK ANTHONY BIBBY UNITED STATES ARMY

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. McINTYRE. Mr. Speaker, it is with great pleasure that I rise today and honor Corporal Mark Anthony Bibby of the United States Army. On July 21, 2003, Corporal Bibby was killed in the line of duty while serving the people of this great Nation in Iraq.

Mark Bibby was a soldier, who, after serving 4 years in the U.S. Army, joined the Reserves so that he could continue his devoted service to our Nation while earning his degree. His educational aspirations were put on hold as he was once again called to serve his country, ensuring that the freedoms the United States holds dear are protected.

Corporal Bibby's love for his fellow man and for the values this Nation holds dear, and his life's commitment to defending those values can best be described by three simple, but profound words: spirit, service, sacrifice.

It was Corporal Bibby's spirit that made him the man that he was—a spirit that recognized and honored values beyond the material, temporal, and physical things of this world. Corporal Bibby's unselfish and unabated service was reflected in his strong work ethic, his strong sense of patriotism, and his strong love for God, his family, and his country. With a strong spirit and unwavering service, Corporal Bibby made the ultimate sacrifice. He risked his life to ensure the safety of others. His valiant actions demonstrated that he knew that freedom is not free. His sacrifice was rich in integrity and reminds us of the gratitude we, as citizens of this great Nation, should have toward him and toward all of our servicemen and women.

We owe Corporal Bibby our sincere appreciation for his years of committed service to our Nation. His devotion to the people of the United States should serve as an example to us all.

May God bless his family, and may God bless this great Nation.

COMMEMORATING THE 80TH ANNIVERSARY OF THE RUDDICK TROWBRIDGE POST NO. 73 OF THE AMERICAN LEGION

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HINCHEY. Mr. Speaker, I rise to honor the Ruddick Trowbridge Post No. 73 of the American Legion, based in Monticello, New York, which is commemorating the 80th Anniversary of their Post. It is with great pleasure that I join the Post in honoring their present and former commanders and auxiliary presidents on the occasion of this significant milestone.

Named in honor of Ruddick Trowbridge, who was killed in action during World War I in France on August 10, 1918, the Ruddick Trowbridge Post was established in 1923, when its first commander, Sylvester Smith, entered office. The Post was later chartered on June 7, 1930. Since the Post was established, forty-five men have served as commander.

The Ruddick Trowbridge Post has continued to work to ensure that the tremendous contributions and sacrifices made by this nation's veterans are remembered and recognized. In addition, the Post has maintained an active role in the community. The Post has provided scholarships to deserving local students, recognized scouts for their achievements, donated flags to community organizations and municipal governments, and honored deceased veterans by decorating their graves. The Post also holds and participates in ceremonies for Memorial Day, National POW/MIA Day in September and Veterans Day.

As part of the American Legion, which boasts a membership of more than three million veterans and currently includes approximately fifteen thousand posts worldwide, the Ruddick Trowbridge Post has actively promoted the values and focus on community service that define the American Legion organization. I am proud to express my appreciation and great respect to the members of the Post for their distinguished record of service to this great nation as well as the significant contributions they have made to our local communities.

Mr. Speaker, I am delighted to submit these remarks in honor of the 80th Anniversary of the Ruddick Trowbridge Post No. 73 of the American Legion.

PERSONAL EXPLANATION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. GREEN of Texas. Mr. Speaker, on Friday July 25, 2003, I had to return to Houston for urgent business, and missed a number of votes.

I would like the RECORD to reflect that, had I been present, I would I have voted in the following manner:

On rollcall No. 447, I would have voted "aye."

On rollcall No. 448, I would have voted "nay."

On rollcall No. 449, I would have voted "aye."

On rollcall No. 450, I would have voted "nay."

On rollcall No. 451, I would have voted "aye."

On rollcall No. 452, I would have voted "nay."

On rollcall No. 453, I would have voted "aye."

On rollcall No. 454, I would have voted "nay."

On rollcall No. 455, I would have voted "aye."

On rollcall No. 456, I would have voted "nay."

On rollcall No. 457, I would have voted "aye."

On rollcall No. 458, I would have voted "nay."

On rollcall No. 459, I would have voted "aye."

CONGRATULATIONS TO MISSOURI FARM BUREAU FOR REACHING 100,000 MEMBERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the Missouri Farm Bureau for reaching an all-time membership high of 100,000 Missourians. During the last decade, Missouri Farm Bureau membership has grown steadily and will exceed 100,000 by the end of its membership year on August 31, 2003.

Missouri Farm Bureau was first organized in 1915 and was the first such state Farm Bureau to be organized in the Nation. Today, Missouri Farm Bureau is the state's largest farm organization and has offices in each of Missouri's 115 counties. Missouri Farm Bureau also plays an integral role in working with its partners around the country as a member of the American Farm Bureau Federation.

Through the years, Missouri Farm Bureau members have worked to develop grassroots agriculture policy. Their advice is critical to Members of Congress' developing an agriculture strategy that will most benefit Missouri producers. Reaching a milestone of 100,000 members is truly an outstanding accomplishment and is the result of a lot of hard work on the part of Farm Bureau leaders throughout the Show Me State.

Mr. Speaker, I applaud Missouri Farm Bureau President Charlie Kruse and all 100,000-plus members of this farm organization for their work on behalf of American agriculture. I know that all my House colleagues will join me in congratulating them on a job well done.

UN CAN PICK UP PIECES IF U.S. WILL LET IT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, upon my return to the United States after a week in the Republic of Cape Verde, which is the ancestral home of many of my constituents, I was pleased to read that the President, in a long overdue move, is seriously thinking about significant UN involvement in our administration of Iraq. Unfortunately, both past history and the description of current efforts fail to give me confidence that the administration is ready to do this in the serious way that is required for success.

The importance of this being done appropriately was recently underlined in an extremely cogent article from one of our most experienced foreign policy experts. Jonathan Moore is a man who began his career working as a key aide to the late Eliot Richardson, himself one of the most distinguished and thoughtful practitioners of foreign policy in recent history. Jonathan Moore has broad first-hand experience in international affairs, and has also been a thoughtful scholar. He served America at the UN under President George H.W. Bush, and he is now an advisor to the UN Development Program on Post Conflict Reconstruction. On Tuesday, August 26, as I was leaving the country, I read the attached article by him in the Boston Globe and I was struck by how well he put the case. As might already be clear from his having begun his work with Eliot Richardson, Jonathan Moore's active political career was as a Republican, which is relevant only to refute any suggestion that there is even the slightest hint of partisanship in his strong critique of the administration.

Few Americans have earned a right to a hearing on this subject more than Jonathan Moore, and I know of no one who has made the case for the appropriate policy to be followed in this difficult situation more cogently. I ask that Jonathan Moore's incisive article be printed here, and I earnestly hope that the administration will heed him.

[From the Boston Globe, Aug. 26, 2003]

UN CAN PICK UP PIECES IN IRAQ IF U.S. WILL LET IT

In the aftermath of last Tuesday's bombing of United Nations headquarters in Baghdad, the United States finds itself in a terrible bind largely of its own making.

Following the successful fighting and takeover, the United States held the initiative as it turned to the immediate postwar challenges of occupation: establishing security, tending to humanitarian relief, getting basic public services functioning, and undertaking efforts to build a democratic nation and to begin serious reconstruction. Now the momentum may have shifted against the United States, putting it in a perilous position.

In all the time building up to the war, the United States insisted on its objective of regime change and its vision of a stable, democratic Iraq exerting a salutary influence on peace and progress in the Middle East. The problem is that the administration did not heed sensible, professional warnings of the inherent dangers and obstacles that would be faced and cautions about the enormous investments that would be required to pull it off. Instead, the administration proceeded by itself in an arrogant and ill-prepared manner.

While the problems the United States has encountered since the war was declared over could not have been predicted with certainty (and who would have wanted to), some were probable, all were possible, and none, even occurring together, should have come as a surprise.

Two factors in the current situation are predominant: establishing and maintaining security in Iraq and the role of the United Nations. The United States is in the process of botching both of them, and they are intertwined. The administration has failed to control security in Iraq by underestimating the problem and by refusing to take the measures required to achieve it.

When the Security Council refused to give the United States carte blanche for both its war-making and its nation-building, the administration dismissed the United Nations and proceeded unilaterally. (The "coalition" is us. Our biggest and best ally, the British, have 11,000 troops in Iraq compared with our 150,000.)

Security is the sine qua non. Nothing else in the administration's ambitious agenda can happen without it. Not only does adequate security in Iraq not exist and is diminishing but the United States, in its insistent monopoly, is exclusively responsible for it and therefore for its failure.

As Washington now casts about for help both in recovering security—with peacekeeping troops from other countries—and in reconstruction—with financing and expertise also from international actors—other nations neither want to participate as U.S. vassals nor are they entirely confident the United States is up to doing a good job.

Two weeks ago the United States scrapped a possible UN resolution designed to attract such help and provide greater credibility for the whole enterprise because the administration didn't want its own authority to be diluted in either realm.

We've been there before and should know better, most recently in Afghanistan. We try to do it on the cheap and alone, stubbornly and churlishly. Defense Secretary Donald Rumsfeld, who months ago brutally put down our Army chief of staff for having suggested the need for up to 300,000 troops to secure postwar Iraq, indicated after the bombing of the UN headquarters and amid other security breakdowns that the current level of U.S. troops envoy to Iraq chided the Iraqis to exert more authority over the situation. This won't work.

Perhaps a strategy would be for the United States first to deploy substantially more troops to Iraq and also support a new Security Council resolution reconfirming coalition authority for the security job but switching principal responsibility to the UN for the reconstruction job—a dual model somewhat similar to the one used in Afghanistan.

This would allow the United States to do what it can do best and the UN to do what it can do best. The United States would still exercise enormous influence in the nation-building arena but with more international involvement in money, experience, and political capital. There would be greater credibility and broad acceptance for such an arrangement, more sharing of credit and blame (the United States would not be exclusively exposed and targeted), and such a regime would be likely to attract more troop contributions to the United States-led security effort.

The administration would still face huge odds. But it would strengthen the prospect and improvement is desperately needed. The United States can't go it alone, and it must not go down and out in Iraq.

INLAND EMPIRE UTILITIES AGENCY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. DREIER. Mr. Speaker, I rise today to introduce the Inland Empire Regional Water Recycling Initiative. This bill seeks to authorize $30 million total for the Inland Empire Utilities Agency (IEUA) and the Cucamonga County Water District (CCWD), to assist in constructing two water recycling projects which will add 75,000 acre-feet of new water annually to the area's water supply.

Earlier this year, the U.S. Department of the Interior announced a new initiative—Water 2025—Preventing Crisis and Conflict in the West—aimed at preventing chronic water supply problems in the Western United States resulting from drought, growth or other challenges. In addition to the federal strategy, California, more than a year ago, established a special Water Recycling Task Force, managed by the State Water Resources Control Board. The Task Force concluded that by the year 2030, California should develop 1.5 million acre feet of new recycled water.

Water supply issues in California and other Western states are of paramount concern, especially in light of ongoing challenges with the Colorado River Quantification Settlement Agreement. In order to meet the water needs of the Inland Empire, and to help alleviate California's overdependence on the Colorado River, I see this legislation as a key federal-local partnership to bring a significant amount of new water supply to the region.

The Inland Empire Regional Water Recycling Initiative includes two projects, the first of which will be constructed by the IEUA and will produce 70,000 acre-feet of new water annually. This project is expected to be fully constructed and on-line by 2008. The second of these projects, to be constructed by the CCWD, will produce an additional 5,000 acre feet of new water annually. This project is expected to be fully constructed and on-line by 2010. Between these two projects, 75,000 acre feet of new water will be produced annually before the end of the decade.

I am pleased that the Inland Empire Regional Water Recycling Project has the support of all member agencies of IEUA, as well as the water agencies downstream in Orange County. It is also consistent with regional watershed plans, the California Department of Water Resources water recycling task force, the U.S. Bureau of Reclamation's comprehensive water study, and the Department of Interior's "Water 2025" plan.

I also want to recognize the hard work of IEUA and CCWD, which serve the Cities of Rancho Cucamonga, Upland, Montclair, Chino, Chino Hills, Ontario, and Fontana. Their dedication to providing the water needs of the region is commendable, and I urge my colleagues to support the Inland Empire Regional Water Recycling Project.

TRIBUTE TO MAX FINESTONE

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. HINCHEY. Mr. Speaker, I would like to take this opportunity to recognize the accomplishments of my friend and constituent Max Finestone, who recently celebrated his 81st birthday. I am proud to say that Max has remained an active member of his community in Ulster County, New York and has dedicated himself to improving this nation and the lives of the people who reside in it.

For the past 60 years, Max has fought for social justice, equal opportunity, education, protection of the natural environment, and the preservation of individuals' rights of free expression. Nearly 50 years ago, Max was called to testify in this building by Senator Joseph McCarthy to defend his own rights of free speech, free thought and free assembly. He was quite wrongly accused of being un-American. To me, and to many others, he represents the finest qualities of an American citizen.

Every day of his adult life before those hearings, and indeed, every day since, Max has exemplified the characteristics of true citizenship—those very characteristics that make our nation great. He was a successful entrepreneur who attended to his customers with the utmost integrity. He epitomizes the values of volunteerism and activism. He tirelessly contributes considerable effort and time to the betterment of his community, advocating for the homeless, feeding the hungry, striving for better quality education and affordable health care and working for a more peaceful and tolerant world. He has been a loving husband to Annette, his wife of 50 years, a proud and devoted father to his two daughters, Laura and Lisa, and a doting grandfather to Eva and Michael.

Mr. Speaker, in this day, when so many people question other people's motives and when voices of disagreement are dismissed as being unpatriotic, we must remember that it is men like Max Finestone, who fight diligently every day for the rights with which we have been blessed and which we must never take for granted. I ask my colleagues in the House to join me today in honoring Max Finestone for his commitment to improving the world around him and for his dedication to his country.

TO POSTHUMOUSLY HONOR JAMES COLLEY, RECIPIENT OF THE ED PASTOR CULTURAL AWARENESS AWARD

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 2003

Mr. PASTOR. Mr. Speaker, I would like to pay tribute to a man whose tireless dedication to our community has enriched the lives of our citizens, and especially our youth, in the City of Phoenix. For his contributions, Mr. James Colley has recently been posthumously awarded the Ed Pastor Cultural Awareness Award.

The Ed Pastor Cultural Awareness Award provides an opportunity to highlight innovative culturally sensitive programs and the visionary, creative leaders who design and implement them. This award also recognizes any research related to the promotion of diversity issues in parks and recreation.

It is fitting that this initial award is awarded to a man who directed and created innovative programs and services throughout his career in parks and recreation. The Ed Pastor Award represents the late Mr. James Colley's commitment to all citizens regardless of ethnicity, gender, or age.

Minority youth have long suffered at the hands of gangs, drug abuse, teen pregnancy, and other social ills. Jim dedicated significant and substantial amounts of department resources to address the needs of youth throughout the City of Phoenix. He also forged collaboration efforts with city and community organizations in an effort to leverage the City's resources.

Jim personally visited many of the inner city areas of Phoenix to discuss issues with the youth themselves. By creating a Youth Advisory Board he was able to get the input directly from those individuals primarily impacted by program policies and their implementation. Input from the Youth Advisory board led to the creation of Camp Colley, a camp created for inner city youth located in Northern Arizona.

During his final two years as Director, Jim had the vision of creating a Latino Institute to meet the ever increasing demands of the burgeoning growth of the Latino population in the City of Phoenix. The Latino Institute now in its third year has implemented community forums in the cities of Phoenix and Glendale.

For these reasons, Mr. Speaker, I ask my colleagues to join me in honoring the memory of Mr. James Colley as this year's recipient of the Ed Pastor Cultural Awareness Award.

HOUSE OF REPRESENTATIVES—*Friday, September 5, 2003*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. MURPHY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 5, 2003.

I hereby appoint the Honorable TIM MURPHY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

All powerful and ever-living God, in You there is no darkness. From You nothing is hidden.

Shed upon us the radiance of Your light. May we see ourselves as You would judge us. May we see others as You would know them.

In the fullness of Your love and light, guide the Members of Congress that they may be men and women of great vision.

May they know in depth the American people they serve and enable them to read Your law written on their hearts.

Make them creative in their questioning and their search to respond to today's greatest needs.

For in them and through them, O Lord. You can reveal Your Divine Providence, again shaping America's history for tomorrow and future tomorrows.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. SCOTT) come forward and lead the House in the Pledge of Allegiance.

Mr. SCOTT of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive five 1-minute speeches per side.

THE DISSERVICE TO MIGUEL ESTRADA AND THE AMERICAN PEOPLE

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, I rise today appalled that an extremist minority in the other body has forced Miguel Estrada, an excellent and well-qualified attorney, to withdraw his name as a candidate for nomination to the D.C. Circuit of the U.S. Court of Appeals. As chairman of the Constitution Subcommittee and as cochairman of the Working Group on Judicial Accountability, I have been actively following the fight over the President's nominations, and I am shocked by the obstructionism that has taken place.

Prohibiting an up-or-down vote on this outstanding nominee is not only a disservice to Miguel Estrada, it is a disservice to the American people. In a time of rampant Federal judicial vacancies, the partisan politics employed by the minority in the other body is nothing short of an outrage and it has to stop.

LEGISLATION RECOGNIZING S. TRUETT CATHY

(Mr. SCOTT of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT of Georgia. Mr. Speaker, good morning. I rise at a moment of great honor to introduce legislation this morning that will recognize an outstanding Georgian and an outstanding American and one of my constituents, S. Truett Cathy. This legislation will recognize Mr. Cathy by naming the United States Post Office in Jonesboro, Clayton County in my district after him.

The Chick-Fil-A story back in 1946 when Mr. Truett Cathy and his brother, with a $10,000 loan, opened up a small, 24-hour restaurant in Hapeville, Georgia in my district called the Dwarf Grill. In 1967 in the Greenbriar Mall in Atlanta, Georgia, Mr. Cathy opened the first of the Chick-Fil-A restaurants and actually starting the concept of in-mall, quick-service, fast-food restaurant service.

Mr. Cathy is a devoutly religious man, and just to give an example of his character, every Sunday for the last 45 years, Mr. Truett Cathy teaches Sunday school to a group of 13-year-olds, and this has been going on for 45 years. Mr. Cathy is an extraordinary human being, a great American, who has established Chick-Fil-A restaurants all across this country, over 1,080 of them in 36 States, including the District of Columbia. What an extraordinary story.

Beyond that, a great humanitarian. Through his Winshape Foundation, he has established several foster homes across Georgia, Alabama, Tennessee, and even in Brazil. It is with great honor, Mr. Speaker, that I introduce to you this morning this legislation recognizing Truett Cathy and naming the post office in Jonesboro, Georgia after him.

SUPPORT NATIONAL POW-MIA RECOGNITION DAY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, September 19, 2003 is National POW-MIA Recognition Day, and I urge my colleagues on that day to take a moment and reflect on the families whose loved one has never returned home.

Our resolve to find our 88,000 MIAs should assure our fighting forces today that our support for them does not end after the victory parades. Let us also remember the more than 140,000 Americans since World War I who have endured the hardships of captivity and made it back home.

Among the missing in action from Vietnam is Air Force Major Harold R. Sale of Lexington, South Carolina, shot down over Laos June 7, 1967. I wore a POW bracelet in his honor for years. I implore the governments of Laos, Vietnam, and North Korea to open their records and fully support our country's recovery efforts.

We continue to need people of character like Harold Sale to serve in our Armed Forces to protect our liberties. Indeed his nephew, Lieutenant Colonel Scott Cromer, continues the family tradition today as an Air Force pilot, displaying the courage of American military personnel.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In conclusion, God bless our troops.

SKYROCKETING HEALTH CARE COSTS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, in Sunday's Chicago Sun Times, they had a headline noting the skyrocketing health care costs in America and how they were punishing consumers and businesses. One out of ten Illinois businesses are now looking at cutting their health care totally to their employees. We have double-digit insurance costs rising.

And what does the administration propose as we have record uninsured and record inflation in health care? Their proposal was to shut the hospital doors to the uninsured. And yet in Iraq, we are opening new hospitals. So on one day we shut the doors here in America to the uninsured, and on the next day we are opening new hospitals to deal with the uninsured in Iraq.

Today we have record unemployment, record uninsured in this country. In Iraq, we envision half the population to get universal health care and 100 percent maternity coverage. And yet today, we offer the uninsured in this country nothing. That is our vision.

We have a major health care crisis in this country, and the administration has not taken a single action to lower the number of uninsured. We cannot deny Americans the same dreams of affordable health care, quality education, a safe place to live that we promise to Iraqis. The same values and future that we hold for Iraq, we must pledge for all Americans as well.

THE TEN COMMANDMENTS PROTECTION ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it was King Solomon of Israel who said two millennia and more ago that it was the whole duty of man to fear God and keep the Commandments.

Thanks to the gentleman from Alabama (Mr. ADERHOLT), Congress has a chance to keep the Commandments in their place in the public square by passing the Ten Commandments Protection Act. With nearly 100 cosponsors, this act simply affirmatively asserts the provisions of the 10th amendment that say that State governments ought to be able to define how they display the Ten Commandments in State buildings. This is right under our law, that freedom of religion is not the freedom from religion, and respect for religion is enshrined in our history as we heard the prayer this morning and read "In God We Trust" on these walls, but it is mostly important because, despite the ethos of our times, God is still real and God still rewards nations that acknowledge him.

Let us adopt the Ten Commandments Protection Act and keep the Ten Commandments in their rightful place in the public square.

THE TROUBLED BUSH ECONOMY

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, this week we celebrated Labor Day. But for 9 million jobless Americans, there was no celebration at all, and sadly, their ranks are growing.

Today's Wall Street Journal notes that employers cut jobs for the seventh consecutive month in August, raising the total of job losses since the start of the year to over 431,000. Since George Bush took office, the number of unemployed Americans has grown by 3.2 million. This is the most dismal record since Herbert Hoover. Worse yet, the number of Americans experiencing long-term unemployment, which is defined as over 27 months, has nearly doubled since George Bush took office.

These are staggering numbers. A famous Republican once asked "Are you better off than you were 4 years ago?" It seems very fitting to ask now, are we better off than we were 3 years ago? The answer is a resounding no.

HONORING GENERAL RAYMOND G. DAVIS, SR.

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today with a heavy heart, as the State of Georgia and indeed the entire Nation suffered the loss of a true hero. Two days ago, at the age of 88, General Ray Davis passed away in a Georgia hospital.

Mr. Speaker, after graduating with honors from Georgia Tech with a degree in chemical engineering in 1938, Raymond G. Davis, Sr. joined the Marine Corps with a commission as a second lieutenant. He began a long and distinguished service to our Nation during World War II when he earned a Purple Heart and Navy Cross for actions in the Peleliu and Palau Island operations. In 1952 he was rewarded the Congressional Medal of Honor by President Truman for his part in the Marine Division's historic fight to break out of the Chosin area during the Korean War.

Overall during his military career, General Davis was awarded, among others, the Medal of Honor, the Navy Cross, two Distinguished Service Medals, two Silver Stars, two Legion of Merits, one Bronze Star and one Purple Heart. During the Vietnam conflict, he had various military assignments and duties including Commander of the 3rd Marine Division, for which he was awarded the Distinguished Service Medal, as well as three personal medals from the Vietnamese government.

He was promoted to lieutenant general shortly after returning from Vietnam and became Commanding General Marine Corps Development and Education Command. President Nixon nominated him for the grade of general and reassigned him to the position of Assistant Commandant of the Marine Corps.

Upon receiving his fourth star and retiring in 1972, General Davis returned to Georgia and continued to serve his home State and the Nation. He ran the Georgia Chamber of Commerce for several years, attracting business and employment to our great State.

Mr. Speaker, our entire Nation benefitted from General Davis's service, and his passing touches us all today. My thoughts and prayers are with his wife, three children, seven grandchildren, and two great grandchildren.

☐ 0915

DAILY BLUE DOG REPORT ON NATIONAL DEBT

(Mr. SANDLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDLIN. Mr. Speaker, it is time for the daily Blue Dog report.

Mr. Speaker, it has been 847 days since President Bush and the Republican Party embarked on their economic plan for our country. During that time, the national debt has increased by $1,161,083,093,278.33. According to the Web site for the Bureau of the Public Debt at the U.S. Department of the Treasury, yesterday at 4:30 p.m. Eastern Daylight Time, the Nation's outstanding debt was $6,801,408,479,637.10. Furthermore, in fiscal year 2003, interest on our national debt, or the debt tax, is $288,803,184,023 through July 31, the interest alone running at $1 billion per day.

We must pay down this debt. We must have fiscal responsibility in this country.

Mr. Speaker, that is the daily Blue Dog report.

A SAFE INTERNET SITE FOR KIDS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, last year we passed on this floor the "kids.us" site. President Bush signed this bill into law. It is a safe Internet site for kids.

Now I call upon corporate America, nonprofits and governmental entities to put information on the kids.us site. I also call upon all parents to demand that these entities do so.

The World Wide Web is an amazing, but dangerous, place for kids. With the arrival of kids.us, it has now become safer.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY). Pursuant to clause 8, rule XX, proceedings will now resume on the two motions to instruct conferees that were debated yesterday on which the yeas and nays were ordered.

The motion relating to H.R. 6 will be a 15-minute vote. The motion relating to H.R. 1308 will be a 5-minute vote.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DINGELL ON H.R. 6, ENERGY POLICY ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on the bill, H.R. 6.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. DINGELL) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 176, nays 211, not voting 47, as follows:

[Roll No. 476]

YEAS—176

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clyburn
Cooper
Costello
Cramer
Crowley
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Weiner
Wu
Wynn

NAYS—211

Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—47

Ackerman
Aderholt
Brady (TX)
Brown, Corrine
Clay
Conyers
Cubin
Cummings
DeGette
Doolittle
Engel
Fossella
Gephardt
Hinchey
Issa
Istook
Janklow
John
Kennedy (RI)
Kucinich
Larsen (WA)
LaTourette
Leach
Marshall
McCarthy (NY)
Meek (FL)
Mollohan
Murtha
Myrick
Owens
Oxley
Pickering
Platts
Rangel
Regula
Rodriguez
Rogers (AL)
Roybal-Allard
Schiff
Smith (TX)
Towns
Watt
Waxman
Weldon (PA)
Wexler
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised there are 2 minutes remaining in the vote.

□ 0938

Mrs. JOHNSON of Connecticut and Mr. RADANOVICH changed their vote from "yea" to "nay."

Mr. SERRANO changed his vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The conferees will be named after the following 5-minute vote.

Stated for:

Mrs. MCCARTHY of New York. Mr. Speaker, I was unable to cast a vote on a motion to instruct conferees on H.R. 6, the Energy Policy Act. Had I not been detained in an important meeting, I would have voted "yea" for the motion.

Stated against:

Mr. PLATTS. Mr. Speaker, on rollcall No. 476, I was unavoidably detained. Had I been present, I would have voted "no."

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct conferees on the bill, H.R. 1308.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Tennessee (Mr. COOPER) on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 186, nays 210, not voting 38, as follows:

[Roll No. 477]

YEAS—186

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell

Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Weiner
Wu
Wynn

NAYS—210

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—38

Ackerman
Ballenger
Brown, Corrine
Clay
Cummings
DeGette
Doolittle
Dunn
Fossella
Gephardt
Hinchey
Hooley (OR)
Issa
Istook
Janklow
John
Kennedy (RI)
Kucinich
Larsen (WA)
LaTourette
Leach
Marshall
Mollohan
Murtha
Myrick
Pickering
Rangel
Rodriguez
Rogers (AL)
Roybal-Allard
Schiff
Smith (TX)
Towns
Watt
Waxman
Wexler
Woolsey
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 0946

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KENNEDY of Rhode Island. Mr. Speaker, on September 5, 2003 I missed rollcall vote No. 476 and No. 477. Had I been here I would have voted: "yes" on rollcall No. 476, and "yes" on rollcall No. 477.

APPOINTMENT OF CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following conferees:

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. TAUZIN, BILIRAKIS, BARTON of Texas, UPTON, STEARNS, GILLMOR, SHIMKUS, DINGELL, WAXMAN, MARKEY, BOUCHER and RUSH.

From the Committee on Agriculture, for consideration of sections 30202, 30208, 30212, Title III of Division C, sections 30604, 30901 and 30903 of the House bill and sections 265, 301, 604, 941–948, 950, 1103, 1221, 1311–1313, and 2008 of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, LUCAS of Oklahoma and STENHOLM.

From the Committee on Armed Services for consideration of sections 11005, 11010, 14001–14007, 14009–14015, 21805 and 21806 of the House bill and sections 301, 501–507, 509. 513, 809, 821, 914, 920, 1401, 1407–1409, 1411, 1801, and 1803 of the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania and SKELTON.

From the Committee on Education and the Workforce, for consideration of sections 11021, 12014, 14033, and 30406 of the House bill and sections 715, 774, 901, 903, 1505, and 1507 of the Senate amendment, and modifications committed to conference: Messrs. MCKEON, SAM JOHNSON of Texas and GEORGE MILLER of California.

From the Committee on Financial Services, for consideration of Division G of the House bill and sections 931–940 and 950 of the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mr. NEY and Ms. WATERS.

From the Committee on Government Reform, for consideration of sections 11002, 11005, 11006, 11010, 11011, 14025, 14033, and 22002 of the House bill and sections 263, 805, 806, 914–916, 918, 920, 1406, and 1410 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, MURPHY and TIERNEY.

From the Committee on the Judiciary, for consideration of sections 12008, 12401, 14014, 14026, 14027, 14028, 14033, 16012, 16045, 16084, 30101, 30210, and 30408 of the House bill and sections 206, 209, 253, 531–532, 708, 767, 783, and 1109 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

From the Committee on Resources, for consideration of sections 12005, 12007, 12011, 12101, 13001, 21501, 21521–21530, Division C, and section 60009 of the House bill and sections 201, 265, 272, 301, 401–407, 602–606, 609, 612, 705, 707, 712, 721, 1234, 1351–1352, 1704, and 1811 of the Senate amendment, and modifications committed to conference: Mr. POMBO, Mrs. CUBIN and Mr. RAHALL.

Provided that Mr. KIND is appointed in lieu of Mr. RAHALL for consideration of Title IV of Division C of the House bill, and modifications committed to conference.

From the Committee on Science, for consideration of sections 11009, 11025, 12301–12312, 14001–14007, 14009–14015, 14029, 15021–15024, 15031–15034, 15041, 15045, Division B, section 30301, Division E, and Division F of the House bill and sections 501–507, 509, 513–516, 770–772, 807–809, 814–816, 824, 832, 1001–1022, Title XI, Title XII, Title XIII, Title XIV, sections 1502, 1504–1505, Title XVI, and sections 1801–1805 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mrs. BIGGERT and Mr. HALL.

Provided that Mr. COSTELLO is appointed in lieu of Mr. HALL for consideration of Division E of the House bill, and modifications committed to conference.

Provided that Mr. LAMPSON is appointed in lieu of Mr. HALL for consideration of section 21708 and Division F of the House bill, and sections 824 and 1223 of the Senate amendment and modifications committed to conference.

From the Committee on Transportation and Infrastructure, for consideration of sections 11001–11004, 11006, 11009–11011, 12001–12012, 12014, 12401, 12403, 13001, 13201, 13202, 15021–15024, 15031–15034, 15041, 15043, 15051, 16012, 16021, 16022, 16023, 16031, 16081, 16082, 16092, 23001–23004, 30407, 30410, and 30901 of the House bill and sections 102, 201, 205, 301, 701–783, 812, 814, 816, 823, 911–916, 918–920, 949, 1214, 1261–1262, and 1351–1352 of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, PETRI and OBERSTAR.

From the Committee on Ways and Means, for consideration of Division D of the House bill and Division H and I of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY and RANGEL.

There was no objection.

GENERAL LEAVE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2765, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, July 25, 2003, and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2765.

□ 0955

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2765) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes, with Mr. BASS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of Friday, July 25, 2003, the bill is considered as having been read the first time.

The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the fiscal year 2004 District of Columbia Appropriations bill totals $7.9 billion. Included in this total are $466 million for Federal payments to various District programs and projects, which I will describe shortly; $1.8 billion in Federal grants to District agencies; and $5.6 billion in local funds for operating expenses and capital outlays of the District government.

This bill, Mr. Chairman, is a product of the hard work of every member of the Subcommittee on the District of Columbia. It is the culmination of several weeks of hearings, visits to local schools and other city institutions, and meetings with elected city officials and numerous others who have a keen interest in helping the District. I want to thank each of them for their interest in the District and their input into this bill. I especially want to thank the gentleman from Pennsylvania (Mr. FATTAH), my ranking member, for his advice, counsel and support. He has been a pleasure to work with.

Mr. Chairman, I believe this bill reflects Congress' commitment to helping our Nation's capital. This is where we all work and many of us live, our home away from home. So we have special reasons to help our capital city.

How grateful I am to so many of my colleagues for their ongoing efforts, prior to my chairmanship, to assist the citizens of this great city, especially its school children to have better lives, and many thanks, as well, to a number of my colleagues who now seek support for a number of new projects to further help the citizens in this budget.

When I became chairman, I wanted to get to better know this city. I did this by listening and learning, visiting children in their schools and touring the many neighborhoods that make up the city. I want to thank Mayor Anthony Williams, Council Chairman Linda Cropp, and School Board President Peggy Cooper Cafritz for the support and advice they have given me.

The Constitution, Mr. Chairman, gives Congress exclusive legislative authority over the affairs of the District, and I take this mandate seriously. The District is in a stronger financial position today than a few years ago. Much of this is due to Mayor Williams and the city council, but we cannot overlook the role Congress has played in the financial recovery as well.

□ 1000

The District still has a long way to go to resolve many personnel and management problems, but I believe that progress is being made. I stand ready to help in any way I can.

Mr. Chairman, the committee has carefully reviewed the District's budget request and, as reflected in the bill, has given the Mayor and City Council's priorities the highest consideration when putting this bill together.

As I mentioned earlier, the bill totals $7.9 billion of which $466 million are Federal payments to various programs and projects. This is $43 million below last year's allocation and equates to an 8.4 percent reduction.

Seventy-seven percent of these funds, or $359 million, is to continue funding of the D.C. courts, the Public Defender Service, the Court Services and Offender Supervision Agency, CSSOSA. These are District functions that the Federal Government assumed financial responsibility for in the National Capital Revitalization and Self-government Improvement Act of 1997.

The remaining 23 percent, or $107 million, are for programs and projects that directly benefit the District. These include: $17 million for the tuition assistance program for the District for college-bound District students; $15 million to reimburse the District for added emergency planning and security costs related to the presence of the Federal Government in the District; $10 million for a D.C. scholarship program; $42.7 million for capital development projects in the District; dollars for the Anacostia Waterfront Initiative; and dollars for public school facility improvements.

Lastly, Mr. Chairman, I am well aware that the President's request for a school choice program in the District of Columbia, which would provide D.C. school scholarships, has stirred up considerable controversy. Personally, I have supported such scholarships for the District since they were first proposed in 1995 by Members of Congress.

There is excitement that surrounds the very successful charter movement in this city. There are 37 charter schools and 11 more on the drawing boards, more than any other city in the Nation. We have charter schools in this city.

That excitement is also apparent in those parents who strongly advocate for this new educational choice option for their children.

While we are all supportive of the District public school system and the success of the city's charter school movement, many more children can be helped by this new program.

The statistics in the U.S. Department of Education on District student performance on reading, writing, math and other core academic studies are very disturbing. The bottom line is that children in this city will be helped by giving parents more choices for educating their children. Many parents are hopeful that we will act. That is why I am happy that later today we will have an amendment to provide for the authorization of the funding I have included in this bill.

There will be much debate on this issue. And one of the arguments the opposing side will make is that this bill does not provide funding for what is called the three-pronged approach to education which the District leadership wants. While that is true, it is not my intention that this be the case when we come out of conference with the Senate.

Due to the fiscal constraints of this bill, we were only able to provide for the D.C. scholarships; but the Senate bill includes additional funding for both public and charter schools as well.

I support the Mayor's approach and will work with Chairman YOUNG towards a conference allocation that is sufficient to address all three sectors of education in the city.

The timing of this bill, Mr. Chairman, is always of concern to the District, and rightly so, because the city's local funds cannot be spent until we pass the conference report for the bill. I am mindful of these concerns and will do everything within my power to get the District its funds in a timely manner.

In summary, the fiscal year 2000 District of Columbia appropriations bill is fiscally responsible, a balanced bill that deserves bipartisan support.

Lastly, I would like to thank the subcommittee staff, our excellent clerk Carol Murphy, Rob Nabors who works so well with the gentleman from Pennsylvania (Mr. FATTAH) and certainly with this chair, and Kelly Wade of my staff for their diligent and professional work on this bill.

I would also like to thank Nancy Fox from my immediate staff and William Miles from the gentleman from Pennsylvania's (Mr. FATTAH) staff for their hard work as well.

Mr. Chairman, I reserve the balance of my time.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume, and let me start by thanking the chairman of the subcommittee, the gentleman from New Jersey (Mr. FRELINGHUYSEN). This chairman, I think in the ways most remembered of Julian Dixon, has taken the helm and worked hard, been sensitive to the issues arising here in the capital city. He has been out and about visiting and visibly showing the concern of the Congress for the plight of the city's neighborhoods. I think he most appropriately understands and appreciates the work that the city's leadership, the Mayor and the council and its delegate, the gentlewoman from the District of Columbia (Ms. NORTON), have done to rescue the city from its fiscal constraints from years ago.

Mr. Chairman, I worked with the gentleman from Virginia (Mr. TOM DAVIS) in creating the financial control board, which was modeled after the PICA Board that we instituted in Philadelphia that I sponsored in the legislature then, and it has worked well here in the District. The district is now on its own and has done a tremendous job in righting the ship.

The chairman understands and appreciates the superb leadership that superintendent Paul Vance has brought to the school district and the board of education here in Washington, D.C., and I just want to thank the chairman, thank his staff, particularly Carol Murphy, who has shepherded at the helm the work of the majority staff, and I would also like to thank Rob Nabors on the Democratic appropriations staff and William Miles from my personal staff that have worked on D.C.-related matters.

We come here today with a bill in which there will be a lot of attention on what we disagree on, and we disagree on one item, that of vouchers; but I do not want that to overshadow the fact that this bill, absent that one disagreement, is a very significant accomplishment and it is owed solely to the leadership of the chairman and his capable political skills and bringing to a consensus how we should address a whole host of issues affecting our capital city.

This is, I think without disagreement, in the world's only remaining superpower, the wealthiest country in the world, this is our capital city, and it is a symbol in every important way to world visitors, foreign leaders, and to those who look upon this Nation as to where our priorities are. So it is important work that the Congress does. And as we seek to promote democracy in other places, I know that we hope one day here in the District that American citizens who pay taxes and who are dying on foreign battlefields will have democracy here in the District and be able to have on the floor of this House not just a voice but a vote.

Mr. Chairman, today I commend the chairman for this bill. I think it addresses the critical issues in important ways. He has fought for an allocation that some may have some issues with, but it is representative of approaching what we need to address the District's problems; and I thank him and his staff for their work.

Mr. Chairman, I hope we can enter into the general debate and move through this bill, have a passionate discussion about the question of vouchers but not overlook the fact that we have broad agreement here on the direction of what our fiscal responsibilities are to the District of Columbia.

Mr. Chairman, I reserve the balance of my time.

Mr. FRELINGHUYSEN. Mr. Chairman, it is my pleasure to yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the vice chairman of the committee and, in fact, a longtime member of the committee.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this committee used to be a drudgery. If you asked somebody to serve on the D.C. committee, you had to pull them out from under the bed to get them to come to work. I would say that thanks to the ranking member, the chairman, and the work that the committee has done over the past few years, it has gotten to be one of the better committees.

I think if one looks at what has been done in a bipartisan way, and, yes, we do have some differences, but in a bipartisan way, with the help of a Mayor that is business-oriented, Mayor Williams, who I think has done a good job, I think we can be proud of the committee and the output of this, with a couple of exceptions.

I have volunteered to stay on the committee all these years I have been in Congress because I have an education background and I had several goals. One was to help the education system in Washington because it had some of the highest cost and lowest productivity. Any Member that would go out into the city will find some very dedicated, very good teachers in Washington, D.C. I know the ranking member and the chairman have both gone out into the community, as I have, and visited some of these schools. You would be amazed at the differences since the committee has started to work.

The Mayor has gone through a pretty tough bureaucracy; and like all bureaucracies, sometimes you cannot get the things done that you want even though you are the leader of a city. So I laud the Mayor for the work that he has done. Even though in some cases very slow, he has plodded through it. He has kept true to his word. He communicates, and I thank Mayor Williams for that.

Another area was the waterfront. But there was a whole area in which pilings had been left from the 1940s that were corroding into the Potomac River. The Anacostia River had the highest fecal count of any river in the United States. It was not just pollution that was killing the fish. There is such a high fecal count because every time it rains that raw sewage goes into the Anacostia River. Fish were dying because of the bacteria. There was so much bacteria it ate the oxygen and the fish suffocated. That is how bad it was. We still need a national program to help the Washington, D.C. sewage system. Without it, we will not clean up our rivers, and it will be a health hazard to Washington, D.C.; and I look forward to working with my colleagues on doing that as well.

If my colleagues will go down now they will see a marina in progress. Half of it is done, and the other half, all the pilings that were leaching creosote into the water, are gone and the new docks are coming in. Guess what? That is revenue to the city because that is leased land. Instead of being a drain, instead of being a deficit, it will be a revenue producer for the city.

My goal is to make the waterfront like a San Diego, where I live, or a San Francisco wharf and waterfront where people can go down with their families and enjoy the waterfront and water that is clean instead of polluted like it even still is today. And again I want to thank the ranking member.

We differ a little bit on economic scholarships. I personally think my colleagues would be surprised that, yes, I support vouchers, as some call them, or economic scholarships, whatever you want to call them. But I only support them if the community wants them. I do not think the Federal Government should mandate it. The community must itself want them, because in some areas there may be transportation costs far exceeding the cost of moving a child to another area. There may be a certain school that, a private school, that does not take IDEA children. And those costs may be apples and oranges.

In many areas across the country vouchers do work. In my opinion, Washington, D.C. is a classic. I know the gentlewoman opposes it, but the Mayor supports it, the city supports it; and I think the people that in some cases where their children are trapped, where a mother of a child that wants to learn is out there and wants to get out of the quagmire that they live in but yet are trapped in a school that does not produce, they deserve the opportunity. The first goal is to bring that school up to level, I agree, with public education. But in the meantime, let us not let that child get left behind. Let us work with that child.

I think my colleagues know my heart is in the right place, even though they may disagree with me on the issue. But I think it will be a good program.

Mr. Chairman, I again want to thank the ranking member and the chairman and the members on the committee. It is starting to be a very good pleasure to work with this committee.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman from California for his comments and his work on the committee, and indeed it is because of the leadership that he has brought that a great deal of progress has happened in terms of the waterfront.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FATTAH. I yield to the gentleman from California.

□ 1015

Mr. CUNNINGHAM. Mr. Chairman, Mayor Williams did another thing. The highest incidence for prostate cancer is among African Americans, and the highest incidence in the United States is in Washington, D.C. The mayor worked with our committee and chairman and ranking member, and on a sleet, rain-driven night, we packed the house in a town hall meeting on prostate cancer for African Americans because it had never been done before. The mayor has agreed to do another meeting, and we plan on doing that.

Mr. FATTAH. Reclaiming my time, it is well known that the gentleman from California (Mr. CUNNINGHAM), unlike many other Members, has sought and stayed on this committee and has made a real contribution at the waterfront, and I am aware of his efforts in terms of this particular type of cancer.

I would tell him in terms of the sewer system and the infrastructure in the District of Columbia, there are tremendous needs. I understand the President will be down soon with a $13 billion request to rebuild the sewer system in Iraq with taxpayer money. Maybe there might be a few pennies left that we can do something more to help in our own capital city; but Members should not hold their breath because I am sure we will be told there is not enough money to address these domestic concerns.

The question of vouchers is an important one, and I am going to yield to the Member who has the most to say about this. As the gentleman from California (Mr. CUNNINGHAM) said, really there is not a lot of disagreement because if somebody wants this, it should not be outlawed. But the question here in the District of Columbia was there was a referendum. The voters have spoken. They do not want vouchers.

Mr. Chairman, I yield 8 minutes to the gentlewoman from the District of Columbia (Ms. NORTON) to address the bill and any particular concerns the gentlewoman wants to beyond that.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank the gentleman from New Jersey (Mr. FRELINGHUYSEN) who has worked in such a bipartisan fashion with the gentleman from Pennsylvania (Mr. FATTAH) on this appropriation. I want to thank them both for their bipartisanship, bipartisanship without compromising their principles, but also for their sensitivity to home rule and the fact that this is an independent jurisdiction that ought to be able to speak up for itself the way jurisdictions of every Member of this House can.

I am proud how far our city has come under the leadership of Mayor Williams and City Council Chairwoman Linda Cropp and our city council. We have come a very long way from insolvency to a city now that is in better shape than most jurisdictions in the United States because of the prudence of our local leadership.

I want to talk about what this bill is about because this is not our usual D.C. appropriation where I would normally thank the President for funding my tuition access bill, and let me do it anyway, probably the most popular legislation in the District of Columbia because it allows young people to go to any State-supported institution anywhere in the United States; but nobody will remember the D.C. appropriation 2003 for anything but one issue. Members simply have to concentrate on what they are voting on.

This is a bill with a vouchers-only provision. We will hear promises about maybe in the Senate they will have some money. That bill is in huge trouble in the Senate, and of course some money has been put in for public funding when there was an uproar in the city about funding vouchers, and then the pro-voucher officials came forward and said wait a minute, we have a three-sector approach, and we will get some money for the public schools, too.

But everybody understands the public money is a cover for vouchers. It is a way to take the sting out of vouchers. This is one of the most anti-voucher jurisdictions in the United States of America. They have tried it here for 20 years, and this is a jurisdiction which sent me, their Congresswoman, time and again, back here to ask Members to veto their appropriation to keep vouchers from being attached to it until President Clinton could somehow negotiate them off.

So the people of the District of Columbia have not turned around on a dime and flip-flopped and said we want vouchers. All Members need to do is sit in my office and they will know where they stand, because the elected officials, the majority of the elected officials of the school board, the majority of the city council, have written to you to say we do not want vouchers.

What is important for every Member to know and to understand is that this is not only a vouchers-only bill so that is what Members are going to be voting on, but this will be the first time in the United States of America that the Congress of the United States has sent money to private schools, something that huge numbers of Members on the other side of the aisle have crossed to this side of the aisle to vote with us to say we will never do.

There is a reason people do not do it. They do not do it in part because two-thirds of the American people oppose vouchers, if we want to get down to particulars. But this year is the last time we would want them to do it because this is the year when if Members went home for recess, Members heard a bipartisan backlash against a bipartisan bill, the No Child Left Behind bill, because people are now beginning to pay the unfunded mandate for No Child Left Behind, and now Members are going to vote to send money to private schools with that $9 billion unfunded mandate.

Schools are in the worst crisis that they have been in our country since World War II, the worst funding crisis, according to all of the data coming forward. What do Members have in your own districts on CNN and everywhere else? Slick, expensive ads, national TV, the opening salvo to a new nationwide drive for vouchers in every district, just as that well-funded set of forces have wanted to do for some time.

If Members pass this bill, if Members vote for vouchers, they will send a signal to every private school in the country, every organization of private schools, to every organization of religious schools, that this is the time to bring pressure to get the same kind of private school deal that the District of Columbia got, and Members can expect the same slick ads right in their district.

Mr. Chairman, many Members have heard from our mayor. He is my good friend, and will continue to be my good friend, even on an issue like this. We will continue to work closely on the issues affecting our city. He has pressed this Congress, but he has not successfully pressed the elected officials of the District of Columbia or the people of the District of Columbia.

We have the letter from the council chair and Members have the letter from the parents' association. Perhaps Members saw the hundreds of D.C. residents, led by ministers and rabbis who fanned out all over this Congress on Wednesday to say do not do vouchers in this city. We are not to be your pilot. Do not experiment in the District of Columbia, experiment in your own States. The city has a situation here which is not cost free. We are undergoing $40 million in cuts, another $25 million will go out if 2,000 students exit if the schools are funded on a per-pupil basis. D.C. has a $50 million unfunded No Child Left Behind mandate right now. All of our elected officials should be down here trying to get that money the way Members of Congress have.

The District of Columbia wants Congress to respect their alternatives. We are ahead of virtually every district in this Congress on alternatives. We have our own charter schools, the largest number in the United States per capita. They have long waiting lists. Those are the chosen options of our people by our people. We have 15 transformation schools for the poorest children in the District of Columbia, the first breakthrough in Stanford 9 scores in the history of the city. That breakthrough will no longer occur unless the funding that the city has put in continues. And then, of course, a child in the District of Columbia can go out of boundaries; something that Members' districts have yet to do or have finally been mandated to do, we have been doing for decades.

Members do not want vouchers in their districts. They have been voted down on the floor. I represent this District of Columbia. I am here to tell Members you do not want them in your district, and we do not want them in our district. This is not a Democratic or Republican issue, it is not because a huge majority, almost two-thirds of the American people, oppose vouchers; and why would Members think it would be any different in the District of Columbia? It is no different.

Mr. Chairman, Members should not forget where their constituents stand when they cast their vote today. I certainly have not forgotten where mine stand.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. WELDON), a valued member of the Subcommittee on the District of Columbia.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to commend the gentleman from New Jersey (Mr. FRELINGHUYSEN) for his hard work in support of the city, and I particularly want to commend him for caring. I have enjoyed working with him over the past year, and I have been able to clearly discern that he is very interested in improving the city. It is America's city. I think we all have a vested interest in making sure that we make Washington, D.C. a better, healthier place to live, better, healthier place to educate their kids.

I want to address the school choice issue that we are going to be debating in more detail later, just to make one very, very important point. I really want to commend the chairman and, as well, the gentleman from Virginia (Mr. TOM DAVIS) for their hard work. One of the things that has always bothered me is that wealthy people in America have school choice, but poor people do not. Many of those families in poor neighborhoods cannot afford a private option. Unfortunately, many of those types of situations are in the District of Columbia.

I have wanted for years to be able to seriously look at this issue, go into some of the poor neighborhoods in America, give the parents the option. And really when we have a marketplace, when parents have an option, I think quality improves. We know that in the consumer sector with consumer goods, it is good to have companies competing with each other. I think the reason higher education in America is the best in the world, our colleges and universities, is because there is a real marketplace. We can send our kids to any college. And the hope with the public schools and school choice is that the public schools will rise with the other schools when they have to compete for students, but we need to get good data.

The gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) have crafted some very good language that will help us look at this issue. I think it is very, very appropriate, and I want to address one very important thing. We are going to hear this over and over again. This pilot, this $10 million study that we are trying to do, is going to take money away from public schools, that it is going to take money away from public education.

The budget for the District of Columbia is $1.1 billion to educate their kids, and this money is a plus-up. If this amendment is defeated, they are not going to get the extra money. The real debate is not taking money away from public schools. I have been hearing that on the radio. We are not taking money away from public schools. We are putting an extra, actually from the Labor-HHS allotment, we are taking money from that committee and moving it over here so we can once and for all try to study this issue.

Despite what I think are very good intentions, and if school choice is so bad, like so many people on the left keep claiming, let us discover that.

I think the opposition to this issue has nothing to do with the arguments being put forward. It is about power and who controls where your kids are going to school. If this study shows that it works, if parents like it better, academic performance improves, these are all of the parameters the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Ohio (Mr. BOEHNER) are going to be following, along with the Secretary of Education is going to be following. If it actually shows that it works and it is good for the District of Columbia, it is good for the kids, it is going to erode the power of one of the most powerful groups in this country, and that is the teachers union, and that is the opposition to this.

□ 1030

To say this is going to move money from public education, if this gets killed, you do not get the money. That is really what it boils down to. We need to study this issue because kids are failing and they are failing unnecessarily and we need to do more for them.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume.

I want to make a couple of points. One is that it is true that the mayor has come out in favor of this approach, assuming that there would be dollars for our public schools and charter schools, in what we now call the three-prong approach. The three-prong approach is not what is before us at all, and I sincerely believe the chairman when he says that we hope in conference that we can address that. But the vote before us today is to do nothing additional for public schools, nothing additional for charter schools and solely and singularly take dollars and to provide them to private institutions.

I personally think that private school choice is wonderful and if people want to make private choices, I think they should pay for them privately. This is a public enterprise and we have to make public choices. If we have got 70,000 children in a school system that lacks fully-qualified teachers, we should take every penny we can find and get them fully-qualified teachers; that if they lack libraries, we should get them libraries, and so forth and so on. We know what we need to make public schools work. They work right outside of the District of Columbia today, in Fairfax County, in Alexandria. They work. You put quality teachers in the classroom, you put a limited class size, you give them updated textbooks, and kids learn. Why do we not do that in the District? Why do we not give to them what we provide to other children rather than give them some unproven, newfangled idea that nobody has any indication will work?

The gentleman who just spoke, my colleague from Florida, Florida just had an embarrassment where they had vouchers going to some outfit who, it is at least alleged, was involved in terrorism activity. When you have these uncontrolled, unregulated vouchers, you can have everything from the David Duke Academy getting dollars to anything that anybody else can dream up.

We need to be careful as we go forward because all we are looking forward to here is for some kind of embarrassment.

Mr. Chairman, I yield 3 minutes, even though I only promised him 2½, to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, first let me thank my good friend from Pennsylvania for yielding me this time and his generosity.

In my congressional district, the Third District of Maryland, I represent 110 District of Columbia residents. They live at the Oak Hill detention center, a maximum security campus in Laurel, Maryland, approximately 30 miles from Washington. It is located on more than 600 acres of Federal land adjacent to the National Security Agency. The facility was originally constructed 50 years ago. Few renovations have been made since then, and the campus is now in a severe state of neglect and disrepair, littered with partially-boarded abandoned buildings that are frequently broken into and set afire. Roughly half the children at Oak Hill have been convicted of crimes and sentenced to a term there, and the other half are detainees awaiting trial. Their average length of stay is more than 8 months.

A 2001 mayoral commission recommended closing Oak Hill and placing youth offenders in a network of residential treatment facilities, community-based group homes and other less restrictive settings. I support the commission's recommendations, including the closing of Oak Hill. Some progress has been made toward that goal, including beginning construction of a pretrial holding facility in northeast Washington that should reduce by 50 percent the number of children housed at Oak Hill.

July's four-part series in the Washington Post documented a near complete breakdown of the community-based rehabilitative care system that now exists for the District's youth offenders. The District needs to develop an appropriate community-based system for its juvenile offenders.

In addition, because the District of Columbia has only one residential treatment center which is plagued by alleged physical and sexual abuse, the city must send many of its children to lengthy stays out of State. Currently 400 District children are in residential treatment centers, some as far away as Arizona, at a conservative cost of $25 million a year.

Mayor Williams recently acknowledged that his juvenile justice system is in a state of serious dysfunction and has pledged to take corrective measures. But he was also quoted as saying, "There hasn't been an embrace, at the agency level, of the issue. There hasn't been the sense of urgency." I would tell the mayor that there is a sense of urgency for both the District of Columbia and in my district in Maryland.

I recently had the opportunity to meet with the gentlewoman from the District of Columbia (Ms. NORTON) and Deputy Mayor Carolyn Graham, and I subsequently visited Oak Hill. There I met with youth services administrator Gayle Turner and her staff and I toured the facility and surrounding grounds. I was impressed by the progress we were making. As a result of our initial discussions, they were moving in the right direction: toward razing the dilapidated structures that are beyond rehabilitation and toward developing proposals to make more cost-effective and more appropriate use of the land. That is why I was disappointed that both of the individuals I met with positions were terminated and no longer are there.

Today's debate is about funding the District of Columbia, but this issue involves more than appropriate funding levels. This is about the best course of treatment of these children, the best way to ensure the safety of our communities and the most appropriate use of Federal land.

Mr. Chairman, as the representative of the community surrounding Oak Hill, I look forward to working to help improve the state of juvenile justice services for the District of Columbia. I might also point out that the Federal land on which Oak Hill is located is a prime site for expansion of NSA and for the State of Maryland and Anne Arundel County to develop environmental, recreational and economic opportunities.

I hope to continue working with the gentlewoman from the District of Columbia (Ms. NORTON), with the members of the Subcommittee on the District of Columbia, and with Mayor Williams and the city council to develop the right solutions for all involved.

Mr. FRELINGHUYSEN. Mr. Chairman, I would like to reiterate that Mayor Anthony Williams, the chief elected officer, the mayor of this city, supports this choice option.

Mr. Chairman, I am pleased to yield 6 minutes to the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Committee on Government Reform, who I have had the pleasure of working with and who is the architect of this D.C. parental school choice initiative in his bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I have a lengthy statement talking about generally what is in this bill, really basically praising the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) for putting together a very good bill.

I would like to address briefly, though, the Davis amendment that will be coming up before this body a little bit later. I will submit for the RECORD a Washington Post editorial written by Tony Williams, the elected mayor of the city; Kevin Chavous, elected council member and chairman of the District's education committee; and Peggy Cooper Cafritz, the elected chairman of the school board, all supporting my amendment and the school voucher program. I will also submit for the RECORD a May 12, 2003, editorial from the Washington Post which sets the record straight on the history of school vouchers in Washington.

Let me just say, the idea that this is an anti-voucher city is something we need to contend with. The vote in 1981 was not on a school voucher program like we have here. It was on tuition tax credits that one could argue hurt the District budget. I think we have solved that here by bringing additional money in, and more money will be coming into the city that would not otherwise come in as a result of the appropriations process I think at the end of this.

So that was a completely different proposal. That vote was in 1981. The Washington Post, a newspaper of some renown in this town, ran a poll in May of 1998 that asked, do you favor or oppose using Federal money in the form of vouchers to help low-income students in the District go to private or parochial schools? In that poll, 56 percent of city residents said they favored the idea. If that is the idea of anti-voucher, I think that we are being misled. City opinion is split on this, but the elected mayor and the elected chairman of the school board have come to us, they are in charge of this, they are entrusted by the voters to focus on this particular issue, and they have said that they need this to help D.C. schoolchildren get the same level of opportunity that the rest of us have for kids in our districts.

Over the years I have worked hard to try to bring this city back. I have worked with my friend, the gentlewoman from the District of Columbia (Ms. NORTON), on a number of issues and we have had a number of successes. We have sponsored legislation to bring the city back to financial stability. We sponsored legislation to help the city overcome its unfunded pension liability, a major issue that people said could not be done. We have worked in assisting the economic recovery of this city with tax relief and regulatory relief for our Nation's capital. We have worked together on the D.C. College Access Act which makes college affordable to the District population that basically was discouraged from going because they had no State university system like the rest of us do in our States. I think all of these have helped. But the most difficult problem facing this city is its public school system.

I respect my colleagues who oppose this amendment. They argue that public dollars should be reserved for public schools only. I think philosophically I believe the same thing, but I think they are misguided in this instance when they put the preservation of the institution, a failed institution, ahead of the opportunities for children that could be advanced by this. Ultimately our responsibility is to the kids, not to an institution, not to a failed, dysfunctioning bureaucracy.

What has it produced over the years? They say that we are going to put more money into public schools. We have put more money into public schools. It still has one of the highest dropout rates in the Nation. It has some of the lowest test scores in the Nation. The average SAT throughout the city, combined verbal and math, is under 800. It is a failure. Its school lunch program was just rated by the Physicians Committee on Responsibility and was given an F. They cannot even feed the kids in the public school system. Yet they say, no, that is where we want to send them, that is where they have to go. We are talking about kids whose parents cannot move to the suburbs. They cannot move to Ward 3. They are trapped in an area, in a monopoly system that is not even giving them a decent school lunch. By the way, that same system rated my county a B on its school lunch, rated the city of Detroit an A-minus, but the city of Washington gets an F on its school lunch program.

It is a system that has produced a disproportionate number of rapes, of assaults and robberies to kids in the public school system. Yet they say we want them to go to that school, a public school system, that we will just add more money, which we have done. Over $2,000 a year more is paid on a kid's education in the city than is paid in my county of Fairfax. If money were the answer, we would put money at it and solve the problem. But it is a failed institution. You cannot put, to quote biblically, new wine into old bottles. This is an old bottle and it needs fixing. It is a system that last week was found to have paid $59,000 to a phantom company that does not even exist.

For opponents of this amendment who say more money, it is the same old, same old, same old. If you do the same thing time and time again, you are going to get the same results. President Bush has talked about the soft bigotry of low expectations. We are trying to change that. These kids deserve every bit the opportunity that my kids have. The proof in the pudding here is that no Member of the House to my knowledge has sent their kids to the D.C. public school system in the last decade. The President and the Vice President, living here and given that opportunity to pick any school in the city, chose private schools.

We just want to give the same opportunities to the poorest of the poor. This legislation restricts it to kids from nonperforming schools, low-income. This is going to be, I think, a shock treatment to the public education system. Five years from now I hope we will not need this, I hope the public education will improve, but it is not going to improve without this kind of shock treatment. I urge my colleagues to support the Davis amendment.

[From the Washington Post, May 12, 2003]

STRAIGHT TALK ON VOUCHERS

In making her case against a federally funded school voucher pilot program, Del. Eleanor Holmes Norton (D) has repeatedly said that D.C. voters are firmly opposed to the idea. Thus, she argues, to support vouchers is to oppose home rule. As the basis for her declaration, Ms. Norton cites the results of an exit poll conducted in November for the National School Boards Association. The poll, which she supplied to this page, showed that 76 percent of the 603 voters interviewed opposed school vouchers. But as is true of so much that stirs up this city, Ms. Norton's poll is hardly gospel.

Let's look at the wording of the question posed in the poll. It asked: "Do you favor or oppose giving taxpayer-funded vouchers to parents to pay for their children to attend private schools even if that means less money for public school students?" Note the phrase "even if that means less money for public school students." That's a loaded question if there ever was one. What majority would favor that? It would be just as unfair if voucher supporters sponsored a poll that asked, "Do you favor or oppose giving taxpayer-funded vouchers to parents to pay for their children to attend private schools if that enables them to transfer out of an inferior public school with low test scores?" Imagine the responses to that question.

There is a less prejudicial way to measure public sentiment on the school voucher question. The Post conducted a poll based on random interviews with 1,002 D.C. adults in May 1998 that asked the following: "Do you favor or oppose using federal money in the form of vouchers to help send low-income students in the District to private or parochial school?" In that poll, 56 percent of city residents said they favored the idea, compared with 36 percent who opposed vouchers and 8 percent who had no opinion. Ms. Norton may be aware of that poll as well, since the results and story were published on May 23, 1998.

The Post's findings are consistent with the results of a National Opinion Poll on education conducted with 1,678 adults in May 1999 for the nonpartisan, nonprofit Joint Center for Political and Economic Studies. The center researches and analyzes issues of concern to African Americans and other minorities. The center's poll found that "support for school vouchers among African Americans, which has fluctuated in past Joint Center polls, grew by 25 percent since 1998 with 60 percent of African American respondents favoring school vouchers." But beyond polls is the question of actual demand for school choice. Not only are parents expressing their strong desire for alternatives, as the popularity of public charter schools attests, but private associations that provide scholarship assistance to D.C. students seeking enrollment in private or parochial schools also report strong requests for help from D.C. parents. Shouting that support for vouchers doesn't exist in the District won't make it so. Neither will over-the-top rhetoric and personal invective that add little substance to the debate.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume.

Let me just make a couple of comments. A basic understanding of how the city government operates is that the mayor is the executive. City policy is designed by a consensus between the council and a majority and the executive through statute. There is nothing that prevents the D.C. Government at any time from instituting a voucher program if it wants to. There does not exist a political consensus in the District; that is, the legislative body, which we should have great sympathy for as we are a legislative body, does not agree with this policy. So to say, well, you have got the city's support because you have the mayor, ask us if you have the full support of the city government when you actually do not.

It is important that as we say that we come with great concern about the plight of the children in the District and that we want them to have the same opportunity that our children have, let us give them the same opportunity that the constituents of the gentleman from Virginia have. That is, they have quality schools with fully-qualified, credentialed teachers. Let us take these dollars and provide that here in the District. They have schools that have updated curriculums and adequate libraries and school counselors for all of the children who are presented to the schoolhouse door, not taking a few children, siphoning them off and helping them, and forsaking the rest to a District that by his own statement is not living up to what we would hope it would live up to.

□ 1045

So this question of diverting public dollars for a private school and schools is a very important one about what we really believe. If we want to truly help these children, let us do for them what we are doing for other children, and that is provide quality public schools in the District of Columbia so that these children and future generations of them can benefit because we already know that that works. It works right in the gentleman from Virginia's (Mr. TOM DAVIS) district. It works today. Vouchers have not been proven to work anywhere in the country, and why experiment on the future life chances of these children here in the District?

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I stand in strong opposition to the provision in the District of Columbia appropriation bill authorizing $10 million in funding for school vouchers.

Having worked as an elementary school teacher, a school psychologist, and having served on a school board of the largest school district in the State of California, I have seen firsthand the need to strengthen standards in our public schools and to demand more from our teachers and our students through better accountability and adequate resources.

However, voucher programs that divert precious funding away from the public school system, and particularly here in D.C., would do exactly the opposite.

First, vouchers lack accountability. Private schools funded by vouchers are not subjected to the same standards established by the Leave No Child Behind Act.

Second, vouchers can discriminate. Private schools have the ultimate say in deciding which students they want to enroll, and they can screen out applicants based on any factor without obeying Federal antidiscrimination laws. The children that need to be focused on are not going to be admitted in these private schools. Trust me when I say that.

Finally, vouchers simply do not have a proven record of success. There is no discernible difference in achievement between students and voucher programs and students in public education program. Every time vouchers have appeared on the California ballot, they have been voted down. Senator FEINSTEIN's support of this provision is not reflective of the will of the people in California in this regard.

So how else could we use this $10 million? We could use it to improve the public schools which are already facing a $40 million budget cut.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself such time as I may consume.

I would like to say for the record that the dollars for this new choice program will be given to the parents so that they can make the choice. They will not be given to the school. And secondly, I need to reiterate this is new money. This is money that came from the gentleman from Ohio's (Mr. REGULA) mark. It is not being taken away from the public schools or from the charter schools.

Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. NETHERCUTT), a member of the Committee on Appropriations.

Mr. NETHERCUTT. Mr. Chairman, I want to thank the chairman of the subcommittee for yielding me this time and commend him for his leadership not just on the issue of education for students in the District of Columbia, but for all the aspects of this bill that benefit the District of Columbia, our Nation's capital.

I do not think we should overlook the good parts of this bill and the dedication that has been placed on making this bill very responsive to the needs of the District of Columbia, over and above the issue of education for the students here.

I also want to commend the gentleman from Pennsylvania (Mr. FATTAH) who has been I know a strong leader on advocacy for the District of Columbia, and the team of the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) have been responsible in trying to address the needs of this District, this Nation's capital, this jewel of a city that we want all of this country to be so proud of.

I want to reiterate the gentleman from New Jersey's (Mr. FRELINGHUYSEN) comment about the $10 million in this bill for vouchers. Why in the world would we not want to use this new money for an education purpose that the mayor and otherwise people feel is appropriate for these children? And why would we say, let us not have that $10 million go to kids? It will be lost if it is not used for this purpose. So I would argue that this is a responsible course for this committee, this Congress, to take, to use this $10 million, to give these kids a chance. It is not all the thousands of children who need the money, but it certainly is going to help parents and children who are in need in this educational environment in which we find ourselves.

As the gentleman from Virginia (Mr. TOM DAVIS), who is such a strong leader on advocacy for the District of Columbia and good government has stated, this is an effort that the City wants, I would argue, that the mayor wants, and he is taking a very difficult, but responsible, position to help the kids of this District.

So my comments are really to commend the gentleman from New Jersey (Mr. FRELINGHUYSEN) for his dedication as the new chairman to this bill, to this City, to the needs of this City, and also to commend his partner in this effort, the gentleman from Pennsylvania (Mr. FATTAH), who is also dedicated and committed to trying to do what is right for these children. But I think we should make sure that when the day is done, that we vote in favor of children, vote in favor of the new $10 million to go to parents and children to improve their education capabilities and to improve their education experience here in the District.

So I rise in support of that concept and that mission that I think we have today to try to pass this legislation, but also pass this very important amendment that is such a part of the gentleman from Virginia's (Mr. TOM DAVIS) attention.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume.

I would like to enter into the RECORD a new story from the Florida Naples Daily News which headlines "Private School with Ties to Terrorists gets State Money" through a private tuition voucher program.

And I appreciate the comments from the gentleman from Washington State. It is true that the mayor supports dollars for vouchers which I disagree with. It is also true, and I think fair to say, that this is not the proposal that the mayor supports. He supports a three-pronged approach that is not what is going to be before us today, and I sincerely appreciate all the work that the gentleman from Virginia (Mr. TOM DAVIS) has done on behalf of the District, but this is not a proposal that the mayor supports nor is it a proposal that the City Council supports. So to say this has the support of the District, I think, is really kind of twisting things slightly.

[From the Florida Naples Daily News, July 18, 2003]

PRIVATE SCHOOL WITH TIES TO ALLEGED TERRORIST GETS STATE MONEY

TAMPA.—Senate Democrats urged Gov. Jeb Bush on Thursday to cut off payment to a school co-founded by a professor accused of being the North American leader of a worldwide terrorist organization.

The school received $350,000 last year through a state program that pays private school tuition for some students.

A February grand jury indictment against Sami Al-Arian, the alleged leader of the Palestinian Islamic Jihad, and seven others says the school was used as a base of support for the organization.

The indictment said the purpose of the organization was "to assist its engagement in, and promotion of, violent attacks designed to thwart the Middle East Peace Process." It said the Palestinian Islamic Jihad is responsible for 100 murders in Israel and its territories.

Al-Arian, who is being held in jail without bail and denies any connections to terrorism, co-founded the school in 1992 and served as its director and chairman of its board.

The school's treasurer, Sameeh Hammoudeh, also was indicted and is being held in jail without bond. He and Al-Arian allegedly encouraged people who wanted to send money to Palestinians to write checks to their school. The Palm Beach Post reported in its Thursday editions.

Last year, the 300-student Islamic Academy of Florida received more than 50 percent of its revenue from the state program, Florida PRIDE, which uses corporate donations to pay for poor students to attend private schools.

"The disclosures that more than $300,000 of this money went last year to a school suspected of terrorist ties raises the frightening specter that Florida's taxpayers may be unwittingly funding extremist organizations intent on the destruction of our nation and its allies," Senate Democratic Leader Ron Klein and Senator Dave Aronberg wrote in their letter to Gov. Jeb Bush.

Denise Lasher, spokeswoman for Florida PRIDE, said officials conducted an independent audit of the school after the indictment was released and found no misuse of funds and no connection between the scholarship money and terrorist activity.

She said the school received more than $300,000 in federal grants for computers and its free- and reduced-price school lunch program.

"It was unfortunate that there was someone at the school accused of doing something illegal, but that doesn't mean the school has done something illegal," she said Thursday.

But although Florida PRIDE found that all of its scholarship money was going to the school, Hammoudeh was paid for his services as school treasurer, and the indictment states that school supplies and equipment were used in the Jihad operation. It is unknown whether Al-Arian was being paid.

Corporations that donate to the program receive a dollar-for-dollar tax break. The program gave out nearly $50 million in scholarships last year.

Since the program began, large corporations such as WCI Communities Inc., Gulf Power Co., Florida Power & Light and Verizon Wireless have donated to the program, but how much and to which program is not public information.

Critics of the corporate tax credit scholarship program are concerned that there is no government oversight of the schools that take the money. In their letter to Bush, Klein and Aronberg called for a review of the program and of the schools.

Under the May 2001 law, the Florida Department of Education cannot dictate curriculum or monitor how students are progressing academically.

But Lasher insisted the schools teachers and students and teachers are top notch academically.

Senate President Jim King, R-Jacksonville, jokingly said in May that he could start a school for witches under the law and receive corporate tax credit scholarships.

"The intent of this program was to help poor kids. The intent was never to make opportunistic entrepreneurs wealthy," said King, who also ordered a study of the program.

Despite the accountability concerns, Bush remained a supporter, saying last week that it was a "proven success," based on the students receiving the scholarships.

Ahmed Bedier, spokesman for the Muslim advocacy group Council on American-Islamic Relations, said the Tampa school is well respected. He noted that the University of South Florida is also mentioned in the indictment.

But USF, where Al-Arian was a professor and Hammoudeh was an instructor, is not listed as one of the bases of support for the Palestinian Islamic Jihad.

Administrators at the Islamic Academy did not return phone calls Thursday.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

Mr. Chairman, I rose on the floor of the House yesterday and asked my colleagues to join me in eliminating Federal intrusion into the decision-making of Houston, Harris County, as related to light rail. I am very proud to say that mostly along a party-line vote, my colleagues on this side of the aisle recognized and respected local control. My good friends, the Republican majority, again dashed the hopes and dreams of local communities and decided to intrude their desires on those local communities.

Today we do the same thing. But we do so by experimenting with our children. And I believe that this House has no place in experimenting with the lives of the children of this Nation or of Washington, D.C. In particular, I would have hoped that we would have focused more of our energies on providing full funding for Leave No Child Behind. For someone who served in local government, there is nothing more severe than unfunded mandates, and that is what Leave No child Behind represents.

The distinguished chairman of this subcommittee on the District of Columbia of the Committee on Appropriations, has indicated that this is new money. Let me say to him that why not use the new money for a good purpose and that is to build up the public schools of D.C., to build up the two credited chartered schools that need more resources?

Every study indicates that when we begin to use public funds for private schools, we diminish the very heart of the education of this Nation, and that is the equality of having good quality public schools that all may access. Why not take the $10 million and provide the school supplies and backpacks that many of these children need or clothing that many of these children need?

This is a bad amendment, adding $10 million when it could be use utilized for a more effective purpose. And might I ask to conclude, Mr. Chairman, that the D.C. Council, the legislative body, has actively opposed this legislation.

Mr. FRELINGHUYSEN. Mr. Chairman, I reserve the balance of my time.

Mr. FATTAH. Mr. Chairman, could we have an audit of the time? We will not have audits of these private schools.

The CHAIRMAN. Each side has 4 minutes remaining.

Mr. FATTAH. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, in his first month, the President called together all Members of the Congress to support a bipartisan education bill. He said that he was willing to do two things: promise additional funding for education of no less than $6 billion, and he was also willing to take vouchers off the table as a part of Federal policy.

Now, we hear the Republican majority sneaking vouchers back onto the table. They are going to reinstitute the drive of the Republican majority to privatize education.

When the Republicans took control of the Congress, there were two former Secretaries of Education who reported to testify at our Committee on Education and the Workforce, Secretary Bennett and Secretary Alexander. They wanted to abolish the Department of Education. And because there was such a public outcry against the abolishment of the Department of Education and against the low profile of the Federal Government in education, Republicans decided to turn that around and camouflage their intent. They pretend now to be advocates of public education while guerilla warfare behind the scenes goes on.

And what we see now is an act of sabotage where vouchers are put back on the table at a time when education reform is already in great trouble. We are in trouble because of the lack of funds. School districts are shutting down early. In D.C. several years ago, schools started late because they did not have money for school construction or they had given money to private industry to do some construction. They had not done it well, and they had to shut down on the basis of safety. Private industry does not solve any problems for education. Enron shows that private industry can get us into greater trouble.

The Republicans have returned to their agenda for long-term privatization of education. This is the opening salvo of their new guerilla warfare. This first strike in Washington is very serious indeed. I do not want vouchers in New York. People do not want vouchers in New York. That is why we have to stop vouchers right now here in Washington.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Chairman TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me just set the record straight here, Mr. Chairman, because they talk about audits of time, there will be no audits of the private schools. That is false. The private schools that participate in this have to go through extensive recordkeeping and comparisons and will go through more when the Department of Education has written their regulations. So that is false.

There are no terrorism schools that currently would be eligible for this money as I read the legislation. So, again, that is just a red herring put up there to try to defend the existing status quo which has produced a failing school system that is depriving tens of thousands of District youngsters the kinds of opportunities that children around the rest of the country get.

I know the gentleman from Pennsylvania (Mr. FATTAH) has an amendment that wants to compare with Fairfax County. Let me make a point. The District of Columbia pays more per student than they pay in Fairfax County or Arlington. If this were a money problem, they would get the money, but they have a school system that when given the money has not been able to produce textbooks on time, was under court order to repair its schools, wasted just last week $59,000 on a phantom contract to a company that does not even exist.

Mr. FATTAH. Mr. Chairman, I yield myself such time as I may consume.

Let me say to the gentleman from Virginia that I think it gives some example of the weakness of the proposal when we have to go to, well, they gave some contract and it is being investigated. The Defense Department has given out contracts that have become fraudulent.

□ 1100

So I do not see us privatizing our Nation's defense because of some malfeasance with one particular contract.

Let us not get into anecdotal situations. Let us deal with the reality, which is the public school system is a public good. It is important to the entire community. It is not just about educating one child; it is about what we see as the need to promote values for the entire community.

When you privatize public education, you create very parochial, selfish interests. This school in Florida in which the principals have now been indicted with these terrorist leanings, this is not some joke, this is not some example of a red herring. This is reality, in the news today about what has happened when the State of Florida provided public dollars to private institutions.

There have been similar scandals in other places around the country, and there will be, I guarantee you, because the majority will probably have its way, when this program gets set up there will be scandals here because of this program.

That is not what makes it bad, because some people will use it improperly. What makes it bad is what it says about the public spirit of our actions, which is that we would rather take 2,000 children and siphon them off into private schools, rather than repair a school system that can provide for 70,000 children, which really should be our goal.

We are going to build 1,500 new schools in Iraq at the cost of billions, but here we are scrapping on the floor of the House about $10 million for the District of Columbia, our capital city. It is a question about what our priorities are. I would hope for the District quality teachers, smaller class sizes, updated textbooks. That is what I believe the solution is, not vouchers.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Chairman TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, let me again just say how much I have enjoyed working with the gentleman from Pennsylvania (Mr. FATTAH) and the gentlewoman from the District of Columbia (Ms. NORTON) on a number of other issues. We have a difference on one issue that we will resolve today on the House floor and then we will go on, and we will be working together on other issues tomorrow.

But this is an important issue; it is important I think to all of us. And this is not dollars to private schools; these are dollars to parents. Because what has happened to the District of Columbia over the years, thousands of District residents have moved to the suburbs so their kids could get a decent education that they could not get in the city. Thousands of District residents send their kids to private schools because the public schools in the city have failed them.

Not one Member of Congress, not a member of the city council, currently has their kids in the public schools of the District of Columbia. They are not good enough for our kids, but they are good enough for the people who cannot afford otherwise. This is a chance to equalize opportunity. That is all it is.

It has been requested by those poor families that came before our committee and testified. They said, We have been waiting for years. They said they are going to fix the system, and 9 percent of our school children are reading proficiently in the 4th grade.

That is the problem, and that is what we are trying to fix, not defend a system that is failing our kids.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself the balance of my time.

In closing, make no mistake about it, Mayor Williams supports what we are doing today. The gentleman from Virginia (Chairman TOM DAVIS) has referenced the editorial in The Washington Post by Mayor Williams and Councilman Chavous and Peggy Cooper. Let me read from it:

"For those of us involved every day in urban education, there are staggering realities that keep us awake at night. Every child who graduates without basic skills or drops out altogether is on a potential pathway to public assistance, to being alienated from the full benefits of participation in society, or, worse, to a life in the criminal justice system."

They go on. They say: "We think that this is an appropriate investment by the Federal Government in the children of the Nation's capital. Without the resources ordinarily provided by a State, the District is more challenged than other cities in its efforts to adequately fund public education and foster innovative reform.

"Our children," they go on, "have endured decades of neglect in public education. But there is hope. We have a reconfigured school board and respected superintendent."

They say, "Despite these underpinnings, parents still want more choices. At town meetings, community picnics, hearings and PTA meetings, we hear the same complaints: I cannot find the right setting for my child, or my child is not flourishing in this environment."

This is a good bill, Mr. Chairman. This is about parental choice, and it is good for the students and children of the District.

Mr. MILLER of Florida. Mr. Chairman, I rise today to offer my strongest opposition to H.R. 2765, the District of Columbia Appropriations for fiscal year 2004.

Many of you may not realize, but this legislation allows DC taxpayer dollars to be used for domestic partner benefits. Any allocation of the DC budget should not be used to fund domestic partner benefits. The family unit—beginning with a marriage between one man and one woman—has been the basic unit of every civil society since time immemorial. I firmly believe that marriage is a legal union between a man and a woman and the foundation for a strong, healthy family.

Studies have proven time and time again that a healthy marriage between a man and a woman provides the fundamental support for rearing healthy children, both mentally and physically. Despite the overwhelming evidence of the benefits of marriage to families and society, the sad fact is that, for over four decades, the welfare system has penalized and discouraged marriage. Allowing domestic partnerships means providing employment, health, or government benefits to unmarried domestic partners. By recognizing the partnership they will benefit from both the welfare system and tax credits, which undermines the sanctity of marriage and government services for those truly in need.

Although I am in opposition to the overall legislation, I urge my colleagues to strongly support the District of Columbia Student Opportunity Scholarship Act. Who should have the right to determine where a child goes to school, the parents or the government? I unconditionally believe parents have this right and are in a much better position than a government bureaucrat to decide what is best for a child. Public schools are government-run and supported by individuals through their taxdollars. Vouchers would allow parents to use their own tax dollars to achieve the means of educating their children.

I urge my colleagues to oppose this bill.

Mr. BLUMENAUER. Mr. Chairman, taking money away from under-funded public schools and diverting it into selective private schools is fundamentally flawed.

This proposed voucher program is part of a larger initiative of the Bush administration to privatize essential services whereever they can. A basic problem is that the experience of privatization shows little evidence of enhanced accountability or performance. In fact, the 10-year Government Accounting Office study of public and privately funded voucher programs found no evidence of test gains for children who participated in voucher programs. Furthermore, the public when given their choice, have repeatedly voted against vouchers and recent national polls suggest no change in that opinion.

Our resources could be much better utilized to fulfill the President's promises. He and the Congressional Republican Leadership has walked away from funding No Child Left Behind leaving nearly $9 billion unfunded mandates throughout the Nation. In the District of Columbia, No Child Left Behind has left almost $50 million in unfunded mandates. It would be a tragedy to further short change public education by encouraging families to leave a system that can work and, unlike the private schools who would be favored with vouchers, our public schools take all our children no matter how needy or troubled.

I support innovation in public schools. Reform and improvement will happen sooner if we focus our attention and resources on our public schools. Rather than vouchers, we should start funding the Federal mandate of No Child Left Behind, the unmet 40 percent special education target, and school modernization. Congress needs to stop making the jobs of public schools harder.

Mr. STARK. Mr. Chairman, I rise today in opposition to this unpatriotic and anti-democratic District of Columbia appropriations bill (H.R. 2765), and in favor of Delegate NORTON's amendment to remove the school voucher program.

As the former Chairman for the Committee for the District of Columbia, I am disappointed that Republican Members are again carrying out their annual assault to force their extremist right wing policies on the District of Columbia—policies that are so extreme that they are unable to implement them nationwide.

I would like to remind the sponsors of this bill that the citizens of the District of Columbia do not want a school voucher program. That is why their elected representative, Delegate NORTON, is offering her amendment to strike this program today. I guess representative democracy is okay for the citizens of Iraq, but not for the citizens of our Nation's capital.

School vouchers do not solve the problems confronting our public schools. At best, private schools can only accommodate a small portion of students' educational needs in the District of Columbia. Nor will private schools—even with limited government financial assistance—ever be affordable to most families. It's simple, if enacted, this voucher program will mean fewer resources for the District's public schools. The $10 million for vouchers today would be far better used to improve the District of Columbia public school system, helping all children in our Nation's capital—not just a privileged few.

The Republicans have not stopped at subverting democracy in the District of Columbia with their school voucher program. They are also prohibiting the city from implementing a locally approved ballot initiative to allow the medical use of marijuana by DC residents suffering debilitating health conditions and diseases including cancer and HIV infection. In addition, the Republican bill maintains the current prohibition on the use of Federal or local funds for needle exchange programs in the District. Finally, the Republican bill prohibits the District from using Federal or local funds for abortions, except to save the life of the woman or in cases of rape or incest.

Like their foreign policy, the Republicans only support democracy in this country when it suits their extremist right wing ideology. The District of Columbia has an elected government that should be able to determine the laws for its residents—just like every state in our Nation determines its own laws. It is past time for Congress to respect the rights of the citizens of the District of Columbia and uphold democratic principles that this country was built upon.

I urge my colleagues to join me—and support democracy—by voting against the District of Columbia appropriations bill.

Ms. WOOLSEY. Mr. Chairman, had I been present, I would have voted "no" on rollcall No. 478. In fact, I am in strong opposition to the Davis amendment.

A sound public school system is the only way we can prepare all our children for the high skill, high wage jobs that will ensure America's leadership in the world marketplace, and will prevent dependency on welfare at home.

Public education is the backbone of our country, including here in the District of Columbia. It is why we are a great Nation. Public education is available to all. It does not discriminate, and, it must be strengthened, not weakened. Yet, there is no doubt that this amendment will profoundly harm DC public education. This amendment takes precious education dollars out of DC's public schools, and gives them to private and religious schools.

The supporters of this amendment act as if vouchers are a magic bullet for DC education. But this amendment doesn't help teachers, or give them more opportunities for professional development. This amendment doesn't build new schools or repair old ones.

That is why I oppose this amendment. Instead, we should all work with parents and educators at home, and work with each other here, to make the DC public schools the best in the world and to make sure that every child in DC gets a first class public education.

In addition, had I been present I would have voted "aye" on rollcall vote No. 479. I would have voted "no" on rollcall vote No. 480.

Had I been present during rollcall No. 463, I would have voted "aye". During rollcall No. 464, I would have voted "no". On rollcall No. 469, I would have voted "aye". During rollcall No. 470, I would have voted "no". During rollcall No. 471, I would have voted "aye". During rollcall No. 472, I would have voted "aye". During rollcall No. 473, I would have voted "no". During rollcall No. 474, I would have voted "aye". During rollcall No. 475, I would have voted "aye".

Ms. KILPATRICK. Mr. Chairman, I rise in opposition to H.R. 2765, the District of Columbia Appropriations for 2004. I oppose the bill because of the Davis, Frelinghuysen/Boehner amendment that seeks to authorize a school voucher program in the District of Columbia.

Proponents of the amendment contend that it will afford options to parents who want to improve the quality of education that their children will receive by providing $7,500 in funds for students to attend private elementary or high schools in the District. The proposal and the amendment are flawed because the District would have a program forced upon it. The members of the city council are opposed to the provision. The residents of the District are overwhelmingly opposed to this measure. Furthermore, I agree with the detractors of the proposal that the funds being proposed could be better used to fully fund public education programs in the District.

The impetus for the amendment is based on a parochial attitude by the authors that they know what is best for the students, families and residents that rely on the DC public education system. This provision undermines the principles of "home rule". I urge my colleagues to support the Norton amendment to strike down this harmful and ill-conceived provision designed to de-fund the DC school system and undermine support for public education.

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in strong support of enacting school choice programs. I watched and supported the development of this plan in the Government Reform Committee and I am very pleased it is before us today.

There are numerous skeptics who claim that school choice plans lack accountability. I disagree with this notion. Each voucher will be held by a parent or guardian who will demand that their child is appropriately cared for and educated. Parents are the ultimate instruments of accountability. To say that vouchers lack accountability is an insult to parents.

Last year the National Assessment of Educational Progress reported the results of thousands of children who took tests to find out how much they do and do not know. From these tests we have learned that over half of the 8th graders in the public school system in this city do not possess basic reading skills.

A maximum voucher of $7,500 would allow children in low income homes to no longer be trapped in deficient schools.

I would like to extend my praise to Mayor Williams, Chairmen DAVIS, BOEHNER, and FRELINGHUYSEN for their determination to provide better schools even when it was not the most popular thing to do.

Today, Mr. Chairman, I cast my vote for the young first grader a few blocks from here who will have the opportunity to excel because her parents had more options for her academic future.

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 2765, the District of Columbia Appropriations Act for Fiscal Year 2004. And I commend Chairman YOUNG for bringing this, the 13th appropriations bill, to the floor.

Under authority granted in Article I of the United States Constitution (section 8, clause 17), this bill appropriates Federal payments to the District to fund certain activities, and also approves the District of Columbia's entire budget, including the expenditure of local funds ($7.4 billion in local funds for fiscal year 2004). Although the vast majority of the funds discussed in this bill are local funds originating from the District of Columbia, I speak today only about the $466 million in Federal funds appropriated in this bill.

H.R. 2765 as reported to the House, provides $466 million in new budget authority. This bill is equal to the 302(b) suballocation for the District of Columbia subcommittee as adopted by the Appropriations Committee on July 22nd. I can report that this bill is consistent with the levels established in H. Con. Res. 95, the House concurrent resolution on the budget for fiscal year 2004, which Congress adopted as its fiscal blueprint on April 10. The bill therefore complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority.

H.R. 2765 contains no emergency-designated new budget authority, no advanced appropriations, nor does it include rescissions of previously enacted appropriations.

The bill is $45 million above the President's request, these increases include $20 million for the water and sewer authority, and an additional $10 million for the District of Columbia scholarship program, $8 million for a unified communications center, and an additional $7 million for public school facilities and the family literacy programs.

In summary, this, the final appropriations bill, comes to the floor in a form that is consistent with the Budget Resolution.

Mr. BEREUTER. Mr. Chairman, this Member wishes to add his support for the District of Columbia appropriations bill for fiscal year 2004 (H.R. 2765) and would like to comment on what is probably the most controversial provision of the measure—the appropriation of $10 million in Federal funds for a scholarship program that would allow certain low-income District of Columbia parents to send their children to private schools.

Although this Member does not support school vouchers because they have the potential to do great damage to many public school systems, this Member believes that the District of Columbia warrants special consideration.

The District of Columbia has one of the most troubled public school systems in the United States. School choice would offer hope to parents and students by giving them the opportunity to select a school that meets their educational needs, while the competition school choice brings would improve the overall educational atmosphere for the parents, teachers, and administrators who continue to work to improve the District of Columbia public school system.

School children in the District of Columbia have been trapped in failing schools for too long. Providing funding for a school choice program would provide certain low-income parents residing in the District of Columbia with the financial means needed to enroll their children in higher-performing schools in the District of Columbia. In addition, the funds these students receive could also be used to pay for transportation, fees, and tuition costs.

The House of Representatives has used the District of Columbia appropriations bill to provide school choice proposals for District of Columbia students in the past. In fact, both the fiscal year 1996 and 1999 District of Columbia appropriations bills, as passed by the House, contained language permitting the use of funds for a scholarship program (although the language was not enacted into law). This Member has supported these efforts in the past and believes it is essential that this appropriations bill contain similar language allowing for a District of Columbia scholarship program.

This legislation would not establish a voucher system; it is a system of scholarships. In a voucher system, the public school money would go with the child to the private or public school that the parents choose for their child. However, under this scholarship program, if a student receives a scholarship and decides to go to a private school, no funds would be taken from the specific public school that the child was attending. Therefore, the Washington, DC, school system would lose no money if low-income children choose to attend private schools with the scholarship money.

Opponents of the scholarship program claim that the District of Columbia public school system overall would lose money under this plan. However, the District of Columbia Mayor, Anthony A. Williams, has indicated he will lead to hold District of Columbia schools harmless, meaning that the public school system will keep more than $16 million in local per pupil aid for the 2,000 children they will no longer have to educate. This idea is briefly mentioned in the September 3, 2003, Washington Post editorial, entitled "Washington's Children Deserve More Choices," written by Mayor Williams; Mr. Kevin P. Chavous, a member of the DC Council and Chairman of its Education Committee, and; Ms. Peggy Cooper Cafritz, President of the DC Board of Education. The article says, ". . . our public schools will not be penalized financially for the loss of students to private or parochial schools." This Member has confirmed the Mayor's "hold harmless" provision with staff at the Government Reform Committee and the Education and the Workforce Committee.

Mr. Chairman, in closing, this Member urges his colleagues to support H.R. 2765.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the order of the House of Friday, July 25, 2003, the bill shall be considered for amendment under the 5-minute rule.

The amendment printed in House Report 108–230 may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $17,000,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further*, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further*, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: *Provided further*, That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia, and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: *Provided*, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

Federal Payment to the District of Columbia Courts

For salaries and expenses for the District of Columbia Courts, $163,819,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,775,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $83,387,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,006,000, of which not to exceed $1,500 is for official reception and representation expenses: and $31,651,000, to remain available until September 30, 2005, for capital improvements for District of Columbia courthouse facilities: *Provided*, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: *Provided further*, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate funds provided under this heading for the Court of Appeals, District of Columbia Superior Court, and the District of Columbia Court System: *Provided further*, That such reallocation may increase or decrease funding for such entity by no more than two percent.

Defender Services in District of Columbia Courts

For payments authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, and payments for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $32,000,000, to remain available until expended: *Provided further*, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $31,651,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $31,651,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Federal Payment to the Court Services and Offender Supervision Agency for the District of Columbia

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $163,081,000, of which not to exceed $2,000 is for official receptions and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $100,460,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $37,411,000 shall be available to the Pretrial Services Agency; and of which $25,210,000 shall be transferred to the Public Defender Service for the District of Columbia: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That notwithstanding chapter 33 of title 40, United States Code, the Director may acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia to house or supervise offenders and defendants, with funds made available for this purpose in Public Law 107-96: *Provided further*, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further*, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection.

Federal Payment to the District of Columbia Water and Sewer Authority

For a Federal payment to the District of Columbia Water and Sewer Authority, $35,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: *Provided*, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

Federal Payment for the Anacostia Waterfront Initiative

For a Federal payment to the District of Columbia Department of Transportation, $4,300,000, to remain available until September 30, 2005, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

Federal Payment to the Criminal Justice Coordinating Council

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

Federal Payment for Capital Development in the District of Columbia

For a Federal payment to the District of Columbia for capital development, $8,000,000, to remain available until expended, for the Unified Communications Center.

Federal Payment for Public School Facilities

For a Federal payment to the District of Columbia Public Schools, $4,500,000, of which $500,000 shall be for a window repair and reglazing program and $4,000,000 shall be for a playground repair and replacement program.

Federal Payment for the Family Literacy Program

For a Federal payment to the District of Columbia, $2,000,000 for the Family Literacy Program to address the needs of literacy-challenged parents while endowing their children with an appreciation for literacy and strengthening familial ties: *Provided*, That the District of Columbia shall provide a 100 percent match with local funds as a condition of receiving this payment.

Federal Payment for a District of Columbia Scholarship Program

For a Federal payment for a District of Columbia scholarship program, $10,000,000, subject to authorization.

Federal Payment to the Chief Financial Officer of the District of Columbia

For a Federal payment to the Chief Financial Officer of the District of Columbia, $10,000,000 for education, public safety and health, economic development, and infrastructure initiatives in the District of Columbia.

Mr. FRELINGHUYSEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT NO. 3 OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. NORTON.

Page 11, strike lines 1 through 5.

Ms. NORTON. Mr. Chairman, this amendment promises to be perhaps the first of three voucher-only votes in this body at this time. The first will be on this bill to remove or strike the funding for vouchers; the second would be the Davis bill, which will try to legislate vouchers onto this appropriation; and, of course, if vouchers remain in the bill, the third would be the vote on the bill itself.

The $10 million in this bill is not a lot of money, and that is really not what this controversy is about. It does not look like a lot until you look at where it comes from and where it is going and what will follow as a result of our vote.

First of all, first let us look at where the money is coming from. This money has come straight out of education. It took a vote in the Committee on Appropriations transferring money from the Labor-Education appropriation over to the District appropriation in order to fund this bill. It came straight out of education for this bill.

So we already see that this is not new money, as has been claimed, that this is money straight out of education, and that is where voucher money always comes from, because there is only one pot of money. Different folks may designate that pot, but there is only one pot of money, and that is where this money is coming from. It is coming from it for the first time, if you vote for this bill and against my amendment.

If you indeed vote to allow vouchers to remain in this bill, it will not go unnoted. I do not know where you were at recess, but I know that every State in the Union is crying about unkept promises for Federal money. The biggest unkept promise is special education, which is taking down education systems in entire States, including the District of Columbia. We promised 40 percent. We have not come close to that.

Then, of course, there is the backlash against the No Child Left Behind bill. That was a bipartisan bill. We are losing folks everywhere because of that unfunded mandate, because there are going to be children that are not going to be able to graduate from high school because the funding to help them prepare for the tests is not there.

As long as there are mandated costs on our States and school districts, it is simply impossible to justify diverting a single dollar of public money to private schools.

Now, I know that there are Members here who voted in committee for vouchers for the District who have never voted for vouchers generally on a Federal bill, because you can do anything on the District of Columbia. You can savage their public schools, as if your States, I would say to the gentleman from Virginia (Mr. TOM DAVIS), did not have such schools in Southern Virginia, as if California, Mrs. FEINSTEIN, did not have the L.A. School District in it. And yet these folks will not vote to have vouchers so that those school districts, sometimes rural, sometimes big city, can have the same treatment as the District of Columbia.

The District of Columbia schools have improved, but you will not find me an apologist for the D.C. government and its problems or for the D.C. school system. I am proud of the fact that scores have gone up for the last 3 years. I am very proud of the transformation schools, where, with extra services for parents and children alike, we now see a breakthrough that no private school and no public school has ever accomplished. These are the poorest children in the District of Columbia. They have the least conscious parents. They have got foster parents, sometimes they have got no parents at all or hardly any parents; yet we have been able to break through because we provided a lot of extra services for the parents and for the children alike.

Private schools and religious organizations will not see a vote for vouchers for the District of Columbia as a vote that can be contained here, and they are going to try to do all they can to make sure it is not contained here. The pro-voucher forces have shown how well-funded they are. They have been into your States, sometimes two or three times, to get on the ballot; and you have turned them back every single time. Not a single voucher referendum in the United States of America has passed. But they keep coming back, because they have got a lot of money, and you see that money on television ads as I speak.

If you want to fund vouchers, do it the way the Washington Scholarship Fund did it. Fund the vouchers through private funds. Do not displace those private funds with public funds.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, make no mistake about it, this amendment would basically take $10 million in additional funds away from the District of Columbia which it badly needs and $10 million away from an educational system, by all accounts, that badly needs additional money so that children have choices as to where they can go to school.

We know, Mr. Chairman, that the Mayor supports this voucher proposal, the President of the school board, the chairman of the Committee on Education and Libraries and Recreation of the D.C. council.

The Mayor has said on school choice, "Despite the steady increases in local funding and other efforts to support our public schools, I have learned firsthand from hundreds of parents who feel there are no practical or easy alternatives for their children within the current systems of public education."

On another occasion, Mayor Williams said relative to school choice, "I was elected by the people of my beloved city and I took the solemn oath to act in what I think are their best interests, even in the face of conventional political wisdom. Today, I believe I have an obligation to represent all the children of the District."

Mr. Chairman, in my capacity as chairman, I have met with many parents who have children in the public school system who support this choice program. They are literally desperate to have this new alternative.

The clearest evidence of the excitement for school choice is in the city's charter school movement: 37 charter schools, 11 on the drawing boards. I had a group representing the charter schools in my office just yesterday saying that they had waiting lists for their four charter schools that they run running at 300 children. So I think there is a lot of desperateness on the part of parents to find alternatives.

I make the point again, Mr. Chairman, that the $10 million in the bill are additional funds for the District above the subcommittee's allocation. The gentleman from Ohio (Chairman REGULA) agreed to transfer the funding from the Labor-HHS bill, and I am grateful for his support of this initiative and the extra dollars.

□ 1115

Eliminating this funding puts the $10 million for the District in jeopardy of being transferred back to his committee and out of the city hands. For these and other reasons, I ask this amendment be rejected and we give the District leadership what it wants. What the mayor has asked for is these dollars and certainly has asked for additional dollars, and I have made a commitment to work in conference for the other dollars for the District school system, as well as additional dollars for the charter school movement.

Mrs. JONES of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. It is very interesting that this committee would say that the mayor and the chair of the school board of the D.C. school systems want this money. What mayor and what chairman of a school board would not want more money? But the reality is that this $10 million should perhaps be going towards adequately funding public schools. Perhaps it should be going towards teacher training so that the teachers in the classroom are better trained to do what they need to do. Perhaps the money should be going towards special education.

But I stand here from a community, the city of Cleveland, that was the test case in the Supreme Court for vouchers. And I stand here capable and able to tell you that an independent study from Indiana University reported that the children in voucher schools are doing no better than the children in Cleveland public schools. I stand here to say to you that instead of parceling out $10 million here and $10 million there, we ought to fund public education at a level that every child in the United States of America is getting a decent education. We ought to be saying to parents across this country that we want you to have the opportunity to fund education in public school systems.

Now, the reality is we keep talking about parental choice. Even in the Cleveland school system case, there was only a choice. All children who did not go to public schools and took a voucher went to Catholic schools. There was no choice. It was either public school or Catholic school. And it is clear in the language of the Supreme Court case that parents ought to have a choice. Let us get real in Congress. Let us get real. Let us talk about funding public education where all children have an opportunity to get a decent education. Let us talk about taking money and improving the building systems. Let us talk about taking money and reducing the teacher-student ratio. Let us talk about making real, making real this piece that we talk to children about, the importance of education, the importance of doing well.

By doing this $10 million voucher program for the D.C. school systems, we are leaving out so many other children that ought to have a decent education. The reality is in these United States the way we fund education based on property taxes does not, in fact, make it fair.

The Supreme Court of Ohio found that the way we fund education in the State of Ohio is unconstitutional because it means that if you live in a community where the property tax is high and the dollars are allocated for property tax for schools, that children in some parts of the State get a better education than children in the other parts of the State.

I say this morning, our job is to defeat this voucher program for the D.C. school systems, to support the amendment of my colleague, the gentlewoman from the District of Columbia (Ms. NORTON) and to support a strong public education for all children.

Mr. BACA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in support of the elimination of these funds and that we put these funds into public schools. Public schools is where we need a fix. We need to fix our public schools. We do not need to take money and resources away from public schools. We want to make sure that every child has an opportunity to learn, that every child is given the same tools that they are given somewhere else.

The answer is not to take those privileged kids and put them into private schools. It is not going to change the system. And many of the kids who are in the public schools will not have an opportunity to go and use a voucher system. What happens to many of those other kids in that area? Have we really fixed it?

I have heard us say, well, our schools are failing, the system is failing. Well, it is our responsibility to fix it. It is our responsibility to train teachers. It is our responsibility to motivate the students. It is our responsibility to make sure that no child is left behind.

Let me state that it is a shame when we go to school and a lot of our children are not learning. There are many of our children that are learning and those who are not. It is our ability and our responsibility to make sure that those students have an opportunity to progress. They want to do the same things that everybody else wants. Let me state that if we take those funds away from public schools, what is going to happen? We take those $10 million and we have kids to which we say we want to prepare them for the 21st century, and they are not prepared because they do not have the tools or instruments because we have taken funding away. This is wrong. This is wrong for the District of Columbia. This is wrong, and it will probably happen to other portions of the States.

Is this what we want? No.

We want to invest in public education. We have good teachers who are out there. We need to give them the funding. We need to give them the tools. We need to give them the motivation. We need to give them the support. They need to know that we stand behind them, that we want to fix the schools, that we just do not want to take the easy answer. Like our parents always said, if you have a difficult time, it is time to get involved and do something about it. Do something that is going to help the schools, not run away. This is just running away from the problem, it is not fixing our school systems.

What happens? As our President said. I want to make sure that we leave no child behind. We are going to leave more children behind because what happens to the student if a student is expelled? Do you think that student is going to be accepted at a private school under the voucher system? Do you think that parents can then take that child and put him into a private school under the voucher system? No. They are only going to take the top of the crop. And what happens to this school system? We still have the responsibility to fund it. We still have the responsibility to make sure the infrastructure is there. Who pays for that? We as taxpayers pay for that, and we are taking money and resources from our schools.

Let me state that this is bad legislation. It is terrible legislation. It should not even be up before us right now. We should be making sure that we spend more money on education, therefore, we should eliminate the funding.

Mr. SCHROCK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the House Committee on Government Reform chaired by my good friend and colleague, the gentleman from Virginia (Mr. TOM DAVIS), I was privileged to hear the debate in its entirety on the subject we address here today, and that is help for the children in the failing District of Columbia public school system.

I do not think anyone in this Chamber, in any capital city, can honestly say that the district schools are good. They cannot because they are not. It is not a question of whether or not the D.C. school system is failing. It already has and everybody knows it. If we are going to ensure the education of the children in this city, we need to provide funding to give at least 2,000 children a way out and an option and a chance to attend a school where they can achieve. That is the very least this body can do for them.

I was in that committee room that day and watched the anguish on the faces of the mothers and grandmothers who were present, and I watched them crying during and after the hearing. They made me more determined than ever to help provide them and their children a way out of this failing school system. One of the young fellows who was there, a 6-year-old named Alonzo Stallans, drew a picture during the hearing that he gave to me a couple of days later. It says, "A good education, a good future," in only the way that a 6-year-old can do it.

He gets it, but not everybody in this Chamber does.

I have had visits from those mothers and grandmothers of these young folks, the most recent yesterday, and they have high hopes that we will do the right thing and pass the legislation for these great young kids. If we do, and we must, we will be giving them a chance at life that most of us were given when we were their age.

What we do here today will change the lives of these young people forever in a very positive way. I hear my colleagues talk about money and fully funding the education system. Let us talk about that for a minute.

If money were any indication of the success of a school system, the boys and girls in Washington, D.C. would be receiving the finest education in America with test scores higher than any students in America. But that is not happening. In fact, the opposite is true. More money is being spent in D.C. per student than anywhere in America and the test results are the worst.

That is an absolute travesty.

These kids need and deserve a way out of this school system. The legislation we pass here today will do just that.

Frankly, I think parents and grandparents know what is best for their children, not the bureaucrats who roam the halls on Capitol Hill.

My wife and I knew what was best for our son and, frankly, he has done great in life.

Parents and grandparents know what is best for their kids. They want out of a school system that has failed them and their kids. Today we are going to fix that. And, frankly, the sooner the better.

We have heard special praise for three people today. I want to do that again. They are D.C. Mayor Anthony Williams, D.C. Council Education Committee Chairman Kevin P. Chavous, and D.C. Board of Education President Peggy Cooper Cafritz for stepping up to the plate and leading the charge for this legislation. That is true leadership. And true leadership on this floor today means that we pass this legislation.

Mr. Chairman, I urge all of my colleagues on both sides of the aisle to give the D.C. kids a good chance at a successful life by voting for this very worthwhile piece of legislation.

Mr. CUMMINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) and to oppose the ill-conceived Davis amendment to add vouchers to the District of Columbia appropriations bill.

Mr. Chairman, not only have the citizens and many leaders of Washington opposed vouchers, but the House has also made certain that our own districts would not have mandated vouchers imposed in its public schools.

I find that very interesting, Mr. Chairman, considering what the last speaker just said. Basically the implication was that there should be local control. It is clear here that we are trying to impose our will on the District of Columbia when we cannot even do it.

We do not accept vouchers in our own districts. Why should we do it here? I think we have to be very candid and honest with ourselves to begin to ask the question, why are we doing this?

In fact, we rejected voucher proposals in the No Child Left Behind legislation in the IDEA bill. The RECORD of this House reflects that voucher amendments have been soundly defeated for years by this House. So I find it interesting that some in the House want to impose a voucher program for D.C., but clearly it is not something that they want for their own districts.

You have heard many Members on the other side of the aisle say that vouchers will help low-income children in Washington, D.C. They may believe the hype that accompanies the debate on vouchers for our Nation's disadvantaged children. But this is what we do know about vouchers: Vouchers drain money away from public schools and leave the remaining children with even less resources, schools like the ones in my district where in one school there were 13 computers for 1,300 children. Where children, just a year or so ago, were reading out of books where Jimmy Carter was still the President. These were honor students. And situations where children can go through high school without ever looking through the lens of a microscope.

Another thing that we know about vouchers is that vouchers do not improve student achievement. I wish they did, but they do not. And let us not be fooled by that. Vouchers offer false promises of choice because private schools have the ultimate decision on which students they enroll.

Of its 42 public charter schools and 15 public transformation schools, Washington, D.C. has the most wide-ranging set of alternatives to traditional public schools in this entire country. Public school choice is the real choice and the only choice program we should support in this House.

Mr. Chairman, I know that every Member of the House wants to provide the best education possible for our children. I believe that investing adequate funds in public schools with access to technology, up-to-date textbooks, and highly-qualified teachers is the correct choice.

The District of Columbia should not be used as an experiment for public school reform.

I urge my colleagues to support the Norton amendment and vote against the Davis amendment. An experimental voucher program in Washington, D.C. will leave too many children behind and harm the city's public schools.

☐ 1130

Mr. JACKSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the gentlewoman's amendment. With 42 public charter schools and 15 public transformation schools, the 70,000 children of the District of Columbia have school choice, with the most extensive set of alternatives to traditional public schools in the country. For this reason the gentlewoman from the District of Columbia (Ms. NORTON) simply believes that any additional public funds should be used to enhance and expand these publicly accountable schools.

The central question before us is whether or not we believe, as a Congress, that every child should have access to an equal high-quality education. Who among us does not believe in this? I have introduced House Joint Resolution 29, a constitutional amendment that crystallizes this premise and that ensures that every child in the United States has access to an equal high-quality education, an idea I think and hope all of us will support.

If we believe that every child in America deserves a high-quality public education, then why are we here today considering that only 2,000 of 70,000 children in the District of Columbia public school system should have an equal high-quality education? If we believe that every child should have access to high-quality education, we should support the gentlewoman's amendment. The District of Columbia has serious problems that need real solutions.

Article I, section 8, clause 17 of the Constitution gives Congress responsibility over the District of Columbia. They do not have a State legislature or a governor to which to redress their grievances. That responsibility includes all of the children of the District of Columbia public school system, not just the 2,000 children that the voucher program in this bill addresses.

Article I, section 8, clause 1 of the Constitution gives Congress the power to provide for the common defense. Yesterday, we found out that the common defense includes $60 billion for another appropriations supplemental bill which includes building schools in Iraq. If we can find the resources to rebuild schools in Iraq, I know we can find the resources to rebuild the schools for all of the children of the District of Columbia and their public school system.

It is clear, Mr. Chairman, that if the proponents of this $10 million set aside for vouchers truly think they will improve the education system in D.C., they would probably also try to fix a broken arm with a Band-Aid. In January 2002, President Bush signed a bill that was supposed to ensure that no child was left behind. If this $10 million is included in this bill, we are ensuring that 68,000 D.C. kids are left behind.

At a time when the No Child Left Behind Act is underfunded by close to $9 billion nationwide and is underfunded by $50 million in the District, does it make sense to try to make up this shortfall with only $10 million that will subsidize private schools and not fix some of the core problems plaguing D.C. public schools?

In conclusion, Mr. Chairman, I urge and support the gentlewoman's amendment. If the gentlewoman's amendment fails, I urge my colleagues to vote against the passage of the D.C. Appropriations bill. If this Congress genuinely believes that every child deserves the right to a public education of equal high quality, then we should fight for it as a fundamental right for every American. A separate and unequal education system in the District of Columbia and between the States is indeed unacceptable for every American.

Mr. FLAKE. Mr. Chairman, I move to strike the requisite number of words.

I am pleased to be here for this debate, and I was pleased to hear the gentleman from Illinois recognize the primacy of our involvement here, that the Constitution does grant the U.S. Congress authority to move on matters such as this for the District of Columbia.

I have found it interesting to listen to the debate and to listen about this amendment in particular. This amendment is based on the premise that no one in the District of Columbia wants to have a voucher to travel to anything other than a public school, and we have heard that argument again and again and again from the other side, nobody wants this program.

On this side, polls are quoted. There were 57 percent, 60 percent, 75 percent, various numbers of people who want to see this program move ahead. I say the only way to settle it is to offer them, and if it is true as the gentlewoman who offered this amendment proposes, that nobody wants these vouchers, then nobody will accept them, nobody will take them. An affirmative action has to be taken for a voucher to be used. They are imposed on no one. They simply have to be used by a parent. So if it is the case that nobody wants them, that the parents of the District of Columbia do not want to have vouchers, this appropriation of funds will have no effect because the money simply will not be spent. But if it is, as is the case as we maintain, that there are parents who do want them, then they will be used. So it is up to the parents.

I found it strange in the hearings leading up to this on the bill that I offered, and then later on the bill that we had before us, both times those on the other side of the aisle stood and said parents in D.C. do not want vouchers, and each time the parents lined up at the back of the room said otherwise. Parents, lined up outside in the hall, said otherwise. I say if my colleagues really believe in choice, that parents ought to have that choice, then let us put this to the test, allow this to go forward. If it is the case that parents do not want them, they simply will not be used; but if they do want them, they will. So it is up to the parents in the District of Columbia.

I applaud those who have helped put this bill together and to put it on the floor today.

Mr. ETHERIDGE. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I will not take the full 5 minutes.

I do rise in support of the gentlewoman from D.C.'s amendment and in opposition to what I perceive to be the latest Republican attack on our public schools.

We hear about all the money spent, but let me remind my colleagues that across this country, roughly, only 7 percent or less are Federal funds, and yet we see now we want to control 100 percent of what goes on in our schools. For people who believe in local control, I feel here that somebody is missing the boat or misrepresenting the facts.

Vouchers are a bad idea. They always have been because they drain resources away from the public schools in this country where 90-plus percent of our children, depending on the States, go to school. They are educated there. And my colleagues do that in favor of private schools, where there is no accountability for the taxpayers' money at a time when we are running huge deficits, the largest in the history of this country, and yet we do not want to fund the public schools.

We are eating our seed corn and ruining our future. Rather than siphoning funds from the public schools, we ought to be investing more initiatives in things like school construction. My colleagues have talked about it. I will not go into detail. Teacher training, if we really want to improve the quality of instruction in the classroom, put the resources out to improve teacher training. Reduce class sizes, provide tutorial help for those children who are behind. Those are proven methods that raise academic achievement.

I can tell my colleagues it has happened. It happened in North Carolina where I was State Superintendent, and it is still happening. It will not happen if we take the funds away and continue to erode public support.

Under the No Child Left Behind, our public schools are forced to do more than they have ever been required to do before, and this administration and this Congress refuses to fund No Child Left Behind because what has that done? That has created a massive, unfunded mandate on our States and our local school units at the very time when they are struggling to make budgets balance. The last thing we should be doing is use this Republican voucher scheme to take public dollars that should be going to strengthen our public schools and putting them in private tuition grants.

I urge my colleagues to support this amendment. And if this amendment does not win, then we should defeat this bill because this will prove, over the long run, to be detrimental to public education in the United States of America.

Ms. HART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and in support of the $10 million that is being appropriated to the D.C. public schools.

The reason that this money is being given to the system is so that we can improve the system. School choice has been shown to improve an opportunity for a child. Each child who has been suffering through the terrible school system of Washington, D.C., is really imprisoned in that District. This money will give these children an opportunity to learn, and I believe that is what schools are for.

Unfortunately, the D.C. public schools have been in crisis, and it is unfair to force children who live in D.C. to be subjected to a terrible education or a lack of an education. Statistics show that a very high percentage of students drop out. They also show that the D.C. schools are ranked lower than every other State in reading or every State in reading and math scores. Students score on the average of 220 points below the national average on the SATs. Seventy-six percent of D.C.'s fourth graders perform below grade level in math and only 10 percent read proficiently by the fourth grade. These problems persist, despite spending more than nearly every school District in the Nation, at least $11,000 per pupil.

It was stated earlier that we were promoting parochial self-interest if we promote school choice in D.C. If parochial self-interest is parents wanting their children to get a real education, then I am all for that, and this is what this will do. It will allow these parents to find a better way to educate their children. If their child is currently in the D.C. schools, their opportunities are really not limitless the way they should be. School choice offers them more opportunity. It will also offer the children who stay in the public schools more opportunity, and it really is dismaying to me that the opponents of school choice do not see this.

Problems in many inner city school districts, such as D.C., are caused largely because of overcrowding too many children in a classroom. For example, school choice will take a number of children out of the public school system. This is true. They will go to schools that are now empty or at least in need of more students. That will allow smaller classes in the D.C. schools. It will encourage the D.C. schools to improve, in fact give them more opportunity to do so, with fewer students and the same amount of money.

So it will relieve overcrowding in the D.C. public schools. It will help the children because the children will have an opportunity to go to a school where they will learn, where they will feel safe in many cases where they may not now.

It is unfair for us, and I think completely irresponsible for us, to waste the learning year of the children who happen to be in these schools now and say, well, we are going to fix the public schools, but if it takes 6 to 12 years to fix them, what happens to those children who are still in the public schools? Nothing good. We need to give them an opportunity to learn now, elsewhere if that is where they need to go, in a place that is more suitable for their education, while we work on and fix the D.C. public schools.

I support this appropriation. I support school choice for D.C., and I hope that we will oppose this amendment.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Norton amendment, and I strongly oppose private school vouchers. No matter the location, the type of program or the amount, vouchers are a bad idea for our children. The Committee on Government Reform approved this amendment by a one-vote, razor-thin margin. Both Republicans and Democrats voted against the D.C. voucher, and I thank my colleagues for their opposition to D.C. vouchers.

Serious concerns were raised about this amendment during committee consideration. I share those concerns and believe it is important that this information be shared with the public.

We know that vouchers drain millions from public education. Any extra money should be invested into D.C. public schools and other public schools nationwide that deserve the majority of our children. Investing in public schools helps us hire more highly-qualified teachers, purchase supplies and books, and repair our schools. Vouchers are not the solution.

Vouchers eliminate public oversight for taxpayer dollars. Unfortunately, as illustrated in Milwaukee, Cleveland, and Florida's voucher programs, vouchers eliminate public oversight, public accountability and have led to cases of fraud and fiscal mismanagement.

Vouchers contradict the accountability reform required by the No Child Left Behind, such as the hiring of highly-qualified teachers and the annual testing and public reporting on student performance. These standards are not required by private schools that accept federally funded vouchers, creating a double standard regarding Federal funding and education.

I would be glad to hear from proponents of vouchers to tell us why we should not have accountability when public dollars follow these children to private institutions. I would love to hear from the other side to tell us why we should not have better accountability.

I offered an amendment in the Committee on Government Reform in good faith, asking that the same standards that apply to all of our public schools also apply to these vouchers. I would love to hear their response.

□ 1145

I urge my colleagues to respect the right of D.C. residents to make decisions of their own in their city. The majority of D.C. elected officials and residents oppose vouchers. The official position of the D.C. school board and city council is to oppose vouchers. If the residents of the District of Columbia wanted vouchers in D.C., their local governance, the school board or city council could create such a program.

Some in this body have suggested that D.C. residents need our permission or Federal money to create a voucher program. That simply is not true. D.C. residents do not need the permission of this Congress. Nor do they need the Federal purse to create a program. D.C. residents just do not want vouchers.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, the gentleman mentioned how we feel about accountability. The ultimate accountability is portability, the ability to move to a different school if you do not like the school you are attending now. That is the ultimate accountability and that is what this provides.

Mr. CLAY. Reclaiming my time, Mr. Chairman, I might respond that we also need accountability of public dollars. When those dollars follow those children to those private institutions, we should also hold them accountable and have benchmarks. Show us where test scores have improved, show us where reading levels have gone up, show us where dropout rates have been lower. That is the kind of accountability I am suggesting.

Mr. FLAKE. Mr. Chairman, if the gentleman will continue to yield, I would advise him that in reading the bill he will see that there are extensive reporting requirements in the bill.

Mr. CLAY. No, there are not. No, there are not. Now, we discussed this when Secretary Paige came to the committee, and he suggested that we do strengthen the language in the bill to have real accountability.

Mr. FLAKE. Mr. Chairman, I would submit that this is real accountability. Portability is the best accountability.

Mrs. MUSGRAVE. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose this amendment.

I have a great deal of interest in education. I have been married to a public school teacher. He taught for 24 years. When I was a graduate of college, I taught public school for a time before I started raising our four children. When I first started being interested in public policy, I ran for our local board of education, and I served there for 4 years before I went into the State legislature in Colorado. One of my committee assignments that I requested right away was the education committee because I feel very strongly that a good education is one of the best tools that we can give a child in order that they might have a successful life.

I have faced the challenges that public school teachers face. I am very appreciative of the job that they do. I am, most of all, however, very respectful of parents. You birth a child, you nurse a child, you get up with them in the middle of the night when they are sick, you try to instruct them on what they should eat, you try to instruct them on how they should behave, you instruct them in the moral arena; but somehow or another when it then comes to education, some people think that parents do not have the ability to make a good choice for their child. Well, of course they have the ability. But most of all they love that child, and they have a very strong desire for that child to be successful.

So who are we, who is anybody to tell parents that they cannot make a choice for their child? And as parents, one of the things that we want to do is we want to have hope for our child's success. We all know our children have different learning styles. Even within a family, children are very different; and parents make various choices for the different children. And I think that we should trust parents to know what is best for their child. I think that we need to empower parents to make an educational choice for their children.

Again, a quality education is one of the best things that we can give a student. It empowers them to make choices in their life. It empowers them to have a realization of success. I think that when parents are seeing their children fail in a school that it is very important that we empower them to make a selection for their child that will give them hope, that will empower them.

When I was on the school board, when I was a teacher, when I was involved in my children's education, one of the things that the educational community continually asked for was parental involvement. Everybody knows that one of the best predictors of a child's success in education is the involvement of their parents. Let us let these parents in D.C. be involved in their children's education.

Mr. BELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the amendment, hopeful that we will pass the Norton amendment and not engage in what I think most charitably can be described as a giant cop-out. It saddens me that we have reached a point in this Nation's history when so many people simply want to throw up their hands and suggest that the only way that we can solve the problems facing public school education in the United States is to send more and more children to private schools, forgetting that what has separated the United States of America from other countries throughout the world is the fact that our forefathers made a commitment to public school education, deciding that children, regardless of financial status, would have free access to a quality public school education.

I serve on the Committee on Government Reform. I listened to the debate there, and I am listening to the debate here. It is very similar, where once again the proponents of this voucher measure suggest that the only way to give parents in Washington, D.C. choice is through private school vouchers. Mr. Chairman, that is simply false. And if my colleagues do not believe me, all they have to do is look at the D.C. public school Web site, where it talks about the out-of-boundary policy, the out-of-boundary application process, discretionary transfer, is for parents or guardians who wish to apply for permission to enroll their children in D.C. PS schools other than their neighborhood school.

The Washington Post, May 20, 2003: "Throughout the Washington area there are multiple options for parents seeking alternatives to traditional neighborhood schools." The Federal No Child Left Behind law stipulates that if a neighborhood school underperforms for 2 consecutive years, parents may transfer their child to another school. D.C. is doing it the way it should be done, by offering parents a choice through the public school system.

I can say that that is the way it is to be done because I come from a city, the city of Houston, that improved its public school system by using public school choice and other measures, a city where in the 1980s many wanted to throw up their hands and say you cannot afford to send your child to the Houston Independent School District; you have to send your child to a private school so that they can get an adequate education. But some community leaders, thankfully, were not willing to accept that argument. They were not willing to simply cop out and throw up their hands. They decided we had to do something about our public education system, so they did implement programs like public school choice and charter schools and called for more local control.

So much improvement has been seen in the Houston Independent School District, so much improvement that a Republican President, George Bush, decided that the superintendent who had overseen most of that improvement, Rod Paige, should serve as the Secretary of Education in his administration. And private school vouchers had absolutely no role in the improvement of Houston public schools.

Then we hear the argument that moving money out of the D.C. public schools and into a private school voucher program will have no real impact; that money does not really play a role in the performance of public schools. How ludicrous is that? Schools, teachers, books. Everybody realizes they all cost money, a lot of money. And there are no private schools that I am aware of who are asking for less money. They are constantly asking the parents of their children for money, and they are constantly calling on private foundations for more donations.

So let us not pretend this voucher bill is not going to have a profound financial impact on D.C. public schools, and let us also not pretend, let us also not pretend that this voucher measure is just about D.C. schools. Because I have listened to that argument as well; that this is a D.C. problem and let D.C. try this because it will not impact anyone else. If I truly believed that, perhaps I would not feel so passionately about this measure, but I do not.

I do think this will start us on a slippery slope. And I hate that argument because it is used and abused here. And there is no one in this Chamber who cannot look at a mole hill and see a mountain instead and suggest that with every issue we are starting down a slippery slope. But in this particular case I do believe that is what we are looking at. I think the proponents of vouchers in this Nation, seeing that they had failed in passing vouchers in any sort of broad-ranged manner, want to do it on an incremental basis starting with D.C., and trying to gather some favorable statistics, like you can always do, and then spreading it from State to State, city to city, until finally we have more and more children enrolled in private schools.

Mr. Chairman, that brings me back to where I started, a cop-out, a giant cop-out, the wrong road to go down, a path that I hope we will not start on here today.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we stand here today with the opportunity to join Mayor Williams, the President of the D.C. School Board, the chairman of the city council's education committee, and numerous parents who are all excited about the opportunity for Congress to provide $10 million in an innovative pilot program for education in D.C.

Educational equality for all of our children regardless of their family's income is a fundamental principle of the American education system. However, too many low-income families find themselves in a position where they are unable to send their children to the school of their choice simply because they are poor. Families living in poor neighborhoods are unable to make the education choices that many of us can afford to make for our own children when we buy a house in a suburb with high-performing public schools or send our own children to private schools.

The D.C. choice pilot program offers hope and empowers parents and students in the District of Columbia by giving them the opportunity to select a school that meets their educational needs while the competition school choice brings will improve the overall educational atmosphere for the parents, teachers, and administrators who continue to work to improve the public school system within the District. This debate today should be about doing everything we can to better educate all of our children.

In 1996 and 1997, the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce embarked on a project called Education at a Crossroads. We went around the country. We talked to parents, we talked to teachers, and we talked to administrators.

Now, people say that we have to focus on improving public education, and we are doing that; and we are investing significant dollars both at the Federal level and at the State level to make that happen. But I still remember the father who came to me in New York City and said, they are just embarking on another 5-year plan. He had a 7- or 8-year-old son with him. He said, you know, a few years ago they embarked on a 5-year plan, and I had hoped that my son would be going to a better school. The schools are now as bad if not worse than what they were 5 years ago. And now they are embarking on another 5-year plan, where we are not guaranteed or we do not really know what this 5-year plan will bring, but I do know what it will mean for my son. If it is no better at the end of this next 5-year plan than it was at the end of first 5-year plan, the product that we will lose is my son. My son will have been in schools that did not help him learn what he needed to learn to compete. Please give me the opportunity to send my son to a high-performing school.

In D.C. last summer we had the opportunity to meet with the parents of the D.C. scholarship program who are enthused and excited about the opportunities that they had had to make decisions for their children, to get them in a school that enabled their children to get the education that they needed, and they saw dramatic progress. I laugh about the accountability, saying we have to put in the accountability standards so that these schools will be accountable to an education department down on Independence Avenue. All we have to do is look into the face of the parents in New York City, in Cleveland, in Detroit, or in Washington, D.C. and you can see that the accountability that we need is not to a bureaucrat in Washington, not to a bureaucrat in one of our State capitals. The accountability that we need is of a school district to a parent. A parent sees and knows what is happening with their child each and every day.

This is about giving D.C. the chance to experiment with this change so that low-income children in our Nation's capital can get a better education now, which we all know is a critical predicate for their future success in life. It is exactly what the parents in the park told us last summer.

□ 1200

This debate has been sidetracked by political ideology, and in the process we are further condemning the students in the District of Columbia to an education system that has left a majority of its students nonproficient in reading and math. It has left these students behind.

I urge Members to support the D.C. appropriations bill and to oppose the Norton amendment on this legislation. Many parents in D.C. cannot afford any other choices for their children, and we have the opportunity today to make $10 million available, and allow 7,500 families who are on the waiting list for this possibility to truly choose what will work for their children.

Mr. DAVIS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Norton amendment. There has been a lot of conversation today about whether this $10 million somehow takes money away from the public school system. There has been a lot of discussion about whether making an investment in vouchers drains resources away. I think that is the wrong focus, with all due respect to some of my colleagues on the other side of the aisle, because regardless of whether we are taking money away from one pot and putting it into another, let us make no mistake about something that we are doing: We are taking and subtracting credibility from the public school system.

If we have a vouchers game anyplace in this country, we are implicitly saying to that community that the public school system is not good enough. What is the consequence of saying that? I happen to have come primarily from the public school system in Birmingham and Montgomery, Alabama. There are some of us who remember a time in this country when the public school system had a very unique role. It was, number one, the one instrument that we had that brought people together from different classes and different walks of life. You could have someone who was the son of a CEO at a bank sitting next to someone who came from the wrong side of the railroad tracks. The public school was once a civic institution in this country.

For a variety of reasons that are beyond the scope of this debate, that kind of civic pride in our schools has been drained away. For a variety of reasons, we have lost confidence in the public school system in this country; but the challenge is what do we do about it.

The proponents of vouchers tell us we can simply give people a chance to opt out. The proponents of vouchers say we can simply allow people to walk away from the system and that we can treat our public schools like a failed Wal-Mart or a failed BP or a failed Shell gas station; if it closes down, people can go someplace else.

Mr. Chairman, I would submit we are a stronger and a better country if we continue and we sustain our exclusive public investment in a public education system. I do not think that we can drain away a commitment from the vast public purpose of education in this country without having an enormous consequence to where we stand as a Nation.

It is true that we are 13th in the industrialized world in math and science scores. We rank number 15 in civic scores. The problem is that we are not making the kind of investment, either in terms of resources or in terms of community commitment, in our public schools that they deserve. Make no mistake about it, if we endorse this back door, if we open up this back door to vouchers, we are degrading and we are cheapening our public schools.

I have heard a lot of attacks from the other side of the aisle about how bad the public school system is in D.C., and I would venture that a lot of the speakers, if they were asked the systems in their cities, would probably come forward and launch the same kind of attacks. The families of this country are listening. The people who are struggling to teach in our schools may be busy right now, but they hear about these kinds of debates. And we ought to understand something: Teaching is an enormously honorable profession. Public education is an enormously honorable civic endeavor. But you do not walk away from civic endeavors, you do not create a private back channel to civic endeavors.

I urge my colleagues to support the Norton amendment because it is a very important symbol. I agree with the gentleman from Texas (Mr. BELL) that this is an effort, it is the beginning of a slow effort to introduce vouchers into the public mainstream. It will be D.C. today. Next year, it will be a request that we have 5 target cities around the country, and then it will be a request that we have 10 target States around the country. This is very much where the administration wants to go.

The problem is that I am not prepared to abandon our public school system until we have made a stronger and better commitment. As one of the speakers on this side said earlier, only 7 percent of the money that goes into education comes from this budget and this appropriations process. We cannot let this system go anywhere in our country until we have done more and made a stronger and better commitment.

Mr. Chairman, I ask my colleagues to oppose vouchers for D.C. and to keep the credibility of the D.C. school system intact and to keep the civic institution intact.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Norton amendment and in support of the bill. I want to begin by thanking the gentleman from New Jersey (Mr. FRELINGHUYSEN) and my colleague and friend, the gentleman from Virginia (Mr. TOM DAVIS), for really taking the initiative. He did not have to do this, and he is doing this. This is very, very important.

I have five children. I am a product of public schools. All of my kids have gone to public schools. I worked for probably only one of a few Members of Congress, Congressman Pete Biester, who had a child in the District of Columbia schools. There are no Members in this body that I know of that have any of their children in District of Columbia schools. Many are in private schools, many are not here, but they are not in the District of Columbia schools.

My daughter Virginia taught in the D.C. public school system. She worked for 4 years at the Community of Hope up at 14th and Belmont. She can tell Members what the conditions of the public schools are. I think as the gentleman from Virginia (Mr. TOM DAVIS) said, if D.C. needs more money, offer the amendment and we will support it. But for these 1,000 children, that is their opportunity to get out. Everyone knows, Members know if you had not had that opportunity to have that education, you may not have gotten out. All of us on both sides of the aisle may have been in that condition. It is a way out.

I want to commend the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Virginia (Mr. TOM DAVIS), but particularly Mayor Williams for his leadership. I went to John Bartram High School, and the gentleman from Pennsylvania (Mr. FATTAH) knows where that is, on 67th and Elmwood Avenue. Education was my way out of there.

My dad was a policeman with a sixth-grade education. Education got me my way out. Why is it not good for those 1,000 families that are going to get their children out of there? Sometimes going into the schools, as the gentleman from Michigan (Mr. HOEKSTRA) discussed, and in talking to the parents, they tell us their kids may be beaten up and they may have problems.

Let us help the schools. Offer the amendment and do what you can.

I want to commend also Senator FEINSTEIN and Senator BYRD. Senator BYRD is a statesman, and I commend him for his leadership. He understands. I also commend Mayor Williams because it is tough to break sometimes with your party. I know sometimes we get locked in over here and we do not want to leave, but he did. I commend Kevin Chavous for the leadership to break with the city council and do what he did. They have provided the leadership for 1,000 boys and girls.

If you are a father and you know your kids are not getting an education, if you are a mother and you know they are not getting an education, do not tell them, wait, we are going to improve the schools next year, we have a 5-year program, because if they are 7 and 8 and 9, we may lose them.

This is not to expand a program all over the country. The gentleman from Virginia (Mr. TOM DAVIS) has probably done more to help the District of Columbia, working with the gentlewoman from the District of Columbia (Ms. NORTON), than any other Member of the House. This is to help. This is to help 1,000 parents to have an opportunity to educate their children.

I strongly urge defeat of the Norton amendment, and I again thank the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Virginia (Mr. TOM DAVIS) for their leadership, because in 1,000 homes this year and 1,000 homes next year, they will really make a difference, and help some of the kids to be educated. Come back next year and offer the amendments to beefup the District of Columbia schools. I give my commitment. I will support it; but let us today support this bill to help those 1,000 kids.

Mrs. DAVIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask my colleagues, where are these 1,000 slots in our private schools? I rise in support of school choice in the District of Columbia, but public school choice. The District of Columbia, as we know and as Members have spoken to, has been a national leader in supporting charter schools to provide alternative choices for its families.

In 1996, the D.C. Council passed the Public Charter Schools Act. That launched this decision as the best method to improve the public schools. Not only have they instituted a large number of charter schools for the District of Columbia enrollment, but they have also supervised these programs and they have closed those charter schools that have not been successful.

I support the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) to back this local decision. If the majority wants to appropriate additional funding for children in D.C., let the sum be appropriated to increase funding for the charter schools, to expand that program so that charter schools can have the resources needed to provide adequate and safe facilities as well as the programs of choice.

Mr. Chairman, I believe we must support D.C.'s children, but we can do that by continuing to support successful alternatives in the public school system.

Mrs. MILLER of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been struggling with this issue, and unlike so many other Members of this House who have had a position either for or against the voucher issue, in Michigan we actually had a statewide voucher proposal initiative on the ballot about 2½ years ago and it was defeated. I voted against the voucher initiative.

All of the arguments that are being advanced here today were part of our debate in Michigan. They were part of the debate in the Committee on Government Reform, on which I sit: Concerns about cherry-picking students where the private schools have their very high standards and the smart ones are picked, but the slower ones may be left behind. Concerns about religious schools where by taking tax dollars, suddenly the government begins to enforce certain requirements. And it is the old saw: Once you take the shekel, the shackle will follow.

I am a product of public education. I believe in public education. My grandmother was a schoolteacher in the public education system for almost 40 years, and I believe that public education has been the backbone of America. The educational opportunities may vary, but at least everyone has a chance at an education.

However, this proposal is quite different, quite different from what happened in the great State of Michigan. In our State we were talking about a Constitutional change, and it would have affected literally every school district, even those considered blue-ribbon schools. This proposal only deals with the D.C. schools, which by any definition are almost the worst in the Nation.

Quite frankly, I cannot imagine how it can get any worse, and I cannot turn my back when so many parents are literally on their knees begging for a chance for their children. I feel the D.C. case is an exception. First of all, the schools are not forced to participate. Secondly, we are assured by this legislation that we will be closely tracking the progress of this program to benchmark progress and to ensure scrutiny and oversight.

Where our referendum in Michigan would have actually made the voucher proposal permanent by changing our Constitution, this proposal in D.C. is temporary, and it must show marked improvement in order to be reauthorized after 5 years. The elected leadership wants it. The mayor has spoken out. I think if we are truly compassionate, we must support this proposal and give these children a chance.

Some are saying that we are voting for choice, and I say we are voting for chance. Give these children a chance.

□ 1215

Ms. KILPATRICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too am from the State of Michigan and, yes, our State did turn down the voucher proposal as did this United States Congress and other States around the country. Over 90 percent of America's children go to public education. If this Congress really wanted to fix public education, we could do that. I support the Norton amendment because it is about home rule, about the people of each jurisdiction deciding as Michigan did, as this Congress did for the country, that they did not want vouchers.

I support all forms of education, but public money for public schools. That is what our Constitution says and that is what most State Constitutions say, as well as our country. If we really wanted to help the D.C. public schools, let us help all 70,000 students. How do you pick 2,000 out and say, okay, we're going to do it for you but not for you 68,000. If we, the United States Congress, are overseers for Washington, D.C., unfortunately, why not take all 70,000? How do you pick 2,000 of what some have described as one of the worst systems? I do not know about that, either, if it is the worst system. What is worse and what is bad is that this Congress, this United States Government, does not fund public education adequately where 90 percent of America's children attend.

Education is the difference between success and failure in a person's life. The budget is $2.2 trillion; $800 billion of it is discretionary. If we had the commitment for these 2,000 children, just think what we could do with the 70,000 with that $750 billion discretionary budget that we have. Do not fool ourselves. There is only one pot of money. When you take money from this end, as we are doing for the 68,000, it does not make it better. It destabilizes public education.

I am a teacher. I am a parent. I have been in institutions of higher learning. I know when children, and you all know them, are bright, wide-eyed and bushy-tailed at 3, 5 and ready to go, they can be taught. All children can be taught. Someone said earlier, some kids are not teachable. I do not believe that. I think God created all of us equal and that all children can be taught in adequate schools that have trained teachers and the technology of today. And the commitment from not just the city, not just the State but, yes, this United States Congress should do what is right.

I want to congratulate the gentlewoman from this District. She fights very hard and in very difficult circumstances as this United States Congress does not allow her to represent her people who have spoken, irrespective of what the Mayor does, and I respect his opinion, but many people in the D.C. District and its city council and its school board have spoke loudly, they do not want vouchers. If you are going to save this District, they say save all 70,000 of us and help us in that vein.

In Michigan, we voted down vouchers. Other jurisdictions voted down vouchers. Public money for public schools. Let us teach our children. Give them the opportunity they need to succeed in this world. They do not need to be 2,000 against the 68,000. In D.C. if you are going to have a United States Congress, let us do it for all 70,000. How do you pick 2,000 out of that? I think it is despicable. I think the people of D.C. have spoken. What we must do as a United States Congress is reinforce our children and provide for them the best education that they can have wherever they go to school. In Taiwan, they spend 70 percent of their Federal budget on education. In the United States we spend less than 2 percent of our Federal dollars on education. There is something wrong with this equation. It is not the D.C. community, it is not the District that is bad, it is not that the children are not performing. It is that this country has not made the commitment yet to God's children in this country to give them the very best that we can offer.

I commend the gentlewoman from the District of Columbia. I hope this Congress will support her.

Ms. WATSON. Mr. Chairman, I move to strike the requisite number of words.

I rise in the strongest support of the Norton amendment. I have listened very closely for the last hour and a half and I have heard very few people who are in opposition to this amendment support public schools. I heard them admit to the disaster that public schools are here in Washington, D.C. We invaded Iraq and it is costing us a billion dollars a week. The White House is going to come here and ask for multibillions of dollars in just a few days. Why does this coalition that is in so much support of the vouchers here, that will only address 2,000 students out of 70,000, not ask that we put money into what you consider a broken school district? We are going to go and build up the school system in Iraq, the health care system, the infrastructure, and you will not do that for the Washington, D.C. schools, where the seat of government operates? I am appalled. And you want to cut and run.

We already know that the D.C. schools are suffering from a $40 million budget cut and a $100 million shortfall. Why do you not argue and support more money to fix all the schools, because we indeed will leave all of our children behind. Two thousand students going into private education is ludicrous. If you really believe that education is the way and you have that commitment, then argue for additional dollars for the D.C. school district. The Mayor is only one person. The city council has a letter on hand that says they do not support the D.C. voucher program. And why? Because it will siphon money away.

Do not treat us like we cannot add and subtract. If we take $10 million to put into the private sector, that is $10 million away from the public schools. I urge my colleagues to support the gentlewoman from the District of Columbia who has worked so hard, who is the heart and the soul of this district and cannot even vote. So we must vote for her. Let us save our schools. Let us save all of our children and not cherry-pick 2,000 children for private education and send those public dollars into the private sector.

I strongly urge my colleagues to support the Norton amendment and remove the funding for vouchers in D.C. that will only shortchange our teachers, our students, and our schools. Let us improve all of the system.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been in public life 30 years. I used to strongly oppose vouchers because I believed the arguments that we have been hearing in opposition without really frankly thinking them through. And then I opposed vouchers because I did not want to lose the support of the Connecticut Education Association and the local education associations because they opposed the concept of allowing our young people to have choice. But it started to really bother me because I felt that my opposition was based more on politics than on sound educational judgment.

I really believe that it is important to give choice to parents. I really believe that you have a better public education system if you give choice to parents. I really believe that the argument that we would be taking away from the public schools does not add up. If you do not have students in a public school, you do not have the expense of having those students in a public school to have to provide an education for. And every voucher system I have seen and every choice system I have seen spends less on the student in a private setting or parochial setting than it spends if they were in the public school system. So the school systems in the public sector gain from it. They do not have to educate that student at a cost greater than the amount of money that is being given to the private or parochial school.

Another factor that impacts me is that I always hear politicians, of which I am one, and proud to be, talk about the need to make sure that we do not have choice in public schools and a number of them send their kids to private schools. I have never quite understood this issue between rich and poor. My colleagues on the other side of the aisle sometimes say that we on the Republican side of the aisle want to focus on the wealthy and not those who do not have wealth. Yet we are giving those who do not have wealth an opportunity to do what rich folks do, but somehow then it is not allowed. I strongly oppose taking this money out. I strongly oppose the Norton amendment.

I strongly support what the gentleman from Virginia has done. I am very proud of what my chairman has done. He recognizes that in Washington, D.C. the government, the Federal Government, functions like a State functions. We have an obligation to improve the school system in Washington, D.C. We spend a fortune on schools in Washington, D.C. We give hundreds of millions of dollars to the Washington school system. We are not shortchanging the Washington school system as is implied by some. We are merely saying, why not try out $10 million extra dollars, and they are extra dollars, they would not be in the budget unless they were for this program only, and see its impact.

I have come to the conclusion that the opponents of choice, the supporters of the Norton amendment and the opponents of the Davis amendment, fear one thing. They fear that it is going to work. They fear that their arguments against this program simply will be found to be fallacious.

I have another sense. It is such a small amount relatively, why not give it a chance? Let us say I am wrong. Let us just say others of us are wrong. But the bottom line for me is I believe in accountability, I believe in choice, I believe in contrast, I believe in having different models in play to see how they work and what works. And I would like for the poor people, those with the least amount of resources in Washington, D.C., to have some of the same choices that some of the wealthy folks in Washington, D.C. have. Oppose the Norton amendment. I support strongly the Davis amendment. I thank him for offering it.

Mr. Chairman, I rise in strong opposition to Congresswoman NORTON's amendment.

We all know too many kids in our Nation's capital are not getting the education they need and deserve. Many students in the District lack basic language and math skills. Standardized test scores remain stagnant for D.C. public schools, and the average SAT score is more than 200 points below the national average. Additionally, the National Assessment of

Educational Process just released a study which showed the District's school children were ranked as the worst readers in the country.

The D.C. Choice Program would provide scholarships of up to $7,500 to eligible students to cover the cost of tuition, fees, and transportation expenses. These scholarships are assistance to the students, and not the schools. And because all funding for the scholarship program comes from new funds, no public, private or charter school will be drained of its funding.

It is time to give parents of these children what every parent wants—the opportunity to give their child the best education possible.

I urge my colleagues to vote against this amendment.

Mr. Chairman, I rise in strong support of Chairman DAVIS' amendment to a School Choice program in D.C.

Too many kids in our Nation's capital are not getting the education they need and deserve. There is little doubt that D.C. public schools are in serious crisis, but it is not a crisis by a lack of resources. D.C. public schools spend more per pupil than surrounding school districts in Virginia and Maryland. Clearly, alternatives to increased funding should be tested. By promoting a competitive model, all schools will be forced to improve academically, provide better quality services, and create an administrative structure that operates efficiently.

I oppose directly spending federal tax dollars on private schools. But, just as I support providing Pell Grants to college students for use at the university of their choice—public or private, including religious schools—I also support school choice programs that provide parents with similar choices for their elementary and secondary school children.

Opponents of school choice argue such a proposal could drain public schools of money and students. I think they're dead wrong, but there's a simple way for us to see. Why not establish a handful of demonstration projects that will help determine whether school choice improves our education system? If the projects are unsuccessful, we will terminate them. But if the programs are successful, they can and should be expanded.

The D.C. Choice Program would provide scholarships of up to $7,500 to eligible students to cover the cost of tuition, fees, and transportation expenses, if any. The scholarship would be considered assistance to the students and not the schools. In order to ensure accountability, an evaluation would be conducted that would consider the impact and academic achievement attained by the program.

The goal of school choice in the District of Columbia is to be an addition, not a subtraction. We all want the District's education system to improve, and this amendment will provide what every parent wants—the opportunity to give their children the best education possible.

I urge my colleagues to support this amendment.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Norton amendment, in opposition to vouchers as is evidenced also by support of the League of United Latin American Citizens, one of the largest national Hispanic organizations in the country in opposition to vouchers.

Mr. Chairman, here we go again. School districts across our Nation are burdened with large unfunded No Child Left Behind Act mandates at the very same time when school budgets are being cut because of the weakness of the national economy. And what is the Republican plan to solve this? Vouchers.

That is right; the Republican leadership is in effect using the District of Columbia as a testing ground for a policy that they dare not test on their own constituents.

And they're doing this against the will of the majority of the city's elected officials and residents, who argue that vouchers violate home rule and siphon much-needed funding from D.C.'s public schools.

Like most of our districts, D.C. is experiencing huge cuts in its public school budgets because of the weak economy. In fact, this year the District's schools are facing a $40 million cut. If Congress imposes vouchers on the city, an additional $25 million in federal and local per pupil funding will be lost. That is a heavy price to pay for unwanted and unnecessary vouchers.

Mr. Chairman, I would hope that all of us here can agree that all students in the District of Columbia's public schools deserve a quality education, but voucher plans most certainly do nothing to accomplish this. Instead, voucher plans constitute just one more drain on public funds—away from the public schools where they are really needed. Even Mayor Williams conditioned his support for vouchers on providing more money for public schools, which this bill does not.

Earlier this week, I sent to my colleagues a statement by the League of United Latin American Citizens (LULAC) opposing private school vouchers and highlighting their belief that more funding for public schools is needed. As Rick Dovalina, the National President of LULAC, stated, "As it is, we don't believe current resources will be enough to meet the No Child Left Behind Act's goals."

Instead, vouchers will send these much needed funds to schools that do not have to meet the accountability standards established by the heralded and greatly under-funded No Child Left Behind Act.

As some of you may know, D.C. officials and residents already have their own options to traditional public schools, including a large number of charter schools, transformation schools, and out-of-boundary school attendance.

Mr. Chairman, we would all insist that the decision of our districts concerning our own children and schools should be respected. The decisions of the majority of elected officials and residents in the District are entitled to the same respect. I urge all my colleagues to vote against the imposition of vouchers and in support of Congresswoman NORTON's amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Norton amendment and in strong opposition to the D.C. Davis voucher amendment for education. I am not against the Davis amendment because it only affects a small number of students. I am not against it because it is supposed to be experimental. I am not against it because it was introduced by my namesake and chairman of the Committee on Government Reform, a committee on which I serve, for he is indeed an honorable man and I respect and appreciate his leadership.

However, Mr. Chairman, my father used to tell us that fool me once, shame on you; fool me twice, shame on me. And when I hear my colleagues and others talk about the great gift that this is to the poor children and the disadvantaged children of Washington, D.C., I am reminded of my mother who used to tell us to always look a gift horse in the mouth. And when I look at this voucher gift, I see a trick. I see subterfuge. I see us backdooring our way into further destabilization of public education. I see us undermining the principle that all children should have the right and the opportunity to get a good common school education. And since there is so much wrong with public education, since there is so much wrong with public schools, let us fix it and let us fix them.

Instead of trying to voucherize our way out of failing situations, why do we not fix the schools that we have got? Why do we not fix old, dilapidated and crumbling schools? Why do we not pay teachers an adequate and decent salary? Why not adequately prepare teachers so that they can really know how to teach? Why not put adequate materials in classrooms? Why not provide equal funding for all of our public schools so that every child will have an optimal opportunity to learn, to develop, to achieve, and to excel?

Yes, Mr. Chairman, fool me once, shame on you. Fool me twice, shame on me. I am afraid that this amendment will become part of a sinister plot to undermine public education. This is part of a message to those who want to isolate children and take us back to the dark days of segregation and unequal opportunity. This amendment is like manna to those who want to disorganize teachers and bust unions.

□ 1230

Yes, it is D.C. today. It is Chicago tomorrow; St. Louis, New Orleans, Los Angeles next week. Then it is all over America. And so Mr. Chairman, the message of this amendment goes far beyond Washington, D.C. and it is not good for America. I urge that we take into consideration the needs of all the children, and if we are serious about the children of Washington, D.C., then we should be serious about the children all over America and adequately fund public education so that every child has his and her opportunity to achieve.

Ms. LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to oppose the voucher provisions that poison this D.C. Appropriations bill and to support the Norton amendment. If we pass this bill without the Norton amendment, we will be approving vouchers at the Federal level. We will be paving the way for the demise of our public education system, and we will be hampering our students' ability to succeed.

In short, we will undermine what is really one of the fundamental pillars of American democracy, a top-quality free public education that is a fundamental right for all American children. Privatizing public education is not the American way and you know it. It is wrong to be redistributing Federal money to private schools when public schools are facing teacher shortages, record-high student enrollments and dealing with subpar facilities and infrastructure. And yes, we must help rebuild schools in Iraq, but we must also invest in our own public schools in our own country.

This bill will also compromise the civil rights of our students. Even though vouchers would provide public money, private schools are not bound by civil rights provisions that govern our schools. Private schools can discriminate in admissions and employment on the basis of religion. Moreover, if we do give this money away, we lose the ability to account for the spending of that money. If voucher schools do not adopt academic standards, provide highly qualified teachers, or administer the assessments required of public schools, we have no recourse under this proposal.

Perhaps this explains why there has been so little success with voucher programs. Every serious study of voucher programs has found that vouchers do not improve student achievement. Objective studies funded by the Wisconsin and Ohio legislatures have found that voucher students perform no better than comparable students in other public schools.

The bottom line is that for every dollar we put into vouchers, we will be draining, draining, our public schools of the very life blood that makes it possible for us to have schools at the highest possible level, schools that educate all young Americans. And we will be putting lots of dollars, $10 million for the District, and that is just a start. If we ever went to a national voucher program, of course, which this sets the stage for, one estimate claims that it could cost about $73 billion. And that is just wrong. Instead of diverting money to private and religious schools, we must demonstrate a stronger commitment to safer schools, smaller classrooms, higher standards, technology and more accountability of all. That will benefit the public school system and it will not bankrupt it. We must put resources into our low-achieving schools so that they become high-performing schools. So I urge the Members to vote for the Norton amendment, and I thank her for her leadership. And I urge the Members to vote against the bill if it retains, however, the voucher provision which jeopardizes the future of public education.

This bill, with the voucher provision, really could be the beginning of the end of public education not only in the District of Columbia but in our entire country.

Again, I thank the gentlewoman from the District of Columbia (Ms. NORTON) for bringing this forward, and I urge support of her amendment.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentlewoman from the District of Columbia and in opposition to the imposition of vouchers on the people of the District of Columbia.

The facts are my colleagues, according to the National Coalition for Public Education, that vouchers are neither needed nor wanted in the District of Columbia. The majority of D.C. elected officials has written to Congress opposing vouchers. It is only that three officials abruptly changed their anti-voucher position without any public debate and now supports vouchers but they clearly don't speak for the majority of District citizens on the issue.

Vouchers as a means of improving public education in fact does the opposite. They send public funds to private schools while doing nothing to improve public schools, where the majority of DC students are enrolled. Additionally, programs to improve student achievement in the District have been implemented and are working and should be expanded. Meanwhile, the academic achievement of African American students who used privately funded vouchers to attend private schools in the District was no different than that of students who remained in public school, according to the GAO.

The amendment of the gentlelady from the District of Columbia would remove the $10 million in funding for D.C. vouchers that would be sought to be to authorized via a separate amendment. I urge my colleagues to support the gentlelady's amendment.

Mr. HINOJOSA. Mr. Chairman, I rise in strong support of the amendment offered by my colleague and friend from the District of Columbia, Ms. ELEANOR HOLMES NORTON. We must strike the voucher provisions from the D.C. Appropriations bill.

This body has held a number of votes on vouchers on a national level. We have rejected them every time because we know that vouchers for private schools for a few children will not fulfill our responsibility to provide a quality education for all children. This bill will only allow 2 percent of the children in the District to take advantage of the program. The other 98 percent will remain in the public school system, which will not be held harmless in funding if enrollments drop.

In this bill we are not really even helping a few children. The money available per student is far short of the average cost of private school tuition in the District of Columbia. That means the families who can already afford to send their children to private school will do so, but low-income children will be forced to remain in inadequately funded public schools.

In addition, private schools have no obligation to accept special needs or minority students, nor are they required to follow the guidelines of the No Child Left Behind Act or the Individuals With Disabilities Act.

It is the height of arrogance that this body would seek to impose on the District of Columbia something that we have rejected for the rest of the nation.

I urge my colleagues to reject any attempt to privatize public education in the District of Columbia.

The CHAIRMAN. Does any other Member wish to be heard on this amendment?

If not, the question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) will be postponed.

Mr. FATTAH. Mr. Chairman, I was going to offer an amendment, but I decided due to the lack of time not to offer it at this time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a) and section 117 of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2004 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,326,138,000 (of which $3,832,734,000 shall be from local funds, $1,568,734,000 shall be from Federal grant funds, $910,904,000 shall be from other funds, and $13,766,000 shall be from private funds), in addition, $59,800,000 from funds previously appropriated in this Act as Federal payments: *Provided further*, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2004, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

Governmental Direction and Support

Governmental direction and support, $284,415,000 (including $206,825,000 from local funds, $57,440,000 from Federal grant funds, and $20,150,000 from other funds), in addition, $10,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Chief Financial Officer of the District of Columbia": *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, $2,500 for the City Administrator, and $2,500 for the Office of the Chief Financial Officer shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further*, That not to exceed $25,000, to remain available until expended, of the funds in the District of Columbia Antitrust Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–308.20) is hereby made available for the use of the Office of the Corporation Counsel of the District of Columbia in accordance with the laws establishing this fund.

Economic Development and Regulation

Economic development and regulation, $276,647,000 (including $53,336,000 from local funds, $91,077,000 from Federal grant funds, $132,109,000 from other funds, and $125,000 from private funds), of which $15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11–134; D.C. Official Code, sec. 2–1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12–26; D.C. Official Code, sec. 2–1215.15 et seq.): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

Public Safety and Justice

Public safety and justice, $745,958,000 (including $716,715,000 from local funds, $10,290,000 from Federal grant funds, $18,944,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council": *Provided*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

Public Education System

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, $1,157,841,000 (including $962,941,000 from local funds, $156,708,000 from Federal grant funds, $27,074,000 from other funds, $4,302,000 from private funds, and not to exceed $6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002 (D.C. Law 14–190; D.C. Official Code 4–204.51 et seq.)), in addition, $17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and $4,500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Facilities", to be allocated as follows:

(1) District of Columbia public schools.—$870,135,000 (including $738,444,000 from local funds, $114,749,000 from Federal grant funds, $6,527,000 from other funds, $3,599,000 from private funds, and not to exceed $6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002 (D.C. Law 14–190; D.C. Official Code 4–204.51 et seq.)), in addition, $4,500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Facilities" shall be available for District of Columbia Public Schools: *Provided*, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2004 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2004, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2005: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia Public Schools shall submit to the Board of Education by January 1 and July 1 of each year a Schedule A showing all the current funded positions of the District of Columbia Public Schools, their compensation levels, and indicating whether the positions are encumbered: *Provided further*, That the Board of Education shall approve or disapprove each Schedule A within 30 days of its submission and provide the Council of the District of Columbia a copy of the Schedule A upon its approval.

(2) State education office.—$38,752,000 (including $9,959,000 from local funds, $28,617,000 from Federal grant funds, and $176,000 from other funds), in addition, $17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" shall be available for the State Education Office: *Provided*, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2005 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(3) District of Columbia public charter schools.—$137,531,000 from local funds shall be available for District of Columbia a public charter schools: *Provided*, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: *Provided further*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available as follows: (1) the first $3,000,000 shall be deposited in the Credit Enhancement Revolving Fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (Public Law 104–208; 110 Stat. 3009; 20 U.S.C. 1155(e)); and (2) the balance shall be for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): *Provided further*, That of the amounts made available to District of Columbia public charter schools, $25,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(6)): *Provided further*, That $660,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2004, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2005.

(4) University of the District of Columbia.—$80,660,000 (including $48,656,000 from

local funds, $11,867,000 from Federal grant funds, $19,434,000 from other funds, and $703,000 from private funds) shall be available for the University of the District of Columbia: *Provided*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2004, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2004, an amount equal to 10 percent of the total amount provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2005: *Provided further*, That not to exceed $2,500 for the President of the University of the District of Columbia shall be available from this appropriation for official purposes.

(5) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$28,287,000 (including $26,750,000 from local funds, $1,000,000 from Federal grant funds, and $537,000 from other funds) shall be available for the District of Columbia Public Libraries: *Provided*, That not to exceed $2,000 for the Public Librarian shall be available from this appropriation for official purposes.

(6) COMMISSION ON THE ARTS AND HUMANITIES.—$2,476,000 (including $1,601,000 from local funds, $475,000 from Federal grant funds, and $400,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,360,067,000 (including $1,030,223,000 from local funds, $1,247,945,000 from Federal grant funds, $24,330,000 from other funds, $9,330,000 from private funds, and $48,239,000, to remain available until expended, from the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002 (D.C. Act 14–403)): *Provided*, That the funds available from the Medicaid and Special Education Reform Fund are allocated as follows: not more than $18,744,000 for Child and Family Services, not more than $7,795,000 for the Department of Human Services, and not more than $21,700,000 for the Department of Mental Health: *Provided further*, That $27,959,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That $7,500,000 of this appropriation, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7-3004) and used exclusively for the purpose of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003): *Provided further*, That no less than $2,000,000 of this appropriation shall be available exclusively for the purpose of funding the pilot substance abuse program for youth ages 14 through 21 years established pursuant to section 4212 of the Pilot Substance Abuse Program for Youth Act of 2001 (D.C. Law 14–28; D.C. Official Code, sec. 7–3101): *Provided further*, That $4,500,000 of this appropriation, to remain available until expended, shall be deposited in the Interim Disability Assistance Fund established pursuant to section 201 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 4–101; D.C. Official Code, sec. 4–202.01), to be used exclusively for the Interim Disability Assistance program and the purposes for that program set forth in section 407 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 13–252; D.C. Official Code, sec. 4–204.07): *Provided further*, That not less than $640,531 of this appropriation shall be available exclusively for the purpose of funding the Burial Assistance Program established by section 1802 of the Burial Assistance Program Reestablishment Act of 1999 (D.C. Law 13–38; D.C. Official Code, sec. 4–1001).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $327,046,000 (including $308,028,000 from local funds, $5,274,000 from Federal grant funds, and $13,744,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.50a), such amounts from local funds as are necessary to meet the balance requirements for such funds under such section.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $311,504,000 from local funds: *Provided*, That for equipment leases, the Mayor may finance $14,300,000 of equipment cost, plus cost of issuance not to exceed two percent of the par amount being financed on a lease purchase basis with a maturity not to exceed five years.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $3,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $4,911,000 from local funds.

SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $22,522,000 from local funds: *Provided*, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

WILSON BUILDING

For expenses associated with the John A. Wilson building, $3,704,000 from local funds.

WORKFORCE INVESTMENTS

For workforce investments, $22,308,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable.

NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $19,639,000 (including $11,455,000 from local funds and $8,184,000 from other funds): *Provided*, That anticipated employee health insurance cost increases and contract security costs, $5,799,000 from local funds.

PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, $11,267,000 from local funds, to be transferred to the Capital Fund, subject to the Criteria for Spending Pay-as-You-Go Funding Amendment Act of 2003, approved by the Council of the District of Columbia on 1st reading, May 6, 2003 (title 25 of Bill 15–218): *Provided*, That pursuant to this Act, there are authorized to be transferred from Pay-As-You-Go Capital funds to other headings of this Act, such sums as may be necessary to carry out the purposes of this Act.

TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, $1,940,000 from local funds.

MEDICAID DISALLOWANCE

For making refunds associated with disallowed Medicaid funding, an amount not to exceed $57,000,000 in local funds, to remain available until expended: *Provided*, That funds are derived from a transfer from the funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's Grants Disallowance balance.

EMERGENCY PLANNING AND SECURITY COSTS

From funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia", $15,000,000.

FAMILY LITERACY

From funds previously appropriated in this Act under the heading "Federal Payment for the Family Literacy Program", $2,000,000.

SCHOLARSHIP PROGRAM

From funds previously appropriated in this Act under the heading "Federal Payment for a District of Columbia Scholarship Program", $10,000,000.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, $259,095,000 from other funds, of which $18,692,000 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund.

For construction projects, $199,807,000, to be distributed as follows: $99,449,000 for the Blue Plains Wastewater Treatment Plant, $16,739,000 for the sewer program, $42,047,000 for the combined sewer program, $5,993,000 for the stormwater program, $24,431,000 for the water program, and $11,148,000 for the capital equipment program; in addition, $35,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority": *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $55,553,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,501,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3-172; D.C. Official Code, sec. 3-1301 et seq. and sec. 22-1716 et seq.), $242,755,000 from other funds: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, $13,979,000 from local funds.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1-711), $13,895,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $69,742,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, $7,849,000 from other funds.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,004,796,000, of which $601,708,000 shall be from local funds, $46,014,000 from Highway Trust funds, $38,311,000 from the Rights-of-way funds, $218,880,000 from Federal grant funds, and a rescission of $99,884,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $904,913,000, to remain available until expended; in addition, $8,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Capital Development in the District of Columbia" and $4,300,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Anacostia Waterfront Initiative": *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended.

TITLE III—GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for a particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Official Code, sec. 47-1812.11(c)(3)).

SEC. 104. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly to provided herein.

SEC. 105. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 106. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Council of the District of Columbia, or their duty authorized representative.

SEC. 107. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 108. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center;

unless the Committee on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the reprogramming.

(b) None the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed four percent of the local funds in the appropriations.

SEC. 109. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 110. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Official Code, sec. 1-601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-2041.22(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 111. No later than 30 days after the end of the first quarter of fiscal year 2004, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2004 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2005. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 112. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 113. (a) In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by such Act.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 114. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 115. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 116. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 117. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 118. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2004, an inventory, as of September 30, 2003, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 119. No officer or employee of the District of Columbia government (including any independent agency of the District of Columbia, but excluding the Office of the Chief Technology Officer, the Office of the Chief Financial Officer of the District of Columbia, and the Metropolitan Police Department) may enter into an agreement in excess of $2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 120. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2004 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 121. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 122. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 123. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The

Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 124. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 125. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 126. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 127. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.42), for all agencies of the District of Columbia government for fiscal year 2003 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 128. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93-030-(PA) and 93-031-(PA).

SEC. 129. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 130. During fiscal year 2004 and any subsequent fiscal year, in addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may use local funds to pay the settlement or judgment of a claim or lawsuit in an amount less than $10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000 (D.C. Law 13-172; D.C. Official Code, sec. 2-402).

SEC. 131. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50-2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50-2201.05(b)(3)).

SEC. 132. During fiscal year 2004 and any subsequent fiscal year, any agency of the District government may transfer to the Office of Labor Relations and Collective Bargaining (OLRCB) such local funds as may be necessary to pay for representation by OLRCB in third-party cases, grievances, and dispute resolution, pursuant to an intra-District agreement with OLRCB. These amounts shall be available for use by OLRCB to reimburse the cost of providing the representation.

SEC. 133. (a) None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

(b)(1) The District of Columbia Public Schools shall increase the amount of local funds it allocates for services to children under the Individuals With Disabilities Education Act during fiscal year 2004 by the amount of savings resulting during the year from the restrictions on the payment of attorney fees under subsection (a), as estimated and published by the Chief Financial Officer.

(2) The Chief Financial Officer shall make estimates of the savings described in paragraph (1) on a quarterly basis during fiscal year 2004, and shall publish the estimates not later than 10 days after the end of each quarter.

SEC. 134. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia: *Provided*, That as part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification: *Provided further*, That the Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA: *Provided further*, That the Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 135. None of the funds contained in this Act may be used to fund or otherwise support the action of District of Columbia, et al., v. Beretta U.S.A. et al. (Nos. 03-CV-24, 03-CV-38, District of Columbia Court of Appeals).

Mr. FRELINGHUYSEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 52, line 12 be considered as read, printed in the RECORD and opened to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

POINT OF ORDER

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 119 regarding sole source contracts on the grounds that this section changes existing law in violation of clause 2(b) of House rule XXI and is, therefore, legislation included in a general appropriation bill.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. FRELINGHUYSEN. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and the provision is stricken from the bill.

Are there any amendments?

AMENDMENT OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TOM DAVIS of Virginia:

Page 52, insert after line 12 the following:

TITLE IV—DC PARENTAL CHOICE

SEC. 401. SHORT TITLE.

This title may be cited as the "DC Parental Choice Incentive Act of 2003".

SEC. 402. FINDINGS.

The Congress finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents in the District of Columbia, public school choice provided for under the No Child Left Behind Act of 2001 is inadequate due to capacity constraints within the public schools. Therefore, in keeping with the spirit of the No Child Left Behind Act of 2001, school choice options, in addition to those already available to parents in the District of Columbia (such as magnet and charter schools and open enrollment schools) should be made available to those parents.

(3) In the most recent mathematics assessment on the National Assessment of Educational Progress (NAEP), administered in 2000, a lower percentage of 4th-grade students in DC demonstrated proficiency than was the case for any State. Seventy-six percent of DC fourth-graders scored at the "below basic" level and of the 8th-grade students in the District of Columbia, only 6 percent of the students tested at the proficient or advanced levels, and 77 percent were below basic. In the most recent NAEP reading assessment, in 1998, only 10 percent of DC fourth-graders could read proficiently, while 72 percent were below basic. At the 8th-grade level, 12 percent were proficient or advanced and 56 percent were below basic.

(4) A program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional under Zelman v. Simmons-Harris if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to schools solely as a result of their independent private choices.

SEC. 403. PURPOSE.

The purpose of this title is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia.

SEC. 404. GENERAL AUTHORITY.

(a) AUTHORITY.—From funds appropriated to carry out this title, the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 405 to carry out activities to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this title.

(b) DURATION OF GRANTS.—The Secretary may make grants under this section for a period of not more than 5 years.

SEC. 405. APPLICATIONS.

(a) IN GENERAL.—In order to receive a grant under this title, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—The Secretary may not approve the request of an eligible entity for a grant under this title unless the entity's application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 406;

(B) how the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 406;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 407(a);

(F) how the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

(G) how the entity will seek out private elementary and secondary schools in the District of Columbia to participate in the program, and will ensure that participating schools will meet the applicable requirements of this title and provide the information needed for the entity to meet the reporting requirements of this title;

(H) how the entity will ensure that participating schools are financially responsible;

(I) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(J) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and

(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 409.

SEC. 406. PRIORITIES.

In awarding grants under this title, the Secretary shall give priority to applications from eligible entities who will most effectively—

(1) give priority to eligible students who, in the school year preceding the school year for which the eligible student is seeking a scholarship, attended an elementary or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

(2) target resources to students and families that lack the financial resources to take advantage of available educational options;

(3) provide students and families with the widest range of educational options; and

(4) serve students of varying ages and grade levels.

SEC. 407. USE OF FUNDS.

(a) SCHOLARSHIPS.—

(1) IN GENERAL.—Subject to paragraph (2) and (3), a grantee shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable them to attend the District of Columbia private elementary or secondary school of their choice. Each grantee shall ensure that the amount of any tuition or fees charged by a school participating in the grantee's program under this title to an eligible student participating in the program does not exceed the amount of tuition or fees that the school customarily charges to students who do not participate in the program.

(2) PAYMENTS TO PARENTS.—A grantee shall make scholarship payments under the program under this title to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this title.

(3) AMOUNT OF ASSISTANCE.—

(A) VARYING AMOUNTS PERMITTED.—Subject to the other requirements of this section, a grantee may award scholarships in larger amounts to those eligible students with the greatest need.

(B) ANNUAL LIMIT ON AMOUNT.—The amount of assistance provided to any eligible student by a grantee under a program under this title may not exceed $7,500 for any academic year.

(b) ADMINISTRATIVE EXPENSES.—A grantee may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this title during the year, including—

(1) determining the eligibility of students to participate;

(2) providing information about the program and the schools involved to parents of eligible students;

(3) selecting students to receive scholarships;

(4) determining the amount of scholarships and issuing them to eligible students;

(5) compiling and maintaining financial and programmatic records; and

(6) providing funds to assist parents in meeting expenses that might otherwise preclude the participation of their child in the program.

SEC. 408. NONDISCRIMINATION.

(a) IN GENERAL.—A school participating in any program under this title shall not discriminate on the basis of race, color, national origin, or sex in participating in the program.

(b) APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

(1) APPLICABILITY.—Notwithstanding subsection (a) or any other provision of law, it shall not be considered discrimination on the basis of sex for a school that is operated by, supervised by, controlled by, or connected to a religious organization to take sex into account to the extent that failing to do so would be inconsistent with the religious tenets or beliefs of the school.

(2) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding subsection (a) or any other provision of law, a parent may choose and a school may offer a single-sex school, class, or activity.

(3) CONSTRUCTION.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to require any person or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or services related to a legal abortion.

(c) CHILDREN WITH DISABILITIES.—Nothing in this title may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act.

(d) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this title which is operated by, supervised by, controlled by, or connected to, a religious organization may employ persons of the same religion to the extent determined by that school to promote

the religious purpose for which the school is established or maintained.

(2) Religious purposes.—Notwithstanding any other provision of law, funds made available under this title may be used for religious educational purposes, and no participating school shall be required to remove religious art, icons, scriptures, or other symbols. A participating school may retain religious terms in its name, select its board members on a religious basis, and include religious references in its mission statements and other chartering or governing documents.

(e) Rule of Construction.—A scholarship (or any other form of support provided to parents of eligible students) under this title shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this title shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

SEC. 409. EVALUATIONS.

(a) In General.—

(1) Duties of secretary.—The Secretary shall—

(A) conduct an evaluation using the strongest possible research design for determining the effectiveness of the programs funded under this title that addresses the issues described in paragraph (2); and

(B) disseminate information on the impact of the programs in increasing the student academic achievement of participating students, as well as other appropriate measures of student success, and on the impact of the programs on students and schools in the District of Columbia.

(2) Issues to be evaluated.—The issues described in this paragraph include the following:

(A) A comparison of the academic achievement of students who participate in the programs funded under this title with the academic achievement of students of similar backgrounds who do not participate in such programs.

(B) The success of the programs in expanding choice options for parents.

(C) The reasons parents choose for their children to participate in the programs.

(D) A comparison of the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students who participate in the programs funded under this title with the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

(E) The impact of the program on students and public elementary and secondary schools in the District of Columbia.

(F) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

(G) Such other issues as the Secretary considers appropriate for inclusion in the evaluation.

(b) Reports.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate—

(1) annual interim reports not later than December 1 of each year for which a grant is made under this title on the progress and preliminary results of the evaluation of the programs funded under this title; and

(2) a final report not later than 1 year after the final year for which a grant is made under this title on the results of the evaluation of the programs funded under this title.

(c) Public Availability.—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) Limit on Amount Expended.—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 3 percent of the total amount appropriated to carry out this title for the fiscal year.

SEC. 410. REPORTING REQUIREMENTS.

(a) Activities Reports.—Each grantee receiving funds under this title during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

(b) Achievement Reports.—

(1) In general.—In addition to the reports required under subsection (a), each grantee shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next 2 years thereafter, submit a report to the Secretary regarding the data collected in the previous 2 academic years concerning—

(A) the academic achievement of students participating in the program;

(B) the graduation and college admission rates of students who participate in the program, where appropriate; and

(C) parental satisfaction with the program.

(2) Prohibiting disclosure of personal information.—No report under this subsection may contain any personally identifiable information.

(c) Reports to Parent.—

(1) In general.—Each grantee shall ensure that each school participating in the grantee's program under this title during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on—

(A) the student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level, as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

(2) Prohibiting disclosure of personal information.—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student's parent.

(d) Report to Congress.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate an annual report on the findings of the reports submitted under subsections (a) and (b).

SEC. 411. OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

(a) Admission of Eligible Students.—Each school choosing to participate in a program funded under this title shall accept any participating eligible student on a religious-neutral basis, except that if the school has more participating eligible students seeking admission than it can accommodate, the school shall accept participating eligible students through a religious-neutral, random selection process, consistent with section 405(b)(1)(C).

(b) Requests for Data and Information.—Each school participating in a program funded under this title shall comply with all requests for data and information regarding evaluations conducted under section 409(a).

(c) Rules of Conduct and Other School Policies.—Subject to section 408, a participating school may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

SEC. 412. DEFINITIONS.

As used in this title:

(1) Elementary school.—The term "elementary school" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) Eligible entity.—The term "eligible entity" means any of the following:

(A) An educational entity of the District of Columbia Government.

(B) A nonprofit organization.

(C) A consortium of nonprofit organizations.

(3) Eligible student.—The term "eligible student" means a student who is a resident of the District of Columbia and who comes from a household whose income does not exceed 185 percent of the poverty line applicable to a family of the size involved.

(4) Parent.—The term "parent" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) Poverty line.—The term "poverty line" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) Secondary school.—The term "secondary school" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(7) Secretary.—The term "Secretary" means the Secretary of Education.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 4 succeeding fiscal years.

The CHAIRMAN. Pursuant to the order of the House of Friday, July 25, 2003, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

I am offering this amendment with the gentleman from New Jersey (Chairman FRELINGHUYSEN) and the gentleman from Ohio (Chairman BOEHNER). This creates an historic opportunity for families and students of the District of Columbia. This amendment can make a huge difference in the lives of thousands of low-income children from nonperforming schools in the District. It represents a shot at a better education and, of course in turn, a better life.

The condition of the D.C. public schools, I think, is clearly documented. We have talked about this earlier today in the debate. It has concerned me since the first day I came to Congress as chairman of the District of Columbia Subcommittee. And while we have made strides in so many areas of the city since that time and some in education, the quality of educational opportunities should continue to worry all of us.

One thing is clear, I think both sides agree to this: Too many children in our Nation's capital are not getting the education that they need and that they deserve. Lower-income families concerned about the quality of safety of their children in the D.C. public schools should not have to resign themselves to sending their kids to underperforming schools where students are not adequately motivated to perform.

Over the past decade, Congress has spent considerable time and resources working with the District to reform its education system, but the ability of D.C. schools to meet key performance goals has long been plagued by financial mismanagement and a host of other problems, which means just throwing money at this problem alone is not going to solve it. Despite concerned efforts by local officials to improve the public school system, and there has been some progress, we are not getting the kind of progress in improving academic performance that ought to be available to these kids.

I have traditionally opposed Federal dollars going to private schools because I think Federal dollars ought to be targeted to the public schools. Of course, in this case, we give the dollars directly to the parents who make those choices. But for the District, which does not have a State government to rely on, as we take a look at other voucher programs around the country, cities work in concert with States. The District does not have a State. So I think we have an obligation here to answer the calls from the mayor, the chairman of the school board and the Washington Post and other advocates for D.C. children, and we have to ask this question: Would not more choices funded by new Federal dollars provide a needed alternative for low-income children attending low-performing schools?

Our committee heard testimony on this before we gave authorization authority. The mayor was asked, specifically, if he had this money for vouchers, if he could use it for something else, would he not rather use it for the public school system? He said no. He said we need this alternative as well.

It stands on its own and this is additional money that would not be available to the District of Columbia public schools were it not for this amendment. I have received calls from parents who are frustrated, angry, and distraught by their children's school situation. These parents have attended our hearings. They have danced and wept when our committee approved school choice legislation. But I think it is time to do more than just sympathize. This is a moral imperative.

The school choice debate should not be about politics or interest groups. We should have an honest appraisal of the state of affairs in our public schools and about offering an alternative for students and parents, and what is being proposed is not a mandate. It is a choice. The goal of school choice for the city is addition, not subtraction. We all want the city's education system to improve, and I hope that this is a short-term effort to do something about it. The fact is the monopoly of the D.C. public school system is harming kids, not helping them. It is time to shake up that monopoly.

This amendment expands educational opportunity to city students in underperforming elementary and secondary schools, underperforming schools. Other schools, kids do not get the aid. The choice program would be established through a competitive process, administered by the Department of Education, to ensure that the public or private entity that administers the initiative would be dedicated and capable of carrying out a top-notch program.

And there are reporting requirements, many to be written later by the Department of Education, but the legislation here, I think, has criteria that it sets out that need to be met in terms of going on to college, performance levels, tests, and the like. It would provide scholarships of up to $7,500 to eligible students to cover the cost of tuition fees and transportation expenses. It would be considered assistance to the students, not the schools. In order to assure accountability, an evaluation is conducted that would consider the impact in academic achievement attained by the program.

This legislation is a result of a lot of negotiation and consultation with city officials, elected city officials, with the administration and committees with key jurisdiction in Congress. For the first time ever, the mayor, the elected Democratic mayor of the District of Columbia, has come to the conclusion that " . . . if done effectively, this program would provide even more choices for primarily low-income families who currently do not have the same freedom of choice enjoyed by their affluent counterparts."

Enhancing educational quality in the city is a critical component of maintaining the positive momentum we have seen in recent years under the stewardship of Mayor Williams and the Council. It is our duty to provide resources so that the kids can have a brighter future. This is not a panacea, but it is a significant step in the right direction and, hopefully, one that will not be needed indefinitely.

I urge my colleagues to support this amendment. I say to my friends on the other side that we are going to disagree about this, but I think we want the same thing for all these kids, eventually. We will be working together on a number of other issues, but it is my considered judgment, having given a lot of time and thought to this, that this is probably the best thing we can offer, and I urge my colleagues to support it.

Mr. FATTAH. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Pennsylvania.

Mr. FATTAH. Mr. Chairman, just a factual question, on page 9, the language at the bottom where it refers to religiously affiliated schools, is my reading of this to say that this bill would allow for religiously oriented schools to utilize these scholarships that are being provided?

Mr. TOM DAVIS of Virginia. Yes, that is correct.

Mr. FATTAH. Mr. Chairman, is there some list of which religiously affiliated schools would be eligible?

Mr. TOM DAVIS of Virginia. Mr. Chairman, they have to be accredited. They have to meet D.C. standards, number one.

Mr. FATTAH. Mr. Chairman, that is my question. I would not understand that there are any accrediting procedures for religious schools now in the District. And if there are, I would be interested in knowing that.

Mr. TOM DAVIS of Virginia. Mr. Chairman, the U.S. Department of Education would carry the list, it is my understanding.

Mr. FATTAH. Mr. Chairman, so it is the gentleman's intention that there would be created, because there is none now, lists of what would be approved, accredited religious schools?

Mr. TOM DAVIS of Virginia. Mr. Chairman, that is correct. And regardless of how this comes out, I hope we would work with the gentleman.

Mr. FATTAH. Mr. Chairman, I am not trying to be argumentative.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I think the gentleman raised the point of what happened in Florida, and we do not want that to happen. I think that is very clear.

Mr. FATTAH. Well, as I would understand the facts at the moment, that is why I am asking, there is no accrediting process for religiously-affiliated schools K to 12 in the District today, and there is none that is created by your language?

Mr. TOM DAVIS of Virginia. Mr. Chairman, my understanding is that the Department of Education will carry the accredited list at this point, in terms of eligible schools. Not just any school willy-nilly is eligible.

Mr. FATTAH. So the gentleman understands that there is a list or that somewhere in this language it gives the Department authority to create such a list?

Mr. TOM DAVIS of Virginia. Correct. That is my understanding.

□ 1245

Mr. TOM DAVIS of Virginia. That is my understanding.

Mr. FATTAH. Which one is it, the former or the latter?

Mr. TOM DAVIS of Virginia. The Secretary of Education is the one I think that would set that standard.

Mr. FATTAH. So are there certain religious affiliations that would be acceptable and others that would not?

Mr. TOM DAVIS of Virginia. To my understanding, it is not a discrimination based on that, but they would have to meet certain academic performance standards. This was drafted, of course, looking at the court cases in line to make sure this met the requirements.

Mr. Chairman, I am happy to answer the gentleman's question, but let me stop at this time and make sure we can get our advocates up, and maybe we can further this discussion if time permits.

Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentlewoman from the District of Columbia is recognized for 20 minutes.

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Virginia is not only a good personal friend, he is a good professional friend, and he has always been a good friend of the District. More often than not we are on this floor arguing on the same side, fighting for what the majority in the District wants, including the majority of the members of the council and the majority of the elected members' of the school board. This happens to be an exception, but we are going to keep on working together because we are so close.

It is ironic, I must say to my good friend though, that he has got a legislative rider on here. He made two points of order today. He is regularly on the floor opposing Committee on Government Reform riders, but he has taken this bill to the Committee on Rules in order to allow himself to put a rider on this bill. This bill legislates on an appropriations bill.

But I really want to use my time not to rehash the arguments we have heard, but to make some corrections based on what I have heard.

My good friend from Virginia earlier said during the debate that the District spent more than Arlington and Fairfax, and some others have gotten up to say that we spend more than any other State. I keep hearing that. It keeps being said. It is false.

I want to read from an official schools document: "Despite differences in student needs, even with Federal funds included, the D.C. public schools spend less per pupil than Arlington or Alexandria, and not much more than Montgomery or Fairfax."

Remember, Montgomery and Fairfax spend a whole lot of money on children that are not at all disadvantaged, and huge numbers of mine are severely disadvantaged.

The gentlewoman from Pennsylvania said that our schools would actually be better off without these 2,000 children. Actually, we will lose $25 million in combined Federal and local per-pupil funding because schools are funded on a per-pupil basis, and that is in addition to the $40 million that the schools are already being cut this year.

It certainly is not true that we are saying to our children, and I would certainly never say it, Hey, wait until the schools are fixed. Indeed, we applaud the options that are available to our public schools; the largest number of charter schools in the country, the transformation schools, which have seen a breakthrough in test scores that no public or private school has ever done for our most needy children, our out-of-boundary possibilities for our children.

I applaud especially the work of the Washington Scholarship Fund. That is for now. The Washington Scholarship Fund, which with private money as I speak is doing exactly what this bill will do, but probably will not do it if this bill passes, because Federal money will replace their private money that they have been using, much to their credit, to send our children to local private schools.

We want our own choices. That is all we are asking. You take your choices, the ones you have in your districts. Leave us to our own choices. Do not accuse us of giving no choices to our children.

The most important thing I could say at this time, though, would be to correct the notion that the so-called three-sector approach, which developed only after there was great criticism of vouchers in the District of Columbia, somehow amounts to an equivalence of funding for the charter and public schools with vouchers.

Please hear me on this: this Davis bill has 5 years of authorization for vouchers. What happens for the public and charter schools is this year, on a one-time-only appropriation, we throw some money at the public schools in order to ease the way for vouchers.

I was able to get money for our charter schools, a great deal more than this last year, without having to pay a price in vouchers. Next year I guess we will have to come begging at the table because, unlike the voucher money, the gentleman from Virginia (Mr. TOM DAVIS) had the opportunity to add public schools in a bill I offered in committee that would have put us on the same footing, but we are not on the same footing. We have got 5 years of vouchers, one-time-only money for the public schools, in this appropriation. That is the most problematic money the Congress ever has to offer.

We have been demonizing the public schools of the District of Columbia. Be my guest. But if you expect that sending our children to private schools will correct their problems, then you need to look at the GAO study of 10 years of experience in all the schools that have used vouchers. What they have found is there is no significant difference between the children using the vouchers in their performance on tests and the children who are in the public schools.

Thirty-seven States have turned down vouchers. If you vote for the Davis amendment, you are voting for a private school voucher and a voucher only. We do not think that that vote will pass silently into the night. We believe that a vote for vouchers anywhere in the country, especially in this economic climate, will be heard and felt throughout the country, and especially in your own districts.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), the chairman of the subcommittee.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, since I was first elected to Congress, I have supported school choice for this city, and now as Chairman of the Committee on Appropriations subcommittee on the District of Columbia, I am excited to be in a position to make this program a reality for the children and the parents of the District of Columbia, working with the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from Ohio (Chairman BOEHNER).

Mr. Chairman, I ask all Members to support the Davis-Frelinghuysen-Boehner amendment and the underlying bill.

Mr. Chairman, since I was first elected to Congress, I have supported school choice for this city. And now as Chairman of the DC Appropriations Committee, I am excited to be in a position to make this program a reality for the children and parents of the District of Columbia.

The President requested funding for a Choice Incentive Fund within the U.S. Department of Education, of which a portion of the funds would be used for school choice programs in the District. Thanks to Chairman

REGULA, I was able to provide $10 million to expand school choice in the District. I am further pleased to report that this proposal has the full support of Mayor Williams, Chairman of the Committee on Education, Libraries and Recreation, Kevin Chavous, and President of the School Board, Peggy Cooper-Cafritz.

Throughout the year, I have worked closely with my colleague and friend, Chairman TOM DAVIS, who chairs the Authorizing Committee that has jurisdiction on this issue, the Government Reform Committee and JOHN BOEHNER, Chairman of Committee on Education and the Workforce to advance this Presidential initiative.

We agreed to move the school choice initiative forward in our respective Committees. Chairman DAVIS has successfully moved the DC Parental Choice Incentive Act through his Committee. And in my bill, we have provided the actual funding.

Mr. Chairman, this amendment would unite these two initiatives together under one bill bringing us a step closer to making expanded school choice a reality for those that so desperately want and need it.

While we are all supportive of the District Public School System, and we recognize the great progress of the city's charter schools and transformation schools, we believe that even more students can be helped by the additional option. And we are providing new dollars that add, not subtract, from either the DC public or charter schools funding sources.

What is important here is the quality and value of education for every child in this city. And the statistics from the Department of Education on District continue to show disturbing results in student performance on reading, writing, math and other core academics. The need for significant improvements is clear.

The bottom line is that these children will be helped by giving parents more choices for educating their children. Many parents are hopeful that we will act.

One of the arguments the opposing side will make is that this bill does not provide funding for the three-pronged approach the District wants. While that is true, it is not my intention that that be the case when we come out of conference with the Senate. Due to the fiscal constraints of this bill, we were only able to provide for DC Scholarships, but the Senate bill includes additional funding for both public and charter schools as well. I support the Mayor's approach and will work with Chairman YOUNG towards a conference allocation that is sufficient to address all three sectors of education in the city.

I hope members will join with me and support of the leadership of this great city.

Mr. TOM DAVIS of Virginia. I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I have good friends on both sides of the aisle and both sides of this position. What does me hurt is the partisanship, some of the partisanship, not from all Members, that I hear from Iraq to the White House politics to the rest of it on an issue.

If we disagree on this issue, that is fine. I personally truly believe that this gives some of our children an opportunity to get out of schools that are crime- and drug-ridden and are being left behind. Not many, if any, Members of Congress, either the House or the other body, have their children in D.C. public schools. Most are in private schools. And yet there are some that would deny poor children, poor families to have the same rights that Members of Congress and other people that are affluent have. I think that is wrong.

The other fallacy is that we are cutting public spending. We are not. Look where we have come from. When many of us dedicated ourselves to improving education, the roofs were so poor they were controlled by the fire department in D.C. Schools had to be delayed. We improved that. We put forth charter schools. We put forth a summer school where we had thousands of children volunteer to go to summer school in D.C., not because they had to, but because they did not want to be left behind. And there is another phase of that that we disagree on. But please do not say we are trying to damage education, because we believe from the bottom of our hearts that this is helping children.

Take a look at the board of education. They had a board of education appointed by Marion Berry where one of the members was in charge of finance and never had an accounting course, never finished high school, but was put there because of a political appointment.

We changed all of that. We have a Mayor, we have a superintendent, we have an active, professional school board, and our schools are improving. Yes, we have got a long way to go, and we have got to work together on both sides of this issue; and I dedicate myself to working with the gentlewoman from the District of Columbia (Ms. NORTON) and the ranking member on that. But please do not say that we are trying to damage education. We disagree on the value of this particular amendment. I personally believe in many areas it will work.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Chairman, I would just like to enter into a colloquy with the gentleman from Virginia (Mr. TOM DAVIS) and return to my question.

As I understand the language, and I read it, it says that any religiously affiliated school could get dollars under this program and it can be controlled and connected to a religious organization and it can promote its religious purpose; and then it goes on to say it could hire any number of people who follow their religious beliefs and that they deem necessary and that they can include religious references in its mission statement and other governing documents.

All I am trying to determine is whether or not that is completely wide open, or whether there is a list of some type that either already is approved or would be approved of which religiously affiliated entities could operate schools in the District.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. FATTAH. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, to my knowledge there is no exclusion of any religion, or inclusion. The Secretary of Education is the one that would be able to come forward with a list and make the determination. As the gentleman knows, there have been a number of court decisions along this line, and we feel this meets the mandate of the courts, and it has to meet a certain level.

Mr. FATTAH. Mr. Chairman, reclaiming my time, all of the lawsuits on this matter, or at least the vast majority, have been about the Federal prison system, in which the courts have been, I would say, very lenient in determining what is a religion, and all manner of groups with any number of, I think, what most of us would consider problematic beliefs have been determined to be religions for purposes under the definition by the Federal courts. So would that be the same in terms of how this would operate?

Mr. TOM DAVIS of Virginia. Mr. Chairman, if the gentleman will yield further, we leave discretion with the Secretary of Education. Let me say there have been a number of title VII cases that do deal with education, and that would be the criteria that the Department would meet. But we did not try to micromanage the criteria. They also have to meet certain educational standards, and that would really be the controlling criteria, is meeting educational standards.

Mr. FATTAH. I read the list of the educational standards, all related to education, and I think the gentleman has done a good job on that. I am just concerned about this particular issue, and I guess so that the record can be clear, your position is that there is no restriction in the authorizing language as you have written it?

Mr. TOM DAVIS of Virginia. That is correct. We leave that to the Department of Education.

Mr. FATTAH. I want to enter into the RECORD a report from California, not the earlier report I referenced from Florida, of a school that was set up under the laws of California that received millions and millions of dollars to educate children, and it has now been determined that they were funded and founded and set up by a Pakistani terrorist organization.

I want to enter this into the RECORD, because I think what the concern is here is that if those who believe in witchcraft, those who have antisocial racial views, any number of people who claim to be a religion can set up a religiously affiliated school and benefit through the largesse of this $10 million and pretend that they are educating children, segregate them, as I understand under the gentleman's authorizing language by sex or any other manner, hire only those who believe what they believe, discriminate against anyone else, and determine their own curriculum, that I have a concern about, even if we agree that this was the way to go, that this kind of loophole would be useful to us at this time in our Nation's capital.

[From ABC News I-Team]

BALADULLAH

Nov. 8.—The ABC7 News I-Team has learned that millions of your tax dollars are headed this year, to a group that is connected to an organization founded by a Pakistani terrorist. You are paying for a new system of charter schools, started by the members of an Islamic village in the Sierra foothills called "Baladullah." Dan Noyes has Part Two of this I-Team investigation.

The ABC7 News I-Team has learned that millions of your tax dollars are headed this year to a group that is connected to an organization founded by a Pakistani terrorist. You are paying for a new system of charter schools, started by the members of an Islamic village in the Sierra foothills called "Baladullah." Dan Noyes has Part Two of this I-Team investigation.

Some of these charter schools are here in the Bay Area. We want to be clear from the start that this is not a story about the Muslim faith. It is about one group of people living just a few hours from the Bay Area, who have ties to a mysterious Pakistani sheik.

The U.S. State Department has listed Pakistani sheik Sayyid Mubarik Jilani as the founder of a terrorist group that has committed dozens of crimes across the country—firebombings, fraud, and assassinations. And in a recruitment tape, Jilani offers to train any American who will join his cause.

Sheik Jilani: "We shall be helping Muslims wherever they are oppressed, and we wish that you'd extend your cooperation with us in any manner suitable to the cause."

Jilani also established "Muslims of America" to help spread his version of Islam. Late last year, the group moved its headquarters to a village in the Sierra foothills called Baladullah—along with the mobile homes, the airstrip, and the U-Haul franchise.

Male Teacher: "We move the decimal point in the divisor. How many times to the right?"

The compound has a new charter school. It's a way for the state to provide an alternative form of education, paid for with your tax dollars.

Sharon Brooks, Assistant Administrator: "We're teaching our children because we want them to be doctors and lawyers and judges and architects. We don't want them to be ditch diggers."

Student: "The administrators would not discuss their connection to Muslims of America or Sheik Jilani. So, we asked their attorney about the charter school."

Doug Hurt: "It is one small site, it has 25–50 kids at any given time."

Dan: "Is that it?"

Dan: "How about the eleven other campuses for the charter?"

Doug Hurt: "What interest is that of yours?"

This year—under the name "Gateway Academy"—the village opened twelve charter schools up and down the state . . . including one in Oakland and in Sunnyvale. All the schools are chartered through the Fresno Unified School District, where officials had expected Gateway to run just a few schools in the area. All those satellite schools came as a surprise.

Jill Marmolejo, Fresno Unified: "They're running along doing their business and then informing us after the fact, so we told them in the future, before you open any satellites you have to get it approved through us."

Jill Marmolejo says it appears Gateway Academy has done nothing illegal by opening schools across the state, but it has put a tremendous strain on Fresno School District inspectors. They now have to travel hundreds of miles, to check up on the schools.

Jill Marmolejo: "We're not specialists in Oakland, we're not specialists in Pomona, so we're relying on them to do the right things."

And to do the right thing with millions of your tax dollars. Gateway Academy reports it has 1,200 students now, so they will receive more than $5.5 million this year. And that's on top of more than a million they spent last year, setting up the charter schools.

Jonathan Bernstein: "We have serious concerns about this group."

Researchers at the Anti-Defamation League have been tracking Sheik Jilani for almost 20 years, and now, they are worried about Baladullah's charter schools. They have no evidence that your tax dollars are headed from a village in Tulare County . . . to the terrorist's base in Pakistan. But, in general, the ADL is concerned about where the charter school money is going.

Jonathan Bernstein: "We feel like these funds can land up in the hands of extremists."

The lawyer for Baladullah says the people here are not extremists. And, he denied any direct connection between the village and Jilani—or even the group the sheik founded, Muslims of America.

Doug Hurt: "In that they are Muslims and they live in America, I would say so, but are they formally connected, is there an entity, no, not as far as I'm aware."

But the president and treasurer of Muslims of America list their home address as Baladullah. And the secretary of Muslims of America—Khadijah Ghafur—is also the president of the charter schools. That connection between the schools and Jilani's group troubles the principal at the branch in Sunnyvale.

Mazhar Jamil: "I am surprised. This is the first time I have heard anything like this."

Mazhar Jamil has run a school on this site for six years—he has just signed on with Baladullah's Gateway Academy. But now, he says he has to rethink that relationship . . . because of the ties between the schools, the village, and the sheik.

Mazhar Jamil: "We have no connection or desire to be affiliated with anything like that."

We want to emphasize that Muslims of America has not appeared on any terrorist watch list. Sheik Jilani has, along with his group al-Fuqra. Gateway Academy is the only charter school in the Fresno district that has more than one location, and most of them are outside the county.

As a result of our reports, Fresno Assemblyman Mike Briggs plans to introduce a new bill, so that a group can open charter schools "only" in the county where they live.

[From the Naples Daily News, July 18, 2003]

PRIVATE SCHOOL WITH TIES TO ALLEGED TERRORIST GETS STATE MONEY

TAMPA.—Senate Democrats urged Gov. Jeb Bush on Thursday to cut off payment to a school co-founded by a professor accused of being the North American leader of a worldwide terrorist organization.

The school received $350,000 last year through a state program that pays private school tuition for some students.

A February grand jury indictment against Sami Al-Arian, the alleged leader of the Palestinian Islamic Jihad, and seven others says the school was used as a base of support for the organization.

The indictment said the purpose of the organization was "to assist its engagement in, and promotion of, violent attacks designed to thwart the Middle East Peace Process." It said the Palestinian Islamic Jihad is responsible for 100 murders in Israel and its territories.

Al-Arian, who is being held in jail without bail and denies any connections to terrorism, co-founded the school in 1992 and served as its director and chairman of its board.

The school's treasurer, Sameeh Hammoudeh, also was indicted and is being held in jail without bond. He and Al-Arian allegedly encouraged people who wanted to send money to Palestinians to write checks to their school, The Palm Beach Post reported in its Thursday editions.

Last year, the 300-student Islamic Academy of Florida received more than 50 percent of its revenue from the state program, Florida PRIDE, which uses corporate donations to pay for poor students to attend private schools.

"The disclosures that more than $300,000 of this money went last year to a school suspected of terrorist ties raises the frightening specter that Florida's taxpayers may be unwittingly funding extremist organizations intent on the destruction of our nation and its allies," Senate Democratic Leader Ron Klein and Senator Dave Aronberg wrote in their letter to Gov. Jeb Bush.

Denise Lasher, spokeswoman for Florida PRIDE, said officials conducted an independent audit of the school after the indictment was released and found no misuse of funds and no connection between the scholarship money and terrorist activity.

She said the school received more than $300,000 in federal grants for computers and its free- and reduced-price school lunch program.

"It was unfortunate that there was someone at the school accused of doing something illegal, but that doesn't mean the school has done something illegal," she said Thursday.

But although Florida PRIDE found that all of its scholarship money was going to the school, Hammoudeh was paid for his services as school treasurer, and the indictment states that school supplies and equipment were used in the Jihad operation. It is unknown whether Al-Arian was being paid.

Corporations that donate to the program receive a dollar-for-dollar tax break. The program gave out nearly $50 million in scholarships last year.

Since the program began, large corporations such as WCI Communities Inc., Gulf Power Co., Florida Power & Light and Verizon Wireless have donated to the program, but how much and to which program is not public information.

Critics of the corporate tax credit scholarship program are concerned that there is no government oversight of the schools that take the money. In their letter to Bush, Klein and Aronberg called for a review of the program and the schools.

Under the May 2001 law, the Florida Department of Education cannot dictate curriculum or monitor how students are progressing academically.

But Lasher insisted the schools teachers and students are top notch academically.

Senate President Jim King, R-Jacksonville, jokingly said in May that he could start a school for witches under the law and receive corporate tax credit scholarships.

"The intent of this program was to help poor kids. The intent was never to make opportunistic entrepreneurs wealthy," said King, who also ordered a study of the program.

Despite the accountability concerns, Bush remained a supporter, saying last week that it was a "proven success," based on the students receiving the scholarships.

Ahmed Bedier, spokesman for the Muslim advocacy group Council on American-Islamic Relations, said the Tampa school is well respected. He noted that the University of South Florida is also mentioned in the indictment.

But USF, where Al-Arian was a professor and Hammoudeh was an instructor, is not listed as one of the bases of support for the Palestinian Islamic Jihad.

Administrators at the Islamic Academy did not return phone calls Thursday.

□ 1300

Mr. TOM DAVIS of Virginia. Mr. Chairman, I understand the gentleman's concern. Every school has to meet the nondiscrimination provisions that are currently in the law as well, if that gives the gentleman some level of comfort.

Mr. FATTAH. Mr. Chairman, if the gentleman would yield for 10 seconds on that point. The gentleman says here in section 9, notwithstanding any other provision of the law, the school could employ, the participating school may employ anybody that they believe——

Mr. TOM DAVIS of Virginia. Mr. Chairman, if I could ask the gentleman to let me get through my speakers and then we can continue the colloquy.

Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, I rise today in support of the Davis amendment and, more importantly, for the children of America.

We have had school choice in this country as long as we have had schools, and it is called money. If you have enough money you can choose where your children go to school, the family can choose, and without it the choice is made for the child. Unfortunately, students stuck in substandard public schools receive inadequate education. The harsh reality is that the lower the level of an individual's education achievement, the lower their income earning potential will be.

Study after study in Wisconsin, Ohio, Florida, has shown that given the opportunity to attend better schools, even if only for a few years, children improve their math and reading scores. And in both public and nonpublic schools they both improve when you introduce competition. Increasing a student's educational choices means increasing that student's future job choices.

As a psychologist and a person who has spent 25 years working with children, I call upon this Congress to focus on the needs of children. The city is working to fix the problems and I commend the district's local leaders for advocating on behalf of children. However, comprehensive change does not happen overnight and children do not have time to wait. New school administrators, new school board members, new curriculum, more teacher training, takes time and these children do not have time to wait. Every day that goes by with a child stuck in an ineffective school is one day too many. Every day a D.C. parent has to send their children to a poor-performing school is another missed opportunity for those children to get a quality education, and the children do not have time to wait.

We have an obligation to these children to provide something that works, while at the same time helping public schools. We believe we would be derelict in our duties as Members of Congress if we continue to make children wait too long.

Ms. NORTON. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I want to thank and congratulate my friend from Virginia because I think this is one of the most important amendments we will debate this entire year. This is a tremendous opportunity for us to give a little bit of freedom to the people who clearly need it the most.

The fact is the Washington, D.C. public school system is not up to par. We know that. The Washington, D.C. school system spends more money per student than almost any other school district in America. Test scores are routinely towards the lower end of the spectrum of test scores across America. We all know this. In fact, we, my colleagues, affluent people in this community, we know it and we act accordingly; because in disproportionate number, what we do is we send our kids to the private schools. Democrats, Republicans, Congressmen and Congresswomen, Senators, administration officials, we send our kids to the private schools. Why do we do that? Because they are better schools and because we can afford it and because we want to give our kids the best possible opportunity in life.

And how dare we deny that same opportunity to people who just do not have the same level of income that we have? How dare we deny these kids the one chance they are ever going to have in life to build the best, most solid educational foundation they can to create the opportunities that they deserve for their futures? I say we dare not deny them this opportunity. Give these kids in the D.C. school system, give them hope, give them a chance and do it by giving their parents a choice.

I urge my colleagues to support this amendment.

Ms. NORTON. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE), one of the leaders on the original underlying bill.

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me time.

There has been a discussion about who wants these vouchers. Is there anybody who wants them? I can tell you I just left a meeting in the Rayburn Building, just a few yards away, where there are a few dozen D.C. parents who want these vouchers, who are waiting, pleading, hoping that the vote is right today. One of them gave me this letter written by a little girl named Lapria Johnson. She is 8 years old. She was born as what they call a drug baby. Her mother took drugs while she was pregnant. Lapria was born and her grandmother was told that she would never read.

This is a letter that she just wrote: "My name is Lapria and I go to Holy Temple Christian Academy. The Washington Scholarship Fund is the only way I can read. I am 8 years old. I have a lot of problems, I was born with. Public school said I could not read. I read and my math is great. My handwriting is not so good. But I have an A in reading and an A in math."

I can tell you that her handwriting is better than mine and she is one that will benefit from this. There are kids all over like Lapria that will benefit from this if we will simply let them. We need to let them.

WASHINGTON SCHOLARSHIP

My name is Lapria and I go to Holy Temple Christian Academy. W.SF. is the only way I can read. I am 8 years old I have a lot of problems i was born with. public school said I would not read. I read and my, my math is great my handwriting is not so good but I have A in reading and A in math

LAPRIA JOHNSON.

Ms. NORTON. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I rise in support of this amendment and of this legislation. I just want everyone to know the experience that I had sitting on the committee when the parents and the children were in the audience watching what we did, and to experience the eyes of those children begging us to give them this chance, and those mothers and grandmothers who were crying tears when they saw that they were going to have the opportunity to send their children to schools that would be effective.

It is imperative that we give these people an opportunity. They should have an opportunity to send their kids to a good school.

Ms. NORTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I simply want to close for my side with one word. Opposition to private school vouchers is one of the few bipartisan policy issues remaining in our country today. You will seldom find an issue where almost two-thirds of the American people are in agreement. And what they believe, according to all the data, is that money from the public Treasury should not be siphoned off to private schools. Diversion via the Davis amendment would begin that process for the first time in U.S. history. I ask my colleagues to think about the momentous nature of this vote and to vote against the Davis amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the House Committee on Education and the Workforce and one of the authors of this amendment.

Mr. BOEHNER. Mr. Chairman, let me thank the lead sponsor on this amendment, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) who has worked closely with us to bring some hope to children who today do not have hope.

Eighty percent of the kids in America go to public schools, and we are doing everything we can to help those public schools improve, and we are all hopeful that they do improve. But we also know that the problems in the D.C. schools are severe. In spite of spending over $10,000 per student, we have the worst schools in America. And what this amendment does is to say let us create a scholarship program for 2,000 of them.

This debate today really should not be about the teachers unions. There is no diversion of public money here. This debate today is about one thing: the plight of poor kids who lost the lucky lottery of life in terms of who their parents were or what household they grew up in or what school that they got assigned to.

How can we continue to turn our heads and look the other way when we know that children's lives are being ruined because they are consistently put in a school that is not performing? I, for one, cannot look the other way anymore.

Let me tell a story that I think illustrates all of this as best I can illustrate it for all of you. I have been long involved with a group here in town called D.C. Parents for School Choice and the Washington Scholarship Fund. Every year the D.C. Parents for School Choice have a picnic somewhere up here on Capitol Hill, and hundreds and hundreds of mothers, grandmothers, great-grandmothers, come to this picnic with their child hoping that their child's name will be drawn out of a hat for a scholarship.

I cannot go to the picnic anymore. I cannot go. Because when I went to the picnic and I looked into the faces of these women with their children, looking for hope, the only hope they were ever going to have for that child was to get a scholarship to be able to go to a school where that kid would have a chance to succeed. These mothers, grandmothers and great-grandmothers, they were there and they knew that their child, if they did not get that scholarship, the chances for them to succeed were almost nil in these schools.

I sob, and I am doing everything I can not to sob here today. These kids need our help. This is criminal neglect on the part of public policy makers to continue to look the other way when we know that kids are in schools, that they cannot learn, and they are not learning.

I have been in hundreds of schools and so have all of my colleagues. We see these bright young faces in the first and second grade, eager to learn, and then you look around some of these buildings and they have no chance.

Without an education you have no chance at the American dream. These kids need our help. They deserve our help. And when I vote today I will be looking into the face of those mothers, grandmothers and great-grandmothers, and I am not going to disappoint them.

Mr. OSBORNE. Mr. Chairman, during the vote on Representative TOM DAVIS's amendment to the fiscal year 2004 D.C. Appropriations Bill, H.R. 2765, I mistakenly voted "aye." I intended to vote "no." At the time, I was involved in a conference call with constituents. I left the floor after voting on the Davis amendment to participate in the call believing that I had voted in opposition to the Davis amendment. I have heard from hundreds of my constituents who are opposed to voucher proposals. I fully intended to continue my position of opposing all school voucher proposals. I sincerely regret my error.

I did vote in favor of the Norton amendment to strike funding for this voucher proposal. My vote on the Norton amendment is a true indication of my position on this issue.

While I understand the strong feelings behind the prospect of providing voucher to children in the District of Columbia, I have had a longstanding and well-known position of opposing Federal funding for school vouchers. I would much rather see additional investments made in the D.C. public school system than to have funds used in private schools. The D.C. voucher proposal will provide options for a very small fraction of children in the District of Columbia public school system. But every child in the District of Columbia deserves a high-quality education, not just a few thousand. I strongly believe that a high quality education system will only be possible through additional investments to the public school system, rather than by using public funds for private schools.

Mr. GREEN of Texas. Mr. Chairman, I rise today in strong opposition to the Davis amendment to the D.C. Appropriations bill.

Our country has a rich tradition of providing a quality education to every child in America. I am a strong believer in America's public schools. My wife taught in them for more than a quarter century. Many of my family members and friends are public school teachers. My wife and I are both graduates of public schools, as are our children.

My children, Angie and Chris, both graduated from public schools, and went on to attend the University of Texas and Texas A&M, respectively. My daughter attended the University of Texas Medical Branch in Galveston and is now doing her residency in internal medicine there. These are all public schools. I am proud of the adults they have become, and know that they owe many of their successes to the fine educations they've received at these public schools.

So I am disheartened by attempts like this one which seek to dismantle America's public school program. I know that proponents of this measure will argue that students in failing schools deserve better—and I couldn't agree with them more. But vouchers are not the answer.

As many of my colleagues have pointed out, the average voucher covers only a small part of the costs of private school tuition. The vouchers provided in this legislation would not go far enough to help all students attend private schools. Only those with incomes sufficient to cover the remainder of the tuition would be able to truly have a choice. That leaves low-income students that much further behind.

Additionally, vouchers are unproven. The evidence is unclear as to whether students actually do better in private schools than in public schools with smaller class sizes. If we are really committed to providing every child with a top-notch education, we should implement proven reforms in all schools—qualified teachers, small class sizes, updated materials, and advanced technologies.

Ninety percent of America's kids to go public schools. If we're going to keep our promise to these kids, we need to make sure that all of them—not just the fortunate few who can actually afford private schools—receive a quality education.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a colloquy with my good friend and the chairman of the subcommittee, the gentleman from New Jersey (Mr. FRELINGHUYSEN), the distinguished chairman of the Subcommittee on the District of Columbia of the Committee on Appropriations, and with the support of the distinguished ranking member, the gentleman from Pennsylvania (Mr. FATTAH).

The colloquy deals with a surprising and very damaging change in Social Security annuities for district firefighters, police, Secret Service agents, Park Police and others.

Mr. Chairman, on October 1, 2002 the above District public service employees were notified for the first time of a reduction in their monthly retirement benefit payments by removing any credit received for military service performed after 1956 pursuant to D.C. Code 5-704(h). In other words, the firefighters and police who expected to have their military service count towards retirement are now being told that their benefits will be dramatically reduced or that they will have to pay back benefits received to account for the calculation.

It is unfortunate and sad to expect the protectors of our Capitol, who also served our country in the military, to be penalized for government's mistake in not notifying them of this administrative change.

Mr. Chairman, if Congress desires to continue to prohibit a military service credit for Social Security contributions, then we have two choices that would permit us to look at our firefighters and police officers with a straight face. We can either restore the military credit for those who were not notified of the change prior to October of 2002 or we can permit them to buy back the benefits they have received by having them submit adjusted payments that were due while in the military.

Mr. Chairman, the harm our public safety personnel will endure from these drastic annuity reductions or penalties will be severe. And I encourage Members to support a correction to the D.C. Code that permits them to manage this terrible mistake. I have committed to work with the distinguished chairman of the subcommittee and the ranking member, as well as the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Maryland (Mr. HOYER) to correct this mistake.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank my colleague from Pennsylvania, who has consistently stood a fervent representative of the national fire community, for bringing this issue to our attention. I understand the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Maryland (Mr. HOYER) are working with the gentleman from Pennsylvania (Mr. WELDON) on a stand-alone bill to address this matter and I support his efforts.

□ 1315

AMENDMENT NO. 2 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC. 136. Total Federal appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $4,660,000.

Mr. HEFLEY. Mr. Chairman, I rise today to offer an amendment to cut the level of funding in this appropriations bill by 1 percent which amounts to $4.66 million. As most of my colleagues are aware, I have offered similar amendments on a number of the appropriation bills, in fact, on most of the appropriation bills.

I want to emphasize particularly today that this is not a reflection on the job that the chairman of committee or the ranking member or this committee has done. In fact, my colleagues have done a good job, I think, of actually allocating less this year than was done last year. So it is not a reflection of that. What it is is a reflection of my deep concern about the deficit that we continue to pile up.

I think it is important to state the affect these amendments that I have offered would have on the deficit if they would be accepted on all the spending bills. Just a tiny 1 percent cut to all of the spending bills, one cent out of each dollar, would reduce the projected deficit by almost 25 percent.

The practical reality of this amendment is that we would save $100 billion if we had passed all of these as we go along. Of course, we have not. I think it is important to state that some of us are very concerned about this deficit and this is the way to do it.

We have to draw a line somewhere. The budget we have for the next year is too large. We can do something about the deficit right now. By voting for my amendment members would be stating that the American taxpayer should not have to pay higher taxes in the future because we could not control our spending today.

Our budget should be no different from the taxpayers' budgets at home. When we have less money, we should spend less money. It is really that simple.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Federal portion of this bill, as the gentleman from Pennsylvania (Mr. FATTAH) and I already know, is 8.4 percent below last year's level which is about $43 million. It has made it difficult for to us meet the city's priority.

Actually if we had not received the $10 million from the gentleman from Ohio (Chairman REGULA), our allocation would have been 10.4 percent below last year's allocation level.

This amendment, well intended, would reduce the Federal funds to the District by another 1 percent or $4.6 million. The District needs every dollar it can get for programs and priorities of the District. And I urge my colleagues to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

AMENDMENT NO. 1 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. MANZULLO:

At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used—

(1) to acquire manufactured articles, materials, or supplies unless section 2 of the Buy American Act (41 U.S.C. 10a) is applied to the contract for such acquisition by substituting "at least 65 percent" for "substantially all"; or

(2) to enter into a contract for the construction, alteration, or repair of any public building or public work unless section 3 of the Buy American Act (41 U.S.C. 10b) is applied to such contract by substituting "at least 65 percent" for "substantially all".

Mr. FRELINGHUYSEN. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. A point of order is reserved.

Mr. MANZULLO. Mr. Chairman, we can help our struggling manufacturing sector today by increasing the American content of the equipment purchased under this bill from 50 to 65 percent.

This modest increase will cause no real hardship for the District of Columbia. It will be greatly appreciated by our Nation's desperate manufacturers.

Today's Washington Post reported that the vast majority of the 2.7 million jobs lost since 2001 are not coming back unless new jobs are created in novel and dynamic ways.

We need to be proactive on this bill and make it an engine for job growth by buying from our own producers and getting them hiring again.

The people are looking to Congress for action.

From the Washington Post September 3, 2003, it quoted, "In his Labor Day address (The President) signaled that the loss of 2.6 million manufacturing jobs during his administration had moved to the top of his list of domestic policy concerns."

Our domestic manufacturing base is being hollowed out right before our own eyes. In 1981 Rockford, Illinois, the largest city of the congressional district that I have the pleasure to represent, had an unemployment rate of 25 percent, the highest in the Nation. Today it is 11.3 percent. I do not want to see a recurrence of what happened in 1981. This summer, two more factories closed down, and we are in danger of seeing our industrial base irreparably harmed.

The Department of Labor employment report for August is out this morning. Manufacturing employment declined again for the 37th consecutive month. That is a record. In 30 days, our Nation lost 44,000 manufacturing jobs, and for the first time in our Nation's history, we have fewer than 10 percent of our jobs in the manufacturing sector of the labor force. That means fewer employees than at any time since 1961, when the U.S. population was 100 million or smaller.

Mr. Chairman, the purpose of this bill is simply to state that, if anything, taxpayers' dollars should be used to buy things that are made in America. The present law today says only 50 percent. This increases it to 65 percent. Why not save our manufacturing jobs with the taxpayers' dollars that are being paid in?

There are other forums where this issue may be raised. We have been advised by the Parliamentarian that this particular amendment is not proper to raise at this time.

Mr. Chairman, I ask unanimous consent to withdraw this amendment from consideration.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any other Members wishing to offer amendments to the bill?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS), amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON), amendment No. 2 offered by the gentleman from Colorado (Mr. HEFLEY).

AMENDMENT OFFERED BY MR. TOM DAVIS OF VIRGINIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 203, not voting 26, as follows:

[Roll No. 478]

AYES—205

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Feeney
Ferguson
Flake
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—203

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Frost
Gephardt
Gonzalez
Gordon
Graves
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
LoBiondo
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simpson
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu
Wynn

NOT VOTING—26

Ackerman
Ballenger
Burr
DeGette
Foley
Frank (MA)
Janklow
John
Kucinich
LaHood
Leach
Lofgren
Mollohan
Murtha
Myrick
Pickering
Rangel
Rodriguez
Rogers (AL)
Roybal-Allard
Simmons
Sullivan
Waxman
Whitfield
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). The Chair reminds the Members that there are 2 minutes remaining in this vote.

□ 1347

Mr. GREEN of Texas changed his vote from "aye" to "no."

Messrs. RENZI, BILIRAKIS and GINGREY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. SIMMONS. Mr. Chairman, on rollcall No. 478 I was inadvertently detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the remainder of this series of votes will be conducted as 5-minute votes.

AMENDMENT OFFERED BY MS. NORTON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 203, noes 203, not voting 28, as follows:

[Roll No. 479]

AYES—203

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Graves
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
LoBiondo
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Reyes
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu
Wynn

NOES—203

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Nussle
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sweeney
Tancredo
Tauzin
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—28

Ackerman
Ballenger
Burr
Burton (IN)
DeGette
Diaz-Balart, L.
Ehlers
Foley
Janklow
John
Kucinich
LaHood
Leach
Lofgren
Mollohan
Murtha
Myrick
Pickering
Rangel
Rodriguez
Rogers (AL)
Roybal-Allard
Sullivan
Taylor (NC)
Waxman
Whitfield
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). The Chair advises Members there are 2 minutes remaining in this vote.

☐ 1401

Mr. SIMPSON and Mr. ENGLISH changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 116, noes 284, not voting 34, as follows:

[Roll No. 480]

AYES—116

Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Bilirakis
Blackburn
Blunt
Bradley (NH)
Brady (TX)
Brown-Waite, Ginny
Burgess
Camp
Cannon
Capuano
Carson (OK)
Chabot
Chocola
Coble
Collins
Cox
Crane
Cubin
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeMint
Diaz-Balart, M.
Doggett
Duncan
Everett
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Gutknecht
Hall
Harris
Hayes
Hayworth
Hefley
Hensarling
Herger
Hulshof
Hunter
Inslee
Isakson
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kirk
Lewis (KY)
Linder
Manzullo
McCotter
McCrery
McInnis
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Neugebauer
Norwood
Nunes
Otter
Oxley
Paul
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Ramstad
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (MI)
Smith (WA)
Stearns
Tancredo
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Toomey
Upton
Vitter
Walden (OR)
Wamp
Wilson (SC)

NOES—284

Abercrombie
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burns
Calvert
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hart
Hastings (FL)
Hastings (WA)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kolbe
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murphy
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—34

Ackerman
Ballenger
Burr
Burton (IN)
Buyer
Cole
DeGette
Diaz-Balart, L.
Ehlers
Foley
Janklow
John
Kucinich
LaHood
Leach
Lofgren
McHugh
Mollohan
Murtha
Myrick
Pence
Pickering
Pomeroy
Quinn
Rangel
Rodriguez
Rogers (AL)
Roybal-Allard
Sullivan
Taylor (NC)
Waxman
Whitfield
Woolsey
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1410

Ms. JACKSON-LEE of Texas changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FRELINGHUYSEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. BASS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2765) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I am pleased to yield to my friend, the distinguished majority leader, for the purposes of inquiring about the schedule for next week and the remainder of the day, if there is any schedule for the remainder of the day.

So that Members who are gathered here will know, have we had the last vote of the day, Mr. Leader?

Mr. DELAY. I thank the gentleman from Maryland for yielding.

Yes, we have just had the last vote of the day.

☐ 1415

The House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We expect to complete consideration of H.R. 2989, which is the Transportation, Treasury, and Independent Agencies Appropriations Act for fiscal year 2004. Any votes called on amendments on this bill will be rolled until after 6:30 p.m.

On Wednesday we will consider several measures under suspension of the rules. A final list of these bills will be sent to Members' offices by the end of the day. We will plan then to consider H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003, and hope to conclude with consideration of the conference report on H.R. 2115, the Vision 100, Century of Aviation Reauthorization Act.

Thursday, as you know, is September 11, and we are currently working on several measures to recognize the second anniversary of the 9/11 attacks. In addition to these measures, which we would expect to have broad bipartisan support on, I would certainly expect to have a moment of silence on the floor of the House and a ceremony similar to the one held in the Rayburn Courtyard last year.

Finally, Mr. Speaker, I would like to note for all the Members, we do not plan to have votes next Friday, September 12.

I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, I thank the leader for his information. I want him to know on this side of the aisle we are going to be joining the majority side of the aisle as we reflect upon the tragic loss of some of our fellow citizens and the tragic loss of all of us and our country on that September 11.

Mr. Leader, can you tell me what time on Tuesday Members need to be here to assure themselves that they will be able to offer the amendments on the Transportation-Treasury bill?

Mr. DELAY. If the gentleman will yield further, I would say at least by 2 p.m. on Tuesday, because for Members who are offering the amendments or who wish to be heard in the debate, we will begin consideration of the Treasury-Transportation bill at 2 p.m. in the afternoon.

Mr. HOYER. We had a number of questions, one of which I will ask now because it is in my mind.

Apparently, there is a delegation leaving for Doha Wednesday night. Can the gentleman reflect upon what might be on the schedule for Thursday that they might miss?

Mr. DELAY. If the gentleman will continue to yield, I have heard of delegations leaving on Wednesday night and understand that, and that is why we anticipate a very light load, if any, on Thursday. But I cannot definitively say there will not be votes on Thursday. I think with the two sides of the aisle working together, we can come to some accommodation to where we can properly celebrate, not celebrate, that is not the right word.

Mr. HOYER. Commemorate.

Mr. DELAY. Commemorate the events of 9/11, and still allow Members to go about their normal business.

Mr. HOYER. I thank the leader for that information.

Also, Mr. Leader, I know you did not anticipate this, but when do you expect to attempt to conclude with the D.C.

appropriations bill? Will that be done next week?

Mr. DELAY. I would expect that the votes on final passage of the D.C. appropriations bill could very well be held the evening of Tuesday, after the rolled votes on the Transportation-Treasury bill.

Mr. HOYER. I thank the gentleman.

Mr. Leader, we have had a lot of concern and discussions about the child tax credit. It has been 85 days since the President urged us to pass it. Does the gentleman have any expectations that that might be on the agenda, either next week or in the near term?

I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman yielding and his concern on this issue, and I assure the gentleman that we would very much like to address his concern. But the truth is, we disagree so strongly on this issue, on how to address this issue. We on our side just do not believe that the tax credit should expire right after next year's election and certainly do not want to see it decrease in value over the next several years, so we have continued to insist to the other body in our negotiations that the child tax credit cover more families for a longer period of time with more relief. I just hope very soon that we can convince the conferees that this is the right approach to take.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's position. Of course, as the leader knows, the problem that we have on this side of the aisle with that position and your concern about having the tax credit expire shortly after the election next year, we have not given relief to the 200,000 service personnel who are covered and the 12 million children and 6.5 million families that would have been covered by the Senate amendment that was dropped in conference. So I understand your concern, and I share that concern. On this side of the aisle we do not want the tax credit to expire either.

Having said that, however, we would hope that the 6.5 million families and 12 million children and 200,000 Armed Forces personnel would not be held hostage to our concern about making sure that it does not expire in an untimely way.

Mr. DELAY. If the gentleman will yield further, I share the gentleman's concern; but I do not think that that 6.5 million families would want to see a tax increase right after the election, having enjoyed getting a tax credit and then seeing their taxes go up $300 per child almost immediately. So I totally agree with the gentleman. But this bill, as the gentleman may recall, has very important provisions for the military in it.

I would just urge the gentleman to make his concerns known to those over in the other body that could move this bill within nanoseconds if they had real concerns for those 6.5 million families and the military families in this country.

Mr. HOYER. Reclaiming my time, respectfully the leader and I have a different perspective, as you know. We could move within a nanosecond to include those children today with unanimous consent. Frankly, as the leader well knows, we had a vote of 422 to 0 on much of the military tax relief in terms of moving expenses, capital gains expenses from selling homes and other expenses, the death benefit exclusion from taxes. So all of those items, there is agreement on my side, unanimously, as there was on your side. So the only issue is are we going to hold those two items hostage, the child tax credit and the military, for other items which are much more controversial, both within this body, Mr. Leader, as you well know, and between the two bodies.

I think probably there is not much purpose in discussing this further, but we would hope that perhaps we could try to move those items on which we have agreement and continue to work on those that we do not forge agreement on. But we ought not to, in light of our disagreement on some things, damage those folks.

Lastly, let me make an observation. I agree with you, Mr. Leader, that those families, those 6.5 million families, would not want to see a tax increase next year after the election; but if you ask them whether they wanted a $300 to $600 credit between now and the next election or simply stay at the same rate ad infinitum, I have a feeling there is little doubt they would say, well, we will take the help for a year, even if you do not give it to us permanently.

Let us go on perhaps to the energy bill, Mr. Leader. You did not have that on your schedule. Obviously there was, as you know, a motion to instruct yesterday so that we could try to address the problem that all of us saw dramatically in the blackout that occurred on the 11th of August. Would the leader tell me what his perspective is on the energy bill?

Mr. DELAY. If the gentleman will yield further, the gentleman is very aware that, as he just stated, we just appointed conferees last night. They had their first conference this morning. They are working as hard as they can to get this bill out as soon as possible.

The gentleman knows that the Nation's energy crisis is not just about electricity. Gasoline prices are at an all-time high, natural gas prices are at an all-time high, natural gas supplies are at an all-time low. This is not the time to do piecemeal work or patchwork in putting together a bill. We need a comprehensive energy policy to meet the urgent needs across this country and across the spectrum of energy sources.

I might say that this House has tried for the last 3 years to pass a comprehensive energy package; and we are now only two votes away, a vote in the House and a vote in the Senate, to being able to put together a good package that we can send to the President, and I am hoping that work can be done expeditiously and we can see a bill in the next 2 to 3 weeks.

Mr. HOYER. I thank the leader for his observations on that.

Two additional questions. The next one would be the Medicare prescription drug bill. Obviously this is a very contentious piece of legislation, with different perspectives on how we can provide seniors in particular with relief on the prescription drug costs.

Can the gentleman tell us what you believe the status of that to be and when we might expect that bill, the conference report, on the floor of the House?

Mr. DELAY. If the gentleman will yield further, the gentleman knows, as we all do, that improving and strengthening Medicare is going to be one of the toughest conferences that we will face. There are a lot of issues, very complicated issues, that have to be dealt with.

☐ 1430

The chairman of the conference, the gentleman from California (Mr. THOMAS), is working with all parties on the conference and it just takes a lot of time to work through these issues. We have already worked through some. I happen to serve on the conference. We have worked through some and progress is being made. But our Members need to stay focused. The Members of the other body need to stay focused in order for us to get this done before the end of this session. But as far as predicting when we will be able to do that, that would be very difficult for me to do. But I hope that everyone will work together and get something out before we adjourn for this session of the 108th Congress.

Mr. HOYER. I thank the gentleman for the information and the observation.

Let me close. We talked about Thursday, September 11, when we will come together, controversies that we have discussed. The significant differences we have discussed with respect to how to solve the problems that confront this country will I think be put aside by all of us on September 11 as we come together, as we did on that September 11 evening when we stood together, you and I, shoulder to shoulder, and we sang God Bless America. At a time of tragedy we came together with resolve and without partisanship, resolve to confront the terrorists that afflict this world, this global community, and to make our country safer and more secure.

Mr. Leader, on Thursday at what point in time do you expect us to end our session on Thursday and to participate in such both collective remembrances as we may have and individually to participate in remembrances?

I yield to my friend.

Mr. DELAY. I appreciate the gentleman's words and they are heartfelt and honest and straightforward, and I greatly appreciate those words.

I would like to give the gentleman a time, but there are two reasons; one is I am a little concerned at this moment that if I gave a projected time of being through on Thursday, Members would leave on Wednesday. We just saw what has happened to this House where some, almost 30 Members were not here to vote on the last pieces of legislation, of both parties. And it greatly concerns me that when we give notice that we might be leaving, Members take advantage of that and move on and leave the Chamber and are not here to vote like they should be. And so I do not know.

Secondly, I would hope, and we have been in touch with your offices, I would hope that we would continue to work today and through the weekend to put together the right kind of commemoration of the day so that we exhibit to the country that the people's House has great concerns about the events of 9/11 and the events that have followed 9/11 and we want to express the feelings and the emotions of the American people on this very important day.

Mr. HOYER. I thank the leader for his comments and I know that the gentlewoman from California's (Ms. PELOSI) office will cooperate fully in that objective, as will mine and others, and we look forward to participating in a very positive way but a very solemn and prayerful way as we remember that loss and the challenge that lies ahead.

ADJOURNMENT TO TUESDAY, SEPTEMBER 9, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Tuesday, September 9, 2003, for morning hour debates.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, the Committee on Rules is planning to meet next week to grant a rule for the consideration of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003, which may require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

The Committee on Financial Services ordered the bill reported on July 24 and filed its report with the House yesterday. Members should draft their amendments to the bill as reported by the Committee on Financial Services.

Members should also be noted to use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate form. Members are also advised to check with the Office of Parliamentarian to be sure that their amendments comply with the rules of the House.

AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR THE UNVEILING OF THE PORTRAIT BUST OF VICE PRESIDENT DAN QUAYLE ON SEPTEMBER 10, 2003

Mr. NEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 63) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BRADY of Pennsylvania. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Ohio (Mr. NEY) for the purposes of explaining the resolution.

Mr. NEY. Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. BRADY), one of our distinguished members of the Committee on House Administration for yielding to me.

Mr. Speaker, I rise today in support of Senate Concurrent Resolution 63 which authorizes the use of the Rotunda of the Capitol for the unveiling of the portrait bust of former Vice President Dan Quayle on September 10, 2003.

The mainstay of the Senate's fine arts collection is the Vice Presidential bust collection. In 1886, the Joint Committee on the Library began commissioning busts to be sculpted of the Vice Presidents to occupy the niches that surround the Senate Chamber. Once these spaces were filled, new additions were placed throughout the Senate wing of the Capitol.

The collection acknowledges the patriotic service performed by each individual who has served as Vice President and pays tribute to the Vice President's role as President of Senate. It also provides a unique survey of American sculpture for the 19th century to the present day.

The Senate currently maintains over 80 sculptures by some of America's preeminent artists, commemorating many of the great figures of our national history.

Born on February 4, 1947 in Indianapolis, Indiana, Dan Quayle was named after James Danforth, a longtime Quayle family friend killed in World War II. Mr. Quayle's career as a dedicated public servant began in 1971 when he became an investigator of the Consumer Protection Division of the Indiana Attorney General's Office. Later that year, he became an assistant to then-Governor Edgar Whitcomb.

Dan Quayle was elected to the U.S. Congress from Indiana's Fourth Congressional District in 1976. Then in 1980, at age 33, Mr. Quayle became the youngest person ever elected to the U.S. Senate from the State of Indiana. During his tenure in the Senate, Mr. Quayle became widely known for his expertise and legislative accomplishments in the areas of defense, arms control, labor, and human resources.

As a Senator he served on the Committee on Armed Services, the Committee on the Budget, and the Committee on Labor and Human Resources, and became widely respected by colleagues on both sides of the aisle for his legislative skill and intelligence.

In 1982, Mr. Quayle authorized the Job Training Partnership Act, JTPA, one of the most significant pieces of social legislation passed during the Reagan Presidency.

In August 1988, at the Republican National Convention in New Orleans, George Bush called upon Mr. Quayle to serve as his Vice Presidential running mate in the general election, which George Bush went on to win.

Dan Quayle was sworn in as the 44th Vice President of the United States on January 20 of 1989 and served with distinction in that capacity over the following 4 years.

Former Vice President Quayle is widely regarded as one of the most active Vice Presidents in our Nation's history. He made official visits to 47 countries, was chairman of both the President's Council on Competitiveness and the National Space Council, and served as President Bush's point man on Capitol Hill.

Mr. Quayle's tenure as Vice President is notable for his principle, leadership, integrity and patriotism. Therefore, I am honored to bring this resolution to the House floor. I would like to thank Senator TRENT LOTT, who is my counterpart as the chairman of the Senate Rules Committee, for introducing and passing this measure in the Senate. I would like to thank the gentleman from Pennsylvania (Mr. BRADY) for being here today on this bill.

Mr. Speaker, I urge full support of this resolution.

Mr. SOUDER, Mr. Speaker, I am honored to rise today in strong support of S. Con. Res. 63, due acknowledgement of my fellow Hoosier, predecessor in the House, and friend—Vice President Dan Quayle.

Dan was a precocious politician. In 1976, he was elected to Congress at the age of 29 and served in the House of Representatives for two terms. Since 1994, I have had the distinct privilege to represent this same constituency. Having defeated three-term Senator Birch Bayh, Dan became the youngest Hoosier ever to serve in the Senate. Appropriately, his election to the upper chamber coincided with President Ronald Reagan's conservative revolution of 1980.

While he may at times have been the unfair subject of liberal derision, Americans always knew that Dan would stand firm against the radicalism of Hollywood's ersatz politicians. Dan is committed to family values, and anyone familiar with our 44th vice president knows that his family has always been paramount—irrespective of the demanding positions that he has held.

Always remembering his Hoosier roots, Dan never sought out the salons of Georgetown, became seduced by the "image is all" Siren's song of politics, or succumbed to the confines of the Beltway mentality. His foundation was his faith in God, his love for his family, and his patriotism.

As one of the most active vice presidents in history, Dan traveled to 47 countries, served as the President's advocate on Capitol Hill, and chaired the National Space Council. At all levels of office, he promoted a strong national defense, economic growth and the revitalization of America.

Faithful, loyal and humble, Dan Quayle continues to be a model of service to all Americans. I look forward to the unveiling of the portrait bust on September 10, 2003, and to celebrating the commitment of this great American patriot to our country.

Mr. BRADY of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of Vice President Dan Quayle on September 10, 2003. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. RUPPERSBERGER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk will report the motion.

The Clerk read as follows:

Mr. RUPPERSBERGER moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the *Columbia* disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceeding provisions of this instruction, not later than the second legislative day after adoption of this motion.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. RUPPERSBERGER) and the gentleman from Arizona (Mr. HAYWORTH) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. RUPPERSBERGER).

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I have not come to the floor today to carry someone else's torch in partisan battle. I am not here to fight a political battle just for the sake of fighting one. I am here because we need to get past the idea of Democrats versus Republicans and cut to the chase.

I do not have to convince anyone here today that we need a child tax credit. That is not the battle. The battle is whose version of a child tax credit this Congress will send to the President for signature. And I am here to argue that the Senate version simply makes more sense. We are facing a troubled economy, rising unemployment numbers and an exploding deficit caused by tax cuts that is just not working. We are fighting a war on terrorism, a war in Afghanistan, and a war in Iraq. We have our servicemen and -women deployed throughout the world. We are trying to do everything and we need to focus on our priorities.

One thing we need right now is a child tax credit for all families, including military and veteran families, including the families of manufacturing workers, farmers, teachers, steelworkers and restaurant workers. We need to include families who have not benefited from the tax cut plan because they did not get dividend or capital gains relief from this administration's tax cut, families who need this child tax credit now to pay for housing, clothing, food and health care.

Now, I have been listening to arguments from all sides. Last night I heard some of my colleagues from the other side of the aisle say that the House's version of the child tax credit does provide for all families. But this is not what the bill says. The House version does not cover all families. My colleagues on the other side of the aisle said that their bill provides for military families. But the House version does not provide specific child tax credit relief for military families. Only the Senate version does this. And the House version is expensive. It will cost over $80 billion, which will only balloon the deficit, and we simply cannot afford that right now.

We need to be more fiscally responsible. We need to find solutions that fix problems without creating new ones. And the Senate version of the child tax credit does this. It provides tax relief for all American families and it does it without adding to the deficit. It is fully offset and that is more fiscally responsible.

The reality is we could not have an unlimited pot of money for everything that we want or need. We have to make choices among tough priorities, and that is our job. But the House passed a tax law in May that left 6.5 million hardworking taxpaying families without a child tax credit. And we need to fix that and we need to fix it now. There has been a lot of debate and rhetoric about the House and Senate versions of the tax credit bill. I think debate is healthy, but I think the rhetoric has been misleading.

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Let us get to the facts. My colleagues on the other side of the aisle say we already passed a tax credit bill. We did, but it is too expensive and the wrong bill. We need the Senate version. The Senate version focuses solely on giving the 6.5 million families the child tax credit relief they need. The Senate version fixes the problem created by the last tax cut without creating more problems. The Senate version expands the child tax credit and provides relief specifically for military families, and it does not cost more money.

The House version will cost over $80 billion. This will only add to our exploding deficit, and it does nothing to help our economy. The House version is not fiscally responsible.

The critical question here is which version of a child tax credit helps military families more. My colleagues on the other side of the aisle argued last night that their bill provides for military families. That is true. There are military benefits in the House version of the Child Tax Credit bill, but the House version does not include a specific child tax credit benefit for military families.

Instead, the House leadership has taken provisions from a completely different bill and thrown them into this bill. Military fairness is something I will always fight for, but we need to tackle the child tax credit problem now. The House bill does not do this for military families.

Remember, none of the provisions in the House version provides specific child tax credit relief for military families. Only the Senate version does that. Only the Senate version considers combat pay in the formula which means that military families will receive larger tax credit relief. That is not rhetoric, that is fact.

I have to ask my colleagues what message are we sending to military families. The tax cuts signed into law May 2003 cut major veterans programs, including health care and housing. These cuts will total $14.6 billion in benefits over the next 10 years. We have had proposed cuts to imminent danger and family separation pay, and I am very disturbed about this.

While we were away on our August break the Department of Defense put out and attempted to cut combat pay and pay for our families that are separated. We have our American service people over in Iran and Iraq putting their lives on the line. We need to do whatever we can to support them, and for them to be over there protecting our freedom and liberty and to cut any of their combat pay or their military family separation pay is wrong.

I have a letter, after hearing about this, that I sent to Secretary Rumsfeld, and I want this to be made a part of the record, asking him not to do this, that it is wrong, and I want to make this a part of the record, but to this date, I have received no response from Secretary Rumsfeld or the Department of Defense, but this is something we have to make sure we stay on top of.

I will insert the letter that I referred to earlier at this point.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 14, 2003.

Hon. DONALD H. RUMSFELD,
Secretary of Defense, The Pentagon,
Washington, DC 20301.

DEAR SECRETARY RUMSFELD: I am very disturbed by recent press accounts of the Pentagon's attempt to decrease both imminent danger pay and family separation allowances. I am asking you for a quick response to my inquiry.

We have over 148,000 troops in Iraq and 9,000 troops in Afghanistan, many military families rely on this pay to help make ends meet when their loved ones are away serving our country and fighting for our freedom. I was shocked to learn that as part of the Pentagon's interim budget request, there was a recommendation to return to the lower rates of special pay pending further inquiry by military experts. This sends the wrong message to our soldiers and their families. It says to them that the Pentagon does not care about their well being. It suggest that their efforts in Iraq and Afghanistan are no longer dangerous. In my view, we cannot let our soldiers and their families feel like we do not understand and appreciate what they are going through.

Our troops face daily guerrilla attacks. They face unbearable temperature, and they have to deal with missing their families and loved ones. This is not the time to reduce their special duty pay.

As Congress goes to conference on the Defense Appropriations bill, I hope that you will not proceed with the Pentagon's combat pay reduction recommendation and instead submit a request to Congress for additional funding so that we can honor our soldiers abroad and their families at home. I would also request that you support the Senate language that calls for making the increase in combat pay permanent. These men and women make a huge sacrifice and we need to make sure that they receive all the resources and compensation they need to ensure that their families are well supported.

Thank you for your time and I look forward to a speedy response to our letter.

Sincerely,
C.A. DUTCH RUPPERSBERGER,
Member of Congress.

Why is this occurring? Because we do not have the money. The tax cut is not working, but we cannot take it out on our military families.

We also had a $200 million cut to Impact Aid, denying military school children a decent education, again because we do not have the money. We need to reprioritize where we are putting our money, and after all these cuts, we are denying 200,000 low-income military personnel a child tax credit. That is wrong.

What message do we want to send to our service men and women and their families? The House version does nothing to help military families specifically. Only the Senate version does this, and it does it without increasing the deficit.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

I welcome my colleague from Maryland. It is the first chance, Mr. Speaker, that I have had the opportunity to engage my friend in debate on the floor of this House, though on a personal note I certainly appreciate the gentleman's friendship and welcome him to the floor, not to rehash rhetoric but to champion and highlight some respectful differences in policies.

First of all, when it comes to the priority of military families, I do not know anyone in this House who does not believe our fighting men and women should have the best equipment, the best opportunity to succeed and the best for their families, and when they leave the military, the best care.

It is interesting that my friend during this debate, which is on a motion to instruct in terms of the tax credit and the child tax credit, would spend much of his time talking about the military and I welcome that because I think we should always have that scrutiny, but let me respectfully suggest that tax policy does not occur in a vacuum, and what is most notable about the question confronting us today are the things that my friend from Maryland failed to say.

First and foremost, Mr. Speaker, the House should be reminded that under current policy, 40 million tax filers in this country pay no income taxes, and of that group, many of those folks with whom my friends on the left say they are very concerned, many folks in that category receive payments from the government far more generous than anything outlined in the child tax credit.

Four letters, Mr. Speaker, E-I-T-C, earned income tax credit, and it is interesting because on previous occasions when we have addressed the topic, no matter whom might make the motion here, it is as if historical and financial amnesia envelops my friends on the left. Because the thing is right now poor folks, who are hardworking people, who are paying payroll taxes, who may not pay income taxes, they are eligible for payments. However much it is a fair question, Mr. Speaker, let us deal with specifics.

For someone earning a combined salary or wage of $10,000, who is the head of the household with two children, that head of household is eligible for a refundable earned income tax credit of over $4,000. Mr. Speaker, that is current law. That exists right now.

So the question becomes if that type of effort is being made right now, why the cry that somehow what the House passed is lacking? Again, my colleagues will recall that I said it is notable what is omitted from the argument of my friend from Maryland. Let us take a closer look at their motion to instruct on this child tax credit.

This motion to instruct actually allows the child tax credit to drop from $1,000 to $700 immediately following the 2004 election. In other words, Mr.

Speaker, for these families, bingo, a tax increase of $300 per child. What we have passed in the House ensures the child credit will remain at the $1,000 per child level throughout the decade.

The motion to instruct that my friend offers does not eliminate the marriage penalty and the child credit until the year 2010, and even then it does so for 1 year. Temporary relief means that when the pendulum comes back, thereto is a tax increase.

Under the motion offered by my friends, millions of children will be denied the credit because the parents are married. What we have passed in this House benefits middle-income families by taking care of this problem immediately.

My friend touched on the military concerns, as I heard earlier, and I think it is important. He asked for specifics. What have we done in terms of tax legislation to help those in the military? Military families, including those who are deployed abroad, are already receiving a refundable child credit and will continue to receive a refundable child credit under our House-passed bill. The motion they offer to instruct would only increase the refundable child credit for some families by allowing them to take into account tax free income when they compute their refundable credit.

The House-passed bill, Mr. Speaker, what we have passed in this House, provides more tax relief to military families because it includes some $806 million of military tax benefits. These provisions have already passed our House. They await action in the other body. Let me articulate for my colleagues what some of those provisions are. They include capital gains tax relief on home sales, tax free death gratuity payments, tax free dependent care assistance for members of the military. These provisions passed by this House await action in the other body.

The fact is we have a child tax credit that reaches out to America already, and the fact remains that through the earned income tax credit, the very people who some in this Chamber claim are forgotten are, in fact, helped already in existing law.

Mr. Speaker, facts are a stubborn thing. This is not an isolated incident, occurring in a vacuum. My friend from Maryland is right to this extent. It should not be our attempt today to score debating points, but it is our mission in the Congress of the United States to embrace sound policy. We have taken steps to help those who find the challenges of work and who find that they are on the lower end of the socioeconomic scale, but the notion of tax credits for those who pay no income tax is something that deserves scrutiny, especially in the full light of what this government and what this House and what this Congress have already done.

That is why I would invite my colleagues to respectfully reject the arguments of my friends and vote no on this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself as much time as I may consume.

First, the gentleman from Arizona has made some good points. His rhetoric is excellent. However, I would like to get into the facts again.

To begin with, the 40 million people who are not covered do pay taxes. They pay property taxes. They pay payroll taxes, Social Security taxes, sales taxes. This is not a bill that is fair for all.

Secondly, the issue on fiscal accountability. I never thought, as a Democrat, I would be here asking my colleagues in the other party, on the other side of the aisle, to be more fiscally responsible. If my colleagues look at the two bills, we cannot afford this bill. The Senate bill has a setoff. It makes sense. We have enough fiscal problems right now, but if they are serious about military fairness, which we all are, and we all agree that we are, the Senate bill is at the desk right now. Let us bring it up and let us vote on it.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

I think the point remains and, again, what has been left out of the discussion is existing tax policy. Nobody said the working poor do not pay taxes. What we said was we are offering help already, and to somehow willfully blind ourselves to the case of the head of household making $10,000 a year getting a refundable earned income tax credit of over $4,000 is to be, I believe, derelict in our duties to recognize the policy that already exists, and that is what we should remember today, that we have those programs in place to help the working poor.

To the extent my friend from Maryland champions what the other body has done and what he says is fiscal responsibility, I would simply point out there are tax increases which abound in what came out of the other Chamber. When my colleagues move to reduce the child credit from $1,000 to $700, after the next election, they have just increased taxes on the American people, Mr. Speaker, and here I guess is the ultimate paradox.

If it is so wrong to reduce taxation, if it is so wrong, if we accept my friend's logic, that somehow it imperils growth or fiscal accountability in the country at large, why any motion to instruct? Why not just a straight "no" vote from my friends on the left? The logic escapes me, but the truth does not, and it is this: The working poor are championed under existing policy by the earned income tax credit. I respectfully disagree with my friend because I believe by reducing taxes, we can actually increase economic growth, and as we saw and it is no respecter of parties, on a nonpartisan basis for Jack Kennedy in the 1960s, for President Ronald Reagan in the 1980s, total tax receipts to the government actually increase when there is more economic activity.

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On this motion to instruct, we are ignoring the realities of what would be a tax increase following the 2004 election. Likewise, we are ignoring a policy that in previous days in this Chamber was championed by my friends in the minority, the earned income tax credit.

Again, Mr. Speaker, we have to end this selective amnesia, understand the full picture.

And in that spirit I respectfully request a "no" vote on the motion to instruct.

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, just to respond to my friend, the gentleman from Arizona (Mr. HAYWORTH), I think there has been some debate about refundability and about the tax credit that the Senate bill stops after 1 year.

Both sides of the aisle I think have misinterpreted this to an extent based on some of the debates that I have heard. We already have a law in effect that the President signed. That law is automatic. And after this year the refundability automatically kicks in. That is what the law says. Those are the facts.

So let us not confuse it. I heard the colloquy before we took the floor, an argument that the other side has been using. It is not going to stop. It kicks in automatically, and that is the law. And that is something that is important. That is fact.

Secondly, if we are talking about fiscal accountability, again, the Senate bill has the set-offs. This bill does not.

We are in a difficult time in this country right now. We need to be fiscally responsible. And I will say it once and I will say it again: I think it is extremely important that we work on both sides of the aisle as a team to get control of this economy and to do what is right.

The Senate bill has the off-sets that are necessary for this child tax credit bill. This House version will cost us $80 billion. We cannot afford that.

Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I rise in support of the motion to instruct by my friend, the gentleman from Maryland (Mr. RUPPERSBERGER), the home State of my alma mater.

I rise to express my disappointment that there has been a refusal of this

House to enact what I believe to be a sensible and fair child tax credit for 6.5 million working families, many of them members of the military who we need to protect as they protect us.

Over the August recess, a large number of people in our country went to their mailboxes and found the first installment of the child tax credit. That was good news to them.

Unfortunately, another large group of people went to their boxes but found them empty. I can imagine no excuse for not getting these families their fair share.

In my district alone, nearly 35,000 families, 65,000 children who live in them, were excluded from this benefit. Nationwide that adds up to 12 million children deliberately left behind.

We are talking about working families, as the gentleman from Maryland (Mr. RUPPERSBERGER) said. We are talking about those who pay taxes, who love their children, and aspire to better lives, as we all should.

By excluding these families from the child tax credit, the majority in this Congress is essentially telling them that the equality of opportunity is a myth in America.

A bipartisan Senate bill that has been discussed would have helped these 12 million children who were left behind. It passed overwhelmingly on a bipartisan basis in the other body, but was not allowed to become law.

Time and time again this bill has been defeated on a party-line vote in this House.

I am particularly dismayed by the fact, as I said before, that 262,000 military families have been denied this expanded child tax credit.

Mr. Speaker, it is time for the President to impose some compassionate conservatism on his side of the aisle for the sake of hard-working American families.

Mr. Speaker, we are all aware of the inadequacies in funding in the No Child Left Behind education program. Let us ensure that we do not leave them behind again by denying them a tax credit that they deserve.

Mr. RUPPERSBERGER. Mr. Speaker, may I request the time remaining on both sides.

The SPEAKER pro tempore (Mr. CARTER). The gentleman from Maryland (Mr. RUPPERSBERGER) has 17 minutes remaining, and the gentleman from Arizona (Mr. HAYWORTH) has 20 minutes remaining.

Mr. RUPPERSBERGER. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, this is a terribly important issue. We have to ask ourselves, have we no shame? This is the people's House, where we have provided trillions of dollars to the very wealthiest families in America, those who need it the least, and yet have denied child tax credits to the working class families who need them the most.

Twelve million children were denied this July when the checks went out. Three months ago, on June 5, the Senate overwhelmingly passed a measure to immediately give an increased child tax credit to 36 million working families, including the families of 262,000 military children that were deliberately left out of the $350 billion tax cuts that the House Republicans passed. The Senate was supposed to be the aristocratic part of this Congress, yet they understood that it was wrong to provide $350 billion out of a total of trillions of dollars of tax cuts to the wealthy and leave behind so many working-class families.

Now, I understand that the Speaker of the House said that we are not taking care of these families because, quote, first of all, they do not pay taxes. Well, the fact is they do pay taxes. They pay payroll taxes. Seventy-five percent of the families in this country pay more payroll taxes than they do income taxes. They pay into the Social Security and Medicare trust funds. Of course, it's those trust funds that we are having to borrow from in order to pay for these tax cuts. Add the interest together, and recognize the fact we are not going to sunset these tax cuts over the next decade; we are talking about over $4 trillion in tax cuts. Yet we cannot find $3.5 billion. What is that, about one-twentieth of 1 percent of all the tax cuts that we have passed? But we cannot provide for 12 million children of families that are earning less than $26,000 a year.

It does not make sense. It is not right. Yet in July the Treasury Department sent out checks for this expanded tax credit and excluded 6 million families. Now it is time for the President to impose some compassionate conservativism on House Republicans for the sake of these hard-working and military families and for the sake of our economy, because that money is going to get spent. If you are earning millions of dollars, you do not need to spend your tax cut. If you are earning less than $26,000, you are going to spend your tax cut immediately. In fact, this September they would have been spending their tax cut on buying more jeans and buying bookbags and all the kinds of school supplies that they need to be able to buy, yet they did not get that money. The wealthy sure got their money on time.

The other thing is, and what is particularly grating in what the House Republican leaders have done, is that there are 262,000 children of military families that were denied the expanded tax credit because we are blocking passage of the Senate bill; 200,000 men and women serving in Iraq or other combat zones. Now, what is important to understand is that if we do not accept the Senate version, it leaves in place current law under which families will have tax increases, because combat pay is not counted for purposes of the child tax credit.

For example, an E5 sergeant with 6 years of service and two children is paid $29,000 a year. Generally, both of his children would have been entitled to the full $1,000 tax credit. But if he goes to combat for 6 months, his credit would drop to $450 under the House bill. The Senate bill fixes that. It is one of the reasons the Senate bill should be passed.

Now, we want to get this economy going, too. We see the numbers, too, with 93,000 more jobs lost. We have now lost more than 3 million jobs since President Bush took office. It is the worst record since Herbert Hoover. Imagine. Under the Clinton administration more than 23 million new jobs were created. We have lost 3 million since President Bush has been in office. We want to create jobs. And one of the ways to create jobs is to put money in the hands of people who need to spend that money, and that is the working class. So that is why we need to pass this Senate bill.

Let me just conclude by making a point about the fact that we now have a deficit of over $400 billion this year. It will be almost $.5 trillion next year. What that means is that families are going to be saddled with a debt tax of almost $5,000 per family by 2011 just to pay interest on the debt that we are creating.

In addition, the last point, of the 12 million children left behind, 178,000 are children of farming families, 567,000 are children of nurses or orderlies, 337,000 are children of teachers, and behind disproportionately are minority children, with 2.4 million African American children and over 4 million Hispanic children. These are families that need the help. They are hard-working American families. They deserve it. Let us give it to them. Let us pass the Senate version.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the preceding two speakers from the other side. A few points need to be brought out because there are some classic misimpressions at work here in the House. And for the American people to understand really what is going on in terms of tax fairness, we should make these points.

Number one, no one undervalues our people in the military. They do not put on their uniforms with partisan designations. This is one fact that should be understood. Combat pay is tax free. Mr. Speaker, let me repeat that: combat pay is already tax free.

And while I heard both my friend from Virginia and my friend from California speak of going to the mailbox in July, no one on the other side, not a single speaker has refuted the point that for working folks who do pay taxes in terms of the payroll tax there already exists an earned income tax credit, taking into account the challenges of the working poor.

And the fact is if those constituents take advantage of existing law, a head of household with two kids earning only $10,000 a year, this April, after filing an income tax form on which he paid no income tax, but taking into account his other taxes, that head of household, that family, those children would have received in excess of $4,000.

Mr. Speaker, the contention remains intact: facts are stubborn things. And then to say that people are left out, to ignore the funds available that this government has made available precisely to the people who need the help, and at the same time, under a curious labeling of fiscal responsibility end the ability to continue the per-child tax credit at $1,000 per child per year, to change that and reduce that immediately following the next election, which is what the motion to instruct does, Mr. Speaker, not only leaves the American public with the wrong impression, it is dangerously flawed policy.

The question was where is the compassion? Compassion, in fact, can coexist. The earned income tax credit, already a part of our tax policy, already a part of lending a hand up rather than a hand out, helps those people. It exists today. Again there is the strange paradox of attacking tax relief and yet saying, well, we will offer it in this limited form.

On all arguments, on all counts the motion to instruct is woefully inadequate. Understand current law, embrace the policies of growth, show true compassion by saying "no" to this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

□ 1515

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself such time as I may consume.

Just in response to the gentleman from Arizona (Mr. HAYWORTH), let us crunch the numbers and get to the facts. The military families would do better with a child tax credit than no taxes on combat pay. But why are we here debating either one of them? If Members really cared about the military, men and women putting their lives on the line, we should be doing both.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, let me begin by thanking the gentleman from Maryland (Mr. RUPPERSBERGER) for offering this motion to instruct conferees on the child tax credit. I really appreciate his commitment to this important issue, and also his expertise in being able to explain the fairness of what we want to do, fairness to the public of this country.

This is not the first time I have spoken out on the child tax credit. In fact, this is not the first time Democrats have spoken out on this issue either. For over 3 months, Democrats have been fighting to expand the child tax credit to the 12 million children Republicans left behind. We will continue to speak out on this floor and we will continue to fight this Republican leadership until we provide this benefit for all working families.

Back in July, I know many Americans received a check for the child tax credit in the mail from the IRS. However, and it has been said before, 6.5 million families received no check or a smaller check because the Republicans decided they did not deserve this money. The Republicans decided that when they put together their $350 billion tax cut bill, Republicans decided they had room for dividend and capital gains tax cuts, 72 percent of which goes to the top 5 percent of the households. They decided they had room to provide tax cuts of over $93,500 to those making over a million dollars. But when it came time to do a child tax credit, they decided they could not afford to help all working families.

Mr. Speaker, I know many Americans listen to these debates, and the message we Members try to convey often gets lost in all of the technical and legislative terminology. So what is our message today? It is simply this: Republicans managed to pass a $350 billion tax cut but deliberately left 12 million children behind, and Democrats have been continuing to fight on behalf of those 12 million children.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Let me congratulate my friends on the left in terms of their remarkable uniformity in talking points. But there reaches a point in time when we get past the focus groups and the pollsters and we deal with the facts. The silence is deafening from the left. There has been no answer, because I guess they really cannot offer one, to the fact that in existing law we have already made provisions for those families. We have already made provisions for the working poor to the tune of a head of household with two kids earning just $10,000, and we do not deny they are working hard, under the refundable earned income tax credit, that family would get back over $4,000. Yet the silence is deafening.

It is good in America that we have differences, and I believe the American people, once they understand the scope of the differences, can appreciate some rational tax policy.

I just heard from my friends on the left that they supposed that military families, rather than receiving cash directly tax free from the government, would far rather see that money processed through the IRS and then wait for a year to maybe get a tax credit. That is the logic my friend from Maryland just employed when he talked about military families.

Mr. Speaker, call me old-fashioned, but I believe cash on the barrelhead to those families who have been willing to go out and defend America is a lot better, a lot quicker, to get to them right now. No, it is not the mystery of legislative terminology, Mr. Speaker. It is simple, basic fact. True compassion means making sure people have their money and get them to it and recognize extenuating circumstances. We do that already with combat pay. We do it already through the earned income tax credit. And in the final analysis, sound policy will beat political talking points every time. That is why I say this House should continue to maintain a measure of common sense and true compassion and say no to this motion to instruct conferees.

Mr. Speaker, I reserve the balance of my time.

Mr. RUPPERSBERGER. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, let us talk about fairness for everybody: 262,000 of these children are from military families; 178,000 are children from farming families; 567,000 are children of nurses and orderlies. They say no to these children. Three hundred thirty-seven thousand are children of teachers. They say no to these additional children.

We can go on and talk about earned income, but this is fairness for all people with children in this country and they deserve a child tax credit.

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself 1 minute.

The gentleman from Arizona (Mr. HAYWORTH) made a comment that I said that I was in favor of taxing combat pay. That is not what I said. I said when we look at the facts, a person in the military would do better by going forward with the child tax credit than not paying taxes on military combat pay. What I said was when we have our men and women risking their lives on behalf of us for our freedom and liberty, we should do both.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. RUPPERSBERGER. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, I appreciate all of the rhetoric that we are getting on how much the majority likes military families, but they have to put their money where their mouth is. The fact is that that sergeant, that E–6 sergeant who makes less than a third of the tax cuts that you are giving to millionaires, less than a third, he makes $29,000, he did not have a choice about getting combat pay, so he goes over to Iraq. If he stayed in this country, he would have more money in his pocket because he would have been eligible for the child tax credit. If he goes over to Iraq, it is not taxable income, but the reality is, the bottom line is that he suffers. His family gets less money.

Mr. Speaker, tell me a better definition of a working-class family standing up for his country than that sergeant over in Iraq. And the other side of the aisle has made him worse off because of their legislation. That is why we need to pass the Senate version.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I guess another technique in debate is to deliberately misunderstand some assertions on the floor. In listening to the rather heated and personal comments from my friends, and righteous indignation, I would say, number one, we dare not lose what is at stake here over a notion of the checkout line in terms of Americans being willing to put their lives on the line, first of all, Mr. Speaker.

And I would hope that not entering this debate is the notion that somehow those who serve their country are taking out a tote board and a computer to adhere to the duty that they have sworn and the honor they defend and the freedom that they are defending for us all, number one. Let us dare not denigrate the military with a kind of checkout line and taking a cipher to tax policy, number one.

Number two, to hear the same tired rhetoric that tax relief only benefits the wealthy, that some who come to this Chamber and offer, even when they barely suppress a smile, the fallacy in that has to be pointed out even in the child tax credit because this credit, under existing law, is phased out for single parents with incomes over $75,000 and married couples with incomes over $110,000.

So it is interesting that a myopia envelopes one group of working Americans, but by the same token we are willing to continue this masquerade and this assertion that tax relief belongs only to the wealthy.

And still from my friends on the left, not a word, not a whit, not even an acknowledgment of existing law, the earned income tax credit specifically designed for working people who may not pay income taxes but who pay other taxes, and the largess of this government already making sure those folks receive checks in the mail. They need only apply when they file their tax returns, and yet not a word about that.

Comprehensive, true compassion rather than counterfeit compassion, that is the question today, and no matter of dramatics, no matter of sound and fury can take away from the facts and the bottom line that tax policy does not occur in a vacuum, that we supply already a practical working program for people who did not have to go to their mailbox in July; they only make the filing and take advantage of existing programs that exist for those folks. There is no attempt to clarify we are going to give this now, but we are going to pull back after 2004 and reduce the value of the child tax credit, and yet that is what the motion to instruct offers.

Again, Mr. Speaker, reject the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate is healthy. That is what it is about in the United States Congress. We both have difference of opinions; but what we are here about today is trying to get the conference committee together so we can talk about these issues. We have already debated the merits of the bill and where we are, but now we need to come together.

I would ask the gentleman from Arizona (Mr. HAYWORTH), it has been 3 months since we have had this on the table, and the leadership in the House will not meet for a conference. It amazes me that we cannot get the conferees at least to take these issues we have discussed today and try to resolve them. The threat of partisan politics aside, this is an important issue to our country and to our military, and I would yield to the gentleman.

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

Mr. RUPPERSBERGER. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is interesting when we come to the floor to talk about the merits of policy, an interesting thing is to shift it into process. I do not have any accountability. My party made another decision as to leadership, so not having a seat at the leadership table, which pains me personally, I would tell the gentleman from Maryland (Mr. RUPPERSBERGER), I cannot control that.

What I can say is this: that I believe if we embrace commonsense existing policies, we can get this done. And as the House has respectfully rejected this motion to instruct on numerous occasions, and I appreciate the gentleman's argument, but I believe we will move forward when we are able to get to conference, understanding that we are working right now, working on a prescription drug bill, working on an energy bill.

Mr. RUPPERSBERGER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments and that he does not have the authority, but he is a very persuasive individual, a great orator, and I would hope that he uses his great expertise, with his new-found look, to help us in that regard.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

□ 1530

Mr. BROWN of Ohio. I thank my friend from Maryland for yielding me this time. I was not planning to speak; I was going to speak later on another issue, but listening to my golden-tongued friend from Arizona engage in the histrionics he did about service men and women and about veterans, and I have been in this House for a while, I have never seen the treatment of veterans that this House of Representatives has given. It is three strikes and you are out. First of all, this President and the Republican majority have cut the prescription drug benefit to veterans twice in the last year and a half, once and the second time it is proposed.

Second, this leadership and this Congress and this President have cut health and education benefits to veterans. The President proposed a $26 billion cut. The Congress reduced the cut but nonetheless cut veterans services. And if you live in Ohio, it is three strikes and you are out because now this administration and this Congress want to close a veterans hospital in Brecksville, Ohio. To send working-class kids to Afghanistan and Iraq, to cut taxes on the richest people in this country, and then when these young men and women come back to this country and apply for veterans benefits, they see their drug benefits are cut, they see their education benefits are cut, they see that veterans hospitals in their communities are shut down in order to pay for tax cuts, the average millionaire, $93,500 for a tax cut, is simply immoral. This debate I think crystallizes that, showing what this Congress really stands for.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume. Let me thank my friend from Ohio for polishing his banquet remarks for the next Jefferson/Jackson Day dinner in his district. Let me also point out, however, that when I hear the rhetoric about the rich, let us see who qualifies for the per-child tax credit, Mr. Speaker.

In one of the cities I represent, Phoenix, Arizona, a nurse practitioner making $64,000 a year and her husband a principal. I guess by some tokens, they are rich, I suppose. I happen to think they are working people. In fact, their per-child credit is phased out because their economic threshold is over $110,000.

Mr. Speaker, the fact is this. We were here debating a per-child tax credit. I have my own differences with many in this House in terms of our commitment to veterans, and the record reflects I voted "no" on the bill that passed this House before the break so I would not assume things here in a one-size-fits-all blanket indictment. Good people can disagree and often we do and many times we agree across party lines.

But to my friends who want to embrace effective policy, again I would recognize, it does not occur in a vacuum. We have moved as a government and as a society to help the working poor. I have chronicled the payments that already go to folks who are at the lower end of the socioeconomic scale, who work and play by the rules, who do not have to wait for a special provision in July, who could get thousands of dollars from the government now. They only need apply. I have made the case that there is no reason to cut back on this per-child tax credit, from $1,000 to $700 after the next election, which their motion to instruct would do and in essence be a tax increase.

Mr. Speaker, in conclusion, let me simply say this. This question has come before the House on previous occasions. We recognize true compassion and effective policy. I would ask my colleagues again to join me in voting "no" to stand up for the policy passed by this House which offers pro-growth and opportunity and, yes, funds to those Americans who are working, taking into account those working Americans who may not pay income tax in the broad scope of Federal tax policy.

I urge a "no" vote on this motion to instruct.

Mr. RUPPERSBERGER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I would just take 1 minute here to make a few comments. I cannot believe that in the United States Congress we have done all we could possibly do for the working poor in this country. Shut out the lights, close the doors, we have done all we can because we have given a tax cut. I think it is nonsense.

Two quick points. One, the gentleman from Arizona has brought up about the earned income tax credit. A great program, no doubt about it. This is the same program that has a better chance of getting audited if you apply for that program by the IRS than if you make $1 million a year. This government is slanted against the poor and for the rich. Those are the stubborn facts that make it very difficult.

The second part is I have only been here 9 months. There is one thing I have learned. If you do not have a lobby, if you cannot raise millions of dollars for the majority party, your agenda does not make it to this floor. If you are the pharmaceutical companies, if you are the insurance companies, your agenda is here. If you are the working poor, you get forgotten, you have got enough, we have done all we can do. If you do not live in a gated community, you have been ignored by this Congress.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume. It is very interesting to hear these points. I certainly again welcome my friend from Ohio to this Chamber. I appreciate honest, honest differences of opinion. But to somehow say that a head of household earning $10,000 a year who can receive in the mail a $4,000 check, to somehow denigrate that by claiming there is going to be an audit and somehow make the case that this is a strange Robin Hood in reverse when historical accuracy compels me to point out, the reason Robin Hood went to work in the first place was because the sheriff of Nottingham overtaxed the people, that is often left out of the story, and to hear this does nothing to the debate at hand and, that is, true compassion does not mean reduce this per-child tax credit after the next election. True compassion does not mean ignore what goes on or denigrate it because of the threat of audit. Effective, comprehensive, commonsense policy demands that we move forward with this per-child credit as passed in the House and that we reject the Senate-passed bill and that we reject this motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. RUPPERSBERGER. Mr. Speaker, I yield myself such time as I may consume.

My colleagues on the other side have said they are already helping the military. We talked about the military because we are at war now and that is a component of this bill that we are discussing here today. If that is the case, and I believe very strongly that we all care about the military, then why not continue the effort and pass the child tax credit bill which helps our men and women putting their lives on the line on our behalf? That just makes sense. That is American. That is what we need to do.

The other Chamber talked about issues of fiscal responsibility. If you look at the Senate bill versus the House bill, there are the offsets that are there. It does not increase this deficit. We are in a difficult situation now in this country. We need to be fiscally responsible. The Senate bill does that. But really what we are talking about here today, and I have been just as guilty as anyone else, we have been debating the merits of the legislation and where we need to be, but what we are talking about is let us just get to the conference. Let us get to the conference. Three months and we have not sat down. We need to sit down in a nonpartisan way because this is so important to our country, to our families and our communities and our military.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CARTER). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Maryland (Mr. RUPPERSBERGER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RUPPERSBERGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REGARDING MILITARY INTERVENTION IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, about a century and a half ago, a little longer than that, the House of Representatives passed a rule banning, prohibiting the discussion of slavery in the U.S. House of Representatives. In those days John Quincy Adams, former President, was a Member of the House of Representatives and while he was banned, was prohibited from discussing slavery, former President Adams, Congressman Adams as an abolitionist believed that slavery was the biggest blot on our Nation's history and wanted to remove that. He came to the House floor day after day, week after week, and because he could not talk directly about slavery, he read letters from his constituents in Massachusetts expressing their concern about slavery.

Along those lines, this Congress today, my friends in the majority, will not allow us to debate the issue of the President's perhaps not telling the whole truth about his decision to attack Iraq. We have gotten literally hundreds of thousands of signatures in this body, petitions stating that Congress should support an independent commission to investigate the Bush administration's distortion of evidence of Iraq's weapons of mass destruction program.

I would like to share some of those literally thousands of letters from my State that have come with those petitions asking this Congress to investigate.

From Delaware, Ohio:

"I opposed the war in Iraq from the beginning, convinced there were other ways to working towards regime change, and I'm convinced that Saddam Hussein had more dangerous weapons secreted away than did many other national dictators. Now it seems possible the American public was duped by the Bush administration."

From Dayton, Ohio:

"I am concerned that the public was not fully informed about the intelligence used to urge us to support going to war in Iraq. I'm particularly distressed that we didn't try harder to get United Nations support and that occupation plans were poorly formulated. If we had full intelligence about weapons of mass destruction in Iraq, we might have been able to make a more reasoned decision."

I am hearing letter after letter now coming into my office, people concerned, people especially upset as the President announced this week that we are going to spend $60 to $70 billion in Iraq, we are now spending $1 billion a week of U.S. taxpayer dollars, dollars we are not spending to reconstruct America's schools, dollars we are not spending on highways, in mass transit and infrastructure, dollars we are not spending on prescription drug benefits, dollars we are not spending to give tax breaks to the middle class. We are spending $1 billion a week in Iraq.

But to make that even worse, my constituents tell me, and I hear people especially upset, is one-third of those dollars, those billion dollars a week, are going to private contractors, companies like Halliburton, happens to be a company on which Vice President CHENEY is still on the payroll. Halliburton still pays Vice President CHENEY $15,000 a month. They are getting billions of dollars in unbid contracts of our tax dollars as President Bush and our country continue the occupation of Iraq. A billion dollars a week we are spending in Iraq, a third of that goes to unbid contracts, mostly to the President's friends. Is it any surprise the President can raise $200 million in his campaign when he is giving unbid contracts to his friends of literally hundreds of millions of dollars every single week?

Another letter comes from a gentleman in Ohio also who writes:

"It's very important that this administration be held to the same standards of scrutiny and accountability as any other. This investigation is a congressional obligation, not simply a discretionary option. I urge you to support the vote for establishing a commission."

□ 1545

Another letter from Ohio: "Please cosponsor H.R. 260 and open up the hearings to the public. If the hearings are closed, it will send a loud message that Congress doesn't care about the truth that our Representatives want to hide foreign policy from the whole world, including the American citizens."

Another letter: "As a Vietnam veteran, I demand an investigation. Our children should not be expendable for political or financial gain."

These letters, as I said, continue to show concern and in some cases outrage that we are spending $1 billion a week in Iraq with $300 million of that going to unbid contracts to private contractors, many of whom are major contributors to the President.

From Kent, Ohio: "I am appalled by the continuing arrogance of the administration and its deceptive practices. Please call a commission to make them accountable for the killing of Americans in Iraq that I fear has only begun."

Mr. Speaker, it goes on and on and on, from thousands of concerned citizens, literally hundreds of thousands, across the country.

ADMINISTRATION STACKING DECK AGAINST AMERICAN STEELWORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I rise today on behalf of hundreds of thousands of steelworkers, not only in the great State of Ohio, but across this country, many from my district. These times for the steelworkers have been made even worse by an administration that has really stacked the deck against them. We have suffered the worst job loss record since the Great Depression. Nine million Americans are unable to find a job, 3 million have lost their jobs since President Bush has taken office, and 195,000 of those live in the great State of Ohio.

In particular, the steelworkers, many men and women across the industrial Midwest who have given their lives, in many instances their limbs, to feed their families and make sure their kids can have a better life than they had. Twenty-six steel companies have gone bankrupt.

I found it very interesting the other day that the President of the United States made his way into Ohio in an election year to talk about manufacturing, and he made his way through the gated communities of the State of Ohio. As his motorcade rode through, he landed in Richfield, Ohio, one of the wealthiest suburbs in the State, to talk about the decline in manufacturing. He did not go to Youngstown, he did not go to Cleveland, he did not go to Toledo, he did not go to Mansfield. He went to the suburbs.

It is time we have a manufacturing policy in this country again. We sign trade agreements that continue to send our jobs, once to Mexico, and now they are leaving Mexico and they are going to China.

One quick story. Before the break, at the end of July, we passed two trade agreements, two new ones, two new NAFTAs, one with Chile, one with Singapore. We want to export more. No labor standards, no environmental standards.

We had many Members of this Chamber come before us and indicate how great these free trade agreements are, how they were going to make America stronger, that we have free trade, we have this free exchange of goods, it is great for everybody, it lowers the price for the consumers.

Later that night, early into the next morning, we tried to pass a drug reimportation bill. We basically wanted to free-trade pharmaceuticals to drive the price down. The same people who were advocating the free trade of textiles and cars and steel and everything else were the same people that were saying we cannot be free-trading pharmaceuticals.

The only direct link for that position is where are you getting your campaign contributions. If you are for free trade of textiles, you can raise a lot of money. If you are for protectionism for pharmaceuticals, you can raise a lot of money.

Which brings us to the issue of health care. There are 41 million uninsured in this country. Eighty-two percent of the 41 million are from working families, industrial unions, people who go to work and work hard every day. And on every contract that they try to negotiate is the issue of health care costs, premiums, copays, prescription drugs going up by 15 percent, skyrocketing. Premiums increased by 12.7 percent in 2002 compared with 0.8 percent in 1996.

Mr. Speaker, we are not going to win this battle with money. It is going to take us uniting together, like we did in the past century, voter by voter by voter, if we want a policy in this country that advocates for the poor, that advocates for the middle class and that tells the pharmaceutical companies that have been the most profitable industry in this country in the last 10 years, that you cannot get money from the government to begin your research and development, public money, and then stick it to the consumer on the back end with inflated drug prices.

We need the unions of this country, the steelworkers of this country to unite again in an energized effort to take this country back so it is not who has the money gets the proper legislation; it ends up with who got the votes gets what this country not only needs, but really deserves.

PAPER MONEY AND TYRANNY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAUL. Mr. Speaker, earlier we heard some concern expressed for jobs leaving this country. If one is concerned about that, maybe it would be advantageous to listen to what I say, because I will try to give an explanation for exactly the reason why those jobs leave.

My Special Order today is entitled "Paper Money and Tyranny."

Mr. Speaker, all great republics throughout history cherished sound money. This meant the monetary unit was a commodity of honest weight and purity. When money was sound, civilizations were found to be more prosperous and freedom thrived. The less free a society becomes, the greater the likelihood its money is being debased and the economic well-being of its citizens diminished.

Alan Greenspan, years before he became Federal Reserve Board Chairman in charge of flagrantly debasing the U.S. dollar, wrote about this connection between sound money, prosperity and freedom.

In his article "Gold and Economic Freedom" in 1966, Mr. Greenspan starts by saying, "An almost hysterical antagonism toward the gold standard is an issue that unites status of all persuasions. They seem to sense that gold and economic freedom are inseparable."

Further he states that under the gold standard, "a free banking system stands as the protector of an economy's stability and balanced growth."

Astoundingly, Mr. Greenspan's analysis of the 1929 market crash and how the Fed precipitated the crisis directly parallels current conditions we are experiencing under his management of the Fed. Greenspan explains, "The excess credit which the Fed pumped into the economy spilled over into the stock market, triggering a fantastic speculative boom, and by 1929 the speculative imbalances had become overwhelming and unmanageable by the Fed."

Greenspan concluded his article by stating, "In the absence of the gold standard, there is no way to protect savings from confiscation through inflation." He explains that the "shabby secret of the proponents of big government and paper money is that deficit spending is simply nothing more than a scheme for the hidden confiscation of wealth."

Yet here we are today with a purely fiat monetary system managed almost exclusively by Mr. Greenspan who once so correctly denounced the Fed's role in the Depression while recognizing the need for sound money.

The founders of this country and a large majority of the American people up until the 1930s disdained paper money, respected commodity money and disapproved of the Central Bank's monopoly control of money creation and interest rates. Ironically, it was the abuse of the gold standard, the Fed's credit-creating habits of the 1920s and its subsequent mischief in the 1930s, that not only gave us the Great Depression, but also prolonged it. Yet sound money was blamed for all the suffering. That is why people hardly objected when Roosevelt and his status friends confiscated gold and radically debased the currency, ushering in the age of worldwide fiat currencies with which the international community struggles today.

If honest money and freedom are inseparable, as Mr. Greenspan argues, and paper money leads to tyranny, one must wonder why it is so popular with the economists, the business community, bankers and our government officials. The simplest explanation is that it is a human trait to always seek the comforts of wealth with the least amount of effort.

This desire is quite positive when it inspires hard work and innovation in a capitalist society. Productivity is improved and the standard of living goes up for everyone. This process has permitted the poorest in today's capitalist countries to enjoy luxuries never available to the royalty of old. But this human trait of seeking wealth and comfort with the least amount of effort is often abused. It leads some to believe that by certain monetary manipulations, wealth can be made more available to everyone.

Those who believe in fiat money often believe wealth can be created without a commensurate amount of hard work and innovation. They also come to believe that savings and market control of interest rates are not only unnecessary, but actually hinder a productive, growing economy.

Concern for liberty is replaced by the illusion that material benefits can be more easily obtained with fiat money than through hard work and ingenuity. The perceived benefits soon become of greater concern for society than the preservation of liberty.

This does not mean proponents of fiat money embark on a crusade to promote tyranny, though that is what it leads to, but rather they hope that they have found the "philosopher's stone" and a modern alternative to the challenge of turning lead into gold.

Our founders thoroughly understood this issue and warned us against the temptation to seek wealth and fortune without the work and savings that real prosperity requires. James Madison warned of "the pestilent effects of paper money," as the founders had vivid memories the destructiveness of the continental dollar.

George Mason of Virginia said that he had a "mortal hatred of paper money."

Constitutional Convention delegate Oliver Elseworth from Connecticut thought the convention "a favorable moment to shut and bar the door against paper money."

This view of the evils of paper money was shared by almost all of the delegates to the convention and was the reason the Constitution limited congressional authority to deal with the issue and mandate that only gold and silver could be legal tender. Paper money was prohibited, and no central bank was authorized.

Over and above the economic reasons for honest money, however, Madison argued the moral case for such. Paper money, he explained, destroyed "the necessary confidence between man and man and necessary confidence in public councils on the industry and morals of people and on the character of republican government."

The founders were well aware of the Biblical admonitions against dishonest weights and measures, debased silver and watered-down wine. The issue of sound money throughout history has been as much a moral issue as an economic or political one.

Even with this history and great concern expressed by the founders, the barriers to paper money have been torn asunder. The Constitution has not been changed, but it is no longer applied to the issue of money.

It was once explained to me during the debate over going to war in Iraq that a declaration of war was not needed because to ask for such a declaration was frivolous and that the portion of the Constitution dealing with congressional war power was anachronistic.

So, too, it seems that the power over money given to Congress alone and limited to coinage and honest weights is now also anachronistic. If indeed our generation can make the case for paper money issued by an unauthorized central bank, it behooves us to at least have enough respect for the Constitution to amend it in a proper fashion.

☐ 1600

Ignoring the Constitution in order to perform a pernicious act is detrimental in two ways. First, debasing the currency as a deliberate policy is economically destructive beyond measure. Second, doing it without consideration for the rule of law undermines the entire fabric of our constitutional republic.

Though the need for sound money is currently not a pressing issue for Congress, it is something that cannot be ignored because serious economic problems resulting from our paper money system are being forced upon us. As a matter of fact, we deal with the consequences on a daily basis, yet fail to see the connection between our economic problems and the mischief orchestrated by the Federal Reserve.

All the great religions teach honesty in money, and the economic shortcomings of paper money were well known when the Constitution was written. So we must try to understand why an entire generation of Americans have come to accept paper money without hesitation, without question.

Most Americans are oblivious to the entire issue of the nature and importance of money. Many in authority, however, have either been misled by false notions or see that the power to create money is indeed a power they enjoy as they promote their agenda of welfarism at home and empire abroad.

Money is a moral, economic and political issue. Since the monetary unit measures every economic transaction from wages to prices, taxes and interest rates, it is vitally important that its value is honestly established in the marketplace without bankers, government politicians, or the Federal Reserve manipulating its value to serve the special interest.

The moral issue regarding money should be the easiest to understand, but almost no one in Washington thinks of money in these terms. Although there is a growing and deserved distrust in government per se, trust in money and the Federal Reserve's ability to manage it remain strong. No one would welcome a counterfeiter to town, yet this same authority is blindly given to the central bank without any serious oversight by the Congress.

When the government can replicate the monetary unit at will, without regard to cost, whether it is a paper currency or a computer entry, it is morally identical to the counterfeiter who illegally prints currency. Both ways it is fraud. A fiat monetary system allows power and influence to fall into the hands of those who control the creation of new money and to those who get to use the credit or money early in its circulation. The insidious and eventual costs falls on unidentified victims who are usually oblivious to the cause of their plight.

This system of legalized plunder allows one group to benefit at the expense of another. An actual transfer of wealth goes from the poor and middle class to those in privileged financial position.

In many societies, the middle class has actually been wiped out by monetary inflation, which always accompanies fiat money. The high cost of living and loss of jobs hits one segment of society, while in the early stages of inflation the business class actually benefits from the easy credit. An astute stock investor or home builder can make millions in the boom phase of the business cycle, while the poor and those dependent on fixed incomes cannot keep up with the rising cost of living.

Fiat money is also immoral because it allows government to finance special interest legislation that otherwise would have to be paid for by direct taxation or by productive enterprise. This transfer of wealth occurs without directly taking the money out of someone's pocket. Every dollar created dilutes the value of existing dollars in circulation. Those individuals who worked hard, paid their taxes, and saved some money for a rainy day are hit the hardest with their dollars being depreciated in value while earning interest that is kept artificially low by the Federal Reserve's easy credit system.

The easy credit helps investors and consumers who have no qualms about going into debt and even declaring bankruptcy. If someone sees the welfare state and foreign militarism as improper and immoral, one understands how the license to print money permits these policies to go forward far more easily than if they had to be paid for immediately by direct taxation. Printing money, which is literally inflation, is nothing more than a sinister and evil form of hidden taxation. It is unfair and deceptive, and, accordingly, strongly opposed by the authors of the Constitution. That is why there is no authority for Congress, the Federal Reserve, or the executive branch to operate the current system of money we have today.

Although the money issued today is of little practical interest to the parties and the politicians, it should not be ignored. Policymakers must contend with the consequence of the business cycle which result from the fiat monetary system under which we operate. They may not understand the connection now but eventually they must. In the past, money and gold have been dominant issues in several major political campaigns. We find that when the people have had a voice in the matter, they inevitably choose gold over paper. To the common man it just makes sense. As a matter of fact, a large number of Americans, perhaps a majority, still believe our dollar is backed by gold at Fort Knox.

The monetary issue, along with the desire to have free trade among the States, prompted those at the Constitutional Convention to seek solutions to problems that plagued the post-revolutionary war economy. The postwar recession was greatly aggravated by the collapse of the unsound fiat continental dollar. The people, through their representatives, spoke loudly and clearly for gold and silver over paper.

Andrew Jackson, a strong proponent of gold and opponent of central banking, he opposed the second bank in the United States, was a hero to the working class and was twice elected President. This issue was fully debated in his Presidential campaigns. The people voted for gold over paper.

In the 1870s, the people once again spoke out clearly against the greenback inflation of Lincoln. Notoriously, governments go to paper money while rejecting gold to promote unpopular and unaffordable wars. The return to gold in 1879 went smoothly and was welcomed by the people, putting behind them the disastrous Civil War inflationary period.

Grover Cleveland, elected twice to the Presidency, was also a strong advocate of the gold standard. Again in the Presidential race of 1896, William McKinley argued the case for gold. In spite of the great orations by William Jennings Bryant who supported monetary inflation and made a mocking cross-of-gold speech, the people rallied behind McKinley's bland but correct argument for sound money.

The 20th century was much less sympathetic to gold. Since 1913, central banking has been accepted in the United States without much debate, despite the many economic and political horrors caused by or worsened by the Federal Reserve since its establishment. The ups and downs of the economy have all come as a consequence of Fed policies, from the Great Depression to the horrendous stagflation of the 1970s, as well as the current ongoing economic crisis.

A central bank in fiat money enables government to maintain an easy war policy that under strict monetary rules would not be achievable. In other words, countries with sound monetary policies would rarely go to war because they could not afford to, especially if they were not attacked. The people could not be taxed enough to support wars without destroying the economy. But by printing money, the costs can be delayed and hidden, sometimes for years if not decades. To be truly opposed to preemptive and unnecessary wars, one must advocate sound money to prevent the promoters of war from financing their imperialism.

Look at how the military budget is exploding, deficits are exploding, and tax revenues are going down. No problem. The Fed is there and will print whatever is needed to meet our military commitments, whether it is wise to do so or not.

Money issues should indeed be a gigantic political issue. Fiat money hurts the economy, finances war, and allows for excessive welfarism. When these connections are realized and understood, it will once again become a major political issue, since paper money never lasts. Ultimately, politicians will not have a choice over whether or not to address or take a position on the money issue. The people and circumstances will demand it.

We do hear some talk about monetary policy and criticism directed toward the Federal Reserve, but it falls far short of what I am talking about. Big spending welfarists constantly complain about Fed policy, usually demanding lower interest rates even when rates are at historic lows. Big government conservatives promote grand worldwide military operations while arguing that deficits do not matter as long as marginal tax rates are lowered and also constantly criticize the Fed for high interest rates and lack of liquidity. Coming from both the left and the right, these demands would not occur if money could not be created out of thin air at will. Both sides are asking for the same thing from the Fed, for different reasons. They want the printing presses to run faster and create more credit so that the economy will be healed like magic, or so they believe.

This is not the kind of interest in the Fed that we need. I am anticipating that we should, and one day will, be forced to deal with the definition of the dollar and what money should consist of. The current superficial discussion about money merely shows a desire to tinker with the current system in hopes of improving the deteriorating economy. There will be a point, though, when the tinkering will no longer be of any benefit, and even the best advice will be of little value.

We have just gone through a 2½ year period of tinkering with 13 interest rate cuts and recovery has not yet been achieved. It is just possible that we are much closer than anyone realizes to that day when it will become absolutely necessary to deal with the monetary issue both philosophically and strategically and forget about the Band-Aid approach to the current system.

For a time, the economic consequences of paper money may seem benign and even helpful but are always disruptive to economic growth and prosperity. Economic planners of the Keynesian socialist types have always relished control over money creation in their effort to regulate and plan the economy. They have no qualms with using their power to pursue their egalitarian dreams of wealth redistribution. That force and fraud are used to make the economic system supposedly fairer is of little concern to them.

There are also many conservatives who do not endorse central economic planning as those on the left do, but nevertheless concede this authority to the Federal Reserve to manipulate the economy through monetary policy. Only a small group of constitutionalists, libertarians, and Austrian free market economists reject the notion that central planning through interest rate and money supply manipulation is a productive endeavor. Many sincere politicians, bureaucrats, and bankers endorse the current system, not out of malice or greed but because it is the only system they have ever heard of.

The principles of sound money and free market banking are not taught in our universities anymore. The overwhelming consensus in Washington as well as around the world is that commodity money without a central bank is no longer practical or necessary. Be assured, though, that certain individuals who greatly benefit from a paper money system know exactly why the restraints that a commodity standard would have are unacceptable.

Though the economic consequences of paper money in the early stage affect lower-income and middle-class citizens, history shows that when the destruction of monetary value becomes rampant, nearly everyone suffers and the economic structure becomes unstable.

There is good reason for all of us to be concerned about our monetary system and the future of the dollar. Nations that live beyond their means must always pay for their extravagance. It is easy to understand why future generations inherit a burden when the national debt piles up. This requires others to pay the interest and debts when they come due. The victims are never the recipients of the borrowed funds.

But this is not exactly what happens when a country pays off its debt. The debt in nominal terms always goes up. And since it is still accepted by mainstream economists that just borrowing endlessly is not the road to permanent prosperity, real debt must be reduced. Depreciating the value of the dollar does that. If the dollar loses 10 percent of its value, the national debt of $6.5 trillion is reduced in real terms by $650 billion.

□ 1615

That is a pretty neat trick and quite helpful to the government. That is why the Fed screams about a coming deflation, so it can continue the devaluation of the dollar unabated. The politicians do not mind, the bankers welcome the business activity, and the recipients of the funds passed out by Congress never complain. The greater the debt, the greater the need to inflate the currency since the debt cannot be the source of long-term wealth. Individuals and corporations who borrow too much eventually must cut back and pay off their debt and start anew, but governments never do.

Where is the hitch? This process which seems to be a creative way of paying off debt eventually undermines the capital structure of the economy, thus making it difficult to produce wealth, and that is when the whole process comes to an end. This system causes many economic problems, but most of them stem from the Fed's interference with the market rate of interest that it achieves through credit creation and printing money.

Nearly 100 years ago, Austrian economist Ludwig Von Mises explained and predicted the failure of socialism. Without a pricing mechanism, the delicate balance between consumers and producers would be destroyed. Freely fluctuating prices provide vital information to the entrepreneur who is making key decisions on production. Without this accurate information, major mistakes are made. A central planning bureaucrat cannot be a substitute for the law of supply and demand.

Though generally accepted by most modern economists and politicians, there is little hesitancy in accepting the omnipotent wisdom of the Federal Reserve to know the price of money and the interest rate and its proper supply. For decades, and especially during the 1990s when Chairman Greenspan was held in such high esteem and no one dared question his judgment or the wisdom of the system, this process was allowed to run unimpeded by political or market restraints. Just as we must eventually pay for our perpetual deficits, continuous manipulation of interest and credit will also extract a payment.

Artificially low interest rates deceive investors into believing that rates are low because savings are high and represent funds not spent on consumption. When the Fed creates bank deposits out of thin air, making loans available at below-market rates now, investment and overcapacity results, setting the stage for the next recession or depression.

The easy credit policy is welcomed by many stock market investors, home builders, home buyers, congressional spendthrifts, bankers and many consumers who enjoy borrowing at low rates and not worrying about repayment. However, perpetual good times cannot come from a printing press or easy credit created by a Federal Reserve computer. The piper will demand payment and the downturn in the business cycle will see to it. The downturn is locked into place by the artificial boom that everyone enjoys, despite the dreams that we have ushered in a "new economic era."

Let there be no doubt, the business cycle, the stagflation, the recessions, the depressions and the inflations are not a result of capitalism and sound money but rather are a direct result of paper money and a central bank that is incapable of managing it.

Our current monetary system makes it tempting for all parties, individuals, corporations and government to go into debt. It encourages consumption over investment and production. Incentives to save are diminished by the Fed's making new credit available to everyone and keeping interest rates on savings so low that few find it advisable to save for a rainy day. This is made worse by taxing interest earned on savings. It plays havoc with those who do save and want to live off their interest. The artificial rates may be 4 or 5 or even 6 percent below the market rate and the savers, many of whom are elderly and on fixed incomes, suffer unfairly at the hands of Alan Greenspan who believes that resorting to money creation will solve our problems and give us perpetual prosperity.

Lowering interest rates at times, especially in the early stages of monetary debasement, will produce the desired effect and stimulate another boom-bust cycle, but eventually the distortions and imbalances between consumption and production and excessive debt prevent the monetary stimulus from doing very much to boost the economy. Just look at what has been happening to Japan for the last 12 years. When conditions get bad enough, the only recourse will be to have major monetary reform to restore confidence in the system.

The two conditions that result from fiat money that are more likely to concern the people are inflation of prices and unemployment. Unfortunately, few realize these problems are directly related to our monetary system. Instead of demanding reforms, the chorus from both the right and the left is for the Fed to do more of the same, only faster. If our problems stem from easy credit and interest rate manipulation by the Fed, demanding more will not do much to help. Sadly, it will only make our problems worse.

Ironically, the more successful the money managers are at restoring growth or prolonging the boom with their monetary machinations, the greater are the distortions and imbalances in the economy. This means that when corrections are eventually forced upon us, they are much more painful and more people suffer with the correction lasting longer.

Today's economic conditions reflect a fiat monetary system held together by many tricks and luck over the past 30 years. The world has been awash in paper money since removal of the last vestige of the gold standard by Richard Nixon when he buried the Bretton Woods agreement, the gold exchange standard, on August 15, 1971. Since then, we have been on a worldwide paper dollar standard. Quite possibly we are seeing the beginning of the end of that system. If so, tough times are ahead for the United States and the world economy.

A paper monetary standard means there are no restraints on the printing press or on Federal deficits. In 1971, M3 was $776 billion. Today, it stands at $8.9 trillion, an 1100 percent increase. Our national debt in 1971 was $408 billion. Today it stands at $6.8 trillion, a 1600 percent increase.

Since that time, our dollar has lost almost 80 percent of its purchasing power. Common sense tells us that this process is not sustainable and something has to give. So far, no one in Washington seems interested.

Although dollar creation is ultimately the key to its value, many other factors play a part in its perceived value, such as the strength of our economy, our political stability, our military power, the benefits of the dollar being the key reserve currency of the world and the relative weakness of other nations' economies and their currencies. For these reasons, the dollar has enjoyed a special place in the world economy. Increases in productivity have also helped to bestow undeserved trust in our currency with consumer prices being held in check and fooling the people at the urging of the Fed that inflation is not a problem.

Trust is an important factor in how the dollar is perceived. Sound money encourages trust, but trust can come from these other sources as well. But when that trust is lost, which always occurs with paper money, the delayed adjustments can hit with a vengeance.

Following the breakdown of the Bretton Woods agreement, the world essentially accepted the dollar as a replacement for gold, to be held in reserve upon which even more monetary expansion could occur. It was a great arrangement that up until now seemed to make everyone happy.

We own the printing press and create as many dollars as we please. These dollars are used to buy Federal debt. This allows our debt to be monetized and the spendthrift Congress, of course, finds this a delightful convenience and never complains. As the dollars circulate through our fractional banking system, they expand many times over. With our excess dollars at home, our trading partners are only too happy to accept these dollars in order to sell us their product. Because our dollar is relatively strong compared to other currencies, we can buy foreign products at a discounted price. In other words, we get to create the world's reserve currency at no cost, spend it overseas and receive manufactured goods in return. Our excess dollars go abroad and other countries, especially Japan and China, are only too happy to loan them right back to us by buying our government and GSE debt. Up until now, both sides have been happy with this arrangement.

But all good things must come to an end, and this arrangement is ending. This process puts us into a position of being a huge debtor nation, with our current account deficit of more than $600 billion a year now exceeding 5 percent of our GDP. We now owe foreigners more than any other nation ever owed in history, over $3 trillion.

A debt of this sort always ends by the currency of the debtor nation decreasing in value, and that is what has started to happen with the dollar.

Although it has still a long way to go, our free lunch cannot last. Printing money, buying foreign products and selling foreign holders of dollars our debt ends when the foreign holders of this debt become concerned about the value of the dollar.

Once this process starts, interest rates will rise, and in recent weeks, despite the frenetic effort of the Fed to keep interest rates low, they are actually rising. The official explanation is that this is due to an economic rebound with an increase in demands for loans. Yet a decrease in demand for our debt in reluctance to hold our dollars is a more likely cause. Only time will tell whether the economy rebounds to any significant degree, but one must be aware that rising interest rates and serious price inflation can also reflect a weak dollar and a weak economy.

The stagflation of the 1970s baffled many conventional economists but not the Austrian economists. Many other countries have in the past have suffered from the extremes of inflation in an inflationary depression, and we are not immune from that happening here. Our monetary and fiscal policies are actually conducive to such a scenario.

In the short run, the current system gives us a free ride. Our paper buys cheap foods from overseas, and foreigners risk all by financing our extravagance. But in the long run, we will surely pay for living beyond our means. Debt will be paid for one way or another. An inflated currency always comes back to haunt those who enjoyed the benefits of inflation. Although this process is extremely dangerous, many economists and politicians do not see it as a currency problem and are only too willing to find a villain to attack. Surprisingly, the villain is often the foreigner who foolishly takes our paper for useful goods and accommodates us by loaning the proceeds back to us.

It is true that the system encourages exportation of jobs as we buy more and more foreign goods, but nobody understands the Fed's role in this. So the cries go out to punish the competition with tariffs. Protectionism is a predictable consequence of paper money inflation, just as is the impoverishment of the entire middle class. It should surprise no one that even in the boom phase of the 1990s, there were still many people who became poorer. Yet all we hear are calls for more government mischief to correct the problems with tariffs, increased welfare for the poor, increased unemployment benefits, deficit spending, and special interest tax reduction, none of which can solve the problems ingrained in a system that operates with paper money and a central bank.

If inflation were equitable and treated all classes the same, it would be less socially divisive, but while some see their incomes going up above the rate of inflation like movie stars, CEOs, stock brokers, speculators, professional athletes, others see their income stagnate like lower-middle-income workers, retired people and farmers. Likewise, the rise in the cost of living hurts the poor and middle class more than the wealthy. Because inflation treats certain groups unfairly, anger and envy are directed towards those who have benefited.

The long-term philosophic problem with this is that the central bank and fiat monetary system are never blamed. Instead, free market capitalism is. This is what happened in the 1930s. The Keynesians, who grew to dominate economic thinking at that time, erroneously blamed the gold standard, balanced budget and capitalism, instead of tax increases, tariffs and Fed policy. This country cannot afford another attack on economic liberty, similar to what followed the 1929 crash that ushered in the economic interventionism and inflationism with which we have been saddled with ever since.

These policies have brought us to the brink of another colossal economic downturn, and we need to be prepared. Big business and banking deserve our harsh criticism, but not because they are big or because they are rich. Our criticism should come because of the special benefits they receive from a monetary system designed to assist the business class at the expense of the working class.

□ 1630

Labor leader Samuel Gompers understood this and feared paper money and a central bank while arguing the case for gold.

Since the monetary system is used to finance deficits that come from war expenditures, the military industrial complex, as one would expect, is a strong supporter of the current monetary system. Liberals foolishly believe that they can control the process and curtail the benefits going to corporations and banks by increasing spending for the welfare of the poor, but this never happens. Powerful financial special interests control the government spending process and throw only crumbs to the poor.

The fallacy with this approach is that the advocates fail to see the harm done to the poor with cost-of-living increases and job losses that are a natural consequence of monetary debasement. Therefore, even more liberal control over the spending process can never compensate for the great harm done to the economy and the poor by the Federal Reserve's effort to manage an unmanageable fiat monetary system.

Economic intervention financed by inflation is high-stakes government. It provides the incentive for the big money to invest in gaining government control. The big money comes from those who have it, corporation and banking interests. That is why literally billions of dollars are spent on elections and lobbying. The only way to restore equity is to change the primary function of government from economic planning and militarism to protecting liberty. Without money, the poor and the middle class are disenfranchised, since access, for the most part, requires money.

Obviously, this is not a partisan issue since both major parties are controlled by wealthy special interests. Only the rhetoric is different. Our current economic problems are directly related to the monetary excesses of 3 decades and the more recent efforts by the Federal Reserve to thwart the correction that the market is forcing upon us.

Since 1998, there has been a sustained attack on corporate profits. Before that, profits and earnings were inflated and fictitious, with WorldCom and Enron being prime examples. In spite of the 13 rate cuts since 2001, economic growth has not been restored. Paper money encourages speculation, excessive debts and misdirected investments. The market, however, always moves in the direction of eliminating bad investments, liquidating debt, and reducing speculative excesses.

What we have seen, especially since the stock market peak of early 2000, is a knockdown-drag-out battle between the Fed's effort to avoid a recession, limit the recession, and stimulate growth with its only tool, money creation, while the market demands the elimination of bad investments and excessive debt.

The Fed was also motivated to save the stock market from collapsing, which in some ways they have been able to do. The market, in contrast, will insist on liquidation of unsustainable debt, removal of investment mistakes made over several decades, and a dramatic reevaluation of the stock market. In this go-round, the Fed has pulled out all stops and is more determined than ever, yet the market is saying that new and healthy growth cannot occur until a major cleansing of the system occurs.

Does anyone think that tariffs and interest rates of 1 percent will encourage the rebuilding of our steel and textile industries anytime soon? Obviously, something more is needed. The world central bankers are concerned with the lack of response to low interest rates, and they have joined in a concerted effort to rescue the world's economy through a policy of protecting the dollar's role in the world economy, denying that inflation exists and justifying unlimited expansion of the dollar money supply.

To maintain confidence in the dollar, gold prices must be held in check. In the 1960s, our government did not want a vote of no confidence in the dollar, and for a couple of decades the price of gold was artificially held at $35 an ounce. That of course did not last. In recent years there has been a coordinated effort by the world central bankers to keep the price of gold in check by dumping part of their large hoard of gold into the market. This has worked to a degree, but just as it could not be sustained in the 1960s, until Nixon declared the Brenton Woods agreement dead in 1971, this effort will fail as well.

The market price of gold is important because it reflects the ultimate confidence in the dollar. An artificially low price for gold contributes to false confidence. And when this is lost, more chaos ensues as the market adjusts for the delay.

Monetary policy today is designed to demonetize gold and guarantee for the first time that paper can serve as an adequate substitute in the hands of wise central bankers.

Trust, then, has to be transferred from gold to the politicians and bureaucrats who are in charge of our monetary system. This fails to recognize the obvious reason that market participants throughout history have always preferred to deal with real assets, real money rather than government paper.

This contest between paper and honest money is of much greater significance than many realize. We should know the outcome of this struggle within the next decade. Alan Greenspan, although once a strong advocate for the gold standard, now believes he knows what the outcome of this battle will be. Is it just wishful thinking on his part? In answer to a question I asked him before the Committee on Financial Services in February of this year, Mr. Greenspan made an effort to convince me that paper money now works as well as gold when he responded, "I have been quite surprised, and I must say pleased, by the fact that central banks have been able to effectively simulate many of the characteristics of the gold standard by constraining the degree of finance in a manner which effectively brought down the general price levels."

Earlier, in December 2002, Mr. Greenspan spoke before the Economic Club of New York and addressed the same subject: "The record of the past 20 years appears to underscore the observation that although pressures for excessive issuance of fiat money are chronic, a prudent monetary policy maintained over a protracted period of time can contain the forces of inflation."

There are several problems with this optimistic assessment. First, efficient central bankers will never replace the invisible hand of a commodity monetary standard. Second, using government price indices to measure the success of a managed fiat currency should not be reassuring. These indices can be arbitrarily altered to imply a successful monetary policy. Also, price increases of consumer goods are not a litmus test for measuring the harm done by the money managers at the Fed. The development of overcapacity, excessive debt, and speculation still occur, even when prices happen to remain reasonably stable due to increases in productivity and technology.

Chairman Greenspan makes his argument because he hopes he is right that sound money is no longer necessary and also because it is an excuse to keep the inflation of the money supply going for as long as possible, hoping a miracle will restore sound growth to the economy. But that is only a dream. We are now faced with an economy that is far from robust and may get a lot worse before rebounding.

If not now, the time will soon come when the conventional wisdom of the last 90 years since the Fed was created will have to be challenged. If the conditions have changed and the routine of fiscal and monetary stimulation do not work, we better prepare ourselves for the aftermath of a failed dollar system, which will not be limited to the United States.

An interesting headline appeared in The New York Times on July 31: "Commodity Costs Soar But Factories Don't Bustle." What is observed here is a sea change in attitude by investors, shifting their investments, funds and speculation into things of real value and out of financial areas such as stocks and bonds. This shift shows that in spite of the most aggressive Fed policy in history in the past 3 years, the economy remains sluggish and interest rates are actually rising.

What can the Feds do? If this trend continues, there is very little they can do. Not only do I believe this trend will continue; I believe it is likely to accelerate. This policy plays havoc with our economy, reduces revenues, prompts increases in Federal spending, increases in deficits and debt occur, and interest costs rise compounding our budgetary woes.

The set of circumstances we face today is unique and quite different from all the other recessions the Federal Reserve has had to deal with. Generally, interest rates are raised to slow the economy and dampen price inflation. At the bottom of the cycle, interest rates are lowered to stimulate the economy. But this time around the recession came in spite of a huge significant interest rate reduction by the Fed. This aggressive policy did not prevent the recession, as was hoped. So far it has not produced the desired recovery. Now we are at the bottom of the cycle and interest rates not only cannot be lowered, they are rising.

This is a unique and dangerous combination of events. This set of circumstances can only occur with fiat money and indicates that further manipulation of the money supply and interest rates by the Fed will have little effect at all. The odds are not very good that the Fed will adopt a policy of not inflating the money supply because of some very painful consequences that would occur.

Also, there would be a need to remove the pressure on the Fed to accommodate the big spenders in Congress. Since there are essentially only two groups that have any influence on spending levels, Big Government liberals and Big Government conservatives, that is not about to happen. Poverty is going to worsen due to our monetary and fiscal policies, so spending on the war on poverty will accelerate. Our obsession with policing the world, nation-building, and preemptive war are not likely to soon go away since both Republican and Democrat leaders endorse them. Instead, the cost of defending the American empire is going to accelerate.

A country that is getting poorer cannot pay these bills with higher taxation, nor can they find enough excess funds for the people to loan to the government. The only recourse is for the Federal Reserve to accommodate and monetize the Federal debt. And that, of course, is inflation.

It is now admitted that the deficit is out of control, with next year's deficit reaching over $1 trillion, not counting the billions borrowed from the trust funds, like Social Security. I am sticking to my prediction that within a few years the national debt will increase over $1 trillion in one fiscal year.

So far so good. No big market reactions, the dollar is holding its own, and the administration and congressional leaders are not alarmed. But they ought to be.

I agree it would be politically tough to bite the bullet and deal with our extravagance, both fiscal and monetary, but the repercussions here at home from a loss of confidence in the dollar throughout the world will not be a pretty sight to behold. I do not see any way we are going to avoid the crisis.

We do have some options to minimize the suffering. If we decided to, we could permit some alternatives to the current system of money and banking we have today. Already we took a major step in this direction. Gold was illegal to own between 1933 and 1976. Today, millions of Americans do own gold. Gold contracts are legal, but a settlement of any dispute is always in Federal Reserve notes. This makes gold contracts of limited value. For gold to be an alternative to Federal Reserve notes, taxes on any transaction in gold must be removed, both sales and capital gains. Holding gold should be permitted in any pension fund, just as dollars are permitted in a collecting account of these funds.

Important point. Repeal of all legal tender laws is a must. Sound money never requires the force of legal tender laws. Only paper money requires such laws.

These proposals, even if put in place tomorrow, would not solve the problems we face. It would, though, legalize freedom of choice in money. And many who worry about having their savings wiped out by a depreciating dollar would at least have another option. This option would ease some of the difficulties that are surely to come from run-away deficits in a weakened economy with skyrocketing inflation.

Curbing the scope of government and limiting its size to that prescribed in the Constitution is the goal that we should seek, but political reality makes this option available to us only after a national bankruptcy has occurred. We need not face that catastrophe. What we need is to strictly limit the power of government to meddle in our economy and our personal affairs and stay out of the internal affairs of other nations.

It is no coincidence that during the period following the establishment of the Federal Reserve and the elimination of the gold standard a huge growth in the size of the Federal Government and its debt occurred. Believers in Big Government, whether or not on the left or right, vociferously reject the constraints on government growth that gold demands.

Liberty is virtually impossible to protect when the people allow their governments to print money at will. Inevitably, the left will demand more economic interventionism, the right more militarism and empire building. Both sides, either inadvertently or deliberately will foster corporatism, those whose greatest interest in liberty and self-reliance are lost in the shuffle. Those left and right have different goals and serve different special interest groups are only too willing to compromise and support each other's programs.

If unchecked, the economic and political chaos that comes from currency destruction inevitably leads to tyranny, a consequence of which the founders were very much aware. For 90 years we have lived with the Central Bank, with the last 32 years absent of any restraint on money creation. The longer the process lasts, the faster the printing presses have to run in an effort to maintain stability. They are currently running at record rates.

It was predictable and is understandable that our national debt is now expanding at a record rate. The panicky effort of the Fed to stimulate economic growth does produce what is considered favorable economic reports, recently citing a second quarter growth this year at 3.1 percent. But in the footnotes we find that military spending, almost all of which went overseas, was up an astounding 46 percent.

□ 1645

This, of course, represents deficit spending financed by the Federal Reserve's printing press, in the same quarter, after tax corporate profits fell 3.4 percent. This is hardly a reassuring report on the health of our economy, and merely reflects the bankruptcy of our current economic policy.

Real economic growth will not return until confidence in the entire system is restored. That is impossible as long as it depends on the politicians not spending too much money and the Federal Reserve limiting its propensity to inflate our way to prosperity. Only sound money and limited government can do that.

PRAYER IN AMERICA

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, this morning we began our session here with a prayer. That was prayer to a God. We did the Pledge of Allegiance to the flag, and in that Pledge of Allegiance we recognized that this was a Nation under God. And inscribed in marble above your chair, Mr. Speaker, are the words "In God We Trust."

Now, while we opened our session with prayer today and recognized God in our Pledge of Allegiance to the flag and recognized there is a God in that inscription in marble above your chair, at the same time we have removed the Ten Commandments that that God wrote from a courthouse in Alabama.

Mr. Speaker, we appear to be a Nation conflicted. We pray in this House. Just at the other end of this Capitol, every day the Senate is opened with prayer. I understand the Supreme Court prays to open their session, and in many public events we have a prayer. In most athletic events there is a prayer before the event. Our military has chaplains of just about every religion. But in our society the only place where prayer is conspicuously absent is our schools, another reflection, Mr. Speaker, of the confliction of our society.

To understand how we got here and how we can open our session with prayer and recognize in our Pledge of Allegiance that this Nation is under God and have that inscription above your chair "In God We Trust," and still to remove the Ten Commandments under court order from a courthouse in Alabama, I think we need to go back and review who we are and how we got here.

Mr. Speaker, freedom is not free. Five of the 55 signers of our Declaration of Independence were captured and executed by the British. Nine of them died on the battlefields of the Revolutionary War, and another dozen lost their homes, possessions and fortunes to British occupation.

Today, much of what our Founding Fathers fought and died for is at risk of being lost. The major reason for that is that there are three big lies that are about in the land today, and for the next few minutes I want to look back at our history to refute these three lies that I think are the basis for the conflicts in our society which allows us to pray to a God here, recognize him in our Pledge of Allegiance, and is inscribed above your desk, and still to remove the Ten Commandments from the courthouse. These three big lies are that our Founding Fathers were largely atheists and deists, that they wanted to establish a nonChristian Nation, and in that first amendment they sought to erect a big wall of separation between church and State.

This history, of course, begins in 1776 with the Declaration of Independence. In that Declaration of Independence was a radical departure from the norms of the time. We read those words, or recite those words if we have memorized them, and they do not have the same meaning to us as they had to them because we did not come out of the milieu from which they came. Today, of course, our citizens are children of immigrants from every part of the world, but our Founding Fathers came largely from the British Isles and the European Continent. Thinking back to the history at that time, essentially all of those countries were ruled by a king or emperor who incredibly, from our perspective, claimed and was granted divine rights. What that meant was that the rights came from God to the king, and the king or emperor would then give what rights he wished to his people.

Now, in our Declaration of Independence we broke with that, because we said all men are created equal. Notice the reference to a God, a Creator, in that Declaration of Independence, that all men are created equal. That was a startling statement to make because in the countries from which they came, all people were not created equal. They made a break from that and said that all men are created equal and endowed by their Creator with certain inalienable rights. Among these are life, liberty, and the pursuit of happiness.

Now, 11 years later, and it took 11 years for the promise of the Declaration of Independence to meet the fulfillment of the Constitution, the Constitution was written. In that Constitution they sought to put down in very plain words the fundamental principles that they espoused in the Declaration of Independence, that all men are created equal, that the fundamental rights belong to the people, and they belong to the people because they were given to the people by God. Our Constitution does not give us any rights. Those rights were given to us by our God. The best that our Constitution can do is to say we are not going to permit another person to take those rights away from us.

But the ink was hardly dry on the Constitution before they wondered if people would really understand that they meant that the fundamental rights, most of the rights belonged to the people, and so they wrote 12 amendments that started through the process of two-thirds of the House and two-thirds of the Senate, and then three-fourths of the State legislatures. Ten of them made it through that process, and we call those the Bill of Rights. If Members look through the first through the tenth, in many of them, the rights of the people are specifically mentioned; but where the rights of the people are not mentioned in those words, it is clearly the rights of the people that are being protected by these amendments.

Now how did we go from a government, a Constitution that was created by God-fearing people who recognized God in their Declaration of Independence and who sought in their Constitution and those first 10 amendments, to make sure that those God-given rights were never taken from us, how did we come to a society so conflicted as we are today? I think it is because of the three great lies that are about in our country today: that our Founding Fathers were atheists and deists, that they sought to establish a nonChristian Nation, and they wanted to erect a big wall of separation between church and State.

What I want to do now for the next few minutes is to go back into our history and let our Founding Fathers speak for themselves.

Let us see what the courts said. We will take a brief look at some things which the Congress did and said, and then we will look at our schools and what they were at the beginning of our country.

We can look all we want in the Declaration of Independence and the Constitution for those words, a wall of separation between church and State or separation between church and State. Those words do not appear in either the Declaration of Independence or in our Constitution. And so we looked in constitutions to see where we could find those words, and we do find them. We find them in the Constitution of the United Soviet Socialist Republic, article 124. It says there, "In order to ensure citizens' freedom of conscience, the church in the USSR is separated from the state and the schools from the church."

Those words may appear in their constitution, but they do not appear in our Constitution anywhere, so how did we get here? To refute these lies then that our Founding Fathers were atheists and deists, and they sought to establish a nonChristian Nation, let us let the Founding Fathers speak for themselves.

Patrick Henry is called the firebrand of the American Revolution. His words "Give me liberty or give me death" every school child knows, but I would submit that the textbook from which those words appear for your child in his school have been bled dry of any reference to the Christian church origin of these words. These were spoken in St. John's Church, Richmond, Virginia, on March 23, 1775. This is what Patrick Henry said. "An appeal to arms and the God of hosts is all that is left us, but we shall not fight our battle alone, there is a just God that presides over the destinies of nations. The battle, sir, is not to the strong alone. Is life so dear or peace so sweet as to be purchased at the price of chains and slavery, forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death."

Was Patrick Henry a Christian? The following year, 1776, he wrote this. "It cannot be emphasized too strongly or too often that this great Nation was founded not by religionists but by Christians, not on religions but on the gospel of Jesus Christ. For that reason alone, people of other faiths have been afforded freedom of worship here."

Benjamin Franklin was said to be a deist. Now a deist is said to be a person who believes that there is a God but does not bother praying to him, and this God is very powerful, he created the universe and he created this world, and he also set in place certain physical laws, and your destiny will be determined by how you relate to those laws, so do not bother praying to God. That is what a deist is. Let me read something about Benjamin Franklin and you tell me, Mr. Speaker, if you think he was a deist. The year is 1787. We are in Philadelphia and the Constitutional Convention is deadlocked. There may not be a Constitution.

One of the issues was how to prevent big States from abusing the small States, and Benjamin Franklin, 82 years of age, the Governor of Pennsylvania, perhaps the oldest and most revered person in that Constitutional Convention, rose to speak. And this is what that deist said, and I cannot image how Members could conclude he is deist from these words. "In the days of our contest with Great Britain when we were sensible of danger, we had daily prayer in this room for divine protection. Our prayers, sir, were heard and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of superintending providence in our favor. To that kind providence, we owe this happy opportunity to establish our Nation. And have we now forgotten that powerful friend? Do we imagine we no longer need his assistance? I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that a new Nation cannot rise without his aid? We have been assured, sir, in the sacred writings that except the Lord build the house, they labor in vain that build it. I therefore beg leave to move that henceforth prayers imploring the assistance of heaven and its blessings on our deliberations be held in this assembly every morning before we proceed to any business."

□ 1700

That precedent, Mr. Speaker, we honor today because we began today our session with prayer. Every day we do that.

Thomas Jefferson was also said to be a deist. This is what he said:

"I am a real Christian. That is to say, a disciple of the doctrines of Jesus. I have little doubt that our whole country will soon be rallied to the unity of our creator, and I hope to the pure doctrine of Jesus, also."

On slavery, Jefferson wrote, "Almighty God has created men's minds free. Commerce between master and slave is despotism. I tremble for my country when I reflect that God is just and his justice cannot sleep forever."

George Washington, our first President:

"It is impossible to govern the world without God and the Bible. Of all of the dispositions and habits that lead to political prosperity, our religion and morality are the indispensable supporters. Let us with caution indulge the supposition, that is, the notion or idea, that morality can be maintained without religion. Reason and experience both forbid us to expect that our national morality can prevail in exclusion of religious principle."

What would he have thought of removing the Ten Commandments from that courthouse in Alabama? In Washington's prayer book, he wrote:

"O eternal and everlasting God, direct my thoughts, words and work, wash away my sins in the immaculate blood of the lamb, and purge my heart by thy Holy Spirit. Daily frame me more and more in the likeness of thy son, Jesus Christ, that living in thy fear and dying in thy favor, I may in thy appointed time obtain the resurrection of the justified unto eternal life. Bless, O Lord, the whole race of mankind and let the world be filled with the knowledge of thee and thy son, Jesus Christ."

John Adams, our second President, was also President of the American Bible Society and this is what he said:

"We have no government armed with the power capable of contending with human passions unbridled by morality and true religion."

And now listen to these words:

"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."

What would he say about removing the Ten Commandments from that courthouse in Alabama?

John Jay, our first Supreme Court Justice:

"Providence has given to our people the choice of their rulers, and it is the duty as well as the privilege and interest of our Christian Nation to select and prefer Christians for their rulers."

That is our first Supreme Court Justice. What would he say about the refusal of our Supreme Court today to hear this case?

John Quincy Adams, son of John Adams, also President of the American Bible Society and, by the way, he told his friends that he valued his presidency of the American Bible Society above his presidency of the United States. These are his words:

"The highest glory of the American revolution was this. It connected in one indissolvable bond the principles of civil government with the principles of Christianity. From the day of the declaration, they, that is, the founders were bound by the laws of God which they all acknowledged as their rules of conduct."

And then somewhat later on, Calvin Coolidge, Silent Cal, a President of very few words. He was known for this. I understand that at one banquet a lady sat next to him, and she told the President that she had made a wager with one of her friends that she could get the President to say at least three words that evening. He responded to her and his response was the only words that he uttered that evening and those words were, "You lose."

Calvin Coolidge said, "America seeks no empires built on blood and forces. She cherishes no purpose save to merit the favor of Almighty God." He later wrote, "The foundations of our society and our government rest so much on the teachings of the Bible that it would be difficult to support them if faith in these teachings would cease to be practically universal in our country."

We could quote from a great many more of our Founding Fathers. Essentially all of them made comments like this. But let us turn now to our courts, to the Supreme Court.

In 1811, there was a case the People v. Ruggles. This was a person who had publicly slandered the Bible. This case got to the Supreme Court and this is what they said:

"You have attacked the Bible. In attacking the Bible, you have attacked Jesus Christ. In attacking Jesus Christ, you have attacked the roots of our Nation. Whatever strikes at the root of Christianity manifests itself in the dissolving of our civil government."

What would that court say about the removal of the Ten Commandments from the courthouse in Alabama?

In 1845, there was a case Vida v. Gerrand. This was a lady teacher who was teaching morality without using the Bible. I have no idea how that case got to the Supreme Court, but it did, and this is what they said:

"Why not use the Bible?" This is the Supreme Court. "Why not use the Bible, especially the New Testament? It should be read and taught as a divine revelation in the schools. Where can the purest principles of morality be learned so clearly and so perfectly as from the New Testament?"

And then in 1892, the Church of the Holy Spirit had made the contention that Christianity was not the faith of the people and that came to the Supreme Court and this is what they said:

"Our laws and our institutions must necessarily be based upon and embody the teachings of the redeemer of mankind. It is impossible that they should be otherwise; and in this sense and to this extent our civilization and our institutions are emphatically Christian." This is the Supreme Court. "No purpose of action against our religion can be imputed to any legislature, State or national, because this is a religious people. This is historically true. From the discovery of this continent to this present hour, there is a single voice making this affirmation."

The justices went on citing 87 different legal precedents to affirm that America was formed as a Christian Nation by believing Christians.

What happened? In 1947, a Supreme Court enlarged by Franklin Delano Roosevelt from seven to nine did a 180-degree about-face, and they repudiated 160 years of precedents in a ruling which talked about this wall of separation between church and State. They misunderstood as many today what our Founding Fathers hoped to accomplish by that first amendment.

We might spend a moment looking at why that was the first amendment. Our Founding Fathers did not come here to get rich. As a matter of fact, many of them left riches to come here to get freedom. Freedom from what? There were two tyrannies that they came here to escape, some one, some the other, and some both. One was the tyranny of the church. In England, the Episcopal Church was empowered by the state so it could oppress other religions. On the European continent, it was the Roman Church that was empowered by the state so that it had the power to oppress other religions. And then, of course, there was the tyranny of the crown, this divine right of kings and emperors. I think it is no accident that in 1791 when our Founding Fathers wanted to make crystal clear what they meant in the Constitution, they wanted to say explicitly in those first 10 amendments what was implicit in the Constitution, that the first two addressed these two tyrannies from which they sought to protect themselves. It is very interesting that the establishment clause of the first amendment, that Congress should enact no law relative to the establishment of a religion, that a major architect of that was a Roman Catholic, Charles Carroll, for whom Carroll Creek in Frederick County is named, for whom Carroll County in northern Maryland is named. You see, in old Virginia, Roman Catholics could not vote and in colonial Maryland, not only could Roman Catholics not vote but Jews could not vote. To their great credit, our Founding Fathers recognized when it came time to write the Constitution, and those first 10 amendments, that that is not what they came here to do, to discriminate, to deny, and so they chose a person who had been discriminated against, a Roman Catholic, to be a major architect of that first amendment. Clearly what they wanted to do, and they say it over and over, and the courts have said it, that what they wanted to do was to prevent the State from empowering any one religion so that it could oppress others. They had no fear of religion itself. They had no concern about people of religion being in government. They had no concern about God being in government. They mentioned God in the Declaration of Independence. We have "In God We Trust" on our coins today and every bill that you carry in your purse. We began this day with prayer. The Pledge of Allegiance to the flag, we recognize there is a God. "In God We Trust" is in marble over the chair of the Speaker. Clearly these are the roots of our country. How could we have wandered so far away?

Ever since 1947, no Supreme Court has ever gone back for any verdict dealing with this subject that repudiated 160 years of precedents before that.

Let us move now to the Congress and look at a couple of things that the Congress did and said. The first of these is in 1854. Humanism and Darwinism were sweeping the country and there was an assertion that America was not a Christian Nation. The Congress studied this for a year and after a year, on March 27 of 1854, the Senate Judiciary Committee issued its final report. These words are from that report:

"The first amendment clause speaks against an establishment of religion. The Founding Fathers intended by this amendment to prohibit an establishment of religion such as the Church of England presented or anything like it but they had no fear or jealousy of religion itself nor did they wish to see us an irreligious Nation." This is the Congress. I love these next words. With the time we spend in front of the television set, we no longer have a vocabulary or the ability to produce these kinds of phrases:

"They did not intend to spread over all the public authorities and the whole public action of the Nation the dead and revolting spectacle of atheistic apathy. Had the people during the revolution," and this is the Congress, the Senate, "had the people during the revolution had a suspicion of any attempt to war against Christianity, that revolution would have been strangled in its cradle."

At the time of the adoption of the Constitution and the amendments, the universal sentiment was that Christianity should be encouraged, just not any one sect or denomination. The object was not to substitute Judaism or Islam or infidelity but to prevent rivalry among the Christian denominations to the exclusion of others. "Christianity must be considered as the foundation on which the whole structure rests. Laws will not have permanence or power without the sanction of religious sentiment, without the firm belief that there is power above us that will reward our virtues and punish our vices."

Consistent with this philosophy, the Continental Congress bought 20,000 Bibles to distribute to their new citizens, and for 100 years, at the beginning of our country, this Congress appropriated money to send missionaries to the American Indians.

Let me read further from this report from the Congress:

"In this age, there can be no substitute for Christianity. By its great principles, the Christian faith is the great conserving element on which we must rely for the purity and permanence of our free institutions. That was the religion of the Founding Fathers of the Republic and they expected it to remain the religion of their descendants."

□ 1715

Let us turn now to our schools. And the Congress in 1854 made this statement about our schools. It said: "The Congress of the United States recommends and approves the Holy Bible for use in our schools." Consistent with that, it was used.

The New England Primer was used for over 200 years. Notice how they taught the alphabet.

"A. A wise son makes a glad father but a foolish son is heaviness to his mother.

B. Better is little with the fear of the Lord than abundance apart from him.

C. Come unto Christ, all you who are weary and heavily laden.

D. Do not do the abominable thing, which I hate, sayeth the Lord.

E. Except a man be born again, he cannot see the Kingdom of God."

The "McGuffey Reader," used for 100 years. Not too many years ago it was brought back to some of our schools when for a number of years the achievement scores had considerably dropped and we graduated over 1 million people who literally could not read their high school diplomas, and, out of desperation, they brought the "McGuffey Reader" back to some of the schools, because when we had that in our schools, the graduates could read when they graduated from school.

The "McGuffey Reader." This is what it says: "The Christian religion is the religion of our country. From it we derived our notions on the character of God and on the great moral Governor of the universe." This is the author of the "McGuffey Reader": "On its doctrines are founded the peculiarities of our free institutions. From no source has the author drawn more conspicuously than from the sacred scriptures. For all of these extractions from the Bible I make no apology." That is the author of the "McGuffey Reader."

Of the first 108 schools in our country, 106 were distinctly religious. The first of these was Harvard University, named after a beloved New England pastor, John Harvard.

This is what they said in their student handbook: "Let every student be plainly instructed and earnestly pressed to consider well the main end of his life and studies is to know God and Jesus Christ, which is eternal life, John 17:3; and therefore to lay Jesus Christ as the only foundation of all sound knowledge and learning."

For over 100 years, more than 50 percent of all of the graduates of Harvard University were pastors.

We now expose these three great lies: the wall of separation, those words appear only in the Constitution of the Soviet Republic. They are not in our Constitution, they were not intended by our Founding Fathers. Their only intent was to make sure that the state never empowered any one religion so that it could oppress others.

Clearly in letting the Founding Fathers and the courts and the Congress and the schools speak, it is very clear that our Founding Fathers were not atheists and deists, that they did intend to establish a religious Nation.

We have changed. What have we reaped? America 100 years ago had the highest literacy rate of any nation on Earth. Today we spend more on education than any other nation in the world, and yet since 1987 we have graduated more than 1 million high school students who cannot even read their diplomas.

We spent more money than any other nation in the industrialized world to educate our children, yet SAT scores fell for 24 straight years before finally leveling off at the bottom in the 1990s, and there they remain, if you watch your papers. There they remain at the bottom.

In a 1960 survey, 53 percent of America's teenagers had never kissed and 57 percent had never necked, that is to hug and kiss, and 92 percent of teenagers in America said they were virgins in 1960.

Just a little personal anecdote. I got my doctorate at the University of Maryland in 1952, just in this time period, in a little building at the highest point on the campus there, Memorial Hall, a brick building that still stands. Just over the hill from there were girls' dormitories, and the dean of women would not let the girls go barefoot because she said it was too sexy.

How have we changed? Today, instead of that, we have coed dorms, and I am afraid far too many coed rooms at the University of Maryland.

By 1990, just 30 years after 1960, 75 percent of American high school students are sexually active by 18. In the next 5 years, we spent $4 billion to educate them how to be immoral through trumpeting the solution of safe sex, and it worked. One in five teenagers in America today loses their virginity before their 13th birthday, and 19 percent of America's teenagers say they have had more than four sexual partners before graduation.

The result? Every day 2,700 students get pregnant, 1,100 get abortions, 1,200 give birth. Every day another 900 contract a sexually transmitted disease, many incurable. AIDS infection among high school students climbed 700 percent between 1990 and 1995. We have 3.3 million problem drinkers on our high school campuses, over half a million alcoholics in any given weekend in America. Thirty percent of the students population spends some time under the influence of alcohol.

A couple of years ago a young woman in a high school in Oklahoma wrote this poem as a new school prayer:

"Now I sit me down in school
Where praying is against the rule.
For this great nation under God,
Finds mention of him very odd.
If scripture now the class recites
It violates the Bill of Rights.
Any time my head I bow
Becomes a Federal matter now.
Our hair can be purple, orange, or green.
That's no offense; it's a freedom scene.
The law is specific, the law is precise.
Only prayers spoken out loud are serious vice.
For praying in a public hall
Might offend someone who has no faith at all.
In silence alone we must meditate,
God's name is prohibited by the State.
We are allowed to cuss and dress like freaks,
And pierce our noses, tongues and cheeks.
They have outlawed guns, but FIRST the Bible.
To quote the Good Book makes me liable.
We can elect a pregnant Senior Queen,
And the 'unwed daddy' our Senior King.
It is inappropriate to teach right from wrong,
We are taught that such 'judgments' do not belong.
We can get our condoms and birth controls,
Study witchcraft, vampires and totem poles.
But the Ten Commandments are not allowed,
No word of God must reach this crowd.
It is scary here I must confess,
When chaos reigns the school's a mess.
So Lord, this silent plea I make:
Should I be shot, my soul please take."

Our Nation, which used to lead the world in every arena, now leads the world in these areas:

We are number one in violent crime, number one in divorce, number one in teenage pregnancies, number one in abortion, number one in illegal drug abuse, and we are number one in the industrialized world for illiteracy.

Alexis de Tocqueville, who toured this country for 5 years, asked what was there about America that made it so special. He summed up his lengthy visit in 1831: "I sought for the key to the greatness and genius of America in her great harbors, her fertile fields and boundless forests; in her rich minds and vast world commerce; in her universal public school system and institutions of learning. I sought for it in her democratic Congress and in her matchless Constitution.

"But not until I went into the churches of America and heard her pulpits flame with righteousness did I understand the secret of her genius and power. America is great because America is good; and if America ever ceases to be good, America will cease to be great."

Would Alexis de Tocqueville understand why we took the Ten Commandments out of that courthouse in Alabama?

In 1863, Abraham Lincoln declared a National Day of Humiliation, and these are his words:

"We have been the recipients of the choicest bounties of Heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth and powers as no other nation has ever grown."

And, Mr. Lincoln, the growth from then on has been uninterrupted and today we are something that you could not even have imagined then.

"But we have forgotten God," he says. "We have forgotten the gracious Hand, which preserved us in peace and multiplied and enriched us; and we have vainly imagined in the deceitfulness of our hearts that all these blessings were produced by some superior wisdom and virtue of our own."

Could you have a clearer description of where largely we are today in our attitudes?

"Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving Grace, too proud to pray to the God that made us. It behooves us then to humble ourselves before the offended Power, to confess our national sins and to pray for clemency and forgiveness."

Abraham Lincoln said this to our Nation. We need to hear it again: "It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom."

Most of this present generation have not forgotten from whence we came. They never knew. Our textbooks have been bled dry of any reference to the Christian heritage of our country.

Abraham Lincoln understood that this Nation was a new experiment, that it might not be successful, because four score and seven years later, and if you do the arithmetic that takes you back to the Declaration of Independence, four score and seven years ago our fathers founded on this continent a new Nation, conceived in liberty and dedicated to the proposition that all men are created equal. We are now engaged in a great war, testing whether that nation or any nation so conceived and so dedicated can long endure.

Then he went on to say they were met on a great battlefield of that nation and we come here to dedicate that to those who fought and died here.

Then he ends that Gettysburg Address with almost a prayer: "This government of the people, by the people, and for the people, shall not perish from the Earth."

Let me end with where I started. We opened our day's business today in this House with prayer; we did the Pledge of Allegiance to the Flag, in which we recognized that we are in a Nation under God; and over the Speaker's Chair inscribed in marble in large letters are the words "In God We Trust." And yet at the same time we now have required the removal of His commandments from that courthouse in Alabama.

I submit that if our textbooks had not been bled dry of the Christian heritage of our country, if in fact our leaders today would go back and read the Federalist Papers to understand the milieu in which our Constitution was written, that they would understand very clearly that our Founding Fathers never could have imagined that we would have interpreted that Establishment Clause as requiring freedom from religion, and that is what they are trying to do. They clearly meant it to assure freedom of religion.

Those are two very different concepts, Mr. Speaker, and my prayer is, my hope is, that our leaders today will go back for a refresher course in our history, look again at our Founding Fathers and who they were and what they stood for and what they fought and what they died for and what they said and what they did in their Congress and what they did in their Supreme Court and what we taught in our schools.

If we did that, Mr. Speaker, those Ten Commandments would be hauled back as quickly as one could to that courthouse in Alabama, because their presence there clearly is not at any variance with any of the principles of our Founding Fathers.

As a matter of fact, Mr. Speaker, they would be appalled that we had so misinterpreted their assurance that never should the State empower any religion so that can could oppress others. They would ask us, How could you have misunderstood? Didn't we make it clear to you that we were talking about an establishment of religion? Wasn't it clear from all of our personal statements, from all of what we did in our courts, from what we said in our Congress, that we believed that God was essential in our Nation?

Certainly children should pray in schools. Certainly the Ten Commandments should be in public places. We are a Christian Nation, established by Christian people, and I hope, Mr. Speaker, that our leadership in our courts and in our Congress and in all of our States go back and review our history so they can understand from whence we came, because if we do not, Mr. Speaker, go back and understand from whence we came, I am concerned about where we are going.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEACH (at the request of Mr. DELAY) for today on account of attending a family funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RYAN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, September 9, 10, and 11.

ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Tuesday, September 9, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3978. A letter from the Acting Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral John J. Totushek, United States Naval Reserve, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

3979. A communication from the President of the United States, transmitting a report on the temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in supporting Plan Colombia; to the Committee on Armed Services.

3980. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Iraq pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

3981. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicaid Program; Time limitation on Price Recalculations and Recordkeeping Requirements Under the Drug Rebate Program [CMS-2175-FC] (RIN: 0938-AM20) received September 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3982. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Qatar for defense articles and services (Transmittal No. 03-20), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3983. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 03-27), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3984. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 03-30), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3985. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 03-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3986. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Bahrain for defense articles and services (Transmittal No. 03-19), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3987. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Jordan for defense articles and services (Transmittal No. 03-26), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3988. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Saudi Arabia for defense articles and services (Transmittal No. 03-28), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3989. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Jordan for defense articles and services (Transmittal No. 03-21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3990. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of

Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 03-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3991. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Jordan for defense articles and services (Transmittal No. 03-34), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3992. A letter from the Executive Director, Consumer Product Safety Commission, transmitting the Commission's inventories of Commercial and Inherently Governmental Activities for Year 2003 as pursuant to the Federal Activities Inventory Reform Act; to the Committee on Government Reform.

3993. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3994. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3995. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3996. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3997. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3998. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report on federal vacancy Presidentially-appointed Senate-confirmed, position of Chief Financial Officer; to the Committee on Government Reform.

3999. A letter from the Secretary, Department of Veterans Affairs, transmitting the Department's Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Government Reform.

4000. A letter from the Deputy United States Trade Representative, Executive Office of the President, transmitting a report on the pending accession to the World Trade Organization of the Kingdom of Cambodia; to the Committee on Government Reform.

4001. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report entitled "Competitive Sourcing; Conducting Public-Private Competition in a Reasoned and Responsible Manner"; to the Committee on Government Reform.

4002. A letter from the Acting Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for 60 Plant Species from the Islands of Maui and Kahoolawe, Hawaii (RIN: 1018-AH70) received May 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4003. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the redesignation as "foreign terrorist organizations" pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and by the USA PATRIOT Act of 2001; to the Committee on the Judiciary.

4004. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd. Models N22B and N24A Airplanes [Docket No. 2003-CE-04-AD; Amendment 39-13239; AD 2003-14-20] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4005. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S76A, B, and C Helicopters [Docket No. 2002-SW-39-AD; Amendment 39-13237; AD 2003-14-18] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4006. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Lockheed Model 382G Series Airplanes [Docket No. 2000-NM-326-AD; Amendment 39-13235; AD 2003-14-16] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4007. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200F, 747-200C, 747-300, 747-400, 747-400D, 747-400F, and 747SR Series Airplanes [Docket No. 2000-NM-55-AD; Amendment 39-13234; AD 2003-14-15] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4008. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2000-NM-257-AD; Amendment 39-13244; AD 2003-15-02] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4009. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes [Docket No. 2002-CE-51-AD; Amendment 39-13226; AD 2003-14-07] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4010. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250-C30R/3, -C30R/3M, -C47B, and -C47M Turboshaft Engines [Docket No. 2003-NE-23-AD; Amendment 39-13210; AD 2003-13-10] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4011. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes [Docket No. 2002-NM-34-AD; Amendment 39-13245; AD 2003-15-03] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4012. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2003-NM-165-AD; Amendment 39-13225; AD 2003-14-06] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4013. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aeropatiale Model ATR42 Series Airplanes and Model ATR72 Series Airplanes [Docket No. 2001-NM-280-AD; Amendment 39-13232; AD 2003-14-13] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4014. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aeropatiale Model ATR72 Series Airplanes [Docket No. 2001-NM-401-AD; Amendment 39-13233; AD 2003-14-14] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4015. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2001-NM-395-AD; Amendment 39-13228; AD 2003-14-09] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4016. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2001-NM-50-AD; Amendment 39-13236; AD 2003-14-17] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4017. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2001-NM-391-AD; Amendment 39-13241; AD 2003-14-22] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4018. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. 2002-NM-205-AD; Amendment 39-13229; AD 2003-14-10] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4019. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA-365N, N1, AS-365N2, AS 365 N3, SA-366G1, AS355F, F1, F2, N, and EC130 B4 Helicopters [Docket No. 2002-SW-49-AD; Amendment 39-13238; AD 2003-14-19] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4020. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-524G2, -524G2-T, -524G3, -524G3-T, -524H, -524H-T, -524H2, and -524H2-T Series, and Models RB211 Trent 768-60, 772-60, and 772B-60 Turbofan Engines [Docket no. 2003-NE-20-AD; Amendment 39-13242; AD 2003-14-23] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4021. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McCauley Propeller Systems, Inc. Propeller Hub Models B5JFR36C1101, C5JFR36C1102, B5JFR36C1103, and C5JFR36C1104 [Docket No. 2003-NE-32-AD; Amendment 39-13243; AD 2003-15-01] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4022. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller, Inc. McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company Propellers [Docket No. 2003-NE-13-AD; Amendment 39-13219; AD 2003-13-17] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4023. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB21-22B Series Turbofan Engines [Docket No. 2002-NE-10-AD; Amendment 39-13213; AD 2003-13-12] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4024. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1124 and 1124A Series Airplanes [Docket No. 2003-NM-01-AD; Amendment 39-13188; AD 2003-12-03] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4025. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [Docket No. 2002-NM-64-AD; Amendment 39-13186; AD 2003-12-01] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4026. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model ATP Airplanes [Docket No. 2002-NM-162-AD; Amendment 39-13187; AD 2003-12-02] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4027. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727-100 and 727-200 Series Airplanes [Docket No. 2001-NM-41-AD; Amendment 39-13178; AD 2003-11-19] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4028. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332 C, L, and L1 Helicopters [Docket No. 2003-SW-13-AD; Amendment 39-13180; AD 2003-11-21] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4029. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200F, 747-200C, 747-300, 747SR, and 747SP Series Airplanes [Docket No. 2001-NM-394-AD; Amendment 39-13185; AD 2003-11-25] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4030. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes [Docket No. 2002-CE-53-AD; Amendment 39-13176; AD 2003-11-17] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4031. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-100 Series Airplanes [Docket No. 2003-NM-102-AD; Amendment 39-13184; AD 2003-11-24] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4032. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines [Docket No. 2000-NE-47-AD; Amendment 39-13177; AD 2003-11-18] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4033. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Turmo IV A and IV C Series Turboshaft Engines [Docket No. 99-NE-12-AD; Amendment 39-13168; AD 2003-11-09] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4034. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440 Airplanes) [Docket No. 2000-NM-311-AD; Amendment 39-13179; AD 2003-11-20] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4035. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA-365N1; AS365-N2, AS 365 N3, and SA-366G1 Helicopters [Docket No. 2003-SW-20-AD; Amendment 39-13181; AD 2003-08-53] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4036. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; International Aero Engines AG (IAE) V2522-A5, V2524-A5, V2527-A5, V2527E-A5, V2527M-A5, and V2530-A5 Turbofan Engines [Docket No. 2003-NE-21-AD; Amendment 39-13183; AD 2003-11-23] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4037. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-125-AD; Amendment 39-13174; AD 2003-11-15] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4038. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-34-200T, PA-34-220T, PA-44-180, and PA-44-180T Airplanes [Docket No. 2003-CE-23-AD; Amendment 39-13173; AD 2003-11-14] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4039. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Model RB211 Turbofan Engines [Docket No. 2002-NE-12-AD; Amendment 39-13182; AD 2003-10-03R1] (RIN: 2120-AA64) received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4040. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30380; Amdt. No. 443] received August 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. H.R. 2620. A bill to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes; with an amendment (Rept. 108–264 Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 2557. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; with an amendment (Rept. 108–265). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 253. A bill to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made; with an amendment (Rept. 108–266). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2620. Referral to the Committee on the Judiciary extended for a period ending not later than September 29, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. HART:

H.R. 3016. A bill to combat terrorism financing, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on International Relations, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KILPATRICK:

H.R. 3017. A bill to amend title 49, United States Code, to clarify certain Buy America provisions; to the Committee on Transportation and Infrastructure.

By Mr. EVANS:

H.R. 3018. A bill to amend title 10, United States Code, to permit members of the Selected Reserve the use of Reserve Montgomery GI Bill education benefits for payment for licensing or certification tests; to the Committee on Armed Services.

By Mr. McGOVERN:

H.R. 3019. A bill to amend title 10, United States Code, to increase the military death gratuity from $6,000 to $12,000 and to provide that such death gratuity shall be excluded from gross income under the Internal Revenue Code of 1986; to the Committee on Ways and Means, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACEVEDO-VILÁ:

H.R. 3020. A bill to authorize construction of a new (replacement) medical center for the Department of Veterans Affairs in the Commonwealth of Puerto Rico at a site to be selected pursuant to a study by the Secretary of Veterans Affairs and Secretary of Defense as suitable for a new Federal medical center in the Commonwealth of Puerto Rico that would best serve the needs of both veterans and Department of Defense medical beneficiaries in Puerto Rico; to the Committee on Veterans' Affairs.

By Mr. ACEVEDO-VILÁ:

H.R. 3021. A bill to authorize a major medical facility project at the San Juan, Puerto Rico, Department of Veterans Affairs medical center; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio:

H.R. 3022. A bill to protect children's health by ensuring that chickens and chicken products purchased for national school nutrition programs have not been fed or administered fluoroquinolone antibiotics; to the Committee on Education and the Workforce.

By Mr. BROWN of Ohio (for himself, Mrs. Jones of Ohio, Mr. Michaud, and Mr. Kleczka):

H.R. 3023. A bill to authorize the construction and operation of regional reserves of gasoline, for use as a response to acute gasoline price increases resulting from accidents or other physical disruptions to regional supplies of gasoline; to the Committee on Energy and Commerce.

By Mr. BUYER:

H.R. 3024. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to provide protections to service members who terminate motor vehicle or residential leases entered into before permanent change of station or deployment orders or motor vehicle leases entered into before military service; to the Committee on Veterans' Affairs.

By Mr. HINOJOSA:

H.R. 3025. A bill to amend the Internal Revenue Code of 1986 to extend the deduction from gross income for certain expenses of elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. MEEHAN (for himself and Mr. Weiner):

H.R. 3026. A bill to amend chapter 89 of title 5, United States Code, and chapter 55 of title 10, United States Code, to provide that any health benefits plan which provides obstetrical benefits shall be required also to provide coverage for the diagnosis and treatment of infertility; to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself and Mr. Conyers):

H.R. 3027. A bill to require the Federal Communications Commission to report to Congress regarding the ownership and control of broadcast stations used to serve language minorities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H.R. 3028. A bill to amend the Water Resources Development Act of 1986 to expand the authority of non-Federal interests to levy harbor fees; to the Committee on Transportation and Infrastructure.

By Mr. SCOTT of Georgia (for himself, Mr. Norwood, Mr. Kingston, Mr. Marshall, Mr. Isakson, Mr. Lewis of Georgia, Mr. Deal of Georgia, Ms. Majette, Mr. Bishop of Georgia, Mr. Burns, Mr. Collins, Mr. Gingrey, and Mr. Linder):

H.R. 3029. A bill to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the "S. Truett Cathy Post Office Building"; to the Committee on Government Reform.

By Mr. OSBORNE (for himself, Mr. Boehner, Mr. Castle, Mr. Upton, and Mr. Wilson of South Carolina):

H.R. 3030. A bill to amend the Community Service Block Grant Act to provide for quality improvements; to the Committee on Education and the Workforce.

By Mr. STUPAK:

H.R. 3031. A bill to provide a 10 percent increase in the rate of basic pay for members of the uniformed services, effective January 1, 2004, to pay a one-time bonus to members of the Armed Forces who served or serve in a combat zone designated for Operation Iraqi Freedom or Operation Enduring Freedom, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALSH (for himself, Mr. Rangel, Mr. Boehlert, Mrs. McCarthy of New York, Mr. Houghton, Mr. Ackerman, Mr. King of New York, Mr. Crowley, Mr. Serrano, Mrs. Lowey, Mr. Sweeney, Mr. Hinchey, Mr. Meeks of New York, Mr. Nadler, Mr. Quinn, Mr. Engel, Mr. Israel, Mr. McNulty, Mrs. Maloney, Mr. Weiner, Mr. Towns, Mr. Reynolds, Mr. McHugh, Mr. Fossella, Mr. Bishop of New York, Mrs. Kelly, Ms. Slaughter, Mr. Owens, and Ms. Velázquez):

H.R. 3032. A bill to provide support for the Daniel Patrick Moynihan Global Affairs Institute; to the Committee on Education and the Workforce.

By Mr. WALSH:

H.R. 3033. A bill to extend to Nepal certain preferential treatment with respect to apparel articles; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (for himself, Mr. Bilirakis, and Mr. Towns):

H.R. 3034. A bill to amend the Public Health Service Act to reauthorize the National Bone Marrow Donor Registery, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HYDE (for himself, Mr. Smith of New Jersey, and Mr. Lantos):

H. Res. 356. A resolution expressing the sense of the House of Representatives regarding the man-made famine that occurred in Ukraine in 1932–1933; to the Committee on International Relations.

By Mr. MILLER of Florida (for himself, Mr. Reyes, Mr. Baca, Mr. Bereuter, Mr. Berman, Mr. Brown of Ohio, Mr. Case, Mr. Dreier, Mr. Feeney, Mr. Foley, Mr. Fossella, Mr. Frank of Massachusetts, Mr. Frost, Mr. Greenwood, Mr. Hall, Mr. Hinojosa, Ms. Jackson-Lee of Texas, Ms. Kaptur, Mr. Kennedy of Rhode Island, Mr. Kingston, Mrs. Maloney, Mrs. McCarthy of New York, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mrs. Napolitano, Mr. Osborne, Mr. Pitts, Mr. Quinn, Mr. Scott of Georgia, Mr. Serrano, Mr. Schiff, Mr. Shimkus, Mr. Simmons, Mr. Skelton, Mr. Smith of Michigan, Mr. Stearns, Mr. Ryan of Ohio, Mr. Terry, Mr. Thompson of Mississippi, Mrs. Jones of Ohio, Mr. Upton, Mr. Walsh, Mr. Wilson of South Carolina, Mr. Wolf, and Mr. Young of Florida):

H. Res. 357. A resolution honoring the life and legacy of Bob Hope; to the Committee on Government Reform.

By Mr. WEXLER (for himself, Ms. Schakowsky, Mr. Delahunt, Mr. Brown of Ohio, Mr. Hastings of Florida, Mr. Abercrombie, Mr. Ackerman, Ms. Lee, Mr. Hoeffel, Mr. Bell, Mr. Meeks of New York, Ms. Watson, and Mr. Emanuel):

H. Res. 358. A resolution of inquiry requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution the report prepared for the Joint Chiefs of Staff entitled "Operation Iraqi Freedom Strategic Lessons Learned" and other materials relating to the Administration's planning for the reconstruction and security of post-war Iraq; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mrs. EMERSON and Mr. VITTER.

H.R. 37: Mr. WALSH.

H.R. 58: Mr. ROSS, Mr. McDERMOTT, and Mr. PETERSON of Minnesota.

H.R. 97: Mr. LARSEN of Washington, Mr. ACKERMAN, Mr. THOMPSON of Mississippi, Mr. CLYBURN, Ms. DeLAURO, Mr. CROWLEY, Mr. TOWNS, Mr. BONNER, Mr. PASCRELL, Mr. ORTIZ, Mr. RODRIGUEZ, Mr. FROST, Mr. SESSIONS, and Ms. BERKLEY.

H.R. 106: Mr. PAUL.

H.R. 111: Mr. LIPINSKI and Mr. SCOTT of Georgia.

H.R. 206: Mr. VITTER.

H.R. 278: Mr. VITTER.

H.R. 442: Mr. VAN HOLLEN.

H.R. 527: Mr. GERLACH and Mr. RUPPERSBERGER.

H.R. 548: Mr. BARTON of Texas, Mr. MOLLOHAN, Mr. FORD, and Mr. MILLER of North Carolina.

H.R. 736: Ms. HOOLEY of Oregon.

H.R. 745: Mr. POMEROY.

H.R. 798: Ms. HART and Mr. LEWIS of Kentucky.

H.R. 832: Ms. CORRINE BROWN of Florida and Mr. DAVIS of Illinois.

H.R. 833: Mr. ROGERS of Kentucky.

H.R. 839: Mr. HOLDEN, Mr. BERMAN, Ms. CORRINE BROWN of Florida, Mr. GREEN of Wisconsin, Mr. WEINER, Mr. CRENSHAW, Mr. DEUTSCH, Mr. KENNEDY of Rhode Island, and Mr. VITTER.

H.R. 870: Mr. NUSSLE.

H.R. 887: Mr. HOYER.

H.R. 920: Mrs. McCARTHY of New York, Mr. ACEVEDO-VILÁ, Mr. BRADY of Pennsylvania, Ms. JACKSON-LEE of Texas, and Mr. TOWNS.

H.R. 927: Mr. JOHNSON of Illinois.

H.R. 962: Mr. CUMMINGS, Ms. McCARTHY of Missouri, Mr. NEAL of Massachusetts, Mr. UDALL of New Mexico, Mr. KLECZKA, Mr. KANJORSKI, Mr. PAYNE, and Mr. MENENDEZ.

H.R. 978: Mr. MORAN of Virginia.

H.R. 996: Mr. KING of Iowa.

H.R. 1046: Mr. DELAHUNT.

H.R. 1070: Ms. LOFGREN.

H.R. 1105: Mr. DOGGETT.

H.R. 1118: Mr. LaHOOD, Mr. OLVER, and Mr. FEENEY.

H.R. 1137: Mr. NEUGEBAUER and Mr. SIMPSON.

H.R. 1155: Mr. RAMSTAD, Mr. CAMP, and Mr. LEWIS of Kentucky.

H.R. 1160: Mr. COLE and Mr. HUNTER.

H.R. 1195: Ms. GINNY BROWN-WAITE of Florida.

H.R. 1210: Mr. BACA and Ms. ESHOO.

H.R. 1220: Mr. DeMINT.

H.R. 1264: Ms. LEE.

H.R. 1305: Mr. OSE, Mr. HENSARLING, Mr. TIBERI, and Mr. WELDON of Pennsylvania.

H.R. 1306: Mr. RUSH.

H.R. 1310: Mr. GUTKNECHT, Mr. CARTER, Mr. MICHAUD, Mr. FEENEY, Mr. BRADLEY of New Hampshire, Mr. JONES of North Carolina, and Mr. CRENSHAW.

H.R. 1322: Mr. RUPPERSBERGER, Mr. WYNN, Mrs. CHRISTENSEN, Ms. KILPATRICK, Mr. MARKEY, Mr. MEEHAN, Mr. McINTYRE, Mr. LANTOS, Mr. PALLONE, Mr. THOMPSON of Mississippi, Mrs. MALONEY, Mr. FROST, Mr. CUMMINGS, and Ms. VELÁZQUEZ.

H.R. 1336: Ms. LORETTA SANCHEZ of California.

H.R. 1340: Mrs. DAVIS of California and Mr. BAIRD.

H.R. 1372: Mr. BONILLA, Mr. CALVERT, Mr. ENGLISH, and Mr. BOEHLERT.

H.R. 1385: Mr. NUNES and Ms. DUNN.

H.R. 1414: Ms. ESHOO.

H.R. 1608: Mrs. JO ANN DAVIS of Virginia.

H.R. 1622: Mr. BROWN of South Carolina, Mr. BISHOP of Georgia, Mr. POMEROY, Mr. KENNEDY of Rhode Island, Mr. CLYBURN, and Mr. WU.

H.R. 1639: Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. ANDREWS, Mr. HONDA, and Mr. DeFAZIO.

H.R. 1688: Mr. HOYER.

H.R. 1709: Mr. KLECZKA.

H.R. 1738: Mr. DUNCAN.

H.R. 1749: Mr. HEFLEY, Mr. MANZULLO, Mrs. KELLY, Mr. ALLEN, Mr. SHAW, Mr. FLETCHER, Ms. DeLAURO, Mr. LaTOURETTE, Mr. BOOZMAN, and Mr. LAMPSON.

H.R. 1776: Mr. ISTOOK and Mr. BOEHLERT.

H.R. 1819: Mr. ALEXANDER and Mr. TIERNEY.

H.R. 1828: Mr. DeMINT, Mr. RYUN of Kansas, Mr. SANDERS, Mr. SMITH of Washington, and Mr. MEEKS of New York.

H.R. 1873: Ms. LOFGREN.

H.R. 1943: Mr. FATTAH.

H.R. 1997: Mr. BARTON of Texas.

H.R. 2042: Mr. REYES, Mr. MICHAUD, Mr. SERRANO, Mrs. JONES of Ohio, Mrs. LOWEY, Mr. LANTOS, Mr. RUSH, and Mr. THOMPSON of California.

H.R. 2045: Mr. WELDON of Florida, Mr. BLUNT, Mr. EVERETT, Mr. TURNER of Ohio, Mr. FRANKS of Arizona, Mr. FORBES, Mr. RAMSTAD, Mr. BARTON of Texas, and Mr. GARRETT of New Jersey.

H.R. 2071: Ms. JACKSON-LEE of Texas, Mr. PASTOR, Mr. BELL, Mr. OLVER, Mr. FILNER, Mr. TERRY, and Ms. KILPATRICK.

H.R. 2172: Mr. SHIMKUS and Mr. SIMMONS.

H.R. 2173: Ms. JACKSON-LEE of Texas, Mr. ABERCROMBIE, Mrs. CAPPS, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. SANDLIN.

H.R. 2236: Mr. ROGERS of Kentucky.

H.R. 2295: Mr. McDERMOTT and Mr. POMEROY.

H.R. 2363: Mr. RUPPERSBERGER.

H.R. 2399: Mr. BURR and Mr. ROGERS of Michigan.

H.R. 2402: Mr. FILNER.

H.R. 2482: Ms. WOOLSEY.

H.R. 2490: Mrs. JONES of Ohio, Mr. BROWN of Ohio, and Mr. BAKER.

H.R. 2505: Ms. LOFGREN.

H.R. 2512: Mr. KING of New York.

H.R. 2527: Mr. FILNER.

H.R. 2533: Mr. NORWOOD, Mr. GINGREY, Mr. DEAL of Georgia, Mr. COLLINS, Ms. MAJETTE, Mr. BISHOP of Georgia, Mr. LEWIS of Georgia, and Mr. MARSHALL.

H.R. 2557: Mr. OBERSTAR and Mr. COSTELLO.

H.R. 2569: Ms. SCHAKOWSKY.

H.R. 2592: Mr. DOOLEY of California.

H.R. 2601: Ms. LEE and Mr. HONDA.

H.R. 2621: Mr. WEXLER.

H.R. 2632: Mr. ROGERS of Kentucky.

H.R. 2633: Mr. GEORGE MILLER of California.

H.R. 2671: Mr. COLE, Mr. THORNBERRY, and Mr. ISSA.

H.R. 2685: Mr. CONYERS, Mr. BOEHLERT, Mr. DEUTSCH, Mr. KENNEDY of Rhode Island, Mr. SENSENBRENNER, and Mr. SMITH of Texas.

H.R. 2694: Mrs. McCARTHY of New York, Mr. EMANUEL, Mr. KIND, Mr. KLINE, and Mr. LoBIONDO.

H.R. 2702: Mr. WAMP.

H.R. 2704: Mr. PASCRELL and Ms. ESHOO.

H.R. 2705: Mr. EVANS and Mr. EDWARDS.

H.R. 2706: Mr. THOMPSON of Mississippi, Mr. SHAW, Mr. JONES of North Carolina, Mrs. MYRICK, Mr. DUNCAN, and Mr. FORD.

H.R. 2719: Mr. WAXMAN, Mr. MORAN of Virginia, Mr. FROST, Mr. FOLEY, Mr. BURR, Mr. DUNCAN, Mr. LaTOURETTE, Mr. GORDON, Mr. LEWIS of Kentucky, Mrs. JOHNSON of Connecticut, Mr. WOLF, Mr. HAYES, Mrs. MYRICK, Mr. WEXLER, Mr. McINTYRE, Ms. ESHOO, Mr. SMITH of Washington, and Mr. BISHOP of New York.

H.R. 2720: Mr. LaHOOD, Mr. JOHNSON of Illinois, Mr. ROGERS of Michigan, Mr. DINGELL, Mr. CONYERS, and Mr. RYAN of Ohio.

H.R. 2735: Ms. GINNY BROWN-WAITE of Florida

H.R. 2747: Mr. McINNIS.

H.R. 2809: Mr. SOUDER.

H.R. 2810: Mr. SOUDER.

H.R. 2821: Mrs. McCARTHY of New York, Mr. MEEHAN, and Mr. BALLENGER.

H.R. 2823: Mr. PAUL, Mr. WICKER, Ms. CORRINE BROWN of Florida, Mr. WEXLER, Mr. RODRIGUEZ, Mrs. McCARTHY of New York, and Mr. WILSON of South Carolina.

H.R. 2824: Mr. FRANK of Massachusetts.

H.R. 2828: Mr. FILNER.

H.R. 2885: Mr. TANCREDO, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 2898: Mr. FEENEY.

H.R. 2900: Mr. BALLENGER, Mr. GOODE, Mr. BURR, Mr. BOYD, Mr. SULLIVAN, Mr. REYNOLDS, Mr. SOUDER, and Mrs. MYRICK.

H.R. 2904: Mr. McDERMOTT and Mr. BAIRD.

H.R. 2905: Mr. MEEHAN, Mr. PETERSON of Minnesota, Mr. LaTOURETTE, Mr. GORDON, Mr. KILDEE, and Mr. WILSON of South Carolina.

H.R. 2928: Mrs. CAPITO, Mr. CUMMINGS, Mr. JONES of North Carolina, Mr. RANGEL, Mr. SIMMONS, and Mrs. JO ANN DAVIS of Virginia.

H.R. 2932: Mr. GEORGE MILLER of California, Ms. SCHAKOWSKY, Mr. SERRANO, and Mr. DeFAZIO.

H.R. 2944: Ms. CORRINE BROWN of Florida and Mr. FILNER.

H.R. 2949: Mr. DICKS.

H.R. 2950: Mr. CRAMER, Mr. BAKER, and Mr. VITTER.

H.R. 3014: Mr. MEEHAN.

H.J. Res. 38: Mr. McDERMOTT.

H.J. Res. 62: Mr. FROST.

H. Con. Res. 76: Mr. BLUMENAUER and Mr. NETHERCUTT.

H. Con. Res. 202: Mr. ACEVEDO-VILÁ and Mr. FALEOMAVAEGA.

H. Con. Res. 265: Mr. FORBES, Mr. FROST, and Mr. WALSH.

H. Res. 291: Mr. BLUMENAUER.

H. Res. 307: Ms. ESHOO, Mr. SMITH of Washington, Mr. VAN HOLLEN, Mr. LEVIN, Mr. SNYDER, Mr. OWENS, Mr. LARSON of Connecticut, Mr. FATTAH, Mr. MICHAUD, and Ms. LORETTA SANCHEZ of California.

H. Res. 331: Mr. McDERMOTT and Mr. WOLF.

SENATE—*Friday, September 5, 2003*

The Senate met at 9:15 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Light of light, we thank You for a new day with all its shades, shadows, and sunshine. Strengthen us for the opportunities and challenges ahead. Lord, keep us from murmuring and complaining, as we face life's inevitable setbacks. Thank You for blessing us beyond what we deserve for life, for love, for liberty. Forgive us when we seek to be served instead of striving to serve. Empower our leaders today, that the end of this day will find them unashamed. Establish Your reign among us, and let truth and unity prevail. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume consideration of the Labor-HHS appropriations bill. Beginning at 9:30 this morning, there will be two consecutive votes in relation to amendments to this appropriations bill. The first vote will be in relation to Senator CLINTON's amendment on a bioterrorism workforce, and the second will be in relation to the Harkin amendment on school renovation. Following those votes, the chairman and ranking member are prepared to remain and debate further amendments.

As we have indicated previously, we need and plan on finishing this bill as soon as possible. There are additional appropriations bills that are now ready for full Senate action, and once this bill is completed we will be proceeding to those bills. We need to continue to work in an orderly way, which has been demonstrated over the course of this week. Today I know will be a very productive day, as will Monday.

It is my hope we can finish Labor-HHS, this appropriations bill, no later than Tuesday, and with the cooperation of Members working together, this is indeed still possible. This will require votes this morning. There will be just these two votes this morning. Again, debate will continue throughout the course of the day. We will be voting late Monday afternoon. Specific times will be set later today. There may be multiple votes on Monday. I will have more to say on Monday's schedule later today, as we see what amendments are offered and which will be appropriate to vote on on Monday.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant Democratic leader.

VOTING SCHEDULE

Mr. REID. Mr. President, we worked the day before yesterday and yesterday and did come up with a finite list of amendments on our side and on the majority's side. The respective staffs worked closely together, and we now have a list. We were hopeful last night we could have had that put into a unanimous consent request. We have been told that the issue holding that up has been the request that we had to have an overtime vote on Tuesday when all four Presidential candidates will be here.

I will say, through the Chair to the majority leader, from the first day I started talking, as did Senator HARKIN, to the Republican manager, the senior Senator from Pennsylvania, we acknowledged that we wanted to have a vote on Tuesday. So it is not anything that is new or unique that we have been setting that time aside tentatively.

We would hope that before we leave here this morning, we can have some kind of agreement to that effect. Otherwise, we will do our best to cooperate, but we certainly need that vote. We think it would be the right thing to do to have as many of our people here as possible when that vote occurs. As the leader knows, we have a few Republican votes on that, but with the margins as small as they are, it would be a very close vote. We should have everyone whenever that vote occurs.

We have been acting in very good faith. It was hard to get agreement on our side. That is why I was hoping we could have it done last night. I do hope we can have that done today.

Senator DOMENICI and I have worked the Energy and water bill on many occasions. We feel we have a good bill. It is one I am glad the majority leader is going to move to quickly because we are going to have a very difficult conference with the House. There are some big issues we normally don't have to work with in our conference that are in dispute. I think we can finish that bill in a fairly short period of time. It is a bill that is very important to almost every Member.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. In response to the assistant Democratic leader, scheduling is always a challenge. I appreciate the straightforward way he presents it because it is very clear that on the other side of the aisle there are a number of people running for the nomination for President and the candidates are participating in the political process. But we do have business here in the Senate. To try to dictate the schedule entirely around their candidacy for President is just impractical. I cannot do that. I want to be respectful as much as possible as we go forward. It is difficult. I want to be as accommodating as we possibly can in terms of votes, allowing people to participate.

On the other hand, we need to keep business going. We have made great progress in terms of the amendments on our side and on the other side, getting them down to a manageable number. Some might question "a manageable number," but to a number that we can work with. I appreciate that. That is what it is going to take in order to bring real focus to this bill.

In terms of agreeing to when we will vote on, indeed, a very complicated and complex issue at a specific time, at a day that is most convenient because of political candidates running around the country, especially since that amendment has not even yet been offered, is something we can't do at this time. That was explained to the other side of the aisle. That should not slow things down at all. But again, there is an orderly process. When the amendment is provided and debated, we have a lot of people who will want to speak on that. Again, the issue is a very important one.

We are making real progress. I am pleased where we are in terms of having this manageable group of amendments. Systematically, we will be going through those over the course of the day and Monday and Tuesday. Hopefully, we will complete the bill.

Mr. REID. If I may briefly reply, we shared the amendment Senator HARKIN is going to offer with Senator SPECTER and Republican staff. The question is when he should offer it. He could have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

offered it last night. He will offer it today. Everyone has had the opportunity to see the amendment.

We are respectful of the majority leader's problems in trying to set schedules. That is why, when we have had very close votes, we have not asked for revotes when our people come back. It is not often we have asked to have a vote at a certain time, but we have telegraphed, so to speak, our punch and let everyone know we were trying to get something lined up for Tuesday. I hope we can do that. With the number of amendments we have, as the leader knows, we can finish the bill very quickly or it can take a long time. We hope on Tuesday we can have that vote to work toward ending debate on this very important bill.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2660, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Byrd amendment No. 1543 (to amendment No. 1542), to provide additional funding for education for the disadvantaged.

Akaka amendment No. 1544 (to amendment No. 1542), to provide funding for the Excellence in Economic Education Act of 2001.

Mikulski amendment No. 1552 (to amendment No. 1542), to increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs.

Kohl amendment No. 1558 (to amendment No. 1542), to provide additional funding for the ombudsman program for the protection of vulnerable older Americans.

Kennedy amendment No. 1566 (to amendment No. 1542), to increase student financial aid by an amount that matches the increase in low- and middle-income family college costs.

Dodd amendment No. 1572 (to amendment No. 1542), to provide additional funding for grants to States under part B of the Individuals with Disabilities Education Act.

Harkin amendment No. 1575 (to amendment No. 1542), to provide additional funding for the Fund for the Improvement of Education.

DeWine amendment No. 1561 (to amendment No. 1542), to provide funds to support graduate medical education programs in children's hospitals.

DeWine amendment No. 1560 (to amendment No. 1542), to provide funds to support poison control centers.

DeWine amendment No. 1578 (to amendment No. 1542), to provide funding for the Underground Railroad Education and Cultural Program.

Clinton amendment No. 1565 (to amendment No. 1542), to provide additional funding to ensure an adequate bioterrorism preparedness workforce.

The PRESIDENT pro tempore. Under the previous order, until the hour of 9:30 a.m., the time will be equally divided between the two bill managers or their designees.

In my capacity as a Senator from Alaska, I suggest the absence of a quorum and ask the clerk to call the roll. The time will be charged against both sides.

Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I understand the first vote this morning will be on the Harkin amendment; is that true?

The PRESIDENT pro tempore. The first vote will be on the Clinton amendment, No. 1565, to be followed by the amendment of the Senator from Iowa, No. 1575.

AMENDMENT NO. 1575

Mr. HARKIN. Mr. President, I want to speak a couple minutes on my amendment. The amendment we will be voting on has to do with school construction. Actually 3 years ago, this Congress appropriated almost $1 billion for school construction around the United States. This money has gone out to States all over the country. Some of it has been used and some of it still is going out for construction and renovation purposes. But what it has done is leveraged for every Federal dollar about $15 or $20 of local money. So we are getting a heck of a bang for the buck by putting money into school construction and renovation. That happened in Iowa, and it is happening in every other State in the country.

The American Society of Civil Engineers 3 years ago gave a report card on the infrastructure of America, and they gave the schools a D minus, the lowest grade of any category, lower than sewer and water and highways and everything else. They said schools were a D minus 3 years ago. Just yesterday they came out with their report card again and said there has been no progress at all.

The PRESIDENT pro tempore. The Senator's time has expired. The time was equally divided before 9:30. The Senator's time has expired. Under the previous agreement, the time before 9:30 was equally divided between the Senator from Iowa and the Senator from Pennsylvania.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am very sympathetic to the objectives sought by the Senator from Iowa. In the past, on budget resolutions in prior years, I have supported using Federal funds on school construction. But the difficulty this year is that there is no money available for this line. Senator HARKIN and I, on a bipartisan basis, have worked out the allocation of $137 billion. I would like to have money for school construction, but it simply isn't there.

It was not included in the budget resolution this year. It has always been highly controversial to pass this body, and it was only Senator D'Amato and Senator CAMPBELL and I who supported it in the past, when Senator HARKIN spearheaded this effort along with Carol Moseley-Braun. This is one of the many laudable objectives I would like to see funded. I fought hard for a larger allocation from the subcommittee. I would be glad to join Senator HARKIN in supporting this measure, but as manager it is my duty to stay within the confines of the bill and within the confines of the allocation. So it is with regret that I have to raise a point of order.

Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds the discretionary spending limits specified in this section and therefore is not in order.

The PRESIDENT pro tempore. Which amendment is the point of order raised against?

Mr. SPECTER. Mr. President, that was raised against the amendment to be voted on first, which has already been noted by the Chair, the amendment of Senator CLINTON.

Similarly, I raise a point of order under section 504 of the concurrent resolution for fiscal year 2004 that the amendment of Senator HARKIN exceeds the discretionary spending limits and therefore is not in order.

The PRESIDENT pro tempore. So the Senator has made a point of order under each of the amendments?

Mr. SPECTER. That is correct.

Mr. HARKIN. Mr. President, pursuant to section 504(b)(2) of House Concurrent Resolution 95, the concurrent resolution on the budget for fiscal year 2004. I move to waive section 504 of that concurrent resolution for the purpose of the pending amendment, and also for the amendment that I offered, which would be following this vote at 9:30 on the Clinton amendment.

The PRESIDENT pro tempore. Without objection, the two motions are received.

Mr. HARKIN. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1565

The PRESIDENT pro tempore. The question is on agreeing to the motion with respect to amendment No. 1565.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Illinois (Mr. FITZGERALD), the Senator from Texas (Mrs. HUTCHISON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. GRAHAM) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The result was announced—yeas 41, nays 47, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—41

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Durbin
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—47

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—12

Alexander
Breaux
Dorgan
Edwards
Fitzgerald
Graham (FL)
Hutchison
Kerry
Lieberman
Miller
Murkowski
Shelby

The PRESIDENT pro tempore. On this question, the yeas are 41, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

VOTE ON AMENDMENT NO. 1575

The PRESIDENT pro tempore. Under the previous order, we will now proceed to a vote on the point of order made against the Harkin amendment, amendment No. 1575. The yeas and nays have been ordered.

There is a previous order for 5 minutes of debate equally divided in the usual form prior to the second vote. Who yields time?

Mr. SPECTER. Mr. President, we know there are many Members anxious to depart for planes, and Senator HARKIN and I have decided to yield back our time and proceed directly to the vote.

The PRESIDENT pro tempore. Without objection, it is so ordered. All time is yielded back.

The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Ms. HUTCHISON), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 46, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Durbin
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—46

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—11

Alexander
Breaux
Dorgan
Edwards
Graham (FL)
Hutchison
Kerry
Lieberman
Miller
Murkowski
Shelby

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1580 TO AMENDMENT NO. 1542

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. DASCHLE, Ms. MIKULSKI, Mrs. CLINTON, Mr. EDWARDS, Mrs. MURRAY, Mr. CORZINE, Mr. BYRD, Mr. REID, Mr. SCHUMER, Mr. LAUTENBERG, Mr. KERRY, Mr. LIEBERMAN, Mr. FEINGOLD, Mr. SARBANES, Mr. DODD, Ms. STABENOW, Mr. LEAHY, Mr. DURBIN, Mr. AKAKA, Mr. DAYTON, Mr. PRYOR, Mr. REED, and Mr. NELSON of Florida, proposes an amendment No. 1580 to amendment No. 1542.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, between lines 15 and 16, insert the following:

SEC. . None of the funds provided under this Act shall be used to promulgate or implement any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) any employee who is not otherwise exempted pursuant to regulations under section 13 of such Act (29 U.S.C. 213) that were in effect as of September 3, 2003.

Mr. HARKIN. Mr. President, this is an amendment about which I spoke at some length yesterday and the day before on the floor. Others spoke on it also. This is the amendment that would preclude the administration from issuing final proposed regulations that would take away the right of up to 8 million to 10 million Americans to get overtime pay if they work over 40 hours a week.

Just to recap for a minute, earlier this year, sort of under the cover of darkness, without one hearing, the Department of Labor issued proposed regulations to modify the Fair Labor

Standards Act that would basically modify, in a very drastic manner, how employers would decide who was covered under overtime law and who was not.

Now, again, this has been in existence since 1938. We have had some changes in it since that time, but none as sweeping as the Administration has proposed this spring and that would result in millions of working Americans losing their overtime pay protection.

The Department of Labor has said this only affects about 644,000 workers. Well, they're only counting the people are currently, routinely work overtime and receive overtime pay. There are about 8 to 10 million people who are qualified to get overtime pay, but they are not working overtime.

Again, if an employer were to ask them to work overtime, then they would get time and a half. Well, this pending regulation would take that away for many workers. And then we'll see their employers require them to work longer hours, without pay.

The first wave of people who will be most affected by this will be working women, women who work on a salary basis, maybe as accountants, working in banks, insurance companies, whatever, women who have children in childcare, daycare centers. Now they are going to be asked to work longer hours with no more pay, but they are going to have to continue to pay more for childcare. This is antiworker. This is antifamily. And its bad economics.

Obviously, if I am an employer, and I don't have to pay overtime pay, and I can work people longer than 40 hours a week, I'm not going to hire new people.

And I will—not today; I know others want to speak this morning—but when we come back next week I will be laying out in even more detail how it is that American workers are working longer than workers in all other industrialized countries, and now they are being asked to work longer without even being paid for it.

I think this is one of the most crucial issues facing this Congress this year: whether we are going to sit back and let the administration change, sort of by fiat—not by legislation, not through the hearing process and the developing of legislation and the votes here—but just through rules and regulations, to just wipe out—wipe out—the protections 8 to 10 million working Americans have to guarantee that if they have to work over 40 hours a week, they are going to get at least time-and-a-half overtime. Just wipe out the 40-hour work week, that has been law for 65 years now.

Mr. REID. Will the Senator yield for a question?

Mr. HARKIN. Yes, I am delighted to yield to the assistant leader.

Mr. REID. As the Democratic manager of this bill, it has been your intention, has it not, to have this as, if not the most important vote, one of the most important votes in this multibillion dollar bill? I think it is about a $125 billion bill you and Senator SPECTER are managing. So you consider this a very important vote?

Mr. HARKIN. I say to my friend from Nevada, I consider this—well, we have a lot in the bill for education, but in terms of what we are going to do to protect working Americans, to protect their families, and to ensure their right to get time-and-a-half overtime, this is the key vote.

Mr. REID. Will the Senator yield for another question?

Mr. HARKIN. I am delighted to.

Mr. REID. And it has been a fact that we have presented to the majority since Tuesday of this week the fact we were going to have our four Democratic Presidential aspirants here on Tuesday, and that we wanted to have a vote on this most important amendment on next Tuesday; is that right?

Mr. HARKIN. I say to the leader, yes, that is right. In fact, I was part of a conversation that took place on the floor just last evening regarding that. There were no surprises. The amendment I have offered I actually read into the RECORD yesterday so everyone knew what the amendment was. It has been out there. It is not a very convoluted amendment. It is just a very simple, straightforward amendment. So everyone knew what it was.

Since it is such an important issue, I think we all thought it would be advisable to have as many Senators here as possible to vote on this amendment. Therefore, as I understood it, there was at least some agreement made that we were going to vote next Tuesday on this amendment.

Mr. REID. Mr. President, will the Senator yield for another question?

Mr. HARKIN. Yes, I yield without losing my right to the floor.

Mr. REID. And we also worked very hard, with your staff principally and floor staff generally, to come up with a finite list of amendments Democrats wanted to offer; is that true?

Mr. HARKIN. That is my understanding. I saw the list. I think it was drawn up last night with a finite list of amendments, yes.

Mr. REID. I would finally say to my friend, the distinguished Democratic manager of this bill, the Senator would acknowledge, I am sure, we have been most cooperative in this most important piece of legislation. We have set amendments aside and moved to other amendments for the convenience of Senators.

It is my understanding the manager of this bill now feels so strongly about this overtime amendment, that now this amendment is laid down, and you are not going to agree to set this amendment aside to offer any other amendments; is that true?

Mr. HARKIN. The leader has it correct. I feel so strongly about this, and the fact that we worked with the leadership on the other side and on this side to try to get a finite list of amendments, to get a time certain on Tuesday to vote on this so there would be no surprises to anyone, and then I am told today that has fallen through for some reason. It was not my intention until now, but it is my intention. I have laid down the amendment. There are no more votes today. The leader on that side said there would be no more votes today, that we would have one vote or maybe two on Monday evening, I don't know on what. There are other things up there.

Mr. REID. Will the Senator yield on that issue?

Mr. HARKIN. Yes.

Mr. REID. We had two amendments lined up. We had one or more from the Senator from Louisiana, Ms. LANDRIEU. We had one on Head Start from the Senator from Connecticut, and we had one on libraries from Senator REED of Rhode Island. We had amendments lined up here that would be offered today and we would vote on those Monday.

Mr. HARKIN. But as I understand it, that cannot happen now. So it is my intention, since this is such a vitally important issue——

Mr. SPECTER. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. In just a second, as soon as I finish my statement.

Since there are no more votes today, and there are only going to be one or two votes on Monday, at the most—I don't know what is lined up—it is my intention that I will object to setting aside my amendment until such time as we have an up-or-down vote on it, which should occur on Tuesday, so there should not be any problem. But I will object to moving off this amendment for any other amendment.

Without losing my right to the floor, I yield to the Senator.

Mr. SPECTER. Mr. President, it is entirely likely the Senator from Iowa can regain the floor. I would like to make a brief statement.

Mr. HARKIN. I was yielding without losing my right to the floor. I thought you wanted to ask me a question.

Mr. SPECTER. No, I didn't say that, but I agree that you maintain control of the floor.

Mr. HARKIN. Oh, OK.

Mr. SPECTER. And you are just yielding for a brief comment.

Mr. HARKIN. OK.

Mr. SPECTER. Mr. President, the assistant Democratic leader and the distinguished ranking member have been cooperative, I don't think realistically anything above and beyond the call of duty. Senator HARKIN is always cooperative, and so is Senator REID. We have been working on a list for some time and finally got the list late yesterday afternoon. But that was the first time a condition appeared that we would have to set a time certain for an amendment. That is the first time that occurred, and I found it rather surprising.

The Senator from Iowa made reference to an agreement. I don't think there ever had been an agreement as to a time on Tuesday. That would be my preference to accommodate the Democrats. But I think it is not inappropriate to say the calendar, as the Democrats wish it, revolves around the absence of their Members who are running for President, a lofty ambition. It even happened once to Senator HARKIN. It even happened once to me. But the Senate is in session on occasions when the people who run for President are not present.

I can understand your interest in wanting a time certain to have all your Members here. But in regular order, we debate amendments and we vote. In this august body, any Member can tie it up at any time. So that tries to produce comity. I think Senators REID and HARKIN and I have gone a long way to establish comity and try to get the business of the Senate done. I will continue.

There are concerns on this side of the aisle to set a time on that amendment. That is on the substance. There are also a lot of concerns about letting the absentee Democrats set the time. I am prepared to do that because that is the nature of our business here, and Senators do run for the office of President. But it is my hope that as we reflect on this matter over the weekend, cooperation will prevail on all sides, that we try to work to a time which is agreeable to the absentee Senators, that we do ultimately set aside amendments, and that we proceed to take care of the business of the Senate.

I am distressed to know that the amendments which were going to be offered are not now going to be offered. That enables me to return to Pennsylvania a little earlier today. I have a primary campaign in the general election. We are in the election cycle, but this is my day job, and I would be here as late as necessary to finish the work of the Senate.

As far as this week is concerned, on Tuesday we worked 6 hours 45 minutes and had two amendments on which to vote. And we thank the Democrats for offering them. On Wednesday we worked 9 hours 59 minutes, and on Thursday 10 hours 50 minutes. We have only had seven rollcall votes. Two amendments were accepted by voice vote, and we have 92 Democratic amendments and 27 Republican amendments pending. So we have a lot of work to do.

Senator HARKIN and I have worked seamlessly for more than a decade. I expect that to continue into next week. Senator REID has been a master at organizing the Senate. He has spent more time in the Senate Chamber in the last several years than any other Member. I complimented him privately yesterday about his efficiency. I do so publicly today.

I know there are partisan considerations. That is a part of the process. But I hope we can move ahead on Monday to finish this bill and accommodate all of the competing interests.

I thank my colleagues for yielding.

Mr. HARKIN. I say to my friend from Pennsylvania, who has been cooperative, as he said, we have worked together well over a decade. We have always worked these things out to make sure we get a bill through. We will this time also.

My point is that there were at least some conversations last night with leadership on both sides about accommodating schedules and having votes set up on Tuesday.

The fact is that nothing has hindered the progress of this bill because four Democrats are running for President. We have had votes every day. We haven't filibustered anything. We haven't done anything. We have offered our amendments. We have had good debates and discussions, and we have had up-or-down votes. We had two votes today. It was not my decision to have two votes today. I could have had four or five votes today. Someone else above my pay grade made the decision that we would have two votes today and go home.

It was not my decision that on Monday we will have one vote late in the day. Again, the leadership makes those decisions, not I. So Tuesday looks like a day when we will all be here. Everyone is going to be here. That is the day when we can get a lot accomplished.

We are making good progress on this bill. I say to my friend from Pennsylvania and others, when you look at the past, this is a big bill. This bill covers more spending and more Departments and Agencies of the Federal Government than any other bill considered in Congress. In terms of total spending, it is second only to Defense. But it covers a host of Agencies and Departments, more than the Defense Department does.

In the past, in 2001, we had 5 days of floor action on this bill; in 2000, we had 7 days; in 1999, 5 days. In 1998, it was passed in an omnibus, but in 1997, 9 days. So as you can see, it has always taken 5, 6, 7, 8 days to finish this bill because it covers so many different subjects.

We went on the legislation on Wednesday. Monday was Labor Day. We came in, by agreement of the leadership, with no votes on Tuesday. That was, again, not our decision. That was a leadership decision on the Republican side. So we had Wednesday and Thursday and two votes today. Basically, we have been on the bill, at least voting, really only 2 days. To say we are going to have another couple days or 2 or 3 days on this bill is not exorbitant. It is in line with what we have done in the past.

We would like to finish the bill as quickly as anyone. I think we have been very diligent in bringing up our amendments, offering them, and moving ahead.

Again, I will object to setting aside any other amendment until we vote on this because it is that important. Everyone is going to be here on Tuesday. So we can vote on it on Tuesday, and we can vote on a lot of other things on Tuesday, too, and get a lot of this bill finished on Tuesday when the maximum number of Senators will be here in the Chamber.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I know the Senator from New York is here to make a very important statement.

Let me say this: I appreciate the work of the Senator from Pennsylvania. He has done an outstanding job on this bill, and he and Senator HARKIN have set a pattern for how people should work together on legislation. I recognize it is not Senator SPECTER's decision how we are handling this legislation.

Mr. HARKIN. That is absolutely true.

Mr. REID. We know that. If it were up to Senator SPECTER, we would have the vote on Tuesday at any time we wanted the vote. Someone else is making that decision.

We understand the parliamentary procedure. We know there is a way of getting off the Harkin amendment. They could move to the regular order and move to table Senators BYRD, AKAKA, MIKULSKI, KOHL, KENNEDY, and DODD. But when they get to DEWINE, we are going to offer your amendment as a second-degree amendment. They are not going to figure out in a parliamentary fashion a way to prevent the American people from having a vote on this legislation.

They may pull the bill. This may be a big enough issue for the President of the United States to hurt American workers and help the American business community, as always happens, it seems, with this administration. The people who work, the men and women who work for a living, get it in the rear end. They may want to pull this bill and say we are not going to allow the Congress of the United States to have a vote on this. If they do that, we know there are other appropriations bills and other issues that come up that maybe this amendment will not be in order, maybe it will not be germane, but we are going to offer it anyway. We are going to continue with this as an issue.

There are cartoons all over the country—I saw one earlier today—making a joke of what the President is trying to do. I saw one that was given to us by the senior Senator from South Carolina that says maybe the point is that they want the American people not have as much leisure time as they have had in the past.

This is by Toles, and this ran in a number of papers around the country. This one is from South Carolina's largest newspaper. It shows a man standing there at his desk. It reads:

> In the 1960s, Americans wondered what they'd do with all their free time in the twenty-first century.

The next view reads:

> 1. Vacationing at sea-floor resort.
> 2. Eating gourmet meals in pill form.
> 3. Flying personal car to robot store.
> 4. Attending spaceball game on Saturn.

The next view shows him with some consternation on his face and reads:

> I . . . I just can't decide.

And then the final view reads:

> So they have decided for us.

And some little person says to the man at the desk with his head against the computer:

> You'll spend your leisure time working a 70-hour week. Without overtime.

Then there is a little man at the bottom who says:

> You could take your vacation in pill form.

We believe this is an important issue. Overtime pay has been the law of this land since the 1930s, Federal law. They are going to change it by administrative fiat? I don't think so. They can do a lot of things to stop us, but they can't stop us from talking.

We are going to continue to talk on this until the American people understand what this administration is doing to American men and women. Here it is not subtle; it is just a slap in the face to the American people.

Mr. HARKIN. I thank the assistant Democratic leader for his support and for the support of our working families.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, first, I commend my colleagues and leaders, the Senators from Iowa and Nevada, for their heartfelt, eloquent statements on behalf of the rights of Americans to be paid for the work they do. I appreciate greatly that our leader on this bill, the Democratic manager, the Senator from Iowa, has really drawn a line in the sand, because we know we are not creating jobs, we know that more people have fallen into poverty, and we know that the incomes of more Americans will be cut dramatically if the provision this administration wants to put into effect is allowed to go forward. So I thank them for their very strong commitment.

EPA'S RESPONSE TO THE WORLD TRADE CENTER COLLAPSE

Mr. President, I wish to talk about another very important issue, one that directly affects the people I represent in New York but which I believe affects our entire country and the credibility of this administration and our Government. I am speaking about the report released on August 21 by the Office of the Inspector General of the Environmental Protection Agency entitled "EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement."

As the title suggests, this report is carefully researched, constructively presented, and it outlines how the EPA carried out its charge in the immediate and longer term aftermath of the terrible attack that struck New York on the infamous day of September 11—now almost 2 years ago. No one will ever forget that day. Those who were there in lower Manhattan will never be able to erase the images—not just the visual images but the feelings, the smells, the sounds, the smoke.

I remember so well being there the day after and seeing the firefighters emerging from the haze that hung over the site, covered in dust and debris; the rescue workers, whom all of us saw, and many of whom I have met, who guided people to safety without a mask or a bit of concern about their own long-term health. I am sure that Americans remember—and New Yorkers lived with—the apartment buildings, the business buildings that were covered in gray dust.

When we turned to our Government in Washington for guidance in the hours, days, and weeks after that tragedy, one of the questions I was asked and I know the EPA was asked, the White House was asked, and the city and the State were asked was: Is the air safe?

What did the EPA tell us? The EPA said: Yes, it is safe. Go back to work, get back to your daily lives.

Mr. President, it is a very hard thing to stand on this Senate floor and say this, but I believe our Government let us down. It wasn't by accident and it wasn't a mistake during the chaos of those terrible days. Instead, as spelled out in this report by the EPA inspector general, it is clear that the EPA was overruled and directed about what to say.

I want to underscore the important fact that this report is not the product of my office, not the product of an advocacy group or an outsider; it was done by the EPA's own career watchdog.

Why do we have inspectors general? Because we know our Government needs somebody to keep track of and hold accountable for actions that are taken. It is not a Republican or a Democratic job; it is a nonpartisan job. Sort of like Sergeant Friday, they "just want the facts." They want to be able to know what is actually going on in the bowels and processes of these huge bureaucracies that perform so many important functions. But still, like any human institutions, extra eyes are needed on what they are doing.

The inspector general of the EPA looked at the actions EPA took to address the quality of the air affected by the collapse of the World Trade Center and what the EPA told the public about the air we were breathing. The inspector general rightly acknowledges that the EPA, like all of our governmental entities at the Federal, State, and local levels involved with the response to September 11, found themselves dealing with an unprecedented crisis, the scope and nature of which none of us ever imagined.

I admit, and I think it is fair to say, that no part of Government was prepared for the enormity of what occurred on September 11, and that is understandable because of what did happen. So in that spirit, and I think realistically so, the inspector general recognized that the particular demands placed on the EPA were considerable.

I was there day after day, down at Ground Zero in the city, meeting with EPA officials, and I know how stressed they were because of all they were having to contend with. But still, even taking into account the unprecedented nature of the attacks, the implosion of the buildings, releasing into the air billions and billions of particles of all kinds of compounds and chemicals, the EPA inspector general found and asserted that where the Agency could and should have been more thorough, more proactive, more effective in its responsibility, it did not live up to what we should have rightly expected.

We looked to the EPA to give us straight information and help us try to reduce the dangerous emissions in the air from the collapse, from the cleanup and the recovery, and the inspector general looked particularly at the EPA action dealing with monitoring, testing, and cleaning up of indoor air.

I want to make this distinction because I think it is very important. When the towers collapsed, clearly, so much was released into the environment. We could see, as we helicoptered over the site on September 12, the burning fires still. The outdoor air was of particular concern to all of the people—the brave men and women who were on the search and recovery teams, who were beginning to work to remove the debris. But there is another separate and equally important issue, and that is about indoor air, because this blizzard of debris and dust went through windows, went through cracks in buildings, settled on roofs, fell into living quarters and businesses.

As a Senator from New York, I have been particularly concerned about these air quality issues and the implications for the public's health since September 11. I have worked with other elected officials representing New York and the region. I have worked with our first responders—our firefighters, police officers, and public health professionals. I have worked with residents and workers and businessowners to press for the help and the resources and the information we needed so that the air, both outdoors and indoors, would be clean as fast as possible and that the public's health would be protected as much as possible.

With Senator LIEBERMAN, who was then chair of the Clean Air Subcommittee of the Environment and Public Works Committee, on which I serve with him, we held a field hearing in lower Manhattan in February of 2002 to examine what we thought then were troubling and contradictory messages from the EPA about the quality of air in downtown New York City.

I especially wanted to be sure of the basis for then-Administrator Christy Todd Whitman's statement on September 18, 1 week after the attack, that the air in New York was "safe to breathe."

I pointed out that information from other Government and official sources contradicted that assertion, not to mention the concerns of my constituents who were coming to me asking whether it was safe for them to go back to their apartments, to go back to work, to bring their children home because of what they could feel and smell in the air. Every time I went down there, my eyes burned and my throat burned. It was a palpable feeling that we were in an environment that may not be safe.

I do not think either Senator LIEBERMAN or I at that hearing received a straight answer. I am not sure we ever got a straight answer in the time between September 11, 2001, and August 21, 2003. In fact, we know we did not because the inspector general's report confirms that New Yorkers and others affected were, in fact, misled about the most fundamental issue: whether the air they were breathing, the breaths they took were safe.

I find this deeply disturbing and very disappointing. Let me quote from the report itself. I have excerpts from the report on these two charts.

In the executive summary of the report, the inspector general says in the very first finding:

> EPA's early public statements following the collapse of the World Trade Center Towers reassured the public regarding the safety of the air outside the Ground Zero area. However, when EPA made a September 18 announcement that the air was "safe" to breathe, it did not have sufficient data and analyses to make such a blanket statement. At that time, air monitoring data was lacking for several pollutants of concern, including particulate matter and PCBs.
>
> Furthermore, the White House Council on Environmental Quality, influenced, through the collaborative process, the information that the EPA communicated to the public through its early press releases when it convinced the EPA to add reassuring statements and delete cautionary ones.

The inspector general later on in the report states:

> Based on the documentation we reviewed and our discussions with numerous environmental experts, both within and outside the EPA, we do not agree with the Agency's statement of September 18, 2001, that the air was safe to breathe reflected the Agency's best professional advice. In contrast . . . it appeared that the EPA's best professional advice was overruled when relaying information to the public in the weeks immediately following the disaster.

Basically, what the IG is saying is that the EPA did not have the testing data and analyses to make the statements it did, and that the best professional judgment of the EPA experts was influenced by the White House itself.

As examples of where White House officials intervened and what the EPA told the public at the time, the inspector general reports that the White House had the EPA remove recommendations that all area residents obtain professional cleaning of their homes and offices and told the EPA to remove any reference to the increased risks from air pollution for sensitive populations, such as young children and the elderly.

On these charts, I now want to turn to the actual examples that the inspector general includes in the report of where and how the White House evidently—although we do not know this—evidently, through its Council on Environmental Quality, dictated very specific changes to the EPA on what it could and could not say in its press releases to the public.

Here we see in vivid language, to once again use the very words of the inspector general's report, the White House's role in insisting that "the EPA's overriding message was that the public did not need to be concerned about airborne contaminants caused by the World Trade Center collapse."

If we look at these charts, we can see very clearly what was told by the White House to be changed. Here is the draft press release from the EPA, and it reads:

> Recent samples of dust gathered by OSHA—

The Occupational Safety and Health Administration—

> on Water Street show higher levels of asbestos in EPA tests.

The issued press release after the White House dictated the changes:

> The new samples confirm previous reports that ambient air quality meets OSHA standards and consequently is not a cause for public concern. New OSHA data also indicates that indoor air quality in downtown buildings will meet standards.

Draft press release:

> Seven debris and dust samples taken Thursday showed levels of asbestos ranging from 2.1 percent to 3.3 percent. EPA views a 1 percent level of asbestos as the definition for asbestos-containing material.

Changed press release at the White House direction:

> Debris samples collected outside buildings, on cars, and other surfaces contained small percentages of asbestos, ranging from 2.1 to 3.3—slightly above the 1 percent trigger for defining asbestos material.

These are statements that were added to the press release based on the White House instructions. Here was the instruction from the White House:

> Add sentence about OSHA monitors walking the streets yesterday and wearing personal monitors and coming up clean.

Of course, the EPA did what they were told by the White House. This is what they said:

> OSHA staff walked through New York's financial district on September 13th, wearing personal air monitors, and collected data on potential asbestos exposure levels. All but two samples contained no asbestos. Two samples contained very low levels of an unknown fiber which is still being analyzed.

Of course, what we know now is that they had not done the analysis. They did not have the data. So, basically, the White House decided they better invent some and put it in the press release so they could create more reassurance than what the facts clearly indicated.

The White House says: Get a quote in from somebody in charge, somebody with some responsibility; put a quote in so you can get people back to work and back to living downtown. So they came up with a quote by a Mr. John L. Henshaw, Assistant Secretary of Labor for OSHA. This is the quote they put in:

> Our tests showed that it is safe for New Yorkers to go back to work in New York's financial district.

They just made it up: Might as well tell them it is OK to go back to work; don't put in any cautionary language about children or the elderly, people with preexisting asthmatic, pulmonary, or respiratory conditions. Tell them it is safe.

It is really discouraging, I have to say, to go through this because it is not what any of us expected. It is certainly not what any of us told our constituents and what we were told as we walked these streets and as people asked: Is it OK to go back?

I believe this is the kind of interference by Government altering scientific data, putting happy talk in where mature and accurate information would be better suited, and that does our Government a great disservice.

I conclude with these two final changes: The draft press release that the experts at EPA put out had this caption:

> EPA Initiating Emergency Response Activities, Testing Terrorized Sites For Environmental Hazards.

That sounds pretty descriptive. That is what they were doing. That was their job. That is what we expect the EPA to do, to go do the emergency response activities and test for environmental hazards.

This is what the White House said they had to put as the caption:

> EPA Initiating Emergency Response Activities, Reassures Public About Environmental Hazards.

We went from testing to reassurance because of changes in words dictated by the White House, not based on data, not based on science.

Then this final example, the draft press release said:

> Preliminary results of EPA's sampling activities indicate no or very low levels of asbestos. However, even at low levels, EPA considers asbestos hazardous in this situation and will continue to monitor and sample for elevated levels of asbestos and work with the appropriate officials to ensure awareness and proper handling, transportation and disposal of potentially contaminated debris or materials.

I have no problem with that. That is a very thoughtful, informative statement: Thankfully, our testing shows very low levels at this point but we want to caution people because even very low levels can be dangerous, so we want to tell you what you should do to deal with this dust that is everywhere, that is in your house, that covers everything from your drapes and your rugs to your teapot sets, that is filling the streets and the roofs, so we are going to tell you what we need to do.

Here is what the White House told them to say instead:

> EPA is greatly relieved to have learned that there appears to be no significant levels of asbestos dust in the air in New York City, said Administrator Whitman. We are working closely with rescue crews to ensure that all appropriate precautions are taken. We will continue to monitor closely.
>
> Public health concerns about asbestos contamination are primarily related to long-term exposure. Short-term, low-level exposure of the type that might have been produced by the collapse of the World Trade Center buildings is unlikely to cause significant health effects. EPA and OSHA will work closely with rescue and cleanup crews to minimize their potential exposure, but the general public should be very reassured by initial sampling.

Nothing about proper handling, transportation, or disposal.

These are very disturbing revelations. What the EPA wanted to report to the public in their press releases and communication was different from what they did report, and yet all of us relied on those reports.

I have talked to a lot of parents with kids who live downtown. I have talked with a lot of business owners. They asked me whether they should send their children back to the schools when they opened, whether they should go to work when the businesses reopened. Based on both the public information and the private information that I had solicited, I said, yes, from all we know, we think it is safe.

I understand what tremendous challenges these horrible events caused for everyone, but I just cannot come up with any excuse, justification, or rationale for the White House to interfere with the agency in charge of providing accurate and trustworthy information about whether our air indoors and outdoors is safe to breathe. Dictating what the EPA can generally say is inexcusable, but making them misinform the public on such a critical issue is outrageous.

As the inspector general's report clearly points out, the EPA has a clear mandate to communicate honestly and openly with the public about environmental hazards and risks. The reporting even lists the Agency's own seven cardinal rules of risk communication in carrying out these important roles that they have done over the years in dealing with countless situations such as toxic spills and explosions. Those rules were tampered with and the public was misinformed.

On Tuesday, August 26, Senator LIEBERMAN and I wrote to President Bush to convey our serious questions and concerns about what we have learned through the IG report. We asked the President to provide Congress and the public with an account of what took place in the White House that resulted in changing the content and the overall message conveyed by EPA through its press releases. We asked for the identities of the White House officials referred to in the report, who played a role in imposing these changes, for an explanation on why the White House felt compelled to insist on the changes, and copies of the actual communications between the White House and the EPA about the air quality in downtown New York.

We asked for a response by September 5 with the hope of obtaining a full and frank explanation of the sequence described in the report and be assured that the EPA does indeed have the authority and the liberty to communicate accurately with the public on what it knows.

I know the White House did not cooperate with the inspector general report but I hope they would want to get to the bottom of this and learn the lessons that we should not only about the past but going forward. However, I cannot say that I will be surprised if we continue to hear from the administration some of the same excuses that they have been making in response to the IG's report.

In one statement reported a few days ago, former EPA Administrator Whitman said: We did not want to scare people.

White House representatives have said that the edits and changes imposed on the EPA were necessary for national security reasons.

Frankly, this is a canard. The public deserves better. When it comes to our health, the health of our children, the health of our elderly relatives, we need accurate information in a timely manner.

Should we have worn a mask? Should we have gotten more sophisticated respiratory protective gear? Should we have gotten a professional cleaner to clean our apartments before we went back? The public needs to know what the risks are so they can appropriately respond.

To say that national security somehow justifies telling people the air is safe when it is not is to essentially say that people are going to be told that when they need their Government the most at a time of terrible disaster they cannot trust what they hear.

A national crisis does not justify giving people the wrong information and continuing to do so days, weeks, and months after the event.

Would any of us have wanted to worry that the Centers for Disease Control had changed what they were telling us about SARS or the West Nile virus or any other public health incident? Would we ever want to question the FDA about what they tell us when it comes to drugs available in our pharmacies? Should we ever fear the EPA's information about a toxic spill in our community or our own backyard? What the inspector general told us in its August 21 report is that we have to raise these questions now.

What I hope we can achieve from examining this report and seeking answers is that all New Yorkers and Americans will be assured that in the future the EPA and all parts of our Government responsible for communicating to the public about our health and safety will do so honestly and accurately without any political interference.

I have talked about this report and the serious issues it raises with residents who live near Ground Zero. These New Yorkers have been through so much. Many of them were forced into homelessness for months. Many faced devastated neighborhoods when they returned home.

For them, who have lost so much, it is tragic if they lose one more precious thing, namely, their trust in their Government, their faith that they would be given accurate, truthful information they could make judgments on. People made life decisions based on what the EPA told them. Families moved back into the area with their children. Parents sent their children to school. Doctors told their patients not to worry because of what the EPA told them.

To restore any semblance of that trust, we need to get to the bottom of what happened. I hope the administration, led by the White House, will understand that and will help us do what we need to do which is, number one, to find out what the truth was, unvarnished, without any embroidery or reassuring words, just what it was; second, do an analysis of the quality of the indoor air now. These particles, these contaminants stay in rugs, drapes, and air vents. We need to know whether people are living in places right now that are putting their health at risk. Then our Government needs to show good faith by doing what they said they would do, namely, to make sure the indoor air quality was cleaned up. And, perhaps most importantly, we need to restore that trust which has been breached.

I hope the administration will help. These events also require oversight by the Congress. A number of my colleagues have asked we hold hearings in the Environment and Public Works Committee. I hope we will. I cannot imagine anyone representing any State in this country with so many constituents still coughing, who have acquired severe asthma, who have pulmonary dysfunction, not asking for the very same thing I am asking for, congressional hearings and a full, cooperative relationship with the administration.

I conclude by responding to one of the constant themes I hear from the administration, that they did not want to cause panic, they did not want people to be upset. If New Yorkers had to prove this one more time, they certainly did on September 11th and they did it again in the blackout. These are terrible times that try people, but New Yorkers rise to the occasion no matter what it is. They would have taken accurate information and acted accordingly. They would have done what they needed to do to take precautions for themselves, their children, their friends, their neighbors.

I cannot imagine this idea we did not want to cause people to panic. There are many ways of saying—we saw from the EPA's own language—the truth and then telling people, here are the necessary steps you should take. There is not one firefighter, not one police officer, there is not one construction worker I met who would not have gone out of that pile, would not have tried for days to find survivors, would not have begun to remove the debris, to put the message clearly out to the world and the terrorists that we were not in any way daunted or fearful. Not one. But they might have worn their masks and asked for and demanded better respiratory protection. Instead, the Government says the air is safe.

I have not met one family member or business owner who did not want to go back downtown and rebuild and live their lives again. They would have done it. But maybe instead of cleaning with a wet mop and a wet cloth to try to get rid of asbestos and PCBs, they would have done what the EPA said, go out and get a professional cleaner. But the air was safe.

This in and of itself is a serious, profoundly important issue that has disturbing consequences, particularly when it comes to the trust we should be able to place in our Government, believing they are looking out for our best interests when it comes to health and safety. I hope the administration will respond to my letter, that the Senate will hold hearings, and we will all make it absolutely clear we will not abide misinformation and political interference in something as important as the air we breathe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1580

Mr. HARKIN. Mr. President, I know we are still on the Labor, Health and Human Services, Education appropriations, and I wish to speak for a little while on the pending amendment which I have laid down prior to the distinguished Senator from New York speaking. I want to follow up and speak for a little bit longer on that. I know my colleague from Alabama and maybe others are here so I will try to be as succinct as possible. but I did want to, before the weekend came, to again lay out for the Senate and for the Nation why it is so important for us to take action, to stop the implementation of these proposed changes in rules and regulations that deal with overtime pay.

I thought I would take some time now to, number one, respond to some arguments made by the Senator from Wyoming yesterday, Senator ENZI, but also to again give some personal stories of what is happening to people around the country today and how others might be affected with these changes in rules and regulations.

As I have done with the rules and regulations, you can read them. If you want to go to sleep fast, try reading rules and regulations sometimes. That will put you to sleep. It becomes a blur out there as to what all these fancy words and phrases and subparagraph and titles all mean. But when you get through it all, it means people are affected one way or the other, either for good or for ill. It means workers are either supported in their jobs and their family life or they are not.

That is what these changes and rules are about, affecting human beings and their lives and how they live and how they work and what their quality of life is going to be.

Again, a couple of things I want to lay out. One, to lay out what the industry has said about the proposed overtime rule. I also wanted to bring specific examples and then show what has happened to the workforce over the last few years because, as I said earlier, the first wave of people to be hit by this proposed change in rules and regulations, if they go into effect, are working women. I will show why that is so in my comments this morning.

First of all, the Bush administration has said the proposed rules on overtime will not substantially change the exempt and nonexempt status of American workers. They say they merely want to "clarify the current rules."

I believe this is misleading, at best. The proposal will have a sweeping effect on millions of Americans and will unalterably change, will change fundamentally, the basic principle of the 40-hour workweek as we have known it since 1938.

Don't take my word for it. Look at some of the comments from industry. In May 2003, an analysis by Hewitt Associates, which advertises on their Web site as a global human resources outsourcing and consulting firm, says on their Web site their client roster includes more than half of the Fortune 500 companies. Here is their analysis of the proposed rule changes:

> These proposed changes likely will open the door for employers to reclassify a large number of previously nonexempt employees as exempt. The resulting effect on compensation and morale could be detrimental as employees previously accustomed to earning in some cases significant amounts of overtime, would suddenly lose their opportunity. That is from Hewitt Associates.

And from the Society for Human Resource Management, which on its Web site says it is "the world's largest association devoted to human resource management." And regarding the proposed overtime changes, the society said:

> This is going to affect every workplace, every employee, every profession.

So, again, whether we hear from the administration, from the Department of Labor, that this is simply a clarification, these are simple little clarifications. Meanwhile, the main human resource management association and a human resource consultant for Fortune 500 companies say this is big stuff. It is going to affect every workplace, employee, every profession, according to the Society for Human Resource Management.

This same Society for Human Resource Management said the proposed rule is not clearer than current regulations. Deron Zeppelin told the Chicago Tribune:

> It looks like they're just moving from one ambiguity to the next.

Again, as I said, according to the Chicago Tribune:

> The Labor and Department's [Wage and Hour Administrator Tammy] McCutchen predicts a deluge of lawsuits as employees and employers press for clarifications once the new rules go into effect.

I thought we wanted to reduce the number of lawsuits. My friend from Wyoming argued that we have all these lawsuits out there right now. But this is going to open the door for even more lawsuits. The reason we are having lawsuits out there now is because employers are already violating the Fair Labor Standards Act, in terms of the 40-hour workweek. I will refer to that more later.

The Chamber of Commerce said, on the proposed rule, in their formal comments:

> We support raising the minimum compensation necessary to qualify as an exempt employee provided that such change is made in conjunction with significant reforms of the duties and salary basis test.

Understand what they are saying. They are saying we can raise the minimum compensation, that is fine, but not unless we have significant reforms of the duties and salary basis test—significant; not minor, not simple clarification but significant reforms.

The American Corporate Council Association, and I am quoting from their statement:

> . . . also supports other aspects of the present draft, including creating a new computer employee exemption; eliminating discretion and independent judgment test as a criterion of the professional exemption; eliminating the primary and nonprimary duties criterion of the administrative exemption; and the changes made to the outside sales exemption.

For the uninitiated, in all this fancy jargon, what the American Corporate Council Association says is that they want a major exemption for computer technicians from overtime protections. They also want to really relax the current "duties" test to be exempt from overtime to incorporate more workers in the overtime exemption.

These are big changes, sweeping changes in who would get overtime pay and who would not.

Last, the National Association of Manufacturers said, on eliminating the academic study requirement for the professional exemption—right now it is generally based on 4 years of college. If you have 4 years of college that is sort of the first hurdle that you would be exempt as a professional employee. It doesn't necessarily mean you are exempt, but its one of the key requirements to be exempt. The proposed rule changes all that. It just says you can replace that academic requirement with work experience or training. I get it, you do the exact same job for a couple of years—let's say, nursing—so you go from getting overtime to being reclassified as a professional from all of that experience—and you no longer receive overtime pay although you're doing the exact same job. Well, the National Association of Manufacturers appears to think that's a great idea. They applauded the Labor Department for including this alternative means of establishing that an employee has the knowledge required for the exemption to apply.

Again, what does that mean? You don't need 4 years of college. You could have on-the-job training, a high school degree and, bang, all of a sudden you are a professional, and they can say you are exempt.

So when you hear people say these are minor changes, they are not minor at all. That is why 8 to 10 million people are going to be affected by this.

Again, there is the argument that we need to update these rules. I am all for updating them. The Senator from Wyoming spoke the other day about some of the occupations that are still listed. I think one of them was straw man—I forget what some of the others were. Oh, a leg man and a straw man and all that—fine. If they want to tweak the regulations to get rid of those jobs that no longer exist, fine by me. But don't take overtime pay protection from those workers, those jobs that currently have it.

The fact is, the Department has revised overtime regulations several times since 1938 just because, obviously, jobs change. Some of the things they covered before don't exist. Obviously a straw man, whoever that was, or a leg man, whatever that was, doesn't exist anymore. If they want to do away with that or change that, that is fine. But that is not what they are doing. So if they want to update them to match current occupations, that is fine. If the administration had done that, that would have been OK. But they went far beyond that.

I have just a few other brief things. The Senator from Wyoming said the other day the amendment I offered would not allow the Department of Labor to review the 78,000 comments they got in. That is simply not true. My amendment says they can't promulgate these rules and regulations. They can have the comments, they can look at them, they just can't issue a rule that would take away the present overtime protection that workers now have. That is all my amendment does.

And he said my amendment would block an increase in the income threshold for low-income workers. Again, that's just not true. My amendment specifically only prohibits implementing a rule that would take overtime pay protection to those millions of workers who currently have it. We would support new rules to increase overtime pay protection for workers.

Then the Senator from Wyoming said the union contracts protect overtime. That is true, union contracts do. But union contracts right now only cover 13 percent of the workforce in America. What about the other 77 percent who are not covered? And right now when a union goes out and the contracts expire, overtime is not an issue. Why? Because the law says they have to pay overtime.

So when the contract comes up, that isn't even an area for negotiation because the law says they have to pay them overtime over 40 hours. Now with these proposed changes in rules and regulations, every time a union contract expires, that is a negotiable item. We have to negotiate for whether or not they will get paid overtime. That means they will have to give up something else in order to get overtime.

There is something floating around about first responders, nurses and such, and that somehow that wouldn't be changed. But we have been through these rules and regulations. There is no exemption. There is no carve-out for policemen, for firemen, and first responders. Not one thing in this carves them out. I have heard it said that the administration said sort of quietly that maybe they will not include this. I don't see that anywhere.

Lastly, it has been said that wage and hour cases now exceed discrimination suits. Well, I wonder which. Maybe it is because a lot of employers are now basically violating the Fair Labor Standards Act because they can get away with it.

For example, Wal-Mart, the largest retailer, is facing 37 lawsuits in 29 States from employees alleging they were illegally forced to work extra hours to meet corporate productivity demands—not 1 but 37 lawsuits in 29 States.

In fact, in December, a Federal jury in Portland, OR, found Wal-Mart guilty of asking workers to clock out and then to return to work unpaid. A Federal jury found them guilty of doing that. Workers clocked out and then they had to come back and work overtime without getting paid.

About 270 insurance claims adjustors have filed here in U.S. District Court in Washington, DC, alleging that their employer, GEICO Insurance, broke the law by improperly classifying workers as exempt from overtime pay.

Again, maybe it doesn't surprise me that wage and hour cases are now exceeding discrimination cases.

The proposed rules and regulations would make this legal and say to Wal-Mart you are off the hook. All these lawsuits would just fall by the wayside because of a change of law, and they could exempt these people. They are big changes.

I said earlier that the first wave of people who would be hit by this would be working women. I want to show you what I mean by that.

This chart shows basically what is happening in the workforce in America—from 1948 it 2002. As you can see, the labor force participation rates for men and women have steadily declined. Look at what has happened with women—going from slightly over 30 percent to a little over 60 percent of the workforce in that period of time. More and more women have entered the workforce over that period of time.

Here are some other statistics.

In 1975, 44.9 percent of women with children were in the labor force in 1975. In 2001, 70.8 percent of women with children were in the labor force. In 1975, 30.8 percent of the women who worked had children under the age of 2.

Today, 58 percent of the women in the workforce have children under the age of 2.

Here are two more statistics.

Twenty-eight percent of working mothers work nights or on weekends.

Forty percent of working mothers work different schedules than their spouses.

What that adds up to is families are working longer and longer, and they are taking time away from their families to make ends meet. This chart shows the average weeks worked per year by middle-income families with children.

In 1969, the average family with children worked 78.2 weeks per year. We know there are 52 weeks in the year. That means that perhaps someone worked 40 or 52 weeks, and someone had a part-time job and they worked maybe 28 weeks during the year in 1969. In 2000, the weeks worked by the average middle-income family with children was 97.9 weeks per year.

Where is that coming from? It is coming from the women in the workforce who are working longer hours, working nights, and working weekends. They are the first ones who are going to be hit by these changes in overtime laws. Many of these women are working as secretaries, as claims adjustors, as nurses, bookkeepers, social workers and paralegals. They are salaried. They work in insurance companies and banks. Right now, if they work over 40 hours, they are paid overtime. Under these changes, their employers can legally take away their overtime.

Let me give a couple of examples of people who would be affected by these changes.

Here is Michael Farrar who works at the NAV/AIR depot in Jacksonville, FL. He is a cost estimator at the NAV/AIR depot who specializes in aircraft engine and component production and repair. If he loses his right to overtime pay, he will be paid straight time for any hours over 40 per week.

He says:

> If I don't get my overtime, it will be hard to exist.

He and his wife rely on overtime pay to support their 21-year-old disabled son who lives with them.

He says:

> When I took this job, it was clear that I was supposed to work more than 40 hours a week, and I agreed to that because I knew I would need the money. We would be devastated without the overtime. We have no more corners to cut.

Let us not go back 40 years with these proposed Bush regulations. Let us go forward and pay people what they deserve.

Here is Susan Moore, a planning coordinator from the Chicago Park and Planning District, a member of the International Federation of Professional and Technical Engineers.

She says:

> I am currently entitled to time and a half under Federal law. I know for a fact that that is the reason I am not required to work long hours like the project managers who are not entitled to overtime pay. My supervisor has to think hard about whether to assign overtime to me because he has to pay for my time. That means more time for my family and that time is important to me. If the law changes and I lose my right to overtime pay, I will be faced with the imposing choice of losing time with my family, or losing my job.

Mrs. BOXER. Mr. President, will the Senator yield for a question?

Mr. HARKIN. Yes. I would be glad to yield to my friend from California.

Mrs. BOXER. I thank the Senator so much.

I have been trying to thank the Senator for a couple of days now, but it has been hard to get a moment. I am so glad I have this moment to thank him so much for giving us an opportunity here in the Senate to stand up for working families.

I want to read just one letter I received from a woman in my State and ask the Senator to comment because his point is so right.

This Bush administration rule, which would take away the pay from hard-working people, is an attack on America's families. What is so interesting to me is, when I think back after 9/11 and the President going to Ground Zero and standing with his arms around firefighters and saying, "These are the heroes," the firefighters are the ones who are going to be hurt by this change. The safety workers are going to be hurt.

I want to read a letter, and I want to ask you to please comment. Celine Krimston, the wife of a firefighter from La Mesa, wrote:

> We are a family of four. Our children are four months and five years of age. I work full time outside of the home to make ends meet for our family. My husband's firefighter income is not enough to support a family of four, yet too high to receive any type of subsidy. Without the overtime pay we would actually be deemed low income and qualify for subsidized childcare. Our nation should be ashamed!
>
> Please support America's working families by voting against the Bush administration's proposal to cut overtime.

So all I want to do today, in this brief interlude, if you will, is to thank you. These working people—who barely have time for their kids, who are struggling to make ends meet, to put food on the table, to pay the rent or the mortgage, to give their family a modicum of security—are under attack by this Bush rule.

I want you to comment on this, if this does not reflect the comments you are hearing as our leader on this issue?

Did it not strike you—let's just use the word in an ironic way—when President Bush stood, on Labor Day, with a group of working people and talked about how much he understood that they were going through hard times and how important it was for them to get jobs? By the way, we have lost more jobs now than ever in history since Herbert Hoover, since the Great Depression.

But while he is doing this missionary work and trying to tell working people how he is going to get them jobs, he is also going behind their back and cutting their pay with this rule.

I wonder if my friend would comment on those two issues: The irony of this hitting our firefighters, our first responders, and also the fact that at a Labor Day event the President was saying how he understands working people, and then putting this provision in, which is such a disaster for our people.

Mr. HARKIN. I thank the Senator from California for her observations and her questions. I again thank my colleague from California for her many years of working so hard on behalf of our working families. There is no one who has worked harder and longer and fought more diligently for the rights of working families, working men, working women, in this country than Senator BOXER of California.

I say to the Senator, I am proud to have you on our side in this fight, too, because it is a fight for justice. It is a fight just to make sure people are treated decently as human beings.

I guess in my fondest, perhaps, hopes, maybe President Bush didn't even know about this, and this was going on underneath him. Maybe through our debates here he will find out about it and say: What is happening? Who is doing this on my watch? Well, the buck does stop at the President's desk. Maybe he doesn't even know this is going on but the people he has hired underneath him are implementing this. So maybe our debate will enlighten the President. Maybe some word will get to him and he will say, "What is going on?" and he will become alarmed at what people under him are doing, and perhaps he will put a stop to it. That would be my fondest wish.

Mrs. BOXER. Will my friend yield?

Mr. HARKIN. Yes, without losing my right to the floor.

Mrs. BOXER. I would hope your wish comes true, but I understand we received a message that he would veto this bill with this in it. Let's hope he knows that letter came over here because, frankly, if he doesn't know it, he is not doing his job. So I have to assume he knows it. That is my own view, not that I want to ruin your day.

Mr. HARKIN. Well, no, as I say, hope springs eternal. I was hoping maybe the President might learn about this. We did get this veto message from the White House.

I say to the Senator from California, this is mind-boggling. Here is an appropriations bill that funds all education, all health care, all research at the National Institutes of Health—on breast cancer, on emphysema, on diabetes; all this wonderful research done to help people live their lives better—Head Start Programs, job training programs, and he is going to veto the whole thing if we stop these rules and regulations from going through that takes away overtime. To me this is mind-boggling.

Again, I hope it is his underlings doing this, and maybe he doesn't know about it yet, and maybe he will learn about it. I hope he will learn about it. Maybe he will tell his people to stop this nonsense.

Mrs. BOXER. Maybe he will take back that letter he sent us.

Mr. HARKIN. I hope he would take that letter back and say he wouldn't. The idea of having a veto threat out there, to veto this entire bill, if the Senate works its will and says: No, we are not going to let these rules and regulations come into effect, this almost borders on the bizarre that something like this would happen.

I thank the Senator.

I see my great leader. Again, talk about a fighter for working families in America, there is no one, including me and the Senator from California, who has fought harder and longer for working families than the Senator from West Virginia.

Mr. BYRD. Will the Senator yield?

Mr. HARKIN. I yield.

Mr. BYRD. My friend, you are living in a dream world if for a moment you think this President doesn't know what he is doing. You are living in a dream world. I hope to be with you in your dreams at some point.

Mr. HARKIN. As I said, hope springs eternal. And I always believe in redemption. The hope for redemption is always there, that the wayward will come home and find the true path. And I hope the President will sit down and think about this and understand what is happening on his watch with regard to this issue.

So I appreciate what my friend from West Virginia has said. I would hope this would happen. But again, we can't go on hope around here. We have to go on what reality is. And the reality is, the Department of Labor, under this administration, has promulgated these proposed changes in overtime. They will go into effect unless we take this action. That is the real world we live in. That is why I have offered this amendment. And that is why I feel so strongly about it.

Oh, there are maybe a few things that each of us gets interested in and gets involved in because we feel deeply about them. One of the issues I always get involved in and for which I take the floor is to make sure we expand and promote opportunities for people with disabilities in our country. This goes back to when I was the chief sponsor of the Americans With Disabilities Act. So this is another area in which I always keep a close watch and find out what the administration and the Supreme Court and others are doing to cut down on the rights of people with disabilities. That is one area.

Another area I feel so strongly about is our working families, working people who don't have a lot of say-so over their jobs. They go to work every day. They do what their bosses tell them. They put in extra effort and extra energy. A lot of times they don't get paid overtime for that extra few minutes every day, that extra effort. But if they are asked to work overtime, they should get paid. If they are taking time away from their families to work overtime, they ought to be justly compensated for it. That is why I feel so strongly about this.

I couldn't say it any better than Sheila Perez of Bremerton, WA. Here is what she said:

> I began my career as a supply clerk earning $3.10/hr in 1976. I recognized early in my federal career that in order for me as a working single parent to support my family, I needed to find more lucrative employment. I entered an upward mobility program and received training to become an engineer technician with a career ladder that gave me a yearly boost in income. It seemed though that even with a decent raise each year, I really relied on overtime income to help make ends meet. There are many more single parents today with the same problem. How does one pay for the car that broke down or the braces for the children's teeth? Overtime income has been a lifesaver to many of us. When I as a working mother leave my 8-hour/day job and go home, my second shift begins. There is dinner to cook, dishes to wash, laundry, and all the other housework that must be done which adds another 3 to 4 hours to your workday. When one has to put in extra hours at work, it takes away from the time needed to take care of our personal needs. It seems only fair that one should be compensated for that extra effort. Overtime is a sacrifice of one's time, energy, and physical and mental well-being. Compensation should be commensurate in the form of premium pay as it is a premium of one's personal time, energy, and expertise that is being used.

That is a great sentence that Sheila writes:

> Compensation should be commensurate in the form of premium pay as it is a premium of one's personal time, energy, and expertise that is being used. It has been a crime that many engineers and technicians were paid less than even their straight time for overtime worked. It has never made sense to me that the hours I work past my normal eight are of lesser value, when those additional hours are at a cost of my personal time.

Sheila Perez from Bremerton, WA. I could not say it any better. That is what this fight is all about. It is about people who get up and go to work every day. They pull their load, pay their taxes. They are good citizens. They raise their families. They want to spend time with their families. If they are being asked to work overtime, as Sheila said, that is premium time. That is personal time. That is family time. They ought to be paid for it. They ought to be paid time and a half for it.

What these proposed changes would mean is that Sheila Perez could be asked to work over 40 hours a week and not get paid one penny more than what she is being paid right now. She would not be paid anything more if she were on a salaried basis. It is sort of free time.

That is why I said the other day, not only is this President and this administration shipping jobs out of the country, they are now importing into this country Third World labor standards: work 60 hours a week, no overtime, no commensurate pay.

We will have another issue on pensions where they are trying to change the pension program, take away the rightful pensions which people have earned, privatize Social Security, privatize Medicare. It doesn't sound like the America I grew up in and the America that built a strong and viable middle class.

Right now American workers work longer per year than workers in any industrialized country. The International Labor Organization found that American workers put in an average of 1,825 hours a year, average. In Europe, French workers have an average of 1,545 hours per year; German workers, 1,444 hours per year. So we are already working longer. Now they want us to work longer without any pay. That is why I have said this is antiworker. It is antifamily to change these rules and regulations as they want.

I have had my say. I know others want to speak. I ask unanimous consent to add Senator JOHNSON as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I will have more to say about this next week. I hope we will vote on this up or down when next Tuesday comes. But I hope the American people get the word about what is happening. These proposed rules came out without one public hearing, not one. There still haven't been any public hearings. Why don't they go to Dallas, TX, or Des Moines, IA? Why don't they go to Detroit or Los Angeles? Why don't they go to West Virginia, have public hearings and listen to what people might have to say about this? No, they just want to ram them through without any public hearings.

This is our public hearing. This is the public's house, the Senate and the House of Representatives. Here, as we once said, the people rule. Here we are supposed to do the work of the people, not the special interests. The American people want us to fight for them and for their rights, to support them in the workplace and to support their families. That is what this fight is about—nothing more, nothing less. That is why this Senate needs to speak, and we need to vote early next week to say no to the Bush administration's proposed changes in overtime rules and regulations.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Iowa for his position on this matter, for his words today on this subject. I will always remember Senator TOM HARKIN for standing up for the working people of this country. Through the years that I served with him, he has never deviated from that course. He has never veered from that course: standing up for working people, the common people, the men and women of America who work with their hands, who get their hands dirty, whose hands show the horns of toil and working. I will never forget him for that. He has always been that way.

I think he has a streak of that coal miner in him. He doesn't want to go back to the 1930s. What would have happened to me in the 1930s? I was married in 1937. I worked as a produce boy. I don't mind being called boy.

I was a produce boy in a company store in the mining camp where my foster father was a coal miner, where my wife's father was a coal miner. I was a produce boy, produce salesman. I got out on some Sunday afternoons.

I am a Baptist. I was a man who revered the Bible long before George Bush ever got to this place. When he was running around in knee pants, I believed in the old time religion. I wasn't a Christian to the left or to the right. I believed in the old time religion that comes from the King James version of the Bible. If you want to stir up the churches, take me. We will sing "Amazing Grace." We will get them out into the aisles, those who are not afraid to say: Amen, amen. So he speaks the language of the working poor. No, he is not mistaken about President Bush. I respect President Bush. He is President of the United States, but he came from the other side of the tracks. He didn't come from the side of the tracks I came from, or where the Senator from Iowa, I would venture, came from. I didn't come from the corporate boardrooms of this country.

I came from the coal camps. I lived during those days the Senator is talking about, back in the 1930s. I worked 6 days a week. I was glad to have a job. I remember when I was making $70 a month working in a butcher shop. I was a butcher. I was a produce boy. Yes, we worked long hours. We didn't get paid time and a half when I was in the butcher shops in southern West Virginia, but we were glad to have a job. I made $70 a month. Imagine living on $70 a month. Of course, things were cheaper then. But we didn't get time and a half. We had to work whatever time was required to hold our jobs.

My dad had to clean up his "place" back in the coal mines. They would shoot down the slate and the coal, and he was expected to clean that up before he went home. He was glad to have a job. There was always someone else there waiting on his job. If he didn't want to clean up the place, somebody was waiting to take his job.

I thank Senator HARKIN for his leadership, and count me as one who stands with him.

IRAQ

Mr. President, after a dismal summer of watching the situation in Iraq spiraling from bad to worse, the White House appears to have finally—finally—acknowledged what many of us have understood from the beginning. It is going to take huge amounts of money—your money; aha, they like to talk about that term "your money"—it is going to take large amounts of your money, a long-term commitment, and substantial help from the international community to restore order to Iraq.

After stiff-arming—I will say that again—after stiff-arming the United Nations for its refusal to rubberstamp the administration's war plans for Iraq, and alienating some of our staunchest allies in the process, the White House—hear me down there—has finally acquiesced to seeking a new resolution that potentially would give the United Nations a vital role in postwar Iraq that the President once pledged.

I only hope this change of heart on the President's part is not a lesson too late for the learning. The United States has squandered on Iraq so much of the international good will that followed the September 11 terrorist attacks that it may be impossible to regain all the ground that has been lost.

It is particularly ironic that the administration's decision to seek a new resolution to win international support from the United Nations comes almost exactly 1 year after the President sternly warned the United Nations that it faced becoming irrelevant if it failed to support the United States on Iraq. How far off the mark that assessment turned out to be. How far off the mark. Instead of being irrelevant, the United Nations has emerged as America's best and possibly only hope to win desperately needed international support for the postwar mission in Iraq.

It is deeply ironic that the administration is seeking an estimated $60 billion to $70 billion in additional funding for Iraq from the American taxpayers—your money, I say—at a time when the Senate is debating adding a fraction of that amount to an appropriations bill to provide critical funding, funding that the President himself pledged to provide in his No Child Left Behind initiative for schoolchildren in poor school districts.

Earlier this week, I offered an amendment to the Labor, Health and Human Services, and Education appropriations bill that would add $6.1 billion for title I education programs to fully fund the money Congress authorized for fiscal year 2004 in the No Child Left Behind Act. This is money—your money—I like that term "your money." Yes, it is your money that Congress promised to provide. It is your money that our schools desperately need.

Unfortunately, I fear I am fighting an uphill battle to win the passage of my amendment. It is going to take 60 votes on that amendment. I fear I am fighting an uphill battle. Opponents of the amendment have already staked out their positions, complaining that we cannot afford the additional funding, that the amendment will add $6 billion to the deficit, and that we are already doing plenty for education.

We will never do enough for education. I am not one who believes in throwing money at education. No, not I. I came from a two-room schoolhouse back in the hills of West Virginia. Yes, I know about the Baby Ray Primer. Yes, I studied by the old oil lamp. I memorized my history lessons. I knew about Nathaniel Green, about Hamilton, and Madison. Those were my heroes when I was a boy. I got my heroes out of the history books. The history book that I read was Muzzey. There weren't many pictures in my history book. There was substance there. I memorized my history lesson. That was good for me. We didn't have all the frills and so on that we have today.

So don't count me in to just throw money at education. I don't believe in that. But this is $6 billion that Congress promised and that the President said he needed. He was for the No Child Left Behind act. Well, let's mean what we say. Let's get behind our words.

I don't believe and I don't buy any of the arguments used against my amendment. I wonder how the Senators who object to the cost of my amendment will view the President's request to add $60 billion, $65 billion, or $70 billion to the deficit to fund military and reconstruction activities in Iraq. I wonder if those same Senators will be comfortable voting to support a massive spending program for Iraq if they cannot bring themselves to support a comparatively meager increase in education funding for American schoolchildren.

I intend to speak at greater length on my education amendment at a later time, but I urge my colleagues to begin reflecting on what kind of signal we will be sending to the American families if we shortchange education funding by $6 billion one day and approve 10 times that amount for Iraq the next.

Make no mistake about it, Congress had little choice but to provide some level of additional funding for military and reconstruction activities in Iraq. Oh, yes, we now want the help of those whom we strong-armed. They were not going to be relevant. They are very relevant today when we need them. We bulldozed our way into that country, into Iraq, almost single-handedly, over the objections of most of the international community. They saw us as a bully. Now we are paying the price for our unmitigated arrogance.

With the exception of the help we have received from the British, we have gotten almost no monetary assistance and precious little military assistance from other nations to assist with our operations in Iraq. It was a war that we should never have fought. The U.N. inspectors were in that country, and they were finding weapons. Weapons were being destroyed. We did not need to send our men to invade another nation that had not attacked us. And all of the claims that this was a nation that posed an imminent danger to our country? How foolish we were to accept that idea.

I said at the time there is no such imminent danger to us. I said it then. So I come with some credibility when I say it today. No, it was not a just war. Think of the boys, think of the men and women who have had to go to Iraq in the hot Sun and sweltering weather and be away from their homes; the Guard men and women and the reservists who have had to go there. Some have perished. Say to their mothers and fathers that it was a just war. Say it to them. No. And they could not even lift a plane against our forces.

Where was the imminent threat to our security? Where are the weapons of mass destruction? We were led down the primrose path by the leadership of this country: Oh, it was an imminent danger. Our security was in danger. It was urgent that we invade another nation that had not invaded ours, that had not attacked our Nation in pursuance of the doctrine of preemption. That got us into Iraq.

I did not fall for that stuff. I did not vote for it and so said at the time that this country was not in imminent danger, that our national security was not being threatened.

Never before had we invaded another country when we had never been attacked. A major war—the American people have had to pay for that, and there are some people in this country who have had to pay it with their sons and daughters and husbands. When are they going to come home?

We have stiff-armed some of our most staunch allies through the years. We gave them backhand slaps. We criticized them because they would not follow us into Iraq because their constituencies did not agree with us. Yet we expected them to follow us. They did not see it as a war in which we were being placed in imminent danger. They did not see it. They did not see it with respect to their own countries. They had to follow their constituencies' feelings, and yet we had a good deal to say about them that today we probably wish we had not said.

The polls released by the Pew Research Center on March 18, the day before the war began, showed that opposition to a war in Iraq was at 69 percent in Germany; 75 percent in France; 86 percent in Turkey; and 87 percent in Russia. And yet the White House scoffed at this opposition and belittled the need to unify the world in confronting Saddam Hussein.

Could it be that we are now paying the price for the administration's bull-headed rush to war without the broad and active support of the international community? We have perhaps a chance to mend the fences and garner more support from the United Nations if the United States can swallow, if this administration can swallow its false pride and come up with a new resolution that cedes a meaningful role in the reconstruction of Iraq to the international community.

Perhaps we also have a chance to attract some serious monetary contributions from the international community, but I doubt we will begin to approach the level of support that we have received from other nations during the first gulf war. Nevertheless, we must keep trying, we must keep returning to the United Nations because that is an important, if not long overdue, first step.

Moreover, Congress and the American people must insist on a full accounting from the administration of the dollars it is requesting for Iraq. The fact that we are faced with staggering demands in Iraq does not mean Congress should feel compelled to hand the administration a blank check and we should not be afraid to ask questions. It is not unpatriotic to ask questions. After all, it is your money out there, as I look into those television lenses.

Lack of careful planning on the part of the administration for postwar Iraq helped to get us into our current difficulties, and we cannot afford to repeat our mistakes. Oh, they were in a hurry. They were impatient. They talk today about the need for patience. The administration was not very patient when it wanted to take this Nation into war.

Just 5 months ago, Congress provided $78.5 billion in funds—your money—for military and reconstruction activities in Iraq and Afghanistan. Now we are learning that we will need far more money—your money—for Iraq far sooner than the administration either anticipated or admitted.

We need to demand the details before we approve any more money for Iraq. We should require the President to submit a detailed budget request for the $60 billion to $70 billion he is seeking in supplemental funding for Iraq, and the Appropriations Committees of both Houses should hold hearings on that request.

We could not get straight answers from the administration on the expected cost or duration of the Iraq operation prior to the war. We could not get the information we needed the first time around. We cannot afford to settle for evasions this time around.

The supplemental funding request that the President is expected to send to Congress in the next few weeks gives us an opportunity to get some answers to some of the most pressing questions involving our occupation of Iraq. We had no business getting into that war. We had no business invading another country that had not attacked us. The so-called imminent threat to our security was not there.

What is our postwar strategy for Iraq? What are we doing to improve the security situation in Baghdad and other key cities? What have we accomplished in terms of restoring the electricity, the drinking water, and other basic services to the Iraqi citizens?

What kind of timetable are we facing? Do we have any kind of exit strategy? Who is making the decisions? By far, the greatest monetary cost in Iraq is the cost of the military occupation. Of the $60 billion to $70 billion President Bush is expected to request, all but $10 billion or so is earmarked for the Defense Department. The current cost of military operations in Iraq is $3.9 billion a month—$1 billion a week. That is your money.

With massive Federal budget deficits staring us in the face, how long can we sustain that level of spending in Iraq? Do we have any realistic expectation that other countries will help to offset that cost? Even if we manage to get another U.N. resolution, who is going to help us in Iraq, and how will they help us? These are extremely important questions. Somebody ought to be asking them.

The American people are not here to ask them. The young people of this country are not here to ask them. The young people, young high school children and college students who are going to pay the interest on these deficits we are running cannot be here to ask the questions.

We have a duty to ask the questions. These are important questions. Congress and the American people need to know the answers before committing more resources to Iraq. Congress should put the White House on notice now that it will require a full explanation and a rigorous justification of the budget request before voting on it.

The President said several weeks ago major operations in Iraq have ended. Have they?

In the meantime, Congress has other pressing matters on its plate. Next week the Senate will consider whether to fully fund a critical education program for our neediest school children. I was one of those children once upon a time. I was a disadvantaged child. So were just about all of the other children in my mining town. So I try to see myself as one in that class. The bottom rungs on my ladder of life were gone also.

I hope we will treat this issue and my amendment with the same sense of urgency and importance the President expects us to treat the supplemental budget request for Iraq. It is important. We will have to treat that budget request as a matter of urgency. It will face us. But there is no issue more important to the future of our country than the education of our children.

I am reminded of Benjamin Disraeli in the English Parliament who said in 1874: Upon the education of the people of this country, the future of this country depends.

Look it up. 1874. That was the year before my foster father was born. Benjamin Disraeli said in the English Parliament: Upon the education of the people of this country, the future of this country depends.

We can say that here: Upon the education of the people of this country, the future of this country—the USA, God bless America—but upon the education of the people of America, the future of America depends. So there is no issue more important to the future of our country than the education of our children.

I took a piece of plastic clay
And idly fashioned it one day
And as my fingers pressed it still
It moved and yielded to my will.
I came again when days were past.
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.
I took a piece of living clay
And gently formed it day by day.
And molded it with my power and art
A young child's soft and yielding heart.
I came again when years were gone.
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

We have in our hands a piece of clay. On this issue especially I hope the Senate will put aside partisanship and vote to fully fund the No Child Left Behind Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUGS AND MEDICARE

Mr. SESSIONS. Mr. President, at this time the conferees of the Senate and House are meeting with regard to the prescription drug bill and the Medicare reform that is part of that bill. I know the Presiding Officer represents the State of Texas, and having worked with some of the issues I am going to address, I think no State would benefit more from the reforms I will be talking about than the State of Texas.

What most Americans do not know is when a person goes to a hospital for surgery, for example—and over half the people who go to the hospital for surgeries in America today—their health care is paid for by Medicare, senior citizens on Medicaid, low-income people, is paid for predominantly by the Federal Government. There are formulas that decide how the hospitals and providers get paid for doing the services they provide. The net result, and the way the system is working today, there is a very substantial difference in how much a hospital in Alabama or Texas would get paid compared to a hospital in a State with a high wage index.

Of course, within States there are differences. Even within a State, at hospitals a few miles from one another, one hospital is paid substantially more for a gallbladder operation, for heart surgery, for a mastectomy, or many other surgeries. The system is out of control. It is unjust and it is unfair.

The driving factor behind it is the formula called the wage index. Unfortunately, when determining how much Medicare pays for a hospital to perform a medical procedure, 71.4 percent of that formula is determined by the wage index—how much they say salaries will be in that hospital, in that region. One expert's independent study says the real percentage should be 56 percent. The CMS, the Federal agency that handles this, admits it ought to be 62 percent, not 71 percent, of the allocation of money based on wage index.

This bill fixes that. This bill has the wage index at only 62 percent—not as low as I think it should go—but 62 percent of the formula to determine how much they should be paid. This will narrow the disparity somewhat, not enough, but it is a very significant first step.

Currently, we are rewarding the rich. In this system, the rich are getting richer and the poor are getting poorer. For example, there is a hospital that comes out with the low wage index. They receive less money per surgery than a hospital in a larger city down the road. What do they have to do? They have to cut costs. So maybe they reduce the number of RNs, maybe they reduce the salaries of their hospital workers and nurses, or a number of things to cut costs. What happens then? A year or two later, or the next year, they come in and recalculate wage costs and say: Yours went down; you are getting by with less, so we do not have to give you as much as we gave you last year.

The one who got more money, who was able to raise salaries and pay more, has increased costs. So they come out, in the current formula, showing they need more. The rich are getting richer and the poor are getting poorer. It is not right. It is a transfer of wealth from poorer areas to wealthy areas of the country. It is too big a gap.

We can do something about it. This fix for which I advocated, and we passed in this Senate, is part of the bill. Likewise, it was made part of the House bill. So both bills are in conference and have fixes for the wage index according to the terms I just mentioned. It needs to be in the final bill. I have to insist it be in the final bill. We have seen in times past bills get manipulated in conference, even when something has passed both Houses and should be in a bill.

I appreciate the chairman of the Senate conference and the chairman of the Senate Finance Committee, Senator CHUCK GRASSLEY. He has stood firm on this issue. He understands the issue. He is not going to accept any erosion of this legislation. He has communicated that clearly to the conferees. There has been some discussion about it. He has communicated very clearly, in my presence, to President Bush, and President Bush agreed with him. This would be in the bill. We are moving forward with the possibility of a significant reform this time.

We need to watch it. There are a lot of competing demands for money. A lot of people in conference may have another priority, but it passed both Houses. Senator GRASSLEY is standing firm, standing like a giant oak tree. I don't believe he is going to be moved. I thank him for his leadership and determination to see this matter to its end and to make at least this significant reform in that legislation. If we do it, we will find these two classes of health care will not be continued in America where rich hospitals and rich centers get more and the rural areas get less.

There are some programs out there for rural hospitals to give them special benefits. But Alabama, like Texas, has a lot of areas that are metropolitan but not high-cost centers, or not perceived to be high-cost centers, centers in cities with 30,000, 40,000, or 50,000 people. They do not get the benefits of rural assistance, nor do they get the benefit of a big city. That factor has been hurting us.

We worked hard on this. We will be watching this legislation very carefully. The fix in it for wage index and rural health care needs to remain in the bill. I thank Senator GRASSLEY for his determination to ensure that it remains in the bill. If the bill is passed as it came out of this Senate, and I hope it will be, we will see some benefit to our hospitals, many of whom are hurting.

In particular, I note Alabama hospitals have the lowest wage index in the Nation. Why, I cannot imagine. For example, the University of Alabama Birmingham University Medical Center is one of the finest medical centers in the world. People come from all over the world to be treated there. They are No. 1 in the world in liver transplants and No. 3 in kidney transplants. They do some of the top work for the National Institutes of Health. The University of South Alabama in Mobile, likewise, is a first-rate medical school and medical center. Yet somehow this weird formula comes out in our State providing substantially less. It is just not right. Our people pay the same Medicare tax. A Texan pays the same Medicare tax as a person does in New York. But their hospitals do not get paid the same for the surgery.

We need to make some reform. We have an opportunity to make a nice step forward. It is not the end of the road. It is still too much of a gap. If we are lucky and things go as I hope, this bill will come back as it left this body. Then we can know that our hospitals, at least, had one good step forward as a result of Medicare reform and the prescription drug bill.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island.

AMENDMENT NO. 1580

Mr. REED. Mr. President, I rise in support of the amendment of Senator HARKIN to preclude and prevent the Bush administration from eliminating overtime pay for millions of hard-working Americans.

We just celebrated Labor Day. As is the custom, the President was out addressing labor in Ohio, talking to working men and women. The reality is that many of those families depend on overtime pay to make ends meet. He did not announce to them that buried in the bowels of the Federal Register is a provision that would severely restrict access to overtime pay for millions of American workers.

He talked about creating a position of economic czar to spur manufacturing, but, frankly, I think if that audience understood that as he spoke he was also proposing and working to deny many of them access to overtime pay, they would have been shocked and amazed—as I am shocked and amazed.

At a time when our economy is searching for ways to rebound from the longest recession we have experienced in many years and from the most severe loss of employment of any administration since Herbert Hoover, the idea that we should prevent people from getting overtime pay seems ludicrous, but that is precisely what the administration is proposing.

Indeed, if the administration were serious about ways in which we could stimulate the economy, one way is to reward the effort of working Americans when they work beyond 40 hours, give them access to traditional overtime pay, and let them go ahead and use those resources for the family, for investment in America.

Frankly, it is a shock to me that the President is conducting this campaign to surreptitiously and quietly remove overtime protection that has been the law for the country since 1938 which every American takes for granted. In the 1930s, there was a great debate about labor laws, and a compromise was struck. Some industrial nations absolutely have a prohibition on working beyond so many hours a week, and I think rightfully so, but that is too inflexible—but certainly at some level, and the level decided on was 40 hours. After that, it would be appropriate—in fact required—that a worker would be compensated for at least time and half for his wages.

We are here today because Senator HARKIN, I think quite rightly, has proposed that we step to the plate publicly—not surreptitiously—and vote on this measure, vote whether we are going to deny overtime pay to millions of Americans or continue a practice, a tradition, and a law that has served this Nation well for almost 70 years.

About 79 percent of today's workers qualify for overtime pay. It accounts for about 25 percent of their income. Just think, if working Americans—79 percent of them—lost 25 percent of their income or, even a fraction of that, 10 percent of their income. They would be in desperate straits with their mortgage responsibilities, their tuition responsibilities, and their health care responsibilities.

All of us know because we spent the last month back in our home States visiting with families who are working hard. Both spouses are working hard just to make ends meet—not saving up for a fancy vacation or for a fancy anything but just to make sure the bills are paid. As I said, in 1938 we struck a balance. We set a clear line. We said essentially that if you work beyond 40 hours a week, then you get time and a half. It gives families an option. In fact, we all know some families look forward to the opportunity for overtime work because that is what gives them the margin to get by in a very competitive environment, and a very expensive one.

In 1938, the Fair Labor Standards Act recognized that there has to be some flexibility in legislation. It says there are certain white-collar workers who are professionals—highly paid executives, highly compensated workers who do not need the protection because of the nature of the marketplace and who could be exempt from the requirement to pay overtime. They established several salary tests—a "salary-level" test, a "salary-basis" test, and the "duties test." But essentially, as I view it, it was a narrow exemption. The rule was that if you worked more than 40 hours, you would qualify for overtime pay. But there is a narrow exemption for white-collar duties. Again, because of the nature of the marketplace, these individuals, because of their skills and because of their abilities, are quite capable of negotiating their own arrangements and their own terms. That was, a reasoned and principled balance. Today, that balance is being upset by the proposal by the Bush administration.

First, let's briefly discuss what the rules are today. If you earn less than $8,840 per year, you cannot be exempt from the requirement to pay overtime. That is sensible. Of course, $8,840 a year is trivial in some respects in terms of buying for a family in the United States in the year 2003. The administration recognizes that the proposal is artificially low. They proposed to raise the figure to the total of $22,100. But they are not going to index this figure. So this figure could be locked in concrete for years. More importantly, even this figure of $22,100 is basically the poverty level for a family of five. In fact, the Department of Labor's own lower living standard income level—when they do predictions—suggests that a family of four requires about $31,750 to avoid poverty. Yet we are saying there is a range of people earning $22,000 and beyond who could lose their overtime pay even though they are desperately close to poverty. It doesn't make any sense to me. I think we should raise the level. We should raise it to a level that is consistent with keeping a family out of poverty before we take away their automatic rights for overtime beyond 40 hours a week.

But the biggest change the administration is proposing is to basically broaden the category dramatically for who is white-collar or executive. What it means is that before we considered a professional—according to the definition, it is someone who has had a prolonged course of intellectual studies: lawyers, doctors, obviously academics, civil engineers with qualifications and certificates. But now the administration wants to go ahead and say, no, this is really just someone who, through experience, has gained the title of "professional."

This means we are opening up this possibility of losing overtime pay for draftsmen, engineering technicians, paralegals, emergency medical technicians, licensed practical nurses. And I can tell you that licensed practical nurses in a hospital are professionals but they are certainly not paid like a doctor is paid. This rule would put them on that level. She is a professional. I don't think that makes any sense. Lab technicians, dental hygienists, physical therapists, respiratory therapists, lab technicians, and some registered nurses will be denied overtime pay because they are now "professionals."

There is a broadening of the definition of "executives." When this legislation was passed almost 60 years ago, those executives had a narrowly construed exemption. They were someone who exercised significant authority over a significant number of people. Now they are talking about someone in a minimal supervisory responsibility who could be classified as an executive. Some restaurant workers who happen to be the head of a shift of other waiters are now suddenly executives. That is news to a lot of the people I know who work in the hospitality industry. Certainly, they would be executives in terms of base pay. But in terms of overtime pay, they are not.

Again, to me, that is something that strikes against the whole spirit of people working beyond 40 hours a week. They should qualify for overtime with these narrow exemptions. Exceptions now are being broadened beyond that definition. I think this rule, as a result, is very questionable.

The effect may be that families will lose out. The average American working puts in more hours than in any other country in the world—almost 1,900 hours a year. That is how long the average American worker works.

As I said, more and more families rely on not just the income of a primary breadwinner but both spouses are working. We are the hardest working nation in the world. We pat ourselves on the back for our industry, for our dedication, and for our determination. And here the administration is not rewarding that effort but effectively punishing people, saying: Well, you might be compelled to work overtime but you won't be paid for that. That doesn't make any sense.

This has a particular impact on health care workers, I suggest, because it is so easy in that context to talk about supervisory responsibilities and professional qualifications. There is just enough pay so they will go over the threshold. My home State of Rhode Island has 68,000 health care workers. Thousands of them count on overtime pay to just make it through the month. If they lose that pay, they are going to be in a serious predicament, along with their families and our whole economy.

The Department of Labor estimates that the proposal will only affect about 644,000 Americans. Frankly, that is a gross underestimate. Probably millions will be affected by it because of the ambiguity of these new classifications because the incentives, if you will, are for employers to find ways to deny individual workers the right to overtime compensation.

In fact, the Economic Policy Institute studied just 78 of the 257 proposed "white-collar" occupations and estimated that 2.5 million salaried employees would lose their right to overtime if these proposals were adopted. I don't believe we should weaken the exception in this economy.

We have just today seen another report of unemployment. Unemployment is hovering at 6.1 percent, at recessionary levels.

In fact, we saw a dramatic fall in payrolls, the number of people actually in nonfarm occupations working. We have seen productivity increases which are good, but they have not been balanced by gains in employment.

Fewer people are working. Since the administration took office, 9 million people have lost their job. Today, in addition to that, we are telling the people who are still hanging on to employment: "Don't count on overtime"? That is not fair and it is not good for our economy.

I would hope we could vote on this amendment and that we could send a very strong message that what has worked for 60 years, what most people believe is deeply ingrained in the fabric of the American market and workplace—the simple notion that if you work more than 40 hours a week you qualify for overtime—can be maintained as it has been. I hope we can do that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FITZGERALD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. WYDEN. Mr. President, the Labor-HHS-Education appropriations bill reported by the Senate Appropriations Committee contains $10 million to fund a small, but important, provision passed in 1996 which would extend the Federal Tort Claims Act coverage to medical volunteers in free clinics in order to expand access to health care services for those who are low income and have few avenues to receive health care. This long overlooked provision is Section 194 of the Health Insurance Portability and Accountability Act of 1996 and is similar to the coverage already offered community health centers.

Congress never appropriated funds for section 194. No administration requested funding and no regulations to implement this section of the law were ever published. Yet, one of the key reasons retired health professionals often do not volunteer is the cost of malpractice insurance. Free clinics simply cannot afford to purchase insurance for them. HIPAA provided a mechanism to solve the problem, yet 7 years after the law's passage, failure to fund this section of law has prevented it from becoming a reality.

Year after year, I, and several colleagues, have urged this and previous administrations to implement this provision. The current administration has been concerned that they would not be able to implement the provision without funding. I thank my colleagues on the committee who have helped make this funding a reality, and I will continue to work with them to assure that the provision stays in through the conference.

Mrs. CLINTON. Mr. President, I rise today in support of the Reid Hispanic educational opportunities amendment.

My Democratic colleagues and I have held roundtables with Hispanic leaders across the Nation and members of the Congressional Hispanic Caucus that have allowed us to share ideas and develop an agenda that addresses the issues that matter most to the Hispanic community.

We know how important education is to Hispanics and will continue to ensure that it remains a top priority for the Democratic caucus.

Two years ago, Congress and this administration worked together to pass the No Child Left Behind Act to improve the quality of education in America's public schools. We had the commitment from President Bush that additional resources would be provided to help schools implement the changes required.

Today, this administration has broken its promise and has chosen to cut funding for NCLB next year by $1.2 billion below this year's enacted level of funding. I stand with my colleagues in support of this amendment because we recognize the education of Latino students as a national priority. We are here today to ensure that these resources are restored.

Hispanics are now the largest minority group, as well as the youngest fastest-growing minority group, in the country. Hispanic children make up 17 percent of the total school-age population in the country and recent trends indicate that the number of Latino children attending our Nation's schools is increasing. Despite these changing demographics, Hispanic children remain among the most educationally disadvantaged of all students.

Hispanic children are more likely to attend schools in predominantly low-income areas, they are more likely to be enrolled in segregated schools, less likely to complete high school, and are less likely to be enrolled in and graduate from college than their non-Latino peers.

This amendment will help restore funding for several key programs that have traditionally helped put Hispanic students on par with their more advantaged peers.

This administration has chosen to eliminate dropout prevention at a time when the dropout rate among Hispanics is growing and continues to be higher than that of White or Black students. Nationally, the dropout rate among Hispanics in 2000 was 34 percent up from 22 percent in 1990, and in New York State, the percentage rose to 38.4 percent in 2000. In New York City, 38 percent of all children enrolled in elementary and secondary schools are

Hispanic, higher than any other group. These children face many barriers to graduation, yet New York City's dropout prevention grant will be zero funded in this appropriation bill.

School districts in New York and across the Nation already lack the resources, staffing and programs to help new immigrants adapt to U.S. schools and overcome language barriers. Eliminating this funding will just make matters worse. We know that young adults who do not finish high school are more likely to be unemployed than those who graduate. At a time when our unemployment rate is staggering, we should be doubling the funding for dropout prevention- not eliminating it.

I applaud Senator BINGAMAN for his leadership in making dropout prevention a national priority and look forward to working with him on this issue.

This appropriations bill cuts title III of the NCLB by $20 million, severely underfunding bilingual education programs and jeopardizing the academic success of hundreds of thousands of English language learners across the nation. New York's schools serve a large and growing number of Latino students and the rate of enrollment for limited English proficient students has grown by 44.3 percent, since 1990. Resources provided under title III of the NCLB help school districts in my State provide English language instruction to over 300,000 limited English proficient children and nearly 120,000 immigrant children.

Since this program was consolidated and turned into a block grant, states like New York have had to reduce their services. This appropriations bill adds insult to injury by forcing cash-strapped schools to serve more students with far fewer resources. Restoring this funding will help States, local schools, and colleges build their capacity to teach limited English proficient students effectively.

The children of migrant farm workers, often called "children of the road," face many obstacles in their lives, including extreme poverty, geographic and cultural isolation, discrimination based on race or ethnic status, language minority status, and, most importantly, mobility.

I am pleased that this amendment restores and increases funding for key migrant education programs that serve this at-risk population, including Head Start for children of migrant and seasonal farm workers. Currently, only 664 of 1,177 eligible migrant children are enrolled in Migrant and Seasonal Head Start centers across New York. This is especially troubling given the fact that migrant children who are not in head start classrooms are either cared for by other younger siblings or are left in the fields.

This amendment will take an additional 150 migrant children in New York out of the fields where they are put at risk of exposure to harmful toxins and pesticides and into quality head start classrooms where they can receive the social, behavioral, and cognitive skills they need to help prepare them for school.

This amendment also restores funding to the High School Equivalency Program, HEP, and College Assistance Migrant Program, CAMP. The HEP and CAMP programs are both very important to New York as well as other States in the Northeast. The HEP program helps migrant students who have dropped out of high school get their GED, and CAMP assists migrant students in their first year of college with both counseling and stipends.

The children of migrant farm workers face the highest dropout rate among all other Hispanic American ethnic groups. Current estimates place the dropout rate for migrant at between 50 and 60 percent. Before the Federal Government created CAMP programs, there was no record of a migrant child having completed college. With HEP and CAMP these students are making amazing progress. At the State University of New York at Oneonta, both programs serve students from migrant and seasonal farm working families from New York, Maine, Pennsylvania and Connecticut. This year, Luis, a New Yorker and former HEP and CAMP student will be entering as a sophomore at SUNY-Oneonta. Luis' experience as a migrant youth is shared by countless other children of migrant and seasonal farm workers.

For many migrant children, moving from state to state can take its toll. For Luis, it resulted in a pattern of repeating grades until he quit school to work with his father in the vineyards in Western New York. A year later, he learned about High School Equivalency Program, HEP. With the assistance of the HEP program, he earned his GED, applied to college, and was accepted to SUNY last year as biology major. As a CAMP student, Luis received vital academic, social, and financial support during his first year of college, the most critical year for most first-generation college students.

Luis now mentors other CAMP students, is a member of the Migrant AmeriCorps program and has maintained a cumulative GPA of 3.04. Securing additional resources for HEP and CAMP will help ensure the dreams of students like Luis become reality. I also support increasing funding for Hispanic Serving Institutions, HSIs.

For New York this increase will help 12 colleges and universities expand their capacity to serve a large and growing number of Hispanic students. By supporting these institutions we are recognizing the large contribution they make to increasing access to higher education for traditionally underserved communities, and are making the dream of college a reality for many more Hispanics. The condition of America's future will depend upon how well we meet the demand for an educated workforce.

Cuts in education programs might help balance the books in the short-term, but it is a bad idea for our economy in the long-term. We need a highly skilled workforce to compete in this global economy and investing in the education and training of our Hispanic population will help our Nation meet this challenge.

I therefore urge my colleagues to support this amendment.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask that we now be in a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DC SCHOOLS

Mr. FRIST. Mr. President, yesterday the Senate Appropriations Committee passed legislation that has real promise, and that promise goes to the heart of offering the schoolchildren of this city, the District of Columbia, a genuine, a real opportunity to achieve an education. Specifically, I am talking about the DC Choice Program, a program my colleague from New Hampshire, Senator JUDD GREGG, has worked so very hard on over the past several months; an issue that other colleagues, especially MIKE DEWINE, the Senator from Ohio, has been so committed to; an issue that colleagues from the other side of the aisle, Senator FEINSTEIN and Senator BYRD, are both committed to. Indeed, both showed, I believe, bold and courageous action on behalf of the Capital City's schoolchildren.

The District of Columbia appropriations bill provides $40 million for public schools here in the Capital City. That money will be divided between public charter schools and a new private school tuition program that would offer up to $7,500 per student for about 2,000 additional students.

Regrettably, some of my colleagues on the other side of the aisle supported doing nothing, supported the status quo. They refuse to allow 2,000 of the District's schoolchildren who are from hard-working, low-income families to have that opportunity of earning a better education. They would rather trap these children in failing schools. They would rather tolerate failure than take a chance at success.

The record of the District's public schools is shocking. Despite unprecedented Federal and local spending in the District totaling about $12,000 per student, the District's scores are the lowest in the Nation. Only 10 percent of the District's fourth graders are proficient at reading. Fewer than 12 percent of District fourth graders can write at grade level. Only 6 percent of District fourth graders can do math at a proficient level.

This is a disgrace. DC's public schools are graduating children who cannot read, who cannot write, who cannot add, and who cannot subtract. Would any of us in this Chamber allow our children to be illiterate and unable to do simple fourth grade math problems? The answer is obvious.

In fact, many of those who oppose Choice for the Capital's schoolchildren send their own children to private schools where their children are able to read great literature, learn calculus, learn physics, and dream about careers in anthropology, or careers in aeronautics, and, indeed, go on to competitive colleges and universities.

Unlike some of my colleagues here on the Hill, the locally elected officials from the District itself want the very same for the District's school age kids. They are determined that the District schoolchildren will learn to read and to write and thereby share in that American dream. The city's Mayor, Anthony Williams, understands that. The DC Board of Education president, Peggy Cooper Cafritz, and city council member Kevin P. Chavous are all courageously advancing the cause of universal education for kids here in the District of Columbia. They understand it. Most importantly, the people who understand it and who are leading the fight are the parents of the kids here in the District.

Across the city, parents are lining up in order to obtain better options and better alternatives for their children. The need is so intense that the District Public School Choice Programs are now way oversubscribed. Each year, more than 1,000 schoolchildren are "wait-listed" for the city's magnet programs. Charter schools educate right around 15 percent of DC kids, with nearly 11,500 children in attendance and another 1,000 on waiting lists to get into these charter schools.

When John Walton and Ted Forstmann invested $2 million in the Children's Scholarship Fund here in the District, more than 10,000 families applied for about 1,000 seats.

Virginia Walden-Ford, the executive director of DC Parents for School Choice and a mother of three, knows first hand how desperately parents want a better education for their children. She tells me that each week she receives in her organization hundreds of calls just about this issue of having a better choice, a better alternative. She knows first hand the desperation of these parents.

Virginia had to take matters into her own hands when her son was having trouble in school. He was skipping school. He was having run-ins with the law. He felt like no one cared. He also felt peer pressure to not work hard, to not achieve, to not aspire. Virginia, as a parent, was terrified. We all would feel this way. She was terrified of what would happen if her son stayed in that environment—if he stayed or was trapped along this path that would lead to nowhere. So she decided as a parent to make a difference and to make a change. She sent him to a private school. And within 2 weeks she tells me her son, who she was so worried about being trapped in this environment in which there was no escape whatsoever and no opportunity to achieve that American dream, was transformed—no more getting into trouble, no more skipping school, no more getting into trouble with the police, no more skipped homework assignments. Virginia asked him why. What made that difference? What led to that transformation?

Her son told her very directly that the teachers for the first time cared about whether he learned. At the new school, skipping class and not showing up the next day was a major infraction. For the first time, Virginia was told by her son that he actually felt safe walking through the school's hallways. Not only did Virginia's young son graduate, but unlike many of his friends at the old school who had dropped out before graduation, he graduated with a 3.8 grade average. And, indeed, today he proudly serves in the Marine Corps. Virginia believes that going to private school literally saved her son's life.

That is one story. There are thousands of stories like that in terms of better opportunities. But there are thousands more parents who want the same for their kids, who want that opportunity, who simply don't have that opportunity but who will now have that opportunity if the bill that was passed yesterday in the Appropriations Committee ultimately becomes law.

It is nonsensical to withhold from these parents the opportunity to have their kids be able to go to a school where they will thrive, where they will have those new opportunities.

Yesterday, as I looked at the vote and who voted which way, it is clear that a majority of Senators in the Appropriations Committee—and I believe a majority of Senators on the floor of this Senate—are parents like Virginia who will demand better options for their children, and thus the Senate will support giving them those options.

I, for one, support each child's right to learn to read and write and add and subtract. Basic education for our schoolchildren simply cannot wait. It is incumbent upon us to act.

Cardinal McCarrick, who is the Archbishop of Washington, DC, understands how crucial choice is to the future of this city's kids. I had the opportunity to discuss with Cardinal McCarrick this very issue. He stressed to me the importance of this piece of legislation to open up that opportunity to families and to kids all across the District. He wrote me a letter earlier this summer, which I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARCHDIOCESE OF WASHINGTON,
Washington, DC, July 21 2003.

Hon. Senator Bill Frist,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR FRIST: As the U.S. Senate committees review legislative proposals for appropriations to fund the DC School Initiative, I would like to restate in the strongest terms my support for this initiative and all that it represents.

Our Catholic Schools in the District of Columbia have served the children and families of Washington for over 100 years, and we are determined to continue to provide for these families in the future. We are committed to the City and to all its families and children. In fact, the majority of our students in the District are not Catholic. As stewards of education we recognize the need for every student to have equal access to educational opportunities that will best serve the needs of both the family and the child. It is because of this commitment that we wanted to work in partnership with Mayor Williams and our colleagues on the City Council, on the School Board, in the Superintendent's office, and in the private sector. Working together, putting politics aside, we realized the need for a three-sector initiative. It is a simple collaborative model, and yet it continues to remain a controversial concept to some.

This three-sector concept has formed the basis for the DC School Funding Initiative. This approach provides the opportunity for all in leadership to support the strongest strategy to date for improving and increasing educational options for low-income families. Just as a triangular structure is the sturdiest of structures, because each side reinforces the other, the three-sector approach allows the whole of DC education to be greater than the sum of its parts.

The Archdiocese of Washington is committed to this solid approach and strongly supports legislation that provides 45 to 50 million dollars over five years for:

a. DC public schools to bolster the Transformation schools, to recruit principals and teachers, and to provide for professional development programming,

b. DC charter schools to support building renovations; and

c. Non-public scholarships for the neediest families in the District to be used to pay for the cost of education at the school of choice.

Let me just say a further word about the third part of this triangle, the help for parents who want to exercise their right to choose a non-public school for the education of their children. If they are poor—as so many of our families here in the District are—they have the right in theory, but they cannot exercise it in fact because they cannot pay the cost of their education. Some are working three and four jobs just to make their choice possible and your heart breaks to see this sacrifice made year after year. This three-sector program will help them as it will help the youngsters in the public system as well.

It is our sincere belief that this partnership model is significant and worthy of legislative support, funding, and assessment. This unique model of cooperation and strength affords all three sectors opportunities to engage in shared research, planning, and the continued development of services to support all children.

Hoping these legislative initiatives will be successful, the Catholic Schools of Washington, DC are prepared to accept 1,200 to 2,000 students. Many of these students may attend schools that already serve low-income neighborhoods. In fact eleven of our Center City Consortium schools currently serve a population that is 99% non-white, with 65% non-Catholic, 50% living below the poverty level, and 70% of the students living in single-parent households. More important, these schools are successful—with 100% of the graduating students accepted at Catholic High Schools, where 99% of the graduates go on to college. The average cost of educating our children is approximately $7,000 per child compared to the $12,000 cost for the District of Columbia. This ground-breaking initiative to participate as partners in education is an opportunity each of our District of Columbia Schools welcomes.

This is a unified and comprehensive strategy to level the playing field for under-resourced communities by ensuring economically disadvantaged families a chance to pursue all options, giving all children access to quality educational choices.

The Archdiocese remains committed to the three-sector initiative. Together with the Mayor, the City Government, the School Board, and our colleagues in all charter and non-public schools, we share this dream of giving the children and the families of our nation's Capital one of the finest educational opportunities in the land. All three sectors need to be supported for this partnership strategy to succeed. Each sector gains strength and stability from the other sectors. This is a partnership representing a long-term commitment of cooperation for the good of our children.

Thank you for the opportunity to share our commitment to this vision.

With every good wish, I am

Faithfully yours,

THEODORE CARDINAL MCCARRICK,
Archbishop of Washington.

Mr. FRIST. Mr. President, in that letter, he tells me that he regularly in the course of his counseling and in the course of his work sees parents who work "three and four jobs just to make their choice possible."

He goes on to write that "your heart breaks to see this sacrifice made year after year."

My fellow colleagues, parents are breaking their backs in this District to send their kids to schools that work, schools that really teach, schools that really provide an environment in which learning can take place. When you learn that only 10 percent—only 1 out of 10—of the District's fourth graders are proficient readers, your heart breaks all over again. These children almost certainly will never be able to catch up.

I would like to close these brief remarks with a statement from the editorial page of the Washington Post. Although I don't quote the editorial pages of the Washington Post often, on this issue the Post is absolutely correct. The editorial reads:

> It is inexcusable for a group of Senators, many from distant States, to turn this into a partisan issue of their own. Instead, they should fight to make the District of Columbia school system work better for more children, in public, private and charter schools across the city.

"They should fight to make the DC school system work better for more children."

Mr. President, we should—and we must—fight to do just that. The District schoolchildren should not be trapped in the shadows of our shining city on the hill. They deserve, and their families deserve, our best efforts to make their classrooms models of success. They deserve, just as much as any other child—as much as a child of a U.S. Senator—to achieve the American dream. We can give them that opportunity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE AGENDA

Mr. FRIST. Mr. President, I have a few comments to make about the fall and some of the progress we have made to date, and then I plan on closing the Senate for the weekend. Not having had the opportunity this week, the first week back after our August break, I did want to comment a bit on the agenda.

Over the course of the week, we have had time to have our conference, and I talked to the Democrat leader as well, and I think over this week we have made good progress. There has been not quite as much progress today as I would like. I am very hopeful we will make more progress on the Labor-HHS appropriations bill. But after discussions with our own conference and the leaders on the other side, I am optimistic and very excited about the agenda for the next several weeks and into the fall.

Over the course of this week, we have made good progress. We have had seven rollcall votes. We have disposed of a number of other amendments, and I remain hopeful we can complete action on this bill early next week so we can continue with other appropriations bills.

In addition, this week we passed several important banking reforms under Chairman RICHARD SHELBY's leadership, including hospital mortgage insurance and the FHA mortgage commitment. I thank Senator SHELBY for his tremendous leadership on both of these issues.

Next week, once we complete Labor-HHS, we will go, as I mentioned, to other appropriations bills. Chairman STEVENS this week was able to process all of the remaining appropriations bills. We have done three of the 13 bills. We are on our fourth appropriations bill. The rest of those bills were processed in committee and, indeed, all of them now are awaiting Senate action. That is why again and again, as majority leader, I will be encouraging our colleagues to work together and continue to make progress because all of this we are directed to do over the next 30 days. So I ask for patience, cooperation, and partnership so we can continue to move in the direction of completion of these bills.

Next week, we will continue working with the Democrat leader on the commemoration we will have in this body for the anniversary of September 11. With all of these efforts and the accomplishments of the last 8 months, if you put it all together, the Senate has made steady, consistent progress. That is what the American people want, that is what the American people deserve, and that is what they expect. So I think we are on course.

If we look back over the last several months at issues such as our jobs-and-growth package to tax relief to global concerns, such as HIV/AIDS and the commitment we have made and the legislation we have passed, we see a whole range of policies that directly impact people's lives, at a very personal level, a very intimate level, both here at home and, indeed, across the globe.

Over the August recess, I had the opportunity to spend much time in Africa, to be able to look firsthand at the ravages of HIV/AIDS and the devastation that this greatest of all humanitarian causes has inflicted upon a people, but also the great hope that can result and is resulting from the commitment of the United States of America in this regard.

We will continue into the fall season with a very clear mission. It is the mission that I have stated on the floor, in our leadership meetings, and in our caucus: to move America forward and to do it in such a way that serves the cause of the freedoms that we all cherish, the freedoms for which we fight, the freedoms upon which this country was founded.

That mission is coupled with forging a path of security in a whole range of fields—in military, defense of the country, and health care—and to forge a path of strength and opportunity as reflected in my statement just a few minutes ago for the American dream of the people in the District through expanded school choice.

As we look at this mission of moving America forward, I very quickly think of the issue of energy. We left before the August recess having passed very important legislation, the energy legislation under the leadership of our colleague from New Mexico, Chairman

PETE DOMENICI. Little did we know that within 2 weeks of that we would have the August 14 blackout that blanketed the Northeast and Canada and dramatically brought home to us, in a concrete way, the importance of that legislation and the importance of completing that legislation which addresses the issues of the energy supply, abundancy, and a more secure energy policy.

Although I am not sure if they are finished now, a few hours ago the conference committee on energy between the House and Senate were meeting. Going into that meeting, I talked to Senator DOMENICI. He said how excited he is that we have an opportunity now that we have tried to realize in the past, an opportunity to realize something that the American people again deserve and expect and that will impact the lives of every single American in such a positive way.

The chairman and members on the conference committee have been hard at work with the administration in developing a policy that is consistent with what we are working towards today, and that is solutions to the energy crisis which address everyday Americans, whether we look at production, consumption, or transmission of electricity. So as we look into the fall and project ahead, I am confident we will have an Energy bill on the President's desk by the end of the year.

This week, there has been much discussion on the supplemental to our efforts in Iraq. Although we do not know what that figure from the White House will specifically be, it is clear, at least to my mind—and there will be debate and discussion and points will be made, but at the end of the day, we will stand behind the President and the request of the President of the United States, and we will provide those resources and provide them proudly because we must win. We will win. There is no question in my mind we will win, but we must be fully behind that effort to make sure that those freedoms, which are the very freedoms upon which this country was founded, are preserved for our current generation but also for the future.

Our work around the world and with the world community to bring Iraq into that world community of nations not only advances freedoms across the globe but a safer and a more secure Iraq indeed makes Americans safer and more secure.

We have the challenges before us, but there is no question that we will win that war on terrorism, that we will win those battles for security in Iraq, and that we will provide those appropriate resources.

As we look at moving America forward, we started by passing a Medicare prescription drug bill in this body, but our full impact has not been felt and will not be felt until we have a final product in the conference report, which is currently underway. Meetings among colleagues have taken place this week on both sides of the aisle to help develop that final product in Medicare and really to develop a Medicare system that, for the first time in the almost 40 years of its existence, will offer help to people who need that help for prescription drug coverage.

There is a lot of talk about: Can it be done? Is there going to be a backlash to it? It is going to cost too much. It is too complicated to do now. There is still a lot of partisanship. Some say it is going to get mixed up in elections. I hear all of that again and again, but this is a particular issue that this body has spoken on strongly and overwhelmingly.

There were over 70 votes in favor of this legislation. It is legislation that will have an impact, again, on millions of seniors' lives.

It leaves me to fairly confidently say we are going to have a bill that is going to be on the President's desk sometime this year—I cannot predict exactly when it will be—that will represent the most significant legislative change, and I should also add the most significant increase in resources applied for health care security for seniors and individuals with disabilities; this gets lost a lot, but a bill that focuses on low-income people who simply do not have the resources to buy what we know are very expensive drugs, lifesaving drugs, quality-of-life-improving drugs.

This bill will cut the burden of prescription drugs by over half on people who are low income or simply have no health insurance or no access to those lifesaving drugs. It is a bill that will provide immediate relief. We are not talking about 5 years from now or 10 years from now but literally within probably around 8 to 9 months after the President signs that bill, every senior will have a prescription drug card that will give them help immediately with the purchase of those prescription drugs.

We have a challenge. The challenge is basically to take the very best of the Senate bill and the very best of the House bill, bipartisan, bicameral, and put it together to accomplish those goals. I am confident we are going to be able to do that in spite of the naysayers, who—and I am not sure what drives it—basically say it cannot be done, it will not be done. I am confident it will be done. It will be challenging, but it will be done.

When I think of security in Iraq and the security of our freedoms or energy security, it comes back to health care security because if one is a senior or a near senior, their greatest fear is something is going to happen to them or to their mom or spouse, and it is going to wreck their life. They are going to die, their spouse is going to die, or their mom is going to die because of lack of access or lack of ability to access that can be lifesaving.

Looking at other areas of health care, these are all things that we will be addressing very directly over the coming weeks.

There is the issue of frivolous lawsuits. People will say, well, we addressed this 3 months ago, or tried to address it, and therefore we do not need to come back to it for another 3 or 4 years. That is not the way we are going to approach it. We are not going to approach it because it is a problem that affects access to health care to people all over the United States of America with now 22 of the 50 States in what can be classified as a health care crisis because these frivolous lawsuits have now—maybe unlike 10 years ago—come to the point that it affects health care for everybody who is listening to me. Frivolous lawsuits are increasing in number every year—frivolous, unnecessary lawsuits. The lawsuits that are legitimate need to be there and there needs to be fair and just compensation. I am talking frivolous, unnecessary lawsuits which are driving up the cost of health care, premiums to doctors, causing doctors to leave their practices and causing doctors to leave certain communities and move to other States, thus affecting—for everybody listening—access to quality health care.

When it gets to that level, it becomes a crisis. It is our job to respond. Although when we brought it to the floor 3 months ago we were unsuccessful in transforming the system, it will come back in the next several weeks. We will bring it back. Until we educate those who do not fully understand access and quality of care are being affected by the unnecessary, frivolous lawsuits—until people are fully educated, we will keep bringing it back and, indeed, make a difference.

Another health care issue, although it is as much a jobs issue and an issue of the economy, but also health related, is asbestos. It is interesting because as a thoracic surgeon, a chest surgeon—which is what I did before coming to the Senate—when I thought of asbestos, I thought of a disease called mesothelioma, a disease of the chest which is encasement of the lung, probably one of the most difficult operations a thoracic surgeon can do. People think transplants are difficult. That is fairly straightforward compared to trying to resect and fix a mesothelioma of the lung, chest cavity, which is caused by asbestos.

The asbestos legislation was reasonable, and the intention was to have adequate and fair and equitable reimbursement for asbestos-related disease. That is positive, that is good, and good legislation.

The problem today is a little bit like the medical liability issue. We have unnecessary claims being filed. People see there is a big pot of money out there. We have around 600,000 people who filed claims because they think there is a pot of money and because the legal system has gone awry. They know that by filing a claim, they will be able to claim some of the pot of money.

Again, like the medical liability issue, we need to, in a rational and balanced way, fix the system. It is a system that has gone awry because of certain incentives. The chairman of the Judiciary Committee, ORRIN HATCH, has done a fantastic job and said let's get everybody together, from the left, right, Democrat, Republican, union, nonunion; let's all get together—business, workers, patients, consumers—and develop legislation, work through the committee. That is the first step. Now we need to take that legislation, improve it, strengthen it, educate this body broadly.

People will soon realize it is health care in many ways but it is also a jobs and stimulus package. Since the early 1980s, 70 good-sized companies have gone bankrupt because of the liability that has been thrust upon them. Some OK, probably, but a lot not OK. A lot has been irrational that has been thrust upon them, and they have gone out of business through nothing intentional, because of the way the legislation is written. Of those 70 companies over the last 20 years, a third of them have been in just the last 2½ years.

So the problem is getting worse as we go forward, although the estimates of the cost of asbestos with the runaway lawsuits vary, and they are very rough. I recall one figure, that over 420,000 jobs have disappeared because of these inequities associated with asbestos and the legislation that was originally written.

It is a health issue, it is an equity issue, a fairness issue, and also a jobs issue. If we fix the problem, and fix it appropriately, we are going to have jobs actually created in the future. As people spend more time with this legislation, they will understand that.

Class action litigation, although I don't know exactly when we will address it in the Senate, is an issue we will address on the floor of the Senate. Frivolous lawsuits are clogging the system. When they clog the system and we have this use of resources, it is dollar resources, it is also person power resources. When we use the resources in a wasteful way, we cannot use the resources in a way that is productive, that will help individuals in whatever realm of life. The class action suits have clearly gotten to that point with frivolity, the waste, the unnecessary suits. That is something we on this floor sometime in the next several weeks will address.

If we have the frivolous lawsuits, it is obvious they clog the system. They stifle innovation, they stifle creativity, they cost jobs, and they can even endanger the lives of our fellow citizens—all of that, as we talk about the proposal which is before the Senate, a bipartisan proposal that can bring more order and efficiency to the system. This will become more obvious to both colleagues who do not focus on this and also to the American people.

We can bring order, we can bring efficiency, and we can bring balance and rationality with the best use of resources to the system.

I add that we will be able to protect Americans listening right now, Americans and American consumers, from unscrupulous and exploitative litigators who are out there in many ways grubbing for that dollar to take advantage of the system.

Environmental concerns. We had the opportunity to meet with the President this week, and we talked about a whole range of issues, starting with Iraq and the security issues, moving quickly to the importance of jobs and the economy, and talking about several of the issues I mentioned, but very early coming to a range or group of environmental issues.

It is very obvious that in the West, the long drought and dry timber have created a dangerous situation, a perilous situation. We see on television and hear from those Senators who represent the States, when you fly over the country, you foresee the mammoth fires that can start with just a single spark. Overnight they threaten property, threaten communities, and threaten lives.

The President of the United States, President Bush, has proposed legislation that will reduce the danger of fire. How? By sensibly and rationally managing forests with a better balance of forests—conservation on the one hand and citizen safety on the other.

I have to mention that tax issues will likely come up in the next several months. People clearly on our side believe strongly we need to make the tax relief that the President has put on the table permanent so people can plan for the future, so citizens can have more money—or at least do not increase taxes. Citizens will have more money to be able to spend and invest the way they wish rather than send it to Washington, DC, and let Washington, DC, decide how to spend that money. That does give economic stimulus and creates jobs.

We will most likely examine in the Senate, under the leadership of Senator KAY BAILEY HUTCHISON of Texas, the marriage tax penalty. Once again, the complexities of the Tax Code, combined with peculiarities of our budget laws, have created a tax, a penalty for people who are married. Maybe a teacher and a policeman are married and they are paying more if they are married than if they were not married. It does not make sense. People do not understand it. We know these couples have been unfairly taxed. We will argue that it is unfair. I hope this inequity that we have made some progress in addressing in the past we can really permanently erase.

In the area of family—partial-birth abortion is something we have debated on this floor. We passed it in this body. It was vetoed by President Clinton in the past. We have passed it in the body, and the House has passed it in the past. Now we have to pull those two together in conference. The problem is, we can't appoint and can't fulfill appointment of the conferees until we have another debate on the floor of the Senate. I am working very hard to get that scheduled so we can go to conference, have a bill and send it to the President so we can finally, finally ban partial-birth abortion. We don't need to get into the issue right now, but it has been described by Members on both sides of the aisle as close to infanticide as you can get. Yet we still have not been able to come to agreement on both sides of the aisle about the conferees, go to conference, and send the bill to the President. We are going to bring this to closure sometime here in the next several weeks.

Senator MIKE DEWINE from Ohio and Senator LINDSEY GRAHAM—I can't come to this floor without them saying, What about our Unborn Victims of Violence Act? It is something we debated on this floor, we made the case for, and now is the time for us to complete our legislative activity so we truly can protect unborn victims of violence.

All of this is ambitious, but it is time to be bold and it is time to be ambitious. I think this body demonstrated this again for the most part in a bipartisan way over the last several months. But each of these issues that I have mentioned will be addressed on the floor of the Senate.

Yesterday an event happened. Again, I don't need to rehash that today, but the withdrawal of Miguel Estrada's nomination yesterday was a tragedy. It was a sad day for this body. At the end of the day I had the opportunity to call and talk to Miguel Estrada, and there is just simply nobody to my mind who is better qualified for the position for which he was nominated and who was more unjustly treated by this body.

These blocked judicial nominations are maybe the biggest challenges we have before us—unprecedented filibusters, unprecedented partisan filibusters on the floor of this Senate are unpardonable, I believe.

We are going to stay focused. We are going to do our very best to educate, to break these filibusters. I think one day the consequences of the minority blocking highly qualified nominees without good reason will come home to roost.

Other issues, reauthorization issues, and then I will close. I know it is late on this afternoon and we need to move on. But reauthorization I at least wanted to mention. There are many so I don't want to mention them all, but reauthorization of welfare, of the highway bill—again, a lot of discussion this week as we look forward to addressing these sorts of issues in the coming weeks.

There are a lot of opportunities. It is a huge responsibility for each of us in the coming weeks. But I am absolutely confident that by pulling together, by working as a team, by working across the aisle, we will be able to advance the mission I mentioned of moving America forward and to do it in a way that celebrates the freedoms we all enjoy.

We will be able to make meaningful progress in our Nation's economic life. We will be able to make meaningful progress in our Nation's moral life. We will be able to make meaningful progress in our Nation's civic life.

We are going to have a very busy and we are going to have a very productive fall.

SECTION 189 OF THE FAA CONFERENCE REPORT, H.R. 2115

Mr. COLEMAN. I would like to engage the Senator from Mississippi in a colloquy regarding section 189 of the conference report in order to clarify the intent of the conferees.

Mr. LOTT. I would be pleased to engage in a colloquy with the Senator from Minnesota.

Mr. COLEMAN. It is my understanding that this section is a very limited, temporary funding restriction that will not affect noise mitigation funding in any significant way. Federal airport improvement program monies from the "Noise set aside" have not normally supported noise mitigation projects below a Day-Night Average Sound Level (DNL) of less than 65. This is because under the FAA's system of ranking projects for the use of the noise set aside, projects to reduce higher levels of noise having funding priority and projects below 65 DNL have not normally ranked high enough to get such funding. I further understand that nothing in this section or any other provision of the FAA conference report would prohibit an airport from using either passenger facility charges, PFC, or other locally generated monies to fund noise mitigation projects below a DNL of 65. It is also my understanding that the provision is not intended to change the FAA's current approach of not disapproving an airport's entire part 150 noise program, where there is only a portion or portions of the program that are problematic. The FAA would continue to be able to disapprove portions of a port 150 program, while approving other portions, as they do today. Furthermore, the provision would not affect noise set-aside funding that would not require part 150 approval, such as school soundproofing or noise mitigation for an airport expansion project in an FAA environmental record of decision.

Mr. LOTT. The Senator is correct. The intent of this provision is a narrow one and does not affect the use of non-AIP funds by any airport. Nothing in this section or any other provision of the FAA conference report would prohibit an airport from using either passenger facility charges, PFC, or other locally generated monies to fund noise mitigation projects below a DNL of less than 65. It is my understanding that the FAA agrees with this interpretation of the effect of the provision.

CHANGE OF VOTE

Mr. COLEMAN. Mr. President, with respect to rollcall vote No. 323, I was recorded as voting "nay." I ask unanimous consent to change my vote to "yea." This change will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

COACHES AGAINST GUN VIOLENCE

Mr. LEVIN. Mr. President, I want to bring to the attention of my colleagues a new and innovative program created by the Alliance for Justice called Coaches Against Gun Violence.

This program asks high school coaches to dedicate one game or event each year to gun violence prevention. The dedication can take a variety of forms, including inviting a local speaker to talk about gun violence, recognizing a victim or his or her family, having a school assembly devoted to the issue, or distributing ribbons in remembrance of lives lost to gun violence.

Each year, millions of students take part in athletic activities. Coaches are leaders and mentors and have an enormous impact on the lives of many of their players. Harnessing this influence to educate students about the deadly effects of gun violence is an excellent idea.

According to statistics compiled by the Alliance for Justice, there are an estimated 3,400 firearm-related injuries and 1,000 deaths each year in Michigan. In 2000 alone, 133 Michiganders under the age of 20 were killed in incidents of gun violence, and 3,894 people under 20 years old were killed in firearm-related incidents in the United States. These statistics are sobering. The Coaches Against Gun Violence Program is a creative approach to educating young people about the deadly effects of gun violence and I hope that coaches across the country will consider this program for their school communities.

I urge my colleagues to encourage coaches in their home States to join the Coaches Against Gun Violence, and I commend the Alliance for Justice for its efforts.

PROTECT HOME HEALTH CARE

Mr. BOND. Mr. President, home health care is an important part of Medicare in which seniors and the disabled can get basic nursing and therapy care in their home. I rise today to urge the Senate Medicare conferees to stand firm against provisions in the House passed prescription drug and Medicare reform bill, H.R. 1, that would make further cuts in the Medicare home health benefit by reducing the home health inflation update and imposing a new copayment on home health beneficiaries.

Home health care is convenient, but much more importantly, patients love it. I have seen this first hand as I have had the privilege of visiting with many of my constituents who rely on this benefit. They love home health care because it is the key to fulfilling what is virtually a universal desire among seniors and those with disabilities—to remain independent and within the comfort of their own homes despite their health problems.

Since the passage of the Balanced Budget Act of 1997, BBA, no other group of Medicare patients and providers have endured as many difficulties. This is a big claim, given the many horror stories we've heard about the Balanced Budget Act. But absolutely nobody has suffered like home health patients and home health agencies. True reform means more than just ratcheting down payments to providers and services to patients.

Since 1997 Medicare home health spending has been reduced by over 40 percent and the number of beneficiaries by 1.3 million, or about a third. Forty percent of the agencies in my State have closed down or quit serving Medicare patients.

In a move to modernize the Medicare program, Congress eliminated the home health copay in 1972 to encourage the provision of health care in the home rather than in more costly institutions. With all the cuts in home health care that have occurred since 1997—including the loss of venipuncture, blood drawing, as a qualifying service, the imposition of per beneficiary limits under the interim payment system, cuts in the market basket inflation update, a "15 percent" cut in October of last year, and the loss of the 10 percent rural add on in April of this year—MedPAC has recently confirmed an alarming trend toward greater use of nursing home care. The reimposition of a home health copayment now would be a step backward that would exacerbate this recent trend.

Home health beneficiaries already must pay the Part B deductible and a 20 percent copay for preparation of a home health plan of care and ongoing home health care oversight by a physician. Over half of home health patients come directly from the hospital and must pay the Part A deductible of over

$800 in order to receive the home health benefit. Often they and their families must pay out of pocket for personal care services to assist with activities of daily living.

Our Nation's dedicated home health providers—and you know they are dedicated if they have stuck with it through the difficulties of the last few years—deserve to be left alone and given a rest. They, and the patients they serve, deserve to be left alone to recover from the post-BBA chaos. They deserve to be left alone in order to adjust to a new home health payment system.

In passing the Senate prescription drug and Medicare reform legislation, S. 1, the Senate wisely chose to forgo further cuts in the home health benefit. I urge my colleagues on the Medicare conference committee to oppose the provisions in H.R. 1 that would further cut and destabilize the home health benefit.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in San Diego, CA. On September 24, 2002, two teenagers attacked an immigrant, Jose Luis Cisneros, that left him in a coma for several days and with head and facial injuries. The pair were charged with hate crimes. According to the Deputy District Attorney, they went looking for "beaners" to beat and rob and went to a spot where they knew they could find undocumented immigrants.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

IN RECOGNITION OF THE 160TH ANNIVERSARY OF B'NAI B'RITH

Mr. LEVIN. Mr. President, I would like to call my colleagues' attention to a very significant milestone for our nation's oldest and one of the largest service organizations, B'nai B'rith, which was founded on New York City's lower east side in October 1843. Its name, meaning "Children of the Covenant," reflects a commitment to unify Jewish people everywhere in service to their community and the world. On September 7th, in my home State of Michigan, the Great Lakes Region of this great organization will celebrate the B'nai B'rith anniversary and mark its many achievements in helping others, advocating freedom and democracy, and combating racism and bigotry.

Over the years, B'nai B'rith has been steadfast in meeting challenges on many fronts. Motivated in part by core Jewish values such as loving-kindness to others and peace and justice in the world, it has acted on a fundamental belief that all people should be treated with dignity and respect. Its members have answered the call to stand against racism, persecution, and violence against Jews and others, while working to protect basic human rights and preserve justice. B'nai B'rith has taken a leadership role during pivotal times in our history. Its members have worked to steer our nation on the right path to the benefit of all Americans. They opposed General Ulysses Grant during the Civil War when he attempted to expel Jews from several states. They urged President Theodore Roosevelt to take action in 1903 with the Czar of Russia to denounce anti-Semitic violence. And in 1913 after the lynching of B'nai B'rith member Leo Frank in Atlanta, B'nai B'rith leaders were moved to organize the Anti-Defamation League to battle bigotry.

Now as an international organization, B'nai B'rith is represented in 58 countries around the world. It has a full-time presence at the United Nations and the European Union in Brussels. It has the proud history of having initiated many programs and services, from disaster relief, to feeding the hungry, to medical research, to housing for the low-income elderly, to Jewish education, to a premier Youth Organization and an effective campus outreach for thousands and thousands of Jewish college students. B'nai B'rith helped bring war criminals to justice, has worked tirelessly for Jewish security around the world, and has helped to strengthen the land of Israel. After more than a century and a half of innovation and activism, B'nai B'rith is stronger than ever and continues to make an important and meaningful contribution around the world.

B'nai B'rith can be proud of its dedication to preserve Jewish heritage and promote values that inspire individuals to act in goodwill and to shape their communities for the betterment of all. We as a nation have benefitted from their extraordinary contributions both here and abroad, and I am sure that my Senate colleagues join me in paying tribute to B'nai B'rith for 160 years of superior performance in serving the needs of generations of Americans and people of nations around the world.

100TH ANNIVERSARY OF TEAMSTERS UNION

Mr. KENNEDY. Mr. President, it is a special honor to take this opportunity to congratulate the Teamsters Union on the 100th anniversary of their formation. On that historic occasion a century ago, the merger of two smaller unions of local delivery men using vehicles drawn by teams of horses launched the extraordinary union we know today as the International Brotherhood of Teamsters.

In those early days, such workers were often fired for union activity, and some were even killed. But the Teamsters persevered and began to thrive. By the 1930s, inter-city truck drivers had become the predominant members of the union, and they fought hard for legal protections, especially the National Labor Relations Act and basic laws setting minimum wages and maximum work hours for their work.

In World War II, the Teamsters were a key part of the war effort. They served with great courage in the armed forces. They vigorously promoted war bonds and the collection of scrap metal and rubber.

When the war was won, they came home and took up the great cause of social justice in communities across the land, fighting for civil rights and striving to see that America's workers received their fair share of the Nation's amazing post-war prosperity.

Now, on this remarkable centennial, the Teamsters are one of the Nation's largest, most vital and most effective unions. They are at the forefront of ongoing major battles for the fundamental rights and dignity of all workers, especially on key issues such as jobs, civil rights, and worker health and safety. I am proud to have worked with them on so many of these important issues. I congratulate them on this very auspicious centennial, and I look forward to working with them in the years ahead as they begin their new century.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. JAMES S. SEIDEL

• Mr. INOUYE. Mr. President, the children of the United States lost a great champion on July 25 when Dr. James. S. Seidel died at the age of 60. Dr. Seidel was a professor of pediatrics at the University of California at Los Angeles School of Medicine and was chief of the Division of General and Emergency Pediatrics at Harbor-UCLA Medical Center.

He was an excellent teacher and researcher, but he was also a tenacious advocate for children. Through his students, residents, and fellows, he leaves behind a legacy of energetic inquiry and dedicated service to children and their families. Through his advocacy work, he leaves behind a much improved system of care, particularly emergency care, for children. While we will all miss the man, we will continue to benefit from his work.

A major concern of Dr. Seidel, and a concern I share, was the challenge our Emergency Medical Services system faces in appropriately caring for the emergency needs of children. The system responds well to adult needs but is not always so successful in meeting the needs of children. He was a driving force behind the Emergency Departments Approved for Pediatrics, EDAP, system in California, but he also recognized that a national problem such as this required national support if it was to be solved. Along with my good friend, Dr. Calvin Sia, and a small group of pediatric emergency care advocates, Dr. Seidel worked with Senators HATCH, Weiker, and myself to help us enact in 1984 the Emergency Medical Services for Children, EMSC, program. This modest program has made a tremendous difference in the lives of many children and their families in every State and Territory. Dr. Seidel was a driving force in shaping the direction of the EMSC program, and was one of the program's first grantees. He maintained his interest and advocacy as the program matured. There is almost nothing in EMSC that was not influenced by Dr. Seidel. Dr. Sia received the first National Heroes Award for Lifetime Achievement in emergency medical services for children. In 2000, Dr. Seidel received the second. It was an honor well deserved.

In 1991, Dr. Seidel edited Emergency Medical Services for Children: A Report to the Nation. He asked me to write the Foreword. In it, I said, "History has repeatedly shown that persistence is most often the key to success. We must persist in our advocacy for those most vulnerable children of all: the ill and the injured." Dr. Seidel's life is a testimony as to how persistence will lead to success. We still have a long way to go, but we are much further down the road thanks to remarkable people such as James S. Seidel.●

TRIBUTE TO DOUGLAS D. FARIS

● Mr. SARBANES. Mr. President, I pay tribute today to a dedicated and respected steward of our National Park system, Douglas D. Faris, superintendent of the C & O Canal National Historical Park. Doug is retiring after a long and distinguished career in the National Park Service and I thank him for his outstanding achievements in managing and protecting the C & O Canal and other units of our National Park system over the past three decades.

Throughout his career in public service, Doug Faris has distinguished himself as a leader in natural and cultural resource planning, management and conservation. Beginning as a seasonal employee at Yellowstone National Park in 1970, Doug quickly advanced to top planning positions at the Park Service's Denver Service Center, the Lowell, MA, field office, and the Southwest Regional office, where he made substantial contributions to developing new park units, improving park facilities, and protecting park resources. In 1989, he was selected as Associate Regional Director of the Southwest Region and worked for 6 years building partnerships with Native American leaders and other organizations, developing highly professional work forces, supervising special resource studies, and working with the Congress.

I came to know Doug shortly after he was appointed Superintendent of the C & O Canal National Historical Park in 1994 and, over the past 9 years, have had the opportunity and privilege to work closely with him on a number of initiatives. I saw first hand the tremendous leadership he provided in repairing and reopening the Park after two floods completely destroyed portions of the Canal and many historic structures, picnic areas, and other park facilities during the winter of 1995–1996. Doug worked tirelessly to develop a strategic plan for restoring the park and to mobilize and coordinate the work of hundreds of volunteers and organizations that came to the aid of the Park. Thanks to his efforts, more than $25 million in public and private funds were raised to repair the damages and reopen the park. Likewise, Doug spearheaded efforts to re-water the Canal at its Cumberland, MD, terminus, stabilize the historic Monocacy Aqueduct, and construct new visitor facilities. Under his leadership, new partnerships were formed with organizations and communities along the Canal, an Historic Leasing Program was implemented to help repair and protect the historic lockhouses and other dwellings in the Park; and many improvements have been made to the C & O Canal.

The efforts of Doug Faris throughout his career in the National Park Service have had a lasting effect not only on the parks and National Park system he has worked to protect, but on the people with whom he has come in contact. He has earned the respect and admiration of his colleagues in the Park Service as well as the visitors and citizens in the local communities surrounding the parks. It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career, Doug has exemplified a steadfast commitment to meeting this demand. I want to extend my personal congratulations and thanks for his many years of hard work and dedication to the principal conservation mission of the National Park Service and join with his friends and coworkers in wishing him and his family well in the years ahead.●

TRIBUTE TO THE HONORABLE ANTHONY SBONA

● Mr. DODD. Mr. President, I rise to speak in memory of a distinguished public servant and a good friend, the Honorable Anthony "Buddy" Sbona, of Middletown, CT, who passed away on August 4, at the age of 73.

Buddy Sbona served three terms as the mayor of Middletown from 1970 to 1975, and to this day, he remains one of the most popular public figures that city has ever seen. During his term as mayor, Buddy Sbona established Middletown's largest industrial park in the Westfield area. He also established the first full-time attorney's office in the city. From 1958 to 1961, Buddy Sbona served three terms on Middletown's Common Council, and after he left the mayor's office, he spent the next 20 years as Middletown's Town Clerk.

Buddy Sbona was a Republican mayor in a mostly Democratic town. But his appeal transcended party lines. Throughout his career, he was respected and admired by Democrats and Republicans alike—not merely as an elected official, but as a good, honest, and decent human being. His warm and outgoing personality and his enduring friendship were legendary. Even if you didn't always agree with Buddy Sbona's views, it was virtually impossible not to like him.

At 5 foot 5, you might think that Buddy Sbona could walk through City Hall practically unnoticed. But his booming voice, and his tremendous enthusiasm, announced to anyone within earshot that Buddy was in the building, ready to work hard on behalf of the people of Middletown.

Those who worked with Buddy Sbona remember him as a man with real passion for his work, a man who would come to the office each day excited to serve his constituents. That infectious attitude was an inspiration to his staff members, some of whom went on to hold public office themselves. During his later years, and even after he left office, he was an invaluable mentor to newcomers to public service, sharing with them his immense wealth of knowledge about Middletown's history, its politics, and its government.

Outside of the office, Buddy Sbona was a devoted family man who could often be spotted at his son's high school football games at Palmer Field. He was also an active member of St. Sebastian's Church and was the chairman of the Feast of St. Sebastian Committee for a decade.

It is a testimony to how hard Buddy Sbona worked, and how many lives he touched, that on Friday, August 8, all nonemergency city workers in Middletown were given the morning off to attend his funeral. Nearly 30 years after he left the mayor's office, the city of Middletown shut itself down to pay its respects to Buddy Sbona.

I offer my deepest condolences to the people of Middletown, to Buddy's wife Connie, to their sons William and Mark, to the entire Sbona family, and to the countless others whose lives were enriched by Buddy Sbona.●

HONORING STAFF SERGEANT MARK LAWTON

● Mr. ALLARD. Mr. President, I rise today to honor one of our fallen heroes of my State and this great Nation. SSG Mark A. Lawton was killed in action while serving our country in support of Operation Iraqi Freedom.

Sergeant Lawton served honorably with the 244th Engineer Battalion, U.S. Army Reserve of Grand Junction, CO. He was one of the many citizens soldiers who took up the charge and left family and career when asked to defend the principles of freedom and democracy. Like all reservists and National Guard members, he balanced his responsibilities to his country with those to all that cared for and depended on him.

Staff Sergeant Lawton's unit was activated in February and are responsible for constructing roads and bridges, improving irrigation and building playgrounds for the children of Iraq. The 244th is creating a better place for Iraqis, and Sergeant Lawton helped raise the quality of life. Colorado is proud of the actions of Sergeant Lawton, the 244th and all of our servicemen and women serving during this operation.

Staff Sergeant Lawton lived in Hayden, CO, with his wife, Sherri, and two sons, Dustin and Tanner.

Mr. President, I rise today to posthumously thank Staff Sergeant Lawton for his service and ultimate sacrifice to this great Nation and applaud him as a hero to Colorado and all of the United States.●

MESSAGE FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6). An Act to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: and appoints for the consideration of the House bill and Senate amendment, and modifications committed to conference:

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. Tauzin, Mr. Bilirakis, Mr. Barton of Texas, Mr. Upton, Mr. Stearns, Mr. Gillmore, Mr. Shimkus, Mr. Dingell, Mr. Waxman, Mr. Markey, Mr. Boucher, and Mr. Rush.

From the Committee on Agriculture, for consideration of sections 30202, 30208, 30212, title III of division C, sections 30604, 30901, and 30903 of the House bill and sections 265, 301, 604, 941–948, 950, 1103, 1221, 1311–1313, and 2008 of the Senate amendment, and modifications committed to conference: Mr. Goodlatte, Mr. Lucas of Oklahoma, and Mr. Stenholm.

From the Committee on Armed Services, for consideration of sections 11005, 11010, 14001–14007, 14009–14015, 21805, and 21806 of the House bill and sections 301, 501-507, 509, 513, 809, 821, 914, 920, 1401, 1407–1409, 1411, 1801, and 1803 of the Senate amendment, and modifications committed to conference: Mr. Hunter, Mr. Weldon of Pennsylvania, and Mr. Skelton.

From the Committee on Education and the Workforce, for consideration of sections 11021, 12014, 14033, and 30406 of the House bill and sections 715, 774, 901, 903, 1505, and 1507 of the Senate amendment, and modifications committed to conference: Mr. McKeon, Mr. Sam Johnson of Texas, and Mr. George Miller of California.

From the Committee on Financial Services, for consideration of division G of the House bill and sections 931-940 and 950 of the Senate amendment, and modifications committed to conference: Mr. Oxley, Mr. Ney, and Ms. Waters.

From the Committee on Government Reform for consideration of sections 11002, 11005, 11006, 11010, 11011, 14025, 14033, and 22002 of the House bill and sections 263, 805, 806, 914–916, 918, 920, 1406, 1410 of the Senate amendment, and modifications committed to conference: Mr. Tom Davis of Virginia, Mr. Murphy, and Mr. Tierney.

From the Committee on the Judiciary, for consideration of sections 12008, 12401, 14014, 14026, 14027, 14028, 14033, 16012, 16045, 16084, 30101, 30210, and 30408 of the House bill and sections 206, 209, 253, 531–532, 708, 767, 783, and 1109 of the Senate amendment and modifications committed to conference: Mr. Sensenbrenner, Mr. Smith of Texas, and Mr. Conyers.

From the Committee on Resources, for consideration of sections 12005, 12007, 12011, 12101, 13001, 21501, 21521–21530, division C, and section 60009 of the House bill and sections 201, 265, 272, 301, 401–407, 602–606, 609, 612, 705, 707, 712, 721, 1234, 1351–1352, 1704, and 1811 of the Senate amendment, and modifications committed to conference: Mr. Pombo, Mrs. Cubin, and Mr. Rahall:

Provided, That Mr. Kind is appointed in lieu of Mr. Rahall for consideration of title IV of division C of the House bill, and modifications committed to conference.

From the Committee on Science, for consideration of sections 11009, 11025, 12301–12312, 14001–14007, 14009–14015, 14029, 15021–15024, 15031–15034, 15041, 15045, division B, section 30301, division E, and division F of the House bill and sections 501–507, 509, 513–516, 770–772, 807–809, 814–816, 824, 832, 1001–1022, title XI, title XII, title XIII, title XIV, sections 1502, 1504–1505, title XVI, and sections 1801–1805 of the Senate amendment, and modifications committed to conference: Mr. Boehlert, Mrs. Biggert, and Mr. Hall of Texas.

Provided, That Mr. Costello is appointed in lieu of Mr. Hall of Texas for consideration of division E of the House bill, and modifications committed to conference:

Provided further, That Mr. Lampson is appointed in lieu of Mr. Hall of Texas for consideration of section 21708 and division F of the House bill, and sections 824 and 1223 of the Senate amendment and modifications committed to conference.

From the Committee on Transportation and Infrastructure, for consideration of sections 11001–11004, 11006, 11009–11011, 12001–12012, 12014, 12401, 12403, 13001, 13201, 13202, 15021–15024, 15031–15034, 15041, 15043, 15051, 16012, 16021, 16022, 16023, 16031, 16081, 16082, 16092, 23001–23004, 30407, 30410, and 30901 of the House bill and sections 102, 201, 205, 301, 701–783, 812, 814, 816, 823, 911–916, 918–920, 949, 1214, 1261–1262, and 1351–1352 of the Senate amendment, and modifications committed to conference: Mr. Young of Alaska, Mr. Petri, and Mr. Oberstar.

From the Committee on Ways and Means, for consideration of division D of the House bill and divisions H and I of the Senate amendment, and modifications committed to conference: Mr. Thomas, Mr. McCrey, and Mr. Rangel.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3818. A communication from the Director, Information Security Oversight Office, transmitting, the Office's report for 2002; to the Committee on Governmental Affairs.

EC–3819. A communication from the President of the District of Columbia Board of Education, transmitting, pursuant to law, a report relative to the Fiscal Year 2004 Budget Support Act; to the Committee on Governmental Affairs.

EC–3820. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31, 2002; to the Committee on Governmental Affairs.

EC–3821. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Automated Export System Mandatory Filing for Items on the Commerce Control List and the United States Munitions List that Currently Require a Shipper's Export Declaration" (RIN0607–AA34) received on August 22, 2003; to the Committee on Governmental Affairs.

EC–3822. A communication from the Director, Bureau of the Census, transmitting, pursuant to law, the report of a rule entitled "Amendments to Age Search Procedures" (0607–AA24) received on August 22; to the Committee on Governmental Affairs.

EC–3823. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31, 2003; to the Committee on Governmental Affairs.

EC–3824. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31, 2003; to the Committee on Governmental Affairs.

EC–3825. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2003–58) received on August 11, 2003; to the Committee on Finance.

EC–3826. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Modification of Notice 2003–36 (Simplified Service Cost and Simplified Production Methods)" (Notice 2003–59) received on August 11, 2003; to the Committee on Finance.

EC–3827. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "BLS–LIFO Department Store Price Indexes for June 2003" (Rev. Rul. 2003–100) received on August 11, 2003; to the Committee on Finance.

EC–3828. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—September 2003" (Rev. Rul. 2003–101) received on August 11, 2003; to the Committee on Finance.

EC–3829. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—September 2003" (Rev. Rul. 2003–101) received on August 11, 2003; to the Committee on Finance.

EC–3830. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "TD: User Fees for Processing Offers to Compromise" (TD9086) received on August 11, 2003; to the Committee on Finance.

EC–3831. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "July-September 2003 Bond Factor Amounts" (Rev. Rul. 2003–93) received on August 11, 2003; to the Committee on Finance.

EC–3832. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offers in Compromise" (Rev. Proc. 2003–71) received on August 11, 2003; to the Committee on Finance.

EC–3833. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Exclusions from Gross Income of Foreign Corporations" (RIN1547–BA07) received on August 11, 2003; to the Committee on Finance.

EC–3834. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Compensatory Stock Options Under Section 482" (RIN1545–BA57) received on August 11, 2003; to the Committee on Finance.

EC–3835. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "2003 National Pool" (Rev. Proc. 2003–67) received on August 11, 2003; to the Committee on Finance.

EC–3836. A communication from the Chief, Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 2003–44" (Rev. Proc. 2003–72) received on August 11, 2003; to the Committee on Finance.

EC–3837. A communication from the Chairman, International Trade Commission, transmitting, Commission's report on the operation of the United States trade agreements program: to the Committee on Finance.

EC–3838. A communication from the Secretary of the Treasury, transmitting, a report relative to the Federal Hospital Insurance Fund; to the Committee on Finance.

EC–3839. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program—Electronic Submission of Cost Report" (RIN0938–AL51) received on August 26, 2003; to the Committee on Finance.

EC–3840. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Electronic Submission of Medicare Claims" (RIN0938–AM22) received on August 26, 2003; to the Committee on Finance.

EC–3841. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Modifications to Managed Care Rules" (RIN0938–AK71) received on August 26, 2003; to the Committee on Finance.

EC–3842. A communication from the Senior Attorney, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Government Participation in the Automated Clearing House" (RIN1510–AA93) received on August 22, 2003; to the Committee on Finance.

EC–3843. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Collection of Supplemental Security Income Overpayments from Special Benefits for Certain World War II Veterans" (RIN0930–AF53) received on August 11, 2003; to the Committee on Finance.

EC–3844. A communication from the Chief, Regulations Branch, Bureau of Customs and Border Protection, transmitting, pursuant to law, the report of a rule entitled "Tonnage Duties-Revised Amounts" (RIN1515–AD35) received on August 11, 2003; to the Committee on Finance.

EC–3845. A communication from the Chief, Regulations Branch, Bureau of Customs and Border Protection, transmitting, pursuant to law, the report of a rule entitled "Changes to Customs and Border Protection's List of Designated Public International Organizations" (CBP Decision 03–21) received on August 11, 2003; to the Committee on Finance.

EC–3846. A communication from the Chief, Regulations Branch, Bureau of Customs and Border Protection, transmitting, pursuant to law, the report of a rule entitled "Manufacturing Substitution Drawback; Duty Appointment" (RIN1515–AD02) received on August 11, 2003; to the Committee on Finance.

EC–3847. A communication from the Vice President of the United States, transmitting, pursuant to law, relative to the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikstan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–3848. A communication from the Vice President of the United States, transmitting, the report of a waiver relative to the Act of Turkmenistan; to the Committee on Finance.

EC–3849. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Waterloo, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3850. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Webster City, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3851. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; West Union, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3852. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; West Union, IA" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3853. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (11), Amdt. no. 443" (RIN2120–AA63) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3854. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (24); Amendment No. 442" (RIN2120–AA63) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3855. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E5 Airspace; Tuscaloosa, AL; CORRECTION" (RIN2120–AA66) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3856. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3857. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce RB211 Series Turbofan Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3858. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directive: CORRECTION Boeing Model 737 200, 200C, 300, 400, and 500 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3859. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aeropatiale Model ATR 42 Series Airplanes; and Model ATR72 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3860. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospatiale Model ATR72 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3861. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3862. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1 600 2N19 Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3863. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 202, 311, and 315 Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3864. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3865. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness: Eurocopter France Model SA–365N2, AS 365N3, SA 366G1, AS355F, F1, F2, N, and EC130 Helicopters" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3866. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211–524G2, 524G2T, 524G3, 524G3T, 524H, 524H–t, 524H2, and 524H2t Series, and models RB211, Trent 768–60, 773–60, and 772B 60 Turbofan Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3867. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McCauley Propeller System, Inc., Propeller Hub Models B5JFR36C1101, C5FR36C1, C5JFR36C1102, B5JFR36C1103, and C5JFR36C1104" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3868. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200, 300, 300F Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3869. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce Corporation Models 250 C30R/3, C30R/3M, C47B, and C47M Turboshaft Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3870. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd Models PC 12 and PC 12/45 Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3871. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3872. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B SUD, 200F, 200C, 300, 400, 400D, 400F, and 747 SR Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3873. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Lockheed Model 382G Series Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3874. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Aircraft Corp Models S76A, B, and C Helicopters" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3875. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model SA 330F, G, and J, AS332C, L, and l1, SA 341G, SA342J, AS350B, BA, B1, B2, B#, and D; AS335E, F, F1, F2, and N, SA 3655C, C1, C2, SA365NB, and N1, and AS365N2, and N3 Helicopters" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3876. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospace Technologies of Australia Pty Ltd Models N22B and N24A Airplanes" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3877. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Lockheed Martin Models L–1011 Airplanes and Rolls Royce plc RB211 Series Turbofan Engines" (RIN2120–AA64) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3878. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: DOD Commercial Air Carrier Evaluators; Request for Comments" (RIN2120–AI00) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3879. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Revision of Public Aircraft Definition : Technical Amendment" (RIN2120–ZZ42) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3880. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Revisions to Digital Data Recorder Requirements—Changes to Recording Specifications and Additional Exceptions" (RIN2120–AH81) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3881. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Flightdeck Security on Large Cargo Airplanes; Request for Comments" (RIN2120–AH96) received on August 26, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3882. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; General Category Closure" (ID112801A) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3883. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "NMFS is prohibiting retention of northern rockfish in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area. NMFS is requiring that catch of northern rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 2002 total allowable catch (TAC) of northern rockfish in this area has been achieved" received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3884. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of the Commercial Fisher for Red Snapper in the EEZ of the Gulf of Mexico" received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3885. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure. Prohibition of Retention of Other Rockfish in the Central Regulatory Area of the Gulf of Alaska" (ID080103A) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3886. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure: Prohibition of Retention of Shortaker/Rougheye Rockfish in the Central Regulatory Area of the Gulf of Alaska" (ID080103B) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-3887. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Species in the Rock Sole/Flathead Sole "Other Flatfish" Fishery Category by Vessels Using Trawl Gear in the BSAI Management Area" received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3888. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Directed Fishing for Greenland Turbot in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area (BSAI)" (RIN0679) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3889. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Northeast Multispecies Fishery: Interim Final Rule" (RIN0648–AP78) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3890. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule for Recreational Fisheries for Summer Flounder, Scup, and Black Sea Bass" (RIN0648–AQ32) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3891. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the yellowfin sole fishery category" received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3892. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy for the position of Deputy Secretary, Department of Transportation, received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3893. A communication from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, Center for Sponsored Coastal Ocean Research Coastal Ocean Program, transmitting, pursuant to law, the report of a rule entitled "Coastal Ocean Program Supplemental Notice of Funds Availability for the Northern Gulf of Mexico Program FY03" (RIN0648–ZB78) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3894. A communication from the Attorney, Rèsearch and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Requirements for Cargo Tanks; Response to Appeals" (RIN2137–AC90) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3895. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Railroad Locomotive Safety Standards: Clarifying Amendments; Headlights and Auxiliary Lights" (RIN2130–AB58) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3896. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Oversales Signs" (RIN2105–AC45) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3897. A communication from the Acting Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 3 Regulations): [CGD09–03–265], [CGD05–03–122], [13–03–029]" (RIN1625–AA00) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3898. A communication from the Acting Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [COTP Tampa 02–053] Tampa Bay, Port of Tampa, Port of Saint Petersburg, Port Manatee, Rattlesnake, Old Port Tampa, and Crystal River, Florida" (RIN1625–AA00) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3899. A communication from the Acting Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta and Marine Parade Regulation: Special Local Reg.: Hampton River, Hampton, VA" (RIN1625–AA00) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3900. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety Security Zone Regulations: (Including 72 Regulations)" (RIN1625–AA00) received on August 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3901. A communication from the Assistant Chief Counsel for Regulations, Office of the Chief Counsel, Transportation Security Administration, transmitting, pursuant to law, the report of a rule entitled "Transportation Security Administration Transition to Department of Homeland Security; Technical Amendments Reflecting Organizational Changes" received on August 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3902. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Governmental Affairs, received on September 2, 2003 ; to the Committee on Commerce, Science, and Transportation.

EC–3903. A communication from the Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Conformance with Federal Acquisition Circular (FAC) 201–14 and Miscellaneous" (RIN2700–AC72) received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3904. A communication from the Acting Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "NOAA Office of Ocean Exploration Announcement of Funding Opportunity, Fiscal Year 2004" received on September 2, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3905. A communication from the Assistant Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Numbering Resource Organization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability" (FCC03–126) received on August 11. 2003; to the Committee on Commerce, Science, and Transportation.

EC–3906. A communication from the Secretary of Transportation , transmitting, pursuant to law, a report relative to using law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators; to the Committee on Commerce, Science, and Transportation.

EC–3907. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Garmin International, Inc." (FCC03–26) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3908. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 1.937 of the Commission's Rules Concerning Repetitious or Conflicting Applications" (FCC03–79) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3909. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices" (FCC03–89) received on August 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–3910. A communication from the Acting General Counsel, Office of General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standardization of Generator Interconnection Agreements and Procedures" (Doc. No. RM02–1–000) received on August 11, 2003; to the Committee on Energy and Natural Resources.

EC–3911. A communication from the General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revised Public Utility Filing Requirements, Final Rule, Order No. 2001" (Doc. No. RM01–8–000) received on September 2, 2003; to the Committee on Energy and Natural Resources.

EC–3912. A communication from the General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standards for Business Practices of Interstate Natural Gas Pipelines" (Doc. No. RM96–1–020) received on September 2, 2003; to the Committee on Energy and Natural Resources.

EC–3913. A communication from the Director of Human Resources, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Deputy Administrator, Defense Nuclear Nonproliferation, received on September 2, 2003; to the Committee on Energy and Natural Resources.

EC–3914. A communication from the Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Congressional and Intergovernmental Affairs received on September 2, 2003; to the Committee on Energy and Natural Resources.

EC-3915. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania Regulatory Program" (PA-142-FOR) received on August 26, 2003; to the Committee on Energy and Natural Resources.

EC-3916. A communication from the General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Hydroelectric Licensing Under the Federal Power Act" (RM02-16-000) received on August 11, 2003; to the Committee on Energy and Natural Resources.

EC-3917. A communication from the Assistant Secretary for Fish and Wildlife, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Final Rule to Establish Thirteen Additional Manatee Protection Areas in Florida" (RIN1018-AJ06) received on August 11, 2003; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOND, from the Committee on Appropriations, without amendment:

S. 1584. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commission, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes (Rept. No. 108-143).

By Mr. GREGG, from the Committee on Appropriations, without amendment:

S. 1585. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes (Rept. No. 108-144).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004" (Rept. No. 108-145).

By Ms. COLLINS, from the Committee on Governmental Affairs, with amendments:

S. 1166. A bill to establish a Department of Defense national security personnel system and for other purposes.

S. 1245. A bill to provide for homeland security grant coordination and simplification, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 1584. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. GREGG:

S. 1585. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SCHUMER (for himself, Mr. BUNNING, Mrs. DOLE, Mr. DURBIN, Mr. GRAHAM of South Carolina, and Mr. BAYH):

S. 1586. A bill to authorize appropriate action if the negotiations with the People's Republic of China regarding China's undervalued currency and currency manipulations are not successful; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. HOLLINGS, and Mr. CARPER):

S. 1587. A bill to make it a criminal act to willfully use a weapon, explosive, chemical weapon, or nuclear or radioactive material with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. 1588. A bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MILLER (for himself, Ms. COLLINS, Mr. INOUYE, Mr. CHAMBLISS, Mr. LEVIN, Mr. DASCHLE, Mr. NELSON of Nebraska, and Mr. WARNER):

S. Con. Res. 64. A concurrent resolution to commend members of the United States Armed Forces for their services to the United States in the liberation of Iraq, and for other purposes; considered and agreed to.

By Mr. MILLER (for himself, Ms. COLLINS, Mr. INOUYE, Mr. CHAMBLISS, and Mr. WARNER):

S. Con. Res. 65. A concurrent resolution to commend the Third Infantry Division (Mechanized) of the United States Army for its role in the liberation of Iraq; considered and agreed to.

ADDITIONAL COSPONSORS

S. 392

At the request of Mr. REID, the names of the Senator from Texas (Mr. CORNYN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 423

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 423, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 514

At the request of Mr. BUNNING, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 514, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 586

At the request of Mr. CORZINE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 586, a bill to provide additional funding for the second round of empowerment zones and enterprise communities.

S. 623

At the request of Mr. WARNER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 818

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 894

At the request of Mr. WARNER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 976

At the request of Mr. WARNER, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1046

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1159

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr.

GRAHAM) was added as a cosponsor of S. 1159, a bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes.

S. 1177

At the request of Mrs. DOLE, her name was added as a cosponsor of S. 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

S. 1210

At the request of Mr. JEFFORDS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1210, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

S. 1245

At the request of Ms. COLLINS, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1303

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

S. 1465

At the request of Mr. FRIST, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1465, a bill to authorize the President to award a gold medal on behalf of Congress honoring Wilma G. Rudolph, in recognition of her enduring contributions to humanity and women's athletics in the United States and the world.

S. 1519

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1519, a bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for qualifying individuals through 2004.

S. 1570

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1570, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. RES. 210

At the request of Mr. HATCH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 210, a resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October of 2003 as "National Work and Family Month".

S. RES. 212

At the request of Mr. BROWNBACK, his name was withdrawn as a cosponsor of S. Res. 212, a resolution welcoming His Holiness the Fourteenth Dalai Lama and recognizing his commitment to non-violence, human rights, freedom, and democracy.

S. RES. 217

At the request of Mr. CONRAD, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. Res. 217, a resolution expressing the sense of the Senate regarding the goals of the United States in the Doha Round of the World Trade Organization agriculture negotiations.

AMENDMENT NO. 1571

At the request of Mr. DEWINE, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of amendment No. 1571 intended to be proposed to H.R. 2660, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1572

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 1572 proposed to H.R. 2660, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1575

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 1575 proposed to H.R. 2660, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1575

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 1575 proposed to H.R. 2660, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. HOLLINGS, and Mr. CARPER):

S. 1587. A bill to make it a criminal act to willfully use a weapon, explosive, chemical weapon, or nuclear or radioactive material with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce, along with my colleague Senator SPECTER, the "Reducing Crime and Terrorism at America's Seaports Act of 2003." About a year ago, the Independent Task Force on Homeland Security Imperatives, cochaired by former Senators Gary Hart and Warren Rudman and sponsored by the Council on Foreign Relations, released its report in which it concluded that "America remains dangerously unprepared to prevent and respond to a catastrophic attack on U.S. soil." The report received considerable media fanfare and inspired eloquent proclamations about the need to strengthen America's domestic security agenda—but sadly, in the ensuing months, we have done little to protect one of the key vulnerabilities identified by the task force, this nation's seaports.

The 361 seaports in the United States serve essential national interests by facilitating the flow of trade and the movement of cruise passengers, as well as supporting the effective and safe deployment of U.S. Armed Forces. Yet, our attention to the security needs of seaport facilities and other marine areas, which cover some 3.5 million square miles of ocean area and 95,000 miles of coastline, has been inadequate—especially when you consider the sheer volume of traffic that moves through our seaports and along our waterways each year.

Annually, U.S. seaports handle more than 141 million ferry and cruise ship passengers and unfathomable amounts of waterborne commerce, more than 2 billion tons of domestic and international freight and 3 billion tons of oil. Each year, millions of truck-size cargo containers are off-loaded onto U.S. docks—yet, as the Hart-Rudman Report noted, "only the tiniest percentage of [these] containers . . . are subject to examination—and a weapon of mass destruction could well be hidden among this cargo." Indeed, only about 2 percent of the nearly 6 million cargo containers that pass through the U.S. are inspected each year—and, according to some expert reports, only 30 percent of that cargo contains material that matches the cargo manifest.

The 2002 Hart-Rudman Report was both timely and important in that it shed new light on these glaring vulnerabilities and, in the process, reenergized the debate surrounding America's national security needs. However, the report's findings were hardly new. Two years earlier, the Interagency Commission on Crime and Security at U.S. Seaports, a blue-ribbon government panel, had similarly noted that seaports and the "maritime mode" were especially vulnerable and that they did "not exhibit a substantial security or anti-terrorism profile, particularly when compared with the emphasis commercial aviation places on these activities." The Interagency Commission concluded that "terrorism, serious crime and inadequate cargo control are the most obvious threat vectors in seaports today."

With that in mind, last Congress, Senator SPECTER and I introduced legislation designed to update Federal law to address critical security issues at U.S. seaports. We have re-tooled and re-focused that legislation, making important improvements and taking account of recent changes in the law. Today, we re-introduce the "Reducing Crime and Terrorism at America's Seaports Act of 2003," which addresses all three threats identified by the Interagency Commission—terrorism, serious crime and inadequate cargo control.

Here is a summary of some of the pressing vulnerabilities that the legislation would address directly: *First*, the Interagency Commission concluded that "control of access to the seaport or sensitive areas within the seaports" poses one of the greatest potential threats to port security. Such unauthorized access continues and exposes the nation's seaports, and the communities that surround them, to acts of terrorism, sabotage or theft. In response, the Biden-Specter Bill would double the maximum term of imprisonment for anyone who fraudulently gains access to a seaport or waterfront.

Second, an estimated '95 percent of the cargo shipped to the U.S. from foreign countries, other than Canada and Mexico, arrives through out seaports. Accordingly, the Interagency Commission found that this enormous flow of goods through U.S. ports provides a tempting target for terrorists and others to smuggle illicit cargo into the country, while also making "our ports potential targets for terrorist attacks." In addition, the smuggling of non-dangerous, but illicit, cargo may be used to finance terrorism. Despite the gravity of the threat, we continue to operate in an environment in which terrorists and criminals can evade detection by underreporting and misreporting the content of cargo. In one review by the U.S. Customs Service, nearly 20 percent of the carrier arrivals in the sample were discrepant, i.e., carried more or fewer containers than were listed on the manifest. In an earlier review, Customs found a 53 percent discrepant rate. Even where this improperly-reported cargo is legitimate, it needlessly diverts precious resources and attention away from the job of detecting terrorists and serious criminals. To deter this problem, the Biden-Specter Bill would increase penalties for noncompliance with certain manifest reporting and record-keeping requirements, including information regarding the content of cargo containers and the country from which the shipments originated.

Third, the Coast Guard is the main Federal agency responsible for law enforcement at sea. Yet, its ability to force a vessel to stop or be boarded is limited. While the Coast Guard has the authority to use whatever force is reasonably necessary, a vessel operator's refusal to stop is not currently a crime. The Biden-Specter Bill would make it a crime for a vessel operator to fail to slow or stop a ship once ordered to do so by a federal law enforcement officer; for any person on board a vessel to impede boarding or other law enforcement action authorized by Federal law; or for any person on board a vessel to provide false information to a federal law enforcement officer.

Fourth, The Coast Guard maintains over 50,000 navigational aids on more than 25,000 miles of waterways. These aids, which are relied upon by all commercial, military and recreational mariners, are critical for safe navigation by commercial and military vessels. Accordingly, they are inviting targets for terrorists. The Biden-Specter Bill would make it a crime to endanger the safe navigation of a ship by damaging any maritime navigational aid maintained by the Coast Guard; place in the waters anything which is likely to damage a vessel or its cargo, interfere with a vessel's safe navigation, or interfere with maritime commerce; or dump a hazardous substance into U.S. waters, with the intent to endanger human life or welfare.

Fifth, each year, thousands of ships, including cruise ships, whose numbers have swelled enormously over the last half century, enter and leave the U.S. through seaports, Smugglers and terrorists exploit this massive flow of maritime traffic to transport dangerous materials and dangerous people into this country. The Biden-Specter Bill would make it a crime to use a vessel to smuggle into the United States either a terrorist or any explosive or other dangerous material for use in committing a terrorist act.

Sixth, under current Federal law, it is a crime to destroy an aircraft or aircraft facilities. Incredibly, there are no equivalent Federal prohibitions in the maritime context. Given the magnitude of the threat against America's seaports, we should provide the same protection to seaports that we do for airports. The Biden-Specter Bill would make it a crime to damage or destroy any part of a ship, a maritime facility, or anything used to load or unload cargo and passengers; commit a violent assault on anyone at a maritime facility; or knowingly communicate a hoax in a way which endangers the safety of a vessel.

Seventh, according to the Interagency Commission, "at many seaports, the carrying of firearms is not restricted, and thus internal conspirators and other criminals are allowed armed access to cargo vessels and cruise line terminals." Currently, Federal law prohibits carrying firearms into airports, which is a sensible step to protect against possible terrorist attacks or other criminal activity. We should provide the same protections currently afforded to airports to our seaports and passenger vessels. The Biden-Specter Bill would prohibit the carrying of a dangerous weapon, including a firearm or explosive, at a seaport or on board a vessel.

Eighth, as a consequence of the vast amount of waterborne commerce, cargo theft has become a major problem. Yet, there is no national data collection and reporting system that captures the magnitude of serious crime at seaports. Given the importance of free-flowing commerce to our nation's economy and the reported trafficking and sale of contraband to fiance terrorist activity, it is especially important that we work to assess and correct the problem. The Biden-Specter Bill would require the reporting of cargo theft offenses. It would also instruct the Attorney General to create a database containing the reported information, which would be made available to appropriate governmental officials while respecting important privacy protections. Importantly, organizations like the American Institute of Marine Underwriters and the Inland Marine Underwriters Association have specifically expressed their strong support for this provision.

And, ninth, the Interagency Commission concluded that existing laws are not stiff enough to stop certain crimes, including cargo theft, at seaports. The Biden-Specter Bill would increase the maximum term of imprisonment for low-level thefts of interstate or foreign shipments from 1 year to 3 years and expand the statute to outlaw theft of goods from trailers, cargo containers, warehouses, and similar venues. The American Institute of Marine Underwriters and the Inland Marine Underwriters Association also have expressed strong support for this provision.

This comprehensive anti-crime and anti-terrorism legislation is the product of informal collaborations with ports, industry and labor groups, as well as interested federal agencies. As a result of the contributions by these groups, we believe that we have developed a strong, bipartisan bill that, once passed, will significantly improve federal criminal law; expand the array of tools available to investigators and prosecutors; and ensure that federal resources are appropriately invested.

We are delighted to have the support of organizations, like the American Association of Port Authorities (AAPA), with special knowledge and expertise in seaport and cargo security. In fact, the AAPA, which represents more than 150 public port authorities in the United States, Canada, the Caribbean and Latin America, has sent me a strong letter endorsing the legislation—a copy of which will appear in the record at the end of my statement.

In closing, in the aftermath of September 11th and given the ongoing and escalating terrorism perpetrated around the globe, surely we recognize that the conclusions contained in the Hart-Rudman Report were not mere hyperbole—but a clarion call for action. Needless to say, a terrorist attack against any one of this Nation's seaports would not only jeopardize human life, but could also bring the otherwise free flow of commerce to a screeching halt—exacting a heft toll on the U.S. economy, world shipping, and international trade. That impact could be both devastating and far-reaching, and that is not even considering the effect of America's military readiness which depends on quick access to certain strategic ports in order to ensure effective mobilization and deployment of U.S. Armed Forces.

Given the threat, we must undertake to do all that we reasonably can to discourage and/or frustrate such an attack. This legislation, while not a cure-all, is an important step in the right direction. I implore my colleagues to join our effort and move quickly to enact this bill into law. America will be better for it.

Mr. President, I ask unanimous consent that the text of the bill and the letter from AAPA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2003".

SEC. 2. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) any secure area of any seaport; or";

(2) in subsection (b)(1), by striking "5" and inserting "10";

(3) in subsection (c)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) the term 'seaport' means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States."; and

(4) in the section heading, by inserting "or seaport" after "airport".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

SEC. 3. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly assault, resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

"(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Customs Service, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(d) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(d) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(c)); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

"(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

SEC. 4. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ", passenger vessel," after "transportation vehicle";

(B) in paragraphs (2)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(C) in paragraph (3)—

(i) by inserting ", passenger vessel," after "transportation vehicle" each place that term appears; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(D) in paragraph (5)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider"; and

(E) in paragraph (6), by inserting "or owner of a passenger vessel" after "transportation provider" each place that term appears;

(2) in subsection (b)(1), by inserting ", passenger vessel," after "transportation vehicle"; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

"(6) the term "passenger vessel" has the meaning given that term in sections 2101(22) and 2102 of title 46, United States Code.".

SEC. 5. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking "(G)" and inserting "(H)";

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

"(F) destroys, damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;"; and

(2) in paragraph (2) by striking "(C) or (E)" and inserting "(C), (E), or (F)".

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

"§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

"(a) A person who knowingly places, or causes to be placed, in waters subject to the jurisdiction of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

"(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

"2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.".

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2282. Knowing discharge or release

"(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for a term of years or for life.

"(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

"(c) DEFINITIONS.—In this section:

"(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

"(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

"(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

"(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"2282. Knowing discharge or release.".

SEC. 6. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS OR TERROR SUSPECTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERROR SUSPECTS.—Chapter 111 of title 18, as amended by section 5 of this Act, is amended by adding at the end the following:

"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

"(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit a Federal crime of terrorism, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

"(b) DEFINITIONS.—In this section:

"(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

"(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 235(5).

"(5) FEDERAL CRIME OF TERRORISM.—The term 'Federal crime of terrorism' has the meaning given that term in section 2332b(g).

"(6) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

"(7) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

"(A) source material and special nuclear material, but does not include natural or depleted uranium;

"(B) nuclear by-product material;

"(C) material made radioactive by bombardment in an accelerator; or

"(D) all refined isotopes of radium.

"(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

"(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

"§ 2284. Transportation of terrorists or terror suspects.

"(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel any terrorist or terror suspect shall be fined under this title, imprisoned for any term of years or for life, or both.

"(b) DEFINED TERM.—In this section, the term 'terrorist or terror suspect' means any person who intends to commit, or is avoiding apprehension after having committed, a Federal crime of terrorism (as that term is defined under section 2332b(g)).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

"2284. Transportation of terrorists or terror suspects.".

SEC. 7. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

"CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES

"Sec.
"2290. Jurisdiction and scope.
"2291. Destruction of vessel or maritime facility.
"2292. Penalty when death results.
"2293. Imparting or conveying false information.
"2294. Bar to prosecution.

"§2290. Jurisdiction and scope

"(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

"(1) within the United States or within waters subject to the jurisdiction of the United States; or

"(2) outside United States and—

"(A) an offender or a victim is a citizen of the United States;

"(B) a citizen of the United States was on board a vessel to which this chapter applies; or

"(C) the activity involves a vessel of the United States.

"(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

"§ 2291. Destruction of vessel or maritime facility

"(a) OFFENSE.—Whoever willfully—

"(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

"(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

"(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

"(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

"(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

"(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7); shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

"(c) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

"§2292. Penalty when death results

"Whoever is convicted of any crime prohibited by this chapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

"§2293. Imparting or conveying false information

"(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or chapter 2, 97, or 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

"(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—

"(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

"(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

"§2294. Bar to prosecution

"(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

"(1) the conduct in question occurred within the United States in relation to a labor dispute; and

"(2) such conduct is prohibited under the law of the State in which it was committed.

"(b) DEFINITIONS.—In this section:

"(1) LABOR DISPUTE.—The term "labor dispute" has the same meaning as in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(2) STATE.—The term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

"111A. Destruction of, or interference with vessels or maritime facilities .... 2290".

SEC. 8. CARRYING A WEAPON OR EXPLOSIVE ON A VESSEL OR AT A SEAPORT.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking section 2277 and inserting the following:

"§2277. Carrying a weapon or explosive on a vessel or at a seaport.

"(a) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 10 years, or both, if the individual—

"(1) when on, or attempting to get on a vessel, or within the area of any seaport, knowingly possesses a dangerous weapon, explosive, incendiary device, or loaded firearm on or about the property of the individual; or

"(2) has knowingly placed, attempted to place, or attempted to have placed a dangerous weapon, explosive, incendiary device, or loaded firearm on that vessel, or at that seaport.

"(b) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b), shall be fined under title 18, imprisoned for not more than 15 years, or both, and if death results to any person, shall be imprisoned for a term of years or for life.

"(c) NONAPPLICATION.—

"(1) IN GENERAL.—Subsection (b) of this section shall not apply to—

"(A) the personnel of the Armed Forces of the United States, or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess any such weapon or explosive;

"(B) another individual the Under Secretary for Border and Transportation Security of the Department of Homeland Security by regulation authorizes to carry a dangerous weapon on board a vessel or at a seaport; or

"(C) any person employed on a vessel who—

"(i) possesses items otherwise prohibited under subsection (b) that are used in the course of performing duties within the scope of employment of that individual;

"(ii) has obtained the permission of the owner or master of the vessel to carry such items on the vessel; and

"(iii) has obtained the permission of the captain of the seaport to carry such items at the seaport.

"(2) LAWFUL SHIPMENT OF EXPLOSIVE OR INCENDIARY DEVICE.—Subsection (b)(3) shall not apply to any person who is engaged in the lawful shipment of any explosive or incendiary device.

"(d) CONSPIRACY.—If 2 or more persons conspire to violate subsection (b) or (c), and 1 or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in such subsection.

"(e) DEFINITIONS.—In this section:

"(1) DANGEROUS WEAPON.—The term 'dangerous weapon' has the meaning given that term in section 930(g)(2) of title 18;

"(2) EXPLOSIVE AND INCENDIARY DEVICE.—The terms 'explosive' and 'incendiary device' have the meanings given such terms in section 232(5) of title 18; and

"(3) LOADED FIREARM.—The term 'loaded firearm' means a starter gun or a weapon designed to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18 is amended by striking the matter relating to section 2277 and inserting the following:

"2277. Carrying a weapon or explosive on a vessel or at a seaport.".

SEC. 9. CARGO THEFT DATA COLLECTION.

(a) IN GENERAL.—The Attorney General shall issue regulations to—

(1) require the reporting of a cargo theft offense to the Attorney General by the carrier, facility, or cargo owner with custody of the cargo at the time of the offense, as soon as such carrier, facility, or cargo owner becomes aware of the offense, with such reports to contain information regarding the offense as specified in the regulations, including the port of entry, the port where the shipment originated, and where the theft occurred, to the extent such information is available to the reporting party;

(2) create a database to contain the reports made under paragraph (1) and integrate them, to the extent feasible, with other noncriminal justice and intelligence data, such as a bill of lading, cargo contents and value, point of origin, and lienholder filings; and

(3) prescribe procedures for access to the database created under paragraph (2) by appropriate Federal, State, and local governmental agencies, while protecting the privacy of the information in accordance with other applicable Federal laws.

(b) MODIFICATION OF DATABASES.—

(1) IN GENERAL.—United States Government agencies with significant regulatory or law enforcement responsibilities at United States ports shall, to the extent feasible, modify their information databases to ensure the collection and retrievability of data relating to crime and terrorism and related activities at or affecting United States ports.

(2) DESIGNATION OF COVERED AGENCIES.—The Attorney General, after consultation with the Secretary of the Treasury and the Secretary of Transportation, shall designate the agencies included within the requirement of paragraph (1).

(c) OUTREACH PROGRAM.—The Attorney General, in consultation with the Secretary of the Treasury, the Secretary of Transportation, the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, and appropriate Federal and State agencies, shall establish an outreach program to—

(1) work with State and local law enforcement officials to harmonize the reporting of data on cargo theft among the States, localities and with the United States Government's reports; and

(2) work with local port security committees to disseminate cargo theft information to appropriate law enforcement officials.

(d) VIOLATION OF REGULATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, and in addition to any penalties that may be available under any other provision of law, any person or entity who is found by the Attorney General, after notice and an opportunity for a hearing, to have violated the regulations promulgated pursuant to section 9(a)(1), shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation, except that the maximum penalty for any party's first violation shall not exceed $7,500.

(2) CONTINUING VIOLATIONS.—Each day of a continuing violation shall constitute a separate violation.

(3) NOTICE OF ASSESSMENT OF PENALTY.—The amount of such civil penalty shall be assessed by the Attorney General, or his designee, by written notice.

(4) Calculation of penalty.—In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(5) Modification of penalties.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(6) Enforcement of assessments.—If a person or entity fails to pay an assessment of a civil penalty after it has become final, the Attorney General may collect such assessments in any appropriate district court of the United States.

(e) Annual Report.—The Attorney General shall submit an annual report on the implementation of this section to the Committees on the Judiciary of the Senate and the House of Representatives.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Attorney General such sums as are necessary for each of the fiscal years 2003 through 2007 to carry out the requirements of this section, such sums to remain available until expended.

SEC. 10. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) Theft of Interstate or Foreign Shipments.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(2) in the fifth undesignated paragraph, by striking "one year" and inserting "3 years"; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.".

(b) Stolen Vessels.—

(1) In general.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(2) Transportation and sale of stolen vessels.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

(c) Review of Sentencing Guidelines.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) Annual Report of Law Enforcement Activities.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) Reporting of Cargo Theft.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

SEC. 11. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) Reporting, Entry, Clearance Requirements.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking "or aircraft pilot" and inserting ", aircraft pilot, operator, or owner of such vessel, vehicle, or aircraft,";

(2) striking "$5,000" and inserting "$10,000"; and

(3) striking "$10,000" and inserting "$25,000".

(b) Criminal Penalty.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking "$2,000" and inserting "$10,000".

(c) Falsity or Lack of Manifest.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking "$1,000" in each place it occurs and inserting "$10,000".

American Association
of Port Authorities,
Alexandria, VA, August 22, 2003.

Hon. Joseph R. Biden, Jr.,
Subcommittee on Crime and Drugs, Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Senator Biden: I am writing on behalf of the American Association of Port Authorities (AAPA) and its U.S. members. AAPA represents the leading public port authorities in the U.S., Canada and the rest of the Western Hemisphere.

Port security is the top priority of our members, and AAPA worked closely with Congressional leaders on the passage last year of the Maritime Transportation Security Act. As you know, one portion that was left out of the final bill was the section on criminal penalties. The "Reducing Crime and Terrorism at American's Seaports Act of 2003," that you plan to introduce soon, addresses the need to broaden the federal crime statute and stiffen the penalties for these crimes at seaports.

AAPA endorses this bill and encourages its strong consideration. It provides increased penalties for entry by false pretense to a port; failure to "heave to," use of a dangerous weapon or explosive on a passenger vessel, criminal sanctions for violence against maritime navigation, penalties for transporting dangerous materials and terrorists; makes destruction or interference with vessels or maritime facilities a crime, limits carrying a weapon or explosive on a port, mandates cargo theft data collection, expands the law regarding theft of interstate shipments, and increases penalties for noncompliance with manifest requirements.

We commend your leadership on this critical issue and look forward to working with your staff as this bill progresses to ensure the final law works well in the maritime environment and further enhances port and maritime security.

Sincerely,

Kurt Nagle.

By Ms. LANDRIEU:

S. 1588. A bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Environmental Health Research Act. Science has long since shown that the environment plays an important role in an individual's health. We have made the correlation between clean drinking water and a person's well being. We know that there is a link between childhood asthma and unclean air. Through scientific research we have been able to shed light on these findings, and as a society we are healthier from knowing how our environment affects our physical condition, as we are now able to take steps to ameliorate our environment so we can improve our health.

With all of the advancements we have made in recent decades, we must still research further, especially in the area of how the environment affects women's health. There is evidence that shows that environmental factors contribute to numerous diseases in women. For example, there are synthetic chemicals in numerous regularly used pesticides and natural compounds in many plant products in our regular diet that produce compounds that mimic the female hormone estrogen. Many scientists believe that these 'environmental estrogens" may block the natural hormone. If this is true, then environmental estrogens may play a role in diseases such as cancers of the breast, uterus, and ovaries, endometriosis, uterine fibroids, and osteoporosis. As we come into contact with environmental estrogens everyday through eating, drinking, and breathing, it is very important that we have research dedicated to discovering how they may affect women's health.

In addition, 12 million American kids suffer from developmental, learning, or behavioral disabilities. Attention deficit disorder affects three to six percent of our schoolchildren. Research shows that exposure to certain environmental factors during pregnancy may increase the risk of disabilities after birth. The research called for by this bill would help us to answer the many questions raised by the incidence of birth defects in certain environments.

One in three women will be diagnosed with cancer at some point in their lives. Uterine fibroids are present in between 20 and 30 percent of women over the age of 30. Endometriosis affects an estimated 10 to 15 percent of pre-menopausal women. Millions of women are affected every year with diseases that are more than likely linked to the environment. We must further our scientific knowledge in this area. For this reason I ask for your support for the Environmental Health Research Act. Thank you.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Health Research Act of 2003".

SEC. 2. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES; AWARDS FOR DEVELOPMENT AND OPERATION OF MULTIDISCIPLINARY RESEARCH CENTERS REGARDING WOMEN'S HEALTH AND DISEASE PREVENTION.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l et seq.) is amended by adding at the end the following section:

"MULTIDISCIPLINARY RESEARCH CENTERS REGARDING WOMEN'S HEALTH AND DISEASE PREVENTION

"SEC. 463B. (a) IN GENERAL.—The Director of the Institute shall make grants to public or nonprofit private entities for the development and operation of not more than 6 centers whose purpose is conducting multidisciplinary research on environmental factors that may be related to the development of women's health conditions (as defined in section 486). The Director of the Institute shall carry out this section in consultation with the Director of the Office of Research on Women's Health and with the advisory council for the Institute.

"(b) RESEARCH, TRAINING, AND INFORMATION AND EDUCATION.—

"(1) IN GENERAL.—Each center under subsection (a) shall, with respect to the purpose described in such subsection—

"(A) conduct basic and clinical research;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals and the public.

"(2) PRIORITY FOR PREVENTION ACTIVITIES.—In carrying out the activities described in paragraph (1), each center under subsection (a) shall give priority to activities that are directed toward preventing the development in women of the diseases and conditions involved.

"(3) STIPENDS FOR TRAINING OF HEALTH PROFESSIONALS.—A center under subsection (a) may use funds under such subsection to provide stipends for health and allied health professionals enrolled in programs described in paragraph (1)(C).

"(c) COLLABORATION WITH COMMUNITY.—Each center under subsection (a) shall establish and maintain ongoing collaborations with community organizations in the geographic area served by the center, including those that represent women with disorders that appear to stem from environmental factors.

"(d) COORDINATION OF CENTERS; REPORTS.—The Director of the Institute shall, as appropriate, provide for the coordination of information among centers under subsection (a) and ensure regular communication between such centers.

"(e) STRUCTURE OF CENTER.—Each center assisted under subsection (a) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

"(f) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for 1 or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director of the Institute and if such group has recommended to the Director that such period should be extended.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2004 through 2007.".

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT TO PROVIDE FOR RESEARCH ON HORMONE DISRUPTION.

(a) FINDINGS.—The Congress finds as follows:

(1) Many compounds found or introduced into the environment by human activity are capable of disrupting the hormone system of humans and animals. The consequences of such disruption can be profound because of the crucial role hormones play in controlling development. No standardized and validated screens or tests have been developed to routinely and systematically assess chemicals for disruptive effects on hormone systems.

(2) In the last 30 years, the United States has experienced an increase in the incidence of such human disorders as childhood cancers, testicular cancer, hypospadias, juvenile diabetes, attention deficit-like hyperactivity disorders, autism, thyroid disorders, and auto-immune disorders. Exposure to hormone-disrupting chemicals may be contributing to these increases. The impact on children's health as a result of prenatal exposures in particular needs further research.

(3) In 2001, the Centers for Disease Control and Prevention's "National Report on Human Exposure to Environmental Chemicals" reported on human exposure to 27 chemicals, and found unexpectedly high levels of certain chemicals used in consumer products. The hazards to humans of these chemicals, singly and in combination, are not well understood.

(4) Many wildlife populations have been affected by hormone-disrupting substances, including birds, fish, reptiles, and mammals. The effects vary among species and compounds.

(5) The effects in wildlife include thyroid dysfunction, decreased fertility, decreased hatching success, gross birth deformities, metabolic and behavioral abnormalities, demasculinization and feminization of male organisms, deformation and masculinization of female organisms, and compromised immune systems. These effects may signal hazards to human health.

(6) Laboratory studies have corroborated studies of effects in wildlife and have identified biological mechanisms to explain the effects shown.

(7) Since the chemicals found in wildlife are also found in humans, humans are exposed to the same chemicals as wildlife.

(8) Hormone disruption can occur at very low doses, especially when exposure occurs in the womb or immediately after birth, periods during which rapid development is occurring.

(9) In the Food Quality Protection Act of 1996 (21 U.S.C. 301 note), Congress recognized the special vulnerability of infants and children to pesticides and requested that the Environmental Protection Agency establish a program to screen and test hormone-disrupting chemicals. The Environmental Protection Agency has not yet required such screening or tests.

(10) In 1998, a research committee on hormone disrupters, organized under the auspices of the Office of Science and Technology Policy, concluded that "scientific knowledge is inadequate to fully inform public policy, and a government-wide coordinated research effort that addresses the key scientific uncertainties . . . is needed".

(11) In 1999, in response to a request from Congress and funded through the Environmental Protection Agency and the Department of the Interior, the National Academy of Sciences compiled a lengthy list of research, monitoring, and testing priorities related to hormone disruption.

(12) The National Institute of Environmental Health Sciences conducts much of the Federal Government's research on hormone disruption, often working in partnership with other agencies.

(13) While recognizing the many contributions of animal testing to understanding toxic hazards, the Congress also recognizes the desirability of speeding the use of validated nonanimal screens and tests (to reduce animal suffering and to reduce costs) and expediting judgments about hazards from toxic chemicals.

(14) The United States Geological Survey (referred to in this section as the "USGS") has considerable experience assessing the occurrence of chemicals in the environment, ecological health, and the hazards to wildlife health and associated human health posed by chemicals in the environment, as a result of monitoring by the USGS of the Nation's water resources and wildlife disease, and research by the USGS on the effects of chemicals on wildlife.

(15) The National Academy of Sciences has recognized the expertise of the USGS in such areas as food web contamination and water quality assessment and has encouraged more coordinated work on human health between the USGS and the National Institutes of Health.

(b) AMENDMENT.—Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l et seq.), as amended by section 2, is further amended by adding at the end the following:

"DIRECTED NATIONAL PROGRAM OF RESEARCH ON HORMONE DISRUPTION

"SEC. 463C. (a) RESEARCH.—

"(1) IN GENERAL.—The Director of the Institute shall establish within the Institute a comprehensive program to—

"(A) conduct research on the impact of chemicals that affect human health through disruption of the hormone systems;

"(B) conduct research on the occurrence of hormone-disrupting chemicals in the environment and their effects on ecological and wildlife health, in cooperation with the United States Geological Survey (referred to in this section as the 'USGS');

"(C) coordinate the design of a multiagency research initiative on hormone disruption;

"(D) coordinate research on hormone disruption in the United States with such research conducted in other nations; and

"(E) report to the public every 2 years on the extent to which hormone disruption by chemicals in the environment poses a threat to human health and the environment.

"(2) ISSUES.—The program established under paragraph (1) shall provide for the following:

"(A) Collection, compilation, publication, and dissemination of scientifically valid information on—

"(i) possible human health effects of hormone-disrupting chemicals, with emphasis on exposures to low doses of individual chemicals and chemical mixtures during critical life stages of development, particularly effects of prenatal exposures on children's health;

"(ii) the extent of human exposure to hormone-disrupting chemicals, with particular emphasis on exposures during critical life stages of development and in residential and occupational settings; and

"(iii) exposure of wildlife species to hormone-disrupting chemicals and possible health effects associated with such exposures.

"(B) Research on mechanisms by which hormone-disrupting substances interact with biological systems.

"(C) Research on improved in vitro and in vivo methods to screen and test hormone disruption.

"(D) Research on the identity, levels, transport, and fate of hormone-disrupting chemicals in the environment.

"(b) DIRECTOR'S DUTIES.—

"(1) IN GENERAL.—The Director of the Institute shall have principal responsibility, in consultation with the Director of the USGS, for conducting and coordinating research on the effects of hormone-disrupting chemicals on human health and the environment.

"(2) AGREEMENT.—Not later than 6 months after the date of enactment of the Environmental Health Research Act of 2003, the Director of the Institute and the Director of the USGS shall enter into an agreement to carry out the research program established under subsection (a).

"(3) TRANSFER OF FUNDS.—The Director of the Institute may transfer funds to other Federal agencies to carry out the Director's responsibilities under paragraph (1).

"(4) REPORT.—The Director of the Institute, in consultation with the Director of the USGS, shall make available to the public, every 2 years following the date of enactment of the Environmental Health Research Act of 2003, findings and conclusions on the extent to which hormone disruption by chemicals in the environment poses a threat to human health and the environment.

"(c) INTERAGENCY COMMISSION.—

"(1) ESTABLISHMENT.—The Secretary shall establish a commission to be known as the Hormone Disruption Research Interagency Commission (referred to in this section as the 'Interagency Commission') to advise the Director of the Institute and the Director of the USGS on the development of a comprehensive agenda for conducting research on hormone disruption.

"(2) MEMBERSHIP.—The Interagency Commission shall be composed of 12 members, as follows:

"(A) The Director of the Institute, who shall serve as the Chairperson.

"(B) The Director of the USGS, who shall serve as the Vice Chairperson.

"(C) The Commissioner of the Food and Drug Administration.

"(D) The Director of the Centers for Disease Control and Prevention.

"(E) The Administrator of the National Oceanic and Atmospheric Administration.

"(F) The Director of the National Institute for Occupational Safety and Health.

"(G) The Administrator of the Agency for Toxic Substances and Disease Registry.

"(H) The Director of the Fish and Wildlife Service.

"(I) The Secretary of Defense.

"(J) The Administrator of the Environmental Protection Agency.

"(K) The Chairman of the Consumer Product Safety Commission.

"(L) The Director of the National Science Foundation.

"(3) STAFF.—Each department or agency represented by a member on the Interagency Commission shall provide appropriate staff to carry out the duties of the Interagency Commission.

"(4) RECOMMENDATIONS.—Not later than 12 months after the date of enactment of the Environmental Health Research Act of 2003, the Interagency Commission shall recommend to the Director of the Institute and the Director of the USGS a research program, including levels of funding for intramural and extramural research.

"(5) PUBLIC COMMENT.—The Director of the Institute, through publication of notice in the Federal Register, shall provide the general public with an opportunity to comment on the recommendations of the Interagency Commission.

"(6) REPORT.—Not later than 4 years after the date of enactment of the Environmental Health Research Act of 2003, the Interagency Commission shall conduct a review of the program established under subsection (a) and submit a report on the results of such review to the Director of the Institute and to the Hormone Disruption Research Panel established under subsection (e).

"(7) TERMINATION.—The Interagency Commission shall terminate not later than the end of the 5-year fiscal period described in subsection (h)(1).

"(d) FINANCIAL ASSISTANCE.—The Director of the Institute may provide financial assistance and enter into grants, contracts, and interagency memoranda of understanding to conduct activities under this section. Research conducted pursuant to interagency memoranda of understanding may be conducted through intramural and extramural agency research programs, subject to appropriate scientific peer review.

"(e) HORMONE DISRUPTION RESEARCH PANEL.—

"(1) ESTABLISHMENT.—There is established in the Institute a Hormone Disruption Research Panel (referred to in this subsection as the 'Panel').

"(2) DUTIES.—The Panel shall advise the Director of the Institute concerning the scientific content of the program established under subsection (a), the progress of such program, and public outreach, and shall provide such other advice as requested by the Director of the Institute.

"(3) MEMBERSHIP.—The Panel shall be composed of the following:

"(A) 15 voting members to be appointed by the President, in consultation with the Director of the Institute.

"(B) Such nonvoting, ex officio members as the Director of the Institute determines to be appropriate.

"(4) VOTING MEMBERS.—Of the 15 voting members of the Panel—

"(A) at least 2 members shall be from environmental protection organizations;

"(B) at least 2 members shall be from public health and consumer organizations;

"(C) at least 2 members shall be from industry;

"(D) at least 1 member shall be from an animal welfare organization; and

"(E) a majority of the members shall be selected from among scientists and environmental health professionals who—

"(i) are not officers or employees of the United States;

"(ii) represent multiple disciplines, including clinical, basic, public, and ecological health sciences;

"(iii) represent different geographical regions of the United States;

"(iv) are from practice settings, academic settings, and for-profit or not-for-profit research settings; and

"(v) have experience in review of research on endocrine disruption.

"(5) TERMS.—The members of the Panel shall be appointed for an initial term of 3 years and shall be eligible for reappointment for 1 additional term of 2 years.

"(6) CHAIRPERSON.—The members of the Panel appointed under paragraph (3) shall elect a chairperson from among such members.

"(7) MEETINGS.—The Panel shall meet at the call of the chairperson or upon the request of the Director of the Institute, but in no case less often than once each year.

"(8) ADMINISTRATIVE SUPPORT.—The Institute shall provide administrative support to the Panel.

"(9) TERMINATION.—The Panel shall terminate not later than the end of the 5-year fiscal period described in subsection (h)(1).

"(f) CONFLICTS OF INTEREST.—All grants and contracts entered into under this section shall include conflict-of-interest provisions that require any person conducting a project under this section to disclose any other source of funding received by the person to conduct other related projects.

"(g) DEFINITIONS.—For purposes of this section:

"(1) HORMONE.—The term 'hormone' means a substance produced in a cell or tissue that triggers a biological response. Hormone activity may be localized to the cell in which the substance is produced, or may be in nearby or distant tissues or organs.

"(2) HORMONE DISRUPTION.—The term 'hormone disruption' means interference by a substance with the synthesis, secretion, transport, binding, action, or elimination of natural hormones in the body that are responsible for the maintenance of homeostasis, reproduction, development, function, or behavior.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for the 5-fiscal-year period beginning with fiscal year 2004 to carry out this section. Amounts appropriated pursuant to this paragraph shall remain available until expended.

"(2) RESTRICTIONS ON USE OF FUNDS.—

"(A) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Not more than 0.5 percent of the funds made available under this section may be used for the construction or rehabilitation of facilities or fixed equipment.

"(B) ADMINISTRATIVE EXPENSES OF THE DIRECTOR.—Of the total amount of funds made available under this section for any fiscal year, not more than 2 percent of such funds may be used for administrative expenses of the Director of the Institute in carrying out this section.

"(C) PUBLIC OUTREACH.—Of the total amount of funds made available under this section for any fiscal year, at least 1 percent, but not more than 5 percent, shall be used for outreach to the public concerning the activities and results of the program.”.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 64—TO COMMEND MEMBERS OF THE UNITED STATES ARMED FORCES FOR THEIR SERVICES TO THE UNITED STATES IN THE LIBERATION OF IRAQ, AND FOR OTHER PURPOSES

Mr. MILLER (for himself, Ms. Collins, Mr. Inouye, Mr. Chambliss, Mr. Levin, Mr. Daschle, Mr. Nelson of Nebraska, and Mr. Warner) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 64

Whereas the valiant and dedicated members of the United States Armed Forces performed in an exceptionally professional manner, befitting of an all-volunteer military force, during Operation Iraqi Freedom;

Whereas the National Guard and the other reserve components of the United States Armed Forces demonstrated their readiness and ability to respond and deploy quickly and were an integral part of Operation Iraqi Freedom;

Whereas the families of the more than 200,000 members of the United States Armed Forces who were called into action in Operation Iraqi Freedom provided exceptional and unwavering support for the United States servicemembers who were deployed to the Middle East; and

Whereas the people of the United States grieve and pray for all those who made the ultimate sacrifice and for those who were injured in the line of duty while serving in Operation Iraqi Freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the members of the United States Armed Forces for their role in Operation Iraqi Freedom, and for serving in that Operation with such distinctive bravery and professionalism;

(2) calls on the people of the United States to pay honor and homage to all those who fell in the line of duty in Operation Iraqi Freedom;

(3) commends the families of members of the United States Armed Forces for their special role and sacrifices in providing support for United States servicemembers who were deployed to the Middle East for Operation Iraqi Freedom; and

(4) expresses deep condolences to the families of the brave men and women who lost their lives during the conflict in Iraq.

SENATE CONCURRENT RESOLUTION 65—TO COMMEND THE THIRD INFANTRY DIVISION (MECHANIZED) OF THE UNITED STATES ARMY FOR ITS ROLE IN THE LIBERATION OF IRAQ

Mr. MILLER (for himself, Ms. Collins, Mr. Inouye, Mr. Chambliss, and Mr. Warner) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 65

Whereas the Third Infantry Division of the United States Army was organized in 1917 for participation in World War I, and its fierce defense of positions along the Marne River in France in July 1918 blocked an enemy onslaught on approaches to Paris and earned the Division the motto “Rock of the Marne”;

Whereas the soldiers of the Third Infantry Division, now mechanized, stand ready to answer the call to defeat aggression with rock solid determination;

Whereas more than 16,000 men and women from the First and Second Brigades of the Third Infantry Division (Mechanized), stationed at Fort Stewart, Georgia, and the Third Brigade of the Division, stationed at Fort Benning, Georgia, were deployed in support of Operation Iraqi Freedom;

Whereas the families of the soldiers of the Third Infantry Division (Mechanized) deployed in support of Operation Iraqi Freedom provided exceptional and unwavering support for their soldiers during the deployment; and

Whereas Congress and the people of the United States have the greatest pride in the men and women of the Third Infantry Division (Mechanized), and strongly support those men and women as they carry out their duties: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the men and women of the Third Infantry Division (Mechanized) of the United States Army who participated in Operation Iraqi Freedom and the follow-on military operations in Iraq, for their professional excellence, dedicated patriotism, and exemplary bravery;

(2) commends the soldiers of the Third Infantry Division (Mechanized) for their role in the fall of Baghdad;

(3) expresses gratitude to the families of the soldiers of the Third Infantry Division (Mechanized) for bearing the burden of sacrifice and separation from loved ones during the operations in Iraq; and

(4) expresses deep condolences to the families of the brave soldiers of the Third Infantry Division (Mechanized) who lost their lives while fighting to liberate Iraq.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1580. Mr. HARKIN (for himself, Mr. Kennedy, Mr. Daschle, Ms. Mikulski, Mrs. Clinton, Mr. Edwards, Mrs. Murray, Mr. Corzine, Mr. Byrd, Mr. Schumer, Mr. Lautenberg, Mr. Kerry, Mr. Lieberman, Mr. Feingold, Mr. Sarbanes, Mr. Dodd, Ms. Stabenow, Mr. Reid, Mr. Leahy, Mr. Durbin, Mr. Akaka, Mr. Dayton, Mr. Pryor, Mr. Reed, Mr. Nelson of Florida, and Mr. Johnson) proposed an amendment to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1581. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1582. Mr. REID submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1583. Mr. FRIST (for Mr. Hatch) proposed an amendment to the resolution S. Res. 210, expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October of 2003 as “National Work and Family Month”.

SA 1584. Mr. FRIST (for Mr. Hatch) proposed an amendment to the resolution S. Res. 210, supra.

SA 1585. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1586. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1587. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, supra; which was ordered to lie on the table.

SA 1588. Mr. BINGAMAN (for himself, Mr. Lautenberg, Ms. Cantwell, Mr. Baucus, Ms. Stabenow, Mr. Levin, Mr. Durbin, and Mr. Pryor) submitted an amendment intended to be proposed by him to the bill H.R. 2660, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1580. Mr. HARKIN (for himself, Mr. Kennedy, Mr. Daschle, Ms. Mikulski, Mrs. Clinton, Mr. Edwards, Mrs. Murray, Mr. Corzine, Mr. Byrd, Mr. Schumer, Mr. Lautenberg, Mr. Kerry, Mr. Lieberman, Mr. Feingold, Mr. Sarbanes, Mr. Dodd, Ms. Stabenow, Mr. Reid, Mr. Leahy, Mr. Durbin, Mr. Akaka, Mr. Dayton, Mr. Pryor, Mr. Reed, Mr. Nelson of Florida, and Mr. Johnson) proposed an amendment to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other pruposes; as follows:

On page 23, between lines 15 and 16, insert the following:

Sec.   . None of the funds provided under this Act shall be used to promulgate or implement any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) any employee who is not otherwise exempted pursuant to regulations under section 13 of such Act (29 U.S.C. 213) that were in effect as of September 3, 2003.

SA 1581. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. Specter to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other pruposes; which was ordered to lie on the table; as follows:

On page 62, line 6, insert “annually” after “obtain”.

SA 1582. Mr. REID submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other pruposes; which was ordered to lie on the table; as follows:

On page 30, line 7, insert before the period the following: ": *Provided further*, That in addition to amounts otherwise made available under this Act to the Centers for Disease Control and Prevention for activities under the comprehensive cancer control program, there shall be made available an additional $8,000,000 to expand comprehensive cancer control activities, including activities relating to cancer survivorship in partnership with national cancer survivorship organizations".

SA 1583. Mr. FRIST (for Mr. HATCH) proposed amendment to the resolution S. Res. 210, expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October of 2003 as "National Work and Family Month"; as follows:

Strike all after the resolving clause and insert the following:

That—

(1) it is the sense of the Senate that—

(A) reducing the conflict between work and family life should be a national priority; and

(B) the month of October of 2003 should be designated as "National Work and Family Month"; and

(2) the Senate requests that the President issue a proclamation calling upon the people of the United States to observe "National Work and Family Month" with appropriate ceremonies and activities.

SA 1584. Mr. FRIST (for Mr. HATCH) proposed an amendment to the resolution S. Res. 210, expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national workers productivity, and that the President should issue a proclamation designating October of 2003 as "National Work and Family Month"; as follows:

Amend the title so as to read: "Expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national workers productivity, and that the President should issue a proclamation designating October of 2003 as "National Work and Family Month".".

SA 1585. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. . (a) The total amount appropriated, out of any money in the Treasury not otherwise appropriated for fiscal year 2004, to carry out the 21st Century Community Learning Centers Program under part B of title IV of the Elementary and Secondary Education Act of 1965, shall be $1,100,000,000.

(b) Each amount appropriated under this Act (other than amounts appropriated for the Department of Education) that is not required to be appropriated by a provision of law is reduced by the uniform percentage necessary to reduce the total amounts appropriated under this Act (other than amounts appropriated for the Department of Education) by $100,000,000.

SA 1586. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

In title II, after section 218, insert the following:

SEC. 219. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Centers for Medicare & Medicaid Services proposed rule entitled "Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System For FY 2004; Proposed Rule", 68 Fed. Reg. 26786 (May 16, 2003), or any other proposed rule regarding the inpatient rehabilitation facility prospective payment system for fiscal year 2004, unless the Secretary of Health and Human Services—

(1) modifies the proposed rule to provide that during such period as the Secretary may determine, not to exceed 1 year, the requirement that 75 percent of the facility's cases shall be in 10 diagnoses (commonly referred to as the "75 percent rule") shall be lowered to 50 percent;

(2) during such period, consults with an expert panel of clinicians to reach a consensus on the diagnoses to be included in the 75 percent rule, as well as the appropriate clinical criteria for patients within the respective diagnoses, and whether joint replacements should be included or added to the diagnoses subject to the 75 percent rule; and

(3) considers basing inpatient rehabilitation facility payments on patient-specific criteria that are linked to high-quality outcomes.

SA 1587. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, line 16, strike "$34,227,000" and insert "$54,227,000, of which $20,000,000 shall be derived from prior-year funds available for fiscal year 2004 expenses".

SA 1588. Mr. BINGAMAN (for himself, Mr. LAUTENBERG, Ms. CANTWELL, Mr. BAUCUS, Ms. STABENOW, Mr. LEVIN, Mr. DURBIN, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 1542 proposed by Mr. SPECTER to the bill H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, line 25, strike "$2,000,000,000." and insert "$3,000,000,000: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $3,000,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,895,199,000: *Provided further*, That the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,783,301,000.".

AUTHORITY FOR COMMITTEES TO MEET

JOINT ECONOMIC COMMITTEE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Friday, September 5, 2003, from 9:30 am to 1 pm.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING MEMBERS OF THE UNITED STATES ARMED FORCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 64, submitted earlier today by Senators MILLER, COLLINS, INOUYE, CHAMBLISS, LEVIN, DASCHLE, NELSON of Nebraska, and WARNER.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 64) to commend members of the United States Armed Forces for their services to the United States for the liberation of Iraq, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 64) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 64

Whereas the valiant and dedicated members of the United States Armed Forces performed in an exceptionally professional manner, befitting of an all-volunteer military force, during Operation Iraqi Freedom;

Whereas the National Guard and the other reserve components of the United States

Armed Forces demonstrated their readiness and ability to respond and deploy quickly and were an integral part of Operation Iraqi Freedom;

Whereas the families of the more than 200,000 members of the United States Armed Forces who were called into action in Operation Iraqi Freedom provided exceptional and unwavering support for the United States servicemembers who were deployed to the Middle East; and

Whereas the people of the United States grieve and pray for all those who made the ultimate sacrifice and for those who were injured in the line of duty while serving in Operation Iraqi Freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the members of the United States Armed Forces for their role in Operation Iraqi Freedom, and for serving in that Operation with such distinctive bravery and professionalism;

(2) calls on the people of the United States to pay honor and homage to all those who fell in the line of duty in Operation Iraqi Freedom;

(3) commends the families of members of the United States Armed Forces for their special role and sacrifices in providing support for United States servicemembers who were deployed to the Middle East for Operation Iraqi Freedom; and

(4) expresses deep condolences to the families of the brave men and women who lost their lives during the conflict in Iraq.

COMMENDING THE THIRD INFANTRY DIVISION (MECHANIZED) OF THE UNITED STATES ARMY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 65, submitted earlier today by Senators MILLER, COLLINS, INOUYE, CHAMBLISS, and WARNER.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 65) to commend the Third Infantry Division (Mechanized) of the United States Army for its role in the liberation of Iraq.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 65) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 65

Whereas the Third Infantry Division of the United States Army was organized in 1917 for participation in World War I, and its fierce defense of positions along the Marne River in France in July 1918 blocked an enemy onslaught on approaches to Paris and earned the Division the motto "Rock of the Marne";

Whereas the soldiers of the Third Infantry Division, now mechanized, stand ready to answer the call to defeat aggression with rock solid determination;

Whereas more than 16,000 men and women from the First and Second Brigades of the Third Infantry Division (Mechanized), stationed at Fort Stewart, Georgia, and the Third Brigade of the Division, stationed at Fort Benning, Georgia, were deployed in support of Operation Iraqi Freedom;

Whereas the families of the soldiers of the Third Infantry Division (Mechanized) deployed in support of Operation Iraqi Freedom provided exceptional and unwavering support for their soldiers during the deployment; and

Whereas Congress and the people of the United States have the greatest pride in the men and women of the Third Infantry Division (Mechanized), and strongly support those men and women as they carry out their duties: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the men and women of the Third Infantry Division (Mechanized) of the United States Army who participated in Operation Iraqi Freedom and the follow-on military operations in Iraq, for their professional excellence, dedicated patriotism, and exemplary bravery;

(2) commends the soldiers of the Third Infantry Division (Mechanized) for their role in the fall of Baghdad;

(3) expresses gratitude to the families of the soldiers of the Third Infantry Division (Mechanized) for bearing the burden of sacrifice and separation from loved ones during the operations in Iraq; and

(4) expresses deep condolences to the families of the brave soldiers of the Third Infantry Division (Mechanized) who lost their lives while fighting to liberate Iraq.

NATIONAL WORK AND FAMILY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 210 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 210) expressing the sense of the Senate that supporting a balance between work and personal life is in the best interests of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the amendment to the resolution be agreed to and the resolution, as amended, be agreed to, the preamble be agreed to, and the amendment to the title be agreed to; further, that the motion to reconsider be laid on the table and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1583) was agreed to, as follows:

(Purpose: To provide a complete substitute, and for other purposes)

Strike all after the resolving clause and insert the following:

That—

(1) it is the sense of the Senate that—

(A) reducing the conflict between work and family life should be a national priority; and

(B) the month of October of 2003 should be designated as "National Work and Family Month"; and

(2) the Senate requests that the President issue a proclamation calling upon the people of the United States to observe "National Work and Family Month" with appropriate ceremonies and activities.

The amendment to the title (No. 1584) was agreed to, as follows:

Amend the title so as to read: "Expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October of 2003 as "National Work and Family Month".".

The resolution (S. Res. 210), as amended was agreed to.

The preamble was agreed to.

The resolution, with it preamble, reads as follows:

(The resolution, S. Res. 210, as amended, will be printed in a future edition of the RECORD.)

ORDERS FOR MONDAY, SEPTEMBER 8, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, September 8. I further ask unanimous consent, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill.

The Presiding Officer. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, on Monday the Senate will resume consideration of H.R. 2660, the Labor-HHS-Education appropriations bill. The chairman and ranking member will be here Monday to continue working through amendments, and it is my hope that additional amendments will be offered and debated during Monday's session.

Any votes ordered with respect to amendments to the Labor-HHS-Education appropriations bill will be stacked to occur late Monday afternoon. If we are unable to reach an agreement for votes on the pending appropriations bill, we may schedule a vote or votes on nominations that are available from the Executive Calendar. We will notify Members during Monday's session as votes are scheduled.

It is still our hope to complete the Labor-HHS-Education appropriations bill early next week, and we will continue our discussions on Monday as how best to make that happen.

As we enter the final weeks of this fiscal year, I do ask for all Senators' assistance as we try to schedule these appropriations bills and amendments.

ADJOURNMENT UNTIL 1 P.M. MONDAY, SEPTEMBER 8, 2003

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:39 p.m., adjourned until Monday, September 8, 2003, at 1 p.m.

EXTENSIONS OF REMARKS

TRIBUTE TO VI AND OZZIE SIS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this nation today to pay tribute to Vi and Ozzie Sis of Fruita, Colorado. This remarkable couple is being recognized by the City of Fruita for the hard work and dedication they have given to the community. As Vi and Ozzie receive this recognition, I am honored to speak of their contributions and accomplishments here today.

Arriving in Fruita in 1985, these fine Coloradans quickly realized that they wanted to be involved in community activities. With a lot of hard work, the couple quickly became two of the area's best community servants. They helped bring a new Dinosaur Museum to Fruita, helped to establish a new civic center, and were instrumental in the creation of the Highway 340 corridor. In addition to these contributions, Vi spent over a decade on the Fruita City Council, serving several years as the Mayor Pro Tem.

As Ozzie and Vi prepare for their move to Colorado Springs, they have begun to think about volunteering in their new town. Their friends claim that if something needs to be done, they will be more than happy to do it.

Mr. Speaker, I join with my colleagues here today in applauding Vi and Ozzie's civic-mindedness and in recognizing their hard work on behalf of our community. This recognition to the couple for the work they do in their community is long overdue, and I am proud to bring their achievements to the attention of this body of Congress today. Congratulations and thanks again, Vi and Ozzie, for your many years of hard work on behalf of Fruita and the State of Colorado.

* * *

RECOGNIZING HAMMOND PUBLIC LIBRARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of the Hammond Public Library throughout its 100 years of service to the Northwest Indiana community. As the citizens of Hammond and all of Northwest Indiana celebrate the centennial of the Hammond Library, we are reminded of the dedication and valiant efforts that have been made to incorporate education and community leadership to the region.

It was in 1903 that the first library board of Hammond was appointed. This board included Dr. W.F. Howat as the first president, Mr. J.G. Ibach as the vice president, as well as many other distinguished appointed members. In 1904, the first library was moved into its own room in the Chicago Telephone Building. Mr. Andrew Carnegie, who at the time was contributing to the funding of public libraries across the nation, donated $27,000 to construct a new building for the library. On July 8, 1905, the library dubbed "Old Main," was dedicated as the first fully constructed library building in the area and it served the community well for 62 years.

In 1910, the first branch office was established in a room above a fire station, and it was known as Branch No. 1. Three more branches were established in the next 12 years and the library deposited many collections of books in local department stores, the State Bank of Hammond, and also in private homes. Throughout the years, additional branches were opened to provide books and a community gathering space for the citizens of Hammond. The Hansen Branch was named after the first librarian of the Hammond Public Library, Ms. Marie Hansen. The branches continued to be named after influential leaders that helped make the dream of the library a reality.

After a time of change in the community and lack of resources, some branches were forced to close. But because of the city's strong encouragement and need for the library, they renovated the main library, as well as other branches. No matter what challenges face the community, the Hammond Public Library continues to provide many important resources for the community including books, classes, summer reading programs for children, and many community outreach programs.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Hammond Public Library as well as its staff and community leaders on their 100th anniversary. Their many great accomplishments and service to the Hammond community will forever be cherished and commended.

* * *

RECOGNIZING DANIEL R. KLCO FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Daniel Raymond Klco, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 374, and in earning the most prestigious award of Eagle Scout.

Daniel has been very active with his troop, participating in many Scout activities. Over the 13 years Daniel has been involved with Scouting, he has attended several camps, including Rota-Kiwan, Gerber, and D-BaR-A. Additionally, Daniel has held numerous leadership positions, serving as instructor, senior patrol leader, assistant senior patrol leader, scribe, assistant patrol leader, patrol leader, and formed the position of webmaster. At the 2001 National Jamboree, he was appointed to the position of patrol leader and created the website for the Gerald R. Ford Council's Jamboree Expedition.

For his Eagle Scout project, Daniel designed and built two handicap access ramps for the shower house at Camp Shawnee, a Campfire USA Camp. These ramps will allow the camp to better facilitate disabled campers and allow the camp to become handicap certified through the Americans with Disabilities Act.

Mr. Speaker, I proudly ask you to join me in commending Daniel Raymond Klco for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

* * *

HONORING THE LEVY COUNTY 4-H SHOOTING SPORTS TEAM

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a group of hard-working, talented individuals from the Levy County 4-H Shooting Team from my fifth congressional district of Florida. Dwayne Wilcox, Geneva Hollriegel, Kara Alexander, and Cassie Skelton made up Levy County's delegation to the National 4-H Shooting Sports Competition, held this summer in Raton, New Mexico.

I am pleased to congratulate this group of youngsters for their stellar performance at the competition before this body, Mr. Speaker. They've represented their state, their county and the 4-H organization well and I'd like to share their results with my colleagues and I ask that they join me in honoring the Levy County 4-H Shooting Sports Team today.

In the Archery, Recurve 3D Event, Rachel Babb placed 7th, Tiffany Boykin placed 8th, the group placed 2nd as a team in this event and placed 5th overall.

Kara Alexander placed 7th overall, and in the Hunting Competition she placed 9th in the decision-making and skills events and 3rd in safety.

Also in Hunter Safety Event, Geneva Hollriegel placed 7th and Cassie Skelton placed 10th. The team as a whole placed 3rd in decision making and wildlife management.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker these accomplishments are truly noteworthy. We in this chamber all know the important role that 4-H plays, and has played, in the lives of so many youths in this country. I am pleased that the organization is alive and well in my district and that these young people have chosen to become involved in it and have prospered as well as they have.

TRIBUTE TO SOUTHERN UTE CHAIRMAN LEONARD C. BURCH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress to pay tribute to the life and passing of a truly visionary leader. As Chairman of the Southern Ute Tribe in Ignacio, Colorado, Leonard Burch worked tirelessly to elevate his tribe to a place of national prominence and improve the welfare of its members. I have great pride as I rise to highlight Chairman Burch's accomplishments and years of service to the State of Colorado.

The Southern Ute Tribe found a leader with vision for the long-term when they elected Leonard to serve as Chairman in 1967. Despite a soft-spoken demeanor, Chairman Burch exuded a strong presence, and elected officials throughout my state held him in high regard. Chairman Burch built on these partnerships to help pass the statute creating the Colorado Commission of Indian Affairs in 1976. Chairman Burch's high standard of public service and strong leadership style will serve as an example for generations of future leaders.

Chairman Burch was widely renowned for his caring personality and dedication to the long-term development of the Southern Ute Tribe. His policies as tribal Chairman focused on energy development, the health of his fellow tribe members, and the education of tribal youth. While he cared for the entire tribe's well being, Chairman Burch's focus never strayed from his family. He always spoke proudly of his seven daughters.

Mr. Speaker, I am proud to stand before this body of Congress to pay tribute to Leonard Burch for his devotion to his family, dedication to his community, and the leadership he offered to the Southern Ute Tribe. His legacy is evident in the enhanced self-determination, opportunity, and sovereignty that his fellow tribe members enjoy today. While he will be dearly missed, we can all take solace in the knowledge that Chairman Burch's spirit lives on through those whom he has touched.

ELLIS ISLAND MEDALS OF HONOR AWARDS CEREMONY—NECO CHAIRMAN WILLIAM DENIS FUGAZY LEADS DRAMATIC CEREMONY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BURTON of Indiana. Mr. Speaker, I submit the following:

ELLIS ISLAND, NY, May 17.—Standing on the hallowed grounds of Ellis Island—the portal through which 17 million immigrants entered the United States—a cast of ethnic Americans who have made significant contributions to the life of this nation were presented with the coveted Ellis Island Medal of Honor at an emotionally uplifting ceremony. This year's event was dedicated to our armed forces.

This year's ceremony date coincides with National Armed Forces Day. As such, we would like to pay special tribute to the men and women serving in the U.S. armed forces both here and abroad. Several of our Medalists also serve in the armed forces; many more are honored veterans.

NECO's annual medal ceremony and reception on Ellis Island in New York Harbor is the Nation's largest celebration of ethnic pride. Representing a rainbow of ethnic origins, this year's recipients received their awards in the shadow of the historic Great Hall, where the first footsteps were taken by the millions of immigrants who entered the U.S. in the latter part of the nineteenth century. "Today we honor great ethnic Americans who, through their achievements and contributions, and in the spirit of their ethnic origins, have enriched this country and have become role models for future generations," said NECO Chairman William Denis Fugazy. "In addition, we honor the immigrant experience—those who passed through this Great Hall decades ago, and the new immigrants who arrive on American soil seeking opportunity."

Established in 1986 by NECO, the Ellis Island Medals of Honor pay tribute to the ancestry groups that comprise America's unique culture mosaic. To date, approximately 2000 American citizens have received medals.

NECO is the largest organization of its kind in the U.S. serving as an umbrella group for over 250 ethnic organizations and whose mandate is to preserve ethnic diversity, promote ethnic and religious equality, tolerance and harmony, and to combat injustice, hatred and bigotry. NECO has a new goal in its humanitarian mission: saving the lives of children with life-threatening medical conditions. NECO has founded The Forum's Children Foundation, which brings children from developing nations in need of life-saving surgery to the United States for treatment.

Ellis Island Medals of Honor recipients are selected each year through a national nomination process. Screening committees from NECO's member organizations select the final nominees, who are then considered by the Board of Directors.

Past Ellis Island Medals of Honor recipients have included several U.S. Presidents, entertainers, athletes, entrepreneurs, religious leaders and business executives, such as William Clinton, Ronald Reagan, Jimmy Carter, Gerald Ford, George Bush, Richard Nixon, George Pataki, Mario Cuomo, Bob Hope, Frank Sinatra, Michael Douglas, Gloria Estefan, Coretta Scott King, Rosa Parks, Elie Wiesel, Muhammad Ali, Mickey Mantle, General Norman Schwarzkopf, Barbara Walters, Terry Anderson, Dr. Michael DeBakey, Senator John McCain, Rudy Giuliani and Attorney General Janet Reno.

CONGRATULATIONS TO THE 2003 ELLIS ISLAND MEDALS OF HONOR RECIPIENTS

Ruth J. Abram, President, Lower East Side Tenement Museum, Romanian/Irish/Russian; Danny Aiello, Actor, Italian; Hon. Hagop S. Akiskal, M.D., Professor of Psychiatry, University of California at San Diego, Armenian; Hon. William Vollie Alexander, Managing Partner, Alexander & Associates, Scottish/English/Irish; Menelaos Anastasios Aliapoulios, M.D., Medical Director, General Electric Company, Hellenic; Hon. Hushang Ansary, Parman Group, Iranian; Angela Susan Anton, CEO & Publisher, Long Island Community Newspapers, Czechoslovakian/Italian; William Austin, Chairman & CEO, Starkey Laboratories Inc., English; Robert P. Badavas, Chief Operating Officer, Atlas Venture, Hellenic; Peter Balakian, Professor, Colgate University, Armenian; Roger Ballou, President & CEO, CDI Corporation, English/Scottish/French; Salvatore A. Balsamo, Chairman, Tac World Wide Companies, Italian; Peggy L.S. Barmore, Assistant to the President, NYSUT, African/Irish; Peter J. Barris, Managing General Partner, New Enterprise Associates, Hellenic; Anthony J. Bifaro, Assistant to the President, NYSUT, Italian; Michael Bolton, Bolton Music Company, Russian/English; Capt. Craig E. Bone, Commanding Officer & Commander of the Port NY & NJ, Coast Guard Activities, English/Irish/German; George Boyadjieff, Chairman, Varco International, Inc., Bulgarian/Russian; Albert A. Boyajian, President & CEO, Global Bakeries, Inc., Armenian; Roscoe C. Brown, Jr., President Emeritus, Bronx Community College—CUNY, African; Bishop William Brown, Pastor, Founder & Chairman, Salvation & Deliverance Church, South African; John A. Canning, Jr., President, Madison Dearborn Partners, Irish/Italian; Terrel L. Cass, President & General Manager, WLIW 21—NY Public Television, Irish/English; Myron Z. Chlavin, CEO, Desser Tire & Rubber Co., Austrian/Latvian; Msgr. Eugene V. Clark, Rector, St. Patrick's Cathedral, Irish/Dutch; Maj. Gen. Richard S. Colt, Commander, 77th Regional Support Command US Army Reserve, Scottish; Francis X. Comerford, President & General Manager, WNBC, Irish/Italian; Leo P. Condakes, President, Peter Condakes Co., Hellenic; Alexander A. Conti, Financial Representative, Northwestern Mutual Financial Network, Italian; Thomas J. Corcoran, Jr., President & CEO, FelCor Lodging Trust Inc., English; Thomas M. Coughlin, President & CEO, Wal-Mart Stores & Sam's Clubs USA, Irish; Hon. Anthony J. Cutrona, Supreme Court Justice—NYS Supreme Court, 2nd Judicial Department, Italian.

Salvatore A. Davino, President, Fidelity Land Development Corp., Italian; Commander Carlos Del Toro, US Naval Forces, Cuban; Vincent DeMentri, Anchor/Correspondent, WPIX-TV, Italian; John E. Durante, President, Rockledge Equities, Italian; Umberto P. Fedeli, Jr., President & CEO, The Fedeli Group, Italian; Charles A. Feghali, President, Interstate Resources, Inc., Lebanese; John J. Flynn, President, Int'l Union of Bricklayers & Allied Craftsworkers, Irish; Colonel Warren J. Foersch, Commander, First Marine Corps District—US Marines, French/German/Irish;

Hon. James S. Gallas, US Magistrate Judge, US District Court—Northern District of Ohio, Eastern Division, Hellenic; Luther R. Gatling, President, Budget & Credit Counseling Services, Inc., African; Richard A. Goldstein, Chairman & CEO, International Flavors & Fragrances Inc., Russian; Hon. Joseph G. Golia, Associate Justice, Appellate Term, 2nd & 11th Judicial District, Supreme Court of the State of NY, Italian; John George Gonis, D.D.S., Chairman & President, Dental Associates, LTD, Hellenic; Andy Granatelli, Former CEO & President (Retired), STP Corporation, Italian; James T. Hackett, Chairman, President & CEO, Ocean Energy, Inc., Irish/German; Val J. Halamandaris, Esq., President, National Association for Homecare & Hospice, Hellenic; Thomas E. Hales, Chairman, President & CEO, Union State Bank, Italian/Irish; Taek Sun Han, Founder & CEO, Han Yang Supermarket/Han Yang Cultural Center/Morning Glory Stationery World, South Korean; Michael J. Handy, Director, Mayor's Office of Veterans Affairs, African/English/Native American; Russell Hotzler, Interim President, York College, CUNY, Italian/German; Sayed Jemal Houssein-Afghani, Inc., Humanitarian, Afghan/English; Ronald C. Jones, Secretary, United Federation of Teachers, Italian.

Georgia Kaloidis, CEO, Diskal, Inc., Hellenic; Frank S. Kamberos, Former VP Operations, Treasure Island Foods, Inc., Hellenic; I. Pano Karatassos, Founder/President, Buckhead Life Restaurant Group, Hellenic; Bruce E. Karatz, Chairman & CEO, KB Home, Russian; Elaine Kaufman, President, Elaine's Restaurant, Russian; Stella Kim, Executive Vice President, By Design, L.L.C., South Korean; Michael B. Kitchen, President & CEO, CUNA Mutual Group, Canadian; Thomas M. Lamberti, Esq., Partner, Putney, Twonbly, Hall & Hirson, LLP, Italian; Lou Lamoriello, President, CEO & General Manager, New Jersey Devils, CEO, NJ Nets, Italian; Henri Landwirth, Founder & Chairman, Give Kids the World & Dignity-U-Wear Foundation Inc., Belgian/Polish; Stewart F. Lane, President, Theatre Venture, Inc., Russian/Polish; A. Alexander Lari, Founder & Chairman, Claremont Group, LLC, Iranian; Denis Leary, President, The Leary Firefighters Foundation, Irish; Chung Wha Lee, President, Lee Chung Wha Diamond Corporation, Korean; Howard H. Lee, President & CEO, World Journal, Chinese; Simon S. Lee, CEO & President, STG, Inc., South Korean; James P. Lemonias, Chairman & CEO, Whitman Company, Inc., Hellenic; Lt. Gen. William J. Lennox, Jr., Superintendent US Military Academy, Scottish/Irish; Hon. Phil Leventis, State Senator, State of South Carolina, Hellenic; Michael Yi-Sheng Liao, VP/Chief Information Officer, GM Asset Management, Chinese; Tony Lo Bianco, Actor, Director and Producer, Italian; Richard A. Loughlin, Vice Chairman, Willis, Irish; Constantine S. Macricostas, Chairman, Founder, Photronics, Hellenic; Sheldon Harris Malinou, DDS, Assistant to the Director, Cabrini Medical Center, Russian/Ukrainian; Anastasios E. Manessis, President, Manessis Marketing Corp., Hellenic; Puzant A. Markarian, Principal (Retired), Arlington Textiles, Inc., Armenian; John L. Marks, Chairman & CEO, Mark IV Realty, Inc., Hellenic.

Patrick F. Martin, Chairman, President & CEO, StorageTek, Irish; Stanley Matthews, Founder, Matthews Diner & Pancake House, Hellenic; Hon. Roslynn R. Mauskopf, US Attorney, Eastern District, New York, Czechoslovakian; Hon. James E. McGreevey, Governor—State of New Jersey, Irish; Raymond Melville, Assistant Business Manager, Local Union #3, I.B.E.W., Irish; Robert G. Miller, Chairman & CEO, Rite Aid Corporation, Russian/English; Veronica Montgomery-Costa, President, Local 372 NYC Board of Education Employees Union, African; Patrick J. Moore, President & CEO, Smurfit-Stone Container Corporation, Irish/Scottish/Swedish; Donal J. Murphy, President, D.J. Murphy Assoc, Irish; Albin D. Obal, President, Condor Contracting Company, Inc., Owner, Midland Enterprises, Polish; James E. O'Connor, Chairman & CEO, Republic Services, Inc., Irish; James F. Orr, Chairman, President & CEO, Convergys Corporation, Scottish/Irish/English/German; Nacy Panzica, Chairman, Panzica Construction Company, Italian; Steven Peter Papadatos, President, Papadatos Associatesn PC Architects, Hellenic; Frank Pellegrino, Sr., CEO, Rao's Specialty Foods, Italian; Stan Pelofsky, M.D., President, Neuroscience Specialists, Polish.

James Tung Chiang Pi, President, Pi Trading Company, Inc., Chinese; John Politis, President & CEO, Apartment Realty Group, Inc., Hellenic; Gerry Puccio, Sr., Founder, Rockleigh Country Club/CEO Carrin on Real Estate & Investment Group, Italian; Lewis S. Ranieri, Founder & Chairman, Hyperion Partners, LLP, Italian; Subash Razdan, Advisor, Procurement Advisory Council, Coca Cola Company, Indian; Paul V. Reilly, President, Chairman & CEO, Mail-Well, Inc., Irish; Mary Lou Retton, U.S. Olympic Gold Medallist, Italian; Richard Romanoff, President, Nebraskaland, Inc., Russian; E. John Rumpakis, Owner, N.E.W.S., Hellenic; Michael Schenkler, Publisher, Queens Tribune, Russian/Polish; Martin Scorsese, President, Cappa Productions, Italian; Myron P. Shevell, Chairman & CEO, New England Motor Freight Inc./The Shevell Group, Russian/German; David J. Shitn, Chairman CEO, Riverside Park, Inc./Kiku Restaurant Inc., Korean; Richard Silverman, Vice-Chairman, Fleet National Bank N.A., Romanian/English; Hon. Nirmal K. Sinha, Commissioner Ohio Civil Rights, Assistant Director Department of Public Utilities, Columbus, Ohio, Indian; Curtis Shwa, Founder and President, The Alliance of Guardian Angels, Italian/Polish; Thomas A. Smith, President & CEO, Oglethorpe Power Corporation, Norwegian/Scottish/German; Ralph Snyderman, M.D., Chancellor for Health Affairs, President and CEO, Duke University Health System, Russian; Rajesh K. Soin, Chairman & CEO, Soin International, Indian.

Hon. Maria Sotiropoulos, Protocol Officer, The White House/US Department, of State, Cypriot; Sy Sternberg, Chairman & CEO, New York Life Insurance Company, Romanian/Polish/Lithuanian; Nicolas Tabbal, M.D., F.A.C.S., Plastic Surgeon, Manhattan Eye Ear & Throat Hosp-NYU, Lebanese; Hon. Patrick N. Theros, Ambassador, President & Executive Director, US Qatar Business Council, Hellenic; Demetrios E. Tsintolas, President, Tsintolas Realty Company, Hellenic; Ben Vereen, Vereen Productions, African; Nicholas S. Vidalakis, CoFounder, Chairman & CEO, VFP LLC, Hellenic; Vuksan Vuksanaj, President, New York Travel Agency, Inc., Albanian; Mike Wallace, Senior Correspondent, CBS News/60 Minutes, Russian; Donald Washkewicz, President & CEO, Parker-Hannifin Corporation, Polish/Czechoslovakian; Hon. Jim Wright, Speaker of the House 1987–1989, Texas Christian University, Australian/Irish/Scottish; Jeffrey Yarmuth, President & COO, Sonny's Franchise Co., Russian/Polish; Pan A. Yotopoulos, Distinguished Professor, University of Florence, Hellenic; Xenophon Zapis, Radio Broadcaster, Zapis Communications Corporation, Hellenic; Detective Sergeant Wallace R. Zeins, Commanding Officer, Manhattan Night Watch, NYPD, Russian.

HONORING MAX MAROLT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress today to recognize the life and passing of a skiing icon. Max Marolt was a world-class skier and prominent political figure in his hometown of Aspen, Colorado. I am honored to rise today to highlight Max's accomplishments and his service to the Aspen community.

Max was born in Aspen in 1936, one of three sons that would soon become prominent figures in the skiing community. Max excelled as a member of the Aspen junior racing team, leading it to a third place finish at the National Junior Meet in 1951. After joining the Denver University Ski Team, he earned a place on the U.S. Ski Team in 1954. Several years later, Max's skills and determination led to an invitation to the 1960 Olympic Winter Games. Max's participation in the Olympic games inspired local skiers throughout the area to pursue their grandest dreams, including his brother Bill, who competed in the Olympics in 1964.

Although Max's intrepid spirit led him on many adventures around the world, he continued to call Aspen his home. Max worked as a sales representative for several ski equipment manufacturers while raising his four children and cultivating their respective skiing careers. His son noted that Max dedicated the last 30 years of his life to his family and community. Max's service included a stint on the Aspen City Council in 1995 and a campaign for mayor in 1997.

Mr. Speaker, I am proud to stand before this body of Congress today to pay tribute to Max Marolt for his devotion to his family, dedication to his community, and numerous athletic achievements. Citizens like Max provide the spirit and strength of character that made this nation great. While he will be dearly missed, we can all take solace in the knowledge that Max's spirit lives on through those whom he has touched.

CONGRATULATIONS TO TREE OF LIFE MISSIONARY BAPTIST CHURCH IN GARY, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. VISCLOSKY. Mr Speaker, it is with great honor and enthusiasm that I congratulate the Tree of Life Missionary Baptist Church in Gary, Indiana, as they celebrate their 24th anniversary. During the month of September, Tree of Life Missionary Baptist Church will be celebrating their anniversary on three different occasions. The celebration will kick off on September 6 with a balloon release and a barbeque, followed by a banquet on September 12, and a culmination of the anniversary celebration on September 21.

The vision of Tree of Life Missionary Baptist Church began on July 23,1979 at the home of Mr. and Mrs. James Ervin, along with Reverend Cato Brooks and many others. In August of 1979, the church was organized as the Tree of Life Mission and worship began with Reverend James Barnett, Jr., and Greater Harvest Missionary Baptist Church. Then in September of 1979, the Tree of Life Mission became the Tree of Life Missionary Baptist Church and incorporated a council of various religious ministers from other local churches. When the doors opened to the new church, 28 parishioners came together in worship service, and shortly after Rev. Brooks was named Pastor.

Tree of Life quickly grew in numbers and began to reach out to the community by constructing an alcohol and drug addiction program through the Alcohol Center at St. Mary's Mercy Hospital. The church and Rev. Brooks were strong initiators for the New Beginning AA program in the community as well as the West 11th Avenue AA program. In June of 1984, Rev. Brooks appointed Rev. Hunter Griffin, III as the church's Jail and Outreach Minister, and he reached out to over 650 inmates through prayer services at the Lake County Jail in Crown Point, Indiana.

On February 5, 1991, the Tree of Life Missionary Baptist Church received high commendation from the City of Gary for all of its efforts to serve, educate, and support the local community. In July of 1991, the Southern Baptist State Convention Home Mission Board awarded the Tree of Life with a certificate of outstanding performance in Christian Service.

After years of hard work and commitment to the community and church, Rev. and Mrs. Cato Brooks and the members of Tree of Life started the Tree of Life Community Development Corporation and Care Center. This center is a spiritual approach to healing and helping the residents of Gary and Northwest Indiana, which began through the establishment of their first two programs: the Rehabilitation of Housing under the Homeless Initiative and Transitional Housing. New programs were later added and include the 21st Century Parents Program, the Misguided Youth and First Offenders Program, and the Homeless Initiative Programs.

Mr. Speaker, I ask that you and my other distinguished colleagues, join me in honoring and congratulating Tree of Life Missionary Baptist Church on their 24th anniversary. They have given selflessly to the Gary community, as well as all of Northwest Indiana, and will continue to serve and support all members of the community through their gracious dedication and commitment.

RECOGNIZING JAMES RILEY TITUS BOND FOR HIS ACHIEVEMENTS AS AN INTERN ON MY STAFF

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Mr. James Riley Titus Bond, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in national government.

Titus is a recent graduate of Rockhurst High School and will be continuing his education at Catholic University in Washington, DC. He has distinguished himself as an intern in my campaign office by serving the great people of the 6th District of Missouri. Through this internship, Titus has had the opportunity to observe firsthand the inner workings of National Government and campaign organization and has gained valuable insight into the process by which campaigns are run.

During his time as an intern in my office, Titus has successfully demonstrated his abilities in the performance of such duties as planning events, assisting in Lincoln Days, and assuming various other responsibilities to make the office run as smoothly as possible.

Mr. Speaker, I proudly ask you to join me in commending Mr. James Riley Titus Bond for his many important contributions to the U.S. House of Representatives during the current session, as well as joining with me to extend to him our very best wishes for continued success and happiness in all his future endeavors.

HONORING JAY RUSSEL

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Jay Russel, a constituent in my Fifth Congressional District. Mr. Russel was recently named the 2003 Levy County Fish and Wildlife Conservation Commission Officer of the Year by his colleagues and superiors and I want to take this opportunity before this body to honor him and to say a few words about why he is deserving of this noble distinction.

Mr. Russel, has patrolled the woods and waterways of Levy, Citrus and Dixie County for more than three years, giving him a one-of-a-kind knowledge of Florida's Nature Coast and enabling him to be an excellent Conservation Commission Officer. Often coming to the aid of boaters in distress, his efforts have resulted in successful rescue and recovery missions and his "sixth sense" for detecting law violators has allowed many recreational sportsmen to continue to enjoy Florida's wetlands safely and lawfully.

Mr. Russel has been described by his colleagues as an outstanding officer with an immense knowledge of the outdoors and of the region he patrols. Area police departments and law enforcement agencies often rely on him for help in investigating illegal activity in the area and know they can count upon his support at any time.

He is truly an asset in every way to his colleagues and to the Florida Fish and Wildlife Commission. His superiors have said that he "exemplifies what the agency stands for—a commitment to protecting wildlife resources and to serving and protecting citizens enjoying Florida's outdoors."

Mr. Speaker, I ask you and my colleagues to join me in saluting Mr. Russel and all officers of the Florida Fish and Wildlife Conservation Commission. The work they do is invaluable and of immeasurable importance to our environment, to area wildlife and to our safety.

A SPECIAL TRIBUTE TO MILLIE COX FOR HER YEARS OF SERVICE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BURTON of Indiana. Mr. Speaker, I rise today to honor Millie Cox on her retirement from the Indiana Credit Union League, and to congratulate her for her many years of dedicated and tireless service.

Over the years, Millie has displayed an indomitable spirit in her work and efforts on behalf of Indiana's credit unions. She has taken time to educate and encourage credit union leaders about the legislative process and the importance of political participation. Clearly, Millie's passion for her work on behalf of Indiana's credit unions bespeaks her monumental efforts here in Washington D.C.

Millie Cox's impressive career began in February 1977, when she joined the staff of the Indiana Credit Union League. She was promoted several times, ultimately rising to Vice President of Governmental Affairs in 1986. Millie and her staff have been responsible for analyzing regulations and legislation, as well as serving as liaison between credit unions, regulatory agencies, and other government entities.

On a personal note, Millie is a long-time Hoosier, having grown up in the New Castle area with her two brothers and three sisters. She has one son, Curt, and was married for more than twenty years to her late husband Jim. Millie and I share a great interest in history and reading in addition to our Hoosier roots.

Millie Cox's dedication to her career is evident in her own words as she states that "I believe in credit unions, I love what I do and I can't imagine working in any other industry." Millie, I congratulate you and wish you all the best. Capitol Hill won't be the same without you.

HONORING RON GIBSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to an inspiring veteran in Grand Junction, Colorado. Despite being confined to a wheelchair, Ron Gibson continues to set unprecedented athletic standards and win numerous medals in national competitions. I have great pride as I rise today to recognize Ron's athletic achievements and his service to our nation.

Ron began competing in the National Veterans Wheelchair Games 15 years ago. After participating in the Winter Sports Games in Grand Junction, Colorado in 1988, Ron fell in love with the area and subsequently relocated there. He has since lost track of the number of medals he has won, recently adding another four at the 23rd annual games in California. Each veteran who competes carries with him an inspirational story of dedication and perseverance. Ron is no exception, and I am proud to recognize his many accomplishments. All those who participate in the National Veterans Wheelchair games are military veterans who have spinal cord injuries or other disabilities that require wheelchairs.

Mr. Speaker, Ron Gibson embodies the courage and strength of spirit that have made our nation strong. I commend him for his service and all of his recent accomplishments. Congratulations, Ron. I wish you all the best with your future endeavors.

CONGRATULATIONS TO SAINTS CONSTANTINE AND HELEN GREEK ORTHODOX CHURCH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and enthusiasm that I recognize and congratulate Saints Constantine and Helen Greek Orthodox Church in Merrillville, Indiana on their 90th anniversary. Throughout its 90 years, Saints Constantine and Helen Greek Orthodox Church has provided a welcoming worship and gathering space for all residents of Northwest Indiana.

SS Constantine and Helen and its forefathers began their foundation in Gary, Indiana in 1906 in the dream of preserving the Greek heritage and faith in America. The first steps to making this dream a reality began in the spring of 1911, when an initial meeting was held to discuss the need for a worship space for the small handful of Greek families that settled in Northwest Indiana. The name was later chosen to signify the importance of Saint Constantine, the Roman Emperor who permitted the freedom of practicing Christianity in the Fourth Century, as well as Saint Helen, Saint Constantine's mother, in their fight for the preservation of their heritage and Greek culture.

In 1913, the first worship services were held in a rented store building, and SS Constantine and Helen became the first Greek Church in the City of Gary. Following two years of leadership by visiting priests from Chicago, Reverend Nicholas Mandilas became the first permanent pastor for the church. In 1919, after years of traveling around the Midwest searching for financial help, and worshiping in tents in the dead of winter, the congregation's valiant and dedicated efforts led them to the opening of their first church building on Easter Sunday. Approximately 50 years later, another church building was constructed in Merrillville, Indiana and the Cultural Center was opened to the residents of Northwest Indiana.

Being a member of the American Hellenic Educational Progressive Association (AHEPA), Lodge 78, I am a strong advocate for the preservation and promotion of the ideals and morals of Hellenism throughout all of Northwest Indiana. Throughout its 90 years of service and dedication, Saints Constantine and Helen Greek Orthodox Church has offered the inspiration to be good citizens of the community, practice faith freely, and educate our youth so that the Greek heritage may never be forgotten.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in honoring and congratulating Saints Constantine and Helen Greek Orthodox Church as they celebrate their 90th anniversary. Their sincere dedication and devotion to the residents of Northwest Indiana deserves the highest commendation and recognition.

RECOGNIZING MEGAN LEFEVOUR FOR HER ACHIEVEMENTS AS A MEMBER OF MY STAFF

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Megan Lefevour, a very dedicated and enthusiastic member of my Washington D.C. Congressional Staff.

Meg has served my office for nearly two years, as well as serving as an intern for the Speaker of the House HASTERT. As a Staff Assistant, Systems Administrator, Legislative Correspondent, and Legislative Assistant, she has established a passion for working on the Hill. Meg holds dear the people she has worked with in her many roles as a Hill staffer.

I, and others, greatly value Meg's hard work and commitment. Constituents have grown to know her attention to detail, knowledge of many issues, and personal touch that should not go unrecognized. Her dedication to the Sixth District of Missouri has shown through over the past two years, which is evident by the appreciation of all she works with.

It is unfortunate for countless people that Meg will be leaving the Hill, as she has left her unique stamp on many. I, as well as my office, wish Meg the very best in her future career with education and wish her and Chris all the happiness in their life together.

Mr. Speaker, I proudly ask you to join me in commending Megan Lefevour for her many important contributions to myself, my staff, all those she has worked with on the Hill, and for all those she has served. She will be missed by many.

HONORING ROBERT A. BOWERS

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Robert A. Bowers, a constituent of my Fifth Congressional District. Deputy Bowers, an honorable officer of the law, was recently named the 2003 Levy County Law Enforcement Officer of the Year by his colleagues and superiors and I want to take this opportunity before this body to honor him and to say a few words about why he is deserving of this important distinction.

Deputy Bowers has served the Levy County Sheriff's Office since October of 2001 as an officer in the Road Patrol Division and has been active in the "Buckle Up" program, ensuring safety on our highways by enforcing our state's seatbelt and child-restraint laws.

Deputy Bowers has been described by his colleagues as someone with a cheerful and professional demeanor, no matter what the situation or task at hand. His service to Levy County is in its early days and I believe he will continue to be an asset to the Levy County Sheriff's Office for many years to come.

Having law enforcement officers like him is what makes our roadways and communities safe and it is what inspires youngsters to continue in the profession of noble, honorable service to their neighbors.

Mr. Speaker, I ask you and my colleagues to join me in saluting Deputy Bowers and all officers of the law, for the work they do is invaluable and of immeasurable importance to our society and to our safety.

PERSONAL EXPLANATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BURTON of Indiana. Mr. Speaker, due to excessive flooding in North Central, Central and South Central portions of Indiana, I was unable to be in Washington during rollcall vote Nos. 460–462. Had I been here I would have voted "aye" for rollcall vote Nos. 460–462.

TRIBUTE TO STEVE SHERWOOD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this Congress and this nation to pay tribute to an outstanding public servant from my district, Steve Sherwood. Steve is the Deputy Forest Supervisor in the White River National Forest who works hard to protect and maintain our beloved natural areas. Steve's service throughout the country has helped keep our national forests open to everyone, providing a variety of users with access to recreation.

Steve came to the White River National Forest in 2000, moving from Washington D.C. to be part of the wilderness that he loves. He spends most of his time overseeing the White River's wilderness, recreation, and heritage programs. As an outdoorsman, Steve has a better understanding of the needs of our forests; he is often fishing and biking throughout the lands he protects.

When Steve is not at work protecting our public lands, he is at home with his wife Carolyn and his two children William and Jessica. Steve works hard in the hope that his children will have forests and wilderness areas to enjoy many years after he has gone.

Mr. Speaker, I am proud to recognize Steve for his dedication, and it gives me great joy to inform this body of Congress and this nation of his hard work and devotion at the U.S. Forest Service. Thank you, Steve, for your hard work and dedication. Your commitment and involvement in our national forests will not be forgotten.

CONGRATULATIONS TO MR. HANK STRAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. VISCLOSKY. It is with great joy and enthusiasm that I wish to congratulate Mr. Hank Stram on his induction into the Pro Football Hall of Fame. Hank Stram's path to football greatness began many years ago when he was an athletic standout at Lew Wallace High School in Gary, Indiana earning all-state honors as halfback. On Sunday, August 3, 2003, Hank Stram received the ultimate honor with his induction into the Pro Football Hall of Fame in Canton, Ohio.

After graduating from Lew Wallace High School, Stram attended Purdue University on a football scholarship. He earned four letters in baseball and three in football for the Boilermakers. His collegiate career was interrupted for three years of military service in World War II. During his senior year at Purdue, Stram received the coveted Big Ten Medal that is awarded to the conference athlete who best combines athletics with academics.

Immediately upon graduation in 1948, Stram joined Purdue's football coaching staff. He served 12 years as an assistant on the collegiate level, with stops at Southern Methodist, Notre Dame and Miami (Florida).

In 1960 he was named head coach of the Dallas Texans in the new American Football League. The rest is history. Stram guided the Texans to the AFL championship in 1962 and the team then moved to Kansas City and became the Chiefs. In Kansas City, Stram led the Chiefs to the 1966 and 1969 AFL Championships.

His 1966 Kansas City team played in the first Super Bowl, losing to the Green Bay Packers. The highlight of Stram's illustrious coaching career came on January 11, 1970, when the Chiefs defeated the Minnesota Vikings, 23–7, in Super Bowl IV. He also led the Chiefs to playoff appearances in 1968 and 1971.

Stram coached 17 years in professional football and had a career won-lost-tied record of 136–100–10. His victory total is 11th on the all-time NFL coaches list. He finished his career with 2 seasons, 1976 and 1977, as head coach of the New Orleans Saints.

Hank Stram was known by his players and colleagues as being a truly innovative coach with ideas that inspired and motivated his players and all those who had the opportunity to work with him throughout his career. At the age of 80, Stram continues to provide motivation for area athletes. Every year, the Silver Bell Club, Lodge 2365 of the Polish National Alliance of the United States, hosts its Hank Stram—Tony Zale Sports Award Banquet to honor young athletes in Northwest Indiana.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending and applauding Hank Stram, a true sports hero who has achieved greatness. His lifetime of devotion to his players, fans, and family will truly be celebrated and remembered..

RECOGNIZING DANIEL T. GRIFFEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Daniel Tyler Griffen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 374, and in earning the most prestigious award of Eagle Scout.

Daniel has been very active with his troop, participating in many scout activities. Over the 10 years he has been involved in scouting, he has earned 31 merit badges. Additionally, Daniel has held numerous leadership positions in his troop, serving as Den Chief and Troop Guide. Daniel also has been honored for his numerous scouting achievements with such awards as the Arrow of Light Award and Fire Builder in the Tribe of Mic-O-Say.

For his Eagle Scout project, Daniel led a group of teens and adults in the cataloguing of about 300 graves in the Little Shoal Cemetery. The catalogue was then donated to the Clay County Archives for the use by the general public.

Mr. Speaker, I proudly ask you to join me in commending Daniel Tyler Griffen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING DANIEL ANTIS

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Corporal Daniel Antis, a constituent of mine residing in Levy County in my Fifth Congressional District. Corporal Antis, a hard-working corrections officer, was recently named the 2003 Levy County Corrections Officer of the Year by his colleagues and superiors and I want to take this opportunity before this body to honor him and to say a few words about why he is deserving of this noble distinction.

Corporal Antis began his career as a corrections officer in 1999 and came to work for the Levy County Sheriff's Office Jail Division in September of last year.

Corporal Antis has been described by his colleagues as someone with a quiet but professional demeanor, and his arduous work and drive have not gone unnoticed by his peers. His ambition and "can-do" attitude won him the promotion to his current position as a corporal only 7 months after joining the Levy County Corrections team.

He is truly an asset in every way to his colleagues and to the Levy County Sheriff's office.

Mr. Speaker, I ask you and my colleagues to join me in saluting Corporal Antis and all officers of the law, for the work they do is invaluable and of immeasurable importance to our society and to our safety.

TRIBUTE TO SUE O'BRIEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise today before this body of Congress to honor the memory of a great citizen. Sue O'Brien passed away peacefully on August 6, 2003 after battling cancer. Sue was the respected and well-liked editor of The Denver Post's opinion page and a long time figure in public policy. As Colorado and the larger community mourn her passing, I would like to pay tribute to her memory.

Sue was born on March 6, 1939 in Iowa, settling in Denver with her first husband, Jim Hautzinger, and their children in 1961. Sue was a stay-at-home-mom who was busy with the League of Women Voters, Young Democrats, and the drive for school desegregation and fair housing.

Sue began her career in the media in 1968 when she reported on the riots at the Democratic National Convention in Chicago for KTLN/KTLK-AM radio. Through the years, Sue worked as an anchor and political reporter for local and national television and radio. Sue was a pioneer for women in news management when, in 1976, she became the news director for KOA-TV and radio in Denver. In 1995, Sue became the head of The Denver Post opinion page. She took her job very seriously and gave great thought to everything that crossed her desk. Sue was always fair and always forthright, and her colleagues respected her ability and integrity.

Politicians in both parties respected Sue as well. She worked for two governors and was routinely consulted by Republicans and Democrats alike. Sue painstakingly examined every issue and always gave her honest and candid opinion. On a personal level, I hold Sue in high regard. I always enjoyed speaking with her about the issues of the day, and several years ago, Sue was my personal guest in the House gallery for the President's State of the Union Address. She had a strong set of values and cared deeply about helping people, qualities that will be sorely missed.

Mr. Speaker, Sue O'Brien was a person whose hallmark was fairness and integrity. She was a committed idealist who worked every day to make the world a better place. Sue had great love for her family and tremendous pride in the accomplishments of her children. She was a master journalist who never faltered in her attention to detail. Sue O'Brien was a great American, a great journalist, and, most importantly, a great person. I join with my colleagues today in honoring her memory and her life.

AMENDING TITLE XXI OF THE SOCIAL SECURITY ACT REGARDING THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SPEECH OF

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2003

Mr. TAUZIN. Mr. Speaker, the House will unanimously pass a bi-partisan bill, H.R. 2854, which will dramatically improve uninsured children's access to health care. This bill reflects a compromise negotiated with the other Chamber, which is supported by Senators GRASSLEY and BAUCUS, along with Health Subcommittee Chairman MIKE BILIRAKIS, and Ranking Members JOHN DINGELL and SHERROD BROWN.

H.R. 2854 will provide states with $2.7 billion to fund their SCHIP programs. The State Child Health Insurance Program is an extremely successful program that has enabled states to provide health coverage to over 5 million previously uninsured children. Under SCHIP each states gets a specified annual allotment of Federal dollars to be used to pay for children's health care, which the state can draw on for up to three years.

Due to initial delays that many states encountered in establishing their SCHIP programs, significant percentages of several states' allotments from fiscal years 1998 through 2001 have gone unused. H.R. 2854 will allow these states to retain a portion of these funds to enable them to provide additional coverage to uninsured children. Under H.R. 2954, states will be able to retain fiscal year 1998 and 1999 reallocated funds through the end of fiscal year 2004 and allows states to retain 50 percent of their unspent allotments for fiscal years 2000 and 2001.

In addition, the bill also allows ten states that had been unable to spend all of their SCHIP allotments because of high Medicaid income eligibility levels to use up to 20 percent of their SCHIP allotments to pay for providing coverage for eligible children.

RECOGNIZING CHULA MORI

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. THOMPSON of California. Mr. Speaker, it is, with a heavy heart that I rise today to pay tribute to Chula Mori, who died at St. Helena Hospital in Angwin, California, March 28, 2003. Chula, a treasured member of Napa County, California, died at the age of 55 after a courageous battle with cancer. Chula was diagnosed with breast cancer 21 years ago, and then in June 2002, with brain, liver and lung cancer.

As Head Teacher in the Napa County Office of Education's Napa Child Development Center, Chula dedicated her life to educating young children. An extraordinary teacher and a kind-hearted, loving person, Chula was also someone her students could trust and depend on. One of her great joys was when former students, grown with children of their own, would rush up to give her hugs when they would run in to her out in the community.

Many of the students enrolled in the Napa Child Development Center come from broken homes and disadvantaged circumstances. Though just preschoolers, Chula's students often carried the weight of neglect and discouragement on their small shoulders. Often, Chula's class served as a port in the storm. She made her students feel safe, loved and appreciated.

For over 27 years Chula educated the kids in our community. Yet, ironically, I believe the greatest lessons she taught may have been outside the classroom. Lying in a hospital bed at St. Helena Hospital in Angwin, California, Chula was an incredible example to her friends and loved ones of how to live and how to die with dignity.

Mr. Speaker, Chula's influence is easily seen throughout our community. Whether on the faces of her own two children and three grandchildren or in the hearts of countless former students, Chula's impact can never be erased nor will it fade. Those of us who knew her well are better because we knew her well. For these reasons and countless others it is appropriate at this time that we recognize and honor Chula Mori, who lived her life as a blessing to others.

TRIBUTE TO JOHN AND CARMEN ROSA ON THEIR 50TH WEDDING ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to John A. Rosa and Carmen T. Rosa who celebrated their 50th wedding anniversary on August 22nd 2003. I take great pride in honoring these two remarkable individuals for their enduring dedication to one another and to the community in which they reside.

Mr. Rosa was born on September 7, 1929, in New York City and his wife Mrs. Rosa was born May 17, 1936. They were married on August 22, 1953, at St. John Chrysostom in the Bronx. Mr. Rosa, a Korean War Veteran, worked with the Art Steele Company in the Bronx, first as purchasing manager and later as export manager before retiring in 1985. In addition to being a devoted housewife and mother, Mrs. Rosa worked in the healthcare industry primarily in the area of patient care. She also made time to be an active member of the Parent Teacher Association at P.S. 59 and 69.

Mr. Speaker, this union that began 50 years ago has brought about nine lives spanning two generations. The Rosas have four children including Manuel; Vivian, Teresa and Sally. In addition, they are now the proud grandparents of Jonathan, Michael, Justin, Andres and Adrianna.

Marriage is no easy feat. It is a union that demands commitment and sacrifice from both parties if it is to succeed. The Rosas' ability to make this union last for 50 years is quite remarkable and demonstrates the strong love they possess for one another.

Mr. Speaker, I ask my colleagues to join me in honoring Mr. and Mrs. John A. Rosa on their 50th anniversary and in wishing them many more years together.

TRIBUTE TO STAFF SGT. MARK LAWTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I stand before this body of Congress and this nation to pay tribute to the life of a brave citizen from my district. Army Staff Sergeant Mark Lawton of Hayden, Colorado was taken from us while serving his country in Iraq. His sacrifice for this grateful nation will not be forgotten. I am truly humbled to honor him here before you today.

As a young man, Mark was an excellent athlete and ran track for Moffat County High School. Prior to his service with the Army Reserves, Mark spent 14 years in the Marine Corps, serving in the first Gulf War. In his civilian life, Mark worked for a local coal company as a heavy equipment operator. Most importantly, he was a family man who leaves behind a wife and two sons. While his family's feelings of loss and sorrow are deep, they can take solace in the fact that Mark died in the service of the people and ideals of our nation.

Mr. Speaker, I cannot fully express my deep sense of gratitude for Mark's sacrifice and that of his family. Staff Sergeant Lawton displayed the strength of character and loyalty to his country that makes America and its citizens great. Throughout our history, men and women in uniform have fought for our freedom with distinction and courage. At the dawn of this new century, the United States military has once again been called upon to defend our freedom against a new and emerging threat. Mark has done all Americans proud, and I know he has the respect and admiration of all of my colleagues here today. He will be truly missed.

HONORING JAMES POTTS, PH.D.

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. TANNER. Mr. Speaker, I rise today to honor Dr. James Potts, who has dedicated his life to educating those around him. He is now celebrating an extraordinary milestone, his 50th year of teaching. Much of that time has been spent teaching at Bethel College in McKenzie, Tennessee.

Jim served his country in the United States Navy during World War II, then took the opportunities available to him through the G.I. Bill to earn his degree. In 1953, Jim began his teaching career at Grayville High School in Illinois, where he taught until 1955.

In the fall of 1955, Jim enrolled in Peabody College, now part of Vanderbilt University, where he earned his Ph.D., while also teaching at Belmont University in Nashville. After finishing his course work in 1957, Jim joined the faculty at Eastern Kentucky State University. After leaving Kentucky in 1961, Jim joined the staff at the University of Virginia, where he taught until 1964.

That year, Jim married his wife Carolyn and, realizing the difference he could make at a smaller institution, began his tenure at Bethel College. Having taught there for almost 40 years now, Jim has the longest continuous service record among Bethel faculty members. He is greatly admired by his colleagues and current and former students for his skillful teaching and his commitment to education and his dedication to Bethel College. Jim has taught many courses at Bethel College, but he is perhaps most admired for his dedication to history, specifically his courses in History of the South, American Economic History and American Political Parties.

Fifty years is an incredible milestone for any teacher to reach, but Jim is not content to end his notable career there. He plans to teach as long as he is able, and I am confident he will continue to touch the lives of many students, as he has done for five decades.

Mr. Speaker, I ask you to join me in honoring an exceptional educator and an outstanding citizen, Dr. James Potts.

PERSONAL EXPLANATION

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GREEN of Wisconsin. Mr. Speaker, after a review of the votes from July 25, 2003, I noticed I inadvertently voted against the Toomey amendment to H.R. 2859 (Rollcall No. 458). That was a mistake on my part due to my distraction with other legislative business during that particular series of votes. I wish to state for the record that I support the Toomey amendment and wish to be recorded as voting "aye."

TRIBUTE TO VORN JAMES MACK

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the memory of a courageous young man, Private First Class Vorn James Mack of Orangeburg, South Carolina who recently passed away while valiantly serving his country in Iraq.

Vorn Mack was a 2002 graduate of Orangeburg-Wilkinson High School in Orangeburg, South Carolina. While at Orangeburg-Wilkinson, Mack, an honor student, was taught by one of my staffers who remembers him as being a very intelligent, well mannered and driven. young man. While in high school Vorn had a particular interest in computers, mathematics, and serving in the military. His high school guidance counselor said "he always had an interest in the military, because he wanted to see the world and because his father and sister had careers in the Army."

Vorn belonged to a family known for its military service and patriotism. Six of his aunts and uncles are military retirees, and five members of his family currently serve, including his older sister Aquanette who is currently stationed in the Middle East.

After his graduation from high school, Vorn enlisted in the United States Army and underwent basic training at Fort Benning, Georgia. After successfully completing basic training, Vorn was sent to Fort Gordon, Georgia where he received advanced infantry training in information systems management. After this training, Vorn was assigned to Fort Carson, Colorado where he served in Headquarters and Headquarters Troop, 1st Squadron, 3rd Armored Cavalry Regiment. Three months after his arrival in Colorado, Vorn and his regiment were deployed to Iraq.

While in Iraq, Vorn belonged to a force assigned to guard the Hadithah Dam, west of Ar Ramadi, Iraq. This dam was crucial to the United States operation because it provided electricity to a large portion of Iraq and was viewed as a possible target for terrorist acts.

In his obituary, Vorn's family stated "He had no fear, never afraid to accept a challenge, whether it was work, school, or even in the United States Army, Vorn excelled in every aspect of his short life."

Mr. Speaker, I ask you and my colleagues to join me in this tribute to Vorn Mack for the outstanding service and contribution he provided the Nation, the State of South Carolina and his beloved community of Orangeburg. Vorn will always be remembered for his dedication and commitment to freedom.

HONORING DON MILLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. McINNIS. Mr. Speaker, I am honored to rise before this body of Congress and this nation today to pay tribute to a selfless community servant and dedicated coach from Glenwood Springs, Colorado. Don Miller is being inducted into the National High School Athletic Coaches Association's Hall of Fame for his 31 years of outstanding dedication and commitment to the Glenwood Springs Football, Track and Wrestling teams. I would like to join with the National High School Athletic Coaches Association and the Glenwood Springs Community in recognizing Don's accomplishments.

Don is a graduate of Western State College, where he excelled as a member of the football team. He began his career at Glenwood Springs High School in the early 1960's and has remained a loyal member of the faculty ever since, mentoring generations of young GWS athletes.

Don has provided thousands of Glenwood students with a coach and mentor; a man they could respect and learn from. Don's record as a football coach speaks for itself. With 204 wins, 17 appearances in the state tournament, and two state titles, Don is certainly a deserving inductee. Don is known for his "old school" form of coaching; he was a hard-nosed, in-your-face type of coach who expected a "never give up" attitude from his players. Don will be the twelfth coach from Colorado to be inducted into the Hall of Fame, and was the fifth coach to reach the 200 win landmark.

Mr. Speaker, I join with my colleagues in applauding Don's service to Glenwood Springs High School. This recognition is long overdue, and I am proud to recognize him here today. Congratulations, Don, on this prestigious honor; you have made Colorado and the Glenwood community very proud.

CONGRATULATING THE SAUGUS AMERICANS

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. TIERNEY. Mr. Speaker, I rise today to honor the Saugus American Little League team for their outstanding achievement in the 2003 Little League World Series. From their district championship to the U.S. Championship game, this terrific team captured the hearts of the town of Saugus and, over the past few weeks of summer, all of New England.

This is a team whose unique skill was equaled only by their flair for the dramatic. Saugus' first four victories in the Series were by one run. We will long remember their epic victory against Texas East's Lamar National, when Saugus rallied, scoring four runs in the bottom of the seventh inning, to advance to the U.S. championship. These boys were only the second team in Massachusetts' Little League history to advance to the U.S. title game.

Most impressive is the manner in which this team conducted themselves throughout their time in Williamsport, Pennsylvania. They acted with maturity beyond their years. Working hard, playing fair, and never, ever giving-up, the Saugus Americans—Ryan Bateman, Tyler Calla, Craig Cole, Anthony DiSciscio, David Ferreira, Tyler Grillo, Joseph Kasabuski, Mathew Muldoon, Sebestiano "Yano" Petruzzelli, Dario Pizzano, Mark Sacco, and Michael Scuzzarella—were a model team and excellent representatives of their hometown.

Saugus Manager Rob Rochenski and coaches, Mike Ferreira, Rob Calla, and Charlie Bilton must also be commended for their professionalism, their positive rapport with the players, and the countless hours they invested in this team. They rightfully recognize that Little League baseball should be about having fun, and it is clear they instilled that in this Saugus team.

A special thanks needs to be extended to the parents, family members, and friends of this team, many of whom traveled to Williamsport, donned orange jerseys, and vocally supported their Saugus Americans.

It is appropriate that the House recognize the remarkable performance of the Saugus Americans. I am proud of their accomplishments, and wish them the best of luck in the future.

TRIBUTE TO MOTHER TERESA

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. STEARNS. Mr. Speaker, Mother Teresa, winner of the Nobel Peace Prize, was born on August 27, 1910 and died in 1997 after a lifetime of devotion to the poor. Born Agnes Gonxha Bojaxhiu in 1910 in Skopje, Yugoslavia, she joined the Sisters of Loreto in 1928. She took the name "Teresa" after St. Teresa of Lesiux, patroness of the Missionaries.

In 1948, she encountered a half-dead woman lying in front of a Calcutta hospital. She stayed with the woman on the street until her death. From that point on, she dedicated the majority of her life to helping the poorest of the poor in India, thus gaining her the name "Saint of the Gutters." She founded an order of nuns called the Missionaries of Charity in Calcutta, India, dedicated to serving the poor. Almost 50 years later, the Missionaries of Charity have grown from 12 sisters in India to over 3,000 in 517 missions throughout 100 countries worldwide.

In 1952, she founded the Nirmal Hriday Home for the Dying in a former temple in Calcutta. It was there that she cared for the dying Indians that were found on the streets. Mother Teresa showed the love of Christ to all she met. Whether they were dying of AIDS or Leprosy, she wanted them to die in peace and with dignity. For over 50 years, she worked selflessly in service to the poor. That devotion to the needy won her respect throughout the world and the Nobel Peace Prize in 1979.

For many years, Mother Teresa labored in loving dedication to the sick and dying in India. Her compassion for the suffering knew no boundaries and has served as an inspiration to the world. Mother Teresa was a living saint and since her death has been greatly missed.

HONORING EVA FRANCHI—WIFE OF THE LATE SERGIO FRANCHI

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. SIMMONS. Mr. Speaker, I rise today to honor a member of my community and a revered member of the community of music lovers around the world. I honor Eva Franchi for keeping alive the memory and tradition of her late, great husband, Sergio Franchi and I honor her for her work on behalf of aspiring musicians through the Sergio Franchi Music Scholarship Foundation.

Sergio Franchi was one of the greatest romantic, popular tenors of the 20th Century. This, the 10th anniversary of the memorial concert, fulfills a dream of Eva Franchi's—the dream for romantic classical music to live on through future young tenors and sopranos, so that through them, the memories and music of Sergio can live on.

Over the years, I have attended this wonderful concert many times. I am honored to have Sergio Franchi's memory preserved in my own community of Stonington, Connecticut. Sergio was, and Eva continues to be, a dedicated supporter of the arts. This foundation has been established to continue the dream Sergio had—that is to help fund talented and deserving musicians.

In the 10 years since the foundation's inception, Eva has been able to award more than 120 scholarships and awards to students of vocal studies, young tenors and sopranos, with the hope that through beautiful, romantic classical music, Sergio's spirit may be kept alive.

The great Scottish historian and essayist Thomas Carlyle wrote, "Music is well said to be the speech of angels."

Sergio Franchi was born with the gift of music and those of us who have heard him sing know very well what Mr. Carlyle was referring to.

Mr. Speaker, Eva Franchi lives by the commitment of her husband to promote and foster a love of music through young voices of the future. On behalf of the rest of my staff, I wish to express our gratitude to Mrs. Eva Franchi for her devotion to the arts and for her dedication to preserving the memory of her husband through the Sergio Franchi Music Scholarship Foundation.

Eva, speaking for all members of Congress, we thank you for your service to our community, and thank you for your service and dedication to the classical musicians of the future.

TRIBUTE TO CAMP GOOD GRIEF

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an outstanding organization in my district. Camp Good Grief! in Cedaredge, Colorado provides children coping with the loss of a loved one with a place to grieve and interact with other children experiencing similar emotions. The camp's work is invaluable in the lives of its campers, and I am proud to bring it to the attention of my colleagues here today.

Camp Good Grief! offers kids a weekend retreat to help them deal with death, pairing them up with a counselor who provides support in sorting through their feelings. There are approximately forty-five staff counselors who offer companionship and serve as a friend while leading the children in their activities. Throughout the weekend, children participate in various arts and crafts that aim to help them to better cope with their loss and manage the grieving process. Camp Good Grief! invites children in grades three through eight to spend the weekend while also providing a teen retreat for high school aged kids.

Mr. Speaker, I want to thank the people who make Camp Good Grief! possible. Their altruistic pledge to helping kids in their time of need is truly commendable. Dealing with the loss of a loved one is not easy for anyone, let alone a child. This camp does a tremendous service in helping our kids cope with death. I want to recognize them for their commendable service.

THE IMPORTANCE OF NATIONAL SERVICE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. RANGEL. Mr. Speaker, I rise to share an excerpt from an important policy brief published by the Brookings Institute on the meaning of citizenship and national service.

What is our civic responsibility to this land, as people who enjoy the benefits of living in a vibrant democracy? How can we keep the social contract between all segments of society without a shared sense of sacrifice and duty? Authors E.J. Dionne, Jr. and Kayla Meltzer Drogosz provide a good overview of the subject and the importance of this issue to the future success of this country.

THE PROMISE OF NATIONAL SERVICE: A (VERY) BRIEF HISTORY OF AN IDEA

(By E.J. Dionne, Jr. and Kayla Meltzer Drogosz)

THE SERVICE IDEA AND THE AMERICAN EXPERIMENT

Divisions over the meaning of service are rooted deeply in our history. When the United States was founded, liberal and civic republican ideas jostled for dominance. The liberals—they might now be called libertarians—viewed personal freedom as the heart of the American experiment. The civic republicans valued freedom, too, but they stressed that self-rule demanded a great deal from citizens. The liberals stressed rights. The civic republicans stressed obligations to a common good and, as the philosopher Michael Sandel has put it in his book, Democracy's Discontents, "a concern for the whole, a moral bond with the community whose fate is at stake." In our time, the clash between these older traditions lives on in the intellectual wars between libertarians and communitarians. On national service, libertarians lean toward skepticism, communitarians toward a warm embrace.

America has changed since September 11, 2001. Respect for service soared as the nation forged a new and stronger sense of solidarity in the face of deadly enemies. What has been said so often still bears repeating: our view of heroes underwent a remarkable and sudden change. The new heroes are public servants—police, firefighters, rescue workers, postal workers whose lives were threatened, men and women in uniform—not the CEOs, high-tech wizards, rock stars, or sports figures who dominated the 1990s. At a time when citizens focus on urgent national needs, those who serve their country naturally rise in public esteem. Robert Putnam, a pioneer in research on civic engagement, captures the post-9/11 moment powerfully. He argues that because of the attacks on the World Trade Center and the Pentagon—and the courage shown by those on the plane that went down over Pennsylvania—"we have a more capacious sense of 'we' than we have had in the adult experience of most Americans now alive."

SEPTEMBER 11 AND THE SERVICE IDEAL

Accordingly, the politics of national service were also transformed. Even before September 11, President Bush had signaled a warmer view of service than many in his party. In choosing two Republican supporters of the idea—former Mayor Steve Goldsmith of Indianapolis and Leslie Lenkowsky, CEO of the Corporation for National and Community Service—to head his administration's service effort. Bush made clear he intended to take it seriously.

After September 11, service became a stronger theme in the president's rhetoric. In his 2001 State of the Union message, he called on Americans to give two years of service to the nation over their lifetimes and announced the creation of the USA Freedom Corps. It was a patriotic, post-September 11 gloss on the old Clinton ideas—and the ideas of John F. Kennedy, Lyndon B. Johnson, and Bush's father, the first President Bush, who offered the nation a thousand points of light.

There is also a new acknowledgment across the political divides that government support for volunteers can provide essential help for valuable institutions that we too often take for granted. It is easy for politicians to talk about the urgency of strengthening "civil society." But through AmeriCorps and other programs, the government has found a practical (and not particularly costly) way to make the talk real. Paradoxically, as the journalist Steven Waldman points out, AmeriCorps, a Democratic initiative, fit neatly with the Republicans' emphasis on faith-based programs. Democrats accepted the need to strengthen programs outside of government; Republicans accepted that voluntary programs could use government's help. This interplay between government and independent communal action may be especially important in the United States, where powerful and intricate links have always existed—long before the term "faith-based organizations" was invented—between the religious and civic spheres.

That national service has become a bipartisan goal is an important achievement. It is reflected in the White House's Citizen Service Act and in bills cosponsored by, among others, Senators John McCain (R-Ariz.) and Evan Bayh (D-Ind.). Sen. John Kerry (D-Mass.) has made an ambitious service proposal a centerpiece of his presidential campaign. These legislative ideas mirrored the spirit of the moment. As Marc Magee and Steven Nider of the Progressive Policy Institute reported a year ago, in the first nine months after September 11 applications for AmeriCorps jumped 50 percent, those for the Peace Corps doubled, and those for Teach for America tripled. Yes, a difficult private economy certainly pushed more young Americans toward such public endeavors. Nonetheless, their choices point to the continued power of the service idea.

CITIZENSHIP AND SERVICE

Citizenship cannot be reduced to service. The good works of faith communities and the private sector—or "communities of character," as President Bush has called them—cannot replace the responsibilities of government. Service can become a form of cheap grace, a generalized call on citizens to do kind things as an alternative to a genuine summons for national sacrifice or a fair apportionment of burdens among the more and less powerful or wealthy. But when service is seen as a bridge to genuine political and civic responsibility, it can strengthen democratic government and foster the republican virtues. Lenkowsky made this connection when he urged attendees at a Corporation for National and Community Service conference to turn "civic outrage into civic engagement" by increasing the reach and effectiveness of volunteer programs. No one can dispute visionaries like former Senator Harris Wofford, chairman of America's Promise, and Alan Khazei, cofounder and CEO of City Year, who have shown how AmeriCorps, VISTA, Senior Corps, and Peace Corps have transformed communities. But Paul Light of Brookings questions whether this transformation is sustainable. Can episodic volunteerism build the capacity and effectiveness of public and nonprofit organizations?

Will the new respect for service make government bashing less satisfying as a hobby? It is possible, but not likely.

Underlying the debate over national service is an argument over whether service is necessary or merely "nice." If service is just a nice thing to do, it's easy to understand the strong reservations about government-led service programs from critics such as Bruce Chapman who, in 1966, wrote The Wrong Man in Uniform, one of the earliest calls for a volunteer military.

But service has the potential to be far more than something nice.

Will Marshall and Marc Magee of the Progressive Policy Institute argue that the service idea could be a departure comparable to breakthroughs in earlier eras toward a stronger sense of citizenship. "Like settlement houses and night school, which helped America absorb waves of immigration," they write, "national service opens new paths of upward mobility for young Americans and the people they serve. And, like the G.I. Bill, national service should be seen as a longterm investment in the education, skills, and ingenuity of our people."

Service, then, is not simply a good in itself, but a means to many ends. It creates bridges between groups that have little to do with each other on any given day, and as the New Left's Port Huron Statement put it forty years ago, draws citizens "out of isolation and into community." Michael Brown, the co-founder of City Year, says service can activate "people's justice nerve," creating a thirst for social improvement. It could foster civic and political participation in a society that seems not to hold public service in the highest esteem.

But this very plurality of ends creates a certain skepticism about service. If it offers something for everyone, how serious can the idea really be? Michael Lind, a senior fellow at the New America Foundation, is right when he says that "within the small but vocal community of national service enthusiasts, there is far more agreement on the policy of national service than on its purpose." In the post-September 11 environment, he argues that the one compelling case for citizen service would rest on the need to expand the nation's capacity to prepare for and respond to domestic emergencies, notably those caused by terrorism.

ANSWERING THE CALL TO SERVICE

However one conceives of service, surely one of its ends—or, at least, one of the ends that wins the broadest assent—is the urgency of finding new ways to engage young Americans in public life after a long period of estrangement. In his 2000 campaign, Sen. McCain—initially a skeptic of national service, now a strong supporter—won a wide following among young people by urging them to aspire to things "beyond your own self-interest." Many surveys suggest that young Americans are deeply engaged in civic activity. One by Harvard's Kennedy Institute of Politics in October 2002 found that 61 percent of its national sample of undergraduates reported performing some form of community service in the past year. And as Paul Light has shown in a new survey, liberal arts college graduates from the Class of 2003 are eager to find jobs that provide opportunities to help people. However, when they hear the phrase "public service," they think of the kind of work they see in the nonprofit sector and not in government or politics. If we are to expand young people's understanding of public service, then service learning initiatives in public schools must continue to be linked with a heightened sense of civic responsibility and personal effectiveness.

If the new generation connected its impulses to service with politics, it could become one of the great reforming generations in American history. And service could become a pathway to a stronger sense of citizenship. As the columnist Jane Eisner argues, service "must produce more than individual fulfillment for those involved and temporary assistance for communities in need." It should, she says, "lead to an appetite for substantive change, a commitment to address the social problems that have created the need for service in the first place." Eisner and others have suggested that as a nation, we should celebrate the first vote cast by young people with the same fanfare that greets other moments of passage to adult responsibility. The goal would be to encourage a new generation to make the connection "between service to the community and participation in the very process that governs community life."

A focus on the links service forges between the rights and responsibilities of citizenship could offer new ways out of old political impasses. For example, Andrew Stern, the president of the Service Employees International Union, suggests that a two-year commitment to national service could become a pathway for undocumented workers to legalize their status and for legal immigrants to speed their passage to citizenship. Stern also proposes that former felons now denied voting rights might "earn credits toward restoration of full citizenship" through service.

At its best, service is not make-work, but what Harry Boyte and Nancy Kari, in their book, Building America, have called "public work." It is work that "is visible, open to inspection, whose significance is widely recognized" and can be carried out by "a mix of people whose interests, backgrounds, and resources may be quite different." Service as public work is the essence of the democratic project. It solves common problems and creates common things. Public work entails not only altruism, but also enlightened self-interest—a desire to build a society in which the serving citizen wants to live.

SKEPTICISM, REALISM, HOPE

Service alone cannot build a stronger sense of citizenship. Citizenship is meaningless unless citizens have the power to achieve their goals and to change their communities and the nation. It is thus possible to be skeptical about the new call to service, and it is absolutely necessary to be realistic. Speeches about service can be a convenient way for politicians to call for sacrifice without demanding much of citizens. At little cost to themselves, advocates of both conservative and liberal individualism can use service to shroud their real intentions behind the decent drapery of community feeling.

William Galston, a scholar who has devoted years of energy to promoting research and action to excite young Americans to public engagement, worries that the failure to link post-September 11 rhetoric about service to actual calls for civic action could lead to the very sort of cynicism service advocates decry.

"Would Pearl Harbor have been a defining event if it had not been followed by a national mobilization and four years of war that altered the lives of soldiers and civilians alike?" Galston asks. "In the immediate wake of September 11, the administration's failure to call for any real sacrifice from citizens fortified my belief that the terrorist attack would be the functional equivalent of Pearl Harbor without World War II, intensifying insecurity without altering civic behavior."

Theda Skocpol, another wise student of American civic life, sounds an equally useful warning. "Absent organizational innovations and new public policies," she writes, "the reinvigorated sense of the American 'we' that was born of the travails of 9/11 may well gradually dissipate, leaving only ripples on the managerial routines of contemporary U.S. civic life." In fact, as Skocpol and Galston suggest, mere exhortation to serve will do little to foster public—and especially political—participation if too many citizens see the public realm as broken.

The issue of whether Americans have been called to any real sort of sacrifice is, of course, the point of Rep. Rangel calling for a renewal of the draft. It is neither race-baiting nor class warfare—Rangel was accused of both—to suggest that a democratic society has a problem when members of its most privileged classes are not among the first to rally to the colors at a time of trouble.

This problem also worries Charles Moskos, the nation's premier student of service and the military experience. Moskos has explored ways of expanding the circle of commitment and promoting the idea of the "citizen soldier." This idea has caught on in a wide range of political circles. As Stanley Kurtz wrote in the National Review in April, "In a world of looming military challenges, the citizen-soldier program may be our last chance to expand the armed forces without a draft." John Lehman, the Navy Secretary under Ronald Reagan, has also offered helpful remedies short of a draft to overcome what he agrees is a fundamental problem: that "the burdens of defense and the perils of combat do not fall even close to fairly across all of our society."

FROM SERVICE TO CITIZENSHIP

If the problems of inequality are vexing where military service is concerned, they can also be troubling for service at home. Service, badly conceived, can distance citizens from public problems by seeing the server more as a missionary uplifting the needy than as a fellow citizen. Michael Schudson, a professor of sociology at the University of California, San Diego, sees President Bush's ideal citizen is a "Rotarian, moved by a sense of neighborliness, Christian charity, and social responsibility, but untouched by having a personal stake in public justice." Schudson's point is not to knock Rotarians. It is to argue that self-interest in pursuit of justice is a virtue. As Schudson notes in describing the civil rights movement, the most dramatic expansion of democracy and citizenship in our lifetime was brought about by citizens "driven not by a desire to serve but by an effort to overcome indignities they themselves have suffered." The point is brought home powerfully by Charles Cobb, who sees the civil rights movement as being best understood "as a movement of community organizing rather than one of protest." The civil rights movement performed a huge national service—and inspired many specific forms of service, including the registration of thousands of voters. This quintessentially civic, "good government" act, the registration of new voters, was also a powerful form of rebellion in places that denied African Americans the right to vote.

These are essential points. Yet it is also true that Rotarians are good citizens. Neighborliness, charity, and social responsibility are genuine virtues. And it is just possible that a nation responding to the call to service would, over time, become a nation deeply engaged in questions of public justice.

The debate over national service is a debate over how we Americans think of ourselves. It is a debate over how we will solve public problems and what we owe to our country and to each other. If our nation is to continue to prosper, it is a debate we will have in every generation. For if we decide that there are no public things to which we should be willing to pledge some of our time and some of our effort—not to mention "our lives, our fortunes, and our sacred honor"—we will be breaking faith with our nation's experiment in liberty rooted in mutual assistance and democratic aspiration.

IN HONOR OF THE 20TH ANNIVERSARY OF DALLAS SOUTHWEST OSTEOPATHIC PHYSICIANS INC.

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. FROST. Mr. Speaker, I rise today to honor and recognize Dallas Southwest Osteopathic Physicians Inc., as it celebrates its 20th anniversary.

In 1983, a group of doctors at Stevens Park Osteopathic Hospital decided to form a social welfare organization with the noble intention of investing in charitable causes in the Dallas community. With $7 million in hand, the doctors invested their money, the returns on which led to large contributions to medicine, education, and community development initiatives. Over 20 years, the organization doubled its assets and has since contributed more than $12 million in grants, scholarships, and financial assistance, to numerous community projects.

The Dallas Southwest Osteopathic Physicians have granted gifts to organizations and individuals in nearly every facet of life. Among their many gifts to the community, the Physicians have granted gifts to build a community center at the Oak Cliff YMCA; construct a playground for the handicapped; establish a Fire Safety House for the Dallas Fire Department; start a Bookmobile for the Dallas Public Library; and establish the Endowed Chair in Clinical Geriatrics at UNT Health Science Center at Fort Worth.

By benefiting the truly needy and encouraging philanthropy in Dallas, the physicians have made a significant and indelible imprint on Southwest Dallas.

Mr. Speaker, Dallas Southwest Osteopathic Physicians Inc. has helped over 150 beneficiaries over 20 years. I know my colleagues will join me in honoring them today, and wishing them the very best in their continuing efforts.

JOHN CZUCZMAN, INTERNATIONAL VICE PRESIDENT OF TWU RETIRES

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. SHUSTER. Mr. Speaker, I rise today to offer congratulations to John Czuczman upon his retirement from the Transportation Workers Union TWU. Before retiring, Mr. Czuczman served as International Vice President and Director of the Railroad Division for TWU representing employees throughout the Northeast and Midwest.

Mr. Czuczman began his career in the rail industry in 1955 as an employee of the Pittsburgh and Lake Erie Railroad and was a member of the TWU Local 1427. In 1968, he successfully ran for Local 1427 President and Grievance Chairman. He continued to serve the Local 1427 in those positions for the next 14 years. During his tenure as President, Mr. Czuczman was an active member of the union's Policy Making Board for railroad members.

In 1980, TWU's late president William Lindner appointed Mr. Czuczman to the International Union's staff as an International Representative. While on the International's staff, Mr. Czuczman was involved in most of the Union's key negotiations and arbitrations. He served as TWU's representative on the task force that put Conrail together in the early 1980's. Additionally, he participated in the crucial TWU negotiations that led to the takeover of Conrail's commuter lines by SEPTA, Metro-

North and the New Jersey Transit in 1982. Mr. Czuczman also served as Chairman of the Conrail Screening Committee and participated in a number of Conrail's contract negotiations. Since 1982, Mr. Czuczman has negotiated every contract with Amtrak involving the Joint Council of Carmen and the Amtrak Service Workers Council.

A tireless fighter for the rights of rail workers, Mr. Czuczman has been a strong advocate for the protection and improvement of the benefits provided by the Railroad Retirement Board. He also served as a member of the Board of Governors for Amtrak's Red Block Program which offers assistance, education and rehabilitation to those with alcohol and substance abuse problems.

Mr. Speaker, for almost 50 years John Czuczman has been a tireless advocate for the right of railroad workers. From negotiating contracts, to lobbying, to advocating for better benefits, to just simply being a friend to his fellow workers, John has served his fellow rail workers with dignity and class. Mr. Speaker, I hope that you will join me today in wishing John a long and happy retirement.

MISSOURI RICE MONTH

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mrs. EMERSON. Mr. Speaker, I rise today to recognize September as Missouri Rice Month and to urge all Americans to enjoy rice as part of a healthy, balanced diet.

Rice is the staple grain for more than 4 billion men, women, and children worldwide. Eight out of ten people depend on rice for 40 percent of their energy needs.

As a $2 billion cash crop, rice is the fifth most valuable food crop in America. Rice is vital to the economic stability of agricultural producers across the nation. Moreover, America exports rice to more than 100 foreign countries, providing nearly 15 percent of the rice in the global market.

With 1.2 billion of the world's population living in poverty and 800 million undernourished, there is no more serious issue than hunger relief Here in America, we have the rice supply to alleviate much of this suffering - and no continent in the world has been affected more by hunger than Africa.

In July, three rice farmers from Stoddard County, Missouri, accompanied me to Rome to learn more about how to get our Missouri products to African communities that desperately need food aid. Internationally, the World Food Programme and the Food and Agricultural Organizations of the United Nations are working to implement commonsense programs to educate Africans on American agricultural products, to increase American exports and food aid to Africa, and to initiate school feeding programs.

By enabling America's thriving rice producers to meet the food needs of the starving and malnourished around the world, we can overcome hunger. But first we must raise awareness of America's quality agricultural exports. As more nations accept our food products for their own hunger relief, the demand for our rice will continue to grow. The satisfaction of improving and saving lives is the only reward America needs.

Missouri Rice Month will help us meet our humanitarian goals, and Missouri Rice Farmers will keep growing the grain that feeds the world.

WHAT DOES AMERICANISM MEAN TO ME?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. STARK. Mr. Speaker, I rise today to share with you the inspirational message of a perceptive eighth grader, Tess Spinola, winner of the Disabled American Veterans Auxiliary (DAVA) annual State Essay Contest. The contest, which began in 1948, was held throughout the East Bay Area of San Francisco. This year's question was "What does Americanism mean to me?" Tess attends St. Joseph's Elementary School in Alameda, CA in my district.

Founded on March 5, 1947, the Oakland Unit (#7) Auxiliary of DAVA brought together wives,.sisters, daughters and mothers of those injured or disabled during wartime. The group of women decided at that time to dedicate their efforts to give back to the nation in a variety of ways. They work with local youth to bring more of America's young people to community service. Not all their work is purely organization, of course. DAVA created 100 baby quilts and gave them to nearby Highland Hospital, along with hand-made wheelchair bags and lap ropes for veterans. A few women in the Oakland Unit put on a party for people with Alzheimer's disease; others chair an Olympics for those with disabilities. In the words of Eva Mae Perakis, past state commander, "Our main purpose is to stimulate patriotism in the country and bring joy and awareness to the community."

Ms. Perakis described the essay contest as "overwhelmingly heart-warming." She said she receives letters from students who said it enriched their young lives to study and learn about veterans. "They realize they didn't really appreciate those freedoms they took for granted," she noted. Ms. Perakis also noted that the essays have "touched a few adult hearts as well."

"The contest causes our children to think and investigate inside themselves," Ms. Perakis said. "It's good for their minds. We're just trying to make our young students aware of what freedom really means. We hope they get that awareness as they write." Mr. Speaker, we all know that our children represent the future, and that someday they will be running this great country of ours. But, their impact frequently comes much before their maturation to adulthood. As any parent can tell you, today's youth has a knack for giving us adults a few important lessons. Tess Spinola's essay does just that.

WHAT DOES AMERICANISM MEAN TO ME?

(By Tess Spinola)

Americanism is such a powerful word with so many meanings. It is the equivalent of struggles, worries, doubts and fears, that all led, eventually, to astounding triumphs that define who we are, and the country we live in. It is the feeling of freedom as we lay our hands over our hearts and pledge to the flag; a flag that symbolizes the blood, sweat, and tears of Americans in the past, present and future; it is the pride and patriotism that only an American can truly understand. Most importantly, Americanism means something different for each of us.

Americanism means Victory to me; it means the success in the quest for independence by the Colonist in the Revolutionary War, symbolizing that America and its citizens are people that will fight to the end, and will prevail in the darkest of situations. Americanism, to me, also means Freedom. It is the heart and passion of the Northern states in the Civil War, fighting for four years for the freedom of their African American brothers and sisters. It means Unity to me, because when joined together as one, we are unstoppable. More recently, and for the first time, Americanism means Compassion for me. It is the New York fire fighters, encased in the ash, smoke, fire and despair, as the Trade Centers were minutes from crumbling to the ground. It is the moments that they climbed up those smoky stairs, risking their lives just for the hope that they could save the life of another. It is the way that Americans have shaken off the September 11th attacks and helped each other recuperate; turning defeat into a lesson we will learn from and grow because of for the rest of our lives. Americanism is a word and a meaning shared throughout our country, by everyone, yet it is also something very personal for me.

When I walk into my Catholic Church, and I am able to take Communion, and have a relationship with God in my own way, I know what Americanism means. When I leave the Basilica that day, and go to friend's house that is a Jew, or a Baptist, or one that has no religion at all, I know what Americanism means. When I am allowed to enjoy the Diversity surrounding me everywhere I go, and love all people I meet as my equal, Americanism has its most profound meaning for me. To be an American is to be a person of God, accepting, acknowledging, respecting and loving all people. It is what we have fought through, what we have strived for, what we are still fighting for in many ways, and what we have the chance to live everyday of our lives.

Yet, Americanism, like anything, also means Change and Growth. Not only do we acknowledge that we need to change and grow in many ways, but we strive toward it everyday of our lives. We look forward to once again realizing our faults, defeating them, and growing because of them. Americanism is not represented for me through the war we may be going into with Iraq; in fact the war is America turning its back on everything we stand for. But it does mean to me the hundreds of people lining up to protest the war in San Francisco. These people know what Americanism means; freedom and right to protest, which is something that seems like such a basic right, but in reality, was fought for and earned by our founding fathers. These people are living out what we have fought for throughout our country's entire history, and when I see them on the front page newspaper, I know why I am proud to be an American.

In short, Americanism means Victory, Freedom, Unity, Compassion, Diversity, Change, and Growth. It is the triumph and the pride in the tears that run down the cheeks of America's citizens as they hold their hands to their hearts and ponder for what seems like the first time, every time, the meaning of their National Anthem. It is alive in each and every one of us, and we must strive to be a real American everyday; the sum of what we have fought for, and what we have learned. As I watch people of all races, nationalities, religions and histories live together as equals, as I gaze at our flag, waving in the cool air of a young sunny day, as I observe the sparks of fireworks on the Fourth of July, bursting triumphantly and fluttering back to the ground in a glowing sparkle, I know what Americanism means to me. What does it mean to you?

HONORING MOTHER TERESA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Mother Teresa, a woman who has touched the lives of millions directly and indirectly. On October 19th 2003, Mother Teresa will be beatified in Rome by Pope John Paul II.

Born August 26, 1910 in The Former Yugoslav Republic of Macedonia as Agnes Gonxha Bojaxhiu, she would not wait long to change the world. She soon found her calling at the age of 18 when she had her first calling in the Catholic church and joined the Sisters of Loretto. This Irish order of Catholic Nuns was responsible for Mother Teresa's traveling to India, where she taught and also served as principal at St. Mary's High School.

Mother Teresa's second calling came from the sick and the dying people in the streets of India. In 1948, she was granted permission by the Vatican to leave the Sisters of Loretto and start her own ministry in order to reach out to the poor, the suffering, and the dying. In 1952, Mother Teresa opened the Nirmal Hriday, Pure Heart, Home for Dying Destitutes in Calcutta. The Missionaries of Charity which continues to fulfill Mother Teresa's mission now has more than 400 of these homes worldwide. Her order of missionaries has grown to include approximately 5,000 sisters.

With such resources, Mother Teresa, late in her life, continued to help those that were fighting for their lives by giving her time and energy to those who were sick from the horrible illness known as HIV/AIDS. Mother Teresa's work has known no borders, from houses in New York City, San Francisco and Tirana, Albania, to helping the radiation sick in Chernobyl, the hungry in Ethiopia and earthquake victims in Armenia.

In 1979, Mother Teresa deservedly received the Nobel Peace prize for her continuing work to help the sick and the poor. In 1985 she received both the Presidential Medal of Freedom, and the Lifetime Achievement Award from the Foundation for Hospice and Homecare. It has been said though, that no matter how prestigious these awards, Mother Teresa's most beloved reward was the feeling she received from taking care of those who needed her help.

Mr. Speaker I can stand here and recount for hours all of the wonderful things that Mother Teresa has done for this world. Mother Teresa's greatest accomplishment however is the lasting love that she has left behind with her mission and its continued work to serve those who cannot help themselves any longer.

In recognition of Mother Teresa's birthday, beatification and all of her accomplishments, I ask my colleagues to join with me to honor the memory of this wonderful woman.

A TRIBUTE TO RICK KNOTT UPON HIS RETIREMENT FROM THE SAN DIEGO UNIFIED SCHOOL DISTRICT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. CUNNINGHAM. Mr. Speaker, I rise today to congratulate Richard Knott on his retirement after 30 years of service to the San Diego Unified School District. It is an honor to recognize the contributions that Rick has made to this school district and to our Nation during his career.

Rick has dedicated his life to the education system and has had numerous accomplishments throughout his 30 years with the San Diego Unified School District, the National Association of Federally Impact Schools, NAFIS, as well as many other education-related organizations.

I personally have worked closely with Rick in his role as the Controller of the San Diego Unified School District, and as a member of the Board of Directors of NAFIS. As a member of the NAFIS board, Rick has been an advocate of the Impact Aid program, a program designed to reimburse school districts for a loss of tax revenue as a result of a Federal presence. Rick has worked not only to increase funding for the Federal Impact Aid program, but also to ensure that the program's authorizing law is applied fairly to school districts, and maximizes the value of the program dollars.

On behalf of San Diego Unified, Rick has sought to ensure that the school district is receiving its fair share of impact aid dollars under the law. In addition to being a liaison to the Department of Education for the school district's basic support payments, Rick aggressively sought new sources of Impact Aid dollars. Rick even identified a section of the law, Section 8002, that had previously not applied to the district. Since 1994, Section 8002 has yielded in excess of $35 million for students in San Diego. Through Rick's work, San Diego City Schools identified and qualified for Voluntary Integration funding resulting in over $100 million of income to the district since 1985. This was done at the time when districts were not thought to qualify for the Voluntary Integration fund. Rick has drafted several legislative concepts and language to increase funding to the district or improve business/finance operation at both the Federal and State levels. Rick has also been asked to testify before the U.S. Congress, House of Representatives Subcommittee on Education to discuss the importance of Federal Impact Aid issues.

I would also like to thank Rick for his service to the 50th District of California. Rick frequently joked with me about the strong voting block that he controlled—that of his wife and children—in my Congressional District. Rick worked hard to ensure that my staff and I maintained a thorough understanding of the Impact Aid law, and the issues and challenges facing the program. This program is important to my Congressional District because of the presence of a number of large military installations. Rick's dedication to strengthening and improving this program has improved educational opportunities for military children in my Congressional district, and for military and Indian children all across our country.

Mr. Speaker, it is my honor to recognize Richard Knott on this occasion of his retirement from the San Diego Unified School District for his dedication to education and his continued role in enriching the lives of students in my district and across the country. I thank him for his service and wish him continued success in the future.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2861) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes:

Ms. SCHAKOWSKY. Mr. Chairman, I rise in strong support of the Nadler-Velázquez amendment. The amendment restores $150 million in funding for the Section 8 voucher program. The underlying bill cuts funding for housing vouchers. If this bill is passed into law in its current form, 85,000 people will lose their vouchers, including over 3,200 families in Illinois. I strongly believe that we should expand, not reduce, funding for the Section 8 voucher program and low-income housing in general. The Nadler-Velázquez amendment would help restore voucher funding for thousands of families in need.

In a letter I received today, several faith-based organizations wrote, "As faith-based organizations, we are committed to strengthening our communities by assisting those who are the most vulnerable, and we believe that our work is not simply a matter of charity, but of responsibility, righteousness, and justice. We urge you to assist us in our work by renewing Congress' commitment to fully fund and expand the Section 8 voucher program." I encourage my colleagues to read the full text of the letter and urge all members to support the amendment.

July 25, 2003.

To: Members of the U.S. House of Representatives
Re: Funding for the Housing Choice ("Section 8") Voucher Program

As members of the faith community, we are writing to express our concern about funding for the Section 8 housing voucher program. Our organizations serve millions of low-income individuals and families who, despite their best efforts, are struggling to meet their basic needs and to achieve economic stability. To many of those we assist, the lack of affordable housing presents a considerable obstacle, and the Section 8 voucher program offers in turn a critical form of assistance. Through our work, we are witness to the important role that housing vouchers play in preventing homelessness, and in helping low-income individuals and families to make progress towards economic stability.

Congress has for many years expressed a strong commitment to the Section 8 voucher program, consistently voting to increase the number of vouchers authorized and to fully fund all authorized vouchers. This commitment has been important, as the need for housing assistance has continued to expand. In most communities, there are long waiting lists for Section 8 vouchers, and it is estimated that only one third of eligible households receive voucher assistance.

To our disappointment, however, Congress appears to be retreating from this commitment. In the appropriations law for 2003, Congress failed, for the first time in recent memory, to include funding for incremental Section 8 vouchers. This week, the House Appropriations Committee reported out a VA-HUD appropriations bill for 2004 that would, by its own estimate, fund only 96 percent of authorized Section 8 vouchers, and again includes no funding for incremental vouchers.

Moreover, while we appreciate that the House Appropriations Committee has made a sincere effort to improve on the President's budget request for the voucher program, and we recognize that estimating future voucher costs is difficult, there is reason to believe that the Committee's estimate is overly optimistic. Recent analyses performed independently by the Congressional Budget Office and the Center on Budget and Policy Priorities (CBPP) suggest that the Committee's estimate is based on voucher cost assumptions that are too low. For example, in an analysis of the most recent voucher cost data from the U.S. Department of Housing and Urban Development, CBPP estimates that the Section 8 appropriation in the House bill would be sufficient to renew only 91 percent of authorized vouchers, and is approximately $580 million short of the funding that will be necessary to fully renew vouchers leased in 2004. A shortfall of this magnitude would have a destructive impact on thousands of vulnerable households—85,000 households, by CBPP's estimate—the great majority of which are working families, elderly, or disabled.

We therefore urge you to renew Congress' commitment to fully fund the Section 8 voucher program. Specifically, we ask that you increase the Section 8 appropriation sufficiently to ensure that all authorized vouchers will be funded, and to make certain that no households using vouchers in the coming year will be denied funding.

As faith-based organizations, we are committed to strengthening our communities by assisting those who are the most vulnerable, and we believe that our work is not simply a matter of charity, but of responsibility, righteousness, and justice. We urge you to assist us in our work by renewing Congress' commitment to fully fund and expand the Section 8 voucher program.

Sincerely,

American Baptist Churches USA; Call to Renewal; Catholic Charities USA; The Episcopal Church, USA; McAuley Institute; NETWORK, A National Catholic Social Justice Lobby; Presbyterian Church (U.S.A.) Washington Office; United Jewish Communities; Volunteers of America.

HONORING ESPERANZA MARRERO

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. VELÁZQUEZ. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to Esperanza Marrero—a resident on the Lower East Side of my New York City Congressional District.

Esperanza is the oldest person in New York State at 110 years old and 4 and ½ months. She has lived through two World Wars, and has seen the changes in culture and life in Puerto Rico—and in New York City—over the decades.

Born in 1893 in Mayaguez, Puerto Rico, Esperanza is the proud grandmother of 15 and has dozens of great grandchildren. She credits her long life to getting a strong start growing up in Puerto Rico.

Like her grandmother before her who lived to be 120, Esperanza continues to live a full life, playing bingo at the Lillian Wald Senior Center, shopping on 14th Street, or watching the boats on the East River. Her companion is a dog named Benji, who is said to have saved her life many times.

Esperanza, which means "hope" in Spanish, was named appropriately—her life and her story are truly inspirational.

Therefore, Mr. Speaker, I rise today to honor Esperanza Marrero, and join with my colleagues in the House of Representatives to recognize her extraordinary life.

TRIBUTE TO DR. ROBERT INGRAM

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to a versatile and committed public servant in my District, the Rev. Dr. Robert Ingram. This honor has long been in coming for his service to our community in various capacities. Among the roles he has held was that of Chief of Police, City Manager and subsequently Mayor of the City of Opa-Locka. His current elected position as Vice-Chairman of the Miami-Dade County Public Schools, the fourth largest school system in the nation with some 370,000 students, is what occupies his waking hours as he doggedly tackles the awesome task of balancing the learning needs of students amidst the dwindling education dollars that now fund our schools.

In its most recent article entitled: "Robert Ingram: The Ascension of an Ex-Miami Cop," the FLAVOUR Black Florida Life & Style Magazine succinctly quoted the City of Miami's first Black Police Chief Clarence Dickson when he described Dr. Ingram's service record thus: ". . . his life is legend and is about as close to the impossible dream as I have witnessed . . . not in my wildest dreams would I have predicted the accomplishments, the challenges, the risk, the courage, the sacrifices, the victories and the successes this man would achieve though all of the evidence was there in those early days."

He has spoken clearly on such issues as money, reparations, black-on-black crime, affordable housing, civil rights, love, equal rights amendment, rap music, etc. and all the implications inherent in these core issues that now crowd the African-American community's agenda. Dr. Ingram exudes the preeminence of a noble gentleman, as well as the virtues of a lucid scholar as he is wont to expound during School Board meetings his unwavering positions on equal educational opportunities for minorities, the controversial incongruence of the Florida Comprehensive Assessment Test (FCAT), along with his unconditional passion for justice and equal rights for all.

Ever since I have known Dr. Ingram, he has always been at the forefront of ensuring equal participation in the shared duties and responsibilities on the part of Miami-Dade County's citizenry. At the same time, his forceful advocacy in adhering to the tenets of equal treatment under the law not only in the halls of academia, but also in every segment of our government agencies has become legendary. In fact, countless others have been touched by his genuine commitment, especially towards those who could least fend for themselves.

Dr. Ingram is the consummate public servant and community activist who abides by the dictum that those who have less in life through no fault of their own should be helped by the government—regardless of race or creed, gender or class. The numerous accolades with which he has been honored by various organizations and agencies at the local, state and national levels attest to an unequivocal testimony of the utmost respect he enjoys.

Blessed with a down-to-earth common sense and yet consecrated by his religious calling to serve the ". . . least of these," he is also imbued with the rare wisdom of recognizing both the strengths and limitations of those empowered by the electorate to govern. This unique leadership is being tested to the hilt during School Board meetings as he draws attention to the basic purpose of our public schools—that of maximizing the learning potential of every student and that the success of any school is genuinely measured by how well it is reaching out even to those students who are being left behind.

Dr. Ingram thoroughly understands the accoutrements of power and leadership, and he is wisely exercising them alongside the mandate of his conviction and the call of his conscience as he engages all their energies toward advancing the good of the community he has learned to love and care for so deeply. He exudes the kind of genuine faith and anchors his hope in the Godgiven abilities of the students attending the Miami-Dade County Public Schools when he stated that ". . . I firmly and passionately believe that all our kids have what it takes to succeed. The challenge is for us to reach this generation by motivating them instead of frustrating them. Children often turned off school by simple things because they are sensitive beings that we do not always respond to."

Dr. Robert Ingram truly exemplifies a unique and responsive leadership whose courageous vision and wisdom appeals to our noble character as a caring Nation. At the risk of being presumptuous, I honor him and I want to extend to him the utmost gratitude of the Miami-Dade County community that he and I are privileged to serve.

HONORING ROBERT G. HOWELL

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mrs. McCARTHY of New York. Mr. Speaker, I rise in recognition of Mr. Robert G. Howell, of Mineola, New York for his thirty-five years of distinguished service in the Nassau County Police Department. His retirement this year marks the end of an extraordinary career. As a Patrolman and then a Detective, Mr. Howell has worked diligently for the security and safety of our communities. He has put his life on the line everyday for the protection of others. The courage and bravery he has shown is to be commended.

A former United States Air Force officer, Mr. Howell is a proud American. Mr. Howell is also a lifelong athlete, played softball, basketball, and lacrosse everywhere from Pease Air Force Base in Portsmouth, New Hampshire to Nassau County, New York as a member of the Nassau County Police Department County team. A dedicated community member, Mr. Howell recognized the need for strong, positive role models. Since 1976, he has taught children the importance of teamwork, leadership, and perseverance as a soccer, baseball, and lacrosse coach. As a Detective, a Coach, and a loving father and husband, Mr. Howell's commitment to serving his community is unparalleled. This is not the first time Mr. Howell has been recognized for his efforts. A committed member of the Detectives Association Incorporated, where he served as President for seventeen years, he was named Law Enforcement Man of the Year in 1986. He also received acknowledgment for Excellent Police Duty twice, a Meritorious Award, and a Congressional Special Recognition Award. Now it's my turn to say thanks.

Mr. Speaker, I ask my colleagues to join with me to express our gratitude to my friend, Mr. Howell for his exemplary work and dedication to the safety and protection of his fellow Americans. His many accomplishments in his thirty-five years of service have helped make Nassau County a safe place for all.

H.R. 2971

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. SHAW. Mr. Speaker, I would like to have it noted that Mr. CARDIN of Maryland should be considered as an original cosponsor of H.R. 2971, Social Security Number Privacy and Identity Theft Prevention Act of 2003. Mr. CARDIN's name was inadvertently omitted from the list of original cosponsors at the time the bill was introduced. Mr. CARDIN has long supported efforts to protect the privacy of Social Security numbers and prevent identity theft and I am pleased to have his support on this important legislation.

CONGRATULATING THE CITY OF PEABODY, MA, ON THE CELEBRATION OF THEIR 20TH ANNUAL INTERNATIONAL FESTIVAL

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. TIERNEY. Mr. Speaker, on September 14, the City of Peabody, Massachusetts, will celebrate its Twentieth Annual International Festival, and I will be among the more than 65,000 people who will stroll around Peabody Square enjoying the vibrant array of arts, entertainment and foods of the diverse ethnic groups that enliven civic life in Peabody today.

The International Festival was envisioned by former Mayor Peter Torigian, who initiated and continued the event as a way to celebrate the ethnic and cultural diversity of the city known historically for its important role in the leather tanning industry that was so much a part of the 19th and early 20th century economic history of our region. Under Mayor Torigian's hands-on leadership, the Festival grew exponentially over the years and has now been warmly embraced and fostered by current Mayor Michael Bonfanti, who serves as the International Festival's Honorary Chairman.

Throughout these two decades of growth and change in Peabody, there has been one very constant presence involved in the International Festival—City Councilor Judy Selesnick, who has served with great skill and enthusiasm as Chairwoman and number one volunteer for the International Festival since its beginning. This Twentieth Anniversary year will be Judy's last at the helm; she has decided to retire from the chairmanship, though few doubt that she will continue to cheer from the sidelines as each year's festivities unfold.

To Judy Selesnick, Mayor Bonfanti and Mayor Torigian, and to all of the citizens of Peabody who celebrate their diversity on this day and every day, my congratulations and best wishes for a most successful International Festival this year and my thanks to you all for your dedication to Peabody's rich heritage and hopeful future.

NOTING THE OPENING OF A CZECH REPUBLIC REGIONAL CONSUL'S OFFICE IN KANSAS CITY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MOORE. Mr. Speaker, I rise to bring to the House's attention the opening of a regional consul's office for the Czech Republic in the Kansas City metropolitan area. Events are being planned from September 24 to 26 to celebrate this opening, including a visit from the Czech Republic's ambassador to the United States, Martin Palouš, to Kansas City.

For centuries, thousands of Czechs and Slovaks have immigrated to Kansas, Missouri and Nebraska. These naturalized Americans and their descendants have formed a vibrant part of America's rich cultural tapestry. Now, after only a decade since becoming a free and autonomous nation, the Czech Republic's amazing progress toward democratization has created a unique opportunity to further strengthen the ties between Eastern Europe and America's heartland. I believe this new local consul's office can be the catalyst for further interaction, understanding and mutual appreciation.

I would like to take this opportunity to congratulate and thank Sharon K. Valášek, the honorary consul of the Czech Republic to Kansas, Missouri and Nebraska, for helping to establish an official Consulate of the Czech Republic in Kansas City.

I also wish to thank the distinguished ambassador from the Czech Republic, Mr. Martin Palouš, and welcome him to Kansas City. I hope that our two nations can continue to cooperate and thrive while strengthening our bonds of friendship and commerce.

TRIBUTE TO MAJOR GENERAL JAMES P. CZEKANSKI

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to our country and the community of Riverside, California are exceptional. This country has been fortunate to have dedicated individuals who willingly and unselfishly give their time and talent and make this country a safer and better place to live. Major General James P. Czekanski is one of these individuals. On Saturday, August 23, 2003, he will be honored as he departs from March Air Reserve Base in Riverside, California.

In 1968, Major General Czekanski, after receiving his Bachelor's Degree in history from the University of Massachusetts, attended undergraduate pilot training at Williams Air Force Base in Arizona. After completing school he attended Sewart Air Force Base in Tennessee for C–130 combat crew training and then became a tactical airlift pilot for three years at Pope Air Force Base in North Carolina in

1969. He served at Ubon Royal Thai Air Force Base in Thailand as an AC–130A Gunship aircraft commander from 1972 to 1974 at which time he attended Squadron Officer School. Over the next 4 years he would serve in various positions before obtaining his Master's degree in counseling and human development from Troy State University. In 1981 he completed Air War College.

Over the next 20 years Major General Czekanski served in numerous commands throughout the country as Chief of Tactical Airlift Operations, Commander, Vice Commander and Senior Air Reserve Technician, Inspector General, and Director of Operations. In August of 2000 he was assigned to March Air Reserve Base in Riverside, California as Commander of the 4th Air Force, Air Force Reserve Command. He has accumulated more than 7,500 hours of flight time and has flown numerous aircraft including the C–5A, C–141A/B/E/H, AC–130A, HC–130H/N/P, and KC135R.

Throughout his distinguished career Major General Czekanski has received over 20 major awards and decorations including the Legion of Merit with two oak leaf clusters; Meritorious Service Medal with oak leaf cluster; Air Force Outstanding Unit Award; National Defense Service Medal with service star; Vietnam Service Medal; and Kuwait Liberation Medal from both Saudi Arabia and Kuwait. In addition to his dedication to his military career, Major General Czekanski is a member of the Air Force Association, the Reserve Officer Association, the Order of the Daedalians and the Airlift and Tanker Association.

Major General Czekanski's tireless passion for service to country and community has contributed immensely to the betterment of our nation and to the community of Riverside, California. I am honored and proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he moves on to the next chapter of his life.

IN RECOGNITION OF INSPECTOR HENRY KADEN ON HIS RETIREMENT FROM THE UNION CITY POLICE DEPARTMENT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Inspector Henry Kaden on his retirement from the Union City Police Department after 27 years of serving and protecting the public.

Inspector Kaden began his career with the Union City Police Department in 1976. In 1984, he was promoted to detective in the Crime Prevention Bureau, where he served until he became sergeant in 1985. In 1988, Inspector Kaden became commander of the Crime Prevention Unit, and, in 1989, he was promoted to lieutenant. After serving as lieutenant for eight years, he was promoted to captain in 1998, and finally, earned the rank of inspector in July, 2002.

Before his service with the Department, Inspector Kaden served in the United States Army from December 1966 to December 1968. From May 1967 until May 1968, during the Tet Offensive, Henry Kaden served in Vietnam.

Inspector Kaden has been the recipient of a number of awards and recognitions for his outstanding service to the public. In 1989, he received the McGruff Award for the National Night Out Program; in 1990, he was named Police Officer of the Year by the Knights of Columbus; in 1991, he was named a National Night Out "All Star"; and, from 1991 to 1993, his National Night Out Committee was awarded National Honors for representing a top state in the country for neighborhood safety.

Inspector Kaden has received four Medals of Valor and two Life Saving Awards from the Union City Police Department; seven Excellent Police Service Awards; two Honorable Service Awards; a Wound Medal, and two Unit Citations for his work on the Crime Prevention Bureau and as Detective Bureau Commander. The State of new Jersey awarded him with a Distinguished Service Medal and the Vietnam 25th Anniversary Commemorative Medal in 2002.

Inspector Kaden is a graduate of Emerson High School in Union City, New Jersey.

Today, I ask my colleagues to join me in honoring Inspector Henry Kaden for his 27 years of service with the Union City Police Department.

RECOGNITION OF THE 13TH ANNIVERSARY OF THE SIGNING OF THE AMERICANS WITH DISABILITIES ACT INTO LAW

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. HARRIS. Mr. Speaker, I rise today to commemorate a landmark civil rights anniversary in American history, which passed after we had adjourned for the District Work Period in July. Thirteen years ago, the first President Bush signed the Americans with Disabilities Act into law, launching a new era in our nation's everlasting journey towards equal opportunity for all.

This long-overdue legislation finally breathed life into the principle that every American has the right to be a full and equal participant in our society.

As Florida's Secretary of State, I was blessed to have the opportunity to apply the mission of the ADA to the cause of election reform. Beginning with my appointment of a Select Task Force in 2001, we worked to remove the obstacles that prevented persons with disabilities in Florida from enjoying the sanctity of the secret ballot and the civic majesty of going to the polls on Election Day.

Thanks to powerful advocates from Florida's disabilities community like Pam Dorwarth, Doug Towne, and Richard LaBelle as well as the skilled leadership of Colonel Charley Price in mobilizing our veterans with disabilities, Florida became the first state in the nation to pass wide-ranging legislation vindicating the voting rights of persons with disabilities.

As we celebrate how far we have come, we must not forget how many miles we still must travel to truly secure for every American the rights and privileges that most of us take for granted.

SARGE FRYE OBITUARY

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. WILSON of South Carolina. Mr. Speaker, today many South Carolinians mourn the loss of Sarge Frye, who died yesterday of heart failure at the age of 90. I ask that his obituary be included in the RECORD, as printed today in the State newspaper.

[From the State, Sept. 4, 2003]

COLUMBIA.—Mr. Frye died Wednesday, September 3, 2003. Born in Medon, Tennessee, he was a son of the late Leonard A. Frye and Pearl Daniel Frye Allin. A combat veteran of World War II and Korea, he landed at Utah Beach on D-Day. He was decorated with two Bronze Stars, a Purple Heart, and Combat Infantry Badge. He retired in 1953 as a master sergeant after 23 years of service in the U.S. Army. While serving in the Armed Forces, Sarge was an outstanding athlete, participating in basketball, baseball, softball and track as a player and coach. He met his wife, Ruby, while stationed in Alabama. The family later moved to Columbia's Fort Jackson, where he was responsible for athletic facilities. Mrs. Frye died in 1997.

It was in 1953 that he came to work for the University of South Carolina and was placed in charge of athletic facilities. His duties were expanded to include supervision of grounds for the entire university. South Carolina named its baseball facility, "Sarge Frye Field" in 1980 to honor its groundskeeper. The American Baseball Coaches Association named Frye National Groundskeeper of the Year in 1993. Sarge retired in 1977, but continued to supervise operations through mid-1997. In addition to groundskeeping and landscaping duties, Sarge operated the game clock for men's and women's basketball games at the Carolina Coliseum for many years.

Sarge Frye was inducted into the USC Athletic Hall of Fame and the South Carolina Athletic Hall of Fame. He was an honorary member of the USC Association of Lettermen and the USC Alumni Association.

Surviving are his daughter, Nancy Frye Stiehr of Columbia; son, Jerry L. Frye and his wife, Jayne, of Greenville; sister, Norma Pope of Dallas, Texas; brothers, Kenneth Frye of Jackson, Tenn., Huey Frye of Florida, and Martin Allin of Boliver, Tenn.; four grandchildren, Jay L. Frye and his wife, Kim, of Columbia, Mamie Frye Clayton and her husband, Richard, of Columbia, Debbie Stiehr Smith and her husband, Allen, of Charlotte, and Eric Stiehr and his wife, Marianne, of Columbia; and five great-grandchildren, Cole and Tucker Smith, Mary-Riley, Heyward and Emma Clayton. He was predeceased by a son-in-law, Pete Stiehr.

A TRIBUTE TO GEOFFREY ARONOW—OUTGOING PRESIDENT OF THE AMERICAN CIVIL LIBERTIES UNION FOR THE NATIONAL CAPITAL AREA

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. DAVIS of Alabama. Mr. Speaker, in February of this year, I joined with individuals from the President's Committee of the American Civil Liberties Union of the National Capital Area for dinner at the home of two of its members, Charlie Cerf and Cynthia Dunbar.

On that occasion, I learned a great deal about the activities of this particular Affiliate of the National ACLU, and I met and talked with its President, Geoffrey Aronow. I found him to be a person who is very committed to preserving and protecting civil liberties. I understand that Mr. Aronow recently retired from his position as President, and I believe it is important that we pause, acknowledge his dedicated service and thank him for his untiring and selfless work in behalf of the cause of defending our Constitution.

These are indeed difficult times, times that challenge us in many ways, puzzling and unpredictable times. Mr. Aronow's presidency spanned the months and now years since the events of September 11th, 2001. I have come to learn that, through it all, he has been steadfast, unwavering, unequivocal and unambiguous in his words as well as his deeds when matters of the Bill of Rights are at stake. He appreciates that the legal experience in America is enriched and venerated by citizens and non-citizens alike because our history is one of fierce defense of the liberties guaranteed by the first Ten Amendments.

Mr. Speaker, America is not great due to our advanced technology, our many resources or our military might. Those things make us strong. They do not make us great. America is great because of citizens like Geoffrey Aronow, the best and the brightest we have to offer, the most noble, those of unparalleled integrity. He deserves our appreciation for a job well done.

NWOKOMA SAMPSON AND THE MICROSOFT/AAPD FEDERAL INTERNSHIP PROGRAM

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MOORE. Mr. Speaker, I rise today to bring to your attention and to the attention of my colleagues the outstanding summer internship program that has been implemented by the American Association of People with Disabilities [AAPD] and Microsoft Corporation. This Federal Internship Program provides ten college students—including Nwokoma Sampson, of Merriam, Kansas, which is in my congressional district—with paid summer internships this year working in information technology for one of several participating agencies of the U.S. government.

Nwokoma Sampson attended California State University at Northridge [CSUN], where he was the first black deaf student to graduate with a computer science degree. This internship gave him a means to expand upon the experience he gained in previous internships and on his general technology experience. I am confident that the internship has also afforded him the chance to become familiar with the federal government's working environment and to obtain knowledge that will be an invaluable tool for his evaluation when applying for permanent federal positions. I am including with this statement an article about Nwokoma's experiences that was recently published in the Kansas City Star.

As Mariana Nork with the American Association of People with Disabilities has described their joint effort with Microsoft, "This is a unique program because it's focused on people with disabilities. This program provides opportunities for the interns, but it is also a great chance for the participating public agencies to learn more about people with disabilities and to realize that there's a wide pool of untapped talent in the disabled community." Microsoft and AAPD developed a two-year program to provide 25 paid information technology internships to college students with disabilities in ten different federal agencies, with Microsoft providing $325,000 to fund the program and AAPD overseeing the program's administration. The grant provides each student with a stipend, free accessible housing and transportation, and any costs related to arranging special worksite accommodations that may be necessary. The program is open to any college or university student who has a disability and has demonstrated an interest in a career in information technology. Participating agencies have included the Social Security Administration, the U.S. Department of Transportation and the U.S. Department of Defense.

Established in 1995, the AAPD is the largest cross-disability membership organization in the United States, with over 40,000 members. AAPD's mission is the political and economic empowerment of the more than 56 million people in the United States living with disabilities. I commend AAPD and Microsoft for their joint effort to develop and implement this important federal internship program, which has enhanced opportunities for several disabled individuals, including my constituent, Nwokoma Sampson.

[From the Kansas City Star, July 30, 2003]

STUBBORNLY SEEKING SUCCESS: MERRIAM MAN HASN'T LET DEAFNESS OR HIS START IN WEST AFRICAN POVERTY STOP HIM

(By Kati Jividen)

Call him Nwokoma Sampson or Oma Sampson. He is both. A hearing man. A deaf man. That's according to his resumes.

"I did get some response from the one I posted using Oma without indicating that I am deaf," the 34-year-old Merriam man wrote in an online chat. "But whenever I reply to the recruiter seeking to do an interview, and I tell them I am deaf, I hardly hear from them again." It's discouraging—Sampson won't lie. But, like everything else that has happened in his life, he is not going to sit back and be a quiet observer. He'll let someone else do that.

"When I was at CSUN (California State University-Northridge), deaf students who were enrolled in computer science program with me dropped out," he wrote. "By the time we reached our second year, I found myself all alone and struggling to the end. I guess that is why my parents believe that I am stubborn, but I need to be stubborn with my problems in order to overcome them." Sampson, who was born in the jungle of West Africa, grew up in poverty. After earning a graphic design diploma in Lagos, Nigeria, he put everything behind him and moved to America "in search of the American dream or rather the proverbial golden fleece," he wrote.

In Nigeria, Sampson was the first deaf student to attend the Yaba College of Technology. He also is the first black deaf student to graduate with a degree in computer science from Cal-State-Northridge. Plus, he wrote, English is his third language behind sign language and Igbo, a language spoken by the Igbo tribe of Nigeria. "Nigeria had little opportunity for me," wrote Sampson, who shares his home with his wife of almost one year, Mei Yuk Maggie Sampson, a counselor at Kansas School for the Deaf in Olathe.

"Actually, I wanted to study medicine, but Nigeria university at that time did not accept deaf students. Neither do they provide interpreters for deaf students at the university level. I had to choose graphic design, which depends more on vision, so that I could teach myself and survive in the class without too much trouble."

He found himself in the same predicament at Cal-State where he recently graduated with a computer science degree and $50,000 in debt. "I could not work and go to school because I had to teach myself everything and even study during summer breaks in advance for the classes I am going to enroll in the following semester," Sampson wrote. But now that Sampson has earned his degree (six years in the making) he is able to spend this summer on an information technology internship in Washington, D.C. He is living in a dorm room at George Washington University, working with the Federal Emergency Management Agency. He has helped with the agency's transition to the Department of Homeland Security.

Asked if he enjoys the job, he responded: "It is not whether I am enjoying myself or not. It is about networking." His boss, the assistant to the chief information officer of FEMA, speaks to Sampson in sign language. Since his arrival, her signing has improved. "Now she has improved her sign language while I get to know her better in order to establish a connection," he said. "It is this connection that I am looking for, which may one way or the other help me in the future."

Sampson—and nine other students with disabilities—are the first to partake in these competitive information technology internships, said Mariana Nork, senior vice president at the American Association of People with Disabilities (AAPD). The advocacy group coordinated the internships, which are funded by a two-year $325,000 grant from Microsoft. Transportation and lodging is provided, and each intern is given a $4,500 stipend. All of the interns are top in their respective classes, and all are seeking a career in information technology. "The disability community has continued to see a high unemployment rate in this country. Our goal is to make that change," Nork said.

"That is a multi-tiered task, but at the basis of it all is education. We must educate people with disabilities about job opportunities available to them in all of the careers. The other side of the coin is educating the potential employer." Seminars, such as one taught last week by Microsoft, teach the interns how to correctly apply for a job with a disability, said Sarah Meyer, senior manager in Microsoft's community affairs department. "To say this is successful is an understatement," Nork said of the internship program. "We are delighted, the interns are delighted and the agencies are delighted."

Sampson would be delighted to have a job. He spent five months looking for a job in Kansas, to no avail. When he heard about the AAPD internships, he applied and waited. "I post it and that was it," he wrote. "I do not like to be too anxious about anything. I just let tomorrow take care of itself."

Sampson said his ideal job is to work as a software engineer, programmer, application developer—anything that comes with some element of programming so he can help teach other deaf students. He may even start his own software engineering business "if I keep getting discriminated (against) when it comes to hiring by private companies," he wrote. Plans are already under way for him to go back to school at the University of Maryland-Adelphi to get a master's degree in computer science or software engineering. Eventually he would like a doctorate. His success has led to advice for other struggling students: "Never give up as a deaf person. Where there is a will, there is a way, and what you sow, you will reap the fruit eventually."

IN HONOR AND MEMORY OF BOB BRISON

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Mira Loma were exceptional. Mira Loma has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Bob Brison was one of these individuals. On August 13, 2003, Bob passed away and the community of Mira Loma had to say goodbye to a man who forever changed their way of life.

Bob was a pillar of his community, having served as the President of the Mira Loma Chamber of Commerce for 8 years. As President, he worked relentlessly to promote small business and enrich the business environment of Mira Loma. Bob was also extremely supportive of Riverside County veterans and actively participated in Jurupa VFW events such as the annual golf tournament. The owner of a concrete placement and finishing company, he donated his time and materials to paving the driveway of the VFW at Glen Avon. His compassion and ability to give saw no bounds.

Bob was also passionate about 4–H and the Future Farmers of America. He worked to ensure that the kids were successful and enjoyed their experiences while participating in the organizations. He often organized pancake breakfasts for charity and founded the Community Citizens on Patrol. The citizens' group patrols Mira Loma and supports law enforcement and code enforcement agencies in Riverside County. His commitment to various groups throughout the community immeasurably improved the quality of life of the residents of Mira Loma.

As dedicated as Bob was to the community, Bob was also a devoted husband and father. His wife Gina and two daughters, Mary and Michelle, were the joy of his life. My thoughts are with them during this difficult time.

Mr. Speaker, looking back at Bob Brison's life, we see a man dedicated to his family, community, and country. Bob's tireless passion for community service has contributed immensely to the betterment of the community of Mira Loma, California. Bob has been the heart and soul of many community organizations and events and I was proud to call him a fellow community member, American and friend. For all he has done and given over his lifetime, honoring his memory is our duty and privilege.

IN HONOR OF CARMEN VALENTI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Carmen Valenti for his years of dedication and service to the citizens of New Jersey as a tireless housing advocate. He was honored on August 20, 2003 at a luncheon at Don Pepe Restaurant in Newark, New Jersey.

As the Director of the New Jersey Office of Public Housing for the Department of Housing and Urban Development (HUD) for the last twelve years, Mr. Valenti has worked relentlessly to implement public housing programs, and has fought for adequate and affordable housing for New Jersey residents across the state.

Mr. Valenti first came to New Jersey in 1973, where he began working with the Somerset Department of Planning. In 1978 he began working as a planner for HUD in the Newark's Community Development Office and served in that capacity for thirteen years until becoming Director in 1991.

Originally from Utica, New York, Mr. Valenti earned his bachelor's degree in History and Sociology from Concord College in West Virginia, and his master's degree in Public Administration from Golden Gate University in San Francisco. He also holds a master's degree in Urban Planning from New York University.

From 1969 to 1973, Mr. Valenti served in the intelligence division of the United States Air Force. He earned the rank of staff Sergeant and was honorably discharged in 1973.

A true public servant, Mr. Valenti's efforts to provide better housing for New Jersey residents have improved the lives of many across the state. Today, I ask my colleagues to join me in honoring Carmen Valenti for his tireless advocacy and dedication to serving the public.

TRIBUTE TO SAM T. HART

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. LEVIN. Mr. Speaker, I rise today to pay tribute to an outstanding leader in Michigan's labor community on the occasion of his retirement after over 30 years of service. Sam Hart, Business Manager, International Union of Operating Engineers Local 324, is an operating engineer through and through. Starting as a pipe liner in Michigan, he rose through the ranks to distinguish himself within the state and the nation as a thoughtful and effective labor leader.

Mr. Hart was initiated in the International Union of Operating Engineers in 1959. He was appointed the Business Representative for Local 324 in 1971 and was first elected to the Executive Board in 1977. His leadership in organizing members in the Operating Engineers and on issues of health care and retirement security, so vital to the working men and women he represents, catapulted him to the highest tier of leadership and gained the local union a reputation throughout the state and nation.

Local 324 is considered one of the strongest local unions in Michigan, with the largest percentage of its workers organized throughout the skilled trades. Local 324 is consistently listed as one of the top 25 locals in the State.

Sam Hart's good work has called him into numerous positions of service. He was elected Secretary-Treasurer of the North and Central States Conference in 1990, the largest conference of operating engineers in the United States. He served on the negotiating Committee for the National Pipe Line Agreement for the entire U.S. and Canada. He served as President of the Michigan State Building Trades and on the Detroit AFL–CIO Executive Board. He was elected as a General Vice President to the International Union of Operating Engineers beginning in 1994 and was appointed Chairman of the General Pension in 2000.

I have been honored to know Sam Hart as a friend over so many of these years. What friends say about Sam Hart is probably most telling about the man whose career will be honored on Saturday, September 6, 2003. He is "thoughtful," "level-headed," "decent," a "gentleman" and a "family man to the core." I ask my colleagues to join me in paying tribute to the work of Sam Hart and to wish him, his wife, Darlene, and their entire family health and happiness in the years ahead.

WELCOMING THE ROLLING RAINFOREST TO SAN FRANCISCO

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. PELOSI. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues a wonderful exhibit, the Rolling Rainforest, as it comes to San Francisco on its maiden journey across America.

The Rolling Rainforest is a classroom on wheels. Inside a 53-foot tractor-trailer, the magic of a rainforest environment is reproduced as a mobile museum, transporting the message of environmental stewardship to underserved schoolchildren.

It has traveled from the nation's capital to the Golden State to participate in the 150th anniversary celebration of the California Academy of Sciences. During its visit to San Francisco, the Rolling Rainforest will reach out to the Leonard R. Flynn Elementary School in San Francisco, Lincoln School in Vallejo, and the Golden Gate Elementary School in Oakland.

Since it was first launched in Washington, D.C. last October, the Rolling Rainforest has had more than 25,000 visitors come to experience the sights, sounds and smells of a rainforest. Inside the exhibit, children are introduced to a sloth hiding in the forest canopy, beautiful butterflies, and exotic birds line the explorer's path to the scientist's hut where experiments are conducted using rainforest products—chocolate, vanilla and coffee. It is an enchanted trail that leads children on a new discovery.

Mr. Speaker, rainforests are a precious gift. About 25 percent of the world's forests are rainforests, and they are home to one half of the earth's plant and animal species. Rainforests possess an ecosystem that is based on a complex interdependence of plants and animals. One of the critical lessons derived from the exhibit is the essential relationship of the rainforest to our surroundings and daily lives.

These lessons are conveyed in the environmental education message from the Rolling Rainforest exhibit, and they are developed and delivered in a manner that reaches younger generations. The exhibit teaches young people the importance of environmental stewardship in their communities and prepares them to be good stewards of the earth's natural environment.

Congratulations to the Discovery Creek Children's Museum on its San Francisco debut of the Rolling Rainforest.

CONGRESSIONAL PAY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GREEN of Wisconsin. Mr. Speaker, this body must understand that by giving itself a pay hike today, it sends a message to the American people that the Congress is woefully out of touch. In my state, the economy has serious problems. People are losing their jobs. Families are too worried about whether there's going to be another paycheck at all to even think about when a raise might be coming. This pay boost is a terrible idea, it's irresponsible, and it's a slap in the face of taxpayers during this very tough time.

IN HONOR OF REVEREND MONSIGNOR EDWARD F. WOJTYCHA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Reverend Monsignor Edward F. Wojtycha for his 65 years of service to the people of New Jersey and to the Catholic Church.

A native of Jersey City, New Jersey, Reverend Monsignor Wojtycha has dedicated his life and work to helping the people of Jersey City and Bayonne. The Reverend Monsignor began his career in 1938 as a priest at St. Vincent's Church in Bayonne. During his 25 years at St. Vincent's, he served as administrator for 7 years and oversaw the ordination of 20 new priests. In 1963, he was appointed pastor of the newly-formed Our Lady of Mercy Church in Jersey City, where he helped build a new church facility, school, and convent. He then served as pastor of St. Andrew's Church in Bayonne until 1970. Reverend Monsignor Wojtycha retired in 1985. Since 1990, he has continued his service by volunteering at the Most Precious Blood Church in Monmouth Beach. He was honored on June 11, 2003 by the Catholic Community of St. Andrew's Church to mark the 65th anniversary of his priesthood.

Reverend Monsignor Wojtycha continues to be a great inspiration to the people and the cities he has served. He was a founder of the St. Vincent's Drum and Bugle Corps, which has won 10 National Championships, 22 State Championships and had the honor of marching in all presidential inaugurations from Truman to Kennedy.

The Reverend Monsignor has been named "Man of the Year" by the State and National Junior Chamber of Commerce, the Knights of Columbus Fourth Degree, the Disabled War Veterans, the American Legion, and others. He was a recipient of the Governor's Award and the VFW National Youth Award, and is in the National Drum Corps Hall of Fame and the New Jersey Drum Corps Hall of Fame. There are two streets named after the Reverend Monsignor, one in Jersey City and one in Bayonne.

Today, I ask my colleagues to join me in honoring Reverend Monsignor Edward F. Wojtycha for his exceptional service and dedication to the people of New Jersey.

CALLING FOR TAIWANESE REPRESENTATION AT THE UNITED NATIONS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. DEUTSCH. Mr. Speaker, I rise today to call for representation for Taiwan at the United Nations. During the October, 1971 debate on admitting the People's Republic of China to the United Nations, George H.W. Bush, the United States Ambassador to the United Nations, worked hard to implement the United States' official policy: dual representation which would allow both Beijing and Taipei to be represented in that body. The father of today's president suggested that China take the seat in the UN Security Council and that Taiwan take a seat in the General Assembly.

But George H.W. Bush's efforts at the time were undercut both by Henry Kissinger and Nationalist leader Chiang Kai-shek. Kissinger did not support dual representation for China and Taiwan. He happened to be on his second visit to Beijing preparing for President Nixon's trip while the debate was underway. Ambassador Bush noted later that the Kissinger trip swayed some votes against the American position.

Chiang Kai-shek, then President of the Republic of China, himself did not support dual representation, clinging to the absurd position that he and his Kuomintang government were the sole legal government of all the Chinese people. The UN vote to seat the People's Republic of China righted the obvious injustice that had meant 1 billion people were not represented in the UN.

But the vote also created a major injustice, leaving the people of Taiwan unrepresented.

Chiang and his obdurate KMT position are now history. Taiwan's government no longer makes this ridiculous claim. Moreover, Taiwan has moved from the autocratic days of Chiang's martial law to full-fledged democracy.

I call upon President George W. Bush to implement the same policy his father fought for—dual representation for both Beijing and Taipei in the UN, participation by Taiwan in all international fora, and full diplomatic recognition of Taiwan by the United States.

The brave citizens of Taiwan deserve nothing less and the global community striving to defeat terrorism will be strengthened by Taiwan's recognition and participation.

LIMERICK TOWNSHIP'S 125TH ANNIVERSARY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. GERLACH. Mr. Speaker, I rise today to recognize Limerick Township, Montgomery County, Pennsylvania on its 125th Anniversary.

In 1682, William Penn purchased the land that would become Limerick Township from the Lenni Lenape Indians of the Delaware Tribe. His purchase paved the way for the area's first settlers who, in the Township's infancy, were mostly Welsh, Germans, Holland Dutch and French Huguenots. An official petition to form "Lymmerick Township" was filed in Philadelphia in March of 1726 and the original document remains in City Hall, Philadelphia, to this day.

Manatawny Road, which we know today as Ridge Road, was the name given to the main road through the Township from Trappe to Pottstown and was built in 1718. The area's first schools were started by parents and were usually part of the neighborhood churches with instruction focusing on religion, reading, writing and arithmetic. Limerick hired its very first law enforcement officer, a constable, in 1767, before organized police protection began in 1961. For the first 250 years of Limerick Township's history, all public records were kept in individual homes until the municipal building was erected in 1973, with a ceremony and dedication in 1974. In 1968, the Philadelphia Electric Company selected a site within the Township for construction of two nuclear power generating units and, by 1986, the plant was fully operational. Today there are four elementary schools that serve the Township's children, two fire companies, an airport and numerous churches—just a few more indications of how the community has grown through the years.

Flourishing Limerick Township, however, saw an acceleration of growth particularly after the opening of the Pottstown Expressway (Rt. 422) in 1985, which connects the Limerick area to King of Prussia as well as nearby Philadelphia. Since its completion, the Township has seen skyrocketing residential and commercial growth resulting in many new businesses and residents who call Limerick Township home. Today, Limerick Township, one of the oldest townships in Pennsylvania, is considered one of the most desirable and respected communities in the Philadelphia region.

Mr. Speaker, I ask my colleagues to join me today in recognizing Limerick Township for 125 years of history, heritage and service. I also recognize the fine citizens and officials of Limerick Township, including Township Supervisors Thomas J. DiBello, Kenneth W. Sperring Jr., Francis T. Grant, Frederick L. Fidler and Joseph T. Greco, for making Limerick Township the wonderful community it is today.

HONORING WARREN WILSON

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Warren Wilson, a former constituent and friend whose short life touched those with whom he came into contact.

Warren Wilson was, more than anything else, generous. I have met few people in my life whose generosity and charity exceeded Warren's. He willingly gave his time, energy, and money to help those in need. He performed free legal work for those who could not afford it. He raised money for charitable organizations that helped the poor and downtrodden. He volunteered to serve on the boards of local community and service organizations.

Warren Wilson was, however, more than just an asset to our community. He was a loving husband to his wonderful wife, Beth. He was a devoted father to his fine son, Scott. And he was a mentor to my children, especially to my son Gus, who runs the law practice that I started before I came to Congress.

Warren also was my friend. He was someone with whom I could watch a baseball game, someone with whom I could discuss the issues we debate in this hallowed chamber, and someone with whom I could talk about life and our roles in it. One of my proudest and most gratifying moments in Congress came when I was able to appoint his son to serve as a congressional page. Warren was so proud of Scott, as was I for the outstanding job he did during his time in Washington.

Mr. Speaker, I was blessed to know Warren Wilson and to have had him as a friend. And the world is a much better place for having had him in it. I know that, although his earthly life has passed, his impact will be felt by those he touched for many, many years to come.

INTRODUCTION OF LEGISLATION HONORING CELIA CRUZ BY AWARDING HER THE CONGRESSIONAL GOLD MEDAL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MENENDEZ. Mr. Speaker, I rise today to offer legislation to honor my great friend, the music icon, Celia Cruz, who lost her courageous battle with cancer on July 17, 2003.

Last night, during the Latin Grammy's, Americans were mesmerized by an emotional and wonderful tribute to the great Celia Cruz. Today, in the People's House, I am joined by my colleague, Representative ILEANA ROS-LEHTINEN, to introduce legislation that will posthumously award Celia Cruz the Congressional Gold Medal.

Celia de la Caridad Cruz Alonso was born on October 21, 1924, in Havana, Cuba. Her career blossomed when she left Cuba for the United States in 1960, where she eventually made Fort Lee, New Jersey her home.

Over a five decade career as an entertainer, Celia Cruz became known as the "Queen of Salsa," and claimed the calling card cry of "Azuuuucar!" Celia's passion, boundless energy, and charisma transfixed generations of salsa fans and musicians. She recorded more than 70 albums and her collaborative efforts with other performers including the legendary salsa artist Tito Puente, pop star David Byrne, and hip-hop producer Wyclef Jean helped break down ethnic and cultural barriers. She was one of the few bridges that crossed cultural and racial divides.

Celia's musical talent earned her hundreds of awards worldwide, including five Grammy's, two Latin Grammy's, and the National Medal of Arts, the highest honor bestowed on an artist in the United States. She was a Hispanic Heritage Awards Lifetime Achievement recipient, and has a star on Hollywood's Walk of Fame. Her music was a unifying force, and her passion for a free Cuba was evidenced in both her music and her words.

Celia touched the lives of millions. More than 100,000 individuals mourned her loss at her wake in Miami, Florida and 75,000 people lined the streets of Manhattan to pay their respects as her funeral procession made its way through the streets of New York City.

Celia Cruz made countless contributions to American society and the world as an entertainer, and she was an ambassador of Latino culture and a voice of freedom. Her music, her words, and her love of freedom live on. This legislation would make Celia the first Latina to receive the Congressional Gold Medal.

I urge my colleagues to support this bill, and I urge the leadership to bring it swiftly to the floor for a vote.

PERSONAL EXPLANATION

HON. MAX BURNS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BURNS. Mr. Speaker, I rise today to provide an explanation for my absence during three votes yesterday evening.

During yesterday's votes of roll Nos. 460, 461, and 462, I was en route to the Capitol from Savannah due to weather delays in the Washington area. Had I been present, I would have voted in the affirmative for each.

RECOGNITION OF THE 13TH ANNIVERSARY OF THE SIGNING OF THE AMERICANS WITH DISABILITIES ACT INTO LAW

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Ms. HARRIS. Mr. Speaker, I rise today to commemorate a landmark civil rights anniversary in American history, which passed after we had adjourned for the District Work Period in July. Thirteen years ago, the first President Bush signed the Americans with Disabilities Act into law, launching a new era in our nation's everlasting journey towards equal opportunity for all.

This long-overdue legislation finally breathed life into the principal that every American has the right to be a full and equal participant in our society.

As Florida's Secretary of State, I was blessed to have the opportunity to apply the mission of the ADA to the cause of election reform. Beginning with my appointment of a Select Task Force in 2001, we worked to remove the obstacles that prevented persons with disabilities in Florida from enjoying the sanctity of the secret ballot and the civic majesty of going to the polls on Election Day.

Thanks to powerful advocates from Florida's disabilities community like Pam Dorwarth, Doug Towne, and Richard LaBelle as well as the skilled leadership of Colonel Charley Price in mobilizing our veterans with disabilities, Florida became the first state in the nation to pass wide-ranging legislation vindicating the voting rights of persons with disabilities.

As we celebrate how far we have come, we must not forget how many miles we still must travel to truly secure for every American the rights and privileges that most of us take for granted.

AMERICA HAS LOST A GREAT WARRIOR AND HERO: GENERAL RAY DAVIS

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. LINDER. Mr. Speaker, it is with great sadness that I mourn the loss of retired U.S. Marine Corps General Raymond G. Davis, who passed away yesterday in Atlanta, Georgia.

With his birth on January 13, 1915, in Fitzgerald, Georgia, Raymond Gilbert Davis began a life of service to his fellow Americans. His military career, for which he is best known, commenced after his graduation from the Georgia School of Technology in 1933, where he participated in the Reserve Officers' Training Corps unit. In 1938, General Davis resigned his commission with the U.S. Army Infantry Reserve to accept an appointment as a U.S. Marine Corps second lieutenant.

It was General Davis' bravery while serving in the U.S. Marine Corps that proves how this ordinary man was truly one of America's extraordinary heroes. During the Korean War, then Lt. Col. Davis gave this country his most famous demonstration of his unparalleled leadership during the 1st Marine Division's historic break out of the Chosin Reservoir area. During that campaign, in the face of treacherous weather conditions and overwhelming enemy numbers, he led a battalion of Marines to prevent the annihilation of a beleaguered Marine rifle company and secured a mountain pass for the safe deployment of two additional Marine regiments while keeping his own forces intact.

Following this act of bravery, President Truman, who presented the Medal of Honor to Lt. Col. Davis on November 24, 1952, wrote, "his valiant devotion to duty and unyielding fighting spirit in the face of almost insurmountable odds enhance and sustain the highest traditions of the U.S. Naval Service."

General Davis once jokingly told me that was the biggest mistake he ever made because every time Marines were trapped they sent for him. He, of course, was pleased to do whatever his country asked him to do.

General Davis, who also served in World War II and the Vietnam War, culminated his service with an appointment as the Assistant Commandant to the Marine Corps. Following his service in this capacity, General Davis retired from the U.S. Marine Corps in 1972, and became America's most highly decorated living veteran. His decorations include: the Medal of Honor; the Navy Cross; the Distinguished Service Medal with Gold Star in lieu of a second award; the Silver Star Medal with Gold Star in lieu of a second award; the Legion of Merit with Combat "V" and Gold Star in lieu of a second award; the Bronze Star Medal with Combat "V"; the Purple Heart; the Presidential Unit Citation with four bronze stars indicative of second through fifth awards; the Navy Unit Commendation; the American Defense Service Medal with Fleet clasp; the American Campaign Medal; the Asiatic-Pacific Campaign Medal with one silver star in lieu of five bronze stars; the World War II Victory Medal; the National Defense Service Medal with one bronze star; the Korean Service Medal with four bronze stars; the Vietnam Service Medal with three bronze stars; the National Order of Vietnam, 4th Class; the National Order of Vietnam, 5th Class; the Vietnamese Cross of Gallantry with three Palms; two Korean Presidential Unit Citations; the United Nations Service Medal; and the Republic of Vietnam Campaign Medal.

General Davis' devotion to his fellow Americans did not end with his retirement. General Davis was instrumental in the design, funding and construction of the U.S. Korean War Memorial located here in Washington, DC. I was there on the day it was opened. I was as proud of my friend on this occasion as I have ever been. It struck me that while he was a genuine hero as a military leader, his greatest contributions to his nation may have been what he did over the last 31 years for his fellow veterans. He loved them for their service and they revered him for his leadership.

Then, General Davis played a crucial role in creating U.S.-Korea 2000, an organization that reached out to almost 40,000 veterans of the Korean War in order to allow them to participate in ceremonies associated with the 50th anniversary of the Korean War. In my home state of Georgia, he devoted his time and energy to the construction of the Georgia War Veterans Memorial Park in Rockdale County.

Through the years I have known Ray Davis, not only as a fellow veteran, but also as a friend. His courageous devotion to his comrades, his unyielding fight for the American veteran, and his love for and service to the United States itself are all examples of what it truly means to be an American.

While his military service was exemplary, his post military service deserved just as many medals. I generally open a speech with the request for all veterans in the audience to stand. When they do, they are met, without exception, with the greatful applause of the rest in attendance. Ray Davis taught me that.

When I am in a campaign I always target veterans since, as Ray always reminded me, I should be proud that I am one and should share that fact.

When the Republican Party is in a presidential race, whether 1988, 1992, 1996, or 2000, I could always expect Ray Davis to be escorting our candidate around veterans groups. Indeed, there was no military leader, with the possible exception of Omar Bradley, more revered by the troops, then my friend Ray Davis.

Let me hasten to add that he was never satisfied with our efforts. I was the proud recipient of many letters and phone calls from this American hero reminding me of how many veterans there were and what patriots they were and how little we were doing to appreciate them. I may have disagreed with him once or twice, but I do not recall it. My prayers go to Willa and the family.

America has lost a great warrior and hero. And I have lost a great friend. I shall miss him.

MOTHER TERESA: A MODEL FOR US ALL

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. BACHUS. Mr. Speaker, in 1948, Mother Teresa came across a half-dead woman lying in front of a Calcutta hospital. She stayed with the woman until she died. From that point on, she dedicated the majority of her life to helping the poorest of the poor in India. If everyone in the world able to help the poor would donate a small fraction of their time in the spirit of Mother Teresa, the world would be a much better place.

It takes an extraordinary person to "see God in every human being." Almost 50 years later, her Missionaries of Charity has grown from 12 sisters in India to over 3,000 in 517 missions throughout 100 countries worldwide. For 50 years, this remarkable woman has touched the lives of so many that were in dire need of help.

As we members of Congress go about our daily routines, we would be well served to use Mother Teresa as an example of how we should conduct ourselves. Our duty is public service, and there was no greater servant to mankind than Mother Teresa.

RECOGNIZING MR. ALBERT G. HORTON, JR. OF CHESAPEAKE, VA

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. FORBES. Mr. Speaker, I rise today to recognize the late Mr. Albert G. Horton, Jr. of Chesapeake, VA for his seemingly endless dedication to the veterans of Virginia.

On September 8, 2003, we will break ground in Suffolk, VA to establish a new National Veterans Cemetery, due largely to the perseverance of Al Horton. In 1996, as a Virginia State Delegate, I created the Virginia Veterans Liaison Committee in an effort to bring veterans together and to give a unified voice to their issues. Al Horton was a member of that committee and that is how I first came to know Al.

In 1997, Al contacted me and asked me to introduce legislation to have a National Veterans Cemetery constructed in the Hampton Roads area. Thus, I began a long fulfilling relationship with this very special man.

During 1998, as a result of a bill I introduced as a member of the Virginia General Assembly, a study was conducted to establish if there was a need for a new National Cemetery within the region. The study concluded there were 173,700 veterans living in the Hampton Roads area who would benefit from such a cemetery. The distance to the closest alternative cemetery site in Amelia is two and a half hours away, and the study concluded that this distance had been a deterrent to veterans' families who wanted to be able to visit the gravesites of their loved ones.

Based upon that study, I worked with Al in his new role as Chairman of the Hampton

Roads Veterans' Cemetery Committee to find a site to serve as a final resting place for our nation's veterans. An area in Suffolk, VA was selected and $650,000 in state-appropriated monies was used to secure purchase of the land. Additional money was appropriated for the design and engineering of the cemetery, but all those funds were to be reimbursed by the federal government through the Department of Veterans' Affairs in the form of a short-term Treasury loan. The effect of these actions would therefore result in a Veterans' Cemetery for Virginia Veterans that would cost approximately $8 million with Virginia only paying approximately $650,000.

Al Horton worked tirelessly, with the help of veterans around the state, organizing, leading and overcoming many hurdles to make his vision of a veterans' cemetery in Hampton Roads a reality. He even wrote a book, "Grass Roots Politics, If You Don't Like It—Change It!!" which details his experience as an ordinary citizen accomplishing the goal of getting something as great as the Veterans Cemetery at Hampton Roads accomplished.

I only wish Al was still with us to see the result of all his hard work. He passed away on October 17, 2002, in Chesapeake, VA. When Al died, he was at his computer rallying his fellow veterans in an effort to ensure the cemetery would be built. We were talking with Al on an almost daily basis. That was part of Al's essence—never giving up and always going the extra mile to make a difference in other people's lives. His dedication to the veterans and the State of Virginia will never be forgotten.

Al Horton was a dedicated husband and father. In his will, he stipulated that he and his beloved wife, Evelyn, who preceded him in death, should be buried in the unfinished cemetery. It gives me great peace to know that in the near future Al's wishes will be honored.

While Al Horton cannot be with us on September 8, 2003, when we dedicate the cemetery he worked so hard to create, I know that he will be smiling as he looks down. Al Horton understood that the recognition and proper burial of our veterans is an integral part of our national heritage and an important way for a grateful nation to say "Thank you". Our veterans have continuously defended and renewed America's promise through their efforts. It is only fitting that we honor them in their final resting place.

Mr. Speaker, today I ask that we take this opportunity to recognize Al Horton for his passion, his commitment, and his love for his country. Al was a veteran, an advocate, an author, and a friend to all who knew him. I hold Al Horton in high esteem and have nothing but respect and affection for this wonderful man. I know my life is changed for having met him, because he was willing to make a difference for those who fought to preserve our freedom and asked for nothing more than a place to rest in eternal peace.

A TRIBUTE TO MR. ROBERT W. CULLEY OF HILL CITY, KANSAS

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise today to pay tribute to a man who had a positive effect on the lives of many people in Northwest Kansas and across the state. We mourn the death of Mr. Robert W. Culley of Hill City, Kansas.

A life-long Kansan, Mr. Culley never hesitated to answer the call to serve his family, community, state and country. He lived a life guided by the morals and values we hold dear in rural America: strong beliefs, faithful service and absolute integrity.

Shortly after his graduation from college, Bob volunteered for the Navy in June of 1942. After basic training in Rhode Island, Bob was assigned to the 60th Construction Battalion and was sent to the Solomon Islands in the South Pacific to build an airfield for future operations against Japan. Bob continued his military service, graduating from the Supply School at Harvard and then serving aboard the battleship USS *Texas* until the end of World War II.

Bob returned to his hometown of Mullinville, Kansas, where he spent twenty years farming and ranching. Bob started a new career when he accepted an offer to become the President of the Consolidated State Bank in Hill City.

It was during his tenure at the bank that I was fortunate to have the opportunity and pleasure to work with Mr. Culley. As a recent college graduate, I quickly came to admire his intelligence, integrity and dignity. Working for Bob taught me a great deal about banking, but even more about being a good person. I know that I am better for having known him and worked with him.

He contributed an endless amount of time in making his community a better place to do business and raise a family.

Most important to Bob was his family. Over the course of 61 years together, he and his wife Catherine raised a son and daughter, Tom and Sara, and devoted endless love and attention to his two grandchildren.

He was a member of the United Methodist Church, the Hill City Rotary Club, the Masonic Lodge, the Order of the Eastern Star, the South Solomon Shrine Club, the American Legion, the Veterans of Foreign Wars, the Hill City Elks Lodge, the Graham County Historical Society, the Graham County Community Foundation and the Graham County Hospital Board.

Bob also served on the Fort Hays State University Endowment Board and was a past president. He was involved in the David and Mary Rush Scholarship Trust, where he and other trustees awarded scholarships to Graham County High School graduates.

Through his kindness and service, Robert Culley made his community, state, and nation a better place. I join his many friends and admirers in extending my deepest sympathies to Catherine and her family during their time of loss.

TRIBUTE TO RUSH-MILLER FOUNDATION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to recognize a charitable organization that works to improve the lives of blind or visually impaired children throughout the United States. The Rush-Miller Foundation raises money to donate bicycles to visually impaired children in ten different states across the country. The foundation works to inspire confidence and a more active lifestyle in children who are visually impaired.

The Rush-Miller foundation was formed in 2001 in recognition of the benefits that the initial project had conferred upon Garrett Rush-Miller. Garrett had been an outgoing, active child until a malignant brain tumor inhibited his usual activities and he stopped playing outside. With the hope that a tandem bicycle could improve Garrett's outlook, his parents were able to obtain a bicycle through the charitable contributions of many friends and sponsors. Now, the Rush-Miller foundation aspires to help other children like Garrett by donating bicycles to help restore their active lifestyles.

Mr. Speaker, I am honored to pay tribute to the Rush-Miller Foundation for their philanthropic work. I commend the foundation for its noble objective and congratulate everyone involved on their tremendous success. I wish the foundation all the best in the years to come.

HONORING MR. XIA CHIA XIONG

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to posthumously honor Mr. Xia Chia Xiong for all of his service to the Lao community in Merced, California. As the first President of the Merced Lao Family Community, Inc. he touched many lives.

Born in 1940 in Laos, Mr. Xiong dedicated his life to helping the Lao community. From 1957–1961, he was an assistant to the Chief of Nam Chanh District, City of Mong Pheng, Vangvieng Province, in Laos. During the Vietnam War, he worked for the United States Central Intelligence Agency and was bestowed the rank of major. With the fall of Laos in 1975, he led a group of Hmong refugees to take refuge in Thailand and served these refugees until he immigrated to the United States in 1980.

In the United States, Mr. Xiong served the first President of the Merced Lao Family Community, Inc. for 4 years. He then served as their Project Director for 2 years. His work in the community is recognized by many. It is my honor to also recognize his achievements.

TRIBUTE TO HAROLD C. EATON

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BONNER. Mr. Speaker, I rise today to recognize Mr. Harold C. Eaton, a leader in the field of civil rights in both his community and the nation as a whole. His tenure as the Mobile District Corps of Engineers Equal Employment Opportunity Officer, which was marked with numerous accomplishments, has truly earned him the honor of being inducted into the Gallery of Distinguished Civilian Employees.

Mr. Eaton served his country through Federal service for 44 years, beginning with his assignment at Brookley Air Force Base in 1956. Following the closing of the base in 1967, Mr. Eaton transferred to the Mobile District Personnel Office and was later appointed to the position of District Equal Employment Opportunity Officer (EEO) in 1974.

The advancements made by Mr. Eaton during his time as EEO Officer were nothing short of outstanding. Facing the issue of equal opportunity during one of the most tumultuous times in the nation's history, Mr. Eaton's career was marked with a number of challenges. The most serious of these challenges was the court-ordered Consent Decree, a class action lawsuit outlining affirmative action goals for black employment in the Mobile District. Mr. Eaton worked diligently and effectively to solve the problems faced by the community in the field of equal opportunity and was successful in having the Decree lifted in 1987. Through his work in the community, Mr. Eaton became a recognized leader on the local and Federal level in the field of affirmative action.

A second major challenge Mr. Eaton faced during his tenure as EEO Officer dealt with private contracting for the Tennessee-Tombigbee Waterway project. Through the system Mr. Eaton developed, the Corps was able to guarantee equal opportunity for both employment and contracting. The idea of private contracting was revolutionary for the Corps of Engineers and is a program which is still in use today.

Mr. Harold Eaton has made many outstanding contributions throughout his life to the advancement of equal rights. His devotion and innovation resulted in major accomplishments on the local and Federal level. It is my honor to recognize the achievements of a man so devoted to the causes of equality and justice, both of which we hold so dear in our Nation. For his tireless work for the betterment of his community, Mr. Eaton truly deserves induction into the Gallery of Distinguished Civilian Employees.

RECOGNIZING PATRICIA MADRID

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Ms. SOLIS. Mr. Speaker, I stand before you today to recognize one of the most inspiring and remarkable Latino leaders in the United States. Patricia Madrid is New Mexico's first woman and the nation's first Latina attorney general.

Since taking the oath to office in November 1998, Ms. Madrid triumphed at protecting the lives of New Mexicans against all levels of violent crimes. She spearheaded initiatives that continue to provide assistance for district attorneys in the prosecution of criminals in New Mexico. In addition, her actions also established strict provisions that protect her state's environmental resources. Through her leadership, the people of New Mexico are not only safer from crime but the state's wildlife, agriculture, and water quality have thrived too.

Throughout her legal career, Ms. Madrid received numerous awards for her political achievements. She was awarded the Latina Lawyer of the Year Award in 2001 by the Hispanic National Bar Association. She received the First Annual Elected Official Award for Work on Behalf of Crime Victims from Mothers Against Drunk Driving. In 1999, the New Mexico Commission on the Status of Women honored her with the Trailblazer Award. In 1994, the Mexican American Legal Defense and Educational Fund, a national organization, recognized her for her outstanding service to the Hispanic community. With all these remarkable accomplishments, her commitment to serve the people of New Mexico and the Latino community nationwide continues undeterred.

Ms. Madrid's ventures as New Mexico's attorney general has dismantled barriers and paved the way for other women and minorities who aspire to reach such feats. I am privileged to recognize her as the perfect example of today's exceptional leader.

A PROCLAMATION RECOGNIZING SERGEANT DALE GILLETTE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. NEY. Mr. Speaker:

Whereas, Sergeant Dale Gillette has sworn to serve and protect the people of Ross County; and

Whereas, on a daily basis Sergeant Gillette has upheld his oath with an honor and conviction far above the call of duty; and

Whereas, Sergeant Gillette has demonstrated a commitment to meet challenges with dedication, confidence and outstanding service; and

Whereas, Sergeant Gillette has been decorated with an honorable mention award from TOP COPS Awards because of his devotion to people of the Ross County;

Therefore, I join with the residents of Ross County and the entire 18th Congressional District in congratulating Sergeant Dale Gillette as he receives his TOP COPS award.

TRIBUTE TO CODY SHIRA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this Nation today to pay tribute to Cody Shira, a courageous young man from Grand Junction, Colorado. Cody recently woke up his parents during the middle of the night when he discovered their house was on fire. The actions of this brave seven year old are truly remarkable, and I am proud to recognize him here today.

While fast asleep, Cody was awakened to the smoke and flames set by an outdoor grill. The grill set fire to a bench, which helped spread the fire into the house through a window. Thanks to Cody's quick reaction, most of the bedrooms in the apartment were spared, helping to save many important belongings and memories. While the Shiras will have to rebuild the bottom level of the apartment, they thank Cody for helping to save not only their bedrooms, but also their lives.

Mr. Speaker, Cody Shira is a true hero. His courageous and quick reaction helped save the lives of his family and much of his home. I am proud to gather with my fellow colleagues and speak of Cody's accomplishments, as his actions are truly remarkable. Good luck, Cody. I wish you the best with all of your future endeavors.

A TRIBUTE TO HILLSIDES HOME FOR CHILDREN

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Hillsides Home for Children in Pasadena. On October 5, 2003, Hillsides will celebrate its ninetieth anniversary with a carnival to honor the achievements of those who have devoted countless hours to Hillsides, as well as to celebrate the children who have been greatly helped by the home.

Hillsides opened its doors in 1913 as an Episcopal Orphanage known as The Church Home for Children. Deaconess Evelyn Wile formulated the agency's mission of loving care, therapeutic healing, special education, family crisis intervention and children's rights advocacy. This vision continues to be the focus of Hillsides over ninety years later. Today, Hillsides is a private non-profit treatment center, but it is considered an official institution of the Los Angeles Diocese of the Episcopal Church.

While Hillsides began its journey solely as an orphanage, the agency has since branched off into several other areas. For children suffering from abuse and mental illness, Hillsides provides them with a safe place that they can call home. The main campus contains six residential cottages for emotionally disturbed children ranging in age from seven to thirteen. On the campus, Hillsides provides a home and intensive treatment services geared to healing and redirecting kids who have experienced traumatic upbringings. In addition to the on-campus housing, there are two off-campus group homes which house twelve teenagers. These off-campus facilities provide residential treatment, mental health care, and practical skills training for independent living after the youth leave Hillsides Home for Children.

Hillsides has also responded to the need for counseling at-risk families to prevent abuse before it starts, and in 1996, the family center was opened. This center provides a broad range of programs from counseling services to classes designed to strengthen families and protect children. Clearly, Hillsides acts as a voice for children through advocacy.

I am proud to recognize Hillsides Home for Children as an integral component of our community by providing a safe haven for children, strengthening families and advocating for children's rights.

It is for these extraordinary achievements that I ask all Members to join me in congratulating Hillsides Home for Children for their ninety years of remarkable work.

IN HONOR OF TERRY MARBURGER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. FARR. Mr. Speaker, I rise today to honor a true community servant as well as an accomplished business owner, Mrs. Terry Marburger. Terry retired on August 1, 2003 after providing 18 years of dedicated service to the community of San Juan Bautista.

Terry was born in New York City and has been a resident of San Juan Bautista for the past 34 years, where she has been a contributor to the community and to the welfare of the small Mission town. She is married to Mr. Larry Marburger and together they raised their two children, Sully and Anthony Anastasia. Currently, they have five grandchildren.

In addition to having worked in the private sector before owning her own business, Terry is a member of several community organizations such as the Ambassador's Club, the San Benito Tourism Council, the United Way of Hollister and the San Juan Bautista Historic Planning Committee.

I first met Terry in April of 2002 when she accepted my request to assist with the planning of California's 17th Congressional District's 2002 Naturalization Ceremony. Without her tireless help, we would not have been able to convene so many community leaders in such a short amount of time. That ceremony was a very special day for the participating new citizens, and it is one that many members of San Benito County will remember for a long time to come. It wouldn't have been possible, had it not been for Terry's ambitious fund-raising and vision for that day.

Terry will be moving to the Sonora area in the Sierra foothills, and I would like to say that she will be missed by the community of San Juan Bautista, and San Benito County.

Because of her enormous sense of dedicated community service and love for the City of San Juan Bautista, Mr. Speaker, it is an honor to recognize Terry Marburger and her valuable contributions to our community.

HONORING FRANK JOHNSON

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. Frank Johnson, who has delighted the community of Modesto as a ticket taker for the Modesto A's Baseball Club, Inc. for 31 years. As one of the most well known and popular members of the Modesto A's staff, Mr. Johnson has become an endeared friend to all of the team's fans.

Mr. Johnson began working in Modesto baseball in 1958 when he worked in the concession stand for the Modesto Reds at Del Webb Field. Since that time he witnessed five different minor league professional baseball teams call Modesto home. From the New York Yankees to the Oakland Athletics, Mr. Johnson is a testament not only to baseball, but to the many changes the City of Modesto has experienced.

As a constant face to all of the attendees at the Modesto A's games, Mr. Johnson has become a part of local history. He is a reminder of all of the good things about baseball and youth. It is my honor and privilege to recognize Mr. Johnson's 50 years of commitment to our community.

CONGRATULATIONS TO GENE OWENS ON THE OCCASION OF HIS RETIREMENT FROM THE MOBILE REGISTER

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BONNER. Mr. Speaker, it gives me great pleasure to recognize and salute my friend, Gene Owens, on the occasion of his retirement from "active duty" with the Mobile Register, Alabama's oldest newspaper.

For 9 years, Gene has provided consistent, quality reporting to readers along the Gulf Coast and throughout Alabama, first as the paper's political editor and in recent years, as the Register's popular metro columnist.

Prior to moving to Alabama, Gene worked at newspapers in other areas of the country, devoting much of that time to reporting jobs in the Commonwealth of Virginia. Upon moving to the Gulf Coast in 1994, Gene became a familiar face to those of us in public service during his stint as the Register's political editor. In so doing, he shared with the people of south Alabama the talents and personal integrity upon which he built his reputation as a journalist.

Elected officials, community representatives and concerned citizens alike could always rely on Gene to provide the best possible coverage of issues facing us in Alabama as well as topics of national interest. From covering local political debates to national party conventions, Gene could always be counted on to give you the complete story on the major issues of the day. While his readers—and those he reported on—did not always agree with him, we could always be assured there would be equal and fair treatment in his columns and stories, a statement which can not always be said about all journalists.

In recent years, Gene moved to cover more local issues, and his columns on more human interest stories won him an entirely new following. His humorous and often folksy manner of sharing local tales, from topics as diverse as an annual Texas State Fire Ant Festival to a discussion on the finer points of the southern "take" on the English language, could always be counted upon to inform, entertain and bring a smile to the faces of all his readers.

His readers, colleagues and fans never hesitated to share their opinions on and about Gene and his pontifications. Of all the comments the paper received during the past 9 years, the one that perhaps best sums up Gene's career and the public's feeling toward him was left on the Register's open comment line, "Sound Off," and was recently reprinted in a tribute column about Gene. Someone called in to say, "I hope God continues to watch over Gene Owens. The world is so in need of the humor and wisdom that he so richly shares with us all."

Mr. Speaker, I ask my colleagues to join me today in recognizing Gene Owens for his tremendous contributions to both the world of journalism and to his friends and neighbors along Alabama's Gulf Coast. Gene is indeed a genuine Alabama treasure who has freely shared both his wisdom and humor with all of us, and for nearly a decade I have been proud to call him my friend.

Along with his many friends and followers throughout South Alabama, "Pal Joey" wishes to extend to Gene Owens and his lovely wife, "Miss Peggy," all the best in the months and years ahead.

RECOGNIZING REV. JAMES MORRIS LAWSON, JR.

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Ms. SOLIS. Mr. Speaker, I stand before you today to recognize one of the most inspiring and remarkable leaders in the United States, Rev. James Morris Lawson, Jr. Rev. Lawson is a minister and a civil rights leader who has worked hard to further the advancement of people of color.

Rev. Lawson was born in Uniontown, Pennsylvania, in 1928. Since early on in his life, he has strongly advocated for nonviolent resistance to achieve political change, a philosophy he developed by studying Ghandian ethics and Methodist theology. A leader in the fight against racism, Rev. Lawson was instrumental in desegregating many of our Nation's societies, especially those in the southern States during the late 1950's and 1960's.

In 1957, Rev. Lawson worked with Dr. Martin Luther King, Jr. and helped shape the Southern Christian Leadership Council, a national organization that dismantled barriers for black citizens in the segregated south. Rev. Lawson helped organize students in southern universities to perform nonviolent demonstrations to desegregate restaurants and drug stores in Nashville, Tennessee. His actions influenced others in Historically Black Colleges and Universities to protest, eventually helping to end segregation throughout the South.

Admirably, Rev. Lawson's leadership not only helped black citizens achieve political change, but he also aided labor unions, women, gays and lesbians, and recently incarcerated individuals. With all these monumental accomplishments, Rev. Lawson continues to fight for social justice even in his mid-70's.

His accomplishments as a dignitary of civil rights have inspired other civil leaders, like me, to achieve political change. Therefore, I am privileged to recognize him as the perfect example of today's exceptional leader.

TRIBUTE TO WALTER TIMME

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation to pay tribute to a most remarkable individual from my district. Walter Timme of Pueblo, Colorado honorably served in the Army during World War II, leaving his motorcycle sales business to answer his country's call to duty. Walter's service to our country in its time of need is indicative of his commitment to our nation, which I would like to recognize here today.

Putting his passion for motorcycles on hold, Walt kissed his wife goodbye and shipped off to New Caledonia and Biak in the South Pacific. It was not long after they learned of his mechanical abilities that the Army put Walt to work as an aircraft engine repair technician. Walt's knowledge of engines, acquired from his fondness of motorcycles, provided him with an unparalleled skill for fixing planes. Our country owes Walt a debt of gratitude for his service during WWII.

Walt returned safely from the war and revisited his passion for motorcycles. Aside from his time spent serving the country during WWII, Walt has been selling motorcycles since 1938. Walt's entrepreneurial spirit and business savvy have provided his community with jobs and services for over six decades.

Mr. Speaker, it is a privilege to stand before this body of Congress today and recognize the loyal service of Walt Timme to our nation. Walt's wealth of knowledge regarding mechanics served as a tremendous resource to the Army in a time of need. Thank you Walt, and best of luck with your future endeavors.

A PROCLAMATION HONORING GEORGE "GUS" WRIGHT AS HE CELEBRATES HIS 80TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. NEY. Mr. Speaker:

Whereas, George Wright was born in Flemington, West Virginia on September 7, 1923; and

Whereas, George Wright, a resident of Bellaire, Ohio is celebrating his 80th birthday today; and

Whereas, George Wright has long been a dedicated family man, being understanding and caring. His personal sacrifices of time and energy to family, friends and country stand as a monument to a truly fine individual. For his service to our Nation in the United States Navy, we owe Mr. Wright a debt of gratitude.

Therefore, I join with the family and friends, as well as the residents of the entire 18th Congressional District of Ohio, in honoring George "Gus" Wright as he celebrates his 80th birthday.

A TRIBUTE TO SCOTT UNITED METHODIST CHURCH

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor Scott United Methodist Church in Pasadena, CA. On Saturday, September 20th, Scott United Methodist Church will celebrate 100 years of dedicated service to the community.

In its century of existence, the location of Scott United Methodist Church, named for Bishop Isaiah Benjamin Scott, has changed on numerous occasions, but the benevolent spirit of the church has remained a consistent presence in the community. After its first humble meeting in the home of Mr. and Mrs. J.W. Harris in 1903, the church assembled in a series of buildings for short periods until 1930 when the congregation settled into the church building at 55 Mary Street for the next 43 years. Scott United Methodist Church then held services at First United Methodist Church on Colorado Boulevard for 2 years before arriving at the current site on Orange Grove Boulevard.

Despite the many moves in its history, Scott United Methodist Church, acting on its motto, "the church at the heart of the community with the community at heart," continually dedicated itself in service to the people of Pasadena. That commitment remains to this day. The Aspires West-Pasadena Program supports at-risk youth in the Pasadena area, and the "Clothe the Pasadena Unified School District School Children" project provides school wardrobes for children from low-income families. Scott United Methodist Church also provides assistance to the needy with its rent relief and holiday food programs.

I consider it a great privilege to recognize Scott United Methodist Church for its 100 years of service to the people of the San Gabriel Valley. I ask all Members to join me in wishing Scott United Methodist Church many more fruitful years of service to the community.

TRIBUTE TO LEONE "LEE" CHAMBERLIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. FARR. Mr. Speaker, I rise today to honor Leone "Lee" Chamberlin who passed away on Thursday, July 3, 2003. During her lifetime Mrs. Chamberlin was an active community member, dedicated to serving others by leading such organizations as the Girl Scouts of America, Soroptimists International and the Salvation Army. She will be dearly missed by her family of four nieces Patricia Minor, Carole Sobel, Mary Menke and Barbara Elgen; and two nephews Rocky Phillips and Ron Elgen; as well as countless friends.

Leone Chamberlin was born in Fargo, ND and earned a bachelor's degree in mechanical engineering from the University of Minnesota. She headed the Siems Drake Mechanical Engineering Department at Puget Sound in Seattle, and became at the time one of just 10 women members of the American Association of Mechanical engineers. Her community service began when she moved to Whidbey Island Naval Air Station in Oak Harbor with her husband Walter Chamberlin. There she counseled teenage girls and organized the Girl Scout Council of Whidbey Island.

She later moved to Fairbanks, AK where she worked as the chief of preliminary engineering and drafting departments for the Army Corps of Engineers. While in Alaska she also served as the president for the Farthest North Girl Scout Council and began her work with Soroptimists International. After her husband's death Mrs. Chamberlin moved to Seattle and became the financial adviser on the national staff of the Girl Scouts of America. When she moved to Monterey County she furthered her work with the Girl Scouts by organizing the Santa Cruz, San Benito and Monterey County Girl Scout Councils into the single Girl Scouts of Monterey Bay Council, serving as executive director for several years.

Leone Chamberlin remained active after her retirement, serving as the executive director of the Carmel Business Association, the president of the Monterey Peninsula Soroptimists Club, and board member and president of the Salvation Army. As an ever involved member of the local community she served as a member of the board for numerous committees such as Monterey County Economic Development Committee Monterey County Symphony, Monterey History and Art Association, Carmel Women's Republican Club, Monterey County Council of Chambers of Commerce and Regional Advisory Council for the Salvation Army.

Mr. Speaker, I wish to add my appreciation and recognition of Leone Chamberlin's whose countless achievements have been recognized by numerous awards such as the Congressional Recognition award from Leon Panetta, the Soroptimists' Women of Distinction award, and several Thanks Badges from the Girl Scouts. I join Leone Chamberlin's countless friends and family in honoring her truly commendable life and achievements.

HONORING GREGORY HINES

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Ms. SOLIS. Mr. Speaker, I rise today to pay tribute to Gregory Hines, whose limitless grace, style and talent brought international attention to the art of tap dancing.

Gregory Hines set a high standard of excellence and dedication in the realm of entertainment, whether it was singing, dancing, acting, directing, or creating new choreography. He starred in many tap dancing movies and also created, produced and supported many productions, such as Tap City with Tony Waag and Hoagy Bix Carmicheal. Through his art form, he mentored young talent, and today, tap dance is performed in festivals in as many as 40 nations and has been adapted to diverse cultural rhythms throughout the world.

Mr. Hines not only contributed greatly to the arts, but his dedication to the community has been truly selfless. As a board member of several non-profit organizations, including the American Tap Dance Foundation, Mr. Hines was the tap dance community's chief ambassador, dedicated to the preservation and perpetuation of history, education, and presentation of tap dance. Regardless of the numerous credits to his name, Mr. Hines would always say he considered himself first and foremost a tap dancer.

Gregory Hines will be truly missed as a role model who has taught us how to join together and celebrate the diversity that makes our nation great. His dedication to the community transcended the stage and productions and will be a model for future generations.

A PROCLAMATION RECOGNIZING CHIEF MICHAEL MAGUSCHAK

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. NEY. Mr. Speaker:

Whereas, Chief Michael Maguschak has dedicated his life to serving and protecting the residents of Mingo Junction; and

Whereas, on a daily basis Chief Maguschak has upheld his oath with an honor and conviction far above the call of duty; and

Whereas, Chief Maguschak has demonstrated a commitment to meet challenges with dedication, confidence and outstanding service; and

Whereas, Chief Maguschak should be congratulated on his retirement after 29 years in the police force;

Therefore, I join with the residents of Mingo Junction in congratulating Chief Michael Maguschak on his retirement.

TRIBUTE TO NANETTE LeBORGNE AND BRENDA RICE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I stand before this body of Congress and this nation to recognize and honor two remarkable women from my district. Nanette LeBorgne of Rifle, Colorado and Brenda Rice of Parachute have defied the odds and prevailed in the fight against cancer. Today, they fight a new battle, helping raise money for cancer research and assisting other cancer victims with their recovery efforts. I am honored to recognize these two brave women who now devote their lives to helping others conquer this deadly disease.

Nanette and Brenda have developed a close relationship, not only with each other, but also with other cancer survivors in their community. Both women understand the array of emotions one undergoes when first being diagnosed with the disease. They can also relate to the triumphant feeling of victory upon overcoming their struggles.

Brenda volunteers her time to share advice with other cancer sufferers on how she was able to cope with the disease, in addition to simply providing them with someone to talk to and identify with their ordeal. Nanette is a Team Captain for the Relay for Life in Rifle, a fundraising event for the American Cancer Society. This year her team will donate over $1000 to the organization.

Mr. Speaker, it is a great privilege to honor Nanette LeBorgne and Brenda Rice for their courage and contributions to cancer research. Their spirit of community service and altruistic dedication to the welfare of other cancer victims is truly commendable. Their stories of recovery and survival are an inspiration to us all.

A TRIBUTE TO ERNESTINE L. MOORE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. SCHIFF. Mr Speaker, I rise today to honor an outstanding citizen of California's 29th Congressional District: Ms. Ernestine L. Moore. Though Ms. Moore has served Pasadena City College for 32 years, she has been a positive force in the community for much longer.

Before coming home to Pasadena, Ms. Moore studied and worked across the nation. She began her academic journey at Virginia State University where she obtained both her Bachelor's and Master's degrees in Psychology. She later completed graduate work at the University of Santa Clara, the University of Massachusetts at Amherst, and the University of California Los Angeles. Ms. Moore began her career as a Psychologist in Norfolk, working for the Virginia City school system. From there she traveled westward to San Jose City College where she worked as a counselor, then moved on to take the title of Supervisor of Counseling for the Los Angeles Urban League's MDTA/OJT program.

Ms. Moore first came to Pasadena City College in 1971 as a counselor. She was promoted to dean of counseling in 1977, became the dean of Student Services in 1984, and reached her current position as Vice President of Student Learning and Services in 1997.

Ernestine showed her commitment to her students and her community when she helped to initiate the African-American High School Day. She has chaired committees that worked to diversify Pasadena City College's student body through recruiting and working to retain the minority groups on campus. Currently, she serves as President Elect of the California Community Colleges Chief Student Service Officers Association.

Ms. Moore continues to add to the list of her services to the community. She serves as the chairperson of the City of Pasadena's Human Services Commission and as President of the Board of the Urban Revitalization Development Corporation. She is an appointee to the City of Pasadena's Utility Advisory Commission, was on the Board of Directors of Women at Work and is a member of ZONTA. She is also Treasurer of the Gamma Lambda Chapter of the National Sorority of Phi Delta Kappa Incorporated, which is an organization of African-American women in education.

Ernestine has been awarded the Young Women Christian Association's Second Century Award, was honored as Woman of the Year by Pasadena City College, and was also the recipient of the Sojourner Truth Award from First African Methodist Episcopal Zion Church.

I ask all of the members to join me in congratulating Ms. Moore for the tireless work she has done for the community and join me in wishing her prosperity and happiness in the years to come.

TRIBUTE TO THOMAS SCOTT LINDSAY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. FARR. Mr. Speaker, I rise today to honor Thomas Scott Lindsay, who passed away at his home on July 19, 2003. A longtime activist and advocate, Tom committed his life to helping others and raising awareness about HIV/AIDS. Tom Lindsay was a native of Fort Wayne, IN and is survived by brothers Robert Lindsay, Jr. and John Lindsay both of Fort Wayne; and sisters Linda Holt of Oakland and Laura Smart of Pleasant Lake, IN.

Tom came to Santa Cruz in February of this year to work as Executive Director for the Santa Cruz AIDS Project. Although, his time with this organization was limited, his commitment and passion to its cause touched many lives. Tom's leadership, wisdom and vision greatly impacted the AIDS Project; and his compassion, generosity and humility affected everyone around him.

Over the 18 years the AIDS Project has provided support to those in the community of Santa Cruz affected by HIV/AIDS. As an organization, the AIDS Project has exemplified the compassionate spirit of its past leader. Tom's dedication to this community has had an invaluable impact by helping many in dealing with the AIDS epidemic.

Before coming to the Santa Cruz AIDS Project, Tom lived in Sonoma and served as the Executive Director of Face to Face, Sonoma County's AIDS Service Organization. Tom recently served as the Community Co-Chair of the HIV Services Consortium of Sonoma County.

Tom's admirable service, strong character, and exemplary dedication have made a lasting impact on our community and everyone whose lives he touched. It is an honor to recognize the life and achievements of Thomas Scott Lindsay.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. GRAVES. Mr. Speaker, on Wednesday, September 4, 2003, I was unavoidably delayed and thus missed rollcall votes Nos. 463, 464, 465, 466, 467, and 468. Had I been present, I would have voted "nay" on No. 463, "yea" on No. 464, "yea" on No. 465, "nay" on No. 466, "nay" on No. 467, and "nay" on No. 468.

TRIBUTE TO UNIVERSITY OF KANSAS PROFESSOR EMERITUS G. BAILEY PRICE

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. MOORE. Mr. Speaker, I rise today to pay tribute to Professor Emeritus G. Bailey Price of the University of Kansas.

The recent dedication of the Robert J. Dole Center for Public Policy at the University of Kansas has renewed attention upon the millions of Americans who made possible this nation's victory during World War II. One of many Americans who were essential to that war effort, G. Bailey Price, is now 98 years old, residing in Lawrence, Kansas.

Professor Price, a mathematics scholar and instructor at the University of Kansas, was called upon in 1943 to serve our nation as a civilian attached to the U.S. Army's Eighth Air Force Operational Research Section in High Wycombe, England. Professor Price served with them until 1945. It was through the work of statisticians like Professor Price that the Army Air Force was able to apply scientific algorithms to help bomber pilots improve their accuracy and to help impede the assault over England by German V–1 and V–2 bombers. The work of this group was documented in the report, "Air Force Operations Analysis Section"; Professor Price authored the section of the report entitled, "Gremlin Hunting in the Eighth Air Force European Theater of Operations, 1943–45".

After World War II, Professor Price remained with the University of Kansas, helping to build one of the most outstanding mathematics departments of any American university. He was named "Mathematician of the Year" by the National Academy of Sciences on more than one occasion. I welcome this opportunity to pay tribute to a valuable and important American; we share the pride of all Kansans in his outstanding achievements and include in the RECORD a recent article from the Lawrence Journal-World detailing his essential contributions to our war effort.

[From the Lawrence Journal-World, Sept. 23, 2002]

WORLD WAR II TOOK MATHEMATICIAN FROM CHALKBOARD TO DRAWING BOARD

(By Dave Ranney)

World War II was—among other things—a math problem.

And Lawrence resident G. Baley Rice helped solve it.

Today, Price is leaving for England to help dedicate a museum that pays tribute to U.S. airpower in World War II and to the men and women who made it effective.

A Harvard-educated mathematician, Price had been teaching at Kansas University about five years when he got the call in 1943 from then-Chancellor Deane Malott.

"The war was on, but I had a deferment—I was teaching men in uniform," Price recalled.

But Malott told Price the U.S. Army Air Corps was putting together special problem-solving units of mathematicians, physicists, engineers and architects. Price, then 38, was a prime candidate.

"They wanted me to go to the South Pacific," he said. "And then as soon as everything was formalized and I'd said I'd go, they said, 'Fine, we're sending you to England.'"

Price spent the next two years—from 1943 to 1945—in England, helping bomber pilots improve their accuracy. Or, as he explained: "It didn't do much good to drop a bomb on a cabbage field."

SOLE SURVIVOR?

Now, Price is 97 years old. He's fairly certain he's the sole surviving member of the U.S. Army Eighth Air Force Operational Research Section.

It's both a distinction and an obligation, he said.

"I feel I should do what I can do to honor those who lost their lives," Price said.

He's leaving today for Washington, D.C., where he'll join his son, Griffith B. Price, and grandson, Andrew Price, on a flight to England. There, he'll attend dedication ceremonies at the American Air Museum near Cambridge.

Former President George Bush is scheduled to address the gathering. More than 4,000 U.S. veterans and family members are expected to attend.

"Last week, this nation was up in arms—rightfully so—over the events of Sept. 11 in which almost 3,000 people were killed. It was a great tragedy, and I will take nothing away from that," Price said recently. "But 30,000 members of the Eighth Air Force lost their lives during the war. That, too, was a tragedy."

Price said he's not worried about today's flight.

"At my age, I feel like I have to go."

The 70,000-square-foot museum features an extensive collection of World War II aircraft including a B–52 Stratofortress, B–17 Flying Fortress, B–29 Superfortress and a P–51 Mustang.

HIS CONTRIBUTION

Price prefers not to dwell on his contribution to the war effort.

For starters, he filed a report with the Air Force back in 1943. And it doesn't seem right to call attention to a civilian mathematician's tasks while others lost their lives.

But when pressed, price said he helped figure out plane formations and drop procedures that improved bombing accuracy.

"We found that smaller, tighter (formations) and dropping (bombs) simultaneously improved accuracy," he said.

Ted Wilson, a KU history professor who has studied World War II, said Price under-estimated the section's contribution.

"They played a very important role," he said, noting that efforts to improve bombing accuracy played a key role in the military's efforts to cripple the German economy by bombing key factories.

After the war, Price returned to KU, where he later served as chairman of the mathematics department for 19 years. He retired in 1975.

Price and his wife, Cora Lee Beers Price, a longtime assistant professor of classic literature at KU, have six children. She is 93.

Earlier this year, the Prices donated a collection of their papers, books and photographs to the Kenneth Spencer Research Library at KU.

TRIBUTE TO JOHN WALKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I rise today to honor an American hero. John Walker of Pagosa Springs, Colorado is a World War II veteran and a survivor of the Bataan Death March. John recently received the Purple Heart and the Prisoner of War Medal. I am pleased to share his story here today.

John, like so many of his generation, heeded the call of his country and fought for the United States during World War II. He was captured by the Japanese and survived the brutality of the Bataan Death March and three and a half years in prison camps, including Camp O'Donnell. John has a strong will to survive and made it through the terrifying ordeal to return home safely.

John could have easily become consumed by hatred over the way he and his fellow servicemen were treated, but rather John triumphed over that hatred and learned to forgive his former captors. John has even gone to Japan four times to help build churches there.

Mr. Speaker, on August 26th, John Walker was awarded the Purple Heart and the Prisoner of War Medal. These awards are certainly well deserved, and I join with my colleagues in saluting him. John, your bravery and dedication are an inspiration. Thank you, and congratulations.

TRIBUTE TO DR. WILLIAM ANTHONY CARNAZZO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. FARR. Mr. Speaker, I rise today to honor Dr. William Anthony Carnazzo who passed away on June 19, 2003 after having led a long life of dedicated service to his community. During his lifetime, Dr. Carnazzo not only served his country in the U.S. Army 7th Infantry Division for three years during World War II, where he earned a Bronze Star for his bravery, but also provided the County of Monterey with the invaluable commitment and service of a talented physician. Most importantly, however, he was a devoted husband and father. He is survived by his wife, Betty; two sons, Gerald Carnazzo of Coral de Tierra and William Carnazzo, Jr. of New Castle; two daughters, Gigi Knudtson and Carol Brown, both of Granite Bay; and two stepsons, Chip Worthington of Rohnert Park and Greg Worthington of Zion, Utah. Sadly, Dr. Bill's first wife, Carmel Carnazzo, passed away in 1974 after decades of love and friendship together. However, on a cruise ship the following year, Dr. Bill met and later married Betty, with whom he spent the rest of his life, becoming one of the few lucky people to find their true love twice in one lifetime!

"Doctor Bill," as his many friends knew him, lived in Monterey for 64 years. He was born in Carlentini, Sicily on May 23, 1915. Soon after his birth, his mother, Josephine Carnazzo, brought him to Omaha, Nebraska to join his father, Salvatore Carnazzo. Bill attended elementary and high school in Omaha and excelled in both academics and sports, particularly wrestling and football. In 1931, Dr. Bill entered Creighton University's premedical program and subsequently graduated with honors. He then entered the Creighton University School of Medicine, where he received his Doctor of Medicine degree in 1938.

On June 12, 1939, he and Carmel Ann Circo were married in Omaha. While on their honeymoon in Monterey, they were convinced by friends in the area that it would be a great place to start a practice and family. After seeing the beautiful landscape of Monterey, they agreed and later that same year they relocated to Monterey. In 1972, Dr. Bill's son, Dr. Jerry Carnazzo, joined the family practice. After 55 years of medicine, Dr. Bill retired in 1990. Oddly enough, his practice began and ended with the same patient and friend Ted Melicia, but such long-term care and attention was his calling card.

Dr. Bill's life was one of great service and commitment. He spent seven years on the board of what was then Monterey Unified School District. In 1946, he was appointed to fill a vacancy in the middle of a heated controversy regarding building a community college in Monterey. Two years later, Dr. Bill cast the deciding vote that resulted in the creation of Monterey Peninsula College, which has become a landmark educational institution for the residents of Monterey and the surrounding area. His work will continue on as he left a permanent mark in many facets of life for the Monterey Peninsula, especially education.

Dr. Bill's gentle, kind, humble and generous spirit touched both young and old in his private life and professional medical life. He was known and well respected for his selflessness and his ability to instill others with optimism and confidence. Dr. Bill's service is admirable and his character and dedication have made lasting impacts on our community and the people with whom he worked. It is an honor for me to pay tribute to the rich life and work of Dr. William Carnazzo.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes:

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Cooper-DeLauro-Kilpatrick amendment to H.R. 2989. This amendment would transfer $75 million from the Internal Revenue Service's EITC enforcement initiative The money would instead be used to audit large and medium-sized corporations.

In former IRS Commissioner Rossotti's end-of-term report, the IRS lacks the resources to address 28% of the mid and large corporation workload that should be accomplished each year. This lack of enforcement translates into the government losing $6.5 billion in direct tax revenues on an annual basis, according to the GAO.

The $75 million provided under the Cooper-DeLauro-Kilpatrick amendment would give the IRS just over half of the $180 million that the IRS needs to conduct nearly 7,000 more mid and large corporations audits.

Given that the IRS lacks adequate resources to perform audits and investigations, I cannot understand why the IRS has recently launched a new program to overhaul the EITC program.

As you know, the EITC is the government's primary assistance program for low-income working families. Last year, about 19 million taxpayers claimed more than $32 billion in EITC benefits. This money can be the determining factor for whether a low-income worker's family will live above the poverty line. This is a vulnerable population.

Mr. Chairman, I can tell you that many of my constituents who are eligible for the EITC are already deterred from claiming the credit because of existing filing requirements. I fear that forcing them to submit a new form will only increase the likelihood that eligible low-income parents will be further dissuaded from claiming the credit.

That would be a terrible shame.

Mr. Chairman, as I said before, given the IRS' limited resources, I cannot, for the life of me, understand the rationale behind spending $75 million on overhauling EITC procedures especially since EITC overclaims account for less than 3 percent of the estimated total taxes that go uncollected. Why hasn't the IRS made a similar commitment to capturing the $40 billion that the GAO says that businesses underreport on an annual basis?

Finally, Mr. Chairman, as a matter of fairness, the IRS should not require low-income Americans to meet a higher standard than every other taxpayer, while at the same time they fail to crack down on fraud in business and higher income taxpayers.

I call on my colleagues to join me in support of the Cooper-DeLauro-Kilpatrick amendment.

HONORING DR. LOUISE R. D'OLIVEIRA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Dr. Louise R. D'Oliveira, a talented and caring constituent of mine who recently passed away.

Dr. D'Oliveira, a native of Louisiana who came to the United States from South Africa in 1980, was an ordained Methodist minister and devoted her life to helping those less fortunate than herself. She directed the Women's Christian Center in Tampa and was an advisory board member of Everybody's Tabernacle-Homeless Emergency Project in Clearwater. This organization helps hungry and homeless individuals who have nowhere else to turn in their greatest times of need.

Louise also was considered one of the world's foremost adult literacy experts. She chaired the African Division of Laubach Literacy and also founded and directed Operation Upgrade South Africa, programs which helped untold numbers of adults worldwide learn to read. She also authored several books about Africa and her native Louisiana. In addition, she was an Army veteran of World War II.

Mr. Speaker, the world lost a wonderful woman and dedicated advocate for learning when Louise D'Oliveira's earthly life ended. However, I am certain that, wherever she is today, she is sharing her wisdom and knowledge with whomever she encounters.

TRIBUTE TO REVEREND EUGENE FENTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to pay tribute to an outstanding citizen and a devoted spiritual leader. Reverend Eugene Fenton of La Junta, Colorado has served as a minister for twenty-five years. Before joining the ministry, Eugene worked for twenty-five years as a plant manager and industrial engineer. His devotion, hard work, and humility inspire those around him, and his dedication to his career shows a spirit of loyalty all too rare in today's society. I rise to honor his service here today.

Eugene is the pastor at Trinity Lutheran Church in La Junta. He has served all across this country as a pastor, teacher, coach, and counselor. He came to La Junta after trying to retire and finding that he still wanted to work. His parishioners refer to him as a "God send" whose tireless work has strengthened and uplifted their church.

Eugene's remarkable loyalty is shown not only by the twenty-five years he has devoted to the ministry, but also by the twenty-five years he devoted to his career as a plant manager and industrial engineer before he took up his pastoral studies. Eugene leads by example and often draws on his experiences to better relate to his parishioners.

Mr. Speaker, Eugene Fenton is the kind of devoted leader our community looks to for guidance and inspiration. He has devoted twenty-five years to his chosen career guiding his parishioners. I am honored to join with my colleagues today to thank him for his tireless work and to wish him the best of luck as he continues to serve the community that he loves so much.

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 463, 464, 465, 466, 467, and 468. Had I been present, I would have voted "nay" on rollcall vote 463. I would have voted "yea" on rollcall vote 464. I would have voted "yea" on rollcall vote 465. I would have voted "nay" on rollcall votes 466, 467, and 468.

TRIBUTE TO JOHN MYSZAK

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. FARR. Mr. Speaker, I rise today to honor Mr. John Myszak, a teacher of 39 years, who passed away Tuesday, July 8th of cancer at the Community Hospital of the Monterey Peninsula. During his lifetime Mr. Myszak was an outstanding member of the local community. He will be sorely missed by his wife of twenty years, Martha Myszak; two daughters Stephanie Hulsey and Donna Wenger; three stepdaughters, Vauncia Parker, Valeria Alexander and Marsheila DeVan; and eight grandchildren.

Mr. John Myszak was born on October 6th, 1934 in Flint, Michigan. He earned a bachelor's degree from California State University at Hayward and a master's degree in education from San Jose State University. He served in the United States Marine Corps and taught in the Pacific Grove Unified School District for twenty-one years, in addition to working part time as an instructor at Monterey Peninsula College.

During his twenty-eight years living in Seaside, he served as a member of the California Teacher's Association, the National Teacher's Association and the CSU-Monterey Bay Teacher Education Committee. As well as being involved with local education issues, Mr. Myszak was a member of St. John's Episcopal Chapel, John Paul II Foundation of Monterey, Friendship Circle and the Parade of Nations. In his free time he enjoyed his work as a docent for the Monterey History and Arts Association, gardening, writing and ballroom dancing.

Mr. Speaker, today I wish to join the local community and Mr. John Mysazk's family and friends in honoring the life of such a commendable teacher, father and citizen.

CELEBRATING THE 100TH ANNIVERSARY OF DURAND UNION STATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to celebrate the one hundredth anniversary of Durand Union Station as October 4, 2003 will mark its historic birthday. In the last century, Durand Union Station has survived fire, neglect, dilapidation, and even the wrecking ball. Over the years, the proud citizens of my district have banded together to restore and preserve this local treasure.

In 1903, construction began on Durand Union Station, at a cost of $60,000 the rail depot was an architectural marvel. The Chateau Romanesque style depot was constructed of Missouri granite brick with an interior of oak woodwork and wainscoting of Tennessee marble. However, just eighteen months after its construction, fire tore though the boiler room of the station in April of 1905. Firefighters had the blaze contained until the Eastbound train forced the firefighters to pull their hoses back across the tracks and allow the train to pass. The fire of 1905 destroyed nearly all of Durand Union Station.

After being rebuilt, Durand Union Station served the people of Michigan until 1974. Unfortunately, the struggling railroad industry forced Grand Trunk Western Railroad to completely abandon the building in 1974. Consequently, Durand Union Station was stripped, gutted, vandalized and ready for demolition. But, state and local officials along with the citizens of Durand determined to restore the building were able to save Durand Union Station at the demolition zero hour.

Today, Durand Union Station has been preserved and restored by Durand Union Station, Inc., a nonprofit corporation founded to manage the historic building. The Michigan Legislature has designated Durand Union Station as the natural site for the Michigan Railroad History Museum and Information Center. Under the leadership of Durand Union Station Inc., the station is slated to undergo nearly $4 million in improvements and expansion.

Mr. Speaker, I would like to ask my colleagues to join me in celebrating the one hundredth birthday of Durand Union Station. Over the past one hundred years, the station has become a monument to the American spirit. The people of Durand, Michigan have overcome numerous setbacks in their quest to preserve this wonderful Michigan landmark.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. ABERCROMBIE. Mr. Speaker, yesterday, September 4, I was unable to cast my vote on two recorded votes. Had I been present, I would have voted as follows: Rollcall vote No. 474—"yes," and rollcall vote No. 475—"yes."

REMEMBERING SERGIO VIEIRA DE MELLO

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Ms. LEE. Mr. Speaker, on August 19, 2003, Kofi Annan, the Secretary-General of the United Nations, lost a trusted envoy and the world lost a skilled peacemaker. Sergio Vieira de Mello was killed in the bombing of the United Nations headquarters in Baghdad. Among his dying words was a plea that the United Nations mission there go on.

Sergio Vieira de Mello was a native of Brazil but a citizen of the world. From Bangladesh to Sudan to Cyprus, from Mozambique to Lebanon to Bosnia and Kosovo, to East Timor, and finally to Iraq, Mr. de Mello's resume reads like an atlas of some of the world's most troubled and dangerous places. It is also a list of accomplishment and achievement.

As the Secretary-General's special envoy to Iraq, on leave from his position as U.N. High Commissioner for Human Rights, Mr. de Mello saw his role as helping to return the governing of Iraq to the hands of its people.

At his funeral, Secretary-General Annan bade Mr. de Mello a fitting tribute as he said goodbye: "Sergio, my friend, you have entered the pantheon of fallen heroes that the United Nations wishes it did not have. You will shine forever among our brightest stars. May you rest in peace."

TRIBUTE TO RAY MACHT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. MCINNIS. Mr. Speaker, it is with a solemn heart that I rise today to recognize the life and passing of one of my district's most prominent and accomplished ranchers. Ray Macht was a lifelong community leader in Archuleta County and is credited with founding the Archuleta County Fair. In addition to having a wealth of agricultural knowledge, Ray's reputation preceded him throughout the county as a kind and honest man. I would like to take this opportunity to pay tribute to Ray for the contributions that he made to the State of Colorado.

Ray's ancestors have lived in the Pagosa Springs area since 1883, when his grandmother first brought the family across the Continental Divide. Ray stayed close to his family after graduating from Pagosa Springs High School and subsequently attending Fort Lewis College, where he met his future wife, Genelle. The two were married in 1933. Ray and Genelle maintained their involvement in the Archuleta County community by serving as 4-H leaders for 25 years, as well as serving on numerous local boards and organizations. 4-H awarded Ray their "Western Heritage" honor in 1999 in recognition of his expertise and commitment.

Mr. Speaker, it is with great pride that I rise before this body of Congress today to recognize the lifelong contributions that Ray Macht made to my district. Ray will be remembered for his devotion to his community, a legacy that will live on through the Archuleta County Fair. While he will be dearly missed, we can all take solace in the knowledge that Ray's spirit lives on through those whom he has touched.

HONORING THE LIFE OF VINCENT A. BRUNI

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. REYNOLDS. Mr. Speaker, I rise before the House of Representatives today to honor the life of Vincent A. Bruni. As a prominent figure within the Rochester community, Mr. Bruni shared his vision and his love for music with others for over fifty years.

Mr. Bruni, more commonly known as "Mr. B," raised the drum and bugle corps movement in North America to new and exciting levels. The Bruni name is synonymous with modern-day drum corps, in part because Mr. Bruni dedicated his life to entertaining people all over the country and all over the globe.

Always one to give back to the community, Mr. Bruni led his national and world champion Empire Statesmen Drum and Bugle Corps in local parades, winter and spring concerts, and in efforts to support high school bands and other groups throughout Western New York. As a result of the heart and soul he demonstrated and instilled in others, the Empire Statesmen became the only corps in history to win the Triple Crown: the American Legion, Drum Corps Associates, and World Show Band championship titles all in one year.

For decades, Mr. Bruni represented the City of Rochester, New York proudly with his unfaltering commitment to teaching children and adults of all ages. His lessons were not simply about music, but about what it means to work hard as a team, have pride in what you do, and how to stand tall in the face of great adversity. Musicians, performers and fans of drum corps all around the world know "Mr. B" as a man of integrity, someone that others will continue to strive to be like even now that he is gone.

Vince Bruni will be remembered as a true patriot—someone who loved serving his country as a veteran of the United States Navy, as a schoolteacher, but most importantly as an entertainer. Mr. Bruni has done Rochester and America proud, and while he will be sorely missed, he will forever be remembered by the countless people whose lives he touched over his long and distinguished career.

HONORING DONNA AND GIOVANNI SCALA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. THOMPSON of California. Mr. Speaker, I rise to recognize two extraordinary humanitarians from my congressional district whose philanthropic efforts will ensure that hundreds of individuals and families in our Napa Valley will not go to bed hungry tonight.

On September 6th, our community will be celebrating the 10th Annual Hands Across the Valley benefit to raise critical funds for local safety net food programs. This extremely successful event which has meant the difference between food and hunger for many Napa County residents would not exist if it were not for the vision and hard work of Donna and Giovanni Scala. What began in their kitchen at their world-renowned restaurant Bistro Don Giovanni ten years ago has blossomed into a national role model that has raised over $1.3 million for our community's most vulnerable members.

Donna and Giovanni have made countless contributions toward improving the community they are so much a part of and love. It seems that every time there is a need, they are there with a donation. None, however, have been as significant and far-reaching than their efforts regarding this annual event.

Mr. Speaker, I was honored to take part in the first Hands Across the Valley event in 1994 when we tossed pizzas in the Scala's kitchen for 500 guests and raised $30,000. Thanks in large part to Donna and Giovanni's continued support, this year's event is expected to be bigger and more successful than ever before, with nearly 2,000 guests and volunteers working together to raise more than $200,000 to ensure none of our neighbors are without food.

Donna and Giovanni Scala put their heart and soul into this event because they understand its importance. They know that not everyone has shared in our nation's prosperity. They understand that nearly half of those seeking assistance from Napa's food pantries and soup kitchens are children and that nearly one out of every three families seeking help does not have an oven or a refrigerator.

Mr. Speaker, I believe it is fitting and appropriate to honor the commitment and integrity that Donna and Giovanni Scala have given our community for so many years. We are all better off because of their efforts.

AGAINST A CONGRESSIONAL COST-OF-LIVING INCREASE

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise in opposition to a cost-of-living increase for Members of Congress. Across our country, the struggling economy is hurting businesses and leaving many without jobs. Latest projections show the national debt climbing to an unprecedented level. We should set an example by voting against this pay increase. Fiscal discipline must start with Congress.

In addition, by not allowing a regular yes-or-no vote on this provision, we simply add to the impression that too many people have about Congress. If Congress is to vote itself a raise in pay, it should be done in full view of the American public, not through a quiet procedural motion.

This process needs to be reformed. Members of Congress should not be able to receive an automatic cost-of-living increase. Each of us should be on the record with the citizens of our districts whether we believe an increase to our own salaries is justified.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes:

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise today to voice my opposition to an increase in Member's of Congress salaries. During these difficult economic times at all levels of government and with increasing federal deficits, I believe we should not be raising our own salaries.

Yesterday the House considered the Rule for the Transportation and Treasury, and Independent Agencies Appropriations Bill for FY 2004. While this bill does not include any provision related to an increase in pay for Members of Congress (the Member COLA is automatic each year under existing law), by tradition when Congress has blocked the Member COLA, the blocking provision has been included in this bill.

Because blocking the Member COLA would constitute a change in existing law, an amendment to block the COLA would be subject to a point of order on the floor, and therefore not allowed. Since the Rule does not permit a waiver from the point of order for such an amendment, the House in recent years has taken a vote on the previous question on the Rule. Yesterday I voted "no" on the previous question in an attempt to defeat the measure so that an amendment to the Rule to block the Member cost-of-living allowance could receive an up or down vote.

Unfortunately, the measure passed and the rule was not therefore amendable. In light of various factors, most importantly a 4.1 percent pay raise for our civilian workforce and to remove Ghost Fleet ships in my District, I am left with no recourse except to vote for the final passage of the Transportation/Treasury Appropriations Act. If I had the opportunity to vote directly to eliminate this year's cost of living adjustments for Members, I would most certainly do so.

TRIBUTE TO MR. P. GREY CANE, JR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to the life of a good man, a proud American and a fine member of the South Alabama community, Mr. P. Grey Cane, Jr., who passed away on Saturday, August 9th, at his home in Fairhope, Alabama.

A solid businessman and a true community leader, Grey Cane was loved by his family and friends and respected by his peers.

Grey was known for his generosity, not only for those he knew well but also for those whom he had never met. Throughout his life, Mr. Cane worked for the preservation of Alabama's treasured waterways which have for many years provided immense enjoyment to tens of thousands of residents and tourists. His love of the outdoors and his passion for preserving our waterways will never be forgotten.

As a young man, Grey founded KEMKO, Inc., a company providing construction, building, and roofing materials. His employees felt a strong loyalty to Mr. Cane and often spoke highly of his giving nature and attentiveness to their needs.

Mr. Cane also had a strong and independent spirit which made him both a tough negotiator and successful businessman. However, Grey Cane never allowed his many successes to be used simply for his own good.

At times, he used the KEMKO warehouses as depositories for extra building supplies and allowed those in need to take what was considered necessary from storage. In addition to his generosity, Grey Cane had a way that made everyone who came in contact with him feel special, a rare quality in today's times.

A sportsman at heart, Mr. Cane devoted tremendous amounts of time and energy to the establishment of the Coastal Conservation Association (CCA) of Alabama and, subsequently, the Eastern Shore chapter of the same organization. Those close to him note the zeal he had for the cause of environmental protection and the tenacity with which he fought for this worthy cause. Grey Cane realized the importance of preserving our natural habitats and continued fighting for this cause throughout his entire life. In recognition of his charitable gifts and his lifelong dedication to the cause of environmental conservation, the CCA recently honored Mr. Cane by renaming a thriving coastal reef in his honor.

Through his charitable contributions to society, his strong dedication to protecting and preserving Alabama's waterways, fisheries and natural resources, and his generosity to his friends, family, and coworkers, Mr. Cane leaves a lasting and memorable mark onall of Alabama's Gulf Coast region. I am proud to have called him my friend.

Mr. Speaker, P. Grey Cane, Jr., is survived by his wonderful wife of almost 50 years, Katchie, a son, Peter Grey Cane, III, a daughter, Laura Cane Armstrong, two grandchildren, two step-grandchildren, one sister, an aunt and nieces, nephews and other relatives. May his family know that they are in the thoughts and prayers of many who loved and appreciated Grey Cane as they did.

TRIBUTE TO DAVE HOART

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I stand before this body of Congress and this nation to honor the career of a great man from my district. After twenty years of service, Dave Hoart, of Texas Creek, Colorado, is retiring from his post at the Division of Wildlife. Dave's invaluable contributions to the community will be missed, and I stand before you here today to honor his service.

Dave began his position as the Custer County District Wildlife Manager in 1983. Selflessly, Dave attributes all of his success over the years to the community and not to his own actions. He has seen a great deal of change in the region during his term, serving as the person residents call when they have a question about any new developments in wildlife patterns. During Dave's tenure, the area has been transformed from a primarily small agricultural community to a larger, less-rural community.

Mr. Speaker, it is people like Dave, and their willingness to dedicate so much of their lives to the betterment of the nation, that make America so great. His excellent rapport with the community and his expertise will be extremely difficult to replace. I wish him the best with all of his future endeavors.

INTRODUCTION OF THE IMPROVING THE COMMUNITY SERVICES BLOCK GRANT ACT OF 2003

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. OSBORNE. Mr. Speaker, today I am pleased to introduce the "Improving the Community Services Block Grant Act of 2003" to reauthorize the Community Services Block Grant (CSBG) program.

The CSBG is an anti-poverty block grant that funds a state-administered network of over 1,100 public and private community action agencies delivering social services to low-income Americans. The CSBG Act was established in 1981 in response to President Reagan's proposal to consolidate the Community Services Administration and 11 other anti-poverty programs.

Block grant funds may be used for a wide-range of anti-poverty activities to help families and individuals achieve self-sufficiency. Such activities may include providing assistance in finding and retaining employment, obtaining adequate housing, and providing emergency food services. The CSBG also includes funding for certain discretionary activities, including community economic development, rural community facilities improvement, the community food and nutrition assistance, and the national youth sports program. The CSBG program is an essential tool in meeting the unique needs of each area and serves as a conduit for community services.

The bill I am introducing today would build upon improvements made to the program during the last reauthorization. It would promote increased quality by requiring states to re-evaluate whether the lowest performing grantees should continue to receive funding. It modifies the current grandfather provisions that are tied to the definition of eligibility that guarantee funding for current grantees to a provision giving all current grantees a priority for continued funding based on their ability to meet grantee determined goals.

This bill promotes increased accountability by ensuring that states are monitoring local grantees to ensure services are being provided in the most efficient manner and that services are reaching those with the greatest need. The bill also requires the development of local grantee determined goals that each local grantee is responsible for meeting.

The bill further encourages initiatives to improve economic conditions and mobilization of new resources in rural areas to help eliminate obstacles to the self sufficiency of families and individuals in rural communities, and expands opportunities for providing youth mentoring services to encourage education, life skills training, and youth crime prevention.

Finally, the bill continues the CSBG grants and discretionary programs at current authorization levels and extends them through FY 2009.

Mr. Speaker, I urge my colleagues to back this important legislation that supports improved services for low-income individuals and families.

TRIBUTE TO JACK POLLARD—A LIFETIME OF PUBLIC SERVICE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. SKELTON. Mr. Speaker, today I rise to recognize an outstanding individual who has served this House for as long as I have—more than 26 years. Jack Pollard, who has worked on my personal staff and as a staff member on the House Armed Services Committee staff, recently retired from Federal service to pursue new opportunities in the private sector.

It's fair to say that I have known Jack for his entire life. Jack was born in Kansas City, Missouri, and grew up in Lexington, Missouri, which is also my hometown. Our fathers were great friends from way back, so the Pollard family has always been a part of my life.

Jack graduated from Lexington High School and attended the University of Missouri at Columbia where he earned A.B. and J.D. degrees. Following his graduation from Law

School, he worked in Jefferson City as a research analyst and legislative counsel for the Missouri General Assembly's Committee on Legislative Research.

Jack served on active duty with the U.S. Army from 1968 to 1970. His service included 13 months in Vietnam as a member of the 101st Airborne Division. He was awarded the Combat Infantryman's Badge and the Bronze Star (Meritorious Service) during his Vietnam tour.

After I was elected to Congress in 1976, Jack came to Washington to work on my staff as legislative director, and he has been with me ever since. He was my longtime chief of staff and most recently served as Democratic counsel on the House Armed Services Committee.

I believe that I must be one of the most fortunate people ever to serve in the U.S. Congress because I have been blessed with a staff member and a friend like Jack—a man who is not only talented and hard working, but who has also demonstrated his extraordinary loyalty time and again through the years. I have come to rely upon his sound judgement, his policy recommendations, and his broad expertise on matters both large and small.

For me, Jack epitomizes all that is good about the thousands of Americans who dedicate their lives and their considerable talents to public service. I will miss his daily advice, counsel, and calm demeanor, but I wish him, as well as his wife Beth and children Leslie and Michael, the very best as Jack begins his next career. I know my colleagues join me in thanking Jack for his years of distinguished service to the U.S. House of Representatives.

IN RECOGNITION OF ST. MARY OF THE SPRINGS ACADEMY ON THE OCCASION OF THE UNVEILING OF A HISTORICAL MARKER

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. TIBERI. Mr. Speaker, I am pleased to help recognize the Dominican Sisters of St. Mary of the Springs Academy and the alumnae of the Academy.

Central Ohio takes pride in its history and appreciates the tremendous contribution to our community and nation by the Dominican Sisters of St. Mary of the Springs Academy through the education and development of our young people. Over a hundred and seventy years have passed since you began the effort to educate Ohio's youth, regardless of creed.

Your success in providing an outstanding academic foundation is personified in your illustrious alumna, Anne O'Hare McCormick. Her contributions to journalism testify to the quality scholarship demanded by the Dominican Sisters.

May this bicentennial plaque honoring the Academy's faculty and alumnae, living and deceased, and their outstanding fellow alumna Ms. McCormick stand as a reminder to all those who see it that our nation has always cherished the pursuit of educational excellence.

Congratulations on the installation of the historical marker.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2861) making appropriations for the Departments of Veterans' Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes:

Mr. UDALL of New Mexico. Mr. Chairman, I rise today with great disappointment in what occurred in the House today with regard to the veterans' budget.

Last spring, the original budget resolution passed in the House by a narrow vote reduced funding for veterans medical care by a total of $28 billion over ten years, a far cry from what is needed for the health of our veterans today. After much debate about the veterans' budget, many members of this body—including every member of the House Veterans' Affairs Committee—fought to increase the amount of funding for veterans in the budget resolution to at least the amount promised by the Senate. Thankfully, after a hard fight, the budget resolution that eventually came out of conference increased mandatory funding, but left discretionary programs, such as medical care, subject to cuts in future years.

When the joint budget resolution came out of conference, those of us in the House who had been fighting against cuts for veterans health care were encouraged that by engaging in constructive dialogue with leaders of the House, we could come to a resolution that would not leave veterans out in the cold. Today, that sense of encouragement is gone.

Today, the House Rules Committee refused to even consider amendments that would have added veterans' health care funding to a seriously deficient VA–HUD Appropriations bill. I am baffled as to why the Committee would not even allow consideration of an amendment that would have brought funding to the previously promised amount. The amendment, offered by the Chairman and Ranking Democratic Member of the Veterans' Affairs Committee with the support of the Chairman and Ranking Member of the Committee's Health Subcommittee, was clearly bipartisan and would have added $1.8 billion to veterans health care—the amount agreed to in our final budget resolution.

The President and some of the leaders of this House defend their poor records of veterans health care by claiming that they increased the funding, so that should be good enough. It doesn't take a professional policy degree to figure out that our veterans who served, and continue to serve our country so honorably, are aging. They need clinics. They need doctors. They need appointments to see those doctors soon, not in six months. The need is increasing, but the funding is not keeping up with it. We promised we would help them, and today, this grossly inadequate appropriations bill breaks that promise.

My vote against the VA–HUD Appropriations bill is not only a protest against this harmful cut in health care for our nation's bravest, but also a statement against the promises broken by this body. As my colleague, Representative ROBERT SIMMONS, on the House Veterans' Affairs Committee stated earlier, "an officer's word is his bond." It is a meaningful phrase to many veterans, and one that I hope the House of Representatives can live up to in the future when considering funding for the well being of our veterans.

TRIBUTE TO FRANK EVANS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to a great American and a former United States Representative for Colorado's Third District. Frank Evans of Beulah, Colorado will celebrate his eightieth birthday this Saturday, and I am pleased to join with my colleagues in wishing him well on this momentous occasion.

Frank was born in Pueblo back in 1923 and has lived a life devoted to serving others. Frank first answered the call to service when he bravely fought to uphold the cause of freedom as a Navy patrol pilot during World War II. After returning home, he practiced law in his native Pueblo. Drawn to a life of public service, Frank served in the Colorado State Legislature for four years and then went on to represent the Third Congressional District of the great State of Colorado in this prestigious body. Frank selflessly served the constituents of my district for fourteen years before choosing to leave the Congress. All told, Frank spent eighteen years faithfully representing his fellow citizens of the State of Colorado.

Mr. Speaker, as Frank Evans prepares to celebrate his eightieth birthday, I am privileged to pay tribute to his remarkable life and numerous accomplishments. Frank dedicated many years of service to his friends and neighbors in Colorado. In both the Colorado State Legislature and in this body of Congress, Frank diligently served to meet the needs of his constituents. I am honored to join with my colleagues today in wishing Frank a happy birthday and many more great years ahead.

CONGRATULATING THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BROWN of Ohio. Mr. Speaker, I would like to congratulate the International Brotherhood of Teamsters as they commemorate their 100th anniversary tomorrow, Saturday, September 6, 2003.

The issues the Teamsters have fought for and won over those 100 years are the issues that have strengthened America: equal rights for all workers, regardless of color, creed, or gender; a 40-hour work week; a pension for retirement; paid holidays; employer sponsored healthcare; equal pay for women.

As corporate raiders continue to turn a deaf ear to the needs of America's working families, the 1.4 million members of the Teamsters continue to ensure that the voices of American labor are heard.

I know that in the next 100 years, we can count on the Teamsters to continue their work against unfair trade commitments, from CAFTA to the WTO, that continue to hurt working families in the U.S. and abroad; to continue to protect our roadways from unsafe foreign trucks; to continue protecting the health and safety of America's workforce; and to fight against the current administration's attempts to disqualify hundreds of thousands of Americans from receiving the overtime benefits they fought so hard to gain.

The Teamsters are needed now more than ever as some corporations break labor laws and fight union organizing as they ship jobs out of this country by supporting trade agreements that exploit workers' rights across the globe.

I congratulate the Teamsters on their 100 years of commitment to America's working families, and wish them well in the next 100 years.

RECOGNIZING THE 100TH ANNIVERSARY OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. OBERSTAR. Mr. Speaker, a centennial is an occasion for celebration, in which spirit it is my pleasure to congratulate the International Brotherhood of Teamsters on the occasion of their 100th anniversary. Founded on September 6, 1903, the Teamsters union has grown to become one of the largest and most diversified labor unions in the United States.

Originating as a group representing the men who drove horse-drawn wagons to deliver freight, the Teamsters have grown and changed with the times. In the early decades of the 20th Century, the Teamsters adapted by also representing the drivers of motor trucks. By the beginning of the 21st Century, the Teamsters had diversified to represent truckers, airline workers, building material and construction trades, dairy and food processing employees, parcel and small package workers, public employees working for local governments, and a variety of other workers. With a membership of 1.4 million, one out of every ten union members in the United States is a Teamster.

The Teamsters have served as a model for improving working conditions and wages for the American worker. In 1900, the typical Teamster worked 12 to 18 hours a day, 7 days a week, for an average wage of $2.00 a day. Worker benefits that did not exist 100 years ago—the 40-hour work week, a retirement pension, paid holidays, and employer-sponsored healthcare—have become the norm for most of American labor, in large part because of the work of the Teamsters.

I congratulate the Teamsters organization on their 100-year long effort to continually improve the quality of life for millions of American workers. To each of their members and their General President, Jim Hoffa, I extend my thanks for their contributions to a strong and productive economy. The Teamsters have my best wishes for their second century.

INSTALLATION OF LOUISE “BEBE” CANTER AS PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. CANTOR. Mr. Speaker, I rise today to commend Louise “Bebe” Canter, who will be installed as President of the nation's largest insurance association—the Independent Insurance Agents & Brokers of America (IIABA)—later this month in Las Vegas. Bebe is senior vice president of Patterson/Smith Associates in Falls Church, VA.

She has enjoyed a distinguished career as an independent insurance agent which has been highlighted by her tireless service and dedication to her clients, community, IIABA, the Metropolitan Washington Association of Independent Insurance Agents (MWAIIA), and her colleagues across the country.

Bebe was elected to IIABA's Executive Committee in October 1998 and was honored by her peers when they named her President-elect last fall in New Orleans.

Bebe's service to her peers began with her involvement with the Metropolitan Washington Association. She served as MWAIIA's president and as the organization's representative to IIABA's National Board of State Directors. In recognition of her outstanding service, MWAIIA named her its 1991 Agent of the Year.

In addition to her position on the IIABA Executive Committee, Bebe also serves as a member of the Association's Large Agents & Brokers Roundtable.

Her other industry volunteer work includes service as a member of the D.C. Society of CPCU's Board of Directors and the Standard & Poor's Agent Advisory Council, and chairman of the CNA Branch PACER Agent Panel and the Southern Agents Conference.

Among Bebe's community involvement is service as a member of Howard University's Scholarship Committee.

I am proud of Bebe's professional and community service accomplishments and know she will serve her fellow agents with distinction and strong leadership to further the worthy and noble cause of independent insurance agents and brokers. I bid her a successful year as president of the Independent Insurance Agents & Brokers of America. I wish her all the best as IIABA President. Congratulations Bebe!

THE NATIONAL MINORITY MEDIA OPPORTUNITIES ACT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. MENENDEZ. Mr. Speaker, I am pleased to be joined by my colleague, JOHN CONYERS, Ranking Member of the House Judiciary Committee, to introduce The National Minority Media Opportunities Act. And I want to thank Senator KENNEDY for his leadership on this issue and for introducing the companion bill in the Senate.

This bill would require the Federal Communications Commission (FCC) to hold public hearings, with notice and opportunity to comment, before approving the transfer of a license for a station serving a minority-language audience. It also requires the FCC to report to Congress on issues involving the concentration of ownership and control of minority-language broadcast media and the effects of excessive concentration on competition and diversity in these minority-language markets.

The need for this bill has become crystal clear as Chairman Powell continues to try to ram through a huge Spanish-language media merger between Univision and HBC, with no opportunity for public input, with no public deliberation, and with no regard for the impact this mega-merger will have on Hispanic consumers or the Spanish-language media market.

The Third Circuit Court of Appeals has stayed the FCC's new Media Ownership rules, which Chairman Powell has espoused as providing more protection for minority consumers. So why is it that he is now ramming through a decision on the Univision/HBC merger under the old rules, with no public hearings, and without even a public vote? The only obvious explanation seems to lie in an analysis of political contributions filed with the Federal Election Commission (FEC). Otherwise, there is simply no reason to rush this controversial merger through without adequate public review and without a public vote by the FCC.

The Congress has spoken on the Media Ownership rules, voting to repeal portions of the rule. And now the Congress has spoken on the process by which this ill-advised merger is being considered.

Chairman Powell and the Republican Commissioners owe us some explanations. They owe Congress an explanation of why they have disregarded our requests for openness and public accountability in their decision-making process. They owe the Hispanic community an explanation of why they insist on approving a mega-merger that could have serious consequences for the diversity of information they receive. And they owe the general public an explanation of why they have made the decisions they have made, without any opportunity for meaningful public input and without even a public vote on the issue.

Chairman Powell, you owe it to the Hispanic community to protect our interests. If you're not going to do that, then—at the very least—you owe us an explanation of why you've deserted us.

IN MEMORY OF MR. PAUL SHEPARD

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mrs. BONO. Mr. Speaker, I rise to honor the memory of a beloved member of the Palm Springs community and a dear friend, Mr. Paul Shepard.

This tragic, untimely and unexpected loss will impact not only those who knew and loved Paul; but also, the entire desert community. Paul was one of those rare and precious individuals who truly made a difference in the lives of those who were fortunate enough to meet him, and even some who never had that pleasure. He was a leader in the fight against AIDS, an accomplished real estate professional, a dedicated athlete and an active supporter of numerous charitable causes and service organizations.

Of course, words alone cannot describe the joy that one felt when sharing time with Paul. His warmth and encouraging nature were instantly conveyed when he would greet you with a smile and hug. A remarkably thoughtful person, Paul always seemed to make everyone feel that he was completely focused on their interests, whether in personal or business relationships.

As one of the Coachella Valley's most respected and successful Realtors, Paul Shepard achieved the kind of professional stature that many aspire to but few attain. During his career, he was selected by his peers to serve several times as Director and President of the Palm Springs Board of Realtors. In addition, he was named "Realtor of the Year" and served also as the Director for the California Association of Realtors and the National Association of Realtors.

However, his business success was only one facet of this talented man. Paul used his abilities to help those in our community who were truly in need. He was an active member of the Palm Springs Chamber of Commerce for more than 25 years, served as a member of the City's Parks and Recreation Committee, and on the Steve Chase Humanitarian Awards Gala Committee, and was an integral part of the Steve Chase Program Committee's yearly success.

But, perhaps the one organization that was closest to his heart was the Desert AIDS Project in Palm Springs. Paul was a tireless and passionate advocate for this worthy organization that daily makes lives better for those afflicted with this most challenging disease. As a testament to his commitment to this organization, the Desert AIDS Project has established a special fund in his name. I can think of few tributes that would be more fitting.

I also want to express my condolences and recognize those that Paul loved; his life partner of 25 years, Daniel C. Hall, his mother, Jane Andrews, and sister, Jackie Cadell, and two brothers, Thom and Steve Shepard, along with his stepfather, Gordon Andrews.

Mr. Speaker, today I stand in honor of my friend Paul Shepard. The sadness I feel when I reflect on his passing is softened only by the great respect I have for the legacy he leaves after a life fully lived. I yield back the balance of my time.

PERSONAL EXPLANATION

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. SHERMAN. Mr. Speaker, I was unavoidably detained during rollcall vote 475. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. JEFFERSON. Mr. Speaker, on Friday, July 25, 2003, I was unavoidably detained and missed Rollcall vote No. 445, final passage vote on H.R. 2427, a bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes. If I had voted, I would have voted "no."

AUTOMOBILE LEASE PROTECTIONS UNDER THE SOLDIERS AND SAILORS CIVIL RELIEF ACT

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. BUYER. Mr. Speaker. Today I am introducing legislation that will add automobile leases to protections of the Soldiers and Sailors Civil Relief Act. Earlier this year, the House passed a restatement of this important legislation. I believe my legislation adds an important provision that should not be left unaddressed.

I would like to share with you a story of a young Marine reservist, currently attending Emory Law School. He was called to active duty as part of the recent mobilization and was then forced to take a leave from school. He didn't have a problem with this, it was part of his duty. However, he was concerned that he was going to suffer a financial loss because of his car lease. Being unmarried, he would not need a vehicle while deployed, but because of his lease he would still have to pay a monthly payment. His other option was to buy the car from the credit company and then turn around and sell it, even though this would cause him to lose money. Because he knew that activated reservists could terminate an apartment lease, he contacted my subcommittee wanting to know if this applied to automobiles as well. Under current law it does not.

Although our estimates are that this probably only affected a couple of hundred service members during the most recent deployment, I think that is far too many. In an age when we have come to increasingly rely on our National Guard and Reserves, for them to be susceptible to this type of penalty is absurd. When we ask our men and women of the National Guard and Reserve Components to interrupt their lives go off to war, one thing they should not have to worry about is paying an additional price relating to an auto lease. I also want to thank the Auto Alliance for its input on and openness to this bill. As both a current member of the U.S. Army Reserves and Co-Chair of the National Guard and Reserve Components Caucus, I would like to invite my colleagues to join me in support of this legislation.

CHICAGO SPORTS HALL OF FAMER—EDWARD A. SPRINKLE—CELEBRATES HIS 80TH BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. LIPINSKI. Mr. Speaker, I rise this afternoon to pay tribute to an outstanding member of my community, Edward A. Sprinkle, in honor of celebrating his 80th birthday on September 3, 2003.

Edward Sprinkle was born and raised in Bradshaw, Texas and attended Tuscola High School where he started his long career in one of nation's greatest pastimes, football. In 1943, Edward Sprinkle entered the United States Naval Academy; however in 1944, he was recruited by the hailed Chicago Bears.

From 1944 to 1956, Sprinkle entertained many with his talents on the football field. Sprinkle was honored with the NFL All League Award six times throughout his career, played in four pro bowls, has been honored as one of the top 300 players in the NFL, and has also been inducted into the Chicago Sports Hall of Fame and the Helms Football Hall of Fame.

Besides his greatest achievements on the football field, Edward Sprinkle has many things to be thankful for off the field too. Edward Sprinkle was happily married to his lovely bride Marian Elizabeth Carlson for 57 years. Edward and Marian have three children, Edward Alan Sprinkle, Robert Steven Sprinkle and Susan Jane (Zima) Withers. They have five grandchildren: Steven, Alan, Jennifer, Elizabeth, and Paul, and two great-grandchildren: Steven and Jacob. Edward Sprinkle has worked for Inland Steel and owned his own company too, Ed Sprinkle Tile Company.

Mr. Speaker, I feel honored to be able to extend my heartfelt congratulations to Edward Sprinkle and his family as they celebrate Edward's 80th Birthday and continue to share in the many memories of football and wonderful family milestones.

TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 2003

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes:

Mr. OXLEY. Mr. Chairman, I rise in opposition to H.R. 2989, the Transportation-Treasury spending bill for fiscal year 2004. While there are several important provisions in this legislation that I support, the bill also includes a provision that encroaches on the jurisdiction of the Financial Services Committee and undermines the public policy goals of the landmark Gramm-Leach-Bliley financial modernization law.

Title I of Gramm-Leach-Bliley, which Congress approved in 1999, allows financial holding companies and banks to engage in a broad range of activities that are considered "financial in nature" or complementary to such financial activities. In addition, GLB grants the Federal Reserve Board and the Treasury Department the ability to identify additional activities that they deem to be financial in nature or incidental to such activities, and therefore permissible for financial holding companies and financial subsidiaries.

Over two years ago, the Federal Reserve and the Treasury, acting under their grant of authority in GLB, issued a regulatory proposal to permit banks to conduct real estate brokerage and management activities. The National Association of Realtors, in an attempt to avoid a new source of competition and preserve their monopoly in the real estate brokerage business, launched a scorched earth lobbying campaign to derail the Fed-Treasury proposal. Bowing to this pressure, the Appropriations Committee has now adopted in two successive appropriations cycles language that prohibits the Federal Reserve and the Treasury from moving forward with their proposal, thereby denying consumers greater choices in obtaining real estate brokerage services and the benefits of increased market competition.

Legislative attempts to stymie the rulemaking process—particularly as part of the appropriations process—are counterproductive and undermine the future of any legislation that relies on the expert judgment of regulators for its implementation. The amendment that the Appropriations Committee has chosen to include in this bill serves only to needlessly delay innovation in the financial services industry and runs contrary to the clear congressional intent of GLB, which was to encourage free market competition and increase consumer choice.

COMMEMORATING AND CONGRATULATING THE TEAMSTERS UNION ON ITS 100TH ANNIVERSARY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 2003

Mr. HOYER. Mr. Speaker, it is more than appropriate on this Friday afternoon of Labor Day Week that we recognize the enduring relevance and enormous contributions of the Teamsters Union, which tomorrow—September 6, 2003—celebrates its 100th Anniversary. It is an historical imperative that every American committed to justice and fairness must acknowledge.

Allow me to congratulate General President James Hoffa and all the men and women of the Teamsters on this important occasion. For through their hard work, all of us have benefited.

The 40-hour work week that we take for granted far too often in this nation was not a gift bestowed on us by corporate chieftains. It was a hard-won victory secured by the men and women in the organized labor movement, including the Teamsters Union, who literally built this nation through their blood, sweat and tears.

Paid holidays, including the three-day Labor Day Weekend. Health and safety regulations. Employer-sponsored health care. And employer-sponsored pensions. These are just a few of the monumental benefits brought to you by the Teamsters and organized labor movement.

Ever since its founding, the Teamsters have been at the forefront of the labor movement to improve the lives of working men and women and their families. The Teamsters fought for equal rights for all workers, regardless of race, creed or gender. The Teamsters fought for African-Americans who sought jobs traditionally held by white men at the beginning of World War One. The Teamsters fought for a woman's right to equal pay before suffrage was popular.

Today, the Teamsters Union—with 1.4 million members—continues to fight for working families, who simply want and deserve justice, dignity and opportunity. Only the uninformed would fail to recognize that many of the gains secured by the Teamsters over the past 100 years are at grave risk today—from the assault on the right of workers to collectively bargain, to attacks on overtime regulations, to the effort to gut compensatory time, to the failure to ensure that the minimum wage is fairly adjusted for inflation, and many more.

It's clear that, despite the Teamsters' great achievements over the last century, and all the advances that this great union is responsible for, its efforts on behalf of working American families must go on. And I know that is precisely what the Teamsters—under the tremendous leadership of General President Hoffa—intend.

Again, I congratulate President Hoffa and all Teamsters on this 100th Anniversary. Your efforts not only make us proud, they make us a better nation.

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